CODE OF THE CITY OF OSWEGO, NEW YORK, v63

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PREFACE

The City of Oswego has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the City, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the City. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Common Council ordered the following codification of the City's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Common Council of the City of Oswego, including revisions or amendments to existing legislation deemed necessary by the Common Council in the course of the codification.

Division of Code

The Code is divided into two major divisions. The first division includes the Charter of the City. The second division includes all legislation of a general and permanent nature as Parts I and II. Part I, Administrative Legislation, contains all City legislation of an administrative nature, such as that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other City legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical

progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the City officials is gratefully acknowledged by the editor. Special acknowledgment should be given to Ann M. Smegelsky, Deputy Clerk. The codification of the legislation of the City of Oswego reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

THE CHARTER

[HISTORY: Adopted by the Common Council of the City of Oswego as L.L. No. 5-1977; approved at referendum 11-8-1977, effective 1-1-1978. Amendments noted where applicable.]

ARTICLE I, Boundaries and Civil Divisions

§ C1-00.

That part of the County of Oswego and State of New York, contained within the boundaries hereinafter described, shall be a city by the name of "Oswego," and the inhabitants within said boundaries shall continue to be a body politic and municipal corporation by the name of the "City of Oswego," and in that name may sue and be sued, complain and defend in any court, make and use a common seal and alter it at pleasure and may receive, by gift, grant, devise, bequest or purchase, any real or personal property and hold, own, utilize, enlarge, improve, extend, lease, sell and convey, all and singular, such real or personal property or estate, right, power, privileges, easements, hereditaments and franchises as it may receive as aforesaid, including the water power and all rights and privileges connected therewith which may be developed or created by the waters flowing over or adjacent to the Oswego River, and use, improve, maintain, enlarge, develop, extend and operate the same in such mode and manner and by such means and appliances and agencies as the purposes, objects, conveniences, advantages, pecuniary benefits, comforts and necessities of the corporation or its citizens and inhabitants may require and for other purposes not contrary to law. All the real estate and personal property now owned or possessed by or held in the name of the City of Oswego or in trust for the Mayor and Common Council of the City of Oswego are hereby vested in the City of Oswego, with power to hold or convey the same as the purposes of said corporation may require. Said corporation shall also have the powers and privileges conferred by the general statutes of this state upon municipal corporations, as well as those conferred by any other legislative enactment.

§ C1-01.

The territory within the following boundaries shall constitute the City of Oswego: Commencing at a point in Lake Ontario, one (1) mile north (true meridian) from the northwesterly corner of Lot No. 34 in the eighteenth township of Scriba's Patent, Town of Scriba, and running thence south to the northwesterly corner of said Lot No. 34; thence southerly along the westerly line of said Lot No. 34 and its prolongation to its intersection with the easterly line of Lot No. 87 of the

same township; thence southerly along the easterly line of said Lot No. 87 (also along the center line of the highway) to the point of intersection with the northern prolongation of the easterly line of Lot No. 11; thence southerly along said prolonged line and also along the easterly line of said Lot Nos. 11 and 25 of Hamilton's Gore to its point of intersection with the easterly line of Lot No. 3, Hamilton's Gore; thence southerly along the easterly bounds of Lot Nos. 3, 4, 5, 6 and 7 of Hamilton's Gore, in the Town of Scriba, to the southeasterly corner of said Lot No. 7; thence westerly along the southerly line of said Lot No. 7 to the Oswego River; thence in a northwesterly direction across said river to the southeast corner of Military Lot No. 8 in the original Township of Hannibal (now Town of Oswego); thence westerly along the southerly line of said Lot No. 8 to the west boundary line of the Oswego and Syracuse Railroad; thence northerly along the west line of said Oswego and Syracuse Railroad to the north line of said Lot No. 8; thence westerly along the north line of said Lot No. 8 and its western prolongation till it intersects the west line of Military Lot No. 5 in the original Township of Hannibal (now Town of Oswego); thence northerly along the west line of said Lot No. 5 to the shore of Lake Ontario; thence one (1) mile north (true meridian) into said lake; thence easterly to the place of beginning.

§ C1-02. [Amended 2-28-1994 by L.L. No. 4-1994][EN(1)]

The city shall be divided into seven (7) wards, until amended according to subsequent provision of this charter. The official map of the city's seven (7) wards, together with a description of each ward, shall be filed with the City Clerk.

§ C1-03. City wards. [Amended 6-26-1982 by L.L. No. 1-1982 (approved at referendum 8-9-1982); 2-28-1994 by L.L. No. 4-1994]

A. The city's wards shall be drawn after the 1980 and each succeeding decennial census by an Apportionment Commission consisting of five (5) members. The Mayor shall appoint two (2) members, the Council shall appoint two (2) members and the fifth appointment shall be made by a majority of those already selected. Should there be no consensus on the selection of the fifth member within thirty (30) days of the final Council selections, the Mayor shall select the fifth member of the Commission and that selection shall be ratified by a majority vote of the Common Council. The Commission shall be composed of no more than three (3) enrolled members of any one (1) political party. The Commission shall utilize the following guidelines in priority order as listed below in drawing ward boundaries:

   (1) The equity of population between the wards, but no ward shall span the Oswego River.

   (2) The minimal circumference of each ward boundary.

   (3) The ward boundaries within the city limits being generally along an east-west axis.

(4) The maintenance of existing ward boundaries after each decennial census, unless population shifts within the city shall require change.

B. A description of the city's wards shall be filed by the apportionment commission with the City Clerk not later than May 31 of the first odd-numbered year of each decade, unless census data shall not be available. In that case, the Commission's report shall be filed not later May 31 of the third odd-numbered year of the decade. After filing its report, the Commission shall cease to exist and its report shall be the official map of the city's wards until a subsequent commission shall have reported after the next decennial census.

ARTICLE II, Officers of the City; Elections and Appointments

§ C2-00. Elected officers; appointed officers.

A. The elected officers of the city shall be as follows: Mayor, City Judge and one (1) councilor from each ward. [Amended 5-23-2011 by L.L. No. 2-2011]

B. The appointed officers shall be as follows: Executive Assistant to the Mayor, City Chamberlain, Purchasing Agent, City Clerk, City Attorney, City Engineer, Commissioner of Public Works, Superintendent of Water, Chief of Police, Fire Chief, Director of Weights and Measures, Assessor, Personnel Director, Recreation Superintendent and Director of Code Enforcement.

§ C2-01. (Reserved) EN(2)

§ C2-02. [Amended 6-23-2003 by L.L. No. 3-2003EN(3)]

The election of city officers under this Charter shall be held with the general election on the Tuesday succeeding the first Monday in November in 2005 and in each odd-numbered year thereafter, and the term of each elective officer elected under this Charter shall expire at the end of an odd-numbered year. No elective officer shall serve for more than five consecutive terms, except as otherwise provided in this Charter.

§ C2-03.

All officers elected or appointed under this Charter shall hold their respective offices until their

successors have been duly elected or appointed and have qualified.

§ C2-04.

The salaries of all city officials shall be determined by the Common Council, in compliance with any pertinent sections of the laws of the State of New York, and paid to city officials in a manner prescribed by the Common Council.

§ C2-05. Conflicts of interest. [Amended 9-24-1990 by L.L. No. 3-1990]

A. Except as provided in § 802 of the General Municipal Law of the State of New York, no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee when such officer or employee, individually or as a member of a board, has the power or duty to negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder, audit bills or claims under the contract or appoint an officer or employee who has any of the powers or duties set forth above, and no chief fiscal officer, treasurer or his deputy or employee shall have an interest in a bank or trust company designated as a depository paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee.

B. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one (1) or more positions of public employment, the holding of which is not prohibited by law.

§ C2-06.

If any person having been an officer of said city shall not within ten (10) days after notification and request deliver to his successor in office all the property, papers and effects of every description in his possession or under his control belonging to said city or appertaining to the office he held, he shall forfeit and pay for the use of the city one hundred dollars ($100.), besides all damages caused by his neglect and refusal to so deliver.

ARTICLE III, Common Council

§ C3-00. [Amended 2-28-1994 by L.L. No. 4-1994; 5-23-2011 by L.L. No. 2-2011]

Legislative authority shall be vested in the Common Council, which shall be composed of seven

(7) councilors who shall represent the citizens of the city's seven (7) wards.

§ C3-01. [Amended 6-12-2006 by L.L. No. 1-2006]

The Council shall meet on January 1 of each year for the purpose of electing its own President who shall preside in the Mayor's absence, adopting its rules of procedure, determining its places and times of meeting for the year and the conduct of such other business as it shall deem proper. The Council shall also elect a Vice President who shall preside in the absence of the Mayor and the Council President, and who shall perform the duties of the President of the Council in the event the President becomes Acting Mayor.

§ C3-02.

The Council shall have the power to expel a member who shall have been absent without the Council's permission for two (2) consecutive months, after the absent member shall have been given the chance to be heard. A vote of three-fourths (3/4) of the Council shall be required for the expulsion of a member.

§ C3-03. [Amended 5-23-2011 by L.L. No. 2-2011]

A majority of the councilors authorized to be elected shall constitute a quorum for the transaction of business, the presence of a quorum shall be determined by the presiding officer.

§ C3-04.

The meetings of the Council shall be public, except as authorized by state law. The minutes of all Council proceedings shall be open to public inspection. The minutes shall be defined to include any roll call votes on Council acts and to include verbatim renderings of all resolutions and other proposals and substantive precis of Council deliberations, including mayoral response and actions required by mayoral response.

§ C3-05.

The Council shall determine the rules of its own proceedings, being guided by Robert's Rules of Order, and it shall be the judge of the election and qualifications of its own members. It shall have the authority to prescribe the duties of all the officers and persons appointed by it to any office within its jurisdiction and to revoke any license given by its authority.

§ C3-06.

All actions of the Council shall be taken by motion, resolution, ordinance or local law. Every motion, except a motion to adjourn, shall be subject to a mayoral veto, which, after receipt of the Mayor's written objections, may be enacted by a two-thirds vote of the members authorized to be elected. If the Mayor shall not object to any Council action within ten (10) nonholiday days after enactment, such action shall be considered approved.

§ C3-07.

Committees of the Council shall serve for individual calendar years. By a vote of three-fourths of its members authorized to be elected, the Council may change or modify the composition of Council committees as appointed by the Mayor.

§ C3-08. Common Council powers and duties.

A. The Common Council shall have the management and control of the finances and the property of the city, except as otherwise provided in this Charter, and shall have the power to make such ordinances and regulations consistent with state law for the good government of the city, the preservation of good order within the city, the benefit of trade and commerce within the city and the protection of the quality of life within the city and shall be empowered to enact such other ordinances, resolutions and local laws as may be necessary to carry into effect the purposes of the government of the City or Oswego.

B. The powers of the Council shall include, but not be limited to, the enactment of ordinances dealing with the following matters:

(1) To prevent any noise, riot, disturbance or disorderly assemblage.

(2) To survey the boundaries of the city and to ascertain, establish and settle the boundaries of streets, alleys and highways and to prevent or remove any encroachment upon any of them or to grant a right to encroach upon the public right-of-way.

(3) To compel all persons to remove snow, ice, dirt or any other obstructions from sidewalks in front of premises owned or occupied by them and, if necessary, to authorize the Department of Public Works to remove obstructions and assess the expense of so doing to said owner or occupant.

(4) To regulate vehicular and pedestrian traffic.

(5) To prohibit or to regulate and determine the times and places of bathing or swimming in

public water within the city.

(6) To regulate the planting of shade and ornamental trees along the streets and sidewalks of the city.

(7) To regulate the running at large of dogs or other animals within the city and to impose an annual tax on the owners of dogs in the city.

(8) To determine what are nuisances and to abate, destroy or otherwise cause them to be abated, destroyed or removed, and this shall include nuisances affecting public health.

(9) To compel the owner or occupant of any retail store or other place of business to maintain conditions salutary to the health, comfort and convenience of the inhabitants of the city.

(10) To license and regulate outdoor advertising and all bill posting.

(11) To regulate railway traffic within the city.

(12) To protect and to punish for injuring all public property within the city.

(13) To prescribe conditions for the issuing of building permits.

(14) To prescribe the conditions under which building may temporarily obstruct streets, sidewalks or other public places.

(15) To cause appropriate lighting within the city.

(16) To prevent and to regulate the stringing or setting of telephone, telegraph or other wires on poles within the city.

(17) To control, regulate and protect the use of public sewers and storm drains.

(18) To regulate the supply of public water, its purity and distribution throughout the city and to provide for the sale of water to public and private entities both within and outside the city. [Amended 3-23-1992 by L.L. No. 1-1992]

(19) To control and regulate lands underwater, water power, power rights, franchises and buildings used in the production of hydroelectric power.

(20) To establish, improve and maintain a system of public sewage.

(21) To grant franchises for a period of up to five (5) years, but not to exceed ten (10) years; however, the length of franchise may be extended by a three-fourths vote of the Council.

§ C3-09.

The Common Council shall determine the precise location of all streets within the city. An official map locating all streets and contemplated streets shall be filed with the City Clerk and the Clerk of the County of Oswego. If any person shall build or make any erection or improvements within the bounds or limits so designated as streets or contemplated streets, he shall not be entitled to any damages or compensation for such construction. The Common Council may amend the map of streets only after concurrent acts for two (2) consecutive years.

§ C3-10.

When, by the provisions of this Charter, the Common Council shall have power to pass ordinances on any subject, they may prescribe for the violation of such ordinance that the violation shall be a misdemeanor.

§ C3-11.

The Common Council shall annually designate an official newspaper as the vehicle for the communication of notices to the public. The City Clerk shall be responsible for the publication of official matters in the city's official newspaper.

§ C3-12.

The Chairman of any regular or special committee of the Council shall have the power to administer oaths or affidavits in respect to any matter pending before said Committee. The Mayor or other presiding officer of the Council shall have the same authority with respect to matters pending before the Council.

§ C3-13.

No motion or resolution or other action of the Common Council authorizing the expenditure of money or the making of local improvements or repairs shall pass, unless with the assent of a majority of all the members authorized to be elected to the Council. The ayes and nays shall be recorded on all such questions.

§ C3-14.

The Common Council shall not create any pecuniary obligation whatever on the part of the city which shall not be payable within the fiscal year in which such obligation was incurred, and which cannot be discharged from income of the same year, except as otherwise provided by the Local Finance Law of the State of New York.

§ C3-15.

The Council shall be authorized to reimburse city officials and employees for expenses incurred in the conduct of the city's business.

§ C3-16.

The Council may adopt an administrative code which shall set forth the details of administration of the city government in harmony with the provisions of this Charter.

§ C3-17. [Added 1-14-1985 by L.L. No. 2-1985; amended 10-10-1995 by L.L. No. 4-1995]

Notwithstanding the provision of of Subdivision 2(b) of § 23 of the General City Law, or of any special act, local law or charter, real property belonging to the city which is not needed for public purpose may be leased, may be exchanged and/or may be sold at public or private sale. When the Common Council discontinues a street, the property within the street right-of-way may be leased, exchanged or sold or may be allowed to revert to the adjacent property owners, provided that all costs with respect to such transfer shall be borne by the transferee of such property.

ARTICLE IV, The Mayor

§ C4-00.

Full executive and administrative authority shall be vested in the Mayor. It shall be his duty to administer all city departments, to establish rules, regulations and procedures for them and to see to it that all local laws, ordinances, applicable state and federal laws and all lawful Council determinations are faithfully executed. He shall be responsible for the supervision of all city employees and all city departments. He shall be a member ex officio of each city department. It shall be his duty generally to maintain the peace, good order and prosperity of the City of Oswego.

§ C4-01. [Amended 9-26-1988 by L.L. No. 1-1988; 12-22-2003 by L.L. No. 4-2003]

The Mayor shall be a qualified elector of the City of Oswego. He shall hold office for a term of four years. No person shall serve as Mayor for more than 10 consecutive years, but there shall be no limitation on total years of service if interrupted. His annual salary shall be not less than $40,000. The Council shall review the Mayor's salary during each mayoral term and report its recommendation of any increase by March 15 of the last year of that term. No increase in salary shall take place during an incumbent's term, except by local law.

§ C4-02. [Amended 6-12-2006 by L.L. No. 1-2006; 5-23-2011 by L.L. No. 2-2011]

Upon the Mayor's death, resignation or incapacity, the Councilors selected by the Council to be its President shall become Acting Mayor until the remainder of the term shall be filled at the next general election subsequent to the occurrence of the vacancy, subject to the provisions of the New York State Election Law. Upon the Mayor's death, resignation or incapacity, the Acting Mayor shall have all the executive and administrative authority vested in the Mayor. The Acting Mayor may designate the President of the Council to be Acting Mayor during temporary absences from the city.

§ C4-03.

The Mayor shall keep regular office hours and shall publicize them periodically. He may not change those regular office hours without timely notice to the people.

§ C4-04. [Amended 4-9-2007 by L.L. No. 2-2007]

The Mayor may, at his/her sole discretion, appoint, reappoint and fill vacancies for all city officials and positions, except as otherwise designated in this Charter. Appointees to fill vacancies in elective offices shall serve until the next general election, pursuant to the New York State Election Law, at which the balance of any term will be filled by the people.

§ C4-05.

The Mayor shall preside over the Common Council and appoint and charge regular and special committees of the Council. He shall be eligible to vote only in case of a tie, but he may be heard at all times. The Mayor shall not be counted towards a quorum, but he shall determine the presence of a quorum. The Mayor shall present to the Council each January, and more often if he

considers appropriate, a statement of the general affairs of the city and make recommendations to the Council. Additional recommendations may be made by the Mayor at any time. The Mayor may veto all Council actions, including line items within a budget resolution, and his veto may be overridden by 2/3 of the whole membership of the Council.

§ C4-06.

The Mayor shall sign all deeds and contracts made and entered into by the city and shall affix the city seal on them. He shall sign all warrants drawn from the treasury in pursuance of a Council order, but it shall be a misdemeanor for him to sign or countersign any draft in excess of the amount of that fund against which said draft is drawn. He shall also be personally liable for the amount of any such draft.

§ C4-07. [Amended 7-8-2002 by L.L. No. 2-2002[EN(4)]; 5-23-2011 by L.L. No. 2-2011; 11-28-2011 by L.L. No. 3-2011; 7-28-2014 by L.L. No. 2-2014[EN(5)]]

The Mayor shall be the budget officer for the City. In the preparation of the City's annual budget, he shall consult a Budget Commission consisting of the City Chamberlain, the City Attorney, and three Councilors appointed by the Mayor. The proposed budget shall be presented to the Council no later than August 1 for the fiscal year commencing the following January 1. The Common Council shall have until August 31 or the next business day, to approve a budget, then immediately following the next business day thereafter that budget will be considered the annual budget. Should the budget have a tax rate increase of 5% or more than the previous year's tax rate, then the budget shall go to a public referendum in that year's November election, by operation of law. In the event the budget cannot be presented at the general election, then there shall be held a special election at the earliest date. The Mayor and Budget Commission shall establish a schedule for budget requests from the various City departments and shall afford the department heads and other personnel the opportunity to discuss all budget requests before the preparation of the proposed budget. The budget shall contain revenue estimates and a proposed spending program to meet the City's personnel and other fiscal needs. The Mayor shall also present to the Council at least once a year a five-year estimate for capital expenditures, which, upon the Council's approval, will be reflected in the next appropriate proposed budget.

§ C4-08.

The Mayor may suspend any appointive officer found to be temporarily disqualified to perform the duties of his office. He may appoint a qualified person to fill such office until the disqualification is removed. All such suspensions must conform to the New York State Civil

Service Law, Public Officers Law and other relevant statutes.

§ C4-09.

The Mayor shall have the power to remove for cause any appointed city officer or employee only after written charges shall have been served upon him, after he shall have had ample time to prepare a response and after that response shall have been heard. Cause for removal shall be disobedience of lawful orders or instructions; incapacity; incompetency; corruption in office; acting as an agent or attorney for a person, company or corporation in relation to any matter to be affected by the action of the Common Council or a board, department or officer of the city; neglect of duty; or any other behavior prejudicial to the best interests of the city. A decision to remove may be appealed to the Supreme Court of the State of New York. All such suspensions must conform to the New York State Civil Service Law, Public Officer Law and other relevant statutes.

§ C4-10.

The general authority of the Mayor to efficiently administer the city government shall include, but not be restricted to, the following additional powers, pursuant to this Charter, state law and the Constitution of the State of New York:

A. In cases of civil defense or other emergency he may call out the posse comitatus.

B. As provided for by local law or ordinance, he may declare a state of emergency.

C. He shall have power to examine at all times official books, vouchers and other papers of any department, officer or employee of the city. He may summon and examine, under oath, any person connected with such papers. He shall have the power to require any board or department of the city to furnish him or the Council any information, data or report he may desire, and it shall be a misdemeanor for anyone to fail to comply. The Mayor shall have power and may appoint one or more persons who, after taking a constitutional oath of office, shall constitute a committee to examine and report to him upon the affairs or proceedings of any city board or department. Such Committee shall have power to issue subpoenas. The service of any subpoena and the fees of any witnesses shall be the same as in the case of a trial of a civil action in a court of record, and any subpoena shall be enforceable in the same manner and with the same penalties. A subpoena attested in the name of the committee by its chairman shall be deemed the subpoena of the committee, and any member of the Committee is authorized to administer the oath to witnesses. The Committee shall report its evidence and findings to the Mayor, in writing, in a prompt manner. The members of the Committee shall receive a reasonable compensation for their services which shall be determined by the Mayor

and which shall then be paid by the Council.

D. He shall determine those city officers who shall be bonded before entering office and the amount of the bond. He may not exclude the City Clerk, City Judge, Chief of Police, meter collectors or collectors of traffic fines, nor may be authorize a bond of less than $1,000.

E. He shall receive all resignations and report them promptly to the Council.

F. He shall appoint an Acting City Chamberlain in the absence of the City Chamberlain who shall have all the powers and duties of the City Chamberlain. [Amended 4-9-2007 by L.L. No. 2-2007]

G. He shall approve rules and standards for city purchasing; notify, in writing, the purchasing agent and any department head of his resolution of any disagreement between them; and approve with the Council's concurrence requests from the purchasing agent for waivers from the bidding process for single purchases of $1,000 or less. The Mayor shall take care that single purchases are not identified in such manner as to circumvent the bidding process.

H. He may approve the suspension of normal purchasing procedures to procure materials and/or services for emergency repairs. He shall submit a written report of all such suspensions to the Council promptly.

I. He may appoint a temporary assessor to serve in a situation where the City Assessor should be personally involved in a determination. The temporary assessor shall be compensated for his services.

§ C4-11. [Amended 4-9-2007 by L.L. No. 2-2007]

The Mayor may, at his/her sole discretion, appoint an Executive Assistant to the Mayor. He/she shall serve at the pleasure of the Mayor during his/her term of office. The Mayor may authorize his/her Executive Assistant to perform any of the Mayor's usual functions with the exception that he/she may not preside at Council meetings, may not make appointments, may not sign official papers and may make no commitment without written authority of the Mayor.

§ C4-12.

The Mayor shall also appoint his personal secretary, the City Attorney and the City Clerk, who shall serve at the pleasure of the Mayor during his term of office.

ARTICLE V, The City Court

§ C5-00.

There shall be one City Judge with both civil and criminal jurisdiction pursuant to the laws of the State of New York. He shall serve a four-year term, shall have served for at least five years as an attorney and counselor of the Supreme Court of New York State prior to his election, shall be a resident of the City of Oswego and shall hold no other elective or appointive office.

§ C5-01.

During the temporary absence from the city of the City Judge or his incapacity or at such other times as he may inform the Mayor, in writing, of his temporary leave or vacation, the Mayor shall appoint a temporary City Judge. He shall be a competent and qualified attorney and will serve until the City Judge resumes his duties.

§ C5-02.

A vacancy in the office of City Judge shall be filled by the Mayor. The appointee shall serve until December 31 of the year in which the vacancy shall be filled by the voters of the city.

§ C5-03.

The City Judge shall deposit an appropriate record of all his findings and determinations with the City Clerk.

§ C5-04.

Nothing in this Charter shall impair the terms of the Oswego City Court Act of 1933 or any legislative amendments thereto.

ARTICLE VI, City Chamberlain

§ C6-00. [Amended 4-9-2007 by L.L. No. 3-2007]

The City Chamberlain may be appointed by the Mayor at his/her discretion and shall be subject to confirmation by the Common Council. He/she shall hold office during good behavior subject to the Civil Service Law of the State of New York and any other applicable statutes pertaining thereto.

§ C6-01. [Amended 10-28-1996 by L.L. No. 3-1996]

The City Chamberlain shall perform all the duties prescribed by the Charter of the City of Oswego and such other duties properly pertaining to his office as the Common Council or the Mayor may require. He shall be allowed such sums of money as the Common Council shall approve for Clerk for hiring a clerk and additional help. The Chamberlain shall be subject to all the liabilities and obligations prescribed by law for Town Collectors, and he shall possess all the powers and authority conferred by law on collectors of county taxes, and any and all fees or penalties paid on delinquent or over due taxes shall belong to the City of Oswego.

§ C6-02.

Before entering upon the duties of his office, he shall execute and deliver a bond for an amount determined by the Council to the City of Oswego. The bond shall be executed by a duly authorized surety company incorporated under New York State law or authorized to do business in New York State, to be approved by the Mayor and conditioned that he shall faithfully execute the duties of his office and account for and pay over all moneys received by him. The cost of the premium paid for the bond shall be paid by the city. The bond shall remain in force during his tenure.

§ C6-03.

Before any warrant for the collection of taxes that shall have been issued by the legislature of the County of Oswego shall be delivered to said City Chamberlain, he shall execute and deliver an additional bond to the County of Oswego for an amount determined by the Council; executed by a duly authorized surety company incorporated under the laws of the State of New York or duly authorized to do business in said state; to be approved by the Mayor, the Chairman of the County Legislature and the County Judge, conditioned that he shall faithfully collect such taxes and pay over the same according to law; which bond the Mayor shall, forthwith, after the same shall have been so approved, deliver to the Clerk of the County of Oswego with such approval endorsed

thereon.

§ C6-04.

The office of the City Chamberlain shall be kept at the City Hall, or in such place as shall be designated by Council resolution, and shall maintain regular office hours to be determined by the Council.

§ C6-05.

The City Chamberlain shall receive all moneys belonging to the city and keep an accurate account of all receipts and expenditures. He shall keep separate accounts of all disbursements chargeable to the several funds created by this Charter and shall credit the funds respectively with all receipts by him belonging thereto. He shall also keep accounts of receipts and expenditures relating to any other subject matter, local or otherwise, not included in said funds, as the Common Council shall direct. All claims for labor, services, material and supplies furnished any city officer, board or department shall be presented in duplicate, one copy of which shall be delivered to the City Chamberlain with the warrant of the officer, board or department in payment thereof, and it shall be the duty of the City Chamberlain before payment thereof to to satisfy himself that said claim is a legal charge against the City of Oswego and the fund on which such warrant is drawn. All moneys, except funds levied for any board or department in the city tax levy, shall be drawn from the treasury in pursuance of the order of the Common Council by warrants signed by the Mayor or the presiding officer of the Common Council, and countersigned by the City Clerk. Such warrants shall state for what purpose the amount thereof is to be paid and to what fund chargeable. The books and entries of the City Chamberlain shall be open to the public at all reasonable hours. The City Chamberlain shall render a monthly report of the disbursements of each board and department of said city and the balance remaining in each fund at the end of every month to the Mayor and the Common Council and shall present to the Common Council annually, at the end of each fiscal year, a full account of all receipts and expenditures after the date of his last annual report, and also of the state of the treasury, which reports shall be filed in the office of the City Clerk.

§ C6-06.

It shall be the duty of the City Chamberlain to receive all county, city and local taxes and assessments which may be paid at his office and to retain possession of all appropriate warrants and assessment rolls.

§ C6-07.

He shall record daily all the items of money received by him for taxes or otherwise during that day with the name of the person or corporation on whose account the same shall have been paid and the wards for which such taxes are received. He shall also enter in a column in the assessment rolls in his possession, opposite the names of the person or corporation who shall pay their taxes or assessments, the fact of payment and the date when paid. He shall keep a record of all persons and their respective addresses who may pay taxes for nonresidents of said city and the addresses of such nonresidents, so far as he can ascertain the same.

§ C6-08.

The Chamberlain shall proceed without delay to enforce all the provisions of this Charter for the collection of unpaid taxes. He shall take possession of and assert title to all property acquired by the city resulting from any tax sale.

§ C6-09.

The City Chamberlain is hereby forbidden to pay any draft or order drawn upon him, unless at the time such draft or order is presented there is a credit to the board or department drawing such draft or order sufficient to pay the same, nor shall the City Chamberlain have credit for any such draft or order paid by him in violation of this provision in the settlement of his accounts with the city. The board, department or officer violating any of the provisions of this section shall be guilty of a misdemeanor.

§ C6-10.

The City Chamberlain shall pay at maturity, out of the city funds applicable thereto, the principal of and interest of any obligations of the city, legal in their inception, without an order from the Common Council or any department, and any such obligation so paid shall be a valid voucher in his hands.

§ C6-11.

The records of all sales of real estate for unpaid city taxes shall hereafter be kept and preserved in the office of the City Chamberlain. The City Chamberlain shall, upon request and payment of his fees therefor, make and certify official searches upon real and personal property for unpaid

city taxes and shall charge and collect therefor a fee to be determined by the Council. Every such search shall be certified under the official hand and seal of said City Chamberlain. The City Chamberlain shall, at the expense of the city, provide and keep for use on all official documents requiring the official certificate of the City Chamberlain a seal to bear upon its face the following words: "City Chamberlain's Office. Seal. City of Oswego, New York." Such seal shall be the legal official seal of the City Chamberlain of the City of Oswego and shall be transmitted by each Chamberlain to his successor in office, together with all the books, papers, documents and other paraphernalia belonging to said office.

§ C6-12.

The interest on all moneys deposited in banks by the City Chamberlain, if any be allowed by such banks, shall belong to the City of Oswego.

§ C6-13.

The City Chamberlain shall deposit in an officially designated bank or banks all moneys received by him as such City Chamberlain, except the moneys collected by him for the state and county taxes by virtue of a warrant issued by the County Legislature, within forty-eight (48) hours after its receipt. Such moneys shall be drawn from said bank or banks only upon the check of the City Chamberlain, and all checks shall be payable to the order of the person or persons entitled to receive the amount identified on the check.

§ C6-14.

The City Chamberlain shall make sales of lands for unpaid local assessments, including assessments for sidewalks and other assessments in the manner provided in this Charter, at the same time of the general tax sale.

§ C6-15.

No person, other than the City Chamberlain, shall be authorized to have custody over city funds, and all city offices authorized to receive funds shall transmit all receipts to the City Chamberlain, within twenty-four (24) hours of receipt or during the next business day, at the Chamberlain's office.

ARTICLE VII, Purchasing Agent

§ C7-00.

A purchasing agent For the city shall be appointed by the Mayor pursuant to the New York State Civil Service Law. He shall serve under the immediate direction of the City Chamberlain, unless the Mayor shall designate otherwise.

§ C7-01.

The purchasing agent shall directly contract for and purchase all materials, supplies and equipment, including printing, and contract for the procurement of all work and services required by the Common Council, officers, boards, department, commissions and agencies of the city, except where such power of purchase and procurement is required by general law to be exercised directly by some other office or agency. Except as otherwise provided in this Charter, all purchase of materials and supplies and equipment and the procurement of all work and services for the city uses and purposes shall be on a competitive basis and orders therefor shall be issued to or contracts entered into with the lowest responsible bidder. Every contract for a public improvement shall be based upon an estimate of the whole costs thereof, including all expenses incidental thereto and connected therewith, which estimate shall be furnished to the purchasing agent by the proper officer, board, department, commission or agency having charge of such improvement. Duplicates or true copies of all orders issued or contracts entered into by the purchasing agent for materials, supplies and equipment purchased or work and services procured for any board, department, commission or agency shall be filed with the head thereof and also with the City Chamberlain.

§ C7-02.

The purchasing agent shall establish, from time to time, under the direction of the Chamberlain and with the Mayor's approval, rules prescribing the conditions and manner under which materials, supplies and equipment shall be acquired. Such rules shall contain a list of such materials, supplies and equipment as are capable of standardization and for which standards and standard specifications can, in the judgment of the purchasing agent and the Mayor, be established. In case of disagreement between the purchasing agent and any officer, department, board, commission or agency in respect to such rules, lists, standards or standard specifications, the written direction of the Mayor shall prevail.

§ C7-03.

If a department filing a requisition with the purchasing agent desires that the purchase of materials, supplies and equipment or procurement of work and services be immediately made, the requisition shall specify fully the reasons therefor.

§ C7-04. [Amended 3-24-1980 by L.L. No. 1-1980; 5-28-1996 by L.L. No. 2-1996]

If any single purchase of materials and equipment and/or work and services should cost less than the amount set forth in § 103 of the New York State General Municipal Law, the Purchasing Agent may purchase or procure the same without advertising and soliciting bids therefor, but in all such cases he shall secure from responsible merchants, material, men or contractors who deal in the required materials, supplies and equipment and/or who perform the required work or services at least written price quotations pursuant to the Procurement Policy for the City of Oswego before issuing an order therefor. It shall be the Purchasing Agent's duty to seek out the lowest price for satisfactory work and/or supplies and/or equipment.

§ C7-05. [Amended 3-24-1980 by L.L. No. 1-1980; 5-28-1996 by L.L. No. 2-1996]

If any single purchase of materials, supplies and equipment and/or work and services involves an expense exceeding the amount set forth in § 103 of the New York State General Municipal Law, the Purchasing Agent, with the cooperation, aid and assistance of the officer or head of the board, department, commission or agency for the use of whom or which supplies, materials, equipment, work and services are required, shall prepare or cause to be prepared specifications which shall include a description of the materials, supplies, equipment and/or work and services for which an order is proposed to be issued or a contract to be let, together with a written notice specifying the day, hour and place at which sealed proposals will be received and publicly opened. Such specifications shall set forth with sufficient detail information and data to competently advise all persons proposing to bid, or the nature, kind and character of the materials, supplies and equipment to be supplied and/or work and services to be furnished and performed. Such notice shall briefly specify and describe the materials, supplies and equipment, work and services to be supplied or furnished and shall also contain a statement that written or printed specifications thereof may be obtained upon applications to the Purchasing Agent. A copy of such written notice shall be posted on the bulletin board of the City Hall and published in the official paper at least twice, five (5) days prior to the day specified therein on which proposals will be received and publicly opened. The City Engineer, whenever requested by the Purchasing Agent and the head of any board, department, commission or agency, shall aid, assist and advise in the preparation modification or approval of such specifications.

§ C7-06. [Amended 3-24-1980 by L.L. No. 1-1980; 5-28-1996 by L.L. No. 2-1996]

It shall be the duty of the Purchasing Agent to prevent any agency or department of the city government from subdividing any requests made to the Purchasing Agent into units whose value shall be less than the amount set forth in § 103 of the New York State General Municipal Law. The Purchasing Agent shall report to the Mayor and Council any information received by him indicating a reasonable presumption of such practice.

§ C7-07. [Amended 3-24-1980 by L.L. No. 1-1980; 5-28-1996 by L.L. No. 2-1996]

The Purchasing Agent shall have power to reject all bids or proposals if in his opinion the lowest bid or proposal is excessive.

§ C7-08.

Within two (2) days after the making of any award upon any city contract, any unsuccessful bidder may appeal by filing written objections with the purchasing agent. The Mayor, the Chairman of the Finance Committee of the Common Council, or another Councilman designated by the Council, and the City Engineer, as a Board of Contract Appeals, shall immediately proceed to review such award and may, in their discretion, grant a hearing thereon. Such Board shall have the power to affirm the award or set it aside. In the event that an award is set aside, the Board of Contract Appeals shall order rejection of any and all the bids and the readvertisement of the subject matter of such award.

§ C7-09.

All materials, supplies and equipment purchased shall be delivered at the place or places in the contract or order to purchase, as the case may be; and the purchasing agent, in the case of all purchases for the account of the Common Council, and the officer or head of the board, department, commission or agency for whom or for which purchases have been made shall cause the same to be inspected at the time of delivery to determine conformity to specifications; quality and quantity shall be certified to by the purchasing agent for all purchases for the account of the Common Council and by the officer or head of the board, department, commission or agency or by someone designated by them as a storekeeper or receiver for all purchases for their account.

§ C7-10.

In case of public emergency involving accident or other injury by which the heating or plumbing of any public building or any of the fire, waterworks or sewage disposal plants' apparatus or equipment shall become disabled, the purchasing agent, upon written requisition from the officer or head of the board, department, commission or agency having jurisdiction thereof, specifying the extent and nature of the emergency and the necessity of repairs thereof, may, with the written approval of the Mayor, in cooperation with such officer or head, cause all necessary repairs thereto to be made without advertisement, bidding and the letting of a formal contract therefor.

§ C7-11.

If any department or officer of the city or committee of the Common Council, by written recommendation, recommends to the Common Council that it is impracticable to procure materials, supplies and equipment and/or work as services required by bidding and contract and hereinbefore provided, then the Common Council may, with the approval of the Mayor, by a vote of not less than three-fourths (3/4) of the number qualified to be elected, adopt a resolution determining to be impracticable to purchase such materials, supplies and equipment or secure such work and services, or both, by bidding and contract and may, by such resolution, direct the purchasing agent, in cooperation with such committee, officer, board, department, commission or agency, to procure such works and services and/or to purchase such materials supplied and equipment without advertising and without bidding.

ARTICLE VIII, City Clerk

§ C8-00.

The City Clerk shall be appointed by the Mayor and shall hold office at the Mayor's pleasure.

§ C8-01.

It shall be the duty of the City Clerk to preserve and file the original minutes of any and all of the proceedings of the Common Council in the city archives, and the copies of all papers, proceedings or records required to be published in the official papers shall be read and compared by him with the originals thereof, and said originals shall be preserved and filed by him in the City Archives. The City Archives shall contain all official city reports, records and documents necessary for the conduct of the city's business, and they shall be maintained to assure accessibility to city personnel and citizens. The City Clerk shall, in addition to the duties in this Charter required of him, keep all papers belonging to said city and make a record of the

proceedings of the Common Council.

§ C8-02.

Copies of all instruments, maps and all other papers on file in his office and transcripts from the records of the proceedings of the Common Council certified by him to be true copies of the originals shall be evidence in all courts and places in like manner, as if the originals were produced and proven. He shall have the custody of the corporate seal. He shall be ex officio a Commissioner of Deeds of the city, and as such shall have power to administer oaths and affirmations and take the proof of acknowledgment of the execution of any conveyance or instrument in writing.

§ C8-03.

The City Clerk shall receive, file in an orderly manner and make available for public inspection official records of the City Court and of all other departments of the city which shall generate records deemed, by the City Clerk, the Mayor or the Common Council, to be necessary to assure public access to them. The City Clerk shall, after appropriate consultation with the Mayor and Council, devise, implement and maintain a records-keeping and management system for all such purposes as this Charter shall require and as shall be directed by the Mayor or Council.

§ C8-04.

He shall attest all licenses of every description granted or issued by the city, and no license shall be valid unless so attested. A record of all such licenses, numbered consecutively, shall be kept by the City Clerk and the City Chamberlain in their respective offices.

§ C8-05.

All fees or commissions charged for or received by him under the provisions of this Charter shall belong to the City of Oswego and, as soon as collected, shall be paid to the City Chamberlain.

§ C8-06.

The Office of the City Clerk is hereby declared a town office for the purpose of depositing and filing therein all books and papers required by law to filed in a Town Clerk's office in said city; and with regard to such books and papers, he shall possess the powers and perform the duties of

a Town Clerk except as provided by the Local Finance Law.

§ C8-07.

The City Clerk shall cause to be published in the official newspaper any and all notices of election as required by the general Election Law of the State of New York.

§ C8-08.

The City Clerk shall receive and verify the oaths of office of all elected and appointed officials of the city, and until such oath of office shall have been certified by the City Clerk, no person shall occupy and perform the duties of the office to which appointed or elected. If a person shall fail to submit his oath to the City Clerk within ten (10) working days of the commencement of his term, the office shall be considered vacant.

§ C8-09.

The City Clerk shall notify all persons of their appointment to office and shall advise them of the necessity for executing bonds, if required under the terms of this Charter, and of the necessity for filing an oath of office.

§ C8-10.

The City Clerk shall report to the Mayor, in writing, the names of all persons elected or appointed to any office who shall have neglected to file their bond and/or oath of office according to the requirements of this Charter within ten (10) days after such default.

§ C8-11.

The City Clerk shall receive from the Mayor any objections the Mayor may have to Council acts, record those objections in the journal of the Council having determined that the Council shall have received such objections at its next meeting after the filing of such objections and shall include in his preparation of the Council's Journal, the Council's reactions to mayoral objections.

§ C8-12.

The City Clerk shall be responsible for the publication of all ordinances of the Common Council

being published twice in the city's official paper. Not more than six (6) days nor less than three (3) days shall elapse between the day of the first publication and the day of the second publication, and every ordinance shall take effect at the expiration of ten (10) days after the first publication thereof in the official paper. The City Clerk shall make and sign an entry or record, in a book to be provided for that purpose, of every ordinance enacted by the Common Council and of the time of the first publication thereof, and such original entry or record or a copy thereof certified by the Mayor or City Clerk under the city seal shall be presumptive evidence in all courts and places of the due passage of such ordinance, of its having been duly published and of the time of its first publication. The printed copy of the ordinances published under the direction of the Common Council, with the time of the first publication designated at the end of the respective sections, shall also be presumptive evidence of the above recited facts; and the printed copy of the Charter published in like manner shall be like evidence to the same extent as volumes of laws printed under the direction of the Secretary of State.

§ C8-13.

The City Clerk shall be responsible for the maintenance and posting of a suitable bulletin board in the rotunda of City Hall.

§ C8-14.

The City Clerk shall be responsible for the preparation and dissemination in the city's official paper of all notices required by this Charter and the Council. He shall, under the direction of the Council, determine appropriate rates for payment thereof.

§ C8-15.

The City Clerk shall also perform such other duties as the Common Council may assign.

ARTICLE IX, City Attorney

§ C9-00.

The City Attorney shall be appointed by the Mayor and shall hold office at the Mayor's pleasure. No person shall be eligible for the office of City Attorney unless he shall be a member of the Bar of Oswego County, with at least two years active practice. The City Attorney shall be a resident

of the City of Oswego or of the adjacent Towns of Oswego, Minetto or Scriba. It shall be his duty to prosecute and defend all civil actions and proceedings by and against the City of Oswego and every department thereof, and to perform such other professional services as the Mayor or Common Council shall direct. No action shall be commenced by the City Attorney unless directed by the Mayor or an action of the Common Council.

§ C9-01.

The City Attorney shall be the sole attorney and counselor of the city and of its various boards and departments. If the City Attorney, with the Mayor's approval, certifies to the Common Council that he needs the assistance of other counsel on any question or area of concern assigned to him, the Common Council may authorize him to employ additional counsel.

§ C9-02.

It shall also be the duty of the City Attorney to prosecute all cases of violation of city ordinances that come before the City Court. This shall not prevent a complainant from employing other counsel.

§ C9-03.

All costs in litigated cases where the city is successful shall belong to the city.

§ C9-04.

The City Attorney shall keep a record or register of all suits and proceedings which, as City Attorney, he shall have charge over. He shall, when required, prepare all legal papers, contracts deeds and other instruments for the city and the different departments thereof and also attend the meetings of the Common Council.

§ C9-05.

The City Attorney shall deliver to his successor, as soon as his successor shall be qualified, the record or register of all suits or proceedings in which the city or any of its departments may be a party and also all papers on the part of the city therein and also sign stipulations substituting such successor as attorney for the city in such suits or proceedings, to the end that a suitable order may be entered making such substitution.

§ C9-06.

The City Attorney shall examine thoroughly all claims against the city for damages or injuries to persons or property, and to that end may require claimants, with privilege of counsel, to appear before and be sworn by the City Judge, the City Clerk or the Chairman of a Claims Committee of the Council to answer orally any question relative to a claim against the city.

ARTICLE X, Other Officials

§ C10-00.

There shall be a City Engineer who shall be appointed by the Mayor for a four-year term concurrent with his own. The City Engineer shall be hired for his professional training, experience and earned license and must agree to become a resident of the City of Oswego upon his appointment. The City Engineer shall supervise and provide office and field engineering services, plans and specifications; surveys and maps, designs and drafting work; and any other type of engineering services, under the Mayor's direction, requested by any department head, officer, commission or agency of city government. With the approval of the Mayor and Council, he may recommend the employment of such deputies, directors, assistants and other employees as may be needed for performances of his duties and may prescribe their duties. The City Engineer may employ consulting engineers when he deems it necessary for the proper performance of his duties, provided that the compensation for such consulting services has previously been approved by the Common Council.

§ C10-01. (Reserved) EN(6)

§ C10-02.

An Examining Board of Plumbers shall consist of five persons: two employing or master plumbers and one journeyman plumber, all of whom shall have at least 10 years experience in the business of plumbing; the City Engineer; and the Chief Inspector of Plumbing and Drainage. The three Plumber Board members shall be appointed by the Mayor to serve staggered terms of three years each commencing January 1 after the date of appointment. Vacancies shall be filled for the remainder of an unexpired term. The Chief Inspector of Plumbing shall be appointed by the Council. The Board shall examine and certify the competence of persons who shall then be

licensed as plumbers within the city.

§ C10-03.

An Electrical Licensing Board of Examiners shall consist of four persons: one master electrician, one journeyman electrician, the City Engineer and one layman. All members shall be appointed by the Mayor and shall serve staggered terms of four years each commencing January 1 after date of appointment. Vacancies shall be filled for the remainder of an unexpired term. The board shall examine and certify the competence of persons who shall then be licensed as electricians within the city.

§ C10-04. [Amended 7-26-1999 by L.L. No. 2-1999[EN(7)]]

An Animal Control Officer shall be appointed by the Mayor to hold office during his/her pleasure. The Animal Control Officer shall possess and exercise all the powers and discharge all duties assigned to and imposed upon dog control officers by Article 7 of the Agriculture and Markets Law and such other duties as may from time to time be assigned and delegated to him/her by the Mayor.

ARTICLE XI, Personnel Department

§ C11-00.

There shall be a Personnel Department with a Director, appointed by the Mayor and subject to confirmation by the Common Council. The Director shall serve in accordance with state law and shall recommend appointment of such deputies, assistants and employees of his department as may be necessary to implement the duties of his office and as shall be authorized.

§ C11-01.

Except as otherwise provided in this Charter, the Director shall be responsible to the Mayor for the administration of personnel benefits, employees relations, contract administration and negotiation, training of personnel, affirmative action, long-range staff planning and all other personnel functions assigned by state law to the City Civil Service Commission.

§ C11-02.

The Personnel Director shall establish and maintain a roster of all City officers and employees. Such roster shall show for each city officer and employee the date of appointment, the title of the position, the rate of pay and rate changes, promotions, demotions, transfer, the time and any other information the Personnel Director considers necessary for a proper personnel record.

§ C11-03.

No payroll, estimate or account providing for the payment of wages or salaries shall be approved by the City Chamberlain, unless it bears the certificate of the Personnel Director that the persons named therein have been, during the period specified, employed in their respective positions in accordance with law and rules made pursuant to law.

§ C11-04.

The Personnel Director shall maintain and administer, pursuant to state law, a job evaluation and salary plan for city employees and periodically resurvey prevailing positions and salaries and recommend amendments to eliminate inequities, recruiting difficulties and employee turnover problems.

§ C11-05.

The Personnel Director shall monitor performance of agreements with recognized employee representatives concerning terms and conditions of employments, wages, employees' sick leave, vacation, health insurance, retirement plans and such other matters as may come before him; counsel with department heads at the direction of the Mayor as to employee/employer responsibilities and methods for meeting individual problems; advise the Mayor regarding needed changes in agreements and the impact of other proposed changes; and conduct negotiations with employee representatives as designated by the Mayor.

ARTICLE XII, Department of Public Works

§ C12-00.

The Department of Public Works shall be directed by a Commissioner of Public Works who shall be appointed by the Mayor for a four-year term concurrent with the Mayor's term. The Commissioner of Public Works shall recommend appointment of such deputies, assistants and employees of his department as may be necessary and as shall be authorized.

§ C12-01.

The Commissioner of Public Works shall, before he enters upon the duties of his office, give a bond to the City of Oswego for an amount determined by the Council and executed by a duly authorized surety company incorporated or doing business under the laws of the State of New York, to be approved by the Mayor and conditioned that he shall faithfully execute the duties of his office and account for and pay over all moneys received by him.

§ C12-02.

A vacancy in the office of the Commissioner of Public Works shall be filled by appointment by the Mayor for the unexpired term.

§ C12-03.

The Department of Public Works shall have control of the construction, improvement, repair and cleansing of the streets, highways, alleys, avenues, sewers, sidewalks, culverts, crosswalks, parks, City Hall grounds and bridges; the erection of electric lights, electric light poles and fixtures; and the lighting of the city and all buildings and rooms owned or used by the City of Oswego. Said department shall purchase all material, supplies and equipment only pursuant to the provisions of this Charter.

§ C12-04.

The Department of Public Works shall, with the Mayor's approval, determine the size, dimensions, material and other specifications of any private, connecting lateral sewer connections feeding into the city's sewage system.

§ C12-05.

There shall be included in the annual budget an amount which shall be placed to the credit of the Department of Public Works and which shall be used by said Department for the purchase and planting of shade trees. Such trees shall be planted each year and shall be equitably apportioned

to each ward of the city. Such trees shall be planted only on lands owned by the city and on lands bordering the public ways of the city. Said trees shall be planted under the direction of the Department of Public Works. Said fund shall be used for no other purpose. In the event that a portion of the fund is not used in any one (1) year, the balance shall be added to subsequent appropriations provided for by this Charter.

§ C12-06.

The Department of Public Works shall be authorized to require the owners of property fronting upon any street, highway, alley or public place to construct, repair and keep in order sidewalks. The Department may prescribe the width and thickness of new sidewalks, as well as the material for sidewalk construction. If, within a reasonable time determined by the Commissioner of Public Works, owners of property fail to install or repair sidewalks, the Department of Public Works may install or repair them, and the cost shall be assessed and collected in the same manner as other local assessments. The Department of Public Works is further authorized to require sidewalks to be kept in a safe and passable condition free from any obstructions, including snow and ice. The failure of owners of property to comply after appropriate notice shall subject them to local assessment charges for any work done by the Department of Public Works to keep sidewalks open, safe and passable. The above not withstanding, the city may, at its own expense, implement a plan of sidewalk construction and renewal.

§ C12-07.

The Commissioner of Pubic Works shall have authority to:

A. Permit the excavating in any public street or the opening of any public sewer of said city at such time and in such manner and under such regulations and superintendence thereof as said Commissioner may prescribe in its order granting such permission. Any expense incurred by said department in any such superintendence or in restoring or repairing such street or sewer shall be a lien, until paid, upon the premises or lot for the benefit of which any such work was done, and the City of Oswego shall have a lawful demand against the applicant to whom such permission may have been given for such expense, and the same may be sued for in the name of the city and recovered by said department and, when collected, shall be paid to the City Chamberlain to the credit of the fund against which such expense is properly chargeable.

B. Determine the place for planting and the relative location of any shade or ornamental trees in the streets and parks of said city, and the removal, pruning and trimming thereof of any such trees now in said streets or parks, and to that end may propose rules and regulations with reference thereto. These rules, with the approval of the Mayor and Council, shall specify

modes of compliance, forfeiture for noncompliance and conditions under which the Department of Public Works shall perform work to be charged against the owners of property.

C. Employee the services of the City Engineer in all matters pertaining to said department requiring the services of a civil engineer or surveyor.

D. Enforce regulations pertaining to the installation and maintenance of culverts after such regulations shall, with the approval of the Mayor and Council, have been promulgated.

§ C12-08.

The Department of Public Works shall have power to make provision whereby all garbage and other refuse of the citizens shall be gathered and removed. It may require every occupant of any house, store, apartment or room to place garbage and other refuse where the same may be readily gathered for removal under such reasonable rules and regulations as said Department may adopt.

§ C12-09.

The Department of Public Works shall have power, when authorized by the Common Council, to contract for or to equip and operate and maintain an electric generating facility or facilities for lighting the streets, highways, alleys, parks, public places and all municipal buildings and for other municipal purposes and to furnish electricity to private consumers.

ARTICLE XIII, Department of Water

§ C13-00. [Amended 5-14-2007 by L.L. No. 4-2007]

The Department of Water shall be directed by a Superintendent of Water, who may be appointed by the Mayor at his/her discretion. In the absence of a Superintendent of Water, the Department of Water shall be directed by a department head designated by the Mayor. He/she shall serve at the pleasure of the Mayor during his/her term of office.

§ C13-01.

The Department shall keep regular and full books of account of all its transactions and proceedings and an accurate record of each fund subject to its warrants showing at all times the

amount of warrants drawn against such fund separately and the balance thereof unexpended. It shall, before the water rates hereinafter provided for shall become due, prepare and deliver to the City Chamberlain a list giving the names of persons and corporation receiving water, with the amounts due from them, together with a brief description of the property against which the water is a charge, giving street and street number when possible, and such other description as the Department may deem necessary, and at the same time prepare and furnish to the persons liable to pay the same and water bills to correspond with such lists, which bills or duplicates thereof furnished by said Department shall be presented to the Chamberlain to be receipted by him when said bills are paid.

§ C13-02.

The Chamberlain shall, on the twentieth day after such bills shall become due, deliver to the Department a list of all water rates then unpaid.

§ C13-03.

All water rates shall be paid directly to the City Chamberlain by the person owing the same. Such water rates shall be, like other taxes and assessments of said city, a lien and charge upon such premises and buildings as are so supplied and, if unpaid, may be added to the annual city tax on the property to or for which such water was furnished. All moneys paid by customers or persons for services, renewals or repairs or any other service rendered or materials, supplies or labor furnished shall be paid direct to the City Chamberlain upon an invoice, bill or memorandum issued by said Department to the customer or person receiving the same.

§ C13-04.

The Superintendent of Water shall have custody, management and control of the property which makes up the water system of the City of Oswego, including lands, water, water rights, reservoirs, mains, pipes, real estate, personnel and equipment acquired by the City of Oswego for the purpose of supplying water to citizens of the City of Oswego and the surrounding area. It shall, however, continue to be the duty of the Department of Fire to remove snow and ice from around fire hydrants during the winter months. The Department of Water shall have the following powers and be subject to the following restrictions:

A. It shall be the duty of the Water Department, as far as is practical, to furnish for the City of Oswego and its inhabitants, a sufficient supply of good wholesome water.

B. The Department of Water shall shut off any service whose water rates remain unpaid for thirty (30) days, excepting water furnished the United States and State of New York, County

of Oswego. A reasonable fee shall be fixed by the Common Council to be charged and collected for turning the water on after same has been shut off.

C. The agents and employees of the Department of Water of the City of Oswego are hereby authorized to enter between the ours of 8:00 a.m. and 5:00 p.m. any premises or building being provided water by the City of Oswego, said entry to be only for the purpose of making an inspection of the water supply or to ascertain the manner in which it is to be used, after presenting to the property owner proper identification that they are Department of Water employees. Should the owner or occupant of the premises refuse to permit such entry, the Department of Water shall have the right to discontinue service therefrom.

D. The Department of Water shall, among other records, keep a register of the names of all persons and corporations furnished with water, together with the rate charged, and such register shall be kept in such a manner as shall be easily understood by and easily accessible to the public during office hours.

§ C13-05.

Said Department may require the services of the City Engineer in all matters pertaining to said Department requiring the services of a civil engineer and surveyor, and it shall be the duty of the City Engineer to perform such services when so required.

§ C13-06.

The Mayor and Common Council of the City of Oswego shall fix rates to be paid by water users for water furnished by the Department of Water of the City of Oswego. In addition to fixing of rates, the Common Council shall have the authority to fix the method in which they are to be collected, the fees for installing service and redoing service to both the citizens of the City of Oswego, surrounding water districts and the Town of Minetto.

§ C13-07.

No person, except under the direction of the department, shall tap a water main or pipe belonging to said city, and no person, without a written permit from the department, shall make any connection with, addition, alteration or extension to or of any water main or pipe belonging to the city or connected with the city water mains or pipes. A violation of this section is hereby declared to be a misdemeanor.

(1) No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property

taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(a) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(b) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(c) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(d) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(e) No application fees shall be refunded upon revocation of the permit.

(f) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(g) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ C13-08.

No person shall make any addition, alteration or extension of any tap, pipe, cock or other fixture connected with the water mains or pipes supplying water to consumers from said Department of Water, except by a person who shall have obtained a certificate of competency from the Examining Board of Plumbers in the City of Oswego and who shall have executed a bond to the

City of Oswego in the penal sum of one thousand dollars ($100.), with such conditions as shall be prescribed by the Department. A violation of this section is hereby declared to be a misdemeanor.

§ C13-09.

The Water Department shall pay all claims and demands following due audit, as provided by law by warrants drawn by the City Chamberlain against funds on hand, subject to draft by the Department. Said vouchers to be subject to audit by the Audit Committee of the Common Council.

§ C13-10.

Said Department of Water, in behalf of the City of Oswego and all persons acting under its authority, shall have the right to use the ground or soil of any street, highway or road within the County or Oswego for the purpose of laying mains and making extensions and erecting and maintaining poles and maintaining and introducing water into and through any portion of the City of Oswego or adjoining towns or for the purpose of introducing and maintaining water into and through any portion of the Town of Minetto, on condition that they shall cause the surface of said street, highway or road to be relaid and restored to its usual state and all damage done thereto to be repaired to the satisfaction of the Commissioner of Public Works of said city or the Superintendent of Highways of the town.

ARTICLE XIV, Fire Department

§ C14-00.

The Mayor shall appoint a Fire Chief for the city who shall direct the Fire Department, and the Mayor shall appoint from eligible lists maintained by the Personnel Department a sufficient number of able-bodied inhabitants of the city as firefighters and ambulance drivers for the city. With the Mayor's approval, the Fire Chief shall divide the firefighters and ambulance drivers into the necessary number of divisions so as to afford the city continuous protection.

§ C14-01.

Subject to the Mayor's approval, the Fire Chief shall establish rules or conduct for the efficient

operation of the Department; these rules shall provide for adequate discipline within the department.

§ C14-02.

The Fire Department shall remove snow and ice from and around all fire hydrants so that they may be available for use at all times.[EN(8)]

§ C14-03. [Amended 10-28-1996 by L.L. No. 3-1996]

Whenever any building in the city is on fire, it shall be lawful for the Fire Chief or his or her ranking deputy at the scene to order and direct the same of any other building which they may deem likely to take fire and convey the same to other buildings to be town down or blown-up and destroyed.

§ C14-04.

The Fire Department shall be authorized to make routine inspections of all premises in the city with a view to determine hazardous conditions or to adequacy of exits in places of public assembly. Enforcement procedures to correct damages may be conferred on the Department by the Council.

§ C14-05. [Amended 10-28-1996 by L.L. No. 3-1996]

The Fire Department shall be authorized to to make routine inspections of all premises in the city with a view to determining hazardous conditions and the adequacy of exits in places of assembly.

§ C14-06.

All moneys required by law to be paid by the agents of insurance companies or by insurance companies for the use and benefit of the Fire Department of the Cities of this state shall thereafter be paid to the Chamberlain of the City of Oswego and be paid by him to the Treasurer of the Firemen's Benevolent Association of the City of Oswego.

ARTICLE XV, Police Department

§ C15-00.

The Mayor shall appoint a Police Chief for the city who shall direct the Police Department. It shall be the duty of the Chief of Police to keep a record of all cases and legal proceedings in the Department and all services performed by said Chief and the members of this Department. The Chief of Police shall furnish a monthly report to the Mayor stating the condition of the Police Department and whether any member of the police force is delinquent in their duties. The Mayor shall appoint from the eligible list maintained by the Department of Personnel such Captain, Lieutenants and Sergeants as set forth in the Table of Organization for Police Officers.[EN(9)]

§ C15-01.

Subject to the Mayor's approval, the Police Chief shall establish rules of conduct for the efficient operation of the Department; these rules shall provide for adequate discipline within the Department.

§ C15-02.

The Department of Police shall keep regular and full books of account of all its transactions and proceedings and an accurate record of each fund subject to its warrants, showing at all times the amount of warrants drawn against each fund separately and the balance of said fund unexpended. These records shall be open for inspection during regular business hours.

§ C15-03.

The Mayor shall appoint, subject to appropriations by the Council, an adequate number of regular police officers to ensure orderly law enforcement in the city. Appointments shall be from eligible lists maintained by the Department of Personnel. The Mayor may, if he determines such to be necessary, appoint extra members of the Police Department who shall serve for not longer than 10 days. Compensation for these special police must be approved by the Council. All special police shall be directed by the Chief of Police and shall have the same power and authority as regular police officers.

§ C15-04.

The Chief of Police shall possess all the powers of a constable. The Chief of Police shall also have power to commit persons charged with criminal offenses until examination shall be had before a qualified magistrate.

§ C15-05.

No police officer or special police officer shall receive any present or reward for services rendered or to be rendered.

§ C15-06.

The Common Council of said city shall provide and keep in order such station houses, lockups and other necessary accommodations as shall be required for the use of the police force, including office furniture, fuel and stationery.

§ C15-07.

The Captain of Police, Lieutenant of Police and Detective Sergeant shall possess all the powers provided for and vested in the Chief of Police by § C15-04 of the Charter of the City of Oswego, together with such powers as may from time to time be delegated to them or any of them by the Chief of Police. No police officer shall be entitled to any fees, costs or perquisites of any kind for any services in civil proceedings in which the City of Oswego is a party or is concerned or in any proceedings against any person or corporation for a violation of any ordinances of said city, whether such proceedings are of a civil or criminal character. The Chief of Police shall receive all fines, costs judgments, penalties and damages adjudged to be paid or imposed by the City Judge in any action or proceedings had or prosecuted before the City Judge, and it shall be the duty of the Chief of Police to pay the same to the City Chamberlain at the end of every month.

§ C15-08.

The Mayor of the City of Oswego may, on the request of any person, company or corporation, appoint for a definite period of time such number of special police officers as the Mayor may deem necessary, and said special police officers shall be authorized to make arrest in same cases as other police officers of said City, but shall not be entitled to any compensation from the City for their service. Such special police officers shall be under the control of the Chief of Police of

the City and shall be liable to be removed by the Mayor at any time.

§ C15-09. [Added 3-29-1995 by L.L. No. 1-1994]

The Mayor of the City of Oswego may, subject to the provisions of the New York State Civil Service Law, appoint one or more parking attendants, whose duties shall be to patrol city parking lots and other designated parking areas and to issue and serve appearance tickets for violation of all parking ordinances and regulations of the City of Oswego, for violation of § 306 of the Vehicle and Traffic Law, as amended, which requires the display of a certificate of inspection upon all motor vehicles operated or parked on public highways, and for violations of § 401 of the Vehicle and Traffic Law, as amended, which requires registration of all motor vehicles operated or driven on a public highway.

ARTICLE XVI, Department of Assessment

§ C16-00. [Amended 7-9-2007 by L.L. No. 6-2007]

The Mayor of the city shall appoint a single Assessor to a six-year term of office commencing October 1, 1978, as provided by § § 310 and 328 of the Real Property Tax Law. The Assessor must meet the minimum qualification standards established by the New York State Board of Real Property Services.

§ C16-01. [Amended 7-9-2007 by L.L. No. 6-2007]

In addition to the Assessor, the Mayor may appoint one Real Property Appraiser who will work in conjunction with and under the direction of the Assessor in valuation of real property for the purpose of taxation within the City of Oswego.

§ C16-02. [Amended 2-28-1994 by L.L. No. 4-1994; 7-9-2007 by L.L. No. 6-2007]

The Assessor shall possess all powers and authority and be subject to all the obligations and duties of town assessors and shall make the assessment rolls in the manner provided in the Real Property Tax Law.

§ C16-03. [Amended 7-9-2007 by L.L. No. 6-2007]

Except as otherwise provided in this Charter, the assessment of real property and the preparation of the assessment rolls in the City of Oswego shall conform to the substantive laws and procedures set forth in the Real Property Law.

§ C16-04. [Amended 7-9-2007 by L.L. No. 6-2007]

There shall be a Board of Assessment Review consisting of five members who shall be appointed by the Common council and shall have all the powers and duties prescribed by the Real Property Tax Law.

§ C16-05. (Reserved) EN(10)

§ C16-06.

When the assessment rolls are so finally completed and verified and so delivered to the City Clerk, the Assessor shall forthwith give public notice by publication for three days in the official paper that such assessment rolls have been finally completed and delivered to the City Clerk and that the same will be open to the public inspection at his office for 10 days.

§ C16-07. [Amended 7-9-2007 by L.L. No. 6-2007]

The Assessor shall keep his/her office in the City Hall, which shall also be the office of the Department of Assessment, and the same shall be kept open during designated hours on all business days, except when the Assessor shall be engaged in the examination and valuation of the real property of the city.

§ C16-08. [Amended 7-9-2007 by L.L. No. 6-2007]

All descriptions of real estate contained in said assessment rolls shall be carefully examined by the Assessor and all mistakes therein corrected. He/she shall, as often as once in each week, procure from the County Clerk's office memoranda of all conveyances recorded or left for record therein and affecting lands situated in said city of the parties thereto and of the lands affected thereby and shall file the same in his/her office and the same shall be open at all suitable times to public inspection.

§ C16-09.

The Assessor shall give notice by mail, postage prepaid, to each person, company or corporation whose name appears on the assessment roll of the fact of such assessment and the amount thereof, together with the time and place of reviewing the same hearing the parties who are interested in relation thereto.

§ C16-10.

The Assessor shall promptly post on the bulletin board in the rotunda of the City Hall a copy of each and every public notice pertaining to any local assessment and shall keep at all times in his office a scrap book in which shall be affixed or pasted copies of every public notice which the Department of Assessment, or any member thereof, is by law required to give or publish and shall keep the same at all times properly indexed.

§ C16-11. [Amended 7-9-2007 by L.L. No. 6-2007]

The Assessor of the City of Oswego may serve or cause to be served upon any resident of said city a written or printed notice requiring such resident to appear before him/her at a time and place specified in said notice, but not less than three days after the service thereof, and answer on oath as to any real estate in said city, with the location and description thereof, owned or occupied by him/her or in which he or she has any interest personally or as executor, guardian, trustee of otherwise or in which he/she is the agent, and the name of the owner, executor, guardian, trustee or agent. The Assessor may administer such oath. Any resident of said city neglecting or refusing to appear as required by notice, without sufficient excuse therefor, or who shall refuse to be sworn or to answer pertinent and material questions shall for each and every such neglect or refusal be subject to a penalty of not less than $5 nor more than $50, to be sued for and collected in the name of the City of Oswego, with costs of prosecution; and any person who shall willfully and knowingly swear falsely in answer to any material questions put to him on such hearing shall be deemed guilty of perjury and shall be liable to the punishment prescribed by the laws of this state for perjury.

§ C16-12. [Amended 7-9-2007 by L.L. No. 6-2007]

Whenever the Mayor shall be of the opinion on written representation made to him that the Assessor is personally interested in any local assessment or improvement, by this Charter authorized, whereby said Assessor may be taxed or assessed $50 or more and he/she shall so determine, he/she shall thereupon appoint a disinterested freeholder of the city to be an Assessor in the place of the Assessor so disqualified. The City Clerk shall thereupon notify the Assessor so chosen of his/her appointment. Every person so appointed Assessor shall, within five days after written notice of his/her appointment, take and subscribe the constitutional oath of office.

Every person so appointed and qualified shall possess all the power and authority of an Assessor under this Charter in respect to said assessment, and shall receive such compensation therefor as the Common Council shall fix.

§ C16-13.

The Common Council may from time to time direct the City Engineer to prepare and furnish to the Department of Assessment for its use maps, surveys and other data of any real estate in the city or to prepare a roll or rolls of any real estate in the city for the use of the Assessor, exclusive of the valuation. The Common Council may also take such measures as it shall deem expedient to make the Department of Assessment the repository of such maps, surveys and other data as may facilitate a full and accurate description of the real estate in the city and direct the manner of keeping them.

§ C16-14.

The Common Council is vested with power to correct the assessment rolls in the same manner as a Board of Supervisors may, by law correct, the town rolls of their county. The City Clerk or City Engineer, under the direction of the Council, shall correct all clerical errors in the description or valuation of property on said rolls and erroneous descriptions of real estate therein.

ARTICLE XVII, Local Assessments and Real Property EN(11)

§ C17-00.

The City Assessor, the City Engineer and the City Attorney shall compose a Board to be called the "Board of Local Assessors," which Board shall make all local assessments and perform all the duties required by this Charter to be performed in regard to the making of local assessments and without extra compensation thereof. The City Assessor shall be Chairman of the Board of Local Assessors and shall prepare all rolls and copies of rolls of said local assessments. All local assessments of the expense, or any portion thereof, of any improvements authorized by this Charter to be made shall be made by the Board of Local Assessors or a majority thereof.

§ C17-01.

Said Board of Local Assessors shall meet at the office of the Assessor as soon as practicable after any local assessment is ordered, and may, if necessary, adjourn from time to time. They shall make an assessment roll of said local assessments in which they shall set down, in separate columns and according to the best information obtainable by them, the names of all the owners or occupants of the land assessed, the number of the block and lot and the number of the great lot, if any, or the Assessor's subdivision thereof on which the land described and to be assessed is situated; a brief description of the land to be taxed to each person, giving the quantity thereof where the land is farming land and also, where practicable, the street and the number of any building thereon; but if the land be vacant or the building thereon not numbered, then the name of the street or streets on which it fronts shall be given and the amount of the expense of such local improvement assessed on each piece of property apportioned as equitably as may be. When such roll is finished, they shall publish a notice in the official paper for five days of a time when they will meet, at the expiration of said five days, to review such assessment, and shall designate the Assessors' office as the place where such review will be made and where said roll may be seen and examined by any person interested therein. They shall have the same power to make corrections in such assessment rolls as the Assessor has in the case of the assessment of the general tax. After such review of said assessment roll, they shall complete the same and shall deliver a correct copy of the roll, duly certified, signed by all or a majority of said Board to the City Clerk within 20 days after their first meeting.

§ C17-02.

Any person interested may appeal to the Common Council for the correction of such assessment. Such appeal shall be in writing, stating in detail the grounds for such appeal and shall be delivered to the Clerk of the City within 10 days after the corrected copy of said assessment roll is delivered to the City Clerk. If there is no appeal, the assessment roll shall be confirmed by the Common Council. In case of an appeal, the Common Council shall appoint a time within 10 days thereafter for a hearing of such appeal and shall cause a notice thereof to be published in the official paper for three successive times prior to the date of such hearing. After such hearing, the Common Council shall have power to correct such assessment or to annul the same and direct a new assessment to be made in the manner hereinbefore directed, which shall be final and conclusive on all parties interested, in case the Common Council confirms the same. If the Common Council shall set aside the last aforesaid assessment, all the proceedings in the matter shall be null and void. A second assessment shall be made, and an appeal thereon may be taken in the same manner as on the first assessment. If no appeal be taken from any such assessment, it shall be confirmed.

§ C17-03.

As soon as the Common Council has confirmed an assessment roll for any local assessment, it shall cause a warrant to be annexed under the hand and seal of the Mayor commanding the City Chamberlain to collect from the several persons named or property described in said assessment roll the several sums levied in said roll, and said roll, with the warrant so annexed, shall be delivered to the City Chamberlain. The City Chamberlain shall thereupon proceed to collect the several sums levied and assessed in said local assessment roll in the same manner as in the case of the general city assessment rolls. All of the provisions of this Charter relative to the collecting of the general city assessments and the sale of lands for nonpayment of such assessments shall apply to any such local assessment roll, except so far as the same are modified by the provisions of this Charter.

§ C17-04.

Two-thirds of the entire cost of paving, repaving, surfacing and/or resurfacing any streets or section of a street or highway shall be assessed upon all the real estate fronting thereupon in proportion to the frontage of the respective parcels thereof, and the remaining 1/3 of such cost shall be borne by the city and shall be defrayed by a general tax.

§ C17-05.

Before ordering any local improvement subject to local assessment, the Department of Public Works shall give public notice that application has been made to it for such local improvement, or that it proposes to order the same, by publication for five (5) days in the official papers, fixing a day after the last publication of said notice for hearing objections to such improvement. On the day fixed for such hearing, persons interested in such improvement may appear before said Department and present objections thereto.

§ C17-06.

If the Department shall finally determine, notwithstanding objections, to order such improvement, it shall make an order accordingly, which shall be entered at length in its proceedings, stating the estimated cost and giving a general description of the proposed improvement and shall certify the same to the Common Council, who shall order said improvement to be made; provided, however, that no pavement shall be so ordered if the owners of a majority of the frontage liable to assessment therefor shall file a protest, in writing, against the proposed improvement, unless and until the Common Council, by a vote of at least a majority of its members, shall adopt a resolution favoring the proposed improvement. The mortgagee, if any, on any property affected by the proposed improvement shall be considered a party in interest and must join with the mortgagor in affirmative or negative action, both to be

considered as one (1) interested party. Upon and in the event that the Common Council shall adopt such resolution, the Department shall have the power to order such improvement. The evidence of the liability of the petitioners to be so assessed shall be the certificate of the Assessor endorsed upon said petition. Upon the completion of such improvement, the Department of Public Works shall certify to the Common Council the whole cost thereof, which cost shall not include any charge for the use of any city-owned machinery or equipment, but shall include the cost of operation thereof, and of all labor, material and supplies actually consumed in the construction of the proposed improvement and the amount of cost to be paid by local assessment; upon presentation of such certified order to the Common Council, it shall be the duty of said Council and it shall, within thirty (30) days from the receipt of such certified order, direct the Board of Local Assessors to make a local assessment for the cost of said improvement as certified, and the Assessor shall thereupon proceed to make such local assessment as by this Charter prescribed.

§ C17-07.

The Department of Public Works may, at any time after the assessment for any local improvement is confirmed by the Common Council, commence the work on such proposed improvements. Said assessments, when finally made, shall be confirmed by the Common Council, which confirmation shall be presumptive evidence of the regulatory of all proceedings taken thereon.

§ C17-08.

Neither the Department of Public Works nor the Common Council shall order any local improvements when the cost thereof, as determined by the Department of Public Works and the City Engineer, shall exceed fifteen thousand dollars ($15,000.), unless a majority of the owners of the property liable to assessment therefor or the owners of one-half (1/2) in value of the property affected thereby, shall petition, in writing, to said Department of Public Works or the Common Council for such local improvement or consent thereto, in writing. The mortgagee, if any, on any property affected by the proposed improvement shall be considered a party in interest and must join with the mortgagor in affirmative or negative action both to be considered as one (1) interested party. This section does not apply to any local improvement ordered by the Department of Public Works or the Common Council, any portion of the expense of which is to be defrayed from moneys raised or to be raised by virtue of a special election, according to the provisions of this Charter.

§ C17-09.

The grades of the several streets within said city determined by the Department of Public Works are hereby declared to be the established grades of said several streets respectively. Whenever the established grade of any street, lane, alley or other highway shall be altered by the Department of Public Works under the provisions of this Charter, the owner of any lot or house upon such street, lane, alley or other highway may claim damages therefor and present his claim to the Common Council, and the Common Council shall thereupon direct the Board of Local Assessors to ascertain such damages and assess the same as herein provided upon the real estate benefited by said alteration.

§ C17-10.

Whenever the Board of Local Assessors shall be of the opinion that any owner or owners of land on any street, lane, alley or highway to be graded or leveled will sustain damages over and above the benefit which may accrue to said owner or owners of such land by such improvements, they may assess such an amount as they may deem a reasonable recompense to such owner or owners thereof upon the real estate benefited by such improvement, in proportion to the benefit resulting thereto, as nearly as may be, and said assessors may add said amount to the assessment roll which they are hereby required to make and certify the same amount to the Common Council at the time of delivering their roll to the City Clerk, as aforesaid.

§ C17-11.

In case any assessment shall prove insufficient to defray the expenses of be improvement for which it was made, the Common Council may direct the Board of Local Assessors to make a further assessment for the amount of the deficiency; such further assessment shall be founded on the first roll and the like proceedings shall be had thereon as though it were an original assessment. If, on any assessment, too large an amount shall be raised, the excess shall be refunded ratably to those from whom it was collected.

§ C17-12.

Any and all property within the City of Oswego shall bear its proportionate share of all taxes levied, including those for local improvements, except when specifically exempted by law.

§ C17-13.

The Common Council may, when ordering any local assessment pursuant to this Charter or at any time thereafter and before the issue of the warrant to the Chamberlain for the collection

thereof, order the whole of such assessment to be collected at one (1) time or it may order such assessment to be collected in equal annual installments, with interest added as follows: any assessment for a sewer or sewers, sidewalk, macadamized road or curbing, when the latter is not laid with a pavement, in or upon any of the streets, highways, alleys, lanes, walks or avenues of the city may be extended and levied and collected in not to exceed ten (10) equal annual installments, as herein provided, and any assessment for paving or repaving any of the streets, highways, lane, crosswalks or avenues of the city, including all curbing or other structures incident to such paving and laid at the same time therewith, when such pavement is not macadam, may be extended, levied and collected in not to exceed ten (10) equal annual installments, as herein provided. The first installment of any such extended local assessment, the warrant for the collection of which has been delivered to the Chamberlain on or before the last day of December in any year, shall become due and payable the first day of September following and subject to the same fees, interest and penalties as the city tax; and all subsequent annual installments on such assessment shall become due and payable on said first day of September, one (1) in each succeeding year and subject to the same fees, interest and penalties as the city tax; until all the installments of any such extended tax with fees and interest thereon are fully paid. Any person against whom any local assessment may be levied and taxed may pay any part of any such assessment or installment thereof at any time prior to the due date thereof to the City Chamberlain and receive a receipt therefor and failure to pay any balance of a local assessment or installment thereof when due shall be a default within the meaning of the term as herein provided. Upon default of payment of any installment of any such extended assessment when the same is due and payable as above provided, the same proceedings on said installment, including the sale of the real estate upon which such assessment is levied, shall be taken as though said assessment had not be extended. The whole or any part of any such extended tax or assessment may be paid at any time with interest and fees thereon to the date of payment, as above provided.

§ C17-14. Payment; contingent fund.

A. Where an order is made by the Common Council to collect a local assessment by installments, as provided in § C17-13, any person liable to pay the same may, within thirty (30) days after the first publication by the City Chamberlain in the official paper of notice that the warrant for any such assessment roll is placed in his hands for collection, pay to the City Chamberlain the amount of such assessment without fee, percentage or interest thereon.

B. If any obligations are issued to finance an improvement, all or part of the expense of which is to be borne by the property benefited by such improvement, the portion of such obligations which is to be redeemed from such assessments shall be credited to the contingent fund of the city. All moneys collected upon the payment of installments of any such local assessments as herein provided in any year shall be applied by the Chamberlain to the payment of the expense of such improvement and to the redemption of the portion of such

obligations, if any, which shall have been credited to the contingent fund as provided by this section.

§ C17-15.

All costs of bonding for any local assessments shall be included in the sum total cost of said local assessments.

§ C17-16.

During the first thirty (30) days after the assessment roll and warrant for the collection of any local assessments shall be delivered to the City Chamberlain, every person, corporation or association may pay his, her or its tax without any additional charges. During the next succeeding thirty (30) days one-and-one-half-per-centum fees shall be added to the tax and collected by the City Chamberlain; and after the expiration of such last named period and during the next sixty (60) days, two-and-one-half-per-centum fees shall be added to the tax and collected by him; and after the expiration of said sixty (60) days, the fees shall be six per centum aforesaid. The notice required specifying the amount of the tax and the fees herein provided for in relation to unpaid city taxes shall apply to all such local assessments and shall be served as and in the same manner after the expiration of the second period of thirty (30) days aforesaid, and such notice shall require payment of such taxes as then remain unpaid to be made before the expiration of the sixty (60) days during which payment of two-and-one-half-per-centum fees are required, and it shall not be necessary to make any other demand of payment of said taxes.

§ C17-17.

All local taxes and assessments imposed for any purpose by the Common Council under any provision of this Charter shall be and remain liens upon the real estate upon which they are assessed from the time when the respective taxes or assessments shall have been confirmed by the Common Council to the same extent and with the same effect as the general annual tax of said city, viz., six (6) years. If any such taxes or assessments or any part thereof shall be returned as unpaid by any officer authorized to collect the same, such premises assessed shall be sold in the manner provided in this Charter for the sale of lands for unpaid city taxes. And in case any such taxes or assessments are extended for a period of years in accordance with the provisions of this Charter, the same shall be and remain a lien upon the several parcels of real estate upon which such taxes or assessments are made, for the amount due each year, for a period aforesaid, from and after the time when each such portion of said taxes or assessment are due and payable; provided, however, that in case default shall be made in the payment of an installment of such taxes or assessments, as the same becomes due, then and in that event all the unpaid balance of

said taxes or assessments shall be and become a lien from and after the date of said default. The Common Council is hereby required to add to the amount and include in the roll of any such local taxes or assessments, as ascertained by them under their authority, the fees which any officer shall be entitled to for making such, together with the expense of posting and publication of any notices required to be given in the proceedings thereon or prior thereto, and all such further and other proceedings may be had for the collection of and accounting for said taxes and assessments as are herein provided for the collection and accounting for the general tax.

§ C17-18.

All taxes and assessments so levied by said Board of Local Assessors hereunder shall be liens upon the property upon which assessed and shall be collected in the manner provided for by this Charter for the collection of local taxes and assessments and shall be payable in as many equal annual payments, not exceeding five (5), as the Common Council shall determine, with interest on the deferred payments until paid at the rate of six per centum (6%) per annum from the time the first payment shall be made payable, but such payments may, at the election of any party in interest, be made at any time before they shall fall due.

§ C17-19.

There shall be levied and assessed by the Board of Local Assessors of said City of Oswego by direct tax on assessment on the property located or fronting on that portion of any street, road, lane or alley through which any of the sanitary sewers herein provided for may be laid or built, for each linear foot of sanitary sewers built within said street, road, lane or alley, the sum of one dollar ($1.) per linear foot of sewer so built or laid under the provisions of this Charter, said tax to be assessed one-half (1/2) on property fronting on each side of such streets, roads, lanes or alleys per linear foot of said frontage, exempting from such tax or assessment property, if any, so situated that it cannot connect with or use such sewers for any of the purposes for which the same are built. Property situated on street corners may be exempted from such direct tax or assessment on one (1) side of the same, and the Board of Local Assessors shall have power to determine and decide upon which side of the property aforesaid the exemption shall be made and the extent of such exemption, after notice and an opportunity to be heard in all respects as nearly as may be in the manner prescribed in § C17-00 of this Charter, but said Board shall not in any event exempt more than one (1) side of such property so situated.

§ C17-20.

Said Board of Local Assessors shall also assess and levy upon all other property which they shall deem more immediately benefited by the construction of the sanitary sewers herein authorized,

by direct tax or assessment upon such property for each linear foot of frontage upon any street, road, lane or alley, the sum of not exceeding six cents ($0.06) per linear foot of such frontage, said tax to be assessed one-half (1/2) on property fronting upon each side of such streets, roads, lanes or alleys per linear foot of such frontage, but all streets and highways in which there has heretofore been a sewer constructed shall be exempt from the tax and assessment by this and the preceding section authorized.

§ C17-21.

The City of Oswego is hereby empowered to acquire land, through condemnation or purchase, and develop public off-street parking lots and facilities, to declare any such improvement to be a local improvement in whole or in part and to assess the cost of such acquisition and development in whole or in part upon the property benefited by the local improvement, or in whole or in part upon all the property in the entire City of 0swego.

§ C17-22.

Following the passage of any resolution providing for the acquisition or development of off-street parking facilities wherein any of the cost is to be borne by local benefit assessment, the Common Council shall cause to be published once within five (5) days after passage a notice in the official newspaper of the city that, at a time and place to be therein specified, it will meet and hold a hearing in respect thereto. Such notice shall contain a brief description or the location of said improvement, the type of facility proposed, a description of the benefited area subject to local assessment, the proposed measure of the assessment and an estimate of the total cost and an estimate of the cost to be borne by the local assessment. Such notice may, in lieu of the foregoing, contain a copy of the resolution. Any person interested shall be entitled to be heard at such hearing.

§ C17-23.

The Common Council shall cause all necessary appraisals to be made, and it shall adopt all necessary plans and specifications for such improvement and decide upon the kind and quality of material to be used in making such improvement and shall determine the probable expense of making such improvement, including the cost of acquisition of the lands, demolition of the buildings situated thereon, including all necessary appraisals, searches, surveys, together with all necessary expenses in making plans and specifications as aforesaid, publication and all expenses incidental to the making of any such improvement, and which shall be considered part of the expenses thereof.

§ C17-24.

If after the public hearing the Common Council shall determine that such an improvement ought to be made, it shall by resolution authorize and direct the City Attorney to proceed with the acquisition of necessary lands. Said resolution shall describe the location of such improvement with reasonable accuracy, specify the character and extent of the improvements to be made thereon, set forth the estimated total cost and a statement of the estimated amount to be borne by the city, if any, and an amount to be borne by local assessment, describe precisely the area to be benefited and to be subject to assessment and provide for financing the cost of the improvement.

§ C17-25.

The Common Council shall apportion the cost to be borne by benefit assessment against the taxable property deemed benefited in accordance with any one (1) of the following methods: the linear front footage of the property, the square foot area of the property or the total assessment of the property for general tax purposes. It may create separate zones of benefit in the benefited area and apportion the cost in different percentages amongst zones.

§ C17-26.

When the contract for any local improvement as hereinbefore provided has been let or the work specified in said contract be completed, the Common Council shall within such time as may be reasonably done assess the cost and expenses thereof, including appraisals, searches, surveys, cost of acquisition of land, clearing sites, preparation of plans and specifications, publications and all expenses incidental to the making of any such improvement upon the property lying within the district of local assessment, as provided in the resolution authorizing the local improvement and local assessment, and direct the Board of Local Assessors to prepare local assessment rolls as provided by § C17-00 of this Charter.

§ C17-27.

Not withstanding any other provision of this Charter, such local assessment shall become due and be paid by the owner of the lots or parcels of land within the assessment district in not more than twenty annual payments, with interest at six per cent (6%) per annum.

ARTICLE XVIII, Assessment and Collection of Taxes; Collection of State and

County Tax

§ C18-00.

The Assessor of the City of Oswego shall make two (2) copies of each of the assessment rolls and certify the same to be correct and deliver the same to the Clerk of the County Legislature of Oswego on or before the 15th day of November in each year.

§ C18-01.

When the equalized assessment rolls from the county legislature shall be returned to the City Chamberlain with the warrant for the collection thereof attached, the City Chamberlain shall give notice in the official paper of the city of the receipt of said rolls and warrant by him and all persons named in said assessment rolls are required to pay their taxes at the City Chamberlain's office.

§ C18-02.

All persons and corporations named in any assessment roll delivered by the Board of Legislature of Oswego County to the City Chamberlain of the City of Oswego are required to pay their taxes to said City Chamberlain on or before the 31st day of January next ensuing after the publication of the notice of such delivery as by law required. Up to and including said 31st day of January, any person or corporation may pay his, hers or its county and state taxes to said City Chamberlain without any fees added thereto. After the 31st day of January and up to and including the last day of February next following the date of such notice, one-and-one-half-per-centum fees shall be added to the tax and collected by him and after the last day of February said two-and-one-half-per-centum fees shall be added to the tax and collected by him.

§ C18-03.

If any such tax shall remain unpaid on the first day of March after delivery of the assessment rolls and warrants, the City Chamberlain shall cause a written or printed notice to be given to every person residing within the city from whom such tax may be due, specifying the amount and percentage of the tax, and requiring the same to be paid on or before the 31st day of March of the same year, at his office. Such notice shall be served on the persons assessed by depositing the same enclosed in a postpaid wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York, addressed to the person assessed at his last known address at Oswego, New York. If any of the person

assessed shall be known by said City Chamberlain to reside in any other place, the notice shall be directed to him at such other place of residence. It shall not be necessary to make any other demand for payment of said taxes.

§ C18-04.

From the 31st day of March and during such time thereafter as said tax rolls remain in the hands of the City Chamberlain, the fees to be added to the taxes then uncollected shall be at the rate of six per centum (6%) per annum in addition to two and one-half per centum (21/2%) aforesaid. If any person shall neglect or refuse to pay any tax imposed on him as herein set forth, the City Chamberlain shall levy upon any personal property in the City of Oswego or in the County of Oswego belonging to or in the possession of any person who ought to pay the tax and cause the same to be sold at public auction for the payment of said tax and the fees and expense of collection. Public notice of the time and place of sale of the property to be sold shall be given by posting the same in at least three (3) public places in the tax district where the sale is to be made at least six (6) days prior to the date of said sale. If the proceeds of said sale shall exceed the amount of the tax, fees and expenses of sale, such excess shall be paid to the person against whom the tax was assessed. No claim of property made to such goods and chattels shall be available to prevent the sale thereof except in such cases as are provided by the general statutes of the state.

§ C18-05.

The City Chamberlain shall deposit with the County Treasurer of Oswego County all assessment rolls received by him from the county legislature with warrants attached, together with a return of all taxes thereon remaining unpaid, in the same manner as required by law of the collection of taxes in towns, and all lands upon which said state and county taxes shall be so returned as unpaid shall be liable to be sold for the taxes thereon as by law provided, but before delivering said rolls to the County Treasurer he shall compare the same with the duplicate of said rolls in his office and make the same entries as to payments on said duplicate rolls as upon the original rolls, so to be delivered to the County Treasurer, so that the duplicate copy shall be an exact copy of the rolls returned by him to the County Treasurer. He shall certify the same is a true copy and retain said duplicate rolls at all times in his office.

§ C18-06.

The City Chamberlain shall pay over to the County Treasurer all moneys collected by him for state and county taxes by virtue of any warrant issued to him by the Board of Supervisors of Oswego County as provided by law, taking duplicate receipts therefor, which said receipts shall

be applied and allowed by said County Treasurer for their respective amounts in his final settlement with the City Chamberlain.

§ C18-07.

The Common Council shall examine, settle and allow all accounts chargeable against the city, as well of its officers as of other persons, except as hereinafter provided, and shall have authority to direct the raising of such sums as shall be necessary to defray the same and the contingent and other expenses of said city, subject, nevertheless, to the limitations and restrictions hereinafter contained.

§ C18-08.

The fiscal year shall commence on the first day of January of each year. The Common Council shall annually direct and cause to be raised by a general tax such sums as shall be necessary to pay the amount of all interest and any installment of principal falling due upon the bonds of the city, the amount necessary to pay the salaries and wages of city officers and employees and an amount not exceeding the amount of the following several sums, or so much thereof as may be determined by the Common Council, for the objects and purposes constituting the funds which shall be a group of accounts set aside for the purpose of accounting for money or other resources of general functions or specific activity of water supply, capital projects or other activities of the City of Oswego in accordance with the uniform system of accounts prescribed by the State Comptroller of the State of New York.

§ C18-09.

he Common Council is hereby restricted in making appropriations for and on account of the expenses of the city in the last preceding section of this article mentioned to the sums that are or may be authorized to be raised therefor by said section or by this Charter or the Local Finance Law. And in case the Common Council or any department shall authorize any expenditure for any purpose during any fiscal year exceeding the amount of the fund or funds under its control, not otherwise authorized by this Charter or the Local Finance Law, the City of Oswego shall not be liable to pay the same nor shall the Common Council or any department audit or pay any debt so contracted or expenditure so authorized.

§ C18-10.

All sums herein authorized to be raised shall be fixed on or before the 20th day of December in

each year. The Common Council shall annually cause to be made up and published with its proceedings an estimate in detail, under appropriate heads, of the expenditures of the city in the various departments of the government thereof for the current fiscal year, together with a statement of all receipts and probable income of the city during the same period.

§ C18-11.

The tax so directed to be raised shall be assessed upon all the taxable real and personal property in the city, according to the valuation of the same on the assessment rolls of the current year, filed by the City Assessor after said rolls shall be corrected as herein provided for.

§ C18-12.

The sum rated and assessed upon the property of each person, company, corporation and association shall be set opposite the name of such person, company, corporation or association respectively and shall be a lien on the real estate described therein. It shall be designated as the tax roll. After the tax rolls of the general city tax shall have been completed and filed with the City Clerk, he shall deliver the same to the City Chamberlain on or before the first day of March in each year. The City Chamberlain shall extend the total tax levied against each separate assessment and compute the amount due in two (2) equal installments. The tax can then be paid either in its entirety or in equal installments as provided by § C17-13 of this Charter. The City Chamberlain shall cause a notice to be published in the official paper that the same has been left with him to collect on or after the first day of April. Every such tax or assessment, for whatever purpose imposed, charged upon any real estate within the city by virtue of any provision of this Charter, shall be a lien upon the real estate so charged from the time of the confirmation thereof by the Common Council, except as otherwise provided in this Charter.

§ C18-13.

In case any taxable land in said city has been omitted in the tax or assessment rolls of said city for any of the three (3) preceding years, the Assessor may insert in the tax or assessment rolls for the current year, in addition to its share of the tax or assessment for such year, the proportion of the taxes or assessments it should have borne in such preceding years, stating such additional taxes or assessments separately, and such additions shall be collected as part of the tax for the current year, except as provided in the next section.

§ C18-14.

If the tax or assessment rolls are amended or corrected as provided by this Charter, the tax or assessment as inserted in the tax or assessment rolls for the current year shall be a lien on said real estate and be collected in the same manner as the taxes or assessments for the current year, if the real estate remains the property of the person or party to whom it should have been taxed or assessed in such former rolls. But if, since said former rolls were completed, said real estate has been sold to a bona fide purchaser not knowing that such real estate has been omitted from such former roll or rolls, then such tax or assessment shall not be a lien upon such real estate but may be collected by the City Chamberlain by levy on the personal property of the person or party who should have been taxed or assessed therefor on the rolls of the prior year or years or it may be collected from such person or party, or his or her personal representative, by action in the name of the city, with costs of the suit.

§ C18-15.

If a sum of money in gross has been or shall be taxed upon any lands or premises, any person or persons claiming any divided or undivided part thereof may pay such part of the sum of money so taxed, also the interest and charges due or charged thereon, as said City Chamberlain may deem to be just and equitable, and the remainder of the sum so taxed, together with the interest and charges, shall be a lien upon the residue of the land and premises only, which residue may be sold to satisfy the residue of such tax, interest and charges, in the same manner as though the residue of said tax has been imposed upon the residue of said lands or premises.

§ C18-16.

Said assessments shall be confirmed by the Common Council on or before the 15th day of March in each year. To each of such assessment rolls so to be delivered to the City Chamberlain, as aforesaid, shall be annexed a warrant under the hand of the Mayor and the seal of the city, commanding the City Chamberlain to collect from the several persons named in the assessment rolls the several sums levied as taxes in the columns of said rolls, according to the provisions of this Charter. Said assessment rolls, with the warrants attached, shall be delivered to the City Chamberlain on or before the 18th day of March, but the collection of said taxes shall not be commenced until the first day of April in each year. Said warrants shall specify the purposes and funds for which such tax is levied and the amount or each fund. Each of such funds shall be credited by the City Chamberlain to the department having the expenditure thereof.

§ C18-17.

Collection of city taxes and defaulted water accounts.

A. The City Chamberlain shall, on the first day of April in each year, proceed to collect city taxes from the several persons named in the annual tax rolls and shall give notice by advertisement twice in the official paper and by posting in public places, that all persons named in the tax rolls are required to pay their taxes at his office on or after the first business day of April and before the first day of the following July and stating the amounts to be added if payment is not made as herein required. City taxes shall be due and payable in two (2) installments on the first day of April and the first day of June. Such installments shall be substantially equal in amount. The City Chamberlain may, in his discretion when authorized by resolution or ordinance enacted by the Common Council, receive deposits in amounts not less than one dollar ($1.) from any taxpayer and hold and apply the same on any defaulted tax or taxes levied or assessed against such taxpayer or against property owned by him in form and manner prescribed by such resolution or ordinance.

B. The City Chamberlain may also in his discretion, when authorized by the Common Council, receive deposits on account of any defaulted water rate or rates charge or charges owed by any water user or any owner of property to which water has been supplied, in weekly, semimonthly or monthly installments of not less than one dollar ($1.), and hold and apply the same on such defaulted water rate or rates charge or charges in form and manner prescribed by resolution or ordinance enacted by the Common Council. Upon execution and delivery of a written agreement to pay and discharge defaulted water rates and charges by installment payments and the acceptance thereof by the City Chamberlain, the Department of Water, provided that current and future water rates and charges are paid and discharged as they fall and become due, is hereby authorized and empowered, notwithstanding the existence of such defaulted water rates and charges, to continue to furnish and supply water to any such user or owner as long as such user or owner continues to make his agreed installment payments and they fall and become due.

§ C18-18.

If any such tax shall remain unpaid on the first day of October after delivery of the assessment rolls and warrants, the City Chamberlain shall, before the 10th day of October in each year, cause a written or printed notice to be given to every such person resident within the City of Oswego from whom such tax may be due specifying the amount of the tax and the fees herein provided and requiring the same to be paid on or before the 31st day of October of the same year at his office. Such notice shall be served on the persons assessed by depositing the same in the City of Oswego post office in a sealed envelope, with the postage prepaid thereon, addressed to the person assessed at his last known address, in the City of Oswego. If any of the persons assessed shall be known by the City Chamberlain to reside in any other place, the notice shall be directed to him at such other place or residence. It shall not be necessary to make any other demand for payment of said taxes. The City Chamberlain shall receive the amount of the first

installment on any city tax levied in the annual tax roll during the month of April without interest. On the first day of May, and the first day of each succeeding month up to and including October, interest to the amount of one per centum (1%) shall be added to the first installment. The City Chamberlain shall receive the amount of the second installment of the tax during the month of June without interest. On the first day of July interest to the amount of three per centum (3%) shall be added to the second installment. On the first day of August and on the first day of each succeeding month up to and including October, interest to the amount of one per centum (1%) shall be added to the second installment. After October interest on all unpaid taxes and accrue penalties thereto shall be charged at the rate of ten per centum (10%) per annum.

§ C18-19.

In case any of the city taxes or installments thereof remain unpaid in default on the first day of March next succeeding due date of payment, a list of all such unpaid city taxes on all rolls, including the rolls for local assessments, shall thereupon be delivered by the City Chamberlain to the Assessor of the city, and he shall immediately review such assessments and correct all errors of every description which may have been made either in the original assessments or subsequent proceedings, and shall make correct and full descriptions of the several parcels of land. He shall also have power to insert in such revised roll any real estate in the city which may have been omitted in the general rolls, upon giving two (2) days notice thereof to the owner or agent of such property. He shall complete such revision within ten (10) days and two (2) or more of said Assessors shall subscribe the same and shall give public notice that he will meet at the Assessor's office at the end of ten (10) days, to be designated by him, to hear objections and to correct any errors which may have been made. Such notice shall be given by publishing the same for at least five (5) days in the official paper of the city. He shall, within ten (10) days, complete such correction and subscribe the same and deliver the corrected rolls to the City Chamberlain. The City Chamberlain shall add to said rolls the amount of taxes assessed against the several persons or parcels of lands designating assessments for local improvements separately from the others and on or before the 25th day of April file a certified copy thereof in the Clerk's office of Oswego County.

§ C18-20.

Each and every unexpended balance to the credit of any department or fund on the 31st of December in each year shall revert to the credit of the contingent fund and be transferred to said contingent fund upon the books of the City Chamberlain. Such balances shall be determined by the City Chamberlain, who shall ascertain the amount of all valid orders issued or drawn by the several departments chargeable to their respective funds for the fiscal year and not yet presented to him for payment, and he shall keep a sufficient amount to the credit of each of said funds

against which said orders were drawn to pay the same.

§ C18-21.

Whenever any city tax levied and assessed upon any person or property in the City of Oswego or installments thereof with the fees and interest and expenses which may by law be added thereto shall remain unpaid on the first day of December after the warrant for its collection has been placed in the hands of the City Chamberlain of said city, said City Chamberlain may maintain an action in his name of office for the amount of such tax, fees and expenses remaining unpaid and uncollected with interest thereon at the rate of six per centum (6%) per annum to be computed from the due date against any person or corporation liable for such tax or representative of such person or corporation in any court of competent jurisdiction, including the City Court of the City of Oswego, in which the proceedings, costs, judgment and execution shall be the same and with like effect as in actions between individuals, and the amount collected by any such suit shall be used and applied by said City Chamberlain in the same manner as though the same had been collected by the sale of real estate. The warrant so delivered to the City Chamberlain shall be presumptive evidence that all the previous proceedings, including the assessing and levying of the tax, were regular and according to law.

§ C18-22.

No assessment of real estate in said city, which shall be described in the assessment rolls of said city and which shall be assessed but once in said rolls, shall be deemed or held to be invalid by reason of the same not having been assessed to the real owner or occupant thereof or of any mistake or error in the designation of said property or of the same having been erroneously put among the resident or nonresident property of said city; and any tax or assessment levied thereon and the lien thereof and all proceedings and sales shall be as valid and effectual thereunder as though the same had been properly assessed and such errors or mistakes had not been made.

§ C18-23.

It shall be a misdemeanor for the City Chamberlain to accept any check dated ahead or to date back any tax receipt or to resort to any device to evade the payment of any fees, interest or expense authorized by this Charter to be collected upon any tax.

§ C18-24.

All warrants hereafter issued to the City Chamberlain by the Common Council, for the collection

of any tax, shall only be limited as to the time of their return so as to conform to the provisions of this Charter. The Common Council cannot renew or extend any of said warrants. All fees, percentages and interest moneys received by the City Chamberlain shall forthwith be paid by him into the treasury of the city for the use of the city.

§ C18-25.

The Common Council shall have no power or authority to rescind or annul any lawful assessment or to refund or remit any lawful tax or assessment or to compromise any lawful basic tax or sale.

ARTICLE XIX, Miscellaneous

§ C19-00.

All that portion of the Oswego River within the bounds of said city is hereby declared a public highway.

§ C19-01.

The provisions of law governing the establishment and maintenance of pension funds for the benefit of members of the Police and Fire Departments shall be unimpaired by this Charter.

§ C19-02. Liability.

A. No civil action shall be maintained against the city for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed, unless, previous to the occurrence resulting in such damages or injury, written notice of the defective, unsafe, dangerous, obstructed condition of said street, highway, bridge, culvert, sidewalk, or crosswalk was actually given to the Commissioner of Public Works, and unless there was a failure or neglect within a reasonable time after the giving of such written notice to repair or remove the defect, danger or obstruction complained of. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street, unless written notice thereof relating to the particular place was actually given to the Commissioner of Public Works and there

was a failure or neglect to cause such snow or ice to be removed or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice.

B. The city shall not be liable in a civil action for damages or injuries to person or property, or invasion of personal or property rights of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, alleged to have been caused or sustained in whole or in part by or because of any omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the city or any of its agents, officers, or employees, unless a Notice of Claim shall have been made and served in compliance with § 50-e of the General Municipal Law, or unless an action shall be commenced thereon within one (1) year after the happening of the event upon which the claim is based; but no action shall be commenced to recover upon or enforce any such claim against the city until the expiration of three (3) months after the service of such notice. Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by any existing requirement of statute of limitations nor to waive any existing limitation now applicable to any claim or cause of action against the city.

§ C19-03.

Every officer named in this Charter, who has a certain salary fixed by said act or for which provision is made for its being so fixed, shall receive the same as full compensation for any and all services rendered by him to the city or any department thereof. It shall be a misdemeanor for any city officer to ask or demand or receive for his own use or for the use of another to his benefit or advantage any sum or sums, thing or things whatsoever as extra compensation or reward for said services. All fees collected or received by any such officer from any source arising out of or connected with his said office shall be by him forthwith paid over to the City Chamberlain for the use of the city. The Common Council and every department and board of said city are hereby forbidden to grant any extra compensation to any salaried officer, and it shall be a misdemeanor to grant or attempt to grant the same or for the City Chamberlain to pay the same if granted. Nothing in this section, however, shall be deemed to prohibit the Common Council, and any board or department of the city with the consent and approval of the Common Council expressly given by resolution in each case, from reimbursing as authorized by § C3-15 of this Charter an officer or employee receiving a fixed salary for the use of his or her automobile in the actual performance and discharge of his or her official duties.

§ C19-04.

Accounts, claims and demands against said City of Oswego shall be presented to the Common Council or the department incurring the same for payment at least as often as quarter-yearly, on days to be appointed by the Council or department, and when presented shall be audited and paid

without unreasonable delay; and such accounts, claims and demands of every name and description, rising or accruing or which shall be created during any fiscal year in said city shall be presented for settlement and payment on or before the third Tuesday in December in said year, and shall be audited and provision made for the payment of all claims allowed from the taxes and income of said year before the first day of January following, and no interest or costs shall be recovered against the city in any suit brought to recover any such account, claim or demand which has not been presented as aforesaid, provided that said Council shall cause a notice to be published in the official newspapers in said city once in each week for three (3) weeks immediately preceding said third Tuesday in December that said accounts, claim and demands are required to be presented as aforesaid.

§ C19-05.

The annual financial report of the City Clerk and of the various boards and departments of said city shall, in addition to the statement of receipts and expenditures of the various sum of money subject to the control of said Common Council or of either of said boards or departments, also contain a full and itemized statement of all known claims and demands against said Common Council or the City of Oswego or either of said department, outstanding and unpaid, whether such claims is liquidated or unliquidated, duly verified by the oath of the City Clerk for claims against the City of Oswego or the Common Council, and by the President, Clerk or Secretary of the various departments.

§ C19-06. [Amended 5-23-2011 by L.L. No. 2-2011]

No councilor, Mayor or other officer or employee of the city shall act as agent or attorney for any person, company or corporation in relation to any matter to be affected by the action of the Common Council or any board, department or officer of the city. A violation of this provision shall be cause for removal by the Mayor. It shall be a misdemeanor to violate any of the provisions of this section.

§ C19-07.

Any person in the possession of any real estate in the City of Oswego under and by virtue of a contract for the purchase thereof may, in the discretion of the Common Council, be deemed and held as the owner thereof for all the purposes of this Charter.

§ C19-08.

It shall be understood that all pronouns in this Charter are generic in character and do not refer to one sex as contrasted with another. Nothing in this Charter shall be construed to prevent or discourage full and equal participation in the governance of the City of Oswego by all citizens.

ARTICLE XX, Transition

§ C20-00. EN(12)

This Charter shall become effective on January l, 1978.

§ C20-01.

Upon adoption of this Charter, all laws and parts of laws relating to or affecting the city remaining in force when this Charter shall take effect are repealed and superseded to the extent that they are inconsistent with the provisions of this Charter. All local laws and ordinances of the city in effect on January 1st, 1978, shall remain in effect to the extent that they are not inconsistent with any provisions of this Charter.

§ C20-02.

Offices, Boards, Commissions, Bureaus, Agencies and positions of employment of the city shall continue until abolished, modified or superseded by action of the Council subject to provisions of this Charter.

§ C20-03.

The continuous service in the employment of the city of all employees shall not be affected by the adoption of this Charter.

§ C20-04.

Unless specifically stated in this Charter, nothing herein contained shall affect or impair the rights or privileges of officers or employees of the city when this Charter shall take effect or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter, in relation to personnel, appointment, rank, grades, tenure of office, promotion, removal, pension and retirement rights or privileges of officers or employees

of the city.

§ C20-05.

If any provision of this Charter shall be adjudged by any court competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the particular provision directly involved in the controversy.

§ C20-06.

This Charter shall be liberally construed to achieve its objectives and purposes.

§ C20-07.

The four-year term for the Mayor shall begin with the term of the Mayor elected in November, 1979.

§ C20-08.

Chapter 394 of the Laws of 1895, constituting the Oswego City Charter and all acts amendatory thereof and supplemental thereto, are hereby repealed.[EN(13)]

THE CODE

PART I
ADMINISTRATIVE LEGISLATION

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 10-28-1996 as L.L. No. 4-1996. Amendments noted where applicable.]

ARTICLE I, Adoption of Code [Adopted 10-28-1996 as L.L. No. 4-1996]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the City of Oswego, as codified by General Code Publishers Corp., and consisting of the Charter and Chapters 1 through 280, together with an Appendix, shall be known collectively as the "Code of the City of Oswego," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the City of Oswego" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number where such legislation appears in the Code, as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Common Council of the City of Oswego, and it is the intention of said Council that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the City of Oswego in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

A. Any right or liability established, accrued or incurred under any legislative provision of the City of Oswego prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.

B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the City of Oswego or any penalty, punishment or forfeiture which may result therefrom.

C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the City of Oswego.

D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the City of Oswego.

E. Any local law or ordinance of the City of Oswego providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the City of Oswego or any portion thereof.

F. Any local law or ordinance of the City of Oswego appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the City of Oswego or other instruments or evidence of the city's indebtedness.

G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.

H. The levy or imposition of special assessments or charges.

I. The annexation or dedication of property.

J. Any legislation relating to salaries or employee benefits.

K. Any local law or ordinance amending the Zoning Map.

L. Any legislation adopted subsequent to L.L. No. 1-1996, adopted February 26, 1996.

M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.

N. Any legislation regarding the current procurement of goods policies.

O. Any legislation regarding plumbing.

P. Any legislation regarding retirement incentive programs.

Q. Any legislation regarding Common Council rules.

R. Any legislation regarding television franchise agreements.

S. Any legislation pertaining to the 1977 Charter and the applicable provisions of the 1895 Charter.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the City Clerk of the City of Oswego and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified to by the City Clerk of the City of Oswego by impressing thereon the Seal of the City of Oswego, and such certified copy shall remain on file in the office of said City Clerk to be made available to persons desiring to examine the same during all times while the said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the City of Oswego" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Common Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended,

deleted or changed from time to time as the Common Council deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the City Clerk to keep up-to-date the certified copy of the book containing the Code of the City of Oswego required to be filed in the office of the City Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Common Council subsequent to the enactment of this local law in such form as to indicate the intention of said Common Council to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code may be purchased from the City Clerk of the City of Oswego upon the payment of a fee to be set by resolution of the Common Council, which Council may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the City Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the City of Oswego or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the City of Oswego to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the City of Oswego, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Common Council that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the following amendments and/or additions are made herewith, to become

effective upon the effective date of this local law as set forth in Schedule A attached hereto and made a part hereof (chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code).[EN(14)]

C. Nomenclature changes.

(1) Throughout Chapter 99, Consumer Protection [L.L. No. 2-1983 (Ch. 32 of the 1980 Code)], references to:

(a) "Director," "Administrator" or "Administrative Officer" are changed to Consumer Complaint Investigator, or any city officer or employee designated by the Mayor."

(b) "Sealer of Weights and Measures" are changed to "Consumer Complaint Investigator."

(c) "Department," "office" or "unit" are changed to the "Office of Consumer Affairs or any other department designated by the Mayor."

(2) Throughout Chapter 199, Sewers, Part 1, Sewer Rents Outside City [former Ch. 91 of the 1980 Code], references to "Commissioner of Works" are changed to "Commissioner of Public Works."

(3) Throughout Chapter 211, Streets and Sidewalks, references to:

(a) "Department of Works" are changed to "Department of Public Works."

(b) "Commissioner of Works" are changed to "Commissioner of Public Works."

(4) Throughout Chapter 245, Utility Poles [former Ch. 114 of the 1980 Code], references "Department of Works" are changed to "Department of Public Works."

(5) Throughout Chapter 272, Weights and Measures, the term "Sealer" is changed to "Director."

(6) Throughout Chapter 280, Zoning, the term "drive-in theater" is changed to "outdoor drive-in theater."

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the City of Oswego, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Chapter 7, COMPENSATION AND BENEFITS

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 33 of the 1980 Code; Art. II, 3-9-1987 (Ch. 33A of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics -- See Ch. 15.

ARTICLE I, Death Benefits for Police and Fire Departments [Adopted 5-12-1980 as Ch. 33 of the 1980 Code]

§ 7-1. Conditions for eligibility.

Notwithstanding any other provision of law and in addition to any benefits otherwise provided, death benefits may be payable on the death of a regular member of the Police Department or Fire Department of the City of Oswego, New York, if, upon application therefor, the Mayor of the city shall determine on the basis of the evidence that such member:

A. Died within one (1) year after and as the natural and proximate result of injuries sustained at a definite time and place and incurred in the performance of duty as a member of such department or force.

B. Did not cause such accident by his own willful negligence.

§ 7-2. Amount.

The death benefit shall be paid by the municipality upon the allowance of the claim therefor and shall consist of:

A. An amount equal to the salary received by such member either during the year immediately

preceding his death or during the year preceding such injuries, whichever is greater.

B. One thousand dollars ($1,000.) for each child of such member under eighteen (18) on the date of the member's death.

§ 7-3. Recipients.

The death benefit shall be paid to the member's widow or, if he shall leave no widow or if his widow shall die before receiving the total of the amounts provided in § 7-2 hereof, then to his child or children under age eighteen (18), in equal amounts.

§ 7-4. Persons eligible to apply.

Application for death benefits shall be made by:

A. The member's widow.

B. Any of his children.

C. Any person on behalf of the widow or children.

§ 7-5. Method of applying.

Application for death benefit shall be made:

A. To the chief fiscal officer of the municipality, on a form to be prescribed and supplied by him and requiring such information as he shall determine necessary.

B. Within thirty (30) days after the death of the member; provided, however, that failure to file the application within thirty (30) days may be excused on petition to and order of a Justice of the Supreme Court having jurisdiction, upon a showing that:

(1) A sufficient reason exists why such notice was not given.

(2) A report or other notice was made or given to the department or force of the injuries within the thirty-day period.

(3) The municipality has not been prejudiced by the delay in giving the notice.

§ 7-6. Conditions for payment to parents.

A. The city may elect to make the death benefit available to the dependent father or dependent

mother, as the member shall have nominated by written designation duly acknowledged and filed with the Mayor, or, if there be no nomination, then to his dependent father or dependent mother, if the Mayor in his discretion shall determine that the member:

(1) Shall leave no widow or his widow shall die before receiving the total of the amounts provided in Subdivision 2 of § 208-b of the General Municipal Law.

(2) Has no child or children under eighteen (18) surviving.

B. Application for such death benefit shall be made by the member's dependent father or dependent mother in the manner provided in § 208-b of the General Municipal Law.

ARTICLE II, Deferred Compensation Plan [Adopted 3-9-1987 by (Ch. 33A of the 1980 Code)]

§ 7-7. Establishment.

The Council hereby authorizes the establishment of a deferred compensation plan pursuant to § 457 of the Internal Revenue Code for all city employees, including elected or appointed officers.

§ 7-8. Adoption of modeled plan.

The Council hereby adopts for use by the city the modeled deferred compensation plan which is on file with the City Clerk.

§ 7-9. Establishment of Board.

The Council hereby establishes a Deferred Compensation Board to make appropriate decisions as deemed necessary, whose Chairman shall be the Personnel Director.

§ 7-10. Service Administrator and Investment Manager.

The Hartford Variable Annuity Company shall serve as the Service Administrator and Investment Manager for the deferred compensation plan. This program shall be initiated by authorized staff. It is agreed that the Hartford Variable Annuity Company will perform such functions provided for an initial three-year period. The agreement shall contain such conditions

and terms as the Mayor deems to be appropriate.

Chapter 15, ETHICS, CODE OF

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 45 of the 1980 Code; amended in its entirety 3-28-2016 by L.L. No. 2-2016. Subsquent amendments noted where applicable.]

§ 15-1. Purposes.

Officers and employees of the City of Oswego hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Common Council of the City of Oswego recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics establishes those standards.

§ 15-2. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

BOARD -- The governing board of a municipality and any municipal administrative board (e.g. Planning Board, Zoning Board of Appeals), Commission, or other agency or body comprised of two or more municipal officers or employees.

CODE -- This Code of Ethics.

> [NOTE: This model Code of Ethics is for use by municipalities other than fire districts. The State Comptroller has promulgated a separate model Code of Ethics for fire districts.]

INTEREST -- A direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

MUNICIPALITY -- The City of Oswego. The word "municipal" refers to the municipality.

MUNICIPAL EMPLOYEE OR OFFICER -- A paid or unpaid officer or employee of the City of Oswego, including, but not limited to, the members of any municipal board.

RELATIVE -- A spouse, parent, stepparent, sibling, stepsibling, sibling's spouse, child, stepchild, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

§ 15-3. Applicability.

This Code of Ethics applies to the officers and employees of the City of Oswego, and shall supersede any prior municipal Code of Ethics. The provisions of this Code of Ethics shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 of the General Municipal Law and all rules, regulations, policies and procedures of the City of Oswego.

§ 15-4. Prohibition on use of municipal position for personal or private gain.

No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

§ 15-5. Disclosure of interest in legislation and other matters.

A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.

B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.

C. In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's

position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

§ 15-6. Recusal and abstention.

A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:

(1) If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or

(2) If the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

(3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

§ 15-7. Prohibition inapplicable; disclosure, recusal and abstention not required.

A. This code's prohibition on use of a municipal position (§ 15-4), disclosure requirements (§ 15-5), and requirements relating to recusal and abstention (§ 15-6), shall not apply with respect to the following matters:

(1) Adoption of the municipality's annual budget;

(2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

(a) All municipal officers or employees;

(b) All residents or taxpayers of the municipality or an area of the municipality;

(c) The general public; or

(3) Any matter that does not require the exercise of discretion.

(a) Recusal and abstention shall not be required with respect to any matter:

[1] Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § 15-6 of this code;

[2] Which comes before a municipal officer when the officer would be prohibited from acting by § 15-6 of this code and the matter cannot be lawfully delegated to another person.

§ 15-8. Investments in conflict with official duties.

A. No municipal officer or employee may acquire the following investments:

(1) Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 15-6 of this code; or

(2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties:

(a) This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:

[1] Real property located within the municipality and used as his or her personal residence;

[2] Less than 5% of the stock of a publicly traded corporation; or

[3] Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

§ 15-9. Private employment in conflict with official duties.

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

A. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 15-6 of this code;

B. Can be reasonably expected to require disclosure or use of confidential information gained

by reason of serving as a municipal officer or employee;

C. Violates § 805-a(1)(c) or (d) of the General Municipal Law; or

D. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

§ 15-10. Future employment.

A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

§ 15-11. Personal representations and claims permitted.

This code shall not be construed as prohibiting a municipal officer or employee from:

A. Representing himself or herself, or his or her spouse or minor children, before the municipality; or

B. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

§ 15-12. Use of municipal resources.

A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.

B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:

(1) Any use of municipal resources authorized by law or municipal policy;

(2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or

(3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.

C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 15-13. Interests in contracts.

A. No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.

B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.

§ 15-14. Nepotism.

Except as otherwise required by law:

A. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 15-15. Political solicitations.

A. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or

compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 15-16. Confidential information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§ 15-17. Gifts.

A. No municipal officer or employee shall solicit, accept or receive a gift in violation of § 805-a(1)(a) of the General Municipal Law as interpreted in this section.

B. No municipal officer or employee may directly or indirectly solicit any gift.

C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of $75 or more when:

(1) The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;

(2) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or

(3) The gift is intended as a reward for any official action on the part of the officer or employee.

D. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed $75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

(1) A gift to a municipal officer or employee is presumed to be intended to influence the

exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.

(2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.

E. This section does not prohibit any other gift, including:

(1) Gifts made to the municipality;

(2) Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;

(3) Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

(4) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

(5) Awards and plaques having a value of $75 or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

(6) Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

§ 15-18. Board of Ethics.

A. There is hereby established a Board of Ethics for the municipality. The Board of Ethics shall consist of three members, a majority of whom shall not be officers or employees of the municipality, but at least one of whom must be a municipal officer or employee. The members of such Board of Ethics shall be appointed by the Mayor, serve at the pleasure of the Mayor, and receive no salary or compensation for their services as members of the Board of Ethics.

B. The Board of Ethics shall render advisory opinions to the officers and employees of the City of Oswego with respect to Article 18 of the General Municipal Law and this code. Such

advisory opinions must be rendered pursuant to the written request of any such officer or employee under such rules and regulations as the Board of Ethics may prescribe. The Board of Ethics shall have the advice of legal counsel employed by the Board, or if none, the municipality's legal counsel. In addition, the Board of Ethics may make recommendations with respect to the drafting and adoption of a Code of Ethics, or amendments thereto, upon the request of the Common Council of the City of Oswego.

§ 15-19. Posting and distribution.

A. The Mayor must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control. The code must be posted within 10 days following the date on which the code takes effect. An amendment to the code must be posted within 10 days following the date on which the amendment takes effect.

B. The Mayor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the City of Oswego.

C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the City Clerk who must maintain such acknowledgments as a public record.

D. The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the amendment. The failure of a municipal officer or employee to receive a copy of this Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

§ 15-20. Enforcement.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

§ 15-21. When effective.

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

Chapter 19, FLAGS, CITY

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 28 of the 1980 Code. Amendments noted where applicable.]

§ 19-1. Care and custody. EN(15)

The custodial staffs at City Hall and the Conway Building shall have the care and custody of the City Hall and Conway Building flags and flagstaffs respectively. All flags at any other municipal buildings will be taken care of by their respective city departments. Flags in city parks shall be the responsibility of both the Parks, Recreation and Waterways Department and the Department of Public Works. The several flags above named shall be kept clean and in good order and shall not be allowed to be used for any other purposes than those specified in this chapter. Each flagstaff shall be properly painted and as far as practicable protected from decay, and suitable halyards shall be furnished for each staff by the Common Council or department having authority.

§ 19-2. Display.

Each flag shall be displayed upon its staff from sunrise until sunset on all legal holidays, except Saturday; half-holidays throughout the year, except when said days shall occur upon Sunday, in which case said flags shall be displayed on the Monday following; the days of the inauguration of the city government and also upon the day of the inauguration of the President of the United States; and at all other times and in such manner, not prohibited by law, as the Mayor or Common Council may direct.

§ 19-3. Vandalism.

No person shall willfully injure or deface any such flag, flagstaff or halyards belonging to same.

§ 19-4. Penalties for offenses.

A violation of this chapter shall be punishable by a fine of not less than five dollars ($5.) nor more than twenty-five dollars ($25.).

Chapter 24, LEASING OF LAND

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 68 of the 1980 Code. Amendments noted where applicable.]

§ 24-1. Lease approved.

Pursuant to Chapter 539 of the Laws of 1959 of the State of New York, the leasing by the City of Oswego without consideration to the United States of America of the parcel of land particularly described in § 24-2 upon the terms and conditions set forth in a certain land lease between the City of Oswego and the United States of America, No. DA 30-075, dated as of May 15, 1959, is hereby approved.

§ 24-2. Execution.

The Mayor of the City of Oswego is hereby authorized, empowered and directed to execute said lease in the name of the city in quadruplicate; and the City Clerk is hereby authorized, empowered and directed to press the city's seal thereon; and said city officials are hereby authorized, empowered and directed to deliver one (1) or more of said original leases, duly executed, to the lessee and file one (1) or more of said original leases in the office of the City Clerk of the City of Oswego.

Chapter 31, OFFICERS AND EMPLOYEES

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 79 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics -- See Ch. 15.

ARTICLE I, Confidential Secretary to Personnel Director [Adopted 5-12-1980 as Ch. 79 of the 1980 Code]

§ 31-1. Position established. EN(16)

Pursuant to the provisions of Chapter 843 of the Laws of 1963 of the State of New York, as Municipal Home Rule Law § 10, Subdivision 1(ii)a(1), the position of Confidential Secretary to the Personnel Director of the City of Oswego is hereby established, at a Civil Service Grade 12

and at a salary commensurate with said civil service grade now or hereinafter in effect. The position of Confidential Secretary shall be an appointment made by the Personnel Director of the City of Oswego, and such employee shall serve at the pleasure of the Personnel Director for a term concurrent with said Personnel Director's term.

Chapter 40, PLANNING BOARD

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 40 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics -- See Ch. 15.

§ 40-1. Purpose.

The purpose of this chapter is to promote, improve and protect the interests of the City of Oswego and its citizens and the public health, safety and general welfare thereof and provide guidance in public improvements and in the expansion and growth of said city.

§ 40-2. City Planning Board. EN(17)

There shall be a City Planning Board consisting of seven (7) members and four (4) alternate members to be appointed by the Mayor. Two (2) of the members of said Board shall be officials of the City of Oswego, viz., the City Engineer and one (1) other city official to be designated and appointed by the Mayor. None of the other five (5) members of the Board shall hold any other public office or position in the City of Oswego. The terms of the two (2) official members of the Board shall terminate with that of the appointing Mayor. Of the other five (5) members appointed to the Board, the term of one (1) member shall be of one (1) year; two (2) members shall be of two (2) years; and two (2) members shall be of three (3) years. At the expiration of such terms, the terms of office of their successors shall be three (3) years, so that the term of office of one (1) or two (2) such members of such Board shall expire each year. The four (4) alternates shall be appointed in staggered terms to correspond with the terms of the five (5) members who are appointed by the Mayor. Their successors and the successors of those first appointed to such office shall be appointed for the term of three (3) years from and after the expiration of the term of their predecessors in office. The members of such Board who shall be in office at the time this chapter shall pass shall continue in office until the end of the term for which they were appointed and their successors have been appointed, as herein provided, and have qualified, and the terms of office of the two (2) additional members of the Board herein provided for shall expire one (1) on December 31, 1956, and one (1) on December 31, 1957.

Members of the City Planning Board shall continue in office until the end of the term for which they are appointed and their successors have been appointed, as herein provided, and have qualified. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment of the Mayor for the unexpired term. The city officials on such Board shall not, by reason of membership thereon, forfeit their right to exercise the powers, perform the duties, or receive the compensation of the municipal office or position held by them during such membership. To qualify for appointment to such Board, a person must be a resident of the City of Oswego, New York, and must have reached the age of twenty-one (21) years at the time of his appointment. Any member of the Board may be removed by the Mayor for cause and after a public hearing.

§ 40-3. Members; additional help.

The Mayor shall designate a member of said Planning Board to act as Chairman thereof, or, on his failure to do so, the Planning Board shall elect a Chairman from its own members. The City Engineer shall act as Secretary of the Board. The Board shall have the power and authority to employ experts and a staff and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the appropriations that may be made for such Board, pursuant to the Charter of the City of Oswego.[EN(18)]

§ 40-4. Rules and regulations.

The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this chapter or under any other ordinance, resolution, local law or statute after public hearing by the Board and subject to the approval of the Common Council.

§ 40-5. Conduct of business.

The Planning Board shall meet at least once a month, as well as at the call of the Chairman. It shall keep regular minutes of the business transacted at each meeting, and, at the conclusion of each year, it shall prepare a report, in writing, to the Mayor covering its activities and containing any recommendations it desires to make. It shall keep accurate books of account of funds received by it and expended by it and shall prepare an annual budget covering authorized expenses, not exceeding in all the annual appropriation that may be approved by the Common Council of the City of Oswego.

§ 40-6. Map of city-owned property.

The Planning Board shall prepare and keep up to date a map or series of maps showing thereon all property to which title is held by the City of Oswego and which has been accepted through condemnation, donation, in rem proceedings, tax proceedings, purchase or otherwise. Property owned by the city shall be clearly marked on said map. The Planning Board shall prepare or obtain and keep up to date a complete list of all property now so owned by the City of Oswego, which list shall include the complete legal description of such property, its location as to street and ward, together with any and all other pertinent data in connection with or incidental to such property.

§ 40-7. Master Plan. EN(19)

The Planning Board shall prepare and may, from time to time, modify and change a comprehensive Master Plan for the development of the entire area of the City of Oswego, which Master Plan shall show existing and proposed streets, bridges, transportation terminals and facilities and tunnels and the approaches thereto; viaducts, parks, public reservations, roadways in parks, sites for public buildings and structures; zoning districts; pierhead and bulkhead lines, waterways, routes of public utilities, docks and wharves, routes or railroads and omnibuses; locations of drainage systems, sewers, sewage-treatment plants, incinerators, water conduits and other public utilities, privately or publicly owned; public parking spaces, airfields; and also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing features of the plan, and such other features, existing and proposed, as will provide for the improvement of the City of Oswego in its future growth, protection and development and will afford adequate facilities for the public housing, transportation, distribution, comfort, convenience, public health, safety and general welfare of the population of the said City of Oswego. Such Master Plan may also show any of the above-described features in relation to areas outside the city limits and within the County of Oswego.

§ 40-8. Master Plan; public hearings.

Before adopting such Master Plan or any part thereof relating to the area within the City of Oswego, the Planning Board may hold a public hearing or hearings. Before adopting a modification of any part of such Master Plan, the Planning Board may hold a public hearing or hearings. Such public hearings shall be advertised in the official newspaper of the City of Oswego at least one (1) time and at least ten (10) days prior to the holding of such hearing.

§ 40-9. Copies; filing.

Such Master Plan and all modifications thereof shall be on file in the office of the Planning Board, and the Planning Board shall file certified copies thereof in the offices of the City Engineer and the City Clerk.

§ 40-10. Authority to adopt Official City Map; filing.

In the event that the Common Council shall adopt an Official City Map and establish the same, pursuant to § 26 of the General City Law of the State of New York, a certified copy thereof and all changes thereto shall be filed in the office of the Planning Board.

§ 40-11. Official City Map changes. EN(20)

After the establishment of an Official City Map as referred to in § 40-10 of this chapter and pursuant to § 329 of the General City Law, before making any additions or changes or amendments to said map, the Common Council shall refer such proposals to the Planning Board for report thereon, but if the Planning Board shall not make its report within thirty (30) days of such reference, it shall forfeit the right further to suspend action. The layout, widening or closing or the approval of the layout, widening or closing of streets, highways or parks by the city under provisions of any law shall be deemed to be a change or addition to the Official City Map.

§ 40-12. Planning Board reports.

The Common Council may refer any matter or class of matters to the Planning Board before final action thereon by the public body or officer of the City of Oswego having final authority thereon, with or without the provision that final action thereon shall not be taken until said Planning Board has submitted its report thereon or has had a reasonable time to submit such report. The Planning Board shall have full power and authority to make such investigations, maps and reports and recommendations in connection therewith relating to the planning and development of the City of Oswego as to it seems desirable; provided, however, that the total expenditures of said Board shall not exceed the appropriation for its expenses.

§ 40-13. Approval of plats. EN(21)

The Planning Board is hereby authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways. Before such approval is given, a public hearing

shall be held by the Planning Board, which hearing shall be advertised at least once in the official paper at least five (5) days before such hearing. The Planning Board may thereupon approve, modify and approve or disapprove such plat. Such approval or refusal to approve shall take place within forty-five (45) days from and after the time of the submission of the plat for approval. Otherwise, such plat shall be deemed to have been approved, and the certificate of such submission of the plat for approval and the failure to take action thereon within such time shall be issued by the Planning Board on demand and shall be sufficient in lieu of the written endorsement or other evidence of approval herein required. The ground of refusal of any plat submitted shall be stated upon the records of such Planning Board. Such certificates shall be issued on behalf of the Planning Board by its Secretary. The City Clerk shall file with the Clerk of the County of Oswego a certificate showing that the Planning Board has been authorized and empowered to approve such plats and shall further certify that the Secretary of the Planning Board shall issue in its behalf the certificate of failure to take action as aforesaid, as well as certificates of approval or disapproval. The approval by the Planning Board of a plat showing one (1) or more new streets or highways, or the certificate of the Planning Board as to the date of the submission of such plat and the failure of the Planning Board to take action thereon within forty-five (45) days, shall expire ninety (90) days from the date of such approval or of such certificate unless within such ninety-day period such plat shall have been duly filed or recorded by the owner in the office of the Clerk of the County of Oswego.

§ 40-14. Approval of plats; additional requisites. EN(22)

Before the approval by the Planning Board of a plat showing lots, blocks or sites, with or without streets or highways, such plat shall also show, in proper cases and when required by the Planning Board, a park or parks suitably located for playground or other recreation purposes. In the event that the Planning Board finds that the plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such plat, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Common Council, in accordance with § 33 of the General City Law. In approving such plat, the Planning Board shall require that the streets and highways shall be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access of fire-fighting equipment to buildings and to be coordinated so as to compose a convenient system conforming to the Official Map, if one be adopted and established, and properly related to the proposals shown by the Planning Board on the Master Plan; that the land shown on such plats shall be of such a character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that suitable monuments have been placed at such block corners and other necessary points as may be required by the Planning Board, and the location thereof is shown on the map of such plat; and that the parks shall be of reasonable size for

neighborhood playgrounds or other recreation uses; that all streets or other public places shown on such plats shall be suitably graded and paved and that sidewalks, street lighting standards, curbs, gutters, street trees, water mains, sanitary sewers, fire-alarm cables and necessary ducts, fire signal boxes and storm drains or combined sewers shall be installed, all in accordance with standards, specifications and procedure acceptable to the appropriate departments of the City of Oswego; or alternatively that a performance bond sufficient to cover the full cost of the same as estimated by the Planning Board or other appropriate city departments designated by the Planning Board shall be furnished to the city by the owner; provided, however, that the Planning Board may waive, subject to appropriate conditions and guarantees of such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare. Such performance bond shall be issued by a bonding or surety company approved by the City Attorney or by the owner with security acceptable to the Common Council and shall also be approved by the City Attorney as to form, sufficiency and manner of execution. Such performance bond shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three (3) years; provided, however, that the term of such performance bond may be extended by the Planning Board with the consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond or that required improvements have been installed, as provided in this section, and by the Planning Board in sufficient amount to warrant reduction in the face amount of said bond or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bond, the Planning Board may modify its requirements for any or all such improvements, and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board and any security deposited with the bond may be reduced or increased proportionately. In the event that any required improvements have not been installed as provided in this section within the term of such performance bond, the Common Council may thereupon declare said bond to be in default and collect the sum remaining payable thereunder and, upon receipt of the proceeds thereof, the city shall install such improvements as are covered by such performance bond and are commensurate with the extent of building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds. In making such determination regarding streets, highways, parks and required improvement, the Planning Board shall take into consideration the prospective character of the development, whether dense residence, open residence, business or industrial.

§ 40-15. Changes in zoning regulations. EN(23)

A. The Planning Board is hereby empowered simultaneously with the approval of any such plat either to confirm the zoning regulations of the land so platted as shown on the Official Zoning Maps of the City of Oswego or to make any reasonable change therein, and such Board is hereby empowered to make such change. The owner of the land shown on the plat may submit with the plat a proposed building plan indicating lots where group houses for residences or apartment houses or local stores and shops are proposed to be built; such building shall indicate for each lot or proposed building unit the maximum density of population that may exist thereon and the minimum yard requirements. Such plan, if approved by the Planning Board, shall modify, change or supplement the zoning regulations of the land shown on the plat within the limitations prescribed herein; provided, however, that for such land so shown there shall not be a greater average density of population or cover of the land with buildings than is permitted in the district wherein such land lies, as shown on the Official Zoning Map. Such building plan shall not be approved by the Planning Board unless in its judgment the appropriate use of adjoining land is reasonably safeguarded and such plan is consistent with the public welfare. Before the Board shall make any change in the zoning regulations there shall be a public hearing preceded by the same notice as in the case of the approval of the plat itself. On the filing of the plat in the office of the County Clerk of the County of Oswego, such changes shall be and become part of the zoning regulations of the City of Oswego and shall be enforced in the same manner and shall be similarly subject to change.

B. The Planning Board shall have such other powers and duties as set forth in § 37 of the General City Law.[EN(24)]

Chapter 44, REAPPORTIONMENT

[HISTORY: Adopted by the Common Council of the City of Oswego 2-28-1994 by L.L. No. 3-1994; amended in its entirety 5-26-2015 by L.L. No. 5-2015. Subsequent amendments noted where applicable.]

§ 44-1. Divison by wards.

The City of Oswego shall be reapportioned by dividing the City into seven wards.

§ 44-2. General location of wards.

There shall be four wards on the west side of the City, namely the First Ward, Third Ward, Fifth Ward and Seventh Ward. There shall be three wards on the east side of the City, namely the Second Ward, Fourth Ward and Sixth Ward.

§ 44-3. Official Map.

The map of the ward boundaries adopted by the Common Council pursuant to Resolution No. 216 of 2015 shall be the official map of the ward boundaries of the City of Oswego. The official map shall be filed in the City Clerk's office, and a copy of such map shall be available at that office for inspection together with Local Law No. 5 of 2015.

§ 44-4. Specific boundaries.

The description of the seven ward boundaries and voting districts, as prepared by the Reapportionment (City Redistricting) Committee, which follows, is made a part hereof:

A. First Ward.

A. Beginning at the intersection of the center line of West Seneca Street, at the center line of the Oswego River;

A. Thence, west along the center line of West Seneca Street to the center line of Water Street;

A. Thence, south along the center line of Water Street to the center line of West Cayuga Street;

A. Thence, continuing west along the center line of West Cayuga Street, to the center line of West Bridge Street;

A. Thence, west along the center line of West Bridge Street to the center line of First Avenue;

A. Thence, continuing west along the center line of George Washington Boulevard to the center line of Sixth Avenue;

A. Thence, north along the center line of West Sixth Avenue and the prolongation of the center line of Sixth Avenue to the south shoreline of Lake Ontario;

A. Thence, easterly along the south shoreline of Lake Ontario to the center line of the Oswego River;

A. Thence, southerly along the center line of the Oswego River to the place of beginning (center line of West Seneca Street).

B. Second Ward.

B. Beginning at the intersection of the center-line prolongation of East Oneida Street at the center line of the Oswego River;

B. Thence, east along the prolongation center line of East Oneida Street to the center line of

East First Street;

B. Thence, east along the center line of East Oneida Street to the center line of Conrail Railroad tracks;

B. Thence, northerly along the center line of Conrail to the center line of East Seneca Street;

B. Thence, easterly along the center line of East Seneca Street to the east City line;

B. Thence, north along the east City line to the south shoreline of Lake Ontario;

B. Thence, westerly along the south shoreline of Lake Ontario to the center line of the Oswego River;

B. Thence, southerly along the center line of the Oswego River to the place of beginning (center line of prolongation of East Oneida Street).

C. Third Ward.

C. Beginning at the intersection of the center line of West Utica Street with the center line of the Oswego River;

C. Thence, west along the center line of West Utica Street to the center line of West First Street;

C. Thence, north along the center line of West First Street to the center line of West Mohawk Street;

C. Thence, continuing west along the center line of West Mohawk Street to the center line of West Sixth Street;

C. Thence, south along the center line of West Sixth Street to the center line of West Utica Street;

C. Thence, west along the center line of West Utica Street to the center line of Fifth Avenue;

C. Thence, north along the center line of Fifth Avenue to the center line of West Bridge Street;

C. Thence, west along the center line of West Bridge Street to the west City line;

C. Thence, north along the west City line to the south shoreline of Lake Ontario;

C. Thence, east along the south shoreline of Lake Ontario to the prolongation of the center line of Sixth Avenue;

C. Thence, south along the center line of Sixth Avenue to the center line of George Washington Boulevard;

C. Thence, east along the center line of George Washington Boulevard to the center line of West Bridge Street;

C. Thence, east along the center line of West Bridge Street to the prolongation of the center line of West Cayuga Street;

C. Thence, east along the center line of West Cayuga Street to the center line of Water Street;

C. Thence, northerly along the center line of Water Street to the center line of West Seneca Street;

C. Thence, easterly along the center line of West Seneca Street to the center line of the Oswego River;

C. Thence, south along the center line of the Oswego River to the place of the beginning (center line of the prolongation of West Utica Street).

D. Fourth Ward.

D. Beginning at the intersection of the center-line prolongation of East Oneida Street with the center line of the Oswego River;

D. Thence, east along the prolongation of the center line of East Oneida Street to the center line of East First Street;

D. Thence, continuing, east along the center line of East Oneida Street to the center line of Conrail Railroad tracks;

D. Thence, north along the center line of the Conrail Railroad tracks to the center line of East Seneca Street;

D. Thence, easterly along the center line of East Seneca Street to the east City line;

D. Thence, south along the East City Line to the center line of Route 104 East;

D. Thence, continuing south along the center line of the City Line Road to the center line of East Albany Street;

D. Thence, west along the center line of East Albany Street to the center line of Chestnut Street;

D. Thence, south along the center line of Chestnut Street to the center line of Lawrence Street;

D. Thence, west along the center line of Lawrence Street to the center line of Syracuse Avenue;

D. Thence, north along the center line of Syracuse Avenue to the center line of South Division Street;

D. Thence, west along the center line of South Division Street to the center line of East Second Street;

D. Thence, south along the center line of East Second Street to the center line of Hubbard Street;

D. Thence, west along the center line of Hubbard Street to the center line of Route 481;

D. Thence, north along Route 481 to the center line of Lock Road;

D. Thence, west along the center line of Lock Road to the center line of the Oswego River;

D. Thence, northerly along the center line of the Oswego River to the place of beginning (centerline prolongation of East Oneida Street).

E. Fifth Ward.

E. Beginning at the intersection of the center-line prolongation of West Utica Street with the center line of the Oswego River;

E. Thence, westerly along the center line of West Utica Street to the center line of West First Street;

E. Thence, north along the center line of West First Street to the center line of West Mohawk Street;

E. Thence, west along the center line of West Mohawk Street to the center line of West Sixth Street;

E. Thence, south along the center line of West Sixth Street to the center line of West Utica Street;

E. Thence, west along the center line of West Utica Street to the center line of Fifth Avenue;

E. Thence, north along the center line of Fifth Avenue to the center line of West Bridge Street;

E. Thence, westerly along the center line of the West Bridge Street to the west City line (center line of Johnson Road);

E. Thence, south along the center line of Johnson Road to a point which is the intersection of the prolongation of Tallman Street with Johnson Road;

E. Thence, east along the prolongation of Tallman Street to the center line of Hawley Street;

E. Thence, continuing east along the center line of Tallman Street to the center line of West Third Street;

E. Thence, north along the center line of West Third Street to the center line of Varick Street;

E. Thence, east along the center line of Varick Street to the center line of Murray Street;

E. Thence, along the prolongation of Murray Street to the center line of the Oswego River;

E. Thence, northerly along the center line of the Oswego River to the place of beginning (center line prolongation of West Utica Street).

F. Sixth Ward.

F. Beginning at the intersection of the Lock Road and the east bank of the Oswego River;

F. Thence, east along Lock Road to the center line of East River Road;

F. Thence, south along the center line of East River Road to the intersection of Hubbard Street;

F. Thence, east along the center line of Hubbard Street to the center line of East Second Street;

F. Thence, north along the center line of East Second Street to the center line of South Division Street;

F. Thence, east along the center line of South Division Street to the center line of Syracuse Avenue;

F. Thence, south along the center line of Syracuse Avenue to the center line of Lawrence Street;

F. Thence, east along the center line of Lawrence Street to the center line of Chestnut Street;

F. Thence, north along the center line of Chestnut Street to the center line of East Albany Street;

F. Thence, east along the center line of East Albany Street to the East City Line (center line of City Line Road);

F. Thence, south along the center line of City Line Road to the center line of East Avenue;

F. Thence, continuing along the East City Line to an angle point;

F. Thence, continuing along the East City Line to the center line of Churchill Road (south City line);

F. Thence, west along the center line of Churchill Road to the center line of Route 481 and Byrns Road;

F. Thence, continuing west along Byrns Road (south City line) to the center line of East River Road;

F. Thence, continuing west along the prolongation of Byrns Road to the center line of the Oswego River;

F. Thence, northerly along the center line of the Oswego River to the place of beginning (intersection of Lock Road).

G. Seventh Ward.

G. Beginning at the intersection of the center-line prolongation of Murray Street with the center line of the Oswego River;

G. Thence, south along the prolongation to the center line of West First Street;

G. Thence, continuing south along the center line of Murray Street to the center line of Varick Street;

G. Thence, west along the center line of Varick Street to the center line of West Third Street;

G. Thence, south along the center line of West Third Street to the center line of Tallman Street;

G. Thence, west along the center line of Tallman Street to the center line of Hawley Street;

G. Thence, continuing west along the prolongation of the center line of Tallman Street to the center line of Johnson Road (west City line);

G. Thence, south along the center line of Johnson Road to the center line of Byer Road, (south City line);

G. Thence, east along the center line of Byer Road to the center line of Hillside Avenue;

G. Thence, continuing east along the prolongation of the center line of Byer Road to the railroad tracks (former D.L. & W.R.R.);

G. Thence, south along the railroad tracks to the center line of West Fifth Street;

G. Thence, continuing south along the railroad tracks to an angle point;

G. Thence, continuing east along the south City line to an angle point;

G. Thence, continuing south along the south City line to an angle point;

G. Thence, continuing east along the south City line to the center line of West River Road (West First Street);

G. Thence, continuing east along the prolongation of the south City line to the center line of the Oswego River;

G. Thence, northerly along the center line of the Oswego River to the place of beginning (centerline prolongation of Murray Street).

§ 44-5. Effect on Charter.

The Charter of the City of Oswego shall be amended by local law to conform with the plan of reapportionment set forth herein.

§ 44-6. When effective.

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

PART II
GENERAL LEGISLATION

Chapter 57, ALARM SYSTEMS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-10-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction -- See Ch. 126.

§ 57-1. Purpose and intent.

A. It is the purpose and intent of this chapter to protect and promote the health, safety and general welfare of the residents of the City of Oswego by reducing the number of avoidable alarms to emergency agencies. Avoidable alarms contribute to ineffective utilization of public safety personnel and equipment. In addition, avoidable alarms require emergency responses which may contribute to the potential of accidents and delayed responses to genuine emergencies. This chapter intends to assure that police and fire communications and facilities will be available to dispatch police and fire personnel for actual emergencies and to alleviate the nuisance of avoidable alarms within the City of Oswego. Additionally, this chapter is intended to provide the City of Oswego with the names of responsible individuals to contact in case of activation of an alarm.

B. This chapter is enforceable for the following structures:

(1) Assembly.

(2) Business.

(3) Industrial.

(4) Institutional.

(5) Mercantile.

(6) Residential.

(7) Storage.

§ 57-2. Definitions.

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

ALARM BUSINESS -- Any individual, partnership, corporation or other entity engaging in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system.

ALARM SYSTEM -- A device or an assembly of equipment which emits a signal which is intended to alert persons inside or outside a premises to the existence of a hazard or emergency, or which is intended to alert emergency agencies by automatically dialing an emergency agency, or which is connected to a private answering point for the purpose of reporting such alarms to emergency agencies, or which is directly connected to the Fire Department, Police Department, Oswego County 911 Center or other emergency agencies. Excluded from this definition and chapter, however, is any residential smoke, heat, combustion or carbon monoxide detectors not connected to any point outside the premises or intended to be heard or detected outside the premises.

ALARM USER -- Any person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility wherein an alarm system is maintained, except that, when the alarm system is used on a motor vehicle or is a proprietary system in the City of Oswego, then the person using such system is an alarm user.

AVOIDABLE ALARM -- The activation of an alarm system, through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system or of his/her employees or agents or through any other cause, which is a direct connection to an emergency agency or which, through notification of the emergency by a private answering point or automatic dialing service or a Fire Department alarm system, or through notification to an emergency agency by a second party or means, indicates that an emergency situation exists requiring a response within the City of Oswego, when, in fact, an emergency

situation does not exist. An avoidable alarm also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows an emergency situation does not exist. Avoidable alarms shall not include alarms activated by violent conditions of nature such as hurricanes, tornadoes, earthquakes or other similar causes beyond the control of the user of an alarm system. Activation of an alarm system under any circumstances when the activator reasonably believes that an emergency situation exists shall not be deemed an "avoidable alarm." Anything herein contained to the contrary notwithstanding, the defective installation of an alarm system, the failure to repair or cause to be repaired an alarm system or the use of defective equipment in connection with an alarm system shall not constitute extraordinary circumstances beyond reasonable control of the alarm user.

EMERGENCY AGENCY -- The Police Department and Fire Department or other law enforcement agency, ambulance company or other agency summoned to respond to an emergency situation; and the Oswego County 911 Center.

LOCAL ALARM SYSTEM -- A signaling system which when activated causes an audible signaling device to be activated outside the premises within which the system is installed, excluding, however, any residential smoke, heat, combustion or carbon monoxide detectors not connected to any point outside the premises or intended to be heard or detected outside the premises.

NOTICE ADDRESS -- The address which an alarm user designates on the application for a permit and the address to which notices are to be sent.

PERSON -- Any person, firm, partnership, corporation, association, company or organization of any kind.

PRIVATE ANSWERING POINT -- A business which offers the service of receiving emergency signals, monitoring said signals and relaying them to an emergency agency.

PROPRIETARY SYSTEM -- An alarm sounding and/or recording within the premises protected by the alarm which is not intended to alert persons outside the premises on which the alarm system is located of a possible hazard and not intended to alert an emergency agency, the control center being under the supervision of the proprietor of the protected premises. If the proprietary system includes a signal line connected directly or by means of an automatic device to an emergency agency or to a private answering point or to a local alarm system, it shall be deemed an "alarm system" as such is defined in this chapter.

WATER FLOW ALARM -- A sounding device activated by water flow detector or alarm check valve and arranged to sound an alarm which will be audible in all living areas over background noise levels with all intervening doors closed. This also includes Niagara Mohawk's alarm to warn fishermen of high water rising in the Oswego River.

§ 57-3. Exemptions.

The provisions of this section shall not apply to proprietary alarm systems and residential smoke, carbon monoxide heat or combustion detectors not connected to any point outside the premises or intended to be heard or detected outside the premises. Permits shall be required for all alarm systems located in buildings at federal, state or local government agencies or authorities or at public or private schools; provided, however, that such alarm systems shall be exempt from the permit fees, but subject to the fines and penalties herein provided for avoidable alarms and, where applicable, to the master box fire alarm fee of the Fire Department. No alarm user permit required under this section shall be revoked if such system is required by federal, state or local law. However, all other provisions of this chapter shall apply to such systems, including the payment of authorized fees.

§ 57-4. Permit required.

No person shall own, lease, operate or maintain an alarm system within the City of Oswego, nor shall any person cause an alarm system to be connected directly to the Oswego County 911 Center, unless such person shall have first obtained from the city a permit for such alarm as herein provided.

§ 57-5. Permit application.

A. In order to obtain an alarm user permit, any person who operates an alarm system shall submit an application for such permit to the Oswego City Police Department in the form designated by the City of Oswego, which application shall contain the following:

   (1) The name, home address and telephone number of the person applying for the permit.

   (2) The address of the premises upon which the alarm system is or will be located.

   (3) The address to which notice is required under this chapter shall be sent.

   (4) The type of alarm system for which a permit is sought.

   (5) The name of the alarm business or businesses selling, installing, monitoring, inspecting, responding to and/or maintaining the alarm system, if applicable.

   (6) The name, address and telephone number of one or more persons who can be reached at any time and who are authorized by the owner of the premises in which the system is installed to open the premises and secure the alarm.

(7) Any other information relating to the alarm system or user as the City of Oswego may from time to time require.

B. The information required on the permit application shall be treated as confidential and shall not be made available to members of the general public. The Oswego City Common Council finds that the release of such information would constitute an unwarranted invasion of personal privacy and could endanger the life or safety of persons and premises wherein an alarm system is located. Accordingly, the information on a permit application shall be used by the City of Oswego for public safety purposes only and shall be used for no other purpose whatsoever.

§ 57-6. Permit fees and issuance; transferability.

A. Except as provided in § 57-3 of this chapter, every application for an alarm user permit for alarm systems in the City of Oswego shall be accompanied by the appropriate permit fee. No alarm user permit shall be granted unless the fee is submitted at time of application. Fees shall be as follows:

(1) For use of a local alarm, water flow alarm, central station and/or automatic dialing devices for fire protection: $10.

(2) For use of the municipal or auxiliary alarm system: $50.

(3) For all other systems: $10.

B. Upon receipt of a properly executed permit application and permit fee, the Oswego City Police Department shall issue an alarm user permit to the applicant.

C. The alarm user permit shall not be transferable and shall be kept on the premises where the alarm system is located and made available for inspection by emergency agency personnel.

§ 57-7. Duration of permit.

An alarm user permit will be valid for a calendar year, and all permits shall expire on December 31.

§ 57-8. Renewal of permit.

A. Subject to the provisions of this chapter and upon the payment of the appropriate renewal fee as provided in Subsection B hereof, an alarm user permit may be renewed by the alarm user.

B. The annual permit renewal fee shall be based upon the number of avoidable alarms recorded for each alarm user as follows:

(1) For all alarm users with zero to three avoidable alarms during the preceding permit year, no renewal fee shall be charged.

(2) For all alarm users with four avoidable alarms during the preceding year, a base permit renewal fee of $50 shall be charged.

(3) For all alarm users with more than four avoidable alarms during the preceding year, a base permit fee of $50, plus an additional excessive-use fee for each avoidable alarm in excess of four shall be charged as follows:

(a) For the fifth, sixth and seventh avoidable alarms: $25 for each.

(b) For the eighth, ninth and tenth avoidable alarms: $50 each.

(c) For the eleventh, twelfth and thirteenth avoidable alarm: $75 each.

(d) For every avoidable alarm after the thirteenth: $100 each.

(4) At the time of the renewal, an alarm user shall receive credit for any amounts paid during the permit year to reinstate a revoked permit.

(5) No renewal of a permit shall be granted unless the appropriate renewal fee is submitted with the application.

§ 57-9. Notice of excessive-use fees.

The Oswego Police Department shall notify an alarm user, in writing, by means of first-class mail sent to the notice address listed on the permit application, when an alarm user has had three avoidable alarms during the permit year. The notice shall inform the alarm user that additional avoidable alarms will subject the alarm user to the excessive-use fee as specified in this chapter for each additional avoidable alarm. At the end of the permit year, the Oswego City Police Department shall notify each alarm user having more than three avoidable alarms incurred during the preceding year and the amount to be charged for the renewal of the alarm user permit. Notice shall be in writing and shall be sent by first-class mail to the notice address listed on the application.

§ 57-10. Revocation of permit.

A. An alarm user permit shall be revoked whenever 10 or more avoidable alarms are recorded for a system in any one permit calendar year. Notice of such revocation shall be sent by the

Oswego City Police Department via first-class mail to the notice address listed on the permit application at least 15 days prior to the effective date of permit revocation. An alarm user may reinstate a revoked permit by the payment of the excessive-use fee for each avoidable alarm in excess of three and by submission of proof that modifications have been made to the alarm system or other steps have been effected so as to reduce the number of avoidable alarms, or why any such alarm should not be classified as an avoidable alarm. An alarm system will not be revoked under this section if said alarm system is required by federal, state or local law; provided, however, that all other provisions of this chapter shall apply to such systems, and the user thereof shall remain responsible for the payment of all authorized fees.

B. If no proof of modification or steps taken to reduce the number of avoidable alarms is submitted by the alarm user within at least 15 days or if it is determined by the Chief of Police and/or designee that the action taken or to be taken will not prevent the occurrence of false alarms, the Police Chief and/or designee shall give notice by certified mail to the alarm user that the permit will be revoked without further notice on the 15th day after receiving said certified letter.

C. An alarm user whose alarm permit has been revoked may have his/her permit reinstated by submission of proof that modifications have been made to the alarm system to reduce the number of avoidable alarms and by payment of all excessive use fees. Should another avoidable alarm occur during the life of the permit in said calendar year, same shall be subject to summary revocation. In such case, the revocation shall be effective on the 7th day following the mailing, by certified mail, of a revocation by the Chief of Police. The alarm permit may then be reinstated, after making a payment of a $50 fine and the appropriate excessive-use fee and submission of proof that modifications have been made to the alarm system to reduce the number of avoidable alarms. Should another avoidable alarm occur again during the life of the permit, the same above procedures shall be followed.

§ 57-11. Avoidable alarm incident report.

Whenever an emergency agency responds to an avoidable alarm as herein provided, said agency shall file with the Oswego City Police Department an avoidable alarm report, which shall contain the following information:

A. The alarm user's name and address.

B. The date and location of the avoidable alarm.

C. The reasons why the alarm was determined to be an avoidable alarm.

D. Any other pertinent information.

§ 57-12. Silencing of local alarms.

A. All local alarm systems as defined in § 57-2 of this chapter shall become deactivated and silenced automatically after a period of time not to exceed 15 minutes of activation.

B. Any person utilizing the local alarm system within the City of Oswego by virtue of such utilization of a local alarm shall be deemed to have given consent to the police and/or fire officials of the City of Oswego to disable an audible alarm signal that has not been silenced prior to expiration of the fifteen-minute period referred to in Subsection A of this section, and neither the City of Oswego nor its officers and employees, including but not limited to such police and fire officials, shall be liable for any damages which may result from the disabling of an audible alarm signal as herein provided.

§ 57-13. Penalties for operation without permit.

In addition to any other fees or penalties provided for in this chapter, a violation of § 57-4 of this chapter shall be deemed an offense and shall be punishable by a mandatory fine of not less than $100 nor more than $250; provided, however, that no person shall be charged with such offense until the expiration of 15 days after the date of written notice is mailed to such person by certified mail that he/she is required to obtain an alarm user permit, and further provided that no charge shall be filled against a person so notified if he/she obtains a permit during said fifteen-day period. A person found guilty of violating § 57-4 of this chapter shall not be excused from obtaining a required permit.

§ 57-14. Written instructions required.

Every alarm business installing, maintaining or operating alarm systems within the City of Oswego shall provide all alarm system users, purchasers or lessees with written instructions that provide adequate information to enable the alarm user to operate the alarm properly. A current copy of all such written instructions shall be furnished to the City of Oswego upon request.

§ 57-15. Implementation and education.

The Police and Fire Chiefs are hereby directed to develop procedures necessary to implement this chapter and to commence an ongoing public education to inform users and potential users of alarm systems of the requirements and purposes of this chapter. Said education program shall also serve to increase public awareness of the cost and danger of false alarms, tending to reduce

their number.

§ 57-16. Applicability.

The provisions and requirements of this chapter shall apply to all persons who are alarm users on the effective date of this chapter and to all persons who subsequently become alarm users.

Chapter 59, ALCOHOLIC BEVERAGES

[HISTORY: Adopted City of Oswego Common Council: Article I, 5-12-1980 as Ch. 5, Art. I, of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 165.

ARTICLE I, Open Containers [Adopted 5-12-1980 as Ch. 5, Art. I, of the 1980 Code]

§ 59-1. Findings.

The Common Council of the City of Oswego finds that the possession or consumption of alcoholic beverages in public streets and public places, except under certain conditions, is detrimental to the health, safety and welfare of the residents of the City of Oswego, causes unsightly and unsanitary conditions and creates a nuisance.

§ 59-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings herein ascribed to them; all other words shall have the meanings normally ascribed to them.

ALCOHOLIC BEVERAGE -- Any beer, wine and liquor and all other alcoholic beverages as more specifically defined by the New York State Alcoholic Beverage Control Law.

CONTAINERS -- Any bottle, can, glass bottle or receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any highway, street, park, sidewalk, cemetery, playground, parking area,

school ground, exterior premises and adjoining property of any building duly licensed to sell alcoholic beverages within the building.

§ 59-3. Presumptions on alcoholic content.

For the purposes of this chapter, it shall be presumed that any alcoholic beverages, spirits, liquor, wine, beer or other alcoholic beverages which are commercially prepared and sold under a brand name contain more than three and two-tenths per centum (3.2%) alcohol by volume. This presumption shall be rebuttable.

§ 59-4. Prohibited acts. [Amended 7-11-1983]

No person shall have, possess, carry or transport, with the intent of the possessor or another to consume or drink from, any open bottle or other open container containing liquor, wine, beer or any other alcoholic beverage in or upon any public sidewalk, street, highway, parking lot, public park or other public lands or in any vehicle upon such areas in the City of Oswego.

§ 59-4.1. Parks and picnic areas. [Added 5-27-1986]

It shall not be a prohibited act for persons in groups of five (5) or less to possess, carry or transport, with the intent of the possessor or another to consume or drink from, any open bottle or other open container containing liquor, wine, beer or any other alcoholic beverage in the Breitbeck Park Area, the Wright's Landing Picnic Area or the Fort Ontario Picnic Area.

§ 59-5. Exceptions.

If any individual or organization desires to distribute or consume alcoholic beverages on public property in the City of Oswego, said individual or organization must apply to the Chief of Police or his duly authorized representative for a permit therefor on or before the date scheduled for dispensing such beverages. No fee shall be charged for the granting of said permit, and said permit shall be issued only upon the following conditions:

A. Such individual or organization, by its duly authorized officer, must agree, in writing, to assume full responsibility for supervising the conduct of the group of individuals benefiting from such permit and to properly clean up the premises after use.

B. Such individual or organization must further agree, in writing, that adequate precautions shall be taken to ensure that minors will not be served alcoholic beverages at the permitted event

or gathering.

C. No alcoholic beverages shall be consumed other than on the specific premises described in the permit, and only during the time stated therein.

D. No permit shall be issued to any individual or organization which has previously been issued a permit and has failed to comply with the provisions hereof.

E. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to

cast or control more than 10% of the votes in such entity.

§ 59-6. Penalties for offenses.

The violation of any of the provisions of this chapter shall be punishable by a maximum fine of two hundred fifty dollars ($250.) or by imprisonment for fifteen (15) days, or by both such fine and imprisonment, or such other penalties pursuant to the Penal Law of the State of New York. Each day any violation shall continue shall constitute a separate violation.

Chapter 63, ANIMALS

[HISTORY: Adopted by the Common Council of the City of Oswego 1-24-2011 by L.L. No. 1-2011.[EN(25)] Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 165.

ARTICLE I, Dogs and Other Animals

§ 63-1. Definitions.

As used in this article, the following words shall have the meanings indicated:

ANIMAL -- Any live vertebrate creature, domestic or wild.

ANIMAL SHELTER -- Any facility operated by a humane society or by a municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this article or state law.

AT LARGE -- Any animal shall be deemed "at large" when it is off the property of its owner and not under the control or restraint of a competent person.

AUCTIONS -- Any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this article. This section does not apply to individual sales of animals by owners.

CAT -- Any member of the species Felis domesticus.

CIRCUS -- A commercial variety show featuring animal acts for public entertainment.

COMMERCIAL ANIMAL ESTABLISHMENT -- Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition or kennel.

DOG -- Any member of the species Canis familiaris.

EDUCATIONAL INSTITUTION -- Includes elementary, secondary and higher education facilities.

ENCLOSURE -- A fence or pen of at least six feet in height creating an enclosed area that cannot be breached by children or other animals and which a dog cannot escape. [Added 11-10-2014 by L.L. No. 3-2014]

GROOMING SHOP -- A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

IMPOUNDED -- Taken into custody at the City of Oswego Animal Shelter by the Animal Control Officer. [Added 11-10-2014 by L.L. No. 3-2014]

KENNEL -- Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

LICENSING AUTHORITY -- The City of Oswego.

OWNER -- Any person who owns, keeps, harbors or has the care, custody or control of an animal. Animals owned by minors shall be deemed to be in the custody and control of the minor's parents or other head of the household where the minor resides.

PERSON -- A natural person or any legal entity, including but not limited to a corporation, partnership, or trust. [Added 11-10-2014 by L.L. No. 3-2014]

PET SHOP -- Any person, partnership or corporation, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animals.

RESTRAINT -- An animal is under "restraint" if it is secured by a leash or lead or within a vehicle being driven or parked on the street or within the property limits of its owner or keeper or upon the premises of another with consent of such other person.

SERVICE DOG -- Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.

VICIOUS ANIMAL -- Any animal or animals that constitute a physical threat to human beings

or other animals.

§ 63-2. License required; fee; issuance and affixing of tags.

A. No dog owner shall keep any dog within the City of Oswego over four months of age unless a license has been issued by the City Clerk. The fee schedule shall be as follows: $10 for spayed or neutered dogs; $5 for spayed or neutered dogs owned by senior citizens over 65 years of age; $25 for unspayed or unneutered dogs four months of age or older. On a monthly basis, $1 per spayed/neutered dog and $3 per unspayed/unneutered dog shall be submitted to the Animal Population Control Fund.

B. Date of payment. It shall be the duty of each owner of a dog to renew the license annually and pay the license fee imposed in Subsection A of this section to the City Clerk. The license is renewable after a period of one year beginning with the first day of the month following the date of issuance. Delinquent payments for license renewals will be charged a late fee of $5.

C. Application and tag. Upon payment of the fee and the validation of the application for a license, the application shall become the license for the dog described on the application. The Clerk shall then issue an identification tag bearing the number assigned to the license.

D. Affixing identification tag. The owner shall cause the issued identification tag to be affixed to the collar on the dog at all times during which the dog is not on the premises of the owner. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

E. All cats off the premises of their owners must be identified by a collar and tag. These may be purchased at the Animal Shelter by providing payment of $20 and proof of a valid rabies certificate and spay or neuter certificate for the cat.

F. It shall be the duty of each owner of a dog to notify the municipality in which his/her dog is licensed of any change of address or transfer of ownership. Deceased, lost or stolen dogs must be reported before or on receipt of renewal form.

§ 63-2.1. Exemptions from license fee.

Service dogs as described in § 63-1 shall be exempt from the license fee. Valid documentation must be presented.

§ 63-3. Permit required for commercial animal establishments; fees.

A. No person, partnership or corporation shall operate a commercial animal establishment without first obtaining a permit in compliance with this section.

B. The licensing authority shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this article and other applicable laws. The licensing authority may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

C. The permit period shall begin with the first of the year and run for one year. Renewal applications for permits shall be made 30 days prior to and up to 60 days after the first of the year. An application for a permit to establish a new commercial animal establishment under the provisions of this article may be made at any time.

D. If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon payment of a transfer fee of $10.

E. Annual permits shall be issued upon payment of the following applicable fee:

(1) For each kennel authorized to house less than 50 dogs or cats: $100.

(2) For each pet shop: $100.

(3) For each riding stable: $100.

(4) For each auction: $100.

(5) For each zoological park: $100.

(6) For each circus: $100.

(7) For each performing animal exhibition: $100.

(8) For each grooming shop: $100.

F. Every facility regulated by this article shall be considered a separate enterprise and requires an individual permit.

G. Persons breeding dogs must license such animals individually and obtain a kennel license.

H. No fee shall be required of any veterinary hospital, animal shelter or government-operated zoological park.

I. Failure to obtain a permit before opening any facility covered in this section shall result in a fine of $50.

J. Any person who has a change in the category under which a permit was issued shall be

subject to reclassification and appropriate adjustment of the permit fee shall be made.

§ 63-4. Refusal to issue or revocation of license or permit.

A. The licensing authority may revoke any permit or license if the person holding the permit or license refuses to comply with this article, the regulations promulgated by the licensing authority or any law governing the protection and keeping of animals.

B. Any person whose permit or license is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept or harbored by such person, and no part of the license or permit fee shall be refunded.

C. It shall be a condition of the issuance of any permit that the licensing authority shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspection is refused, revoke the permit of the refusing owner.

D. If the applicant has withheld or falsified any information on the application, the licensing authority shall refuse to issue a permit or license.

E. No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.

F. Any person denied a license or permit may not reapply for a period of 30 days. Each reapplication shall be accompanied by a fee of $40.

G. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

   (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

   (2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

   (3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 63-5. Restrictions.

A. No owner shall permit or allow any dog to run at large within the City unless such animal is restrained, as that term is defined in § 63-1.

B. No unspayed female dog or cat in heat shall be permitted to be outside a building or a fenced enclosure.

C. No household shall be permitted to possess more than three unaltered dogs or three unaltered cats over the age of six months without first obtaining a kennel license.

D. No person shall own or harbor any animal which shall be vicious or which shall attack or attempt to bite any person peaceably passing along the street, lane, park or walk of the City or any place the person may legally be.

E. Certain acts by animals prohibited.

(1) An owner of an animal shall not permit such animal, either licensed or unlicensed, to:

(a) Persistently or consistently bark or howl or whine or snarl or growl.

(b) Cause personal injury.

(c) Cause damage to personal property.

(d) Transport trash or create impairment of lawns, hedges, flowerbeds and gardens on property other than that of the owner or of anyone having the animal in custody.

(e) Persistently bark or chase or growl or snarl at pedestrians who are using the sidewalks while the animal is on the property of the owner or harbored.

(f) Roam with one or more animals in a pack.

(g) Be in the habit of chasing or barking at automobiles.

(h) Kill other animals, except mice and rats.

(2) Animals are prohibited in any grocery stores or any store where perishable goods are sold or any part of any restaurant where food is prepared, except guide, service and hearing dogs as such terms are defined in § 108 of the Agriculture and Markets Law.

F. Any person owning, harboring or possessing a wild animal other than a dog or cat or other domestic animal shall take the proper precautionary measures to safeguard the public from such animal. Failure to comply with this subsection is to be considered a misdemeanor in accordance with § 370 of the Agriculture and Markets Law.

G. It shall be unlawful for any owner of any unneutered or unspayed cat to permit or allow such cat to be at large within the City of Oswego. A violation of this section shall be deemed to have occurred upon the impoundment of such a described cat or upon investigation and determination by the Animal Control Officer of such a violation.

§ 63-6. Enforcement; seizure and impoundment of animals.

A. The Dog Control Officer, per mandate of § 108 of the Agriculture and Markets Law, will serve as the Animal Control Officer, and such officer shall be the enforcing officer for carrying out the terms of this article. The Animal Control Officer shall investigate any complaint lodged by any person against any animal or animal owner allegedly against this article.

B. It is the duty of the Animal Control Officer to seize and impound animals running at large in addition to the dogs and cats that are seized for violations. If any such animal is seized by persons other than the above, such person shall contact the City Animal Control Officer immediately or during the business hours immediately following such seizure to report such "found" animal.

C. Every animal seized by the Animal Control Officer shall be maintained, redeemed, sold or disposed of in accordance with Article 7 and Article 26 of the State Agriculture and Markets Law.

D. Seized cats, dogs and other domesticated pets may be redeemed by producing sufficient proof of ownership, proof of compliance with any state laws regarding the harboring of such animals, including but not limited to proof of rabies vaccination if required, and by paying impoundment fees as set forth from time to time by the Common Council of the City of Oswego.

(1) Dogs. Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized, during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of Article 7 of the Agriculture and Markets Law, and further provided that the owner pays the following impoundment fees:

(a) For the first impoundment of any dog owned by that person: $30 for the first 24 hours or part thereof and $15 for each additional 24 hours or part thereof.

(b) For the second impoundment within one year of the first impoundment of any dog owned by that person: $50 for the first 24 hours or part thereof and $15 for each additional 24 hours or part thereof.

(c) For the third and subsequent impoundments within one year of the first impoundment of any dog owned by that person: $60 for the first 24 hours or part thereof and $15 for each additional 24 hours or part thereof.

(d) For the impoundment of any dangerous dog, deemed dangerous by the Animal Control Officer: $30 a day.

(2) Cats.

(a) Any impounded cat that is "identified" as defined below, that is spayed or neutered, and that has a current rabies vaccination, and for which authoritative proof of all three of these conditions can be shown, shall be subject to an impoundment fee of $10 plus a boarding fee of $6 per night, or portion thereof, of impoundment. "Identified" cats shall include cats for which the owner can show proof were wearing a collar with identification tag as approved by the Animal Control Officer.

(b) Any impounded cat which does not meet all of the above requirements shall be subject to an impoundment fee of $20 plus a boarding fee of $12 per night, or portion thereof, of impoundment.

(3) Further, in addition to the foregoing, the owner or person having custody of an animal whose animal was seized within the City of Oswego and impounded will be required to reimburse the City of Oswego for any disbursements made by the City for the humane care and treatment of the animal, including but not limited to veterinarian's services, and

any necessary treatment directed by the Animal Control Officer or Public Health Official. If the owner of any impounded dog, cat or other domesticated pet be known, such owner shall be required to pay the impoundment fees incurred regardless of whether such owner chooses to redeem his or her animal.

E. No animal over three months old shall be redeemed by its owners unless such owner shall provide proof that the animal has received a rabies vaccination or has the animal vaccinated for rabies before it is redeemed. The fee for a rabies vaccination at the animal shelter shall be $30 for a one-year vaccine and $60 for a three-year vaccine, and the fee for flea treatment of an animal shall be $20.

F. Any dog or cat in the custody of the animal shelter shall be made available for adoption or euthanized subject to the provisions of the Agriculture and Markets Law after the time for redemption has expired. No dog or cat over three months old shall be available for adoption until it has received a rabies vaccination.

G. The fees for adoption of dogs and cats shall be as follows: for dogs, a fee of $100, plus fee for a license; for cats, a fee of $70. Any person who adopts a dog or a cat from the animal shelter shall deposit, at the time of adoption, a deposit of $35. Upon providing proof of spaying or neutering within 30 days, the deposit shall be fully refunded to the adopter.

H. Deposits not claimed after 90 days from the date of collection of the deposit by the Animal Shelter or within 90 days from the dog or cat attaining six months of age shall be deposited into the New York State Animal Population Control Fund.

§ 63-6.1. Vicious and dangerous dogs. [Added 11-10-2014 by L.L. No. 3-2014]

A. Declaration as dangerous; exceptions.

(1) A dog may be declared dangerous if:

(a) It chases, attacks, or approaches a person on any public or private property without provocation in a menacing fashion or intent to attack.

(b) It has a known history of attacking, causing injury, or otherwise endangering or threatening the safety of human beings or domestic animals.

(c) It assaults, inflicts injury upon, bites or otherwise attacks any human being, domestic animal or household pet on public or private property.

(d) It is trained for dog fighting or is harbored primarily or in part for the purpose of dog fighting.

(e) It acts in an aggressive manner, creating a public safety threat as witnessed by the

Animal Control Officer or Peace Officer on duty within the City of Oswego.

(f) It menaces, attacks, or attempts to attack the Animal Control Officer or any peace officer on duty while performing the duties of his/her job.

(2) Exceptions.

(a) No dog may be declared dangerous if the damage/injury occurred to a person committing a willful trespass upon premises occupied by the owner or keeper of the dog, or if the dog was being teased, tormented, abused, or assaulted, or if said person was in the process of committing or attempting to commit a crime. If the trespass is deemed to be of an innocent nature, the court may, depending on the circumstances, still find the dog to be dangerous.

(b) No dog may be declared dangerous if used by law enforcement officials for law enforcement work.

B. Seizure of potentially dangerous dogs. An Animal Control Officer who has probable cause to believe that a dog is vicious, as defined by this article, shall immediately take possession of the dog and shall impound said dog and notify the owner of said impoundment, if notification does not take place at the time of seizure. The owner of such dog may request the City Court to conduct a hearing within five days of the notification of said impoundment to determine if the dog shall be deemed dangerous. If no such hearing is requested within five days of the notification of the dog's impoundment, the dog shall become the property of the City of Oswego. If the dog is licensed within the City of Oswego at the time of seizure, the owner shall be given nine days to request such hearing before the dog becomes the property of the City of Oswego, as required by New York State Law. If no owner can be located, the dog will be held for five days as required by New York State Law and then will become the property of the City of Oswego.

C. Return of a dangerous dog to the owner. If the dog is found dangerous as defined by this article, it is at the discretion of the court to return the dog to the owner upon satisfaction of the following conditions:

(1) The owner pays a fine of $1,000 to the City of Oswego.

(2) The owner obtains a general liability insurance policy for $100,000 for any injuries the dog may cause, listing the City of Oswego as named additional insured for the purpose of receiving notification of termination. It shall be the duty of the dog owner to maintain said insurance policy in force for the life of the dog unless the owner relocates outside of the City of Oswego or the dog is surrendered to the City of Oswego.

(3) The owner shall obtain a bright-colored collar that reads "DANGEROUS DOG" that

shall remain on the dog at all times.

(4) The owner shall display a "Dangerous Dog" sign in the front of the property that can be viewed from the public sidewalk or street.

(5) If the dog is kept outside without a leash, it must be kept in an enclosure at least six feet in height creating an enclosed area that cannot be breached by children or other animals and which said dog cannot escape. Said enclosure must be closed and locked at all times when the dog is placed inside. In addition to minimum six-foot sides, said enclosure shall have a top and bottom to prevent the dog from climbing over or digging out of the enclosure. If no bottom exists, the sides must be imbedded in the ground no less than one foot (12 inches deep). If the dog has demonstrated ability or intent to escape such enclosure, said dog must also be tethered inside the pen. Any enclosure must be inspected and approved by the Animal Control Officer.

(6) The owner shall obtain a leash no longer than four feet in length and will walk the dog on said leash at any time the dog is outside its enclosure or house.

(7) The owner shall obtain a metal basket muzzle for the dog. The basket muzzle must be approved by the Animal Control Officer and must be worn by the dog at any time the dog is outside its fenced enclosure or house, including while being moved to and from the fenced enclosure and the house.

(8) The dog shall not be left in the care or under the control of anyone under the age of 18 or anyone who is physically unable to restrain the dog.

(9) The dog shall be implanted with a microchip at the owner's expense. Said microchip must be registered in the owner's name, and the registration must be kept current for the life of the dog.

(10) The dog shall be licensed in the City of Oswego, and such license must be renewed prior to the expiration for the life of the dog unless the dog is relocated outside the City of Oswego or the dog is surrendered to the City of Oswego.

(11) The dog shall be spayed or neutered at the owner's expense.

(12) The dog shall not be returned to any owner under the age of 18.

(13) The dog shall remain in the custody of the owner named at the time of the dangerous declaration and shall not be re-homed to any other party for any reason. In the event that the owner can no longer care for said dog, the owner shall either have the dog euthanized by a licensed veterinarian at the owner's expense or relinquish the dog to the City of Oswego Animal Shelter along with a surrender fee of $100, as well as any

impoundment fees or fees due to the court at the time of relinquishment.

D. Violations. If the Animal Control Officer has probable cause to believe that a dangerous dog is being possessed in violation of this article, the officer shall immediately take custody of the dog and said dog shall be impounded at the Oswego Animal Shelter until this article has been complied with and all fees have been paid.

(1) Seizure fees:

(a) First seizure: $30.

(b) Second seizure: $50.

(c) Third seizure: $60.

(2) Impoundment fee: $30 per day.

(3) Violation fees:

(a) First violation: $1,000 plus any seizure fees, impoundment fees, veterinary fees, or damages incurred due to the violation.

(b) Second violation: $1,500 plus any seizure fees, impoundment fees, veterinary fees, or damages incurred due to the violation. If an attack or bite occurred during said violation, the court shall order that the dog be destroyed.

(c) Third violation: $2,000 plus any seizure fees, impoundment fees, veterinary fees, or damages incurred due to the violation. If an attack or bite occurred during said violation, the court shall order that the dog be surrendered to the City of Oswego and be destroyed at the owner's expense.

E. Provisions supplemental to state law. The provisions of this article shall not supersede but rather shall be supplementary to the provisions of law contained in Article 7 (§ 106) of the New York State Department of Agriculture and Markets Law and any other applicable ordinance, rule or regulation and successor laws, ordinances, rules and regulations.

§ 63-7. Animal care.

A. No owner shall fail to provide his animal with sufficient good and wholesome water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and with humane care and treatment.

B. No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat

between animals or between animals and humans.

C. No owner of an animal shall abandon such animal.

D. Chickens or ducklings younger than eight months of age may not be sold in quantities of less than 25 to a single purchaser.

E. No person shall give away any live animal, fish, reptile or bird as an inducement to enter any contest, game or other competition or an inducement to enter a place of amusement or offer such vertebrate as an incentive to enter any business agreement whereby the offer was for the purpose of attracting trade.

F. Any person who, as the operator of a motor vehicle, strikes a domestic animal or cat shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event that the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.

G. No owner or person having the care of any domestic fowls or any goats, sheep, swine, horses, oxen, cows or other grazing animal shall permit or suffer the same or any of them to go at large or to graze on any street, public ground, park or square of this City.

H. No person, association or corporation shall possess, keep or harbor any swine or geese within the corporate limits of the City of Oswego, except when the lands whereon they are harbored are assessed as farming lands on the general City tax rolls.

§ 63-8. Tethering animals.

A. No person shall at any time fasten any animal so that the reins, lines or other fastening shall be an obstacle to the free use of any sidewalk or crosswalk; nor shall any person fasten any animal to any ornamental or shade tree in any of the streets of this City or to any box or case around such tree or in any manner tether any animal in a park, square or public ground in this City.

B. No person at any time shall fasten or keep any unattended animal in front of a building or residence where they may present a danger to persons trying to approach said building or residence.

§ 63-9. Harming animals prohibited.

A. No person shall unjustifiably administer any poisonous or noxious drug or substance to a horse, mule or domestic cattle, nor shall any person unjustifiably expose such drug or

substance to any animals with the intent that such drug be taken by a horse, mule or domestic cattle. Violation of this subsection shall constitute a felony in accordance with Article 26, § 360, of the State Agriculture and Markets Law.

B. No person shall unjustifiably administer any poisonous or noxious drug or substance to any animal not covered in Subsection A, nor shall any person unjustifiably expose such animals to any drug or substance with the intent that such drug be taken by such animals. Violation of this subsection shall constitute a misdemeanor in accordance with Article 26, § 360 of the State Agriculture and Markets Law.

C. No person shall willfully or unjustifiably interfere with, injure, destroy or tamper with or willfully set on foot, instigate, engage in or in any way further any act by which any animal used for the purpose of breeding, racing or competitive exhibition of skill, breed or stamina is impaired.

D. No person shall willfully throw, drop or place or cause to be thrown, dropped or placed any substance which might wound, disable or injure any animal. Violation of this subsection constitutes a misdemeanor in accordance with Article 26, § 362 of the State Agriculture and Markets Law.

§ 63-10. Animal theft; penalties.

A. No person shall remove or cause to be removed any collar or license tag from any dog, except with the owner's permission.

B. No person shall entice, seize or molest any animal while it is being held or led by any person or while properly muzzled or wearing a license tag, except where such action is incidental to the enforcement of some law or regulation.

C. No person shall transport any animal not lawfully in his possession for the purpose of killing or selling such animal, nor shall any person remove any animal not lawfully in his possession from the City without first notifying the Animal Control Officer.

D. Any person convicted of violating any of the provisions of this section shall be punished by a fine not to exceed $200 or by imprisonment not to exceed six months, or both.

§ 63-11. Removal of animal waste.

The owner of every animal shall be responsible for the immediate cleanup of any animal excreta deposited by such animal on public property or on private property other than that of the owner and shall be required to clean up within 24 hours any excreta deposited by such animal on the

owner's property.

§ 63-12. Seizure of animals and/or implements involved in animal fights.

Any officer authorized by law to make arrests may lawfully take possession of any animals or implements or other property used or employed or about to be used or employed in violation of any provision of law relating to fights among animals. The disposition of animals or implements used in such fights shall be carried out in accordance with § 375 and § 376 of the State Agriculture and Markets Law.

§ 63-13. Issuance of appearance tickets; penalties.

A. Any person violating any provision of this article shall be issued an appearance ticket for such violation, either in person or via certified mail. The appearance ticket shall be in the form set forth at the end of this section. An answer to such appearance ticket shall be made within five days of the violation by registered or certified mail, return receipt requested, in lieu of a personal appearance upon the date and at the time and court specified in the appearance ticket in accordance with the provisions of § 124 of the State Agriculture and Markets Law.

B. Any person who violates this article or knowingly permits the violation of this article or any of the provisions thereof shall be deemed to have committed an offense against this article, and any person convicted of any such violation, unless otherwise noted, shall be liable to a penalty of not less than $100 for the first offense, $150 for the second offense and $200 for the third offense, except as where otherwise provided herein.

ARTICLE II, Dead Animals

§ 63-14. Definitions.

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

DEAD ANIMAL -- All dead animals, fish and fowl, skinned or unskinned, which may have died from disease, accident or any causes other than slaughter for use as food.

§ 63-15. Deposit in public places prohibited.

It shall be unlawful for any person to deposit, place or throw or cause to be deposited, placed or thrown any dead or fatally sick or injured animal or part thereof in any street, alley or other public place or into or on the banks of any river, stream, lake, pond, sewer, well or other body of water.

§ 63-16. Conveyance through public places restricted.

It shall be unlawful for any person to carry or convey or cause to be carried or conveyed any dead animal through or upon any of the streets, alleys or public places of the City in the daytime unless the same is so conveyed that no part of it is exposed to view and no odors can emanate therefrom.

§ 63-17. Disposal required; regulations.

A. It shall be unlawful for any person to allow any dead animal which he owned or had control of to remain in any street, alley or other public place or on the premises of any person in the City for more than one hour after notification thereof.

B. Should any animal die in any street, alley or other public place or on the premises of any person who owned or had possession or control of such animal prior to its death, such person shall remove or cause the same to be removed within one hour after notification of the death of such animal and have the same desiccated or cremated or disposed of in some sanitary way approved by the Animal Control Officer.

§ 63-18. Report required; notice.

It shall be the duty of the owner, possessor or all persons having knowledge of any dead animal in the City to report the same to the Animal Control Officer, giving the name of the person who owned or had possession or control of such animal prior to its death, if known, and the place where the same may be found, and it shall be the duty of the Animal Control Officer forthwith to notify the person who owned or had possession or control of such animal to cause the same to be removed and desiccated or cremated or disposed of in some other manner as provided for in this article.

§ 63-19. Authority of Animal Control Officer.

If the person who owned or had possession of such animal prior to its death fails to remove such dead animal within the time specified, the same shall be removed and destroyed by the Animal Control Officer at the expense of the person whose duty it is under this article to have the same

removed.

§ 63-20. Penalties for offenses.

A violation of any provision of this article shall constitute an offense and shall be punishable by a fine of not less than $100 for the first offense and not less than $200 for the second and subsequent offense, together with the cost to the City of Oswego for transportation and disposal of the dead animal.

§ 63-21. When effective.

This chapter shall become effective immediately upon filing with the Secretary of State.

Chapter 67, AUCTIONS AND AUCTIONEERS

GENERAL REFERENCES

Pawnbrokers -- See Ch. 176.
Peddling and soliciting -- See Ch. 180.
Weights and measures -- See Ch. 272.

§ 67-1. Definitions. EN(26)

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

GOODS -- Any goods, wares, works of art, commodities, compounds or things, chattels, merchandise or personal property which may be lawfully kept or offered for sale, but shall not include goods damaged at sea or by fire and sold or to be sold for the benefit of the owners, insurers or for the account of whom it may concern or goods sold by virtue of judicial decree.

§ 67-2. License required; fee. EN(27)

No person shall act as a public auctioneer of goods and no person shall hold or cause to be held any public auction or public vendue of goods within the City of Oswego without first obtaining a license from the City Clerk. Every applicant for such a license shall furnish to the City Clerk evidence that he has complied with the laws of the State of New York regulating auctions and auctioneers. No person shall receive or be entitled to receive a license under the provisions of this chapter unless he is a person of good moral character and shall furnish satisfactory evidence thereof to the City Clerk. For every such license, the City Clerk shall charge and the city shall

receive a license fee of one hundred dollars ($100.). Every license issued shall expire on the first day of January next succeeding the day on which it is granted. Every such license issued shall contain the name and residence address of the auctioneer to whom it is issued, and no other person than the one named therein shall act as auctioneer under such license.

§ 67-3. Bond.

No person shall be entitled to an auctioneer's license hereunder or act as auctioneer on the sale at public auction of personal property in the City of Oswego where a license is required hereunder until he has entered into a joint and several bond to the City of Oswego with two (2) sufficient sureties to be approved by the Mayor or with a surety company authorized to issue surety bonds in the State of New York under the penalty of five thousand dollars ($5,000.), conditioned that he will faithfully perform his duties as such auctioneer and render such accounts and pay such duties and moneys as such auctioneer as may be required of him by law to the City of Oswego or to any person.

§ 67-4. Records to be kept by auctioneer.

Every auctioneer or person engaged in the business of selling personal property at auction, whether acting in his own behalf or as officer, agent or representative of another, shall, upon the receipt or acceptance by him of any personal property for the purpose of sale at auction and before offering the same for sale at auction, write or cause to be written in a book to be kept by him for the purpose the name and address of the person who employed him to sell such personal property at auction; the name and address of the person for whose benefit, behalf or account such personal property is to be sold at auction; the name and address of the person from whom such auctioneer received or accepted such personal property; the name and address of the person who was the owner, the authorized agent of owner or the consignor of such personal property immediately prior to the receipt or acceptance for the purpose of sale at auction of the same by such auctioneer; the location with street and number of any such personal property immediately prior to the receipt or acceptance of the same by such auctioneer for the purpose of sale at auction; the date of the receipt or acceptance by such auctioneer or such personal property for the purpose of sale at auction; the place and street and number, if any, in which such personal property is to be held, kept or stored until sold or offered for sale at auction; the place with street and number, if any, in which such personal property is to be sold or offered for sale at auction; a description of such personal property and the distinctive marks thereon, if any; and the terms and conditions upon which such auctioneer received or accepted such personal property for sale at auction. The word "person," as used in this section, includes a corporation, joint-stock association or copartnership. Said book when written, as hereinbefore required, shall be the inventory to be sold at auction.

§ 67-5. Records open to inspection.

Said book and the entries therein made, as provided by the preceding section, shall at all reasonable times be open to the inspection of the Mayor and the head of the Police Department of the city, the District Attorney of Oswego County and any person who shall exhibit such authorization to such auctioneer. In addition to inspection of said book, the same authorities may at any time during the auction sale examine all records of the establishment pertaining to the receipt of merchandise after the commencement of the auction sale.

§ 67-6. Limitations upon items to be sold.

During any sale by auction, no additions whatever shall be made to the stock of merchandise set forth in the inventory as written in said book unless such additions shall be recorded and appropriately labeled as merchandise so added. Upon the offering for sale any such merchandise so added, the auctioneer shall announce that such articles have been added to the stock of merchandise since the auction started.

§ 67-7. Limitations of auction privilege.

No person, firm or corporation shall dispose of his goods, wares or merchandise at public auction, either by himself or another, unless said person, firm or corporation shall have been in business continuously in the City of Oswego as a wholesale or retail merchant at the same location at which said auction is conducted for a period of six (6) months preceding such auction without written permission from the Mayor, which permission shall be granted by the Mayor, in his discretion, for good cause. This section shall not apply to legal or judicial sales, including sales under and by virtue of the Personal Property Law relating to clearance of title under conditional sales contracts or sales by executors or administrators or to sales of or on behalf of licensed pawnbrokers of unredeemed pledges in the manner provided by law or to sales conducted by licensed auctioneers of the property of persons not regularly engaged in the wholesale or retail sale of merchandise.

§ 67-8. Time limits.

No sale at a public auction shall continue for more than thirty (30) days, Sundays and legal holidays excepted, from the day of the beginning of the sale. Such sale may continue for thirty (30) additional days upon written permission of the Mayor, which permission shall be granted by the Mayor, in his discretion, for good cause.

§ 67-9. Night auction of certain articles prohibited.

It shall be unlawful for any person, firm or corporation to sell, dispose of or offer for sale in the City of Oswego at public auction or to cause or permit to be sold, disposed of or offered for sale in said city at public auction between the hours of 6:00 p.m. and 8:00 a.m. the following morning any gold, silver, plated ware, precious stones, watches, clocks, jewelry, bric-a-brac, rugs, clothing, china, porcelain, crockery, glassware, linens, laces, leather goods, furniture, springs, mattresses, electric household appliances, musical instruments or radios, whether the same shall be their own property or whether they shall sell the same as agents or employees, or otherwise; provided, however, that this chapter shall not apply to legal or judicial sales, including sales under and by virtue of the Personal Property Law relating to clearance of title under conditional sales contracts or sales by executors or administrators or to sales by or on behalf of licensed pawnbrokers of unredeemed pledges in the manner provided by law.

§ 67-10. Misrepresentation of articles prohibited.

A. No auctioneer of personal property shall misrepresent the quality, kind or value of any article at any auction sale.

B. No person, firm or corporation shall sell or offer for sale any goods, wares or merchandise by auction or advertise for sale any goods, wares or merchandise falsely representing or pretending that such goods, wares or merchandise, in whole or in part, are a part of a bankrupt or insolvent stock or damaged goods or goods saved from fire or make any false statement as to the purchase, history or character of such goods, wares or merchandise.

§ 67-11. False bids prohibited.

No person shall act as a by-bidder or what is commonly known as a "capper," "booster" or "shiller" at any public auction or place or offer or make any false bid to buy or to pretend to buy any such article sold or offered for sale at any public auction sales.

§ 67-12. Jewelry articles to be labeled.

It shall be unlawful for any person licensed hereunder to offer for sale by auction any article to which there is not attached a card or ticket or label containing a true and correct statement, plainly written or printed in English, specifying the kind and quality of the metal of which such article is made or composed or the percentage of karat or purity of such metals. If such articles are plated or overlaid, then such tag or label shall contain a true statement of the kind of plate.

When precious stones are for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name, weight and quality of such stone or stones. When semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name of said stones. When imitations of precious or semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, said imitations shall be described or defined as synthetic or imitations of such stones as they purport to represent. When watches and clocks are sold, the true names of the manufacturers shall be stated, in writing, and no parts of the movements or mechanism thereof shall be substituted or contain false and misleading names or trade marks; neither shall secondhand or old movements be offered for sale in new cases without a true statement to that effect. Used and rebuilt watches should be so indicated in accordance with the New York State Law. Such tags or labels shall remain securely attached to any such article or merchandise and shall be delivered to the purchaser as a true and correct description and representation of the article sold, and it shall be deemed prima facie evidence of intent to defraud in case such written statements are not a true and correct description and representation of such articles sold.

§ 67-13. Revocation of licenses.

Whenever the Mayor believes that sufficient cause exists for the revocation of a license, he may upon his own motion or, upon complaint made by any person, revoke any license issued hereunder. Before so revoking any such license, he shall cause to be served upon such licensee a notice specifying the grounds of complaint or the alleged reasons for revocation, which notice shall fix a time and place at which the Mayor shall hear and determine said complaint. The person against whom said complaint is made shall have an opportunity to be heard in answer to said complaint and at the time specified in said notice and to make defense thereto. The Mayor may revoke the license of any person against whom charges brought as above are, in his opinion, substantiated; provided, however, that when a license is revoked, the Mayor shall notify the licensee, in writing, and give the reasons for such revocation.

§ 67-14. Penalties for offenses.

Any person, firm or corporation who shall violate or fail or refuse to comply in any way with any of the provisions of this chapter shall be liable to a fine or penalty of not more than one hundred fifty dollars ($150.) for each offense, and in case the person convicted of such violation is fined and does not immediately pay such fine or penalty, he may be committed to the Oswego County Jail for the term of one (1) day for each and every dollar of said fine or penalty not paid, not exceeding one hundred fifty (150) days. Each day said business is carried on without the procurement of and payment for such license shall constitute a separate offense.

§ 67-15. Applicability.

This chapter shall not apply to any sale of real or personal property, pursuant to the judgment, decree or order of any court or to any sale of real or personal property in connection with the administration of a decedent's estate by or on behalf of the executor or administrator thereof.

Chapter 72, BICYCLES

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

GENERAL REFERENCES

Vehicles and traffic -- See Ch. 257.

§ 72-1. License required. [Amended 7-8-2002]

No resident of the City of Oswego shall ride or propel a bicycle in the City of Oswego on any street or any public property unless such bicycle has been licensed and its license sticker is attached thereto, as provided herein.

§ 72-2. License application; fee.

A. Application for a bicycle license and license sticker shall be made upon a form provided by the City and shall be made to the Chief of Police. [Amended 7-8-2002]

B. The Chief of Police, upon receiving proper application therefor, is authorized to issue a bicycle license, which shall be effective until change of ownership.

C. The Chief of Police shall not issue a license for any bicycle when he knows or has reasonable grounds to believe that the applicant is not the owner or entitled to possession of such bicycle.

D. The Chief of Police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, the number on the frame of the bicycle for which issued and a record of all bicycle license fees collected by him.

§ 72-3. License sticker; issuance; attachment. [Amended 7-8-2002]

A. The Chief of Police, upon issuing a bicycle license, shall also issue a license sticker bearing the license number assigned to the bicycle and the name of the City.

B. The Chief of Police shall cause such license sticker to be firmly attached to the frame of the bicycle for which issued and in such position as to be plainly visible.

C. No person shall remove a license sticker from a bicycle during the period for which issued except upon a transfer of ownership or in the event that the bicycle is dismantled and no longer operated upon any street in this City.

§ 72-4. Safety standards and inspections.

A. Every bicycle subject to this chapter shall be equipped as provided for by § 1236 of the Vehicle and Traffic Law of the State of New York, and any amendments and additions thereto.

B. The Chief of Police, or an officer assigned such responsibility, shall inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in unsafe mechanical condition.

§ 72-5. License renewal; sale and transfer of bicycles. [Amended 7-8-2002]

A. Upon the expiration of any bicycle license, the same may be renewed upon application, as upon original application.

B. Upon the sale or other transfer of a licensed bicycle, the licensee shall remove the license sticker and shall surrender the same to the Chief of Police.

§ 72-6. Report of sales and purchases.

Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report within seven (7) days of any sale or transfer to the Chief of Police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof and the number plate, if any, found thereon.

§ 72-7. Applicability of traffic regulations.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring

rules of the road applicable to vehicles or by the traffic ordinances of the City applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which, by their nature, can have no application.

§ 72-8. Obedience to traffic control devices.

A. Any person operating a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

B. Whenever authorized signs are erected indicating that no right or left U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such persons shall then obey the regulations applicable to pedestrians.

§ 72-9. Riding on sidewalk.

No bicycle riding shall be permitted on the sidewalks abutting the following streets:

A. West First Street and West Second Street, from West Cayuga Street to West Mohawk Street.

B. Bridge Street, from West Third Street to East Third Street.

§ 72-10. Right-of-way.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

§ 72-11. Parking.

No person shall park a bicycle on a sidewalk except in a rack designed to support bicycles or against a building when the owner or occupant of the building consents thereto. However, a bicycle may be parked on the sidewalk, in an upright position, when said bicycle is attached to a parking meter by chain or other securing device and where such parking of the bicycle shall not be a hazard to automobiles traveling or parked upon the street or pedestrians walking in the vicinity of said parking meter.

§ 72-12. Disposal of abandoned bicycles.

The Chief of Police is authorized to dispose of abandoned bicycles in accordance with laws and regulations relating to abandoned property.

§ 72-13. Parental responsibility.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.EN(28)

Chapter 80, BINGO AND GAMES OF CHANCE

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 16 of the 1980 Code; Art. II, 5-12-1980 as Ch. 55 of the 1980 Code. Amendments noted where applicable.]

ARTICLE I, Bingo [Adopted 5-12-1980 as Ch. 16 of the 1980 Code]

§ 80-1. Definitions. EN(29)

The terms "bingo," "game" and "authorized organization," as used in this Article, shall have the same meanings as set forth and defined in § 476 of Article 14-H of the General Municipal Law of the State of New York.

§ 80-2. License required. EN(30)

It shall be lawful for any authorized organization upon obtaining a license therefor, as provided in the Bingo Licensing Law of the State of New York, to conduct the game of bingo within the territorial limits of the City of Oswego, subject to the provisions of this Article, the provisions of the said Bingo Licensing Law and the provisions of the Bingo Control Law of the State of New York.EN(31)

§ 80-3. Restrictions on conduct of games. EN(32)

The restrictions of § 479 of the General Municipal Law shall apply to the conduct of games

within the City of Oswego.

§ 80-4. Referendum.

A proposition for the approval of this Article shall be submitted to the electors of the City of Oswego at a special election in the City of Oswego to be held on the 20th day of May in the year 1958, as provided in § 478 of Article 14-H of the General Municipal Law, known as the "Bingo Licensing Law," and other applicable provisions of law.

§ 80-5. Approval. EN(33)

This Article shall become operative and effective upon its approval by a majority of the qualified electors of the City of Oswego voting on a proposition therefor submitted at the special election held within the City of Oswego as herein provided.

§ 80-6. Games on Sunday.

Any license issued under Article 14-H of the General Municipal Law, being the Bingo Licensing Law, may provide that games of chance otherwise authorized thereunder may be held, operated and conducted on the first day of the week, commonly known and designated as "Sunday."

ARTICLE II, Games of Chance [Adopted 5-12-1980 as Ch. 55 of the 1980 Code]

§ 80-7. Definitions.

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

AUTHORIZED ORGANIZATION -- An authorized organization as defined in Article 9-A, § 186, Subdivision 4, of the General Municipal Law.

GAMES OF CHANCE -- As defined in Article 9-A, § 186, Subdivisions 3 and 3-a, of the General Municipal Law. EN(34)

§ 80-8. Games of chance authorized.

Authorized organizations may, upon the obtaining of a license from the City Clerk of the City of

Oswego, New York, conduct games of chance within the territorial limits of the City of Oswego, as provided in Article 9-A of the General Municipal Law, as the same may be amended from time to time, and as provided further in this Article. Such games of chance shall be conducted in accordance with the general state law and with the rules and regulations of the New York State Racing and Wagering Board and this Article, as the same may be amended from time to time.

§ 80-9. Restrictions.

The conduct of games of chance authorized by this Article shall be subject to those restrictions contained in § 189 of the General Municipal Law and in other applicable statutory and case law and the rules and regulations of the New York State Racing and Wagering Board.

§ 80-10. Games on Sunday permitted.

Games of chance on the first day of the week, commonly known as "Sunday," may be conducted pursuant to this Article and appropriate statutes and regulations.

§ 80-11. Penalties for offenses.

Any person, association, corporation or organization who or which shall make any false statement in any application for any license authorized to be issued for the conduct of games of chance in the City of Oswego or in any statement annexed thereto or who or which shall violate any of the provisions and restrictions contained in Article 9-A of the General Municipal Law and this Article, shall be guilty of a misdemeanor and shall forfeit any license issued to it under this Article authorizing the conduct of games of chance in the City of Oswego and shall be ineligible to apply for another license for at least one (1) year hereafter.

§ 80-12. Referendum. EN(35)

This Article shall take effect following its approval by a majority of qualified voters voting thereon at a special election held pursuant to state law and ten (10) days after the first publication thereof in the official newspaper of the City of Oswego, New York.

Chapter 83, BUILDINGS, DANGEROUS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 112 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction -- See Ch. 126.
Flood damage prevention -- See Ch. 133.
Housing standards -- See Ch. 149.
Trailers -- See Ch. 236.

§ 83-1. Dangerous conditions enumerated.

All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

B. Those which, exclusive of the foundations, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members, or fifty percent (50%) of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the City of Oswego.

E. Those which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.

F. Those buildings and structures occupied or unoccupied having light, air, water, electrical, hot water and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, fire escapes or other means of communication.

H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

I. Those which because of their condition are unsafe, insanitary or dangerous to the health,

morals, safety or general welfare of the people of this city.

J. Those buildings existing in violation of any provision of the Building Code[EN(36)] of this city or any provisions of any ordinances relating to the prevention of fire or of other ordinances of this city or laws of the State of New York now or hereafter adopted.

§ 83-2. Standards for repair, vacation, removal or demolition.

The following standards shall be followed in substance by the Building Inspector and the City Engineer in ordering repair, removal, vacation or demolition:

A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered to be repaired.

B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

C. In any case where a dangerous building is fifty-percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the term of this chapter or any ordinance relating to the prevention of fire, it shall be demolished.

D. All repairs undertaken pursuant to this chapter shall be made in compliance with existing laws of the City of Oswego and State of New York, including the New York State Uniform Fire Prevention and Building Code, and shall comply with the standards thereof pertaining to heat, hot water, sanitation, electricity, light, air and safety.[EN(37)]

§ 83-3. Dangerous buildings deemed nuisances.

All dangerous buildings within the terms of § 83-1 of this chapter are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereafter provided.

§ 83-4. Powers and duties of Building Inspector.

The Building Inspector shall:

A. Inspect all public buildings, schools, halls, churches, theaters, hotels, tenements, apartments or commercial, manufacturing or loft buildings for the purpose of determining whether any

condition exists which renders such places a dangerous building within the terms of this chapter.

B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter.

C. Inspect any building, wall or structure reported, as hereinafter provided for, by the Fire or Police Departments of this city as probably existing in violation of the terms of this chapter.

D. Notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the said building as shown by the real property records of the Clerk of the County of Oswego of any building found by him to be a dangerous building within the standards set forth in § 83-1 of this chapter that:

(1) The owner must vacate or repair or demolish said building in accordance with the terms of the notice and this chapter.

(2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.

(3) The mortgagee, agent or other persons having an interest in said building, as shown by the said real property records of the Clerk of the County of Oswego, may, at his own risk, repair, vacate, remove or demolish said building or have such work or act done, provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding ninety (90) days, as may be necessary to do or to have done the work or act required by the notice provided for herein.

E. Set forth in the notice provided for in Subsection D hereof a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding ninety (90) days, as is reasonable.

F. Report to the City Engineer any noncompliance with the notice provided for in Subsections D and E hereof.

G. Appear at all hearings conducted by the City Engineer and testify as to the condition of the dangerous buildings.

H. EN(38)Place a notice on all dangerous buildings reading as follows:

This building has been found to be a dangerous building by the Code Enforcement

Officer. It is unlawful to remove this sign without permission of the City of Oswego under penalty of the law.

§ 83-5. Powers and duties of City Engineer.

The City Engineer shall:

A. Upon receipt of a report of the Building Inspector as provided for in § 83-4F hereof, give written notice to the owner, according to the general tax assessment rolls of the City of Oswego, and also to the occupant, mortgagee, lessee, agent and all other persons who may have an interest in said building as determined by the City Engineer from the assessment and tax records of the City of Oswego to appear before him on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in § 83-4E.

B. Hold a hearing and hear such testimony under oath as the Building Inspector or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the real property records of the Clerk of the County of Oswego, and any other persons called as a witness by any of the foregoing shall offer relative to the dangerous building.

C. Make written findings of fact from the testimony offered pursuant to Subsection B above as to whether or not the building in question is a dangerous building within the terms of § 83-1.

D. Issue an order based upon findings of fact made pursuant to Subsection C above commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the real property records of the Clerk of the County of Oswego to repair, vacate or demolish any building found to be a dangerous building within the terms of this chapter, and provided that any person so notified, except the owners, shall have the privilege of vacating or repairing said dangerous building or any person not the owner of said dangerous building but having an interest in said building as shown by the real property records of the Clerk of the County of Oswego may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon which said dangerous building stands by the city, as provided in Subsection E hereof.

E. If the owner, occupant, mortgagee or lessee fails to comply with the order provided for in Subsection D hereof within ten (10) days, the City Engineer shall report such fact to the Common Council, in writing, and transmit to the Common Council at such time a copy of his written findings of fact and of the order provided for in Subsection D. The Common Council,

by resolution, may authorize the City Engineer to cause such building or structure to be repaired, vacated or demolished as the facts may warrant under the standards hereinbefore provided for in § 83-2. The cost of such repair, vacation or demolition shall be charged against the land upon which such building exists in the same manner as local assessments provided for in the Charter of the City of Oswego, provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of the City of Oswego, the Common Council may direct the City Attorney to take legal action to compel the owner to make all necessary repairs or to demolish the building.

§ 83-6. Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building as defined herein is immediately repaired, vacated or demolished, the Building Inspector shall report such facts to the Common Council, and the Common Council may direct the City Engineer to cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in § 83-5E hereof.

§ 83-7. Serving of notices. EN(39)

In all cases where notices or orders provided for herein are required to be served, such service shall be made either personally or by registered mail, return receipt requested, directed to the person upon whom it is intended to be served at his last known address, and in the event that such service is made by registered mail, a copy of such notice or order shall be posted in a conspicuous place on the dangerous building to which it relates. Such personal service or service by mail and posting shall be deemed adequate service.

§ 83-8. Liability.

No officer, agent or employee of the City of Oswego shall render himself personally liable for any damage that may accrue to the persons or property of anyone as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any such officer, agent or employee of the City of Oswego as a result of any act required or permitted in the discharge of his duties under this title shall be defended by the City Attorney, and any judgment recovered against such person, if affirmed where an appeal is taken, shall be paid by the City of Oswego.

§ 83-9. Report from Fire and Police Departments.

All members of the Fire and Police Departments of the City of Oswego shall make a report, in writing, to the Building Inspector of any buildings or structures which are or may be or are suspected to be dangerous buildings within the meaning of this chapter.

Chapter 84, BUILDINGS, MOVING OF

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 99, §§ 99-21 and 99-22, of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Streets and sidewalks -- See Ch. 211.
Zoning -- See Ch. 280.

§ 84-1. Moving buildings; penalties.

No person shall remove or cause or permit to be removed or shall aid or assist in removing any building into, along or across any street, sidewalk or public ground in this city without permission from the Common Council and before giving such bond to the City of Oswego as said Common Council shall require. A violation of this section is punishable by a fine of not less than five dollars ($5.) nor more than twenty-five dollars ($25.).

§ 84-2. Time limit for moving buildings; penalties.

No person who or that is the owner of any building permitted to be removed into, along or across any street, alley or public ground in this city shall suffer or permit such building to remain in any such street, alley or public ground for a longer time than one (1) day after notice from the Department of Public Works to remove the same. A violation of this section is punishable by a fine of not less than five dollars ($5.) nor more than twenty-five dollars ($25.), and upon the expiration of twenty-four (24) hours after said notice, the Department of Works may summarily remove such building, and the expense of such removal may be collected by the City of Oswego of the party offending, with costs of suit.[EN(40)]

Chapter 85, BUILDINGS, VACANT

[HISTORY: Adopted by the Common Council of the City of Oswego 9-22-2014 by Res. No. 411. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Moving of buildings -- See Ch. 84.
Housing standards -- See Ch. 149.
Vacant and occupied property maintenance -- See Ch. 249.

§ 85-1. Legislative findings; purpose.

It is the finding of the Common Council that buildings which remain vacant, with access points boarded over, are unsightly and unsafe and have a negative effect on their surroundings. This is particularly troublesome in residential and neighborhood-commercial neighborhoods. Unfortunately, many buildings, once boarded, remain that way for many years. The purpose of this chapter is to establish a program for identifying and registering vacant buildings; to determine the responsibilities of owners of vacant buildings and structures; and to facilitate the rehabilitation of the vacant properties.

§ 85-2. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

CODE ENFORCEMENT DIVISION -- All Code Enforcement Officers employed by the City of Oswego from all City Departments.

CODE ENFORCEMENT OFFICER -- A person certified by the State of New York as a Code Enforcement Officer, and a duly authorized representative of the City of Oswego.

OWNER -- All persons or entities listed below shall be deemed "owners" and have a joint and several obligation for compliance with provisions of this chapter.

A. Those shown to be the owner or owners on the records at the City of Oswego Assessor's Office.

B. Those identified as the owner or owners on a vacant building registration form.

C. A mortgagee in possession.

D. A mortgagor in possession.

E. An assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in

control of the premises.

SECURED BY OTHER THAN NORMAL MEANS -- A building secured by means other than those used in the design of the building.

UNOCCUPIED -- A building which is not being used for any occupancy authorized by the owner.

UNSECURED -- A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

VACANT BUILDING -- A building or portion of a building which is:

A. Unoccupied and unsecured;

B. Unoccupied and secured by other than normal means;

C. Unoccupied and an unsafe building as determined by a Code Enforcement Officer;

D. Unoccupied and has multiple housing or building code violations;

E. Illegally occupied;

F. Unoccupied for a period of time over 180 days, and during which time the Code Enforcement Officer has issued an order to correct code violations.

§ 85-3. Registration of vacant buildings.

A. The owner shall register with the Code Enforcement Division no later than 30 days after any building in the City becomes a vacant building or no later than 30 days after being notified by a Code Enforcement Officer of the requirement to register. Code Enforcement Officers may identify vacant buildings through their routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry.

B. The registration shall be submitted on forms provided by the Code Enforcement Division and shall include the following information supplied by the owner:

(1) A description of the premises.

(2) The names, mailing address, e-mail address and telephone numbers of the owner or owners.

(3) If the owner does not reside within a twenty-five-mile radius of the City of Oswego, the name, mailing address, e-mail address and telephone numbers of any third party with

whom the owner has entered into a contract or agreement for property management within a twenty-five-mile radius of the City of Oswego.

(4) The name, address, and telephone number of all known lien-holders and all other parties with an ownership interest in the building.

(5) A telephone number where a responsible party can be reached at all times during business and nonbusiness hours.

(6) A statement whether the building is currently insured by a policy of fire insurance and, if so, the name, address and telephone number of the insurance company and the insurance agent and the amount of coverage. If the building is not currently covered by fire insurance, the owner shall set forth the reason(s) why it is not so covered.

(7) A vacant building plan as described in Subsection C.

C. The owner shall submit a vacant building plan which must meet the approval of a Code Enforcement Officer. The plan, at a minimum, must contain information from one of the following three choices for the property:

(1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition

(2) If the building is to remain vacant, a plan for the securing of the building, along with the procedure that will be used to maintain the property and a statement of the reasons why the building will be left vacant.

(3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. The rehabilitation plan shall not exceed 365 days, unless a Code Enforcement Officer grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements, alterations to or demolition of the property must comply with any applicable zoning, housing, historic preservation, or building laws and codes and must be secured as per local code, if applicable, during the rehabilitation.

D. In the event that the owner submits a vacant building plan for demolition or rehabilitation of the vacant building, the owner shall obtain the required permits prior to commencement of demolition or rehabilitation.

E. A Code Enforcement Officer shall provide the owner with a written referral to the Office of Community Development for information outlining programs available which may be useful in developing the owner's rehabilitation plan.

F. All applicable laws and codes shall be complied with by the owner. The owner shall notify a

Code Enforcement Officer of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must be approved by a Code Enforcement Officer.

G. New owners shall register or re-register the vacant building with Code Enforcement Division within 30 days of any transfer of an ownership interest in a vacant building.

§ 85-4. Exemptions from registration requirements.

A building which has suffered fire damage or damage caused by extreme weather events shall be exempt from the registration requirement for a period of 180 days (or that time required to settle an active insurance claim) after the date of the fire or extreme weather event, if the property owner submits a request for exemption, in writing, to the Code Enforcement Division. This request shall include the following information supplied by the owner:

A. A description of the premises.

B. The names and address of the owner or owners.

C. A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

§ 85-5. Maintenance of Vacant Buildings.

A. All vacant buildings shall be kept secured or shall be boarded up, both as defined in Subsection A(1) and A(2) herein, and shall be maintained in accordance with the requirements herein. Any building that is not secured shall be promptly boarded up.

   (1) The term "secured," for the purposes of this section, shall mean that all means of ingress and egress, including but not limited to all doorways and windows, shall be in a good state of repair, without any broken glass or other damage that might allow entry or create an eyesore, and shall be securely locked.

   (2) The term "boarded up" shall mean that all means of ingress and egress at all floor levels shall be covered over, as specified hereinafter, so as to ensure the continued security of the building and to reduce the negative impact on the neighborhood.

B. Boarding up shall be done by utilizing the following minimum materials and methods unless another equivalent system is proposed in writing and approved by a Code Enforcement Officer:

(1) Exterior-grade plywood or sheathing-grade board, at least 1/2 inch thick, shall be used for boarding material to cover window and door frames without overlapping the adjacent wall surfaces.

(2) The boarding material shall be secured to the building by screws, with the exception of one doorway which shall be secured in such a manner that it can provide access to the building by authorized persons.

(3) All boarding material shall be finished on exterior with one coat of primer and exterior grade paint to match that of the adjacent walls.

(4) The secured building shall be provided with adequate ventilation to prevent the accumulation of moisture.

C. In addition to securing or boarding up the building, the following minimum requirements shall be met for all vacant buildings:

(1) The roof shall be structurally sound and weathertight.

(2) All combustible trash and debris shall be removed from the building.

(3) The grounds surrounding the building shall be cleared and kept cleared of all litter, rubble, debris, trash and junk and of all grass or weeds in excess of 10 inches in height.

D. When it is required by this chapter that a building be boarded up, it shall be the responsibility of the owner to have the electric and gas service, if any, temporarily shut off from the building by contacting the power provider. Service may not be reconnected until repair and rehabilitation work or occupancy actually commences.

E. All plumbing and heating systems that contain water shall be completely drained and kept empty between October 15 and April 15, and an antifreeze solution shall be added to all plumbing traps in the building. This shall not apply if the building is adequately heated during this time period.

F. The owner shall arrange to provide access to the interior of the building by a Code Enforcement Officer to inspect for compliance with the requirements herein that pertain to the interior. No Code Enforcement Officer shall conduct an interior inspection without the consent of the building owner, unless the Code Enforcement Officer has first obtained a warrant from a court of competent jurisdiction.

G. The owner of a building which remains vacant for a period of 365 days or more shall be subject to the requirements of this section. By the end of such time period, the owner of the vacant building shall demonstrate to the Code Enforcement Division that said owner has taken all positive action to abate the vacancy of the building in an expeditious manner. This

action may include but is not limited to:

(1) Applying for and obtaining a permit to repair and rehabilitate the building, or to demolish it, and proceeding with the work in a timely fashion;

(2) Providing competent evidence that the building is listed for sale at fair market value by the owner or a licensed realtor and is being periodically advertised for sale in a local newspaper, through the multiple listing service, or otherwise marketed by the owner; or

(3) Providing a proposed schedule of action to undertake repair and rehabilitation of the building, including a detailed financial plan for its accomplishment.

§ 85-6. Damaged, unsafe, and dangerous buildings.

A. The Code Enforcement Division shall examine or cause to be examined every building reported as unsafe, damaged or vacant and shall make a written record of each examination.

B. Whenever a Code Enforcement Officer shall find a building or structure or a portion thereof to be damaged, unsafe or dangerous, he/she shall give the owner, agent or person in control of such building or structure written notice pursuant to § 83-4D of this Code, stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements or to demolish and remove the building or structure or portion thereof.

C. If a Code Enforcement Officer finds that the building or structure is a dangerous building as defined in Chapter 83 of the Code of the City of Oswego, such notice shall require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by a Code Enforcement Officer. The Code Enforcement Officer shall cause to be posted at each entrance of such building a notice which includes the statement: "This building has been found to be a dangerous building and its use or occupancy has been prohibited by the Code Enforcement Division of the City of Oswego." Such notice shall remain posted until the required repairs or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other servants, to remove such notice without written permission of the Code Enforcement Officer, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the same.

D. In the event that an owner fails, neglects or refuses to comply with a notice to repair or remove a dangerous building or structure within the time limits specified in the notice provided herein, the Code Enforcement Officer shall cause the affected building or structure to be repaired or removed pursuant to the provisions of §§ 83-4 and 83-5 in Chapter 83 of the Code of the City of Oswego. For this purpose he may at once enter such building or structure

and with such assistance and at such cost as may be necessary.

E. The Code Enforcement Officer may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way.

F. The Code Enforcement Division shall cause all such vacant buildings to be inspected on a quarterly basis and notify the owner or agent of any accumulation of trash, debris, rodent infestation, the failure to keep said building secured or other violation of law, ordinance, City or State code or regulation at the premises.

(1) The owner shall have seven days from receipt of said notice to correct such conditions, unless the Code Enforcement Officer is of the opinion that a vacant building or any structure is, for any cause, dangerous to the health, safety and welfare of the public or is unfit for occupancy, in which case the provisions of Chapter 83 shall apply.

(2) If the Code Enforcement Officer finds that a vacant building or structure is damaged or so poorly maintained that it is in violation of any applicable state or local property maintenance laws or regulations, and the owner fails, neglects or refuses, after having been given proper notice, to correct such violation or to properly secure or board up the building as required herein, the Code Enforcement Division shall report such fact to the Common Council in writing.

(3) The Common Council by resolution may authorize the Code Enforcement Division to cause such building or structure to be repaired, secured, or boarded up, and the cost of the same shall be charged against the land upon which such building exists in the same manner as local assessments provided for in the Charter of the City of Oswego.

(4) For this purpose, a Code Enforcement Officer may enter upon such building or structure with such assistance as may be necessary.

§ 85-7. Fees.

The owner of a vacant building shall pay an annual fee as set forth in Subsection A, as amended from time by resolution of the Common Council, for the time that the building remains a vacant building.

A. The first-year annual fee shall be $250 and shall be paid no later than 30 days after building becomes vacant. If the fee is not paid with 30 days of becoming due, the owner shall be subject to a fine as prescribed in Chapter 249 of the Code of the City of Oswego. If a plan is extended beyond 365 days, subsequent annual fees shall be paid as follows:

(1) For the second year that the building remains vacant: $500;

(2) For the third year that the building remains vacant: $1,000;

(3) For the fourth year that the building remains vacant: $1,500;

(4) For the fifth year that the building remains vacant: $2,000;

B. The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit. The fee shall be prorated, and a refund may be issued if the building is no longer deemed vacant under the provisions of this chapter within 180 days of its registry.

C. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the annual fee no later than 30 days after the transfer of ownership, and subsequent annual fees shall be due on the new anniversary date.

§ 85-8. Filing of property-specific information.

The Enforcement Officer shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

§ 85-9. Access to buildings for inspections.

The Code Enforcement Division shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of a Code Enforcement Officer, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by a Code Enforcement Officer or his or her designee in order to enable such inspection, and a Code Enforcement Officer shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises.

§ 85-10. Annual reports.

The Code Enforcement Division shall submit an annual report to the Mayor and Common Council, listing all buildings in the City declared vacant under the provisions of the chapter, the date upon which they were declared vacant and whether a vacant building registration and vacant

building plan has been filed for the building.

§ 85-11. Penalties for offenses.

Any person violating any provision of the vacant building registry or providing false information to a Code Enforcement Officer shall be punished as provided by Chapter 249 of the Code of the City of Oswego.

Chapter 87, BUSINESS IMPROVEMENT DISTRICTS

[HISTORY: Adopted by the Common Council of the City of Oswego 10-29-1991 as L.L. No. 4-1991 (Ch. 23 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Economic Development Zone -- See Ch. 106.
Waterfront revitalization -- See Ch. 267.
Zoning -- See Ch. 280.

§ 87-1. Applicability of statutory provisions.

The provisions of Article 19-A of the General Municipal Law are hereby applicable to the establishment or extension of business improvement districts in the City of Oswego.

§ 87-2. When effective.

This chapter shall take effect immediately upon filing with the Secretary of State; provided, however, that this chapter is subject to a permissive referendum, and the City Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.[EN(41)]

Chapter 95, COASTAL EROSION CONTROL

[HISTORY: Adopted by the Common Council of the City of Oswego 6-11-1984 as L.L. No. 1-1984 (Ch. 44 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention -- See Ch. 133.
Harbors -- See Ch. 143.

Waterfront revitalization -- See Ch. 267.
Zoning -- See Ch. 280.

§ 95-1. Statutory authorization.

Pursuant to the provisions of Article 34 of the New York State Environmental Conservation Law and § 10 of the Municipal Home Rule Law, the City of Oswego, County of Oswego, State of New York, hereby this chapter.

§ 95-2. Title.

This chapter shall be known and may be cited as the "City of Oswego Coastal Erosion Hazard Area Law."

§ 95-3. When effective.

This chapter shall take effect twenty (20) calendar days from June 25, 1984, which is the date of this chapter's adoption and filing pursuant to § 27 of the Municipal Home Rule Law, or the date of filing the official maps, whichever is later.

§ 95-4. Assumption of responsibility and authority; purpose.

The City of Oswego hereby assumes the responsibility and authority to implement and administer a coastal erosion management program within its jurisdiction pursuant to Article 34 of New York State Environmental Conservation Law. In addition, it is the purpose of this chapter to:

A. Establish standards and procedures for minimizing and preventing damage to structures from shoreline erosion and to protect natural protective feature areas.

B. Regulate, in coastal areas subject to serious erosion, land use and development activities so as to minimize or prevent damage or destruction to man-made property, natural protective features, other natural resources and to protect human life.

C. Regulate new construction or placement of structures in order to place them a safe distance from areas of active erosion and to ensure that these structures are not prematurely destroyed or damaged due to improper siting.

D. Restrict public investment in services, facilities or activities which are likely to encourage new permanent development in erosion hazard areas.

E. Regulate the construction of erosion protection structures in coastal areas subject to serious erosion to assure that when the construction of erosion protection structures is justified, their construction and operation will minimize or prevent damage or destruction to man-made property, private and public property, natural protective features and other natural resources.

§ 95-5. Findings.

The City of Oswego finds that the coastal erosion hazard area:

A. Is prone to erosion from action of Lake Ontario. Such erosion may be caused by the action of waves, currents running along the shore and wind-driven water and ice. Such areas are also prone to erosion caused by the wind, runoff of rain water along the surface of the land or groundwater seepage, as well as by human activities, such as construction, navigation and certain forms of recreation.

B. Experiences coastal erosion which causes extensive damage to publicly and privately owned property and to natural resources, as well as endangering human lives. When this occurs, individuals and private businesses suffer significant economic losses, as do the city and the state economies, either directly through property damage or indirectly through loss of economic return. Large public expenditures may also be necessitated for the removal of debris and damaged structures and replacement of essential public facilities and services.

C. Experiences erosion-related problems that are often contributed to by man's building without considering the potential for damage to property by undertaking activities which destroy natural protective features, such as dunes or vegetation; by building structures intended for erosion prevention which may exacerbate erosion conditions on adjacent or nearby property; and by water action produced by wakes from boats.

D. Is the subject of programs which foster erosion protection structures, either with private or public finds, which are costly, often only partially effective over time and may even be harmful to adjacent or nearby properties. In some sections of the city, major erosion protection structures of great length would be required to effectively reduce future damage due to erosion.

§ 95-6. Definitions.

The following terms used in this chapter have the meanings indicated, unless the context clearly requires otherwise:

ADMINISTRATOR -- The local official responsible for administering and enforcing this

chapter. The powers and duties of this position are more fully described in § 95-23. EN(42)

BEACH -- The zone of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in a material or physiographic form or to the line of permanent vegetation or to the waterward toe of a dune, whichever is most waterward.

BLUFF -- Any bank or cliff with a precipitous or rounded face adjoining a beach or a body of water. The waterward limit of a "bluff" is the landward limit of its contiguous beach. Where no beach is present, the waterward limit is mean low water. The landward limit is twenty-five (25) feet landward of the receding edge.

COASTAL WATERS -- Lake Erie, Lake Ontario, the St. Lawrence River and the Niagara River and their connecting water bodies, bays, harbors, shallows and marshes.

COASTLINE -- The lands adjacent to the city's coastal waters.

COASTLINE EROSION HAZARD AREA MAP -- The final map and any amendments thereof issued by the Commissioner of the New York State Department of Environmental Conservation which delineates boundaries of coastal erosion hazard areas subject to regulation under this law.

DEBRIS LINE -- A linear accumulation of waterborne debris deposited on a beach by storm-induced high water or by wave action.

DUNE -- A ridge or hill of loose, windblown or artificially placed material, principally sand.

EROSION -- The loss or displacement of land along the coastline due to the action of waves, currents, wind-driven water, waterborne ice or other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters or groundwaters or groundwater seepage.

EROSION HAZARD AREA -- An area of the coastline which is a structural hazard area or a natural protective feature area.

EROSION PROTECTION STRUCTURE -- A structure specifically designed to reduce or prevent erosion, such as a groin, jetty, seawall, revetment, breakwater or artificial beach-nourishment project.

EXISTING STRUCTURE -- A structure and appurtenances in existence or one where construction has commenced or one where construction has not begun but for which a building permit has been issued prior to June 25, 1984, which is the effective date of this chapter.

MAJOR ADDITION -- An addition to a structure resulting in a twenty-five-percent-or-greater increase in the ground area coverage of the structure. The increase will be calculated as the ground area coverage to be added, including any additions previously constructed under an erosion area permit, divided by the ground area coverage of the existing structure (see definition

of "existing structure").

MEAN LOW WATER -- The approximate average low-water level for a given body of water at a given location, determined by reference to hydrological information concerning water levels or other appropriate tests.

MOVABLE STRUCTURE -- A structure designed and constructed to be readily relocated with minimum disruption of the intended use. Mobile homes and structures built on skids or piles and not having a permanent foundation are examples of "movable structures."

NATURAL PROTECTIVE FEATURE -- A nearshore area, beach, bluff, primary dune, secondary dune or marsh, and their vegetation.

NATURAL PROTECTIVE FEATURE AREA -- A land and/or water area containing natural protective features, the alteration of which might reduce or destroy the protection afforded other lands against erosion or inundation.

NEARSHORE AREA -- Those lands under water beginning at the mean low-water line and extending waterward in a direction perpendicular to the shoreline to a point where mean low-water depth is fifteen (15) feet or to a horizontal distance of one thousand (1,000) feet from the mean low-water line, whichever is greater.

NORMAL MAINTENANCE -- Periodic replacement or repair of same-kind structural elements or protective coatings which do not change the size, design or function of the original structural. "Normal maintenance" of a structure does not require an erosion area permit.

PERSON -- Any individual, public or private corporation, political subdivision, government agency, public improvement district, partnership, association, firm, trust, estate or any other legal entity whatsoever.

PRIMARY DUNE -- The most waterward major dune where there are two (2) or more parallel dune lines within a coastal area. Where there is only one (1) dune present, it is the primary one. Occasionally one (1) or more relatively small dune formations exist waterward of the "primary dune." These smaller formations will be considered to be part of the "primary dune" for the purposes of this chapter. The waterward limit of a "primary dune" is the landward limit of its fronting beach. The landward limit of a "primary dune" is twenty-five (25) feet landward of its landward toe.

RECEDING EDGE -- The most landward line of active erosion or, in cases where there is no discernible line of active erosion, the most waterward line of permanent vegetation.

RECESSION RATE -- The rate, expressed in feet per year, at which an eroding shoreline moves landward.

REGULATED ACTIVITY -- The construction, modification, restoration or placement of a structure or any action or use of land or nearshore area which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling or other disturbance of soil operations.

RESTORATION -- The reconstruction of a structure, the cost of which equals or exceeds fifty percent (50%) of the estimated full replacement cost of the total structure as determined with reference to a current cost data publication in common usage, such as Building Construction Cost Data by Means.

SECONDARY DUNE -- The major dune immediately landward of the primary dune. The waterward limit of a "secondary dune" is the landward limit of its fronting primary dune. The landward limit of a "secondary dune" is twenty-five (25) feet landward of its landward toe.

SIGNIFICANT FISH AND WILDLIFE HABITAT -- Those habitats essential to survival of a large portion of a particular fish or wildlife population which support rare or endangered species, that support fish or wildlife populations having significant commercial or recreational value or that would be difficult or impossible to replace.

STRUCTURAL HAZARD AREA -- Those shorelands, other than natural protective features, subject to erosion and located landward of shorelines having an average annual recession rate of one (1) foot or more per year. The inland boundary of a "structural hazard area" is calculated by starting at the landward limit of a bluff and measuring along lines perpendicular to the shoreline a horizontal distance which is forty (40) times the long-term average annual recession rate.

STRUCTURE -- Any object constructed, installed or placed in, on or under land or water, including, but not limited to, a building; permanent shed; garage; mobile home; public service distribution, transmission or collection systems; tanks; docks; piers; wharves; groins; jetties; seawalls; bulkheads; breakwaters; revetments; artificial beach nourishment; or any addition to or alteration of the same.

TOE -- The lowest surface point on a slope face of a dune or bluff.

UNREGULATED ACTIVITY -- Excepted activities which are not regulated by this chapter include, but are not limited to, elevated walkways or stairways constructed solely for pedestrian use and built by an individual property owner for the limited purpose of providing noncommercial access to the beach; dock, piers, wharves or structures built on floats, columns, open timber piles or other similar openwork supports with a top surface area of less than two hundred (200) square feet or which are removed in the fall of each year; normal beach grooming or cleanup; maintenance of structures during normal beach grooming or cleanup; maintenance of structures when normal and customary and/or in compliance with an approved maintenance program; planting vegetation and sand fencing so as to stabilize or entrap sand in primary dune and secondary dune areas in order to maintain or increase the height and width of dunes; routine

agricultural operations involving cultivation and harvesting, and the implementation of practices recommended in a soil and water conservation plan as defined in § 3, Subdivision (12), of the Soil and Water Conservation Districts Law; provided, however, that agricultural operations and implementation of practices will not be construed to include any activity that involves the construction or placement of a structure.

VEGETATION -- Plant life capable of surviving and successfully reproducing in the area or region and which is compatible with the environment of the coastal erosion hazard area.

§ 95-7. Establishment of boundaries.

The Coastal Erosion Hazard Area is hereby established to classify land and water areas within the City of Oswego, based upon shoreline recession rates or the location of natural protective features. The boundaries of the area are established on the final map[EN(43)] prepared by the New York State Department of Conservation under § 34-0104 of the New York State Environmental Conservation Law and entitled "Coastal Erosion Hazard Area Map of the City of Oswego," including all amendments made thereto by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 34-0104 of the New York State Environmental Conservation Law.

§ 95-8. Permit required; exception.

A. No person shall engage in any regulated activity in an erosion hazard area as depicted on the Coastal Erosion Hazard Area Map of the City of Oswego, as amended, without first obtaining an erosion area permit. No erosion area permit is required for unregulated activities.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

   (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

   (2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel

owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 95-9. Findings required prior to issuance of permit.

An erosion area permit will be issued only with a finding by the Administrator that the proposed regulated activity:

A. Is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location.

B. Is not likely to cause a measurable increase in erosion at the proposed site or at other locations.

C. Prevents, if possible, or minimizes adverse effects on natural protective features and their functions and protective values, existing erosion protection structures or natural resources.

§ 95-10. Restrictions applicable to regulated activities.

The following restrictions apply to regulated activities within structural hazard areas:

A. An erosion area permit is required for the installation of public service distribution, transmission or collection systems for gas, electricity, water or wastewater. Systems installed along the shoreline must be located landward of the shoreline structures.

B. The construction of nonmovable structures or placement of major nonmovable additions to an existing structure is prohibited.

C. Permanent foundations may not be attached to movable structures, and any temporary foundations are to be removed at the time the structure is moved. Below-grade footings will be allowed if satisfactory provisions are made for their removal.

D. No movable structure may be located closer to the landward limit of a bluff than twenty-five (25) feet or, where no bluff or dune is present, within twenty-five (25) feet of the landward limit of a beach.

E. No movable structure may be placed or constructed such that, according to accepted engineering practice, its weight places excessive groundloading on a bluff.

F. Plans for landward relocation of movable structures must be included with each application for a permit. Movable structures which have been located within a structural hazard area, pursuant to an erosion area permit, must be removed before the edge of the structure closest to the line of recession is within ten (10) feet of the receding edge. The last owner of record, as shown on the latest assessment roll, is responsible for removing that structure and its foundation, unless a removal agreement was attached to the original erosion area permit. With the attachment of a removal agreement of the erosion area permit, the landowner or the signator is responsible for the landward relocation of movable structures. Removal agreements may be made when the last owner of record and the owner of the structure are different with the approval of the city at the time the permit is issued.

G. Debris from structural damage which may occur as a result of sudden unanticipated bluff-edge failure, dune migration or wave or ice action must be removed within sixty (60) days of the damaging event.

H. Any grading, excavating or other soil disturbance conducted within a structural hazard area must not direct surface water runoff over the receding edge.

§ 95-11. Nearshore areas.

A. Nearshore areas function as reservoirs of sand, gravel, and other unconsolidated material for beaches. Sandbars, which are located in nearshore areas, control the orientation of incoming waves and promote the development of icecap formations which help to protect shorelines during winter storms. The roots of aquatic vegetation in nearshore areas bind fine grained

silts, clays and organic matter to form a fairly cohesive bottom that resists erosion.

B. The following restrictions apply to regulated activities in nearshore areas:

(1) Excavating, mining or dredging which diminishes erosion protection afforded by a natural protective feature in a nearshore area is prohibited, except construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment, all of which require an erosion area permit.

(2) Clean sand or gravel of a compatible type and size is the only material which may be deposited within nearshore areas. Any deposition will require an erosion area permit.

§ 95-12. Beach areas.

A. Beaches buffer shorelands from erosion by absorbing wave energy that otherwise would be expended on the toes of bluffs or dunes. Beaches that are high and wide protect shorelands from erosion more effectively than beaches that are low or narrow. Beaches also act as reservoirs of sand or other unconsolidated material for longshore littoral transport and offshore sandbar and shoal formation.

B. The following restrictions apply to regulated activities in beach areas:

(1) Excavation or mining which diminishes the erosion protection afforded by beaches is prohibited.

(2) Clean sand or gravel of a compatible type and size is the only material which may be deposited within beach areas. Any deposition will require an erosion area permit, which may be issued only for expansion or stabilization of beaches.

(3) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.

§ 95-13. Dune areas.

A. Dunes prevent wave overtopping and store sand for coastal processes. High, vegetated dunes provide a greater degree of protection than low, unvegetated ones. Dunes are of the greatest protective value during conditions of storm-induced high water. Because dunes often protect some of the most biologically productive areas, their value is especially great. The key to maintaining a stable dune system is the establishment and maintenance of beach grass or

other vegetation on the dunes and assurance of a supply of nourishment sand to the dunes.

B. The following restrictions apply to regulated activities in dune areas:

(1) In primary dune areas:

(a) Excavating or mining of primary dunes is prohibited.

(b) Clean sand of a compatible type and size is the only material which may be deposited.

(c) All depositions must be vegetatively stabilized using species tolerant of the conditions at the site and must be placed so as to increase the size of or restore a dune or dune area.

(d) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department.

(2) In secondary dune areas:

(a) All depositions must be of clean sand of a compatible type and size, and all grading must be performed so as to increase the size of or restore a dune or former dune area.

(b) Excavation or mining must not diminish the erosion protection afforded by the natural protective feature.

(c) Permitted construction, reconstruction, restoration or modifications must be built on adequately anchored pilings, such that at least three (3) feet of open space exists between the floor joists and the surface of the secondary dune; and the permitted activity must leave the space below the lowest horizontal structural members free of obstructions.

(3) All other activities and development in dune areas are prohibited, unless specifically provided for by this chapter.

(4) The restrictions of § 95-16, Traffic control, apply to dune areas.

§ 95-14. Bluff areas.

A. Bluffs protect shorelands and coastal development by absorbing the often destructive energy of open water. Bluffs are a source of depositional material for beaches and other unconsolidated natural protective features.

B. Prohibited activities; restrictions.

(1) The following activities are prohibited on bluffs:

(a) Excavating or mining, except when in conjunction with conditions stated in an erosion area permit issued for minor alterations in construction of an erosion protection structure or for provision of shoreline access.

(b) All development, unless specifically allowed by this section.

(c) Disturbance of active bird nesting and breeding areas, unless such disturbance is pursuant to a specific wildlife management activity approved in writing by the Department.

(d) Soil disturbance that directs surface water runoff over the receding edge.

(2) The restrictions of § 95-16, Traffic control, shall apply to bluffs.

C. Activities specifically allowed under this section are:

(1) Minor alteration of a bluff done in accordance with conditions stated in an erosion area permit issued for new construction, modification or restoration of an erosion protection structure.

(2) Bluff cuts done in accordance with conditions stated in an erosion area permit issued for the provision of shoreline access, provided that:

(a) Cuts are made in a direction perpendicular to the shoreline.

(b) Ramp slopes may not exceed one to six (1:6).

(c) Side slopes may not exceed one to three (1:3) unless terraced or otherwise structurally stabilized.

(d) Side slopes and other disturbed nonroadway areas must be stabilized with vegetation or other approved physical means.

(e) Completed roadways must be stabilized and drainage provided for.

(3) New construction, modification or restoration of walkways or stairways done in accordance with conditions of an erosion area permit.

§ 95-15. Erosion protection structures.

The following requirements apply to the construction, modification or restoration of erosion

protection structures:

A. The construction, modification or restoration of erosion protection structures must:

   (1) Not be likely to cause a measurable increase in erosion at the development site or at other locations.

   (2) Minimize and, if possible, prevent adverse effects upon natural protective features, existing erosion protection structures and natural resources, such as significant fish and wildlife habitats.

B. All erosion protection structures must be designed and constructed according to generally accepted engineering principles which have demonstrated success or, where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least thirty (30) years.

C. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions for a minimum of thirty (30) years. Individual component materials may have a working life of less than thirty (30) years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required thirty (30) years of erosion protection.

D. A long-term maintenance program must be included with every permit application for construction, modification or restoration of an erosion protection structure. The maintenance program must include specifications for normal maintenance of degradable materials. To assure compliance with the proposed maintenance program, a bond may be required.

§ 95-16. Traffic control.

Motorized and nonmotorized traffic must comply with the following restrictions:

A. Motor vehicles must not travel on vegetation, must operate waterward of the debris line and, when no debris line exists, must operate waterward of the waterward toe of the primary dune or bluff.

B. Motor vehicle traffic is prohibited on primary dunes, except for officially designated crossing areas and on bluffs.

C. Pedestrian passage across primary dunes must utilize elevated walkways and stairways or other specially designed dune crossing structures.

§ 95-17. Emergency activities.

A. Applicability. The requirements of this chapter do not apply to emergency activities that are necessary to protect public health, safety or welfare, including preventing damage to natural resources. Whenever emergency activities are undertaken, damage to natural protective features and other natural resources must be prevented, if possible, or minimized.

B. Notification to Administrator. The Administrator must be notified by the person responsible for taking the emergency measures within two (2) working days from the commencement of an emergency measure, and a description of the problem and activities must be provided. The description shall be in written form, outline the public health or safety or resource for which protection was sought and relate the measures which were taken to secure the protection.

C. Improper or insufficient notification. If the Administrator determines that a regulated activity has been undertaken without an erosion area permit and does not meet the emergency activity criteria, then the Administrator shall order the immediate cessation of the activity. In addition, the Administrator may require:

(1) Removal of any structure that was constructed or placed without an erosion area permit.

(2) The return to former conditions of any natural protective feature that was excavated, mined or otherwise disturbed without an erosion area permit.

§ 95-18. Variances.

A. Strict application of the standards and restrictions of this chapter may cause practical difficulty or unnecessary hardship. When this can be shown, such standards and restrictions may be varied or modified, provided that the following criteria are met:

(1) No reasonable, prudent, alternative site is available.

(2) All responsible means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activity's design, at the property owner's expense.

(3) The development will be reasonably safe from flood and erosion damage.

(4) The variance requested is the minimum necessary to overcome the practical difficulty or hardship which was the basis for the requested variance.

(5) Where public funds are utilized, the public benefits must clearly outweigh the long-term adverse effects.

B. Format and procedure. Any request for a variance must be in writing and specify the standard, restriction or requirement to be varied and how the requested variance meets the criteria of Subsection A of this section. The burden of demonstrating that the requested variance meets those criteria rests entirely with the applicant.

C. Fees. Each variance request shall be accompanied by the required fee or fees as established by the city legislative body, under separate resolution.

D. Expiration. Any construction activity allowed by a variance granted by the Coastal Erosion Hazard Board of Review must be completed within one (1) year from the date of approval or approval with modifications or conditions. Variances shall expire at the end of this one-year period without further hearing or action by the Coastal Erosion Hazard Board of Review.

§ 95-19. Coastal Erosion Hazard Board of Review.

A. The Zoning Board of Appeals is hereby designated as the Coastal Erosion Hazard Board of Review and shall have the authority to:

(1) Hear, approve, approve with modification or deny requests for variances or other forms of relief from the requirements of this chapter.

(2) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrator in the enforcement of this chapter, including any order requiring an alleged violator to stop, cease and desist.

B. The Coastal Erosion Hazard Board of Review may, in conformity with the provision of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Administrator, including stop- or cease and desist orders. Notice of such decision shall forthwith be given to all parties in interest. The rules and procedures for filing appeals are as follows:

(1) Appeals must be filed with the Municipal Clerk within thirty (30) days of the date of the adverse decision.

(2) All appeals made to the Coastal Erosion Hazard Board of Review shall be in writing on standard forms prescribed by the Board. The Board shall transmit a copy to the Commissioner of the New York State Department of Environmental Conservation for his information.

(3) All appeals shall refer to the specific provisions of this chapter involved, specify the alleged error, the interpretation thereof that is claimed to be correct and the relief which the appellant claims.

§ 95-20. Appeal from decision of Board of Review.

Any person or persons jointly or severally aggrieved by a decision by the Coastal Erosion Hazard Board of Review or any officer, department, board or bureau of the city may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

§ 95-21. Erosion area permit.

An erosion area permit will be issued for regulated activities which comply with the general standards (§ 95-9), restrictions and requirements of the applicable sections of this chapter, provided that the following is adhered to:

A. The application for an erosion area permit shall be made upon the form provided by the Administrator and must include the following minimum information:

   (1) A description of the proposed activity.

   (2) A map drawn to a scale no smaller than one foot to twenty-four thousand feet (1:24,000), showing the location of the proposed activity.

   (3) Any additional information the Administrator may require to properly evaluate the proposed activity.

B. Each application for an erosion area permit shall be accompanied by the required fees as established by the city legislative body under separate resolution.

C. Permits shall be issued by and bear the name and signature of the Administrator and shall specify the:

   (1) Activity or operation for which the permit is issued.

   (2) Address or location where the activity or operation is to be conducted.

   (3) Name and address of permittee.

   (4) Permit number and date of issuance.

   (5) Period of permit validity. If not otherwise specified, a permit will expire one (1) year from the date of issuance.

   (6) The terms and conditions of the approval.

D. When more than one (1) erosion area permit is required for the same property or premises under this chapter, a single permit may be issued listing all activities permitted and any

conditions, restrictions or bonding requirements. Revocation of a portion or portions of such consolidated permits shall not invalidate the remainder.

E. An erosion area permit may be issued with such terms and conditions as are necessary to ensure compliance with the policies and procedures of Article 34 of the New York State Environmental Conservation Law, implementing Article 34 (6 NYCRR 505) and the laws and policies of the city.

F. Permits are not transferable or assignable.

G. When an application is made for a coastal erosion management permit, variance thereto or other form of approval required by this chapter, and such activity is subject to other permit, variance, hearing or application procedures required by another federal, state or local regulatory agency pursuant to any federal, state or local law or ordinance, the Zoning Administrator shall, at the request of the applicant, consolidate and coordinate the application, permit, variance and hearing procedures as required by each regulatory agency into a single comprehensive hearing and review procedure. However, nothing contained in this section shall be deemed to limit or restrict any regulatory agencies which are properly a party to such a consolidated review proceeding from the independent exercise of such discretionary authority with respect to issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law. [Added 4-10-1989 by L.L. 1-1989]

§ 95-22. Bond or security.

The city may require a bond or other form of financial security. Such bond or security must be in an amount, with such surety and conditions as are satisfactory to the city so as to ensure compliance with the terms and conditions stated in the erosion area permit.

§ 95-23. Enforcing officer designated; powers and duties.

The authority for administering and enforcing this chapter is hereby conferred upon the Administrator. The Administrator shall have the powers and duties to:

A. Apply the regulations, restrictions and standards or other provisions of this chapter.

B. Explain to applicants the map which designates the land and water areas subject to regulation and advise applicants of the standards, restrictions and requirements of local law.

C. Review and take appropriate actions on completed applicants.

D. Issue and sign all approved permits.

E. Transmit written notice of violations to property owners or to other responsible persons.

F. Prepare and submit reports.

G. Perform compliance inspections.

H. Serve as the primary liaison with the New York State Department of Environmental Conservation.

I. Keep official records of all permits, inspections, reports, recommendations, actions of the Coastal Erosion Hazard Board of Review and any other reports or communications relative to this chapter or requests for information from the New York State Department of Environmental Conservation.

J. Perform normal and customary administrative functions required by the city, relative to the Coastal Erosion Hazard Areas Act, Article 34 of the New York State Environmental Conservation Law, 6 NYCRR 505 and this chapter.

K. Have, in addition, powers and duties as are established in or reasonably implied from this chapter as are necessary to achieve its stated purpose.

§ 95-24. Interpretation; conflict with other provisions; other permits.

A. The provision, regulations, procedures and standards of this chapter shall be held to be the minimum requirements necessary to carry out the purposes of this chapter.

B. The provisions of this chapter shall take precedence over any other laws, ordinances or codes in effect in the city, to the extent that the provisions of this chapter are more stringent than such other laws, ordinances or codes.

C. An erosion area permit issued pursuant to this chapter does not relieve the permit applicant from the responsibility of obtaining other permits or approvals as may be necessary nor does it convey any rights or interest in real property.

§ 95-25. Compliance with other provisions.

All regulated activities are subject to the review procedures required by the New York State Environmental Quality Review Act (SEQR), Article 8 of the New York State Environmental Conservation Law. The applicant may be required to submit information necessary for compliance with SEQR in addition to information required under this chapter.

§ 95-26. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding two hundred fifty dollars ($250.) or imprisonment for a period not to exceed six (6) months, or both. Each day's continued violation of this chapter shall constitute a separate additional violation. Nothing herein shall prevent the proper local authorities of the city from taking such other lawful actions or proceedings as may be necessary to restrain, correct or abate any violations of this chapter.

§ 95-27. Amendments.

The city legislative body may, on its motion or on petition or on recommendation from the Planning Board, amend, supplement or repeal the provisions, regulations, procedures or standards of this chapter.

A. When an amendment is duly proposed, the city legislative body must:

(1) Notify the Commissioner of the New York State Department of Environmental Conservation, in writing, of all proposed amendments and request his advice as to whether such amendment is subject to his approval and, if so, whether such amendment conforms to the minimum standards of a certified program.

(2) Issue public notice and conduct a hearing on all proposed amendments. The city legislative body, by resolution, shall cause notice of such hearing's time, date and place to be published in the official newspaper not less than ten (10) days prior to the date of the hearing.

(3) Refer the proposed amendment at least thirty (30) days prior to the public hearing, in writing, to:

(a) The Planning Board, unless initiated thereby, for its review of the amendment and its report to the city legislative body of recommendations thereon, including a full statement of reasons for such recommendations.

(b) The County Planning Board for its review and recommendation pursuant to Article 12-B, § 239-m, of the New York State General Municipal Law.

B. Approval by Commissioner. After enactment, the amendment must be sent to the Commissioner of Environmental Conservation for certification.

C. Recording. After an amendment to this chapter has been initially reviewed and found to be in conformance by the Commissioner of the New York State Department of Environmental

Conservation, completed the public hearing process and intergovernmental review, been finally approved and adopted by the city legislative body and been certified by the Commissioner, the Clerk shall file, as prescribed by § 27 of the Municipal Home Rule Law:

(1) One (1) copy in the Clerk's office.[EN(44)]

(2) Three (3) copies in the office of the Secretary of State.

(3) One (1) copy with the Commissioner of the New York State Department of Environmental Conservation.

Chapter 99, CONSUMER PROTECTION

[HISTORY: Adopted by the Common Council of the City of Oswego 2-14-1983 as L.L. No. 2-1983 (Ch. 32 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Weights and measures -- See Ch. 272.

ARTICLE I, General Provisions

§ 99-1. Statutory authority.

Pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)a(12), a Consumer Code of the City of Oswego is herein enacted.

§ 99-2. Title.

This chapter shall be known as the "Consumer Code of the City of Oswego, New York."

§ 99-3. Purpose.

The purpose of this chapter shall be to provide for the health, safety and well-being of consumers in the City of Oswego by education, investigation and enforcement of minimal standards of fairness as set forth in this chapter and rules and regulations promulgated pursuant thereto. This chapter intends to provide reasonable safeguards to ensure a fair marketplace in Oswego.

§ 99-4. Scope.

This chapter shall apply to unfair, deceptive or unconscionable trade practices, their prevention and remedies and consumer education, as well as administration and enforcement of this chapter, which shall seek to foster trade practices which are in the best interests of the health, safety and welfare of the general public.

§ 99-5. Exceptions.

Nothing in this chapter shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine or other form of printed advertising who broadcasts, publishes or prints an advertisement which violates this chapter, except insofar as such station or publisher or printer knowingly and willfully aids and encourages such deceptive or unconscionable practice with sale or offering for sale of its goods or services.

§ 99-6. Definitions.

Words and terms used in this chapter shall have the following meanings:

CONSUMER -- A purchaser, lessee or recipient or prospective purchaser, lessee or recipient of consumer goods or services or consumer credit, including a co-obligor or surety.

CONSUMER GOODS, SERVICES, CREDIT AND DEBTS -- Goods, services, credit and debts which are primarily for personal household or family purposes.

DECEPTIVE TRADE PRACTICE -- Any false, falsely disparaging or misleading oral or written statement, visual description or other representation of any kind which has the capacity, tendency or effect of deceiving or misleading consumers, which is made in connection with the sale, lease, rental or loan of consumer goods or services, the extension of consumer credit or the collection of consumer debts. "Deceptive trade practices" include but are not limited to:

A. Representation that:

(1) Goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have.

(2) The merchant has a sponsorship, approval, status, affiliation or connection that he does not have.

(3) Goods are original or new when, in fact, they are deteriorated, altered, reconditioned,

reclaimed or secondhand.

(4) Goods or services are of particular standard, quality, grade, style or model when, in fact, they are of another.

B. The use in any oral or written representation of exaggeration, innuendo or ambiguity as to a material fact.

C. Failure to state a material fact if such use or failure deceives or tends to deceive.

D. Disparaging the goods, services or business of another by false or misleading representations of material facts.

E. Consistently offering goods and services without intent to supply reasonable expectable public demand, unless the offer discloses the limitation.

F. Offering goods or services without intent to sell them.

G. Making false or misleading representation of fact concerning the reason for existence of or amounts of price reductions or the price in comparison to price of competitors or one's own price at a past or future time.

H. Falsely stating that a consumer transaction involves consumer right remedies or obligations.

I. Falsely stating that services, replacements or repairs are needed.

J. Falsely stating the reasons for offering or supplying goods or services at sale or discount prices.

K. Communicating with the debtor or any member of his family or household with such frequency or at such unusual hours or in such a manner as can reasonably be expected to abuse or harass the debtor.

L. Any deception, fraud, false pretense, false premise, misrepresentation or the knowing concealment, suppression or omission of any material fact with the intent that consumers rely upon such concealment, suppression or omission in connection with the sale or advertisement of any merchandise or with the subsequent performance of person aforesaid, whether or not any person has, in fact, been misled, deceived or damaged thereby.

M. Use of the word "free," except as herein provided:

(1) When making free or similar offers, all substantial terms, conditions and obligations upon which the right to take advantage of such offer is directly depended shall appear in close conjunction with the offer of free merchandise or service and in a manner which is as prominent as the offer of free merchandise or services. For the purpose of this regulation, placement of the terms of an offer set forth in a footnote of an advertisement

to which reference is made by an asterisk or other symbol placed next to the offer is not in close conjunction.

(2) If a consumer good or service is to be given free upon the purchase of some additional merchandise or service, said additional service or merchandise must not be sold at above the regular price, nor may the quantity or quality of the product be diminished.

(3) A free offer of a single size of a product or a single kind of a service shall not be advertised by the same person in a trade area for more than six (6) months in any twelve-month period. At least thirty (30) days shall elapse before another such offer is promoted in the same trade area. No more than three (3) such offers shall be made in the same area in a twelve-month period.

(4) No free offer shall be made in connection with the introduction of a new product or service offered for sale at a specified price unless the offeror expects, in good faith, to commence selling the product or service promoted, separately, at the same price at which it was promoted with a free offer.

(5) The use of any term in an advertisement which tends to indicate that the goods or service is free shall fall within the purview of this chapter.

(6) For the purposes of this regulation, the following definitions shall apply:

(a) FREE -- A consumer shall pay nothing for an article so offered and not more than the regular price for any other article which must be purchased by the consumer in order to avail himself of said "free" offer.

(b) REGULAR PRICE -- The price in the same quantity, quality and with the same service, at which the seller or advertiser of said product or service has openly and actively sold the product or service in the trade area in which he is making a free or similar offer for a prior period of thirty (30) days. For consumer products or services which fluctuate in price, the "regular price" shall be the lowest price at which any substantial sales were made during the aforesaid thirty-day period.

N. Use of the words "special," "bargain," "savings" or similar language, except as herein provided:

(1) When the words "special," "bargain," "savings" or similar language represent a reduction in price in comparison to one's own price at a past or specified future time; and

(2) When the words "special," "bargain," "savings" or similar language represent an increase in quantity where quantity was limited in the immediate past or will be limited

at a specified future time.

O. Advertising price shall be deemed a "deceptive trade practice" if any of the following rules are violated:

(1) When price is advertised in dollar amounts and fractions thereof, said numbers indicating the fractional amounts must be clear and conspicuous in the body of such advertisement.

(2) The price advertised must be clearly and conspicuously related to the specific consumer good or service

(3) If at any time there are substantial conditions or obligations upon which the right to take advantage of a sale item is dependent, such conditions or obligations must be made known in the body of the advertisement of such sale. As used in this subsection, the phrase "condition" or "obligations" shall mean such conditions upon which receipt and retention of an item are directly dependent. Conditions such as length of sale, location of sale, quantity of a sale item where there is a limited supply, credit restrictions and shipping and handling charges shall be deemed to be conditions which must be made known. Such terms as "sorry no mail or phone," "no COD" and the like are not to be considered substantial conditions or obligations.[EN(45)]

MERCHANT -- A manufacturer, supplier, seller, lessor, creditor or other person, firm or corporation who makes available to consumers, either directly or indirectly, goods, services or credit.

PERSON -- An individual, proprietor, partnership, corporation, firm, cooperative, association or any other group of individuals, however organized.

UNCONSCIONABLE TRADE PRACTICE -- Any act or practice if it takes unfair advantage of the lack of knowledge, ability, experience or capacity of a consumer which results in a gross disparity in the rights of the consumer as against the merchant or results in a gross disparity between the value received by a consumer. "Unconscionable trade practices" include, but are not limited to:

A. Charging for an estimate without informing the consumer of said charge prior to rendering the estimate.

B. Failure to provide a written estimate of repairs, alterations, modifications or servicing when requested by a consumer and the subsequent repair, alteration, modification or servicing of any time without first tendering said estimate.

C. Making repairs, alterations, modifications or servicing exceeding, by twenty percent (20%) or more, the price quoted in a written estimate without prior approval, either written or

verbal, of a consumer.

D. Failure to reassemble or restore an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise to its tendered condition unless a service or labor charge is paid without notification prior to receiving the tendered item of said service or labor charge.

E. Failing to supply to a consumer a copy of a sales or service contract, lease promissory note, trust agreement or other evidence of indebtedness which that person had executed.

F. Making or enforcing unconscionable terms or provisions of sales or leases. In applying this subsection, consideration shall be given to gross disparity between the price of the property or services measured by the price at which similar property or services are readily obtainable in transactions by like buyers or lessees.

G. Knowingly taking advantage of the inability of the consumer reasonably to protect his interests by reason of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of the agreement or similar factors.

H. Replacing parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods or merchandise when such parts or components are not defective or worn, unless requested by the customer.

I. Falsely stating or representing that repairs, alterations, modifications or servicing have been made and receiving remuneration therefore when they have not been.

J. Collecting a debt concerned with the sale or rental of a consumer good or services if:

(1) The alleged creditor communicates or threatens to communicate the nature of a consumer claim to the debtor's employer prior to obtaining final judgment against the debtor. The provisions of this subsection shall not prohibit a principal creditor from communicating with the debtor's employer to execute a wage assignment agreement if the debtor has communicated this to debtor's employer.

(2) The alleged creditor, his assignee, agent or employee creates the notion of legal service or sanction of a governmental agency when contacting the alleged debtor when such is not the case.

(3) Contact, other than the service of judicial process, with the alleged debtor by an alleged creditor, his assignee, agent or employee is attempted at hours of the day or night considered not to be reasonable.

§ 99-7. Designation of administrative officer. EN(46)

The Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, is hereby designated to administer this chapter.

§ 99-8. Declaration of unlawful practices.

Deceptive trade practices and unconscionable trade practices are hereby declared unlawful in the City of Oswego, New York.

§ 99-9. Powers and duties of Consumer Complaint Investigator or other designated officer.

The Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall have the following powers and duties:

A. To receive and investigate consumer complaints regarding business and commercial practices throughout the City of Oswego.

B. To conduct investigations, research, studies, surveys and analyses of matters affecting the interests of the City of Oswego consumers.

C. To enforce throughout the city all state and local laws and regulations and rules regarding consumer protection and weights and measures.

D. To be of assistance to all residents of the city relative to services provided by all governmental agencies in the City of Oswego.

E. To initiate, implement and administer such consumer protection programs and activities throughout the city as shall be appropriate, including the examination and testing of foods, food packages and other food containers to determine quantity and quality of content.

F. To examine prepackaged goods and products of every kind and nature to determine safety and the propriety and accuracy of weight, labeling and pricing.

G. To implement educational programs to inform the general public on proper and lawful marketing practices and procedures.

H. To undertake special activities to inform welfare recipients, the elderly, those persons not fluent in either written or spoken English and other groups of people who operate at a disadvantage in the marketplace. In addition to the use of mass media communications for this purpose, simplified versions of the Consumer Protection Code shall be posted in

agencies that service these groups of people.

I. To undertake activities to encourage local business, industry and government to maintain high standards of honesty, fair business practices and public responsibility in the production, promotion and sales of consumer goods and services.

J. To endeavor to eliminate unfair dealings or causes for complaint by conference, conciliation and persuasion.

K. To initiate his own investigation of frauds or unfair dealings against consumers.

L. To conduct a hearing in accordance with § 99-10 of this Article when a complaint is not resolved to the satisfaction of the Consumer Complaint Investigator or any city officer or employee designated by the Mayor through conciliation and conference.

M. To represent consumer interests before legislative, regulatory and administrative bodies.

N. To cooperate with other agencies, public and private, in the development of standards and quality grades for consumer goods and services.

O. To receive, administer, pay over and distribute moneys collected in and as a result of actions brought for violations of the law.

P. To commence legal actions on behalf of any consumer or class of consumers in courts of appropriate jurisdiction or in appropriate agencies.

Q. To report to the appropriate law enforcement agencies any information concerning possible violations of a penal nature of any consumer protection laws.

R. To secure from the appropriate legal officer such subpoenas as are necessary to conduct investigations and to take action against alleged violations of this chapter.

S. To exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to carry out the purposes of this Consumer Code.

§ 99-10. Hearing procedures.

A. Filing of complaint. All complaints must be in writing, signed by the complainant, on a form to be prescribed by the Consumer Complaint Investigator or any city officer or employee designated by the Mayor. Complaints may be filed at the Office of Consumer Affairs or any other department designated by the Mayor in person or by mail. Copies of all relevant documents, including advertisements, should be attached to the complaint.

B. Docketing and numbering complaints. Each complaint shall be docketed and given a number.

Correspondence with the Office of Consumer Affairs or any other department designated by the Mayor should bear the complaint number.

C. Determination of jurisdiction. Within a reasonable time after filing, each complaint will be reviewed to determine whether the Office of Consumer Affairs or any other department designated by the Mayor has jurisdiction thereof. The Office of Consumer Affairs or any other department designated by the Mayor shall notify the complainant by mail if it is determined that no jurisdiction exits.

D. Notice of complaint. If the Office of Consumer Affairs or any other department designated by the Mayor determines that it has jurisdiction, it shall inform the respondent by certified mail, with return receipt requested:

(1) Of the substance of the complaint filed against him.

(2) When and by whom it was filed.

(3) That the respondent has the right to respond to the complaint.

(4) That any response must be sent by mail within five (5) working days following receipt of the Office of Consumer Affairs.

(5) That unless a response is made demonstrating clearly that the division lacks jurisdiction or there is no substantial claim, a hearing may be set on the matter.

E. Nothing in this section shall act to preclude the Office of Consumer Affairs or any other department designated by the Mayor from contacting the respondent by telephone or other means for attempted resolution of the complaint.

F. Calling and notice of hearing. The Office of Consumer Affairs or any other department designated by the Mayor may call a hearing respecting any complaint and fix the date and place of hearing. At least five (5) working days prior to the time of the hearing date, the Office of Consumer Affairs or any other department designated by the Mayor shall send by certified mail to each party a notice stating:

(1) The time and place of the hearing.

(2) A copy of the statute or rules involved.

(3) Unless the substance of complaint was adequately stated in the original notice of complaint, the substance of the complaint.

G. Conduct of hearing.

(1) A hearing is an informal proceeding. The parties shall appear before a duly assigned hearing officer, who shall be the Consumer Complaint Investigator or any city officer or

employee designated by the Mayor. Opportunity shall be afforded to the complainant and respondent to present evidence and argument on all issues involved and to cross-examine all witnesses who have testified.

(2) The hearing officer may question any party or witness when the hearing officer deems it appropriate. The Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall be authorized to secure from the appropriate legal officer such subpoenas as necessary to compel the attendance of witnesses and the production of tangible evidence. A hearing officer may expel any party or attorney from any hearing for improper, disorderly or contemptuous conduct.

(3) Any relevant evidence which is not privileged is admissible without regard to whether such evidence is hearsay or otherwise inadmissible in a court of law. The hearing officer may exclude irrelevant material or unduly repetitious evidence.

(4) Each party has the right to representation by counsel at his own expense. A hearing officer may administer an oath or affirmation to any person upon request of either party or upon his own initiative.

(5) Either party or the Consumer Complaint Investigator or any city officer or employee designated by the Mayor may cause the hearing to be transcribed at his or its own expense.

(6) The hearing officer shall make a written finding, based on substantial evidence, that a violation of any statute, rule or regulation under the jurisdiction of the Consumer Complaint Investigator or any city officer or employee designated by the Mayor has occurred. The respondent and complainant shall be notified by mail of any such findings.

H. Failure to appear at hearings. Upon failure of a duly notified respondent to appear at a hearing after issuance of a subpoena, the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall be authorized to ask the City Attorney to seek a contempt citation in a court of competent jurisdiction. Failure of one part to appear at a scheduled hearing does not preclude the hearing officer from receiving evidence from and hearing arguments by the other party. The hearing officer may make a finding notwithstanding the absence of one (1) of the parties. Upon failure of the complainant to appear, the hearing officer may, in his discretion, dismiss the complaint.

I. Hearing officer to be impartial. No person with financial or other interest relative to a complaint shall serve as hearing officer. Any party may challenge the impartiality of any hearing officer by presenting an objection, in writing, to the hearing officer or to the Consumer Complaint Investigator or any city officer or employee designated by the Mayor. The Consumer Complaint Investigator, or any city officer or employee designated by the

Mayor, shall consider and determine such objection.

J. Continuance of date of hearing. A continuance may be granted in the discretion of the hearing officer for good cause. A request for continuance must be made no later than forty-eight (48) hours preceding the date and time of the hearing. Any such request made later than forty-eight (48) hours preceding the date and time of the hearing will be granted only in a case of unexpected emergency.

K. Nothing contained in this section shall be construed to restrict any legal remedy available to the City Attorney under this chapter or any applicable local, state or federal laws.[EN(47)]

§ 99-11. Adoption of rules and regulations.

A. The Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, may adopt such rules and regulations as may be necessary to effectuate the purposes of this chapter, except any such rules or regulations that shall affect penalties, subpoena powers, enforcement and the definition of specific deceptive or unconscionable trade practices, which must first be approved by the Common Council.

B. It shall be the policy of the Office of Consumer Affairs, or any other department designated by the Mayor, to offer the public an opportunity to comment upon any regulation proposed by the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, prior to final adoption of the regulation. All regulations adopted by the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall be available to the public. Regulations other than those adopted by the Common Council shall be adopted in the following manner:

(1) At least thirty (30) days before the effective date of a proposed regulation, the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall send a copy of the proposed regulation to the Mayor, the City Clerk and each member of the Common Council; shall cause the proposed regulation be published in a newspaper of general circulation in Oswego; and shall invite those persons and the public to comment upon the proposed regulation orally or in writing during this period.

(2) After thirty (30) days have elapsed or the period for public comment has ended, whichever occurs later, the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, shall promulgate the regulation in its final form by sending a copy to the City Clerk and by causing the regulation to be published in a newspaper of general circulation in Oswego. The regulation shall be effective on the date it is published, unless a later date is established in the regulation.

(3) Where such action is necessary to protect the public interest, the Consumer Complaint

Investigator, or any city officer or employee designated by the Mayor, may waive the procedure set forth in Subsection B(1) and adopt a regulation to be effective immediately by promulgation in the manner set forth in Subsection B(2).

ARTICLE III, Enforcement and Penalties

§ 99-12. Penalties for offenses.

A. Criminal penalties.

(1) Knowingly and willfully engaging in, committing or assisting another to commit a deceptive trade practice or engaging in, committing or assisting another to commit an unconscionable trade practice is an offense.

(2) Any person who shall knowingly and willfully violate this chapter by committing or assisting in the commission of a deceptive trade practice or an unconscionable trade practice shall be punished by a fine of not less than one hundred fifty dollars ($150.) and not more than two hundred fifty dollars ($250.) or by imprisonment for not more than fifteen (15) days, or by both a fine and imprisonment.

B. Civil penalties.

(1) Any person who shall violate any provision of this chapter or the rules and regulations promulgated thereunder shall be liable to a civil penalty in the sum of not more than one thousand dollars ($1,000.).

(2) Upon a finding by the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, of repeated, multiple or persistent violations of any provisions of the Consumer Code or of any rule or regulation promulgated thereunder, the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, may, with the consent of the City Attorney, bring an action to compel the violator to pay all moneys, properties or other things or proceeds therefrom received as a result of such violations into court to be disbursed pursuant to the applicable provisions of the New York Civil Practice Law and Rules.

(3) In any action brought under the provisions of this chapter or the rules and regulations promulgated thereunder, the Office of Consumer Affairs, or any other department designated by the Mayor, is entitled to recover from the violator the office's or department's cost for investigation and hearing, provided that a repeated, multiple or persistent violation has been established by the Consumer Complaint Investigator, or

any city officer or employee designated by the Mayor, of said office or department.

C. Remedies.

(1) Whenever any person has engaged in any practices which constitute violations of any provisions of this chapter or any rule or regulation promulgated thereto, the Office of Consumer Affairs, or any other department designated by the Mayor, may make application to the Supreme Court for an order enjoining such acts or practices and for an order granting a temporary or permanent injunction, restraining order or other order enjoining such acts or practices.

(2) Whenever any person has engaged in an unconscionable or deceptive trade practice to the detriment of a consumer, such consumer may seek redress in a court of appropriate jurisdiction, except that no consumer shall have the authority to sue for a civil penalty or to commence a criminal action as provided by the Consumer Code.

D. Settlements.

(1) In lieu of instituting or continuing an action pursuant to this Consumer Code or any rule or regulation promulgated thereto, the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, may accept a written assurance of discontinuance of any act or practice in violation of this chapter from the person or persons who have engaged in such acts or practices. Such settlement agreement may include, but is not limited to, a stipulation for voluntary payment by the violator or the costs or investigation by the Consumer Complaint Investigator or any city officer or employee designated by the Mayor and may include a stipulation for the restitution by the consumer of money, property or other things received from them in connection with a violation of this chapter, including money necessarily expended in the course of making and pursuing a complaint to the Consumer Complaint Investigator or any city officer or employee designated by the Mayor. If such stipulation applies to consumers who have been affected by the violator's practice but have not yet complained to the Consumer Complaint Investigator or any city officer or employee designated by the Mayor, the settlement agreement must be approved by court, which shall direct the minimum means by which potential claimants shall be notified of the agreement. A consumer need not accept restitution pursuant to such a settlement agreement; his acceptance shall bar recovery of any other damages in any action by him against the defendant or defendants on account of the same acts or practices.

(2) All settlement agreements shall be made a matter of public record.

(3) Violation of a settlement agreement entered into pursuant to this section shall be treated as a violation of this chapter and shall be subject to all the penalties provided therefor.

§ 99-13. Judicial review.

Any person or persons jointly or severally aggrieved by any final order of the Consumer Complaint Investigator, or any city officer or employee designated by the Mayor, of the Office of Consumer Affairs, or any other department designated by the Mayor, may seek to have such order reviewed by a court of competent jurisdiction in the manner prescribed by law.

Chapter 104, DUTCH ELM DISEASE

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 40 of the 1980 Code. Amendments noted where applicable.]

§ 104-1. City to exercise powers and immunities. EN(48)

Pursuant to the provisions of § 169 of the Agriculture and Markets Law, this Common Council does hereby elect on behalf of the City of Oswego to exercise and enjoy through its appropriate officers and employees the powers and immunities prescribed and granted in §§ 164, 165 and 167 of Article 14 of the Agriculture and Markets Law with respect and in regard to the Dutch elm disease within the limits of said city.

§ 104-2. When effective.

This chapter shall take effect upon its approval by the Mayor ten (10) days after its first publication thereof in the official paper as required by Section 43 of the Charter of the City of Oswego.

Chapter 106, ECONOMIC DEVELOPMENT ZONE

[HISTORY: Adopted by the Common Council of the City of Oswego 11-28-1994 by L.L. No. 8-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Business Improvement Districts -- See Ch. 87.
Waterfront revitalization -- See Ch. 267.
Zoning -- See Ch. 280.

§ 106-1. Expansion of boundaries.

The City of Oswego Common Council hereby finds it appropriate to expand and establish new boundaries for the Oswego Economic Development Zone, as designated by the State of New York on June 22, 1988, to include portions of the Town of Scriba and additional land within the City of Oswego.

§ 106-2. Establishment by local law.

The City of Oswego Common Council hereby establishes by local law that which was previously approved by resolution in the 1988 Economic Development Zone Application and subsequently by Resolution Nos. 389-1990, 674-1992 and 392-1994.

§ 106-3. Authorization of expansion.

The City of Oswego Common Council hereby authorizes the establishment and expansion of said Economic Development Zone as set forth in Exhibit A attached hereto.[EN(49)]

§ 106-4. Composition of Board.

The Economic Development Zone Board shall consist of the following:

A. The Mayor of the City of Oswego, or designee.

B. The Oswego County Legislature Chairman, or designee.

C. The Supervisor of the Town of Scriba, or designee.

D. The President of the City of Oswego's Common Council, or designee.

E. The Chairman of the County of Oswego IDA, or designee.

F. The City Engineer for the City of Oswego, or designee.

G. The President of Operation Oswego County, Inc., or designee.

H. A representative of the Oswego County Private Industry Council (to be appointed by the Mayor and who must be a resident of the City of Oswego).

I. The President of the Greater Oswego Chamber of Commerce, or designee.

J. The Chairman of the Port of Oswego Authority.

K. A representative of the employers located in the zone (to be appointed by the Mayor).

L. The City Attorney.

M. The Director of the City of Oswego's Community Development Office.

N. A representative of the banking and/or the financial community (to be appointed by the Mayor and who must be a resident of the City of Oswego).

O. A labor representative.

§ 106-5. Zone certifying official; powers and duties.

The Oswego City Chamberlain is hereby designated as the zone certifying official who is responsible for certifying with the State Commissioners of Economic Development and Labor the eligibility of business enterprises for the various benefits available through state law creating the zone.

§ 106-6. Benefits to businesses expanding within zone.

The City of Oswego, pursuant to applicable state regulations and laws, hereby offers a three-year unlimited supply of water, without cost, for all businesses duly certified under the Economic Development Zone Program that choose to expand or locate in that part of the designated Economic Development Zone located within the corporate City limits of Oswego.

Chapter 108, ELECTRICAL STANDARDS

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 42 of the 1980 Code; Art. II, 5-12-1980 as Ch. 43 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Housing standards -- See Ch. 149.
Fire prevention and building construction -- See Ch. 126.
Plumbing -- See Ch. 184.
Sewers -- See Ch. 199.
Utility poles -- See Ch. 245.

ARTICLE I, Electrical Code [Adopted 5-12-1980 as Ch. 42 of the 1980 Code]

[Note: The masculine pronoun, whenever used herein, shall include the feminine, and words in the singular shall include the plural unless the context indicates otherwise.] [Added 6-10-2002]

§ 108-1 Title.

This article shall be known as the "Electrical Code of the City of Oswego, New York."

§ 108-2 Purpose.

Since there is danger to life and property inherent in the use of electrical energy, this article is enacted to regulate the installation, alteration or repair of wiring for electric light, heat or power and signal systems operating on 20 volts, or more, including all fire-alarm systems, in or on all real property within the City of Oswego, New York, excluding minor repairs possible to property owners themselves.

§ 108-3 National Code adopted.

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code, except where the provisions of this article or any other local law, ordinance or building code of the City of Oswego shall differently prescribe, in which event compliance with the provisions of such local law, ordinance or building code shall be recognized as proper compliance with this article. The requirements of the National Electrical Code shall be those known as National Fire Protection Association Pamphlet No. 70, as approved and adopted by the American Standards Association.

§ 108-4 Inspector. [Amended 10-23-1995]

Inspectors who have been approved by the Common Council shall be appointed and are hereby authorized to make inspections and reinspections of electrical installations described by this article and to approve or disapprove of same. These inspections are to be made under the auspices of the Building Inspector and, at his request, with the cost of expenses of said

inspections being no charge against the City of Oswego.

§ 108-5 Powers and duties of the inspectors.

It shall be the duty of the inspectors to report, in writing, to the Building Inspector, whose duty it shall be to enforce all the provisions of this Code, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and of all local laws, ordinances and the Building Code as referred to in this article, insofar as any of the same apply to electrical wiring. Inspectors shall make inspections and reinspections of the electrical installations in and on properties in the City of Oswego upon the written request of an authorized official of the City of Oswego or as herein provided. An inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the City of Oswego where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of an inspector to make electrical inspections upon the oral request of an official or officer of the City of Oswego. It shall be the duty of an inspector to furnish written reports to the proper official of the City of Oswego and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this article. He shall direct that a copy of the certificate of compliance be sent to the City of Oswego to the attention of the Building Inspector.

§ 108-6 Violations. [Amended 10-23-1995]

It shall be a violation of this article for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the City of Oswego without an application for inspection being filed with a duly appointed electrical inspector. It shall be a violation of this article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply without the issuance of a temporary certificate or a certificate of compliance by a duly appointed electrical inspector.

§ 108-7 Penalties for offenses. [Amended 6-10-2002]

Any person, firm or corporation who shall violate any of the provisions of this article or any rule or regulation made pursuant thereto shall be guilty of disorderly conduct and shall be a disorderly person and, upon conviction thereof, may be punished by a fine of not more than $100, and each day on which such violation continues shall constitute a separate offense.

§ 108-8 Exceptions.

The provisions of this article shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communications utility in the exercise of its function as a utility and located outdoors or in the buildings used exclusively for that purpose. This article shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business. This article shall not apply to manufacturing units which have regular maintenance personnel in the operation of such maintenance work only. It shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

§ 108-9 No waiver or assumption of liability. [Amended 10-23-1995]

This article shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliance or equipment for loss of life or damage to person or property caused by a defect therein, nor shall the City of Oswego or any duly appointed electrical inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this article. Any firm or person engaged commercially in electrical wiring shall carry a minimum insurance policy within the limits of $100,000 to $300,000.

ARTICLE II, Licensing of Electricians [Adopted 5-12-1980 as Ch. 43 of the 1980 Code]

[Note: The masculine pronoun, whenever used herein, shall include the feminine, and words in the singular shall include the plural unless the context indicates otherwise.] [Added 6-10-2002]

§ 108-10 Definitions.

As used in this article, the following words shall have the meanings indicated:

BOARD OF EXAMINERS -- The Electrical Licensing Board of Examiners.

MASTER ELECTRICIAN -- Includes any person engaged in or holding himself out to the public as engaged in the business of contracting to install or alter electrical equipment or apparatus for utilization of electricity supply for light, heat or power.

PERSONS -- Includes persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

§ 108-11 License required. [Amended 6-10-2002]

A. No person, firm or corporation shall, within the City of Oswego, engage in or carry on the business of installing, maintaining, altering or repairing any electrical wiring, appliances, devices or equipment unless such person, firm or corporation or officer, director, partner, superintendent or employee thereof having direct supervision over such work shall have received a master electrician's license and a certificate thereof, nor shall any person, firm or corporation execute any work of installing, maintaining, altering or repairing any electrical wiring, device, appliance or equipment unless such person, firm or corporation is the holder of a master electrician's license or said work is done under the supervision of and pursuant to the direction of an officer, director, partner, superintendent or employee of said person, firm or corporation who is the holder of a master electrician's license. No such license shall be required in order to execute any of the following classes of work:

(1) The installation, alteration or repair of any wiring devices or equipment by any person, firm or corporation when performed on the premises owned by such person, firm or corporation or performed on premises leased for at least one year by such person, firm or corporation.

(2) Minor repair work, the replacement of lamps and the connection of portable devices to suitable receptacles which have been permanently installed.

(3) The installation, alteration or repairing of any devices or equipment for the operation of a signal or the transmission of intelligence where such wiring devices, appliances or equipment operate at a voltage not exceeding 50 between conductors and do not include generating or transforming equipment capable of supplying more than 50 watts of energy. The installation, alteration or repairing of any electrical devices appertaining to or part of any gasoline or diesel motor equipment.

(4) The installation, alteration or repair of electrical wiring, devices, appliances or equipment installed by or for an electrical public service corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy

or for the use of such a corporation in the operation of signals or the transmission of intelligence.

(5) The assembly, erection and connection of electrical apparatus and equipment by the manufacturer of such apparatus and equipment, but not including any electrical wiring other than that involved in making electrical connections on the apparatus or equipment itself or between two or more parts of such apparatus or equipment.

(6) The requirements of this § 108-11 of this article shall apply to all persons except those hereinbefore excluded in this § 108-11 and hereinafter excluded in § 108-21 of this article.

B. Any master electrician who shall produce good and sufficient proof to the Board of Examiners that he is a master electrician and has been, exclusive of all other occupations, engaged as such for 10 years or more last past shall not be required, before having a license issued to him, to take or submit to any examination as herein provided, but such license shall be issued to him only if the municipality wherein he is duly licensed for 10 years shall reciprocally allow master electricians licensed in the City of Oswego for 10 years to obtain a license in that said community without the necessity of taking a test. The applicant under this section would also pay the required fee for the license. [Amended 9-14-1987]

§ 108-12 Application for license. [Amended 10-28-1996 by L.L. No. 4-1996; 6-10-2002]

Any person desiring to procure a license as herein provided for shall make application for such license to the Secretary of the Board of Examiners of the City of Oswego, stating the name and place of business of the applicant, the name and address of the supervisor of the work done under the license, if someone other than the applicant is to perform the electrical work, and a statement in said application that the person named, being either the applicant or the representative of the applicant, will act as supervisor of the work done under the license. The Secretary of the Board of Examiners shall, within 10 days after receipt by him of any application for a license, accompanied by the proper fee, deliver such application to the Board of Examiners.

§ 108-13 Term of license; designation of supervisor.

Each license shall be issued to a person, firm or corporation to be known as the holder of license. Each license shall designate whether the applicant or a representative or employee of the applicant will be the supervisor of all electrical work to be done by the person, firm or corporation to whom the license is issued. In case the holder of the license is a person, the supervisor shall either be the holder himself or shall be in the employ of the holder. In case the holder of the license is a corporation, the supervisor shall either be an officer of the corporation

or shall be in the employ of the corporation. The same person shall not be designated as the supervisor of the electrical work in two or more licenses. In the event that the association or employment of the named supervisor in the license shall terminate, said license shall become null and void 60 days after such termination; provided, however, that, without payment of any further fee, a new license shall be granted to the holder of the expiring license upon application to the Board of Examiners within said sixty-day period and upon the approval of the Board of Examiners of the qualifications of the person named in the application as the supervisor for the person, firm or corporation making the application for the license.

§ 108-14 Issuance of license. [Amended 4-25-1994; 10-28-1996 by L.L. No. 4-1996]

Upon notification by the Mayor to the City Clerk that the applicant or the representative of the applicant has passed the examination and that the applicant or the representative of the applicant has met all the requirements of the Board to engage in the business of master electrician, the City Clerk, provided that the license fee herein specified is paid, shall issue to the applicant a license to engage in the business as provided for in § 108-11. All licenses shall be numbered in the order in which they are issued, and each license shall state the name and address of the holder, the name of the supervisor and the fee paid.

§ 108-15 Board of Examiners. [Amended 4-25-1994; 6-10-2002; 3-10-2008]

There is hereby created a Board to be known as the "Electrical Licensing Board of Examiners" which shall consist of seven members, and said seven members shall consist of two master electricians, one journeyman, the City Engineer of the City of Oswego, New York, one layman, the Code Enforcement Director, and a duly appointed inspector from an agency approved to perform electrical inspections in the City of Oswego, and all seven members shall be appointed by the Mayor of the City of Oswego. The Mayor of the City of Oswego shall make all appointments to the Board of Examiners within 30 days from the date that this article becomes effective. The certificate of appointment shall be made concurrently with the term of the Mayor. Any appointed member or members may be removed by the Mayor for malfeasance in office, incapability or neglect of duty.

§ 108-16 Powers and duties of Board of Examiners. [Amended 6-10-2002]

The Board of Examiners shall elect its own Chairman and Secretary, who shall be members of the Board and who shall act as such without compensation. A majority of the membership of the Board shall constitute a quorum to transact business of the Board. The Board shall meet at least once every three months, and special meetings may be called whenever the Chairman, the Secretary or the majority of the Board shall consider said meeting desirable for the proper and

efficient conduct of the business of the Board. The Board shall examine applicants or the representatives of applicants for licenses to determine the qualifications and fitness of the applicants or of the person designated in the applicant's application as being the supervisor of their electrical work to receive licenses to engage in business as master electricians. The nature of the examinations conducted under this article shall be determined by the Board, and the Board shall adopt such rules and regulations as it may deem necessary for such examinations. Any applicant who has failed in his/her first examination shall not be entitled to another examination until after one month from the date of such failure, and, if the aforementioned examination has been failed twice or more, the applicant or the representative of the applicant shall not be entitled to any additional examination until six months from the date of the last preceding failure. Final action on any application shall be taken by the Board of Examiners within one month after the receipt of the application by the Secretary of the Board of Examiners, and during said month the Secretary of the Board of Examiners shall, upon recommendation of the Board of Examiners, grant to the applicant or to the representative of the applicant the right to engage in business as a master electrician until final action on the application shall have been taken by the Board of Examiners.

§ 108-17 Fees for licenses. [Amended 9-14-1987; 6-10-2002]

A. For the calendar year in which the license is first issued, a fee of $200 shall be paid. For each renewal of a license after the first year, a fee of $200 shall be paid. A deposit equal to the fee for the first year shall accompany each application for a license. All applicants for master electrician examinations shall pay a fee of $200. The payment of this fee of $200 shall entitle the applicant to take two examinations, if necessary. The applicant shall pay a fee of $25 for each additional examination after the second. The test shall be given two times per year, with exceptions granted under special circumstances to be determined by and at the discretion of the majority of the Electrical Board. A fee of $100 shall be required for special tests given by the Electrical Board. This fee will be in addition to the application fee of $200. A fee of $50 shall be required to place a license on "inactive status." A license may become inactive upon application to and approval of the Board. No person shall be issued an inactive license. An inactive license may be brought to active status by paying the difference in fees. All fees shall be paid to the City Clerk of the City of Oswego and shall be paid by him into the treasury of the City of Oswego.

B. Renewals. All master electrician licenses may be renewed annually for a fee of $200. Renewal applications shall be available with the City Clerk on December 1.

§ 108-18 Expiration and renewal of licenses. [Amended 10-28-1996 by L.L. No. 4-1996]

Each license shall expire at the end of the calendar year in which it is issued and shall be

renewed without further examination if application for renewal, accompanied by the renewal fee, is filed with the Secretary of the Board of Examiners before the date of expiration.

§ 108-19 Licenses not transferable.

No license granted under this article shall be transferable, and no such license shall be used for the interests of any unlicensed master electrician.

§ 108-20 Revocation of licenses.

Upon presentation to the Board of Examiners of charges that the holder of any license has willfully and persistently violated any provisions of any ordinance of the City of Oswego applying to electrical work or is incompetent to comply with such provisions, the Board of Examiners shall fix a time and place for a meeting to consider such charges and shall notify the holder of the license to be present at such meeting. Such notification shall be in writing and shall be delivered to the holder at least five days in advance of the meeting. When any certificate or license has been revoked or suspended, no refund or any unearned portion thereof shall be made. If, upon a hearing by the Board of Examiners of all evidence offered, it shall be decided by the Board of Examiners that said holder of a license has willfully and persistently violated any of the provisions of any such ordinance or by continued violation has proven his incompetence to comply with any of the provisions of such ordinance, then the Board of Examiners shall revoke the license of said holder. When a license has been revoked, a new license shall not be granted to the same person, firm or corporation until a period of at least one year has elapsed after such revocation.

§ 108-21 Exemptions.

The provisions of this article shall not apply to persons engaged solely in selling or solely in the attachment of ordinary electrical appliances to existing circuits where no joining or splicing of electrical conductors is required; nor to persons, firms, copartnerships, associations and corporations regularly employing electricians for the installation, maintenance, repair, alteration and extension of the electric wires, conductors, electrical machinery, apparatus or appliances in their own property and/or property occupied by them; nor to the installation, maintenance or repair of elevators; nor to any work involved in the manufacture, test or repair of electrical machinery, apparatus, materials and equipment or to its assembly, installation and wiring when such assembly, installation and wiring are done by a person, firm or corporation engaged in electrical manufacturing as their principal business; nor to work in connection with the erection, construction, maintenance or repair of lines for the transmission of electricity from the source of supply to the service connection on the premises where used by public service companies,

municipal plants authorized to generate or sell electricity or to work of such companies installing, maintaining and repairing on the consumer's premises of service connections, meters and other apparatus and appliances remaining the property of such companies after installation or to emergency repairs of wiring and appliances on consumer's premises necessary for the protection of life or property; nor to work of companies incorporated for the transmission of intelligence by electricity in installing, maintaining or repairing wires, apparatus or fixtures or other appliances. Nothing herein contained, however, shall be construed so as to prohibit or prevent any person from installing, altering or extending the electric wires, conductors, apparatus, fixtures, machinery, appliances or appurtenances in his own property and/or property occupied by him.

§ 108-22 Penalties for offenses.

Any person who shall violate any provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than $50 or more than $100 or to imprisonment for not less than 10 days and not more than 30 days, or to both such fines and imprisonment, and each day on which such violation continues shall constitute a separate offense. In addition to the penalty imposed, the license of the person violating the same may be revoked.

§ 108-23 Liability.

This article shall not be construed to relieve or lessen the responsibility or liability of any parties owning, operating or installing any electrical devices, appliances or equipment for damages to person or property caused by any defect therein, nor shall the City of Oswego be held as assuming any such liability by reason of examination authorized therein or the license and certificate issued, as herein provided.

Chapter 126, FIRE PREVENTION AND BUILDING CONSTRUCTION

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 111 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Electrical standards -- See Ch. 108.
Flood damage prevention -- See Ch. 133.
Vacant property -- See Ch. 249.
Zoning -- See Ch. 280.

ARTICLE I, Department of Code Enforcement [Amended 6-22-1998]

§ 126-1. Purpose.

The purpose of this chapter is to establish a Department of Code Enforcement and to designate personnel and procedures in the enforcement and administration of the New York State Uniform Fire Prevention and Building Code in accordance with Title 19 of the New York Codes, Rules and Regulations, Part 444.

§ 126-2. Establishment of Department and Director.

A. There is hereby established a Department of Code Enforcement within the City of Oswego government which shall administer and enforce the provisions of the New York State Uniform Fire Prevention and Building Code and this chapter within the City of Oswego.

B. The position of Director of Code Enforcement is hereby established. He/she shall be appointed by the Mayor, with the approval of the Common Council. [Amended 8-10-1998]

§ 126-3. Appointment of inspectors. [Amended 8-10-1998]

The Mayor shall appoint one or more inspectors, as the need may appear, to act under the supervision and direction of the Director of Code Enforcement and to exercise any portion of the powers and duties of the Director of Code Enforcement as he/she may direct. The compensation of such inspectors shall be by their respective contract, and each inspector shall have the training and experience necessary to perform the duties assigned.

§ 126-4. Acting Director.

In the absence of the Director of Code Enforcement or in the case of his/her inability to act for any reason, the Mayor shall have the power to designate the Building Inspector to act on behalf of the Director of Code Enforcement and to exercise all the powers conferred upon him/her by this chapter.

§ 126-5. Unlawful acts; exceptions.

No officer or employee of the Department of Code Enforcement shall engage in any activity

inconsistent with his/her duties or with the interests of the Department of Code Enforcement; nor shall he/she, during the term of his/her office or employment, be engaged directly in any building business, in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the City of Oswego, except that this provision shall not prohibit any officer, inspector or employee from such activities in connection with the construction of a building or structure owned by him and not constructed for sale or rent.

§ 126-6. Powers and duties of Director.

A. Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Director of Code Enforcement shall administer and enforce all provisions of the New York State Uniform Fire Prevention and Building Code and laws, ordinances, rules and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.

B. He/she shall receive applications, issue, deny and revoke building permits and certificates of occupancy or compliance for the erection, alteration, removal and demolition of buildings or structures or parts thereof.

C. He/she shall issue or cause to have issued written orders to remedy violations of this chapter or the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations.

D. He/she shall make or cause to be made all inspections which are necessary to ensure compliance with the New York State Uniform Fire Prevention and Building Code or the Charter of the City of Oswego, except that he/she may accept written reports of inspection from inspectors or employees or other agency and inspection bureaus, provided that the same are certified by a responsible official thereof.

E. He/she shall issue or cause to have issued special permits for the storage and handling of hazardous, flammable, combustible or explosive materials, liquids and gases and set fees for permits. This is to coincide with the Fire Department.

F. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 126-7. Records; reports.

A. The Director of Code Enforcement shall keep permanent official records of all transactions and activities conducted by the Department of Code Enforcement, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated and notices and orders issued.

B. The Director of Code Enforcement shall annually submit to the Mayor and Common Council a written report of all business conducted by the Department of Code Enforcement.

ARTICLE II, Building Construction

§ 126-8. Purpose.

This article shall provide the method for administration and enforcement of the building construction provisions of the New York State Uniform Fire Prevention and Building Code in the City of Oswego and further establishes powers, duties and responsibilities in connection therewith.

§ 126-9. Fire Limits Map established. [Amended 10-23-1995; 6-22-1998]

The fire limits are shown, defined and bounded on the Fire Limits Map accompanying this chapter. The Fire Limits Map is hereby made a part of this chapter and shall be on file in the Department of Code Enforcement and City Clerk's office.

§ 126-10. Definitions.

The words and phrases used in this article shall have the meanings given in Part 606 of the New York State Uniform Fire Prevention and Building Code or as stated below:

ASSEMBLY SPACE -- A room or space classified as a Group C-5 occupancy, regardless of the number of persons.

BUILDING PERMIT -- A permit to build a building, structure or an addition or to renovate a building or structure or erect a fence, deck or pool. EN(50)

CERTIFICATE OF COMPLIANCE (CODE ENFORCEMENT) -- Certification that something, other than a structure, meets the code (e.g., fence, pool, deck, etc.).

CERTIFICATE OF OCCUPANCY -- Permission to occupy a structure of new construction or conversion or renovation.

CODE ENFORCEMENT BUILDING INSPECTOR -- An employee of the Department whose responsibility is to review construction plans, issue building permits, issue stop-work orders, inspect all new construction and renovations in existing buildings, serve as a member of the Electrical Licensing Board, perform duties pursuant to the Unsafe Structures Ordinance EN(51) and perform such other duties that are consistent with the civil service description and which may be assigned to him/her by the Director of Code Enforcement. EN(52) [Amended 6-22-1998]

CODE ENFORCEMENT HOUSING INSPECTOR -- An employee of the Department responsible for the enforcement of the New York State Uniform Fire Prevention and Building Code, the City of Oswego codes, and to handle all rental permit inspections and perform such duties as assigned by the Director of Code Enforcement. [Amended 6-22-1998]

DEMOLITION PERMIT -- A permit to demolish or remove a structure.

DEPARTMENT -- The Department of Code Enforcement of the City of Oswego and each officer or employee of such Department. [Added 6-22-1998]

DIRECTOR OF CODE ENFORCEMENT -- The chief officer charged with the enforcement of the New York State Uniform Fire Prevention and Building Code and the City of Oswego codes. [Added 6-22-1998]

HOUSING STANDARDS -- Subchapters C and F of the New York State Uniform Fire Prevention and Building Code. [Added 6-22-1998]

PREMISES -- Any dwelling unit in the City of Oswego which is rental, including multiple, one- or two-family, mixed residential-business use dwelling, buildings used or occupied as a sorority or fraternity, and individual rooms rented weekly or daily, in buildings containing nine or fewer rooms. [Added 6-22-1998; amended 8-10-1998]

RENTAL PERMIT -- A permit to occupy or possess premises, expiring three years after the date of issuance. [Added 6-22-1998]

SPECIAL PERMIT -- A permit for the storage, handling, transport or disposal of a product or commodity.

UNIFORM CODE -- The New York State Uniform Fire Prevention and Building Code. [Amended 10-28-1996 by L.L. No. 4-1996]

§ 126-11. Building permits.

A. No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any building or structure or any portion thereof or install heating, solid fuel-burning apparatus, a chimney or flue in any dwelling unit or change the nature of the occupancy of any building or structure; or begin site preparation, excavation or filling or cause the same to be done without first obtaining a separate building permit from the Department for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature and do not include the installation or extension of any electrical systems or fire protection fixtures. [Amended 10-28-1996 by L.L. No. 4-1996;

6-22-1998]

B. Building permit application. Application for a building permit shall be made to the Department on forms it provides. The application for a building permit and its accompanying documents shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code. If it is determined that the information is not sufficient or does not meet the Uniform Code standards, then the application will be deferred until such time as the information is provided. [Amended 6-22-1998]

C. Plans and specifications. Each application for a building permit shall be accompanied by a complete set of plans and specifications drawn to scale, also a plot plan showing the location and size of all proposed new construction, including the details of structural, mechanical, electrical, plumbing, heating, ventilation and air conditioning, including computations, stress diagrams and other technical data. Plans and specifications shall bear a stamp and signature in compliance with § 7209 of the State Education Law, of the person responsible for the design and drawings.

D. Issuance of building permits.

(1) The Director of Code Enforcement or Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He/she shall approve or disapprove the application within a reasonable time.

(2) Upon approval of the application and upon the receipt of the proper legal fees thereof, the Director of Code Enforcement shall issue or cause to be issued a building permit to the applicant upon the appropriate forms and shall affix his signature thereto. The authority conferred by such permit may be limited by conditions, if any, contained therein.

E. Display of permit. A building permit issued pursuant to this section shall be prominently displayed on the property or premises to which it pertains during the entire course of construction activity.

F. Duration of permit. A building permit shall expire one year from the date of issue.

G. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the

department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 126-12. Board of Review.

Any aggrieved person may, on a form prescribed by the Secretary of State and accompanied by all the necessary documents and fees as specified by the state, appeal to the Regional Board of Review for a variance from the New York State Uniform Fire Prevention and Building Code.

§ 126-13. Renewal.

The permit may, upon written application, be renewed for one year, provided that:

A. The permit has not been revoked or suspended at the time the renewal is made.

B. The relevant information in the application is up-to-date.

C. The renewal fee of $10 is paid.

D. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 126-14. Inspections.

Construction work for which a building permit has been issued shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each phase at construction, including but not limited to foundation, framing, superstructural, electrical, plumbing, insulation, heating, air conditioning, solid wood-burning device and chimney and flue vents. It shall be the responsibility of the owner, applicant or his agent to inform the appropriate inspector, either in writing or by calling, that the work is ready for inspection and to schedule such inspection.

§ 126-15. Electrical inspectors approved. [Amended 6-22-1998]

Electrical inspections performed pursuant to the Uniform Fire Prevention and Building Code by other third party inspectors not employed by the Department may be performed if said person or agency had previously been approved by the Mayor and Common Council.

§ 126-16. Stop-work orders. [Amended 6-22-1998]

Whenever the Department of the City of Oswego has reasonable grounds to believe that work on any building or structure is proceeding without a building permit or is otherwise in violation of provisions of any applicable laws, codes, ordinances, rules or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent or the person performing the work to suspend all work, and any such person shall forthwith stop such work and suspend all building activities until the stop-work order has been rescinded. Such stop-work order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a conspicuous portion of the building under construction and a copy of the same shall be sent to the person, firm or corporation by certified mail, return receipt requested. A stop-work order can only be rescinded by the person issuing the order.

§ 126-17. Certificates.

A. Certificates of occupancy required. [Amended 6-22-1998]

   (1) No building hereafter erected subject to the Uniform Code shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Department.

(2) No building similarly enlarged, extended or altered upon which work has been performed which required the issuance of a building permit shall be occupied or used after the completion of the alteration or work, unless a certificate of occupancy shall have been issued by the Department.

(3) No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Department.

B. Inspection prior to issue. Before issuing a certificate of occupancy, the Director of Code Enforcement or Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy, and he/she may conduct such inspections as he/she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained in the Department a record of all such examinations and inspections, together with a record of findings of violations of the law. [Amended 6-22-1998]

C. Temporary certificates. A temporary certificate of occupancy may be issued for a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that it may be occupied safely without endangering life or the public welfare. A temporary certificate of occupancy shall remain in effect for a period not to exceed six months from the date of issuance. For good cause, the Department may allow a maximum of two extensions for periods not exceeding six months each. [Amended 6-22-1998]

D. Test. Whenever there is reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the New York State Uniform Fire Prevention and Building Code and other applicable building laws, ordinances or regulations, the Department may require the same to be subjected to tests in order to furnish proof of such compliance. [Amended 6-22-1998]

E. Certificate of compliance. A certificate of compliance shall be issued for all work not applicable for a certificate of occupancy (fences, decks, swimming pools, etc.). This in no way replaces a zoning certificate of compliance.

ARTICLE III, Fire Prevention

§ 126-18. Purpose. [Amended 6-22-1998]

This article shall provide the method for administration and enforcement of Subchapters C and F contained in the New York State Uniform Fire Prevention and Building Code in the City of Oswego and further establishes powers and duties and responsibilities in connection therewith.

§ 126-19. Firesafety inspections.

A. The Department, along with the Oswego City Fire Department, shall conduct periodic firesafety inspections of existing building structures or premises for compliance with the provisions of the New York State Uniform Fire Prevention and Building Code according to the following schedule: [Amended 6-22-1998]

   (1) The Department and the Oswego Fire Department shall inspect all existing buildings or structures containing areas of public assembly once every 12 months.

   (2) The Housing Inspector shall inspect all rental properties at least once every three years. [Amended 8-10-1998]

   (3) The Director of Code Enforcement and the Oswego Fire Department shall inspect all buildings and structures open to the general public once every two years, starting in 1990.

   (4) The Director and/or Building Inspector shall inspect all municipal buildings once every 12 months.

B. No regular periodic inspections will be conducted or required of owner/occupied single-family residences unless at the invitation of the owner or where conditions of the premises threaten or present a hazard to public health, safety or welfare.

C. The owner, lessee, tenant, manager or operator of any building or premises shall permit the Department to enter and inspect his building or premises. [Amended 6-22-1998]

D. If entrance to make an inspection is refused or cannot be obtained, the Department may apply to any court of competent jurisdiction for a warrant to make an inspection. [Amended 6-22-1998]

E. In the case of an emergency, the Department may, without warrant, enter any premises or part of premises to inspect the same at any time without the permission of the person in possession or occupancy. [Amended 6-22-1998]

§ 126-20. Places of public assembly.

All places of public assembly shall be posted for occupancy based on the floor area and number

of exits. This shall be posted in a conspicuous location at all times. It shall be the responsibility of the owner, manager or person in charge to ensure that the occupancy does not exceed the posted number.

§ 126-21. Rental permits. [Amended 6-22-1998; 8-8-2011]

A. Owners and lessors, or their respective agents, of premises shall file with the Department, on the registration forms available, the following information:

(1) The names and addresses of the owner and lessor and of their respective agents upon whom the violation order may be served.

(a) Owners and lessors who reside 25 miles or more from City Hall must designate a local agent who shall be authorized to act as the owner's or lessor's agent for any matters related to the owner's or lessor's rental permit(s), including but not limited to authorization to receive and respond to notices from the City of Oswego and to receive service of process in any action or proceeding brought by the City of Oswego against the owner or lessor.

(b) Any such agent who is designated by an owner or lessor of premises must reside or do business within 25 miles from City Hall and must provide the City of Oswego with a local address and telephone number.

(2) A description of the property, by street and number or otherwise, as will enable the Housing Inspector to locate the same.

(3) Such other appropriate information as may be requested, including but not limited to number of units, number and type of rooms, together with a typical floor layout of the units and rooms with appropriate designations and identifications.

(4) The rental permit fee shall be established by resolution of the Common Council.

B. Commencing July 11, 1998, it shall be unlawful to occupy or use any premises unless and until a rental permit shall have been issued by the Department certifying that such premises conforms to the housing standards, except that a temporary certificate may be issued upon showing, to the satisfaction of the Department, that remedial action is being taken to correct violations. Commencing on the effective date of this chapter, a ninety-day period is hereby established, whereby the Department shall accept registration forms without penalty to the owner, lessor or respective agent of premises.

C. Rental permits shall be valid for three years from the date of issuance. Owners and lessors, or their respective agents, shall, upon request, make available a copy of said permit to the

person(s) in possession or occupancy.

D. A permit may be revoked, by written notice thereof, if, upon an inspection, the premises are found to be in violation of the housing standards.

E. Inspections.

(1) The Department is authorized to conduct inspection of premises or parts of premises at such times and in such manner as the Department may find convenient or necessary, with the consent of the person in possession or occupancy, to ensure compliance with the housing standards.

(2) If admission is refused or cannot be obtained from the person in possession or occupancy, the Code Enforcement Officer is authorized to obtain a warrant to make an inspection, provided that reasonable or probable cause is shown.

F. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new

application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 126-22. Demolition permits.

A. The demolition of any structure shall not commence before an application for a demolition permit has been completed and approved and a demolition permit issued by the Department. [Amended 6-22-1998]

B. A certificate of insurance in the amounts of $100,000 and $300,000 must accompany the application.

C. A site plan showing distances to property lines and adjoining buildings must accompany the application.

D. Proof of ownership of the property must accompany the application.

E. Adjoining neighbors must be notified at least seven days prior to the start of demolition.

F. All services (electrical, gas, water and sewer) must be properly terminated. The gas service must be capped in accordance with Niagara Mohawk requirements. The water and sewer must be capped and inspected by the Plumbing Inspector prior to backfill.

G. The Department shall be notified of the dumping site for the building materials. [Amended 6-22-1998]

H. At the end of the workday, there shall be no debris laying about the site. Steps shall be taken to secure the site from unauthorized entry.

I. Steps shall be taken to keep the work site dust free.

J. Upon completion of backfilling, the area shall be suitably landscaped and seeded.

K. A filing fee will be charged for a demolition permit and the issuance of a demolition compliance form. The fee charged will be based on the cost of demolition. [Amended 6-22-1998]

L. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 126-23. Firesafety permits. [Amended 6-22-1998]

A. Firesafety permits for the storage, handling, transport or disposal of any material that is combustible, flammable, explosive, hazardous, infectious or radioactive shall be issued by

the Director of Code Enforcement.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

ARTICLE IV, Enforcement

§ 126-24. Notification; remedy.

A. In the event that a violation of the Uniform Code is found in an existing building or structure, a list of violations with the specific code numbers shall be sent to the proper individual and corrected within a period not exceeding 30 days.

B. If, upon a follow-up inspection, the violations are found to still exist, the Department shall issue an order to remedy and inform the person in violation of the penalties involved and grant, as a time limit, a maximum amount of time to be determined by the Department. [Amended 6-22-1998[EN(53)]]

§ 126-25. Legal action by Department. [Added 6-22-1998]

If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this chapter, the Director of Code Enforcement, Building Inspector or Housing Inspector is empowered to immediately institute any appropriate action, charge or proceedings in the proper legal court for prevention, cessation or discontinuance of any condition, use, occupancy or act in, on, of or around any building, structure or tract of land, and for the prosecution of any owner, occupant or offender.

§ 126-26. Penalties for offenses. [Amended 10-28-1996 by L.L. No. 4-1996; 6-22-1998]

A. A violation of any provision of this chapter shall be punishable by a fine of up to $100. Each day of continued violation shall constitute a separate additional violation. If more than one provision is violated, each provision violated shall be considered a separate violation, each liable to the maximum penalties as herein specified.

B. Criminal penalties for violations.

(1) Any person who willfully or recklessly violates any provision of this chapter; willfully or recklessly violates or fails to comply with any requirement of an order of the Department; or willfully makes or causes any other person to make any false or misleading statement on any notice or other document required to be filed pursuant to this chapter or on any application or any accompanying document for the granting of any permit or any other action by the Department pursuant to this chapter shall be guilty of an offense punishable by a fine of not less than $100 nor more than $250 for each violation or by imprisonment for up to 15 days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

(2) A person commits a willful violation when he/she intentionally acts, or intentionally

fails to act, to cause a desired result that violates this chapter. A person commits a reckless violation when he/she acts, or fails to act, with a conscious disregard of a substantial risk that the act or failure to act will result in a condition, constituting a violation of this chapter, which will endanger the life, health, safety or general welfare of another person.

(3) In a prosecution for a willful or reckless violation of a provision of this chapter, evidence of prior service of civil process or of prior judgments from the same violation and relating to the same premises shall be admissible on the issue of the defendant's knowledge of the existing violation.

(4) Evidence that the defendant had knowledge or notice of the violation and failed to correct the same for more than one month or take reasonable action to explain to the Department this failure shall be evidence of the willfulness of the defendant's action. This subsection shall not be construed to prevent conviction for a willful violation on other grounds.

(5) Any person who refuses entry or access to an officer or an inspector of the Department to any premises or any part thereof that the officer or inspector is lawfully authorized to inspect or who unreasonably interferes with an authorized inspection shall be guilty of an offense, punishable by a fine of not more than $50 or by imprisonment for not more than five days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

Chapter 133, FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Common Council of the City of Oswego 6-27-1994 by L.L. No. 6-1994; amended in its entirety 4-22-2013 by L.L. No. 2-2013. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Coastal erosion control -- See Ch. 95.
Fire prevention and building construction -- See Ch. 126.
Trees -- See Ch. 240.
Zoning -- See Ch. 280.

§ 133-1. Findings.

The Common Council of the City of Oswego finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Oswego and that such

damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 133-2. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters.

D. Control filling, grading, dredging and other development which may increase erosion or flood damages.

E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 133-3. Objectives.

The objectives of this chapter are to:

A. Protect human life and health.

B. Minimize expenditure of public money for costly flood control projects.

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. Minimize prolonged business interruptions.

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G. Provide that developers are notified that property is in an area of special flood hazard.

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 133-4. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPEAL -- A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF MODERATE WAVE ACTION -- The portion of the SFHA landward of a V Zone or landward of an open coast without mapped V Zones, in which the principal sources of flooding are astronomical tides, storm surges, seiches, or tsunamis, not riverine sources. Areas of moderate wave action may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces and are treated as V Zones. The area of moderate wave action is an area within a Zone AE that is bounded by a line labeled "Limit of Moderate Wave Action."

AREA OF SHALLOW FLOODING -- A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD -- The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 through A30, A99, V, VO, VE, or V1 through V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD -- The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT -- That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL -- A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING -- See "structure."

CELLAR -- Has the same meaning as "basement."

COASTAL HIGH-HAZARD AREA -- An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1 through V30, VE, VO or V. The "coastal high-hazard area" shall also include areas on a FIRM within a Zone AE that is bounded by a line labeled "Limit of Moderate Wave Action."

CRAWL SPACE -- An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

CRITICAL FACILITIES

A. Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;

B. Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;

C. Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and

D. Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

CUMULATIVE SUBSTANTIAL IMPROVEMENT -- Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

DEVELOPMENT -- Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING

A. A non-basement building:

(1) Built, in the case of a building in Zones A1 through A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1 through 30, VE, or V, or area of moderate wave action to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and

(2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

B. In the case of Zones A1 through A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

C. In the case of Zones V1 through V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY -- The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) -- An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY -- An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) -- An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) -- An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY -- See "flood elevation study."

FLOOD or FLOODING

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   (1) The overflow of inland or tidal waters.

   (2) The unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A above.

FLOODPLAIN or FLOOD-PRONE AREA -- Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY -- Has the same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE -- A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE -- The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE -- Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR -- The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR -- Lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION -- A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL -- For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME -- Has the same meaning as "manufactured home."

NEW CONSTRUCTION -- Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD -- Has the same meaning as "base flood."

PRIMARY FRONTAL DUNE -- A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPALLY ABOVE GROUND -- At least 51% of the actual cash value of the structure, excluding land value, is above the ground.

RECREATIONAL VEHICLE -- A vehicle which is:

A. Built on a single chassis;

B. Four hundred square feet or less when measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light-duty truck; and

D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 133-14B of this chapter.

SAND DUNES -- Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION -- The date of permit issuance for new construction and substantial improvements to existing structures, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE -- A walled and roofed building, including a gas or liquid storage tank, that is principally above the ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE -- Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year

period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT -- Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. "Substantial improvement" also means "cumulative substantial improvement." The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

VARIANCE -- A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

VIOLATION -- The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

§ 133-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Oswego, Oswego County, New York.

§ 133-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard for the City of Oswego, Community Number 360656, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

   (1) Flood Insurance Rate Map Panel Numbers: 36075C0257G, 36075C0258G, 36075C0259G, 36075C0270G, 36075C0276G, 36075C0278G, 36075C0286G, whose effective date is, June 18, 2013, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

   (2) A scientific and engineering report entitled "Flood Insurance Study, Oswego County,

New York, All Jurisdictions" dated June 18, 2013.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: the Oswego City Engineer's Office, Third Floor, City Hall, 13 West Oneida Street, Oswego, New York 13126.

§ 133-7. Interpretation; conflict with other provisions.

A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous chapters adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 133-8. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

§ 133-9. Penalties for noncompliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Oswego from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under § 133-23 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 133-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Oswego, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 133-11. Designation of local administrator.

The Oswego City Engineer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 133-12. Purpose of floodplain development permit; fees.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 133-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of $100. In addition, the applicant shall be responsible for reimbursing the City of Oswego for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than $500 to cover these additional costs.

§ 133-13. Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1 through A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1 through V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 133-16C, Utilities.

E. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 133-19, Nonresidential structures.

F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 133-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

G. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

H. In Zone A, when no base flood elevation data are available from other sources, base flood

elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

I. In Zones V1 through V30 and VE, and also Zone V if base flood elevation are available, or in an area of moderate wave action, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.

J. In Zones V1 through V30 and VE, and also Zone V if base flood elevation are available, or in an area of moderate wave action, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this chapter.

§ 133-14. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to the following:

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of § 133-13, Application for permit, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 133-15 through 133-22 and, in particular, § 133-15B, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 133-15 through 133-22, no permit shall be issued. The applicant may

revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal chapter.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (These areas are designated Zone A or V on the FIRM.) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 133-14H, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage. The local administrator shall:

(1) In Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully

licensed and ready for highway use).

(2) In Zones V1 through V30 and VE, and also Zone V if base flood elevation data are available, or in an area of moderate wave action, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 133-9 of this chapter.

(2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 133-9 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 133-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of

compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 133-14E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 133-14D(1) and (2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to § 133-14D(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to § 133-23, Variance procedure; and

(5) Notices required under § 133-14C, Alteration of watercourses.

§ 133-15. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 133-6.

A. Coastal high-hazard areas. The following requirements apply within Zones V1 through V30, VE and V or in an area of moderate wave action:

(1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.

(2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.

(3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

B. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

C. Encroachments.

(1) Within Zones A1 through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(b) The City of Oswego agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Oswego for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Oswego for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 133-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The City of Oswego agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Oswego for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of

Oswego for all costs related to the final map revisions.

(3) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

§ 133-16. Standards for all structures.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 133-6.

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) Enclosed areas.

(a) For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square

inch for every square foot of enclosed area subject to flooding; and

[2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

(b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

(4) Within Zones V1 through V30 and VE, and also within Zone V if base flood elevation are available, or in an area of moderate wave action, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

C. Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations.

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 133-17. Residential structures (except coastal high-hazard areas).

A. Elevation: The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 133-15B, Subdivision proposals, and C, Encroachments, and § 133-16, Standards for all structures.

(1) Within Zones A1 through A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 133-6 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 133-18. Residential structures (coastal high-hazard areas).

The following standards, in addition to the standards in § 133-15A, Coastal high-hazard areas, and B, Subdivision proposals, and § 133-16, Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1 through V30, VE or V, or in an area of moderate wave action, on the community's Flood Insurance Rate Map designated in § 133-6.

A. Elevation. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.

B. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.

(1) The structural design shall be adequate to resist water forces that would occur during the

base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave runup beyond the elevation of the base flood.

(2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.

(3) Wind-loading values used shall be those required by the building code.

C. Foundation standards.

(1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).

(2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

D. Pile foundation design.

(1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles. (This shall not apply to pile clusters located below the design grade.) The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load bearing sills, beams, or girders.

(2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.

(3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.

(4) The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight inches by eight inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.

(5) Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.

(6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.

(7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.

(8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.

(9) Diagonal bracing between piles, consisting of two-inch-by-eight-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable-type bracing is permitted in any plane.

(10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four-or-larger braces framed into the pile/beam. Bolting shall consist of two five-eighths-inch galvanized steel bolts (each end) for two-by-eight members, or one five-eighths-inch lag bolt (each end) for square members. Knee braces shall not extend more than three feet below the elevation of the base flood.

E. Column foundation design. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.

F. Connectors and fasteners. Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components

of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.

G. Beam-to-pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (if precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two five-eights-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by four inches by 18 inches each bolted with two one-half-inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

H. Floor and deck connections.

(1) Wood two-inch-by-four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-inch-by-three-inch members, placed eight feet on-center maximum, or solid bridging of same depth as joist at same spacing.

(2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than three-fourths-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

I. Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rasters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous fifteen-thirty-seconds-inch-or-thicker plywood sheathing-overlapping the top wall plate and continuing down to the sill, beam, or girder-may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of one-half-inch diameter or galvanized steel straps not less than one-inch wide by one-sixteenth-inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of three inches shall be used at each end of the one-half-inch-round rods. These anchors shall be installed no more than two feet from each

corner rod, no more than four feet on center.

J. Ceiling joist/rafter connections.

(1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.

(2) Gable roofs shall be additionally stabilized by installing two-by-four-blocking on two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight feet toward the house interior from each gable end.

K. Projecting members. All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of two feet and joist overhangs to a maximum of one foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

L. Roof sheathing.

(1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion-resistant material.

(2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.

(3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

M. Protection of openings. All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

N. Breakaway wall design standards.

(1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall

structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.

(2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that the breakaway walls will fail under water loads less than those that would occur during the base flood; and that the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water-loading values used shall be those associated with the base flood. Wind-loading values shall be those required by the building code.

§ 133-19. Nonresidential structures (except coastal high-hazard areas).

A. The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 133-15B, Subdivision proposals, and C, Encroachments, and § 133-16, Standards for all structures.

(1) Within Zones A1 through A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

(a) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(b) Be floodproofed so that the structure is watertight below two feet above the base flood elevation with walls substantially impermeable to the passage of water. All structural components located below the base flood elevation must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

(a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

(b) Together with attendant utility and sanitary facilities, be completely floodproofed to

that level to meet the floodproofing standard specified in § 133-16C.

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 133-19A(1)(b), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 133-20. Nonresidential structures (coastal high-hazard areas).

In Zones V1 through V30, VE and also Zone V if base flood elevations are available, or in an area of moderate wave action, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1 through V30, VE and V.

§ 133-21. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 133-15, General standards, and § 133-16, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

(1) Recreational vehicles placed on sites within Zones A1 through A30, AE, AH, V1 through V30, V, and VE shall either:

(a) Be on site fewer than 180 consecutive days;

(b) Be fully licensed and ready for highway use; or

(c) Meet the requirements for manufactured homes in § 133-21B, C and D.

(2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1 through A30, AE, AH, V1 through V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

C. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 133-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

§ 133-22. Critical facilities.

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any area of special flood hazard, or within any five-hundred-year flood zone shown as a B Zone or a Shaded X Zone on the Community's Flood Insurance Rate Maps.

§ 133-23. Variance procedure.

A. Appeals Board.

(1) The Zoning Board of Appeals as established by the Common Council of City of Oswego shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in

the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Chapter and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of § 133-23A(4) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it

deems necessary to further the purposes of this chapter.

(6) The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

B. Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items in § 133-23A(4)(a) through (l) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(a) The proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure"; and

(b) The variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may be issued by the Zoning Board of Appeals for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(a) The criteria of Subsection B(1), (4), (5) and (6) of this section are met; and

(b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood

heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with other existing chapters or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of the Local Administor that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

§ 133-24. When effective.

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

Chapter 143, HARBORS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 59 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 59.
Animals -- See Ch. 63.
Bicycles -- See Ch. 72.
Business Improvements Districts -- See Ch. 87.
Economic Development Zone -- See Ch. 106.
Noise -- See Ch. 165.
Peddling and soliciting -- See Ch. 180.
Vehicles and traffic -- See Ch. 257.
Water -- See Ch. 263.
Waterfront revitalization -- See Ch. 267.
Zoning -- See Ch. 280.

§ 143-1. Harbormaster to carry out provisions.

The Harbormaster is hereby authorized and required to carry into effect the sections of this chapter and to collect and promptly pay over to the City Chamberlain, to the credit of the Harbor and Dock Commission, all moneys collected by him. He shall keep a book in which shall be entered a full account and statement in items of all moneys received by him in his official capacity, and by whom, for what and when paid, and of all sums due from any person, firm, association, corporation, craft or vessel.

§ 143-2. Failure to comply with orders of Harbormaster.

The Harbormaster is hereby authorized and directed to give orders and directions, as he may deem proper, relative to the location and change of berth or station of every steam vessel or other vessel, barge, launch, canal boat or float in the harbor of Oswego. Every such neglect or refusal to comply with such orders or directions is a misdemeanor. If any such steam vessel or other vessel, barge, launch, canal boat or float shall not be in charge of any person or if any person having such steam vessel or other vessel, barge, launch, canal boat or float in charge shall neglect or refuse to move the same, the Harbormaster may move said steam vessel or other vessel, barge, launch, canal boat or float to any berth or station in the waters of the harbor that, in his opinion, shall best promote the interests of those doing business in or about the harbor and the expenses and charges for said removal shall be a charge and lien upon said steam vessel or other vessel, barge, launch, canal boat or float, tackle, apparel and furniture thereof and against the owner thereof. In default of payment of said charge and lien within forty-eight (48) hours after the same shall have accrued, said steam vessel or other vessel, barge, launch, canal boat or float, tackle, apparel and furniture may be seized and sold by the Harbormaster at public auction, on three (3) days' notice in the official papers of the city, and by posting said notice of sale, either written or printed or partly written and partly printed, in some conspicuous place and upon such steam vessel or other vessel, barge, launch, canal boat or float for three (3) days next preceding the time of sale mentioned in said notice to satisfy said charge and lien. Such sale shall be between the hours of 10:00 a.m. and 5:00 p.m. of the same day and shall be for cash, and the property so seized shall be sold to the highest responsible cash bidder or bidders, and thereafter, without unreasonable delay, said Harbormaster shall, under his hand and seal, execute and deliver to the purchaser or purchasers a conveyance or bill of sale of the property so sold. Such conveyance or bill of sale shall be presumptive evidence that the sale and all proceedings prior thereto, from and including the notice to remove any steam vessel or other vessel, barge, launch, canal boat or float, as in this section provided, and that all notice or notices required by this section to be given were regular and regularly given according to the provisions of this section and all laws and ordinances directing and requiring the same, or in any manner relating thereto. Upon such sale and the execution and delivery of said conveyance or bill of sale as aforesaid, the title to the property so sold and conveyed shall be absolute in said purchaser or purchasers. The money derived from such sale shall within forty-eight (48) hours be paid by the Harbormaster to the City Chamberlain and by him credited to the Harbor and Dock Commission of the city.

§ 143-3. Deposits in waters; penalties.

Any person, association or corporation who shall cast or deposit or cause or suffer to be cast or deposited in the Oswego river, harbor, canal basin or slips of and in the City of Oswego or any of them any earth, stones, ashes, snow, ice, sawdust, chips, shavings, paper, filth, floating matter

or any material of any description shall be subject to a fine not to exceed one hundred dollars ($100.).

§ 143-4. Abandoning vessels; penalties.

Any person, association or corporation who shall abandon or suffer to remain in the river, harbor, canal, canal basin, slip or slips of and in the City of Oswego or any of them for a period of ten (10) days any old or sunken craft, float, canal boat or vessel of any kind of which he is the owner agent, consignee or master shall be subject to a fine of twenty-five dollars ($25.). After the lapse of such ten (10) days, it shall be lawful for the Harbormaster to remove the same to some place of safety or, if the same is or are practically worthless, to destroy the same or cause the same to be destroyed, and for the expense of such removal or destruction the City of Oswego shall have a cause of action against the owner, consignee or master of such craft, float, boat or vessel, jointly or severally, to be prosecuted in any court or courts having jurisdiction of such cause or action.

§ 143-5. Mooring to bridges; penalties.

No person, association or corporation shall moor or fasten, or shall aid or be concerned in mooring or fastening, in any manner, any boat, vessel, canal boat, steam vessel or other craft or float of any description, to any bridge across the Oswego River in this city, or any part thereof, or to any pier or abutment thereof. Any person, association or corporation violating this section shall be subject to a fine of fifty dollars ($50.).

§ 143-6. Careless operation of vessels.

All steam vessels coming into or going out of the harbor shall be moved slowly, so as not to endanger other craft in port; failing to do which, the owner or owners, or officer or officers of such steam vessels shall be subject to a fine of twenty-five dollars ($25.) for each offense.

§ 143-7. Vessel and tug speed; penalties.

No vessel propelled in whole or in part by mechanical power shall within the harbor of Oswego be moved at a greater rate than four (4) miles an hour; provided, however, that it shall be lawful for tugs within the harbor of Oswego to move at a rate of speed not exceeding eight (8) miles an hour. The owner or owners, officer or officers or other persons, violating this section shall be subject to a fine of twenty-five dollars ($25.).

§ 143-8. Blowing of whistles; penalties.

It shall not be lawful, except in cases required by acts of Congress and the regulations made pursuant thereto, or except when absolutely necessary as a signal of danger or warning, to blow the whistle of any tug, propeller or other craft propelled by steam in the Oswego River at a point south of the south line of Seneca Street between sunrise and sunset. A violation of this section is punishable by a fine of not to exceed fifty dollars ($50.).

§ 143-9. Proper lights or vessels; penalties.

Every boat or vessel lying or being in the waters of the river or harbor in this city, except when lying at any wharf with another vessel lying outside of her, shall, during the season of navigation, within one-half (1/2) hour after sunset, have a white light which shall be kept burning until sunrise, properly secured upon some part of said boat or vessel, so as to be distinctly seen from other boats or vessels being in or navigating said river or harbor. A violation of this section shall subject the master, owner or consignee of said boat or vessel or any person in charge thereof to a fine of ten dollars ($10.).

§ 143-10. Anchors; penalties.

All vessels while lying in Oswego harbor shall have their anchors kept in board upon deck or suspended from the hawse pipe by the ring or shackle; failing to do which the owner or owners or officer or officers of such steam vessels or other vessels shall be guilty of a misdemeanor.

§ 143-11. Prevention of sparks from steam vessels; penalties.

All steam vessels while entering or leaving the harbor in this city or while lying in the harbor or any of the waters of this city, inside of the pier or piers, shall have a metallic wire screen or gauze attached to the chimneys, flues or smoke pipes of said steam vessels, which shall be closed while said steam vessels are entering, leaving or lying in the harbor or waters aforesaid so as to prevent the escape of sparks therefrom. A violation of this section shall subject the master, owner or owners, consignee or consignees thereof to a fine of twenty-five dollars ($25.).

§ 143-12. Public landings and wharves.

The docks, wharves and slips in the City of Oswego which are or may be the property of said city shall be known as the public wharves, and the foot of each street in said city which meets the

water in the harbor or river shall be known as public landings or public wharves.

§ 143-13. Renting of wharves.

The Harbor and Dock Commission is hereby empowered to rent from year to year, or for less time in their discretion, the several wharves belonging to the City of Oswego to such person or persons as it shall deem expedient, for such sum as it may deem fair and just, and may commute with the owners or occupants of lots adjoining the ends of the streets and other persons or corporations, as it may deem expedient, for such sum as it may deem fair and just, taking into account the amount of business transacted thereon by such owners or occupants or other persons or corporations, but such commutation shall not be for any period exceeding one (1) year; and the free passage to such wharves shall be reserved to all persons wishing to resort thereto or transact business thereon, subject to the rates of wharfage prescribed in this chapter. Such rental or rentals and commutation or commutations shall be collected and received by the Harbormaster and paid over by him to the City Chamberlain, with a separate statement accompanying such payment of the source or sources whence such sum or sums are derived. Such moneys so collected and paid over shall be credited by the City Chamberlain to the Harbor and Dock Commission. The statement above mentioned shall, without delay, be filed in the Clerk's office of the City of Oswego by the City Chamberlain.

§ 143-14. Removal of stored articles.

The Harbormaster shall have power to remove all articles from the public wharves or landings which shall remain thereon an unreasonable time, of which he shall be the judge. He shall have power to provide safe storage for the same, and the owner thereof shall pay both the storage, wharfage and the expenses of removal before he shall be entitled to the possession thereof.

§ 143-15. Letting of boats to incompetents and minors; penalties.

A. It shall be unlawful for any person to let, loan or rent, with or without hire, any boat, raft or vessel to the following persons:

   (1) Any person who is under the influence of liquor or who, by reason of having been drinking liquor, may be incompetent to take charge of the management of a boat, raft or vessel.

   (2) Any person or persons under sixteen (16) years of age; provided, however, that any person may let, loan or rent any boat, raft or vessel to persons under sixteen (16) years of age when accompanied in the use of such raft, boat or vessel by a competent person to

take charge of and manage the same.

B. Any person violating any of the provisions of this section shall be subject to a fine of not less than five dollars ($5.) nor more than fifty dollars ($50.).

Chapter 149, HOUSING STANDARDS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 63 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Fire prevention and building construction -- See Ch. 126.
Flood damage prevention -- See Ch. 133.
Plumbing -- See Ch. 184.
Sewers -- See Ch. 199.
Streets and sidewalks -- See Ch. 211.
Trailers -- See Ch. 236.
Utility poles -- See Ch. 245.
Vacant property -- See Ch. 249.
Water -- See Ch. 263.
Zoning -- See Ch. 280.

Part 1, Residential Premises

ARTICLE I, General Provisions

§ 149-1. Title.

Part 1 of this chapter shall be known as the "Housing Standards Applicable to Residential Premises."

§ 149-2. Purpose.

The purpose of Part 1 of this chapter is to provide basic and uniform standards, in terms of performance objectives implemented by specific requirements governing the condition, occupancy and maintenance of residential premises, and establishing reasonable safeguards for

the safety, health and welfare of the occupants and users thereof.

§ 149-3. Scope.

This Part 1 shall apply to residential premises as follows:

A. Lots, plots or parcels of land on which residential buildings, buildings of mixed occupancy or accessory structures are located.

B. Residential buildings, including one- and two-family dwellings and multiple residences, except as specifically excluded in § 149-4.

C. Residential occupancies in buildings of mixed occupancy.

D. Accessory structures accessory to residential occupancies.

§ 149-4. Applicability.

This Part 1 shall not apply to mobile homes and mobile home courts or to transient-type occupancies and uses, including, but not limited to, nursing and convalescent homes, hotels, motels, tourist camps, farm labor camps, travel trailers and trailer parks and other forms of temporary housing.

§ 149-5. Conflicts with other provisions.

A. The provisions of Part 1 shall supersede local laws, ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of this Part 1; provided, however, that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this Part 1, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.

B. Where a provision of this Part 1 is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance or regulation adopted pursuant thereto or other local law, ordinance, code or regulation, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

§ 149-6. Reference to construction code and other laws.

Installations, alterations and repairs to residential premises, and materials, assemblies and equipment utilized in connection therewith, shall be reasonably safe to persons and property and in conformity with applicable statutes of the state of New York and the City of Oswego and orders, rules and regulations issued by authority thereof.

§ 149-7. Definitions.

The following definitions shall apply in the interpretation of this Part 1:

ACCESSORY STRUCTURE -- A structure, the use of which is incidental to that of the residential building and which is located on the same premises.

ACCESSORY USE -- A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a residential building. Such "accessory uses" may include, among others, the following:

A. Offices for the building management;

B. Dining rooms, banquet rooms, public kitchens and ballrooms;

C. Recreation and playrooms;

D. Laundries for the use of tenants and occupants and in connection with the management and operation of a residential building;

E. Maintenance and workshops, storage rooms for linen, bedding, furniture, supplies and tenants', equipment and effects;

F. Rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspaper, candy and cigar stands; and

G. Garages within a residential building or on the premises thereof used primarily for the storage of passenger-type motor vehicles.

APPROVED -- Approved by the City Engineer under the regulations of this chapter or approved by an authority designated by law or this chapter.

BASEMENT -- That space of a building that is partly below grade which has more than 1/2 its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

BATHROOM -- Enclosed space containing one or more bathtubs or showers, or both, and which may also contain water closets, lavatories or fixtures serving similar purposes (see definition of "toilet room").

BUILDING -- A structure wholly or partially enclosed within exterior walls, or within exterior or party walls, and a roof, affording shelter to persons, animals or property.

CELLAR -- That space of a building that is partly or entirely below grade and which has more than 1/2 of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

DWELLING, ONE-FAMILY -- Building containing not more than one dwelling unit occupied exclusively for residential purposes.

DWELLING, TWO-FAMILY -- Building containing not more than two dwelling units occupied exclusively for residential purposes.

DWELLING UNIT -- One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family,

EXIT -- A way of departure from the interior of a building or structure to the exterior at street or grade, including doorways, passageways, hallways, corridors, stairways, ramps, fire escapes and all other elements necessary for egress or escape.

FAMILY -- A household constituting a single housekeeping unit occupied by one or more persons.

GENERALLY ACCEPTED STANDARD -- A specification, code, rule, guide or procedure in the field of construction or related thereto, recognized and accepted as authoritative.

GRADE, FINISHED -- Natural surface of the ground or the surface of ground after completion of any change in contour, abutting building or premises.

HABITABLE SPACE -- Space occupied by one or more persons for living, sleeping, eating or cooking. Kitchenettes shall not be deemed to be "habitable space." See definitions of "nonhabitable space," "public space" and "exit."

INFESTATION -- The presence, within or contiguous to a dwelling, dwelling unit, lodging house, lodging unit or premises, of insects, rodents, vermin or other pests.

KITCHEN -- Space, 60 square feet or more in floor area, with a minimum width of five feet, used for cooking or preparation of food.

KITCHENETTE -- Space, less than 60 square feet in floor area, used for cooking or preparation of food.

LODGING HOUSE -- A multiple residence used primarily for purpose of furnishing lodging, with or without meals, for compensation.

LODGING UNIT -- A room or group of rooms forming a single habitable unit, used or intended to be used for lodging.

MIXED OCCUPANCY -- Occupancy of a building in part for residential use and in part for some other use not accessory thereto.

MULTIPLE RESIDENCE -- A building:

A. Containing three or more dwelling units;

B. Containing living, sanitary, and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families;

C. With one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants;

D. With sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses; or

E. Used or occupied as a convalescent, old-age or nursing home, but not including private or public hospitals or public institutions.

NONHABITABLE SPACE -- Space used as kitchenettes, pantries, bath, toilet, laundry, rest, dressing, locker, storage, utility, heater and boiler rooms, closets and other spaces for service and maintenance of the building and those spaces used for access and vertical travel between stories. See definitions of "habitable space," "public space" and "exit."

PLUMBING SYSTEM -- The water supply system, the drainage system, the vent system and fixtures and traps, including their respective connections, devices and appurtenances within the property lines of the premises.

POTABLE WATER -- Water which is approved for drinking, culinary and domestic purposes.

PUBLIC SPACE -- Space within a residential building for public use, such as lobbies, lounges, reception hall, meeting, lecture and recreation rooms, banquet and dining rooms and their kitchens and swimming pools.

SEWAGE -- Liquid waste containing animal or vegetable matter in suspension or solution, and which may include industrial wastes and liquids containing chemicals.

STRUCTURE -- An assembly of materials, forming a construction framed of component structural parts for occupancy or use, including buildings.

TOILET ROOM -- Enclosed space containing one or more water closets, which may also contain one or more lavatories, urinals and other plumbing fixtures. See definition of "bathroom."

VENTILATION -- Supply and removal of air to and from a space by natural or mechanical means.

VENTILATION, MECHANICAL -- Ventilation by power-driven devices.

VENTILATION, NATURAL -- Ventilation by opening to outer air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

ARTICLE II, Space Requirements

§ 149-8. General requirements.

A. Buildings occupied in whole or in part as defined in this Part 1 shall comply with the requirement hereinafter set forth concerning occupancy, size, light and ventilation in order to provide safe and healthful environment.

B. The term "accessory use" shall have a uniform meaning and shall apply in the same manner and under the same conditions or restrictions to all residential buildings.

§ 149-9. Occupancy classification of buildings.

Buildings, for the purpose of this Part 1, shall be classified in respect to their occupancies as follows:

A. One- and-two family dwellings.

(1) Buildings containing one or two dwelling units with less than four lodgers residing with a family in either one of such dwelling units.

B. Multiple residences.

(1) Buildings containing one or two dwelling units with more than four lodgers with a family in either one of such dwelling units.

(2) Buildings containing three or more dwelling units.

(3) Apartment houses and apartment hotels.

(4) Lodging houses.

(5) Buildings with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house or for similar uses; garden apartments.

C. Accessory structures. Garages, carports and similar type structures on residential premises.

§ 149-10. Maximum occupancy.

A. In dwelling units, the maximum number of occupants shall be limited to the number determined on the basis of the floor areas of habitable rooms, other than kitchens, as follows:

(1) One occupant per room having floor area of at least 80 but less than 120 square feet;

(2) Two occupants per room having floor area of at least 120 but less than 180 square feet; and

(3) Three occupants per room having floor area of 180 or more square feet.

B. In lodging units, the maximum number of occupants shall be limited to the number determined on the same basis as for dwelling units.

C. In buildings occupied as clubs, dormitories, sorority or fraternity houses and providing sleeping accommodations for more than five persons, the maximum number of occupants so accommodated in any habitable room shall be limited to the number determined on the basis of the floor area, in square feet, of the room divided by 50 square feet per occupant.

§ 149-11. Prohibited uses.

A. It shall be prohibited to use for sleeping purposes any kitchen, nonhabitable space or public space.

B. It shall be prohibited, in lodging houses, to use for dining purposes any communal kitchen containing less than 100 square feet of floor area, or any nonhabitable space or public space other than dining space.

C. It shall be prohibited to prepare or eat meals in lodging units.

D. It shall be prohibited to use any cellar space as habitable space.

§ 149-12. Habitable space.

A. Size.

(1) Habitable space shall have a minimum ceiling height of seven feet, six inches over 50% of the floor area; and the floor area where the ceiling height is less than five feet shall not be considered in computing floor area.

(2) A dwelling unit shall contain at least one habitable room having a minimum of 150 square feet of floor area and a minimum horizontal dimension of 10 feet.

(3) Kitchens shall have a minimum of 60 square feet of floor area, and other habitable spaces shall contain not less than 80 square feet of floor area and shall have a minimum horizontal dimension of seven feet.

(4) Every alcove less than 60 square feet in area, except a cooking space or foyer, shall be deemed to be part of a habitable room. The area of the opening in the dividing partition between the alcove and the room shall be at least 80% of the wall area of such partition, measured on the alcove side, but not less than 40 square feet. The depth of such alcove shall not exceed half its width. The floor area of the alcove shall be added to the floor area of the room in determining light and ventilation requirements for the room. An alcove with an area of 60 square feet or more, but less than the required area of a habitable room, shall be separately lighted and ventilated as required for habitable space.

B. Basements. Basements shall not be deemed habitable space where required windows are located only on one wall and the depth of the basement space exceeds four times its clear height.

C. Light and ventilation.

(1) Habitable space shall be provided with:

(a) Natural light through one or more windows, skylight, transparent or translucent panels, or any combinations thereof, that face directly on legal open spaces at least six inches above the adjoining finished grade or are above the roof. The amount of light shall be equivalent to that transmitted through clear glass equal in area to 10% of the floor area of the habitable space.

(b) Artificial light.

(c) Natural ventilation through openable parts of windows or other openings in exterior walls that face legal open spaces above the adjoining finished grade or above a roof, or through openable parts of skylights, providing total clear ventilation area equal to not less than 5%) of the total floor area of each habitable space.

(2) Habitable space may also be provided with mechanical ventilation, in addition to natural

ventilation.

D. Miscellaneous requirements.

(1) Dwelling units shall be separated from each other and from other spaces outside the dwelling unit.

(2) Sleeping rooms within dwellings units shall be separated from each other and from other spaces outside the sleeping rooms to provide privacy.

(3) Lodging units shall be separated from each other and from other spaces outside the lodging units.

(4) A communal kitchen or dining room in a lodging house shall be accessible to the occupants sharing such kitchen or dining room without going through a dwelling unit or lodging unit of another occupant.

§ 149-13. Public space.

A. Height. Public space shall have a minimum height of seven feet, six inches measured from finished floor to finished ceiling.

B. Light and ventilation.

(1) Public spaces shall be provided with artificial light.

(2) In public stairs, stairways and passageways artificial light shall be electric lighting available at all times so as to afford safe passage for occupants and users. Such lighting shall conform to the following:

(a) A sufficient number of fixtures shall be provided so that the distance between fixtures is not more than 30 feet and so that no wall is more than 15 feet distant from a fixture.

(b) Incandescent lighting shall be based on not less than 1/4 watt per square foot of floor area, except that each fixture shall have a lamp or lamps with a total of not less than 25 watts.

(c) Fluorescent lighting shall be based on not less than 1/10 watt per square foot of floor area, except that fixture shall have a lamp or lamps of a total of not less than 15 watts.

(d) Where under these formulas the calculated wattage does not correspond to that of a standard lamp, the next larger size shall be used.

(e) Public spaces shall be provided with either natural ventilation, conforming to the requirements for habitable space, or with mechanical ventilation.

§ 149-14. Nonhabitable space.

A. Height. Nonhabitable space, except crawl spaces and attics, in multiple residences shall have a minimum height of seven feet measured from floor to ceiling.

B. Toilet rooms and bathrooms.

(1) Toilet rooms and bathrooms in one- and two-family dwellings shall have provisions for privacy.

(2) Toilet rooms and bathrooms for dwelling units in multiple residences shall be located within the dwelling units and shall be accessible from any sleeping room without passing through any other sleeping room.

(3) Unless located within dwelling units or directly connected with sleeping room, toilet rooms and bathrooms in multiple residences shall be provided in each story containing habitable space, and shall be accessible thereto.

(4) Toilet rooms for employees in multiple residences shall be in separate rooms for each sex where there are five or more employees, shall be readily accessible to such employees and shall not open directly into any public kitchen or other public space used for the cooking or preparation of food.

(5) In one- and two-family dwellings, bathrooms and toilet rooms shall be provided with floors of moisture-resistant material.

(6) In multiple residences, floors of bathrooms, toilet rooms and similar spaces shall be waterproof; such waterproofing shall extend six inches or more above floors except at doors, so that floors can be flushed or washed without leaking.

C. Light and ventilation.

(1) Kitchenettes, bathrooms and toilet rooms shall be provided with artificial light appropriate for the use of such rooms.

(2) Laundry rooms, furnace rooms and similar nonhabitable space shall be provided with artificial light appropriate for the intended use of such rooms.

(3) Stairs shall be provided with artificial light to allow safe ascent or descent.

(4) Kitchenettes, bathrooms and toilet rooms shall be provided with ventilation in

accordance with either of the following:

(a) Natural ventilation as required for habitable space, except that such openable areas shall be not less than 1 1/2 square feet for bathrooms or toilet rooms and not less than three square feet for kitchenettes; or

(b) Mechanical ventilation exhausting not less than 25 cfm for bathrooms and toilet rooms and not less than 100 cfm for kitchenettes.

(5) Spaces in multiple residences which contain central heat-producing, air-conditioning and other equipment shall be ventilated to the outer air, and air from these spaces shall not be recirculated to other parts of the building.

(6) Ventilation shall be provided in unheated attics, spaces below flat roofs and crawl spaces. Location and net areas of ventilation openings shall be such as to minimize deterioration of structural members from condensation or other causes, in conformity with generally accepted standards.

§ 149-15. Access and vertical travel between stories.

A. Stairs, both interior and exterior, shall be of sufficient width in conformity with generally accepted standards so as to serve the occupants.

B. Railings shall be provided on open portions of stairs, balconies, landings and stairwells.

§ 149-16. Exits.

A. Safe, continuous and unobstructed exit shall be provided from the interior of the building to the exterior at street or grade level.

B. Exits shall be arranged, constructed and proportioned so that occupants may escape safely from the building in case of emergency.

C. In one- and two-family dwellings, in addition to a primary exit from the building, there shall be provided a secondary exit or, in lieu thereof, one or more exit openings for emergency use.

D. In multiple residences, approved exits shall be provided.

ARTICLE III, Structural Requirements

§ 149-17. General requirements.

A. Buildings and parts thereof shall be maintained so as be capable of sustaining their own weight and the loads to which they may be subject.

B. Buildings shall be maintained so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or of any structural part.

C. Buildings shall be maintained so that protection is provided for all structural members which may become structurally unsound if left unprotected. Causes of such deterioration include, among others, action of freezing and thawing, dampness, corrosion, wetting and drying and termites and other destructive insects.

D. Buildings built in soil which is water-bearing at any season of the year shall be maintained so that ground and surface water will not penetrate into habitable spaces, basements and cellars.

§ 149-18. Exterior protection.

A. Foundation walls shall be maintained so as to be structurally sound and to prevent entrance of moisture, termites and vermin. Such protection shall consist of shoring where necessary, subsoil drains at footings, properly drained in manner approved by the City Engineer, grouting of masonry cracks, waterproofing of walls and joists and other suitable means.

B. Exterior walls and wall components shall be maintained so as to prevent deterioration due to the elements and destructive insects. Such maintenance shall consist of painting, installation or repair of walls, copings and flashings, waterproofing of joints, waterproof coatings, installation or repair of termite shields, poison treatment of soil or other suitable means.

C. Roofing shall be maintained in watertight condition so as to prevent leakage into the building. Such maintenance shall consist of repairs of roofing, flashings, waterproof coatings or other suitable means.

§ 149-19. Interior protection.

A. Crawl spaces shall be maintained free of moisture and the flow of air from such spaces into walls above shall be effectively barred so as to prevent deterioration of structural members. Such provisions shall consist of maintenance of openings in foundation walls to provide adequate circulation of air in the crawl space, covering the ground in the crawl space with a moisture barrier, installation of drains outside the structure if the crawl space is below

surrounding grade, blocking openings in stub walls to prevent flow of air and moisture into walls, frequent destruction of termite tubes from the soil to wood floor members above, poison treatment of soil and other suitable means.

B. Structural members shall be maintained so as to be structurally sound. Such protection shall consist of shoring, reinforcement or repair where necessary, frequent destruction of termite tubes or other appropriate means.

C. Chimneys and flues shall be maintained so as to be structurally sound and to prevent leakage of gases into the structure. Such maintenance shall consist of clearing flue stoppages, sealing open joints, repairing masonry where necessary and other suitable means.

D. Ceilings and walls shall be maintained so that parts which become loose or defective do not constitute a hazard to occupants. Such maintenance shall consist of removing and replacing loose or defective sections.

E. Toilet room and bathroom floors shall be maintained so as to prevent leakage of water through the floor, under normal conditions of use and floor washing, and resultant deterioration or defects in structural members and ceilings below. Maintenance shall consist of repairs which effectively provide the moisture and waterproof qualities required for the particular floor.

ARTICLE IV, Fire-Safety Requirements

§ 149-20. Prohibited accumulations and storage.

It shall be prohibited to:

A. Accumulate or store on residential premises, except in approved locations, any highly flammable or explosive matter, such as paints, volatile oils, cleaning fluids and similar materials or any combustible refuse liable to spontaneous combustion, such as waste paper, boxes, rags or similar materials.

B. Accumulate or store materials on fire escapes or stairs, in stairways or passageways, at door or windows or in any other location where in the event of fire such material may obstruct egress of occupants or interfere with fire-fighting operations.

§ 149-21. Prevention of the spread of fire.

A. Walls and ceilings shall be maintained free from cracks and openings which would permit

flames or excessive heat to enter the concealed space.

B. In buildings of mixed occupancy, nonresidential space shall be separated from residential space by approved fire separations which will retard the spread of fire.

C. Garages in or attached to a residential building shall be separated from other spaces in the building by approved fire separations which will retard the spread of fire and prevent flammable or toxic vapors originating within the garage from being transmitted to other parts of the building.

§ 149-22. Interior finishes, trim and decorative materials.

Interior finish materials for acoustical correction, surface insulation and decorative treatment on the surfaces of walls and ceilings and interior trim shall be of materials that will not, in burning, give off excessive amounts of smoke or objectionable gases.

§ 149-23. Fireplaces.

A. Fireplaces and similar construction used or intended to be used for burning fuel in open fires shall be connected to approved chimneys and shall be installed so that nearby or adjacent combustible material and structural members shall not be heated to unsafe temperatures.

B. Hearths and linings or other parts of fireplaces exposed directly to flame shall be of materials that will not melt, disintegrate, spall or shatter at high temperatures.

C. Wood mantels and trim on fireplaces shall be placed and attached so that they cannot be heated to unsafe temperatures or ignited by sparks or embers from the fire.

ARTICLE V, Equipment Requirements

§ 149-24. General requirements.

A. Plumbing, heating, electrical, ventilating, air-conditioning, refrigerating, cooking, fire protection and radiation-production equipment, elevators, dumbwaiters, escalators and other mechanical additions, installations or systems for the use of the building shall be installed, located and maintained so that under normal conditions of use such equipment and systems will not be a danger to health or welfare, a danger because of structural defects or a source of ignition, or a radiation hazard and will not create excessive noise or otherwise become a

nuisance. Equipment and systems include, but are not limited to, apparatus, devices, fixtures, piping, pipe hangers, pipe covering, wiring, fittings and materials used as part of or in connection with such installations.

B. Equipment and systems subject to damage from freezing shall be adequately protected against freezing.

C. Moving parts of equipment which may be a potential hazard shall be guarded to protect against accidental contact.

§ 149-25. Plumbing.

A. General requirements.

(1) Plumbing systems shall be maintained in sanitary and serviceable condition.

(2) Plumbing systems shall be maintained so as not to weaken structural members nor cause damage or deterioration to any part of the building through fixture usage.

B. Water supply.

(1) Potable water from an approved source shall be available at all times in residential buildings. The domestic water supply system of the building shall be connected to such approved source and shall not be subject to contamination. When supplied from a public source, the potable water supply system shall not be connected to private or unsafe water supplies.

(2) Water supply systems shall be installed and maintained so as to provide at all times a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily and without undue noise under all normal conditions of use.

(3) Water supply systems shall be installed and maintained so that water used for purposes of cooling or heating shall not be reintroduced into the domestic water supply system nor be distributed through such equipment to plumbing fixtures.

(4) Hot-water supply systems shall be provided with safety devices arranged to relieve hazardous pressures and excessive temperatures.

C. Sewage draining system.

(1) Plumbing fixtures shall be drained to a sewage drainage system, and such system shall be connected to a public sewer or to an adequate and approved system of sewage

disposal.

(2) Where a public sewer is not available, a system shall be provided to receive and dispose of sewage without health hazard or nuisance.

(3) Sewage or other waste which may be deleterious to surface or subsurface waters shall not be discharged into the ground or into a waterway unless it has first been rendered harmless through subjection to treatment in conformity with generally accepted standards.

(4) Substances which will clog the pipes, produce explosive mixtures, destroy the pipes or their joints or interfere unduly with the sewage disposal process shall not be discharged into the building drainage system unless it is provided with approved devices suitable for intercepting such substances.

(5) Each fixture directly connected to the sewage drainage system shall be equipped with a water seal trap.

(6) Adequate cleanouts shall be provided and maintained so that the pipes may be readily cleaned.

(7) The drainage system and its attendant vent piping shall be maintained so as to provide adequate circulation of air in all pipes in order that siphonage, aspiration or pressure will not cause a loss of trap seal under ordinary conditions of use.

(8) Each vent terminal to the outer air shall be installed and maintained so as to minimize the possibilities of clogging, frost closure, the return of foul air to the building or the creation of a nuisance to adjacent premises.

(9) Drains provided for fixtures, devices, appliances or apparatus containing food, water, sterile goods or similar materials shall be equipped with air brakes adequate to prevent contamination of such contents from any possible backup of sewage through the direct or indirect drainage piping.

D. Storm drainage.

(1) Roofs and paved areas, including yards and courts, shall be drained. Storm drainage shall be conveyed to an adequate and approved system of storm water disposal where available. Storm drains shall be discharged in such manner that water will not flow onto sidewalks.

(2) Where a drainage system may be subject to backwater, suitable provision shall be made to prevent its overflow into the building.

(3) Leaders and gutters, if used, shall be constructed of noncombustible material.

E. Plumbing facilities.

(1) Buildings and portions thereof shall be provided with plumbing systems designed to dispose of the sewage from all fixtures and to furnish cold water to every water closet and urinal, and hot and cold water to every sink, lavatory, bathtub and shower required therein. In multiple residences, hot water shall be furnished at 130° F. to 140° F. temperature range from 6:00 a.m. to midnight.

(2) There shall be provided within each dwelling unit plumbing fixtures consisting of at least:

(a) One kitchen sink.

(b) One water closet.

(c) One bathtub or shower.

(d) One lavatory.

(3) Where multiple residences contain sleeping accommodations arranged as individual rooms or suites, for each multiple of six sleeping rooms or fraction thereof there shall be provided plumbing fixtures consisting at at least:

(a) One water closet.

(b) One bathtub or shower.

(c) One lavatory.

(4) Where multiple residences contain sleeping accommodations arranged as a dormitory, for each multiple of 15 persons or fraction thereof so accommodated there shall be provided and located adjacent thereto plumbing fixtures consisting of at least:

(a) One water closet.

(b) One bathtub or shower.

(c) One lavatory.

(5) Urinals may be substituted in men's toilet rooms for not more than 1/3 of the required number of water closets.

(6) Privies, privy vaults and outhouses shall be prohibited on residential premises.

F. Plumbing fixtures.

(1) Plumbing fixtures shall be made of smooth nonabsorbent material and shall be free from concealed fouling surfaces.

(2) Plumbing fixtures shall be so spaced as to be reasonably accessible for their intended use.

(3) Plumbing fixtures shall be located in spaces that are accessible, lighted and ventilated.

G. Swimming pools.

(1) Water supply used for filling or for cleaning of the pool shall be clean. Water supply shall be protected against potential pollution from all sources, including cross-connection and backflow.

(2) Drains shall be provided so that the pool can be safely and adequately drained. Drains shall be provided in floors surrounding the swimming pool and arranged so that water from such areas will drain without entering the pool.

(3) Filtering, sterilizing and auxiliary equipment, where required, shall be adequate to maintain the sanitary quality of water during each period the pool is in use. Equipment containing gases or disinfectants capable of giving off irritating, toxic or flammable fumes shall be located in ventilated rooms.

(4) The installation shall be arranged and maintained to prevent dirt, sand or other foreign matter from entering the bathing area.

H. Water supply tanks.

(1) Water tanks shall be installed and maintained so as to be watertight, verminproof, rodentproof, resistant to corrosion and capable of withstanding the working pressures under normal operation.

(2) Supports for tanks shall be of noncombustible construction.

(3) Tanks and their supports shall not be used to support equipment or structures other than for tank use, except where specially designed for such other use.

(4) Means for emptying water supply tanks shall be provided and maintained in proper working condition.

(5) Potable water supply tanks for domestic supply and standpipe or automatic sprinkler systems shall be installed and maintained to furnish water in sufficient quantity and pressure for such systems.

§ 149-26. Fuel gas.

A. General requirements.

(1) Fuel gas-piping systems shall be installed and maintained so as to remain gastight, safe and operative under conditions of use.

(2) Fuel gas-piping systems shall provide a supply of gas sufficient to meet the maximum expected demand of the installed gas-burning appliances connected thereto.

B. Shutoff valves.

(1) Gas-piping systems shall have at least one accessible means for shutting off all gas supply, and such means shall be maintained in good operating condition.

(2) An easily accessible shutoff valve or cock shall be provided in the piping in close proximity to and ahead of every outlet for gas appliance.

C. Service equipment for gas supplied from utility mains. Gas services, gas meters and gas pressure regulators shall be located so that they are protected from damage.

D. Gas refrigerators and ranges. Gas refrigerators and ranges shall be installed with clearance for ventilation and shall be maintained in good operating condition.

E. High-pressure gas. Any service connection supplying gas at a pressure in excess of one psi gauge shall be provided with a device to reduce such pressure to not more than 1/2 psi gauge prior to entering the meter, except where such service supplies equipment using gas at high pressures.

F. Liquefied petroleum gas.

(1) Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings.

(2) Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil.

(3) Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to equipment.

(4) Containers shall be designed, stored and located so as not to be a hazard to the premises served or to the surrounding property.

(5) Systems shall be provided with safety devices to relieve excessive pressures and shall be

arranged so that the discharge terminates at a safe location.

(6) Systems shall have at least one accessible means for shutting off the gas. Such means shall be located outside the building and shall be maintained in good operating condition.

§ 149-27. Heating.

A. General requirements.

(1) Residential buildings intended for occupancy between the first day of October and the first day of May of the following year shall be provided with heating equipment designed to maintain a temperature of not less than 70° F. at a distance of three feet and more from exterior walls and at a level of five feet above the floor in habitable spaces, kitchenettes, bathrooms and toilet rooms. The capability of the heating equipment to maintain such indoor temperature shall be based on the average of the recorded annual minimum outside temperatures for the locality.

(2) In multiple residences, adequate heat shall be provided to maintain the indoor temperature in habitable spaces, kitchenettes, bathrooms and toilet rooms, at 70° F. from 6:00 a.m. to 11:00 p.m. when the outside temperature falls below 55° F.

B. Smoke control. Fuel-burning heat-producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust, particles, odors or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety or property of any person.

C. Warm air heating. Ducts and other air-handling equipment used for heating shall conform to the requirements of such equipment used for ventilating purposes.

D. Prohibited locations for heat-producing equipment. Fuel-burning water heaters shall not be located in sleeping rooms, bathrooms or toilet rooms.

E. Fuel supply connection. Fuel-burning equipment shall be permanently fastened and connected in place. Fuel supply connection to such equipment shall be made with pipe or tubing of solid metal.

F. Installation and clearance. Where heat-producing equipment is installed on or adjacent to combustible materials, the location, insulation, clearance and the control of the equipment shall be such that the temperature on the surface of the combustible materials will not exceed a safe temperature.

G. Air supply.

(1) Direct-fired heat-producing equipment and the enclosure in which it is located shall be provided with a supply of air adequate both for complete combustion at the rated gross output of the equipment and for the ventilation of the enclosure to prevent the accumulation of heat.

(2) Rooms containing fuel-burning equipment shall have such air supply provided by means of one or more openings to the exterior or by means of fixed openings to interior spaces which open to the exterior.

H. Removal of products of combustion.

(1) Equipment for burning solid or liquid fuel shall be connected to suitable chimneys or flues and shall not be connected to gas vents. Unvented heaters burning liquid fuel shall be prohibited.

(2) Fuel-burning space heaters located in sleeping rooms or rooms normally kept closed shall be connected to a suitable chimney, flue or gas vent.

(3) Gas-fired equipment shall be connected to a suitable chimney, flue or gas vent when the discharge of products of combustion into the space where the equipment is installed would be a hazard.

I. Safety devices.

(1) Equipment capable of developing hazardous pressures or temperatures shall be provided with means to relieve safely such pressures and temperatures.

(2) Controls for the safe operation of automatically operated heat-producing equipment shall be provided to function as follows:

(a) When failure or interruption of flames or ignition occurs, the fuel supply shall be cut off.

(b) When a predetermined temperature or pressure is exceeded, the input of additional heat shall be prevented or reduced to a safe rate.

(c) When the water level in a steam boiler drops below a predetermined level, the fuel supply shall be cut off.

(d) When failure or interruption of pilot light or main burner of liquefied petroleum gas equipment occurs, the fuel supply to each pilot light and main burner shall be cut off.

J. Heating of garages. Fuel-burning equipment for garages servicing multiple residences shall be located in heater rooms, except that equipment burning gas or liquid fuel, located in the vehicle storage space, shall be permitted in stories at or above grade where elevated so as not

to be exposed to possible accumulation of flammable gases.

§ 149-28. Chimneys, flues and gas vents.

A. General requirements.

(1) Chimneys, flues, gas vents and their supports shall be installed and maintained so as to be structurally safe, durable, smoketight, noncombustible and capable of withstanding the action of flue gases without softening, cracking, corroding or spalling.

(2) Such facilities shall effectively convey the products of combustion to the outer air.

(3) Masonry chimneys, except approved prefabricated chimneys, shall have noncombustible foundations.

(4) Flue linings shall be capable of withstanding the action of flue gas without softening, cracking, corroding or spalling at the temperature to which they will be subjected.

(5) Openings for smoke pipes or gas vent connections shall be provided with means for easy connection without restriction of the flue.

(6) No flue shall have smoke pipe or gas vent connections in more than one story of a building.

(7) Fuel-burning equipment and fireplaces located in different tenancies shall not be connected to the same flue.

B. Fire safety. Chimneys, flues and gas vents shall be installed and maintained so that under conditions of use the temperature of any combustible material adjacent thereto, insulated therefrom or in contact therewith, does not exceed a safe temperature.

C. Spark arresters. A chimney or flue connected to an incinerator and a chimney or flue which may emit sparks shall be provided with a spark arrester of noncombustible construction. Spark arresters shall have sufficient total clear area to permit unrestricted passage of flue gases. Openings in spark arresters shall be of such size as to prevent passage of embers and to minimize clogging by soot.

§ 149-29. Incinerators.

A. General requirements.

(1) Incinerators shall be of adequate capacity for the intended use.

(2) Flue-fed incinerators shall be equipped with means for burning auxiliary fuel in sufficient quantity to assure complete combustion of refuse.

(3) A flue serving an incinerator shall be provided with a substantially constructed spark arrester.

(4) Incinerators shall be connected to a suitable noncombustible chimney, smokestack or flue.

(5) Connections to incinerators shall provide free passage of refuse without clogging.

B. Service openings.

(1) Service openings shall be readily accessible to the building occupants.

(2) Durable signs with plainly legible letters prohibiting disposal of highly flammable substances in incinerators shall be provided near service openings.

§ 149-30. Electrical.

A. General requirements.

(1) Electrical wiring and equipment shall be installed in conformity with generally accepted standards and maintained so as not to be a potential source of ignition of combustible material or a potential source of electrical hazards.

(2) Electrical wiring and equipment shall be firmly secured to the surface on which it is mounted.

(3) Electrical wiring and equipment installed in damp or wet locations or where exposed to explosive or flammable gases or to excessive temperatures shall be of a type approved for the purpose and location.

(4) Electrical wiring and equipment shall be protected against excessive current by properly rated overcurrent devices.

(5) Electrical wiring and equipment shall be grounded or otherwise protected by insulation, isolation or guarding so as to minimize the danger of high voltages from lightning or other causes.

(6) Electrical equipment which, in ordinary operation, produces arcs or sparks shall be enclosed, unless separated and isolated from all combustible materials.

(7) Service equipment and overcurrent protection devices shall be installed and maintained

in a readily accessible location.

B. Artificial lighting.

(1) Residential buildings and occupancies shall be wired for electricity, and lighting equipment shall be installed throughout to provide adequate illumination for the intended use of each space. Electric wiring systems shall be connected to an adequate source of supply.

(2) There shall be a switch or other means for controlling a light in each dwelling unit near the point of entrance to such unit.

C. Exit and directional signs.

(1) Exits in multiple dwellings shall be provided with exit and directional signs, visible from the approach to the exists, except that such signs shall not be required in those portions of a building which contain dwelling units only or in which exit from sleeping rooms is directly to the outside.

(2) Directional signs shall be provided at locations from which the exit doorway is not readily discernible.

(3) Such signs shall be worded in plainly legible block letters with the word EXIT for exit signs and the words TO EXIT with a suitable pointer or arrow indicating the direction of exit, for directional signs. Letters for signs shall be conspicuous, readily discernible and at least six inches high, except that for internally illuminated signs the height of such letters shall be at least 4 1/2 inches.

(4) Exit and directional signs shall be illuminated either externally or internally by electric lights and shall be kept illuminated at all times when the building is occupied.

§ 149-31. Cooking and refrigeration.

A. General requirements.

(1) Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment.

(2) Cooking and refrigeration equipment shall be maintained in good operating condition.

(3) Gas-burning cooking equipment shall be permanently fastened and connected in place. Gas supply connection to such equipment shall be made with pipe or tubing of solid metal.

(4) Solid fuel-burning cooking equipment shall be appropriately vented.

B. Communal cooking and dining facilities. Communal kitchens and dining rooms shall comply with the following requirements:

(1) Communal kitchens shall contain at least:

(a) One kitchen sink;

(b) One kitchen gas or electric stove equipped with an oven and not less than four top burners; and

(c) One electric or gas type refrigerator with adequate food storage capacity, but in no case less than eight (8) cubic feet nominal size.

(2) Dining space and eating facilities, where provided in the kitchen area, shall comply with the requirements for communal dining rooms.

(3) Communal dining rooms shall contain at least one dining chair and two linear feet of dining space for each occupant permitted in a dining room at any particular time.

§ 149-32. Air conditioning and mechanical ventilation in one- and two-family dwellings.

A. Exhaust air from a dwelling unit shall not be circulated to another dwelling unit.

B. Ducts shall be securely fastened in place and appropriately fire-stopped.

§ 149-33. Air conditioning and mechanical ventilation in multiple residences.

A. Refrigerants.

(1) Refrigerants that are highly flammable shall not be used in multiple residences.

(2) Direct systems using refrigerants that are flammable or toxic shall not be used for air-conditioning purposes.

B. Ventilating systems.

(1) Ventilating systems shall be installed and maintained so that the rapid spread of heat, flame or smoke through the system will be prevented and so that under conditions of use the temperature of any combustible material adjacent thereto or in contact therewith will not exceed a safe temperature.

(2) Stairways, passageways, exits, shafts, hoistways or attics shall not be used as plenum

chambers.

(3) Ducts shall be securely fastened in place and appropriately fire-stopped.

(4) Ducts and other air-handling equipment shall be of noncombustible material.

(5) Filters shall be installed and maintained so as not to constitute a fire or smoke hazard.

(6) Ducts passing through or located within combustible construction shall be separated from such construction by a clearance of at least 1/2 inch or by a noncombustible insulating material at least one to four inches thick.

(7) Air required for ventilation shall be taken from the exterior or shall be quality-controlled.

(8) Exhaust air from a dwelling unit or a space whose contents may emit odors, fumes or vapors shall not be circulated to other occupied spaces within the building.

C. Air intake and exhaust openings.

(1) Air intake and exhaust openings shall be installed, located and maintained so as not to constitute a hazard or nuisance and so as to prevent the possibility of fire, smoke, fumes or foreign matter from being drawn into the system.

(2) Ventilating systems shall be provided with adequate openings for incoming and outgoing air to obtain the required circulation. Intake openings shall provide air from an uncontaminated source.

(3) Where openings for mechanical exhaust are located in spaces that also contain flue-burning equipment, there shall be provided fixed intake openings from the exterior to supply sufficient air so that the fuel-burning equipment is not adversely affected.

(4) Exhaust openings shall be located so that the exhaust air will not create a nuisance.

D. Ventilation requirements.

(1) Enclosures or spaces where heat, gases, vapors or odors may accumulate and become a potential source of hazard or nuisance shall be provided with adequate means of ventilation to remove such excess.

(2) Public spaces shall be provided with means for obtaining air supply for the maximum number of persons for which such spaces are designed.

E. Safety controls.

(1) Manually operated controls shall be provided to stop the operation of all central fan

equipment. Such controls shall be conspicuously identified and in readily accessible locations outside the fan room.

(2) Every system using recirculated air and serving an assembly space or more than one fire area or more than one story of a building shall be provided with controls arranged so that under abnormal rise in temperature of the air in the system the fans causing normal circulation shall stop and require manual restart.

(3) Every system for ventilating an assembly space shall be provided with an emergency switch conveniently located and with a durable sign giving instructions for shutting down the system in case of fire.

§ 149-34. Fuel oil.

A. General requirements. Fuel oil shall be received, stored and conveyed by means of fixed liquidtight equipment.

B. Storage tanks.

(1) Tanks shall be provided with means for venting.

(2) Tanks shall be installed and maintained so as not to be a hazard to the premises served or the surrounding property.

C. Piping.

(1) Automatically operated boilers and furnaces using fuel oil shall be provided with remote control to stop the flow of oil during fire or other emergency.

(2) Filling, emptying and venting of tanks shall be by means of fixed piping. Pipes to underground tanks shall be pitched toward tanks. Terminals of fill and vent pipes shall be located outside buildings at a safe distance from building openings.

§ 149-35. Fire protection in multiple residences.

A. Fire alarm systems. Required fire alarm systems shall be maintained in proper operating condition at all times.

B. Sprinkler equipment.

(1) Required sprinkler equipment shall be maintained in proper operating condition at all times. Storage of materials shall cause minimum interference to effective discharge of

water.

(2) Valves controlling water supply to sprinklers shall be secure in the open position.

(3) Sprinkler heads shall be maintained free of corrosion and paint.

C. Standpipe systems.

(1) Standpipe systems shall be maintained in proper operating condition at all times.

(2) Gate valves at hose stations shall be maintained tight against leaks.

(3) Hoses shall be in proper position ready for operation, dry and free of deterioration.

D. Portable extinguishers.

(1) Each oil burner for boiler, furnace or central hot-water heaters shall be provided with an approved hand fire extinguisher or two rounded-bottom pails filled with sand.

(2) Portable extinguishers required for fire protection shall be in their designated locations and in a condition which will permit efficient operation without delay.

§ 149-36. Elevators, dumbwaiters and escalators in multiple residences.

A. Elevators, dumbwaiters and escalators shall be maintained so as to be free from physical and fire hazards.

B. Elevators and power-operated dumbwaiter cars shall be provided with durable signs in conspicuous locations on which the rated capacity shall be indicated.

C. Elevator cars shall be provided with approved means for transmitting a signal outside the hoistway in case of emergency.

D. Hoistways and pits shall be maintained free of refuse.

E. Machine rooms shall be maintained free of oil and grease and shall not be used for storage of articles or materials unnecessary for the maintenance of the elevator or dumbwaiter. Flammable liquids shall not be kept in such rooms.

F. No person shall at any time make any required safety device or electrical protective device inoperative, except where necessary during tests, inspections or maintenance.

§ 149-37. General requirements.

Residential premises shall be maintained in conformity with the provisions of this Part 1 so as to assure the desirable residential character of the property.

§ 149-38. Open areas.

A. Surface and subsurface water shall be appropriately drained to protect building and structures and to prevent development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm water sewers or other satisfactory drainage systems shall be utilized where deemed necessary.

B. Fences and other minor constructions shall be maintained in safe and substantial condition.

C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions.

D. Yards and courts shall be kept clean and free of physical hazards.

E. Heavy undergrowths and accumulations of plant growth which are noxious or detrimental to health shall be eliminated.

§ 149-39. Building and structures.

A. Exterior wood surfaces of buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.

B. Floors, walls, ceilings, furnishings and fixtures of residential buildings shall be maintained in clean and sanitary condition.

C. Accessory structures shall be maintained so as to be free of conditions detrimental to safety or health.

§ 149-40. Infestation and screening.

A. Grounds, buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform with generally accepted practice.

B. Where the potential for rodent or vermin infestation exists, windows and other openings in

basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

C. From May 1 to October 1, entrances to residential buildings shall be provided with self-closing type devices or screens, and windows and other openings used for ventilation shall be appropriately screened. Screens shall not be required in rooms located sufficiently high in the upper stories of multiple residences as to be free mosquitoes, flies and other flying insects.

§ 149-41. Garbage and refuse.

A. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.

B. In multiple residences it shall be prohibited to store or accumulate garbage or refuse in public halls and stairways.

Part 2, Mobile Homes and Mobile Home Courts

ARTICLE VII, General Provisions

§ 149-42. Title.

Part 2 shall be known as the "Housing Standards Applicable to Mobile Homes and Mobile Home Courts."

§ 149-43. Purpose.

The purpose of Part 2 of this chapter is to provide basic and uniform standards, in terms of performance objectives implemented by specific requirements governing the construction, occupancy and maintenance of mobile homes and mobile home courts, and establishing reasonable safeguards for the safety, health and welfare of the occupants and users thereof.

§ 149-44. Scope.

This Part 2 shall apply to mobile homes used or intended to be used for year-round dwelling

accommodations. A mobile home or trailer shall not be located anywhere in the city except in a trailer or tourist camp.

§ 149-45. Conflicts with other provisions.

A. The provisions of this Part 2 shall supersede local law, ordinances, codes or regulations to the extent that such law, ordinances, codes or regulations are inconsistent with the provisions of this Part 2; provided, however, that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance or regulation which is more restrictive or establishes a higher standard than those provided in this Part 2, and such more restrictive requirements or higher standard shall govern during the period in which it is in effect.

B. In a case where a provision of this Part 2 is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance or regulation adopted pursuant thereto or other local law, ordinance, code or regulation, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

§ 149-46. Reference to construction code and other laws.

Installations, alterations and repairs to mobile homes and mobile home courts, and materials, assemblies and equipment utilized in connection therewith, shall be reasonably safe to persons and property and shall comply with applicable statutes of the State of New York and orders, rules and regulations issued by authority thereof.

§ 149-47. Permit.

A. No person shall maintain or operate a mobile home court without first having obtained a permit.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

   (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 149-48. Definitions.

The following definitions shall apply in the interpretation of this Part 2:

ACCESSORY STRUCTURE -- A structure, the use of which is incidental to that of the mobile home and which is attached thereto or located on the same mobile lot. Accessory structures include, but are not limited to, portable, demountable or permanent enclosures, shade structures and carports.

APPROVED -- Approved by the City Engineer under the regulations of this chapter or approved by an authority designated by law or this chapter.

COMMUNITY AREA -- An area or space within a mobile home court, including fences, walls and other minor constructions, which is designed for joint use of occupants or restricted to

nonresidential use.

COMMUNITY STRUCTURE -- A structure within a mobile home court providing laundry, toilet, recreation, parking or other common facilities, including management office and storage buildings.

GENERALLY ACCEPTED STANDARD -- A specification, code, rule, guide or procedure in the field of construction of mobile homes or mobile home courts or related thereto, recognized and accepted as authoritative.

HABITABLE SPACE -- Space used for living, sleeping, eating or cooking purposes, excluding kitchenettes, bathrooms, toilet rooms, storage spaces and enclosures for equipment installations.

MECHANICAL SYSTEMS AND EQUIPMENT -- Mobile home electrical, plumbing, heating, ventilating, air-conditioning systems and equipment used for living purposes, including cooking and refrigeration equipment.

MOBILE HOME -- A movable living unit equipped with a chassis and provided with the following mechanical system and equipment: plumbing, heating, electrical, cooking and refrigeration (see "trailer").

MOBILE HOME COURT -- A parcel of land which has been planned and improved for the placement of two or more mobile homes. This definition includes the definition of a tourist camp, as it relates to trailers.

MOBILE HOME LOT -- A designated site within a mobile home court for the exclusive use of the occupants of a single mobile home.

MOBILE HOME STAND -- That part of an individual mobile home lot which has been reserved for the placement of the mobile home.

PATIO -- A paved outdoor living space designed to supplement the mobile home living area.

STORAGE LOCKER -- An enclosed space designed to provide auxiliary general storage space for an individual mobile home.

TRAILER (TRAVEL OR VACATION) -- A movable living unit equipped with a chassis but lacking any of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration (see "mobile home").

ARTICLE VIII, Mobile Homes

§ 149-49. General requirements.

A. Mobile home design and construction shall conform to generally accepted standards of the mobile home industry.

B. Materials, assemblies and equipment shall conform to generally accepted standards with respect to strength, durability, corrosion and fire resistance and other qualities recognized under such standards.

C. Habitable and nonhabitable space shall be arranged, located, lighted and ventilated so as to be appropriate for the intended use.

D. Mechanical systems and equipment shall be designed, installed and located so that under normal conditions of use such systems and equipment shall be capable of functioning safely and efficiently without being forced to operate beyond the design capacity.

E. Equipment requiring operation, inspection or maintenance shall be located so that easy access to it is provided.

F. Plumbing, heating and electrical systems shall be properly connected to approved sources of supply when a mobile home is in a fixed location and occupied for living purposes.

G. Mobile home units, including mechanical systems and equipment, shall be maintained and operated so as to be free of conditions conducive to personal injury or detrimental to health or welfare.

§ 149-50. Design and construction.

Mobile homes shall be structurally sound, effectively insulated and capable of sustaining designed dynamic loading.

A. Body and body framing.

(1) Body frames shall be designed and constructed as complete units. Wall and floor surfaces shall be firmly attached to body framing members. Doors and windows shall be securely framed in place. Framing and exterior skin shall be surface treated or painted to prevent deterioration.

(2) Roofs shall be pitched for proper drainage and shall be weathertight. Roof decks shall be of metal or noncombustible materials.

(3) Wood body framing shall be of seasoned lumber and shall provide adequate support and

rigidity. Members shall be joined so as to ensure permanent attachment to each other.

(4) Metal body framing shall be of structural, formed sections, riveted, bolted or welded together. Where different metals are joined, precaution shall be taken to prevent electrolytic action.

(5) Insulation of floors, roof and exterior walls shall consist of noncombustible materials.

(6) Ventilation shall be provided to minimize deterioration of structural members from condensation or other causes.

B. Chassis.

(1) The chassis shall extend substantially the length of the body and shall be capable of supporting the live and dead loads to which subjected.

(2) The tongue or drawbar shall be secured to the chassis and shall be capable of supporting the weight of the forward and of the mobile home. If designed to support gas cylinders, the tongue shall be of sufficient strength and shall permit secure attachment.

(3) The hitch shall be securely attached to the tongue so as to become an integral part of the tongue.

(4) Axles, spring assemblies and wheels shall be capable of supporting the calculated loads.

C. Placement. Placement of mobile home on mobile home stand by jacks or supports shall be such as to ensure the retention of the mobile home in a fixed position.

§ 149-51. Space requirements.

A. Maximum occupancy. The maximum number of occupants of mobile home shall be limited to the number determined on the basis of the square feet of floor area of habitable space, exclusive of habitable space used for cooking purposes, in accordance with the following:

(1) One hundred fifty square feet for one or two occupants.

(2) Two hundred fifty square feet for three occupants.

(3) Eighty square feet additional for each occupant thereafter.

B. Height of habitable space. Habitable space shall have a minimum ceiling height of seven feet over 50% of the floor area; and the floor area where the ceiling height is less than five feet shall not be considered in computing gross floor area.

C. Bathrooms and toilet rooms. Bathrooms and toilet rooms shall have provisions for privacy

and shall be provided with floors of moisture-resistant material.

D. Prohibited uses. Bathrooms, toilet rooms, kitchens and kitchenettes shall not be used for sleeping purposes.

E. Exits. A mobile home shall have a safe and unobstructed primary exit and an emergency exit located remote from the primary exit.

§ 149-52. Light and ventilation.

A. Habitable space. A mobile home shall be provided with natural light and ventilation adequate for the intended use of each habitable space in accordance with the following:

(1) Window area shall equal at least 10% of the floor area of each habitable space.

(2) Openable area of windows and other openings used for natural ventilation of each habitable space shall equal at least 45% of the required window area, or mechanical ventilation shall be provided.

B. Nonhabitable space. A mobile home shall be provided with light and ventilation adequate for the intended use of nonhabitable space in accordance with the following:

(1) Kitchenettes, bathrooms and toilet rooms shall be provided with light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions and the safe use of the space and the appliances, equipment and fixtures.

(2) Kitchenettes, bathrooms and toilet rooms shall be provided with natural ventilation consisting of openable areas of not less than 1 1/2 square feet for bathrooms and toilet rooms, and not less than three square feet for kitchenettes.

§ 149-53. Mechanical systems and equipment.

A. Plumbing.

(1) A mobile home shall contain the following:

(a) A kitchen sink.

(b) A flush-type water closet.

(c) A bathroom or shower.

(d) A lavatory.

(2) Hot and cold water supply shall be provided at kitchen sink, bathtub or shower and lavatory. Cold water shall be supplied to water closets.

(3) Plumbing systems shall be designed and arranged so as to facilitate connecting to approved exterior water supply and sewage disposal systems, provide adequate water supply to all plumbing fixtures and dispose of all liquid wastes therefrom.

B. Heating, ventilating and air conditioning.

(1) A mobile home shall contain:

(a) Space-heating equipment.

(b) Water-heating equipment.

(2) Areas allocated for installation of space-heating and water-heating equipment shall provide adequate clearance so that the surface of adjacent combustible materials will not exceed a safe temperature. Curtains and draperies shall not be used in such areas.

(3) Space- and water-heating units shall be of an approved type for installation in a mobile home. Fuel-burning water heaters and furnaces other than those having a sealed combustion space shall not be located in sleeping rooms, bathrooms and toilet rooms.

(4) Space-heating units shall have sufficient capacity to maintain a minimum inside temperature of 70° F. based on the average of the recorded annual minimum outside temperatures for the locality and shall be provided with manual or automatic temperature control devices.

(5) Water-heating units shall have sufficient capacity to deliver at each hot-water outlet an ample supply of water at a minimum temperature range of 130° F. to 140° F., and such units shall be provided with safety devices arranged to relieve hazardous pressures and excessive temperatures.

(6) Electrical space- and water-heating equipment shall be of an approved type and shall have adequate circuit protection devices.

(7) Gas and liquid fuel-burning equipment shall be specifically designed for the type of fuel used. Flues and vents shall be suitable for the type of fuel used and shall be installed so that the surface of adjacent combustible material will not exceed a safe temperature.

(8) Automatically operated heat-producing equipment using utility gas shall have a valve that will automatically shut off the flow of gas to the main burner when the pilot flame is extinguished.

(9) Automatically operated heat-producing equipment using liquefied petroleum gas shall

have a valve that will automatically shut off the flow of gas to the pilot light and main burner when the pilot flame is extinguished.

(10) Fuel-burning space- and water-heating units shall be vented. Other fuel-burning equipment shall be vented where the discharge of products of combustion into the space where the equipment is installed would be unsafe.

(11) Liquid fuel-burning equipment shall be vented and shall be provided with means to prevent spilling of fuel.

(12) Fuel storage containers and gas cylinders shall be mounted outside the mobile home or in a space that is vented to the outside and is vaportight to the inside.

(13) Warm air supply ducts and fittings shall be of noncombustible material.

(14) Return air ducts shall be of noncombustible material where exposed to temperatures which are unsafe for combustible materials.

(15) Return air grilles in doors and partitions shall be of a permanent nonclosable type. Openings for return air shall not be located in bathrooms, toilet rooms or kitchenettes.

(16) Mechanical ventilation, where required, shall exhaust air at rates not less than the following:

(a) For habitable space: two air changes per hour.

(b) For bathrooms and toilet rooms: 25 cfm.

(c) For kitchenettes: 100 cfm.

C. Electrical.

(1) A mobile home shall contain an electrical wiring system and service equipment.

(2) Electrical wiring shall have adequate capacity for designed lighting and appliance equipment. Individual circuits shall contain overload protection devices.

(3) At least one receptacle outlet shall be provided for each multiple of 12 linear feet of wall space or major fraction thereof in each habitable space and kitchenette. Bathrooms and toilet rooms shall have permanently installed lighting fixtures and switches located so as not to be an electrical hazard.

(4) Exterior equipment shall be weatherproofed to ensure protection of equipment from the elements. Service equipment shall have means for quick disconnection from the source of supply.

(5) Provision shall be made for grounding noncurrent-carrying metallic parts of the electrical system. Such grounding shall be common to one external supply point. Provision shall be made for exterior source grounding of the electrical system.

D. Cooking and refrigeration.

(1) A mobile home shall contain:

(a) Cooking equipment.

(b) Refrigeration equipment.

(2) Electrical cooking and refrigeration equipment shall be of an approved type for installation in a mobile home and shall have adequate circuit protection devices.

(3) Gas-burning cooking and refrigeration equipment shall be of an approved type for mobile home installation, and connections to rigid pipe shall be made with approved flexible metal gas appliance connectors.

(4) Fuel storage shall conform to the requirements of fuel storage for heating.

§ 149-54. Maintenance.

A mobile home shall be maintained in a safe and sanitary condition.

A. Interior. Floors, walls, ceilings, furnishings and fixtures shall be maintained in a clean and sanitary condition. Exits shall be maintained free of obstructions.

B. Garbage and refuse. Suitable containers shall be provided for the temporary storage of garbage and refuse within the mobile home.

C. Screening. From May 1 to October 1, entrances to the mobile home shall be provided with self-closing type devices or screens, and windows and other openings used for ventilation shall be appropriately screened.

D. Extermination. Mobile home shall be maintained free of insects, vermin and rodents. Extermination shall be effected in conformance with generally accepted practice.

E. Flammable materials. Flammable cleaning liquids and other flammable materials shall be stored in a safe, approved manner.

ARTICLE IX, Mobile Home Courts

§ 149-55. General requirements.

A. Design and construction.

(1) Design and construction of mobile home courts shall conform to applicable zoning and building regulations and generally accepted standards for mobile home courts.

(2) Open areas shall be adequate to assure privacy, natural light and ventilation for each mobile home and sufficient for essential outdoor uses.

B. Storm water drainage.

(1) Mobile home courts shall have adequate facilities for drainage of surface and subsurface water.

(2) Grading of the entire property shall be such as to facilitate the safe and efficient drainage of surface water.

(3) Gutters, culverts, catch basins, drain inlets, storm water sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary.

C. Surfacing. Walks, driveways and parking spaces shall be provided with paved and durable surfacing so as to provide safe and easy access under normal use and weather conditions.

D. Overhead wires. Wires installed above driveways and parking spaces shall have a clearance of not less than 18 feet.

E. Exterior lighting. Artificial lighting shall be provided to illuminate walks, driveways and parking spaces for the safe movement of pedestrians and vehicles at night.

F. Maintenance. Mobile home courts shall be properly maintained so as to assure the desirable residential character of the property.

G. Travel or vacation trailers. No occupied travel or vacation trailer or other form of temporary type living units shall be permitted in a mobile home court.

§ 149-56. Utilities.

A. Water, sewage, gas and electricity.

(1) A mobile home court shall be provided with the following utilities:

(a) A water supply system.

(b) A sewage disposal system.

(c) An electrical system.

(2) Utilities, including gas piping system where provided, shall have sufficient capacity to supply the requirements of the mobile home court and for the maximum number of connected mobile homes.

B. Water supply system. Water supply systems shall be designed to provide a sufficient supply of potable water, under adequate pressure, to outlets servicing mobile homes, community structures, drinking fountains, hose connections, hydrants, etc.

C. Private water system. Where a public water supply system is not available, an adequate private water supply system, approved by the State, County or City Health Department having jurisdiction, shall be provided.

D. Sewage disposal system.

(1) Sewage disposal systems shall provide each mobile home and community structures containing plumbing fixtures with an adequate and safe method of sewage disposal.

(2) No sewage from a plumbing system shall be disposed of into the waters of the State of New York, except where specially approved by the authority having jurisdiction, in accordance with Article 12 of the New York State Public Health Law.[EN(54)]

E. Private sewage disposal system. Where a public sewage disposal system is not available, an adequate private sewage disposal system, approved by the State, County or City Health Department having jurisdiction, shall be provided.

F. Gas-piping system. Gas-piping system shall be designed to provide a supply of gas sufficient to meet the maximum demand without undue loss of pressure at the connection to the mobile home furthest from the source of supply.

G. Electrical system. Electrical systems shall be designed to provide adequate capacity to supply the connected load without exceeding the allowable current-carrying capacity of the conductors.

§ 149-57. Mobile home lots.

A. Mobile home stand.

(1) A mobile home lot shall contain a mobile home stand capable of retaining the mobile

home in a fixed position.

(2) Mobile home stand shall be adequately compacted and at such elevation, distance and angle, in relation to the accessway, as to facilitate the safe and efficient placement and removal of the mobile home.

B. Accessory structures. Accessory structures shall be of durable construction and appropriate for intended use and location.

C. Patios. Patios shall be located so as to provide safe and easy access from the mobile home.

D. Storage lockers. Storage lockers shall be designed to provide adequate storage facilities convenient to the mobile home.

E. Utility connections.

(1) A mobile home lot shall be provided with the following utility connections:

(a) A water supply connection.

(b) A sanitary drainage connection.

(c) An electrical receptacle.

(2) Utility connections, including gas connections where provided, shall be readily accessible at the mobile home stand and shall have means for safe and efficient hookup to the mobile home.

(3) Water supply connections shall be located a safe distance from sanitary drainage connection and shall not be subject to surface drainage. Means shall be provided for a suitable watertight connection, without cross-connection and danger of freezing.

(4) Sanitary drainage connections shall be at proper location relative to the mobile home, and piping shall have a continuous grade to the point of disposal. Drainage connections shall be provided with suitable fittings to permit a watertight junction to be made with the mobile home outlet.

(5) Gas connections shall provide a suitable gastight connection to the mobile home.

(6) Electric system connection receptacles or terminal boxes shall be of an approved weatherproof type. Such receptacles shall have provision for an equipment ground.

§ 149-58. Community areas.

A. Community areas, including community facilities, shall be appropriate for intended use and

location.

B. Fences, walls and other minor constructions shall be capable of sustaining anticipated loads.

C. Swimming pools, playground equipment, etc., shall be designed so as not to be a potential hazard.

§ 149-59. Community structures.

Community structures shall be structurally sound and appropriate for intended use and location.

§ 149-60. Community fuel storage.

A mobile home court shall be provided with facilities for the safe and efficient storage of required fuels.

A. Liquefied petroleum gas. Liquefied petroleum gas storage containers having a capacity exceeding 125 gallons shall be located not less than 25 feet from the nearest mobile home, structure, building and lot line and shall not be subject to damage from moving vehicles.

B. Fuel oil. Fuel oil and other flammable materials shall be stored so as not to be a fire hazard.

§ 149-61. Property maintenance.

A. A mobile home court shall be maintained in a safe, sanitary and orderly condition.

B. Premises. Premises shall be kept clean and free from physical hazards.

C. Brush and weed control. Open areas shall be maintained free of heavy underplant growth, and those which are noxious or detrimental to health shall be eliminated.

D. Infestation. Grounds and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for purposes of extermination shall conform with generally accepted practice.

E. Structures. Exterior wood surfaces of structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.

F. Garbage and refuse. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.

Part 3, Administration and Compliance

ARTICLE X, General Provisions

§ 149-62. Title.

Part 3 of this chapter shall be known as the "Administration and Compliance Provisions Supplementary to Applicable Housing Standards."

§ 149-63. Purpose.

The purpose of Part 3 of this chapter is to provide basic and uniform administration of and compliance with applicable housing standards and to establish the responsibilities of parties concerned therewith.

§ 149-64. Applicability.

This Part 3 shall apply to administration of and compliance with applicable housing standards.

§ 149-65. Exceptions.

This Part 3 shall not apply to premises which are not within the scope of applicable housing standards.

ARTICLE XI, Administration

§ 149-66. Administrative Agency.

The provisions of the Housing Code of the City of Oswego, known as the "Housing Standards," shall be enforced by the City Engineer, who is hereby designated as the Housing Administrator.

§ 149-67. Powers and duties of City Engineer or authorized representative.

A. The City Engineer shall be authorized to conduct surveys of housing in any area of the municipality to determine the condition of premises, extent of deterioration, lack of facilities, inadequate maintenance, unsafe and insanitary conditions, extent of overcrowding, land use and other relevant factors.

B. It shall be the duty of the City Engineer, or his authorized representative, the Building Inspector:

(1) To cause periodic inspections to be made of all premises within the scope of applicable housing standards.

(2) To cause an investigation of all complaints of alleged housing violations or other unsafe or insanitary conditions.

(3) To order, in writing, the remedying of all conditions found to exist in or on any premises in violation of provisions of the housing standards or of rules and regulations adopted by the agency, to state in the violation order a reasonable time limit for compliance therewith and, where necessary, to order the vacation of premises found unfit for human habitation.

(4) To request the Corporation Counsel to take appropriate legal action upon failure of the responsible party to comply with such violation order within the time specified therein.

(5) To cause a search of the Engineering Department records of housing violations existing on any premises and to issue a certified statement thereof upon receipt of written request and payment of any fees required by local law or ordinance.

(6) To study housing conditions in the municipality.

(7) To prepare an annual report of housing conditions in the municipality, work of the agency and recommendations for the future.

C. Where violations of the housing standards exist and pose an immediate hazard or danger to the health, safety or welfare of building occupants or of the public, the City Engineer may issue an order citing the violation and directing such action by such municipal agency as is necessary to remove or abate the immediate hazard or danger. Any expenditures incurred by the city under this provision shall be an expense of the property and shall become a lien on the property.

§ 149-68. Inspection.

A. Inspectors shall be authorized and have the right, in the performance of their duties, to enter any premises during normal business hours and in emergencies whenever necessary to protect the public interest.

B. Owners, agents, operators and occupants shall be responsible for providing access to all parts of the premises within their control to authorized Engineering Department personnel acting in the performance of their duties.

§ 149-69. Records.

The Engineering Department shall keep records of all complaints received, inspections made and violations found regarding premises regulated by the housing standards. Records shall be kept in a manner and form as prescribed by local law and shall be available for public inspection.

§ 149-70. Penalties for offenses.

Each person who shall fail to comply with a violation order issued by the City Engineer or member of his department within the time limit stated thereon shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not less than ten dollars ($10.) or by imprisonment for not less than five days nor more than 10 days, or both.

ARTICLE XII, Compliance

§ 149-71. Responsibilities of owners.

A. Owners of premises shall be responsible for compliance with the housing standards and shall remain responsible therefor regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

B. Owners of premises shall be responsible for proper maintenance, condition and operation of service facilities and for furnishing an adequate heat and hot-water supply in multiple residences.

§ 149-72. Responsibilities of lodging house operators.

Lodging house operators shall be responsible for compliance with the housing standards in regard to the following:

A. Limiting occupancy to the maximum permitted by the housing standards.

B. Maintenance of safe and sanitary conditions in all parts of lodging house premises.

C. Maintenance and operation of all required service facilities.

D. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances within his control, as well as other building equipment and facilities, in an operative, clean and sanitary condition.

E. Sanitary maintenance of walls, floor and ceilings.

F. Keeping exits clear and unencumbered.

G. Disposal of building garbage and refuse in a clean and sanitary manner.

H. Extermination of insects, rodents or other pests on the premises.

I. Hanging and removing required screens.

§ 149-73. Responsibilities of occupants.

Occupants of dwelling units shall be responsible for compliance with the housing standards in regard to the following:

A. Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by the housing standards.

B. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.

C. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which he occupies or controls, in a clean and sanitary condition, and providing reasonable care in the operation and use thereof.

D. Keeping exits from his dwelling unit clear and unencumbered.

E. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.

F. Extermination of insects, rodents or other pests within his dwelling unit if his unit is the only one infested in the premises.

G. Hanging and removing required screens.

ARTICLE XIII, Appeals

§ 149-74. Board of Appeals.

A. Establishment. The Mayor of the City of Oswego shall appoint a five man Board of Appeals. The members of this Board shall not hold elective office in the City of Oswego and they shall receive no compensation for their services.

B. Term of office. The Mayor shall designate the term of two of the members as being two years from the date of appointment; the term of two members to be three years from the date of appointment; and the term of the fifth member to be four years from the date of appointment. Each successor to the original membership shall be appointed by the Mayor for a term of three years, except that any vacancy occurring during any term shall be filled for the unexpired term only. The Board shall hold a reorganization meeting yearly and shall elect one of their members to be Chairman and one Secretary.

C. Capitals, powers and duties.

(1) The Board shall hear and decide appeals from any order, requirement, decision or determination of the Housing Administrator.

(2) The Board shall decide any question involving the interpretation of any provision of this chapter.

(3) The Board shall decide any matter referred to it by the City Engineer, who is designated as the Housing Administrator.

D. In exercising the above-mentioned powers and duties, the Board of Appeals may reverse, affirm, wholly or partly, or may modify the order, requirements, decision or determination as made and, to that end, have all the powers of the Housing Administrator from whom the appeal is made.

E. Every decision of the Board of Appeals shall be subject to review in accordance with Article 78 of the Civil Practice Law and Rules, and such decision may be so appealed by any person aggrieved or by any officer, department, board or bureau of the city.

F. Any appeal from the decision of the Housing Administrator, properly filed with the Board of Appeals, shall stay all proceedings in furtherance of the action appealed from, unless the Housing Administrator certifies to the Board of Appeals that, by reason of facts stated in the certification, a stay would, in his opinion, cause eminent peril to life and property.

§ 149-75. Variances.

A. Where strict application of any of the requirements of this chapter shall deprive the owner of real property or a mobile home the reasonable use of his building, the Board of Appeals shall have the power, in passing upon appeals, to grant a variance to any of the regulations or provisions of this chapter relating to bulk, construction or alteration of buildings or structures or any part thereof or of use of said buildings, so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done.

B. Such variance shall be granted by the Board of Appeals only if and wherever it finds:

(1) That there are special circumstances or physical conditions fully described in the findings applying to the buildings for which the variance is sought and that said circumstance or condition is peculiar to such particular building and do not apply generally to buildings in the neighborhood; and that such circumstance or condition is such that the strict application of the provision of this chapter would deprive the applicant of the reasonable use of his building.

(2) That for reasons set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building involved, and that the variance, as granted by the Board of Appeals, is the minimum variance which will accomplish this purpose.

(3) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise to the public welfare.

C. Fee. Each application to the Board of Appeals for a variance shall be accompanied by a fee of $50 to help defray the cost of holding the hearing. [Amended 12-28-2009 by Res. No. 554-2009]

§ 149-76. Procedure.

A. Form of appeals and application. The Board of Appeals shall act in strict accordance with procedure specified by the General City Law and by this chapter and shall determine its own rules of conduct. All appeals and applications made to the Board shall be taken in writing on forms prescribed by the Board.

B. Content of application for variance. Any building owner in the City of Oswego allegedly aggrieved by the strict application of any of the requirements of this chapter, or desiring to deviate therefrom, may apply to the Board of Appeals for a variance from any such requirement. Such application shall state the specific provisions of this chapter from which the variance is sought and shall state precisely the interpretation which is sought, the use for which the variance is sought or the details of the variance which is sought, together with the special circumstances which allegedly justify such variance.

C. Appeals or applications shall be taken within such time as prescribed by the Board of Appeals by general rule, by the filing with the Housing Administrator from which the appeal is taken and with the Board of Appeals of a Notice of Appeal, specifying the grounds therefor. The Housing Administrator shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.

D. Public hearing. The Board of Appeals shall, after due notice, hold a public hearing on every appeal or application for a variance referred to it, and upon which it is required to pass, in accordance with this chapter in the General City Law. The Board of Appeals shall have published a notice of such public hearing in a newspaper of general circulation of the City of Oswego at least 10 days prior to such hearing. In addition, at least seven days prior to such public hearing, the Board of Appeals shall have sent, by registered mail, the notice of such hearing, and the explanation of the variance or special permits sought, to all property owners within 100 feet of the four corners of the subject building. Such notices shall be sent to the last known address of all property owners as shown on the city tax records.

E. Findings and conclusions. After such public hearings, and after consideration of the application, the Board of Appeals shall either grant or deny the variance and shall make written findings of fact and conclusions concerning the subject matter of such hearing, including the reasons for the granting or denial of the relief sought.

ARTICLE XIV, Amendments

§ 149-77. Procedure.

A. The Common Council may, after public notice and hearing, amend, supplement, modify, repeal or charge the regulations of this chapter, either on its own motion or on petition by a taxpayer, in accordance with provisions of Chapter 21 of the Consolidated Laws of the State of New York.

B. All such petitions shall be addressed to the Common Council and filed with the Secretary of

the Common Council only during the months of January, May and September.

C. The Common Council shall transmit a copy of each proposed change to the Planning Board with a request that its advisory opinion on such proposed change be submitted to the Common Council.

D. The Planning Board shall submit its advisory opinion, in writing, to the Common Council and shall recommend adoption of the amendment or change of this chapter only if such change does not conflict with the general purpose, goals and intent of the Building Ordinance of the City of Oswego and such change is consistent with the comprehensive master plan for the City of Oswego. If the Planning Board does not submit such written advisory opinion to the Common Council within 45 days after the date of referral, the Common Council shall consider such change or amendment to be favorable to the Planning Board.

E. Public hearings. A public hearing shall be called by the Common Council relative to any proposed change in this chapter. The Common Council shall have published a notice of the public hearing to amended the text or schedules of this chapter in a newspaper of general circulation in the City of Oswego at least 10 days prior to the date set for such hearing. Such notice shall describe the regulation or requirement of the proposed amendment and the reason why it is proposed. Only after public hearing on the proposed change of this Housing Code or any part thereof, shall the Common Council then vote and change same.

Chapter 153, JUNKYARDS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 65 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Auctions and auctioneers -- See Ch. 67.
Zoning -- See Ch. 280.

§ 153-1. Definitions.

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

JUNK -- Includes old metal, old rope, old rubber, rags, old iron, brass, copper, lead, zinc, old worn-out motor vehicles or any other article or thing which, from worn condition, is rendered useless for the purpose for which made.

JUNK DEALER -- Includes a person who maintains, operates or controls a junkyard or so-called automobile graveyard, or who buys and sells old metal, or who buys and sells junk or

deals in junk or who handles, keeps or stores junk in a junkyard.

JUNKYARD -- Includes any building, structure or shed, or lot, yard or open space where junk is bought or sold, dealt in, handled, cut, melted or kept or stored; and also so-called automotive graveyards or graveyard.

PERSON -- Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities capable of being sued.

§ 153-2. Licensed required.

No person shall, within the corporate limits of the City of Oswego, except as hereinafter provided, buy and sell old metal or junk or maintain or operate a junkyard or carry on or conduct the business of junk dealer or buy or sell or deal in junk or keep or store junk in a junkyard or represent or hold himself out to be a junk dealer without first having obtained a license so to do and the required official junk badge or badges, nor thereafter continue to buy and sell old metal or junk or maintain or operate a junkyard or buy, sell or deal in junk or keep or store junk in a junkyard or represent or hold himself out to be a junk dealer after his license has been revoked, canceled or suspended or has expired; provided, however, that any junk dealer who holds a junk license duly issued by the Mayor of a city, Mayor of a village or Supervisor of a town in which the principal place of business of such person is located may, after exhibiting his said license to the Chief of Police of the City of Oswego and filing a copy thereof with said Chief, buy and sell old metal or junk within the corporate limits of the City of Oswego without a license issued by the Mayor of said city; but no such junk dealer shall hold himself out to be a junk dealer duly licensed by the City of Oswego, nor shall such licensed junk dealer maintain, operate or control a junkyard in the City of Oswego or buy or sell junk thereat or handle, keep or store junk therein and thereon without having obtained from the Mayor of said City of Oswego a license so to do as provided by this chapter.

§ 153-3. Certain persons prohibited as licensees.

No person shall be entitled to nor receive a junk license from the City of Oswego who, since January 1, 1903, has been or who shall hereafter be convicted of larceny or knowingly receiving stolen property or a violation of any of the provisions of this chapter. The aforesaid provision shall apply with equal force and effect to a corporation when an officer or director thereof has been convicted of larceny or knowingly receiving stolen property or a violation of any of the provisions of this chapter, and also where a principal and controlling stockholder or the principal and controlling stockholders thereof has or have been convicted of larceny or knowingly

receiving stolen property or a violation of any of the provisions of this chapter.

§ 153-4. Issuing authority.

The Mayor shall have the power and authority and is hereby duly authorized to issue a junk license to a person who may apply therefor, and whose principal place of business is located in the City of Oswego, authorizing such person to buy old metal pursuant to the provisions of Article VI of the General Business Law; provided, however, that if such person intends or proposes to maintain, operate or control a junkyard in the City of Oswego or to buy and sell junk thereat or handle, keep or store junk therein and thereon, then a license so to do and for such purpose or purposes shall not be issued until the application therefor shall have been duly submitted to the Common Council for its approval.

§ 153-5. Application for license.

A. All applications for a junk license shall be in writing duly signed and verified by the applicant or applicants. They shall be filed with the City Clerk, and a copy thereof shall at the same time be filed with the Chief of Police. They shall set forth the following information:

   (1) The full name or names and address or addresses of the person or persons applying for such license.

   (2) The principal place of business of the applicant or applicants.

   (3) If the applicant is a corporation, the full name thereof, when and where incorporated, its principal place of business and the name and address of each officer, director and stockholder thereof.

   (4) Whether applicant proposes to maintain, operate or control a junkyard in the City of Oswego, and if so, the street number and an adequate description of the real property to be used as a junkyard and the name and address of the fee owner thereof.

   (5) Whether the applicant has been convicted of a crime or misdemeanor or a violation of this chapter or any other law relating to and dealing with junk dealers, together with any statement explanatory thereof that the applicant may wish to make.

   (6) If applicant is a corporation, the same information respecting each officer, director and stockholder thereof.

   (7) Whether a junk license has ever been denied or refused applicant by any municipal, state

or other legal authority.

(8) Whether a junk license issued to applicant has ever been revoked, canceled or suspended.

(9) If applicant is a corporation, the same information specified in Subsections A(7) and (8) respecting each officer, director and stockholder thereof.

(10) Whether applicant holds a junk license issued by the Mayor of another city, the Mayor of a village or the Supervisor of a town or other person duly authorized by law to issue a junk license; and if so, the name of such city, village or town and date of issuance of such license.

(11) Other information as the Common Council or the Mayor may deem proper and necessary.

B. If an applicant proposes and intends to maintain, operate or control a junkyard and buy and sell junk thereat and handle, deal in, keep and store junk therein and thereon and is not the fee owner of the real property to be devoted to such uses and purposes, then the written consent of the fee owner, duly acknowledged, granting permission to the applicant to use such real property for such purposes, must accompany the application and be filed with the City Clerk.

C. After June 1, 1967, no additional licenses to maintain, operate or control a junkyard in the City of Oswego shall be issued to any person, with the exception that a person already holding a license to maintain a junkyard in the City of Oswego may be given permission to move said yard to a new location, said location to be approved by the Common Council of the City of Oswego; said removal to be only with the express agreement that the yard presently maintained by this applicant will be discontinued upon the opening of a licensed junkyard at the new location; and the size of the junkyard to be shown by a diagram on the license and said size not to be expanded from that originally granted. All licenses are not transferable unless with Council permission.

§ 153-6. License. [Amended 10-28-1996 by L.L. No. 4-1996]

All licenses shall be in writing, signed by the Mayor and City Clerk, with the seal of the city affixed thereto. The fee for the license shall be $100. No license shall be issued for a longer term that one year, and all licenses shall expire upon the 30th day of June next after the date thereof. Where the expiration date of a license falls within a period of six months or less from the date of issue, the license fee for such term license shall be 1/2 of the above-specified license fee. The place of business of the licensee and the licensed premises shall be set forth in the license, and such license shall not be valid for use at a different location except by consent of the Common

Council. When a license has been duly authorized and issued, it shall be delivered to the licensee by the City Clerk, who shall also at the same time deliver to the licensee the official number of junk badges required. The junk badges so to be issued shall be of metal, of a size and shape to be determined by the City Clerk, with the following inscription thereon: "Junk Dealer," the year, date and number of the license. No person shall solicit for or buy any junk without at the time displaying upon the outside of his coat his junk badge. Upon the revoking or expiration of any license, a person having a junk badge or badges shall forthwith surrender the same to the City Clerk. The Mayor shall have the power to revoke or suspend at any time a junk license upon request of the Chief of Police or, in the absence, sickness or inability of Chief of Police, upon the request of the Captain of Police or Lieutenant of Police when in command of Bureau of Police.

§ 153-7. Fencing and marking of junkyards and vehicles.

A. All junkyards shall be located not less than 10 feet back from the street property line and shall be entirely surrounded by a wooden fence, constructed not less than 10 feet back from the street property line, eight feet in height above the level of the sidewalk level, or by a fence of similar opaque material; provided, however, that in lieu of the foregoing required fence, the Common Council, for good cause shown, may, by a majority vote of all the Councilors, authorize the fencing of a junkyard with a proper and adequate wire cyclone fence or its approved equal constructed not less than six feet nor more than eight feet in height above the level of the sidewalk level; and provided further that the farmlands and area or territory of the City of Oswego situate, lying and being enclosed within and bounded by the following described boundaries shall not be subject to the foregoing provisions requiring fencing, viz., beginning at a point in the center line of East Fourteenth Street, East Oswego, as plotted on the maps of the City of Oswego, said point being 300 feet southerly from the south line of the State Road (also known as the Oneida Street Road), running thence easterly parallel to the south line of said State Road and 300 feet south of the same to the center line of the east city line road; thence southwesterly along said center line of said east city line road to a point 300 feet northeast of the north line of the Hall Road; thence northwesterly parallel to said north line of said Hall Road and 300 feet northerly from the same to a point in said center line of said Fourteenth Street as plotted, and thence northerly on said center line of said Fourteenth Street to the point of beginning. [Amended 5-23-2011 by L.L. No. 2-2011]

B. The licensee of a junkyard shall affix thereto and at all times maintain in a conspicuous place a suitable sign, which can be observed and read from the street or highway, on which shall be inscribed the following: "Licensed Junkyard," together with the full and true name of the licensee and his license number. Every person engaged in the prosecution of the junk business in the City of Oswego or soliciting the sale and purchase of junk therein or buying and selling junk therein shall have displayed upon each side of any cart, wagon or motor

vehicle used by him in said junk business, in letters not less than three inches in height, his full and true name and the number of his license or junk badge.

§ 153-8. Pawnbroker's licenses prohibited. EN(55)

No junk dealer shall receive or hold a license as a pawnbroker, nor receive any article as a pledge or pawn.

§ 153-9. Restrictions; purchase of junk.

No person or junk dealer shall purchase or receive junk from a minor, nor from any person after sunset or before 8:00 a.m., nor on Sundays or holidays (or Saturdays after 12:00 noon).

§ 153-10. Statement required concerning certain junk.

Whenever any junk dealer or an agent or servant thereof shall purchase in the City of Oswego any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, copper wire or brass car journals, such junk dealer shall cause to be subscribed by the person for whom purchased a statement as to when, where and from whom he obtained such property, as well as his age, residence, with street and number thereof, if any, and otherwise such description as will reasonably locate the same, his occupation, name of employer and place of employment or business, which statement said junk dealer shall forthwith file in the office of the Chief of Police of the City of Oswego.

§ 153-11. When segregation of junk required.

Every junk dealer shall, on purchasing any of the property described in the last preceding section, place and keep each separate purchase in a separate and distinct pile, bundle or package in the usual place of business of such junk dealer with a tag placed thereon or attached thereto bearing the name and residence of the person from whom purchased, with the date, hour and place of purchase and weight thereof. Such junk dealer shall not until the expiration of five days from the date of such purchase and the filing with said Chief of the statement required by the last preceding section remove, melt, cut, deface or destroy any piece or article thereof, nor, when commanded or requested by said Chief within said period of five days, shall such junk dealer remove, melt, cut, deface or destroy any piece or article thereof until such command or request is canceled or revoked and such piece or pieces, article or articles are released to the free and unrestricted control and ownership of such junk dealer.

§ 153-12. Inspection of junkyards.

A. All persons and junk dealers and their agents and servants shall at all times, at any hour of the day or night, without a warrant or other authority, permit entrance to and inspection of their junkyards situate in the City of Oswego and the junk therein kept or stored, including any buildings, structures or sheds located thereon and therein, by any police officer of the Oswego Police Department, any fireman of the Oswego Fire Department or any other officer, agent or employee of the City of Oswego who the Common Council or the Mayor may authorize, in writing, to so enter and inspect a junkyard or junkyards.

B. All persons and junk dealers and their agents and servants shall at all times permit any police officer of the City of Oswego to inspect and examine the contents of any cart, wagon or motor vehicle used by them in the junk business and for the transportation of junk; and upon request by any police officer shall promptly exhibit any such cart, wagon or motor vehicle and its contents at the police station for the purpose of inspection and examination thereof by the Chief of Police or other officer in charge thereof.

§ 153-13. Penalties for offenses.

Any person, junk dealer or agent or servant thereof who violates any of the provisions of this chapter or who makes any false statement in the application for a license hereinbefore required or in or on any statement or tag hereinbefore mentioned shall, upon conviction thereof, be subject to a fine of not less than $5 nor more than $100, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, and the forfeiture of his junk license.

Chapter 165, NOISE

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980; amended in its entirety 4-23-2007. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 57.
Animals -- See Ch. 63.
Harbors -- See Ch. 143.
Streets and sidewalks -- See Ch. 211.
Vehicles and traffic -- See Ch. 257.
Zoning -- See Ch. 280.

§ 165-1. Declaration of policy; purpose.

It is hereby declared to be the policy of the City of Oswego to prevent excessive, unnecessary, unnatural or unusually loud noise within the limits of the City of Oswego. It is further the policy of the City of Oswego to secure and promote the public health, comfort, convenience, safety, welfare and prosperity and the peace of quiet of the City of Oswego and its inhabitants.

§ 165-2. Definitions.

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

A-WEIGHTED -- The sound-pressure level in decibels as measured on a sound-level meter using the A-weighting network. The level so read is designated "dB(A)."

CONSTRUCTION -- Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines or other property, including but not limited to the related activity such as line clearing, grading, earthmoving excavation, blasting, filling and landscaping, but not including agriculture.

DAYTIME -- The period of time between the hours of 7:00 a.m. and 9:00 p.m.

DECIBEL -- The unit for measuring the volume of a sound, based upon the pressure level of a sound. For the purpose of this chapter, the standard reference pressure stated herein will be used to assure a consistent and standard reference for measuring sound. The sound-pressure level measured in decibels is equal to 20 times the logarithm to the base 10 of the ratio of the effective pressure of the sound measured. "dB" is the abbreviation for decibel.

IMPULSIVE SOUND -- A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid delay.

NIGHTTIME -- The period of time between the hours of 9:00 p.m. and 7:00 a.m.

OWNER -- Any person who has regular control of a device or site, including but not limited to the owner of a freehold or the premises or lesser estate therein or mortgages thereof or an agent or lessee of such person.

PERSON -- Includes the singular and plural and also any individual; any property owner and or lessee; any firm; a corporation; a political subdivision; a government agency, including any agency of the City of Oswego; an association or an organization, including but not limited to officers, department heads, employees, agents and/or independent contractors thereof; or any

legal entity whatsoever.

REAL PROPERTY BOUNDARY -- An imaginary line exterior to any structure along the ground surface which separates the real property owned by one person from that owned by another person and the vertical extension of said line.

SOUND LEVEL -- The quantity in decibels measured by a sound-level meter satisfying the requirements of American National Standards specifications for sound-level meters. Sound level is the frequency-weighted sound-pressure level obtained with the standardized dynamic characteristics "fast" and "slow" and weighting (a), (b) or (c); unless otherwise indicated, the A-weighting slow response shall apply.

SOUND-LEVEL METER -- An instrument, which includes but is not limited to a microphone, amplifier, rms detector, integrator or time average or output meter that measures sound-pressure fluctuations. The output meter reads sound-pressure level when properly calibrated and the instrument is of a Type 2 or better as specified in American National Standards Institute Publication S1.4-1971 or its successor publication. The manufacturer's published indication of compliance with such specifications shall comply.

UNREASONABLE NOISE -- Any excessive, unnecessary or unusual loud sound or any sound or noise that either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities or which causes injury to animal life or damage to a property or business. Standards to be considered in determining whether said noise is unreasonable in a given situation include, but are not limited to, the following:

A. The volume of the noise.

B. The intensity of the noise.

C. Whether the nature of the noise is usual or unusual.

D. Whether the origin of the noise is usual or unusual.

E. The volume and intensity of the background noise, if any.

F. The proximity of the noise to residential sleeping facilities.

G. The nature and zoning district of the areas within which the noise emanates.

H. The time of the day or night the noise occurs.

I. The time duration of the noise.

J. Whether the sound source is temporary.

K. Whether the noise is continuous or impulsive.

§ 165-3. General prohibitions.

It shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unreasonable noise, as defined herein, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City.

§ 165-4. Specific prohibitions.

The following acts and the causing thereof shall be violations of this chapter:

A. Sound reproduction.

(1) No person shall use, operate or permit to be used or operated any radio, radio receiving set, musical instrument, phonograph, jukebox or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants by creating unreasonable noise across a real property boundary line. The noise shall be measured from the real property boundary line nearest to the source of the complaint.

(2) The permit requirement for a sound amplifying system on public property shall be as follows:

(a) No person shall use, operate or permit to be used or operated a sound reproducing device upon any public street or place without obtaining permission in writing of the Common Council prior to use or operation.

(b) The Common Council shall not refuse said permit unless there is substantial and convincing evidence that said sound reproduction would result in an unreasonable interference of others or unreasonable interference with the safety, peace and quiet of those on surrounding private property or use of public streets and places.

B. Animals. No person shall own, harbor or possess any animal (including birds) that continuously or frequently creates an unreasonable noise across a real property boundary line. This provision is specifically intended to address a barking dog to be defined as a dog that continuously barks for a ten-minute period or intermittently for 30 minutes.

C. Alarms. No person shall maintain an alarm system in a building/residence or motor vehicle unless said alarm system is capable of and shall automatically cease its operation within a fifteen-minute period from the time of activation, and any person utilizing the local alarm system within the City of Oswego shall be deemed to have given consent to the police and/or

fire officials of the City of Oswego to disable such alarm pursuant to the provision of § 57-12 of this Code.

D. Emergency warning device. No person shall use or operate or permit the use or operation of any emergency warning device, except as follows:

(1) To give notice or warning of any emergency;

(2) On an authorized vehicle when such vehicle is engaged in said emergency operations; or

(3) When such device is under test.

E. Motor vehicles.

(1) All motor vehicles operated within the limits of the City shall be subject to the noise standards and decibel levels as set forth in the regulations of the State of New York Vehicle and Traffic Law.[EN(56)] No person shall operate a motor vehicle in such a manner as to create unreasonable noise by the spinning or squealing of tires on said vehicle or in such a manner to at any time create the sound-pressure level emitted by said vehicle to exceed the limitations set forth in the New York Vehicle and Traffic Law §§ 386 and 1162.

(2) No sound amplifying devices on or within motor vehicles shall emit noise in excess of the noise levels as specified in this chapter.

(3) No person shall operate or cause or permit to be operated any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds or any auxiliary equipment attached to such vehicle for a period longer than 20 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space so that the sound therefrom is audible across a residential real property boundary between the hours of 8:00 p.m. and 7:00 a.m. the following day.

F. Shouting. No person shall shout, yell, hoot, whistle or sing on a public street or public place in such a manner as to create an unreasonable noise.

G. Outdoor equipment; power tools. No person shall use or operate or permit the use or operation of any powered tools or equipment, including but not limited to saws, sanders, drills, grinders, lawn or garden tools, lawn mowers, tractors and leaf blowers, when used outdoors during the nighttime hours, so as to create unreasonable noise.

H. Construction. No person shall engage in construction or permit construction, as defined herein in such a manner as to cause unreasonable noise during the nighttime on weekdays and weekends, exclusive of emergency work and safety/protective devices.

(1) No person shall engage in or permit any person to be engaged in construction activities

which create excessive noise at the property limits of the construction site between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day on any day of the week, except as is permitted in Subsection H(2) and (3) hereof.

(2) Following the receipt of a written application for a variance from the requirements of Subsection H(1), the City Engineer's office may, within a reasonable time, grant a variance authorizing such construction activities upon the applicant's demonstration of hardship and/or practical difficulty in meeting said requirements or upon a determination that the public interest will be served by the granting of the requested variance. The City Engineer's office shall set any stipulations deemed necessary in the interest of the public health, safety and/or welfare at the time of granting such a variance.

(3) In the case of an emergency, construction activities directly connected with the abatement of such emergency may be undertaken without obtaining a variance, for a period not to exceed 72 hours from the commencement of such activities, during which time application for a variance hereunder shall be made. However, notification must be made to the Police Department together with an explanation, in writing, of why said construction is an emergency. In such an emergency, construction activities shall not continue after the seventy-two-hour period unless prior to the expiration of that period verbal or written approval is issued by the City Engineer or his or her authorized subordinates to continue such activities and unless written confirmation of any verbal approval is issued within four hours following the start of the next normal business day of the City Engineer's office. Approval or confirmation shall not be withheld unreasonably.

I. Places of public assembly. No person shall operate or permit the use or operation of a public place of assembly, including but not limited to a restaurant, bar, cafe, discotheque or dance hall, in which the sound level is equal to or exceeds 55 dBs in a residential area or 65 dBs in a commercial area for more than 30 seconds at the location of said assembly.

J. Noise-sensitive zones. No person shall create or permit the creation of any unreasonable noise exceeding 55 dB on any street, sidewalk or public place adjacent to any school, church, house of worship, senior citizen center, library, court or authorized day-care center while in use or adjacent to any hospital or nursing home at any time provided that signs are displaced so as to identify such location as listed above.

K. Parties and other social events. [Amended 8-26-2013]

(1) It shall be unlawful for any person in charge of a party or other social event that occurs on any private or public property to allow that party or event to produce unreasonable noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building

or outside building, or recklessly creates the risk thereof.

(2) For the purpose of this section, a "person in charge of a party or other social event":

(a) That occurs on any public property shall be the person or persons who obtained permission to utilize that property for that event.

(b) That occurs on private property shall be the persons or business entity who own or lease premises involved or any adult person who lives in or on the premises involved in such party or social event.

(c) Where beer is being served from a keg on the premises, shall also include the person to whom the keg is registered in addition to any person designated in Subsection K(2)(a) and (b) above.

(3) No person shall conduct parties or other gatherings of people whereby unreasonable noises are emitted after 9:00 p.m. and before 7:00 a.m. as to unreasonably interfere with the quiet, comfort and repose of any person in any dwelling or other type of residence.

§ 165-5. Noise in excess of permissible sound levels.

It shall be unlawful for any person to make, continue or cause to be made or continued any noise which exposes any person to continuous sound levels in excess of those shown in the table, below, unless an exception as set forth in § 165-6 herein shall be applicable. Police can order that said noise be ceased if said noise is not in compliance with this section and if said noise does not fall into the category of an exception.

Measurement of Permissible Sound Levels

		Maximum Permissible Noise Levels by Receiving Property Use Category (dB)	
Sound Source Property Use Category	**Time Period**	**Residential**	**Commercial**
Residential (R1, R2, R3, R4)	7:00 a.m. to 9:00 p.m.	55	65

Measurement of Permissible Sound Levels

Sound Source Property Use Category	Time Period	Maximum Permissible Noise Levels by Receiving Property Use Category (dB) Residential	Commercial
	9:00 p.m. to 7:00 a.m.	50	65
Business/Industrial (B1, B2, B3, IIV)	7:00 a.m. to 9:00 p.m.	65	65
	9:00 p.m. to 7:00 a.m.	50	65

§ 165-6. Exceptions.

The requirements, provisions, prohibitions and terms of this chapter shall apply to all unreasonable noise with the exception of the following:

A. Any emergency vehicle authorized and responding to an emergency call or acting in time of an emergency.

B. Any and all activities that are permitted on a temporary basis in compliance with all laws and for which a license or permit has been issued or permission has been granted by the City of Oswego, including but not limited to parades, fireworks displays, all Harborfest-sponsored events, Farmer's Market, events sponsored by the Chamber of Commerce, concerts, car racing and other events held at the Oswego Speedway.

C. Any and all noise emanating from a publicly sponsored and/or authorized sporting, entertainment or other public event.

D. Normal operations of City and County DPW equipment.

E. Private snow removal equipment,

§ 165-7. Authority to grant exceptions and variances; application.

The Common Council of the City of Oswego shall have the authority to grant special variances, issue temporary permits and suspend any of the provisions of this chapter upon such conditions and for such time as said Council shall deem fit to best serve the public health and welfare and the quality of life in the City of Oswego.

A. Any person seeking a variance or temporary permit pursuant to this section shall file an application with the Common Council. Said application shall consist of a verified letter signed by the applicant containing information that demonstrates that it would constitute an unreasonable hardship on the applicant, on the community or other persons to bring the sound or activity for which the variance is sought into compliance with this chapter. In addition, said letter shall contain the following information:

   (1) The date, time and location of the event for which said variance or temporary permit is being requested.

   (2) The plan, specifications and other pertinent information regarding the sources of the sound;

   (3) The characteristics of the sound emitted by the source, including but not limited to the sound levels, the presence of impulsive sounds and the hours during which said sound is to be generated;

   (4) The noise abatement and control methods to be used to restrict the emission of sound.

B. In determining whether to grant or deny the application, the Common Council shall consider the hardship, to the applicant, the community and other persons, of not granting the variance as well as the adverse impact on the health, safety and welfare of the persons affected, the adverse impact on the property affected and any other adverse impacts of granting the variance.

C. It shall be within the sole discretion of the Common Council whether to grant the application for a variance or special permit. The Common Council shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site, including time limits on permitted activity, in the event that he/she shall grant any variance or special permit hereunder.

§ 165-8. Enforcement.

The provisions of this chapter shall be enforced by the Oswego City Police Department, and it shall have the power to do the following:

A. Order any person to immediately cease and desist from any activity, which causes or is

conducted so as to cause a violation of any provisions of this chapter.

B. Issue an appearance ticket for violation of any provision of this chapter.

§ 165-9. Penalties for offenses.

Any person who violates any provisions of this chapter shall be guilty of an offense and shall, upon conviction, be subject to a fine of not less than $100 nor more than $500 for the first offense. The penalty for a second or subsequent offense shall be not less than $500 nor more than $1,000 or imprisonment for a period of 15 days, or both such fine and imprisonment. Each day said violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Chapter 170, NUISANCE ABATEMENT

[HISTORY Adopted by the Common Council of the City of Oswego 6-10-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Housing standards -- See Ch. 149.
Noise -- See Ch. 165.
Vacant property -- See Ch. 249.

§ 170-1. Abatement of nuisances; declaration of legislative findings. [Amended 10-24-2006]

A. The Common Council finds that public nuisances exist in the City of Oswego in the operation of certain establishments and the use of property in flagrant violation of the penal laws of this state and related statutes and ordinances, all of which substantially and seriously interfere with the interests of the public in the quality of life and total community environment, commerce in the City, residential living, property values and the public health, safety and welfare.

B. The Common Council further finds that while existing laws may be adequate to punish offensive conduct and bring violators into compliance, said laws are not adequate to abate the nuisances created by multiple offenders.

C. The Common Council further finds that the continued occurrence of such activities, violations and attitudes is detrimental to the health, safety and welfare of the City of Oswego

and of the business and residents thereof and the visitors thereto. It is the purpose of this chapter to authorize and empower the Chief of Police to impose and enforce the sanctions of the court for such public nuisances, and such powers may be exercised either in conjunction with, or apart from, the powers contained in other laws without prejudice to the use of procedures and remedies available under such other laws. The Council further finds that the sanctions and penalties imposed pursuant to this chapter constitute an additional and appropriate method of law enforcement in response to the proliferation of the hereafter-described public nuisances. The sanctions and penalties are reasonable and necessary in order to protect the health and safety of the people of the City and to promote the general welfare.

§ 170-2. Public nuisances enumerated. [Amended 10-24-2006; 2-26-2007]

A. For the purposes of this chapter, a public nuisance exists where there exists a series of violations of a designated nuisance offense, as that term is defined in § 170-3 of this chapter, which have resulted in a conviction or series of verifiable violations of any of the following provisions resulting from separate incidents occurring at or on the premises where 12 or more points are accumulated, in accordance with the following point system. Where more than one violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation. The violations shall be assigned the point value indicated in the definition of "designated nuisance offense" in § 170-3. All accumulated points will be removed upon the sale of the property to a bona fide purchaser for value who is not related to the property owner, or when the City has obtained a remedy pursuant to § 170-5 of this chapter for the public nuisance at such premises. [Amended 8-10-2009]

B. The Chief of Police or his/her designee shall review all police incidents to determine if points should be assessed to the property where such incident took place. The Chief of Police or his/her designee shall have the authority to refrain from assessing points against the property in circumstances where the offense is not related to the use of the property.

C. For the purpose of this chapter, a conviction for an offense(s) in a court of competent jurisdiction or an administration bureau shall not be required. Instead, the City shall prove by a preponderance of the evidence that the violations have occurred. However, a conviction as defined and applied in accordance with the provisions of § 1.20 of the Criminal Procedure Law, in any court of competent jurisdiction, shall constitute conclusive proof of a violation. Conviction of an attempt to commit a violation of any of the specified provisions shall be considered a conviction for a violation of the specified provision.

D. The provisions of this section shall not apply to any federal, state or local government building and/or property, public or private schools, and health-care facilities, including

hospitals and nursing homes.

§ 170-3. Other definitions.

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

CHIEF -- The Chief of Police of the City of Oswego or his/her designee.

CITY ATTORNEY -- The City Attorney of the City of Oswego or his/her designee. [Amended 10-24-2006]

CONVICTION -- Defined and applied in accordance with the provisions of § 1.20 of the Criminal Procedure Law of the State of New York.

COUNCIL -- The Common Council of the City of Oswego.

DEPARTMENT -- The department, bureau, division, agency, or person charged with the enforcement of this chapter. [Added 10-24-2006]

DESIGNATED NUISANCE OFFENSE -- Any violations of the Penal Law will be assessed points based upon the severity of the charge. A charge of a violation will be assessed three points; a charge of a misdemeanor will be assessed four points; and a charge of a felony will be assessed six points. Violations of other statutes or ordinances will be assessed points as set forth herein: [Amended 10-24-2006; 2-26-2007; 4-13-2009]

Statute or Ordinance	**Points Assessed**
Penal Law	Violation: 3; misdemeanor: 4; felony: 6
Alcoholic Beverage Control Law	
§§ 65 and 82	3
Vehicle and Traffic Law	
§ 415-a (vehicle dismantlers)	3
Tax Law	
Art. 18 (possession, use, sale, or offer for sale of any	

Statute or Ordinance	Points Assessed	
. 18 (possession, use, sale, or offer for sale of any alcoholic beverage)	3	
Art. 20 (possession, use, sale, or offer for sale of any cigarette or tobacco products)	3	
Social Services Law		
§ 147 (food stamp program)	3	
Code of Oswego		
Ch. 63 (Animals)	3	
Ch. 126 (Fire prevention and building construction)	3	
Ch. 165 (Noise)	3	
Ch. 207 (Solid waste)		
§ 207-17 (preparation of solid waste for collection)		3
§ 207-18 (approved collection containers)		3
Ch. 211 (Streets and sidewalks)	3	
Ch. 249 (Vacant property)	3	
Ch. 253 (Vehicles, abandoned or junk)	3	
Ch. 280 (Zoning)	3	
Property Maintenance Code of NYS (19 NYCRR)	3	
Fire Code of NYS	3	

MORTGAGEE -- The person who is listed as the mortgagee on any unsatisfied or otherwise open mortgage recorded in the Oswego County Clerk's office.

OWNER -- The person in whose name the real estate affected by the order is recorded as the

owner in the office of the Oswego County Clerk.

PREMISES -- The building, place or real property or a portion thereof whereon the public nuisance is being conducted or exists.

§ 170-4. Notification of City Code violations. [Added 10-24-2006[EN(57)]]

A. In the event that a violation of a designated nuisance offense involving the Code of the City of Oswego is found on any premises, the department identifying the violation shall notify the owner and/or tenant of its findings by department procedure. The first notice shall state the time given to correct, and the followup inspection date if applicable, as well as points to be assessed to the property in case of noncompliance.

B. If upon followup inspection, the violation(s) of the City Code are found to still exist, the department shall assess the points as defined above and cause the violation to be remedied.

§ 170-5. Remedies for abatement of public nuisances. [Amended 10-24-2006]

In addition to the enforcement procedures established elsewhere, the Chief or his/her designee, after notice and opportunity for a hearing in front of the City Court Judge, shall be authorized to seek from the City Court Judge:

A. An order discontinuing such activity at the premises where such public nuisance exists; and/or

B. An order closing the premises to the extent necessary to abate the nuisance; and/or

C. An order that the defendant pay a fine of not less than $250 and not more than $1,000.

§ 170-6. Service of notice. [Amended 10-24-2006]

A. The Chief or his/her designees shall give notice and opportunity for a hearing to the owner, and any lessees or persons in possession of which he or she shall have knowledge, of the premises wherein the public nuisance is being conducted, maintained or permitted. Such notice and opportunity to be heard may be given to a mortgagee of the premises. Such notice shall be served upon an owner pursuant to Article 3 of the Civil Practice Law and Rules, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting, without the necessity of filing of proof of service with the clerk of any court before the hearing.

B. Such notice shall:

(1) Specify the activities creating the nuisance.

(2) Provide 30 days for elimination of the nuisance in the event that such nuisance is continuing. (Moving the nuisance to another premises owned by the owner does not constitute elimination.)

(3) Inform the person to whom it is directed of his/her right to apply within 10 days for a hearing before the Oswego City Court Judge.

(4) Inform the owner/landlord that, upon the expiration of 30 days after service with no hearing, or upon noncompliance with any written agreement reached at the hearing before the court, the Chief shall act to obtain the remedies as provided by this chapter.

(5) Inform the owner/landlord of his/her obligation to post a copy of the notice within five days, in a conspicuous place so that all occupants entering the premises shall have notice that the public nuisance is being conducted, maintained or permitted on the premises and that, upon 30 days after service of the notice, the City Court may direct the Chief to act to obtain compliance as provided, including, but not limited to, the closing of the premises.

§ 170-7. Hearing.

A. The burden of proof shall be upon the City to prove the existence of a public nuisance as defined in § 170.2, by a preponderance of the evidence. [Amended 10-24-2006]

B. The owner/landlord has no obligation to offer any evidence at the hearing but may do so.

C. The hearing shall be conducted under the standard rules of evidence.

D. Upon conclusion of the fact-finding, the Judge shall issue an order:

(1) Granting to the City one or more of the remedies referred to in § 170-5; [Amended 10-24-2006]

(2) Approving any stipulation which may be reached between the parties, provided it meets with the approval of the court; or

(3) Dismissing the proceeding for failure of the City to meet the burden of proof set forth herein.

§ 170-8. Lack of knowledge not a defense. [Amended 10-24-2006]

The lack of knowledge of, acquiescence or participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all those persons in possession or having charge of, as agent or otherwise, or having interest in the premises or personal property used in conducting or maintaining the public nuisance shall not be a defense by such owners, lessors and lessees, mortgagees and such other persons. Those individuals designated in § 170-6 who originate a complaint regarding a designated nuisance offense shall not be subject to any fines imposed pursuant to this chapter.

§ 170-9. Issuance of orders. [Amended 10-24-2006]

If the City Court grants one or more of the orders contemplated in § 170-5 of this chapter, then the Chief shall post said order(s) on the premises wherein the public nuisance is occurring or has occurred in violation of law and mail a copy of said order(s) within one business day of the posting of said order(s) on the premises to the parties identified 1n § 170-6A. A copy of said order will also be filed with the City Clerk and made available for public inspection.

§ 170-10. Enforcement of orders.

A. Five business days after the issuance of an order pursuant to § 170-5 and upon the directive of the court, the Chief and officers of the Oswego Police Department are authorized to act upon and enforce such order.

B. Where the court closes a premises pursuant to this chapter, such closing shall be for such a period as the court may direct, but in no event shall the closing be for a period of less than six months or more than one year from such issuance of the order pursuant to this chapter. If the owner, lessor, and/or lessee shall file a bond in an amount determined by the court, but which may not exceed the value of the premises ordered to be closed and submit proof satisfactory to the court that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the premises has been directed to be closed by the order of the court, then the court may vacate the provisions of the order that directed the closing of the premises. [Amended 10-24-2006]

C. Upon receipt of an order declaring a public nuisance case from the Chief, the City Attorney shall commence a civil proceeding against the owner of the premises to affix a civil penalty in the amount of $500 and to collect any costs and expenses incurred by the City of Oswego in obtaining such order and closing the premises. [Amended 10-24-2006]

§ 170-11. Judgment and action by City Attorney. [Amended 10-24-2006]

A. The judgment in such civil proceeding, in favor of the City, shall establish the civil penalty with costs and disbursements as a lien upon such premises, subject only to taxes, water/sewer assessments, mortgages and mechanic's liens as they may exist thereon prior to the filing of the notice of the civil proceeding.

B. The City Attorney shall have the power, on ex-parte application to the court, to appoint the City Chamberlain of the City of Oswego to be the receiver of rents and profits of the premises for the purposes of collecting the civil penalty and abating the nuisance. The receiver shall have the powers and duties of a receiver of rents and profits of real estate, provided that the City Attorney shall act as the City Chamberlain's counsel and the receiver shall not be allowed any expenditure for counsel fees. Such receivership shall continue until the amount of such civil penalty and cost of abatement, with interest at the rate of 9% per annum, and the commissions have been fully paid and the nuisance is abated, provided that nothing in this section shall be construed to prevent any prior lienor from applying to the Supreme Court in a proper case for a receiver of the premises.

C. At any time after the entry of any judgment establishing a lien upon the premises, the City Attorney, on behalf of the Chief, may apply to the court for leave to sell the premises. Upon such application, the court may order the premises sold at public auction, subject to taxes, water/sewer assessments, mortgages and mechanic's liens.

§ 170-12. Closing of premises by City; maintenance by owner.

A closing directed by the court pursuant to this chapter shall not constitute an act of possession, ownership or control by the City of the closed premises, and the owner of the property must still maintain the property in good condition, i.e., lawn mowed, snow removal, sidewalks cleared.

§ 170-13. Penalties for offenses.

A. It shall be a Class A misdemeanor for any person to use or occupy or to permit any other person to use or occupy any premises or portion thereof ordered closed by the court.

B. Mutilation or removal of an order posted by the Chief shall be a violation punishable by a fine of not more than $250 or by imprisonment not exceeding 15 days, or both, provided that such order contains therein a notice of such penalty.

C. Intentional disobedience of any provision of the orders issued by the court pursuant to this chapter, in addition to any other punishment prescribed by law, shall be an unclassified

misdemeanor punishable by a fine of not more than $500 or by imprisonment not to exceed six months, or both.

§ 170-14. Promulgation of regulations. [Amended 10-24-2006]

The Chief may promulgate rules and regulations to administer and give full effect to the provisions of this chapter.

§ 170-15. Administrative immunity.

No officer, agent or employee of the City of Oswego, New York, shall be personally liable for any damage resulting from any official determination, order or action required or permitted in the discharge of his/her duties under this chapter.

§ 170-16. Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

Chapter 173, PARKS AND RECREATION

[HISTORY: Adopted by the Common Council of the City of Oswego 7-26-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 59.

§ 173-1. Prohibitions. [Amended 9-25-2006]

Playground areas encompassing playground equipment, basketball courts, tennis courts, and in-line hockey courts in all Oswego City parks shall be closed to all persons from sunset to sunrise.

§ 173-2. Penalties for offenses.

Any person committing a willful violation of the provisions of this chapter and found guilty of

this offense shall be subject to a fine of not more than $100 or incarceration for not more than 15 days.

Chapter 176, SECONDHAND DEALERS AND COLLATERAL LOAN BROKERS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-9-2016 by L.L. No. 3-2016.[EN(58)] Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting -- See Ch. 180.
Weights and measures -- See Ch. 272.

§ 176-1. Legislative finding and purpose.

The Common Council finds and determines that the creation of a uniform, citywide registration and recordkeeping requirement for secondhand dealers located within the City of Oswego will curtail the distribution and facilitate the recovery of stolen property. The Common Council further finds and determines pursuant to its police and home rule powers and those powers specifically granted and regulations specifically set forth in Article 5 of the New York State Business Law that the recordkeeping requirements imposed herein are both reasonable and feasible to implement and will assist the law enforcement community in tracing and recovering secondhand article as defined herein that are stolen property. This chapter shall repeal and replace Chapter 176, Pawnbrokers, adopted by the Common Council of the City of Oswego 5-12-1980 as Chapter 81 of the 1980 Code.

§ 176-2. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

ANTIQUES -- Items or collectibles recognized as such by established dealer associations within the industry.

COLLATERAL LOAN BROKER -- Includes any person, partnership or corporation:

A. Loaning money on deposit or pledge of personal property other than securities or printed evidences of indebtedness; or

B. Dealing in the purchasing of the personal property on the condition selling back at a

stipulated price; or

C. Designated or doing business as furniture storage warehouse, and loaning and advancing money upon goods, wares, or merchandise pledged or deposited as collateral security.

IDENTIFICATION -- An official document issued by the United States government, or by any state, county, municipality, public agency or department thereof, provided that such document contains a photographic image of the holder.

PRECIOUS METALS -- Gold, silver, platinum, titanium, precious and semiprecious stones and coins.

SECONDHAND ARTICLE -- Items of every name and nature and by way of example but not exclusion, includes tangible items of every name and nature, but is not limited to, jewelry, watches, earrings, rings, brooches or similar items containing precious metals, in whole or in part, typically worn upon a person for adornment; semiprecious bullion, coins, or stones including diamonds, rubies, emeralds, topaz; televisions; cameras; video and other digital recording equipment; video game consoles including any version of Playstation or Xbox; portable GPS units commonly used in motor vehicles and hand held GPS units, portable MP3 music players including iPods, computers, laptop computers; cell phones and tablet computers and iPads; radar detectors and other items that are being purchased by or otherwise transferred to a second or later end user.

SECONDHAND DEALER -- Any person, corporation, partnership, association, limited liability corporation, and the agents, associates, principals, officers or employees thereof, regularly engaged in the commercial exchange, purchase and/or sale of secondhand articles.

§ 176-3. Permit required.

Upon the effective date of this chapter, no person, corporation, partnership, association, limited liability corporation shall operate in the City of Oswego as a secondhand dealer or hold themselves out as a secondhand dealer without first obtaining a permit from the City of Oswego as provided for herein.

§ 176-4. Exemption from permit requirements.

Nothing in this chapter shall apply to the following:

A. The sale of any item sold at a garage sale, yard sale, estate sale, going out of business or moving sale (collectively referred to herein as "garage sale"), provided that all of the following items are met:

(1) The garage sale is held on residential property owned, rented, leased, or occupied by the seller or by at least one seller if there are multiple sellers.

(2) The items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items.

(3) The garage sale does not exceed a period of 96 consecutive hours.

(4) The seller does not conduct more than four garage sales in any consecutive twelve-month period.

(5) None of the items offered for sale were purchased by the seller for resale or received on consignment for purposes of resale.

B. The sale of any secondhand article by any nonprofit, benevolent, religious or charitable organization, or on property occupied by any nonprofit, benevolent, religious or charitable organization when such sale is conducted by such organization.

C. The sale of secondhand articles at an advertised auction held by a licensed auctioneer.

D. Any transaction involving the sale or disposal of secondhand articles regulated by state or federal law, rule or regulation including sales through state or federal licensed dealerships, court-ordered sales, court-ordered levies or executions.

E. Internet sales or purchases except that such internet sales or purchases shall not be exempt from permit requirements if conducted by a person acting as a collateral loan broker as defined in Article 5, § 52, of the General Business Law of the State of New York and as further set forth in § 176-2(f) hereof.

F. The sale of antiques by an antiques dealer, or his/her employee or associate, provided the antiques dealer:

(1) Has an established antiques shop advertised and promoted as such and maintains a regular schedule of open hours.

(2) Exhibits at least twice a year at established advertised and/or promoted antiques shows in the United States.

(3) Is a private dealer working from home and/or nonretail locations by appointment or invitation and provided that such private dealer offers for sale an inventory of primarily, by count, merchandise fitting definitions of "antiques" or "collectibles" as recognized by established dealer associations and/or promoters, has never been convicted of any crimes related to the possession of or sale of stolen goods of any sort, and has applied for and been granted a New York State resale number for collection and submission of

sales tax.

(4) Is not engaged in the purchase or sale of precious metals by weight.

G. The sale of secondhand article at antique shows, flea markets or trade shows, where such shows are advertised and/or promoted as such.

H. Transfers of secondhand article, including gifts with or without consideration, between or among relatives or family members.

I. Transfers or gifts of secondhand article by an individual or agent with letters of administration or letters testamentary over a decedent's estate, or pursuant to rules of intestate succession or a bequest in a last will and testament.

J. Licensed or permitted automotive dealers or automobile dismantlers; brokers or processors of recycled or recovered metals or electronics; or scrap metal yards.

K. Precious metals used, bought, sold or transferred in connection with a university or educational institution or ongoing business or industry, the primary purpose of which is not to sell secondhand articles, as defined herein, at retail.

§ 176-5. Permit application.

Applicant for a permit pursuant to this chapter must file with the Clerk of the City of Oswego an application, supplied by such office, containing the following information:

A. The exact name, address, and telephone number of the applicant and the principals and officers thereof and the date of incorporation or organization, as applicable.

B. The name, business address, residential address, and telephone number of the operator of such business if other than the applicant.

C. The address and telephone number where the business is to be conducted.

D. The days and hours during which such business will be customarily open to the public.

E. A written certification, sworn under oath with penalties of perjury that the applicant, including any of its principals and officers, have not been convicted within the immediately preceding ten years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing. The Clerk of the City of Oswego shall deny the applicant a permit if the applicant, any of its principals or officers has been convicted of any of the crimes listed within the immediately preceding 10 years.

F. A copy of a valid New York State sales tax certificate of authority for the business, person or

entity.

G. A copy of a DCJS search of the applicant, including its principals and officers, for any crime which the applicant may have committed within the last 10 years.

§ 176-6. Permit fee.

Applicants receiving such permit shall pay therefore the sum of $100 yearly, and every such permit shall expire one year from the date thereof, and may be renewed upon filing a new application with the City Clerk each and every year upon the payment of the same sum and on performance of the other conditions herein contained. The application for renewal shall contain information which is current at time of renewal.

§ 176-7. Permit registration, duration and amendment.

Applicants shall obtain a permit by registering with the Clerk of the City of Oswego. The permit shall remain in effect for one year. In the event the location of the business changes, any of the principals, officers or operators of such business change, hours of operation, or telephone numbers change, or if the applicant, including any of its principals and officers, have been convicted of any of the crimes listed in § 175-5E hereof, a permittee shall notify the City Clerk of the City of Oswego of the changes and shall file an amended application containing the changed information within 30 days of such change. If the permit has not expired at the time the amended application has been filed, there shall be no charge to file the amended application. The filing of such amended application shall not extend the expiration date of the permit.

§ 176-8. Grounds for denial or revocation of permit.

A. The City Clerk of the City of Oswego shall deny the application for a permit of any applicant where such applicant, including any of the principals or officers thereof, has been convicted within the immediately preceding 10 years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing.

B. The City Clerk of the City of Oswego may revoke any permit granted herein in the following situations:

   (1) Where the secondhand dealer or any of its principals or officers is convicted of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing, whether or not in connection with the permitted business, or of a violation of this chapter, as provided for in § 176-14 below.

(2) Where the secondhand dealer has made a false statement in connection with its application for a permit or false business record entry on its books or records.

(3) Where the secondhand dealer revokes the consent to examine such records and secondhand article as provided for in § 176-11.

C. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies").

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this chapter.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

D. Notice of denial or revocation of a permit issued pursuant to this chapter shall be given in

writing by the City Clerk to the secondhand dealer, the Chief of Police, and the Sheriff in writing, setting forth specifically the grounds on which such permit was either denied or revoked with opportunity to be heard. Such notice shall be transmitted by regular and certified or registered mail to the secondhand dealer. Such denial or revocation may be challenged in a special proceeding conducted pursuant to Article 78 of the New York State Civil Practice Law and Rules. Pending the outcome of such special proceeding regarding the denial or revocation of a permit, no person shall operate as a secondhand dealer.

§ 176-9. Expiration and renewal of permits.

A permit issued pursuant to this chapter must be renewed annually as measured from the date of the issuance of the initial permit and shall expire one year from the date of issuance thereof.

§ 176-10. Display of permit.

Every secondhand dealer shall cause the secondhand dealer permit to be prominently displayed at each location of secondhand dealer's place of business.

§ 176-11. Records to be maintained by secondhand dealer.

A. Seller information.

(1) Except as otherwise provided herein, no secondhand dealer operating within the City of Oswego shall acquire any secondhand article unless such secondhand dealer has obtained and recorded the following information:

(a) The amount paid, advanced, or loaned for the article.

(b) A detailed and accurate description of the article including any identifying marks.

(c) The serial and model number (if any).

(d) In the case of precious metals, jewelry, and gems, a photograph of the article.

(e) The seller's identification information as required in § 176-12B.

(f) The date, time and place of this acquisition.

(2) The information obtained shall be recorded on a written receipt, which receipt shall be numbered in consecutive order and maintained in the secondhand dealer's records as provided for herein.

B. Identification information. Prior to acquiring any secondhand article, every secondhand dealer shall request and review identification from the seller to verify the seller's identity by comparing the seller to the photographic image contained on said identification. The secondhand dealer shall record the seller's name, date of birth and address (or current address if different than that listed on the identification), and the identification number (e.g., motorist ID number) listed on the identification. The secondhand dealer shall make a photocopy or photograph of the front of the identification. If the acquisition is made from a seller who is also secondhand dealer, the secondhand dealer purchasing the item shall also record the business name and address of such seller and a statement by such seller regarding the number of days the item was held by such seller prior to instant acquisition.

C. Records retention/inspection.

(1) Every secondhand dealer shall maintain for a period of two years all of the information required in Subsections A and B of § 176-11. Computerized records may be used to satisfy the requirements of this chapter, provided that such records include the required information and are available upon reasonable request for inspection in printed format.

(2) All records required by this chapter and each secondhand article shall be subject to examination during such times and in such areas of the business that are open to the public by any member of the City Police of the City of Oswego or other police department or law enforcement agency. Consent to such examination shall be a condition of obtaining and retaining the secondhand dealer permit; provided, however, that a revocation of such consent by the secondhand dealer shall not result in a criminal penalty or violation, as provided for in § 176-14 of this chapter. In the event that a secondhand dealer revokes the consent to examine such records and secondhand article, the permit granted herein may be revoked by the Chief of Police of the City of Oswego or the City Clerk of the City of Oswego, pursuant to the notification and challenge provisions set forth in § 176-8B. Nothing in this chapter shall diminish or obviate the need for voluntary consent or a warrant to search a residence, business or other location not open to the public. The City Clerk of the City of Oswego shall compile a list of all secondhand dealers to whom permits have been issued and provide same to any law enforcement agency upon request.

§ 176-12. Holding of articles prior to disposal, resale or alteration; additional requirements.

A. For a period of seven days after the acquisition of any secondhand article, excluding the day of acquisition (the "holding period"), every secondhand dealer shall maintain the secondhand article in a manner so as to be easily identified with the record documenting the transaction in which said article was acquired. During the holding period, the secondhand dealer shall

not:

(1) Sell, trade, transfer, remove from the local business premises or otherwise dispose of any secondhand article covered by this chapter.

(2) Alter in any fashion any such article.

(3) Commingle any such article with similar items.

B. As a condition of receiving a permit, the secondhand dealer shall agree to hold, for a period of 72 hours, any secondhand article, where a police officer has notified the secondhand dealer that law enforcement suspects that the article is stolen property. The seventy-two-hour holding period shall commence at the time of said notification. During the holding period, the secondhand dealer shall not:

(1) Sell, trade, transfer, remove from the local business premises or otherwise dispose of any secondhand article covered by this chapter.

(2) Alter, in any fashion, any such article, including, but not limited to, obliterating or defacing identifying marks or disassembling same.

(3) Commingle any such article with similar items.

C. As a condition of receiving a permit, any secondhand dealer who purchases, sells or offers for sale new articles shall obtain those new articles only from an authorized retailer or wholesaler. Nothing in this § 176-12C shall prohibit the purchase or sale of new items obtained from individuals who sell less than three of an identical or same type of article within any calendar year.

§ 176-13. Scale inspection report.

In addition to any provisions of New York State Agriculture and Markets Law, it shall be unlawful for a secondhand dealer to knowingly buy or sell precious metals by weight unless the scale used for the transaction has first been inspected by the Oswego County Department of Weights and Measures. Notwithstanding any other provisions of law, no secondhand dealer license shall be issued unless all scales used by the permit holder have been inspected and passed by the Sealer of Weights and Measures.

§ 176-14. Penalties for offenses.

Any secondhand dealer who fails to comply with the provisions of §§ 176-3, 176-5, 176-6, 176-11A, B, C(1), 176-12, and 176-13 of this chapter shall, upon conviction thereof, be guilty of

a Class A misdemeanor as defined in § 55.10 of the Penal Law of the State of New York as may be amended from time to time. Any secondhand dealer who fails to comply with the provisions of §§ 176-8 and 176-11 of this chapter shall, upon conviction thereof, be guilty of an unclassified misdemeanor as defined in § 55.10 of the Penal Law of the State of New York as may be amended from time to time; provided, however, that a secondhand dealer's failure to consent to a search of the premises as provided for in § 176-11C(2) of this chapter shall not be punishable as a crime.

§ 176-15. Severability.

If any provision, sentence or clause of this chapter is held unconstitutional, illegal or invalid by a court of competent jurisdiction, such findings shall not affect or impair any or the remaining provisions, sentences or clauses or their application to persons and circumstances.

§ 176-16. Application.

This chapter shall apply to all secondhand dealers operating in the City of Oswego.

§ 176-17. When effective.

This chapter shall become effective immediately upon filing with the Secretary of State, and shall be filed pursuant to the provisions of the Municipal Home Rule. All recordkeeping requirements, record retention periods, and secondhand article retention periods shall commence as of the effective date of this chapter and shall apply only to those articles acquired on or after the effective date of this chapter.

Chapter 180, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Common Council of the City of Oswego 8-8-1983 as L.L. No. 4-1983 (Ch. 61 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Pawnbrokers -- See Ch. 176.
Streets and sidewalks -- See Ch. 211.
Weights and measures -- See Ch. 272.

§ 180-1. Definitions. [Amended 5-23-1994 as L.L. No. 5-1994]

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

ESTABLISHED PLACE OF BUSINESS -- Includes a building or store in which or where the person transacts business and deals in the goods, wares or merchandise he hawks, peddles or solicits for during regular hours of business daily, or the home of an individual residing in the City of Oswego who accepts orders for merchandise but accepts no payment until the time of delivery.

FLEA MARKET -- Includes two (2) or more persons who sell or barter or offer for sale or barter any goods, wares, merchandise or food products on property owned by another person, which business is intended to be conducted for a temporary period of time and not permanently.

HAWKER OR PEDDLER -- Includes any person, either principal or agent, who, in any public street or public place or by going from house to house on foot or on any vehicles, sells or barters, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except, milk, newspapers, periodicals and nonprocessed foods.

PRIVATE SALE -- Includes any sale of personal goods by the owner of such at his place of residence (such sales are sometimes referred to as "garage sales," "lawn sales," etc.).

SOLICITOR -- Includes any person who solicits publicly, goes from place to place or house to house, requests or accepts orders by telephone or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

TRANSIENT BUSINESS -- Includes one conducted inside or outside a store, hotel, motel, house, building or structure on property owned by another or one conducted house to house or one conducted by telephone communications for the sale or purchase at retail of goods, wares, merchandise and food products and which is intended to be conducted for a temporary period of time and not permanently.

§ 180-2. License required. [Amended 5-23-1994 by L.L. No. 5-1994]

It shall be unlawful for any person, except as provided in § 180-3 below, within the limits of the City of Oswego to act as a hawker, peddler or solicitor or to conduct a transient business or flea market as herein defined without first having obtained a paid for, and having in force and effect, a license therefor.

§ 180-3. Exemptions from licensing provisions.

A. Generally. Nothing in this chapter shall apply to sales or purchases conducted pursuant to

statute or by order of any court or to any persons selling personal property at wholesale to dealers in such articles. The licensing provisions of this chapter shall not apply to merchants having an established place of business within the City of Oswego or to their employees; to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens; party plans; or private sales or sales or services by prior invitation; nor shall this chapter be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic deliveries.

B. This chapter shall not apply to solicitations by local charitable, religious, civic or not-for-profit organizations or to those city streets, parks or public places which the Common Council has authorized to be used by an organization for a specified period of time for a special event, or has designated for a specified period of time for a city-sponsored event. Charitable, religious, civic or not-for-profit organizations from outside the City of Oswego shall obtain and display a not-for-profit permit which shall be issued by the City Clerk upon payment of a fee of three hundred dollars ($300.). The provisions for use and display of this permit shall be the same as those required of any licensed transient business. All individuals or organizations shall be required to provide proof of insurance in the minimum amount of five hundred thousand dollars ($500,000.), naming the City of Oswego as additional named insured, prior to commencing any solicitations or sales on city-owned property. [Amended 12-10-1990 by L.L. No. 4-1990; 5-23-1994 by L. L. No. 5-1994]

C. A license to regulate hawkers, peddlers, solicitors and other transient businesses and flea markets shall not be necessary for any local honorably discharged soldier, sailor or marine who has procured a license as provided by the General Business law of the State of New York or for any individual who has procured a permit to participate in the annual farmer's market held in downtown Oswego. [Amended 5-23-1994 by L.L. No. 5-1994]

§ 180-4. Application for license; bond requirements.

A. Form; contents. Any person desiring to procure a license as herein provided shall file with the City Clerk's office a written application upon a blank form provided by the City Clerk and furnished by the city and shall file at the same time character references from the local law enforcement agency, chamber of commerce or Better Business Bureau from two (2) different communities where the applicant or his firm has previously conducted a similar business endeavor. Such information must contain the name, current address and telephone number of the references. Such application shall give the number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise one desires to sell or purchase or the kind of service one desires to perform, the method of distribution, the name, permanent and local address and

age of the applicant, the name and address of the person or firm one represents, the length of time the applicant desires a license, not to exceed one (1) year, and such other information as may be required by the Clerk.

B. Accompanying documents. Such application shall be accompanied by a certificate from the Director of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved, and by a permit from the Oswego County Health Department for the sale of any food items. [Amended 5-23-1994 by L.L. No. 5-1994; 10-28-1996 by L.L. No. 4-1996]

C. Bonds; conditions; amount; duration.

(1) An application for a license as a hawker, peddler, solicitor or transient business that demands, accepts or receives a payment or deposit of money in advance of final delivery or purchases items from individuals or an entity shall also be accompanied by a bond to the City of Oswego, approved as to form and security by the City Attorney, in the penal sum of at least one thousand dollars ($1,000.), with sufficient surety or sureties or sufficient collateral security conditioned for making a final delivery of goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order or, failing therein, that the advance payment of such order be refunded, and further conditioned that, in the event the purchaser stops payment on his payment instrument or has insufficient funds to make payments for goods purchased from individuals or entities, then, and in that event, such bond shall be used to make payment to the seller in such amount up to the limit of the bond. It is also required that any such bond applicant will make a full, complete and true report of the gross amount of sales made in such business within the city in accordance with § 180-12 below and will comply in good faith with the provisions of this chapter and in paying the amount of taxes fixed.

(2) Any person aggrieved by the action of any licensed hawkers, peddlers, solicitors or transient business shall have the right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and in effect, and in case of a cash deposit, such deposit shall be retained by the city for a period of ninety (90) days after the expiration of any such license, unless sooner released by the City Clerk.

D. Certificate; applicability. The requirement for a certificate of weights and measures shall apply to those claiming any one (1) of the exemptions under § 180-3.

§ 180-5. Issuance of license; license nonassignable; contents; display; restricted areas.

A. Grant; refusal. Upon the filing of the application as provided in § 180-4, the City Clerk shall, upon his approval of such application, issue to the applicant a license as provided in § 180-2 hereof. Except as hereinafter provided, no license shall be refused, except for a specific

reason and for the protection of the public safety, health, morals or the general welfare.

(1) No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(a) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(b) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(c) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(d) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(e) No application fees shall be refunded upon revocation of the permit.

(f) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(g) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

B. A license shall not be assignable. Any holder of such license who permits it to be used by any person, and any person who uses such license granted to any other person, shall each be

guilty of a violation of this chapter.

C. Contents. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued, and shall state clearly the kind of vehicle, if any, to be used and the kind of goods, wares or merchandise to be sold or service to be rendered, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee.

D. Every licensee, while exercising his license, shall at all times display the license conspicuously or, if engaged in telephone solicitation, shall, upon the commencement of each call, state his name and address and the respective number of his license.

E. In no event shall hawking and peddling be allowed in the following areas: Wright's Landing; East and West Side Linear Parks; Shapiro Park; Breitbeck Park; Oak Hill Park; Fitzhugh Park; Kingsford Park; East Side Park; West Side Park; Peglow Park; Hamilton Park; Crisafulli Park; Water Street; Fort Ontario recreation areas (including the softball field areas, skating rink area and swimming pool area); and Legends Softball Complex. [Added 8-10-1987 by L.L. No. 2-1987; 10-28-1996 by L.L. No. 4-1996]

§ 180-6. License fees. [Amended 5-23-1994 as L.L. No. 5-1994; 10-28-1996 by L.L. No. 4-1996; 11-25-1996 by L.L. No. 5-1996]

The following fees shall be paid for the license herein required:

A. Where a vehicle or vehicles is or are to be used by the applicant:

(1) For the first such vehicle so used, the fee for one year shall be $1,000.

(2) For each additional vehicle so used by any one licensee, the fee for one year shall be $1,000.

B. Where no vehicle is used by the applicant or where an additional license is required by § 180-7A hereof, the fee for one year shall be $1,000.

C. A license is required for the operation of or sale of goods at a flea market, when any vendor therein would be required to obtain a license. The fee for one year shall be $1,000, and the license shall cover all vendors who operate within such flea market.

§ 180-7. Employees, agents, representatives and sales personnel.

A. Number limited. Any person using a vehicle may employ, under the same license, not more than one (1) person to assist in selling and delivering, but such person shall so act only when

accompanying a licensed hawker, peddler, solicitor or transient businessman, and when any additional persons are so employed, an additional license shall be required for such additional person, and the fee fixed in § 180-6B shall be paid therefor.

B. Identification card required. The one (1) employee, agent or salesperson mentioned in Subsection A above who acts with a licensee shall at all times carry and on demand display a card of identification issued by the City Clerk, which card shall contain the following information: the name and picture of the employee, agent or salesperson, the name of the employer or company and the date of expiration of the employer's or company's license. Such identification cards shall be valid until the expiration of the license under which they are issued.

C. Personal statement required. Each such employee or salesperson shall file with the City Clerk's office a statement including his name age, permanent and city address and name and address of his employer or company and the telephone numbers of all such firms and/or individuals responsible for supervision of such activity.

D. Refusal or revocation of card. The provisions of § 180-8 respecting revocation of license shall apply to the revocation of a card of identification. This issuance of a card of identification may be refused upon the same grounds as set forth in § 180-5A for the refusal of a license.

§ 180-8. Revocation of license.

A. The City Clerk may at any time for a violation of this chapter or any other ordinance or any law revoke the license. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made.

B. Notice of such revocation and the reason or reasons therefor, in writing, shall be served upon the person named in the application by delivering the same to him either personally or by mailing the same to the address given in the application by certified mail, return receipt requested; such revocation shall be immediately effective if served personally and shall become effective twenty-four (24) hours after mailing, if served by mail.

C. Licenses obtained by fraud or misrepresentation of any material fact shall be wholly invalid and shall be surrendered upon demand; no refund of the license fee shall be made, and the violators shall be subject to the provisions of § 180-14.

§ 180-9. Written statements of orders required.

A written statement of all orders taken by licensed solicitors who demand, accept or receive

payment or deposit of money in advance of final delivery, setting forth the terms thereof, the amount paid in advance, the name of the solicitor and the name of the person or firm he represents, shall be given to the purchaser at the time the money is paid to or deposited with such individual or firm.

§ 180-10. Prohibited acts.

A. Unlawful sales. A hawker, peddler, solicitor or transient business shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or purchase nor offer for sale any unwholesome, tainted or diseased provisions or merchandise.

B. Sanitary conditions. A hawker, peddler, solicitor or transient businessman shall keep the vehicles and receptacles used by him in a clean and sanitary condition and shall keep the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects and must obtain all necessary federal, state and county licenses and/or permits as a condition of being granted the license herein.

C. Noises. A hawker, peddler, solicitor or transient businessman shall not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares nor shout or cry his wares.

D. Obstructions. A hawker, peddler, solicitor or transient businessman shall not create or maintain any booth or stand or place any barrels, boxes, crates or other obstruction upon any street or public place for the purpose of selling or exposing for sale or purchasing any goods, wares or merchandise, except in streets or public places wherein permission is granted within the license, specifically.

E. Measuring devices. A hawker, peddler, solicitor or transient businessman shall not use any weighing or measuring devices unless the same shall have been examined and sealed by the Department of Weights and Measures. [Amended 10-28-1996 by L.L. No. 4-1996]

§ 180-11. Purchase and sale of fish eggs; penalties. [Added 9-28-1992 by L.L. No. 3-1992]

A. Except as provided in Subsection B herein, no person, business or organization shall sell, buy, barter, trade or give or attempt to sell, buy, barter, trade or give fish eggs to any other person, business or organization on public property within the City of Oswego.

B. It shall be unlawful for any person to donate fish eggs at the city's fish cleaning stations of Oswego or to any person or organization designated to receive such fish eggs by the Common Council and for such person or organization to thereafter sell such fish eggs on public property within the City of Oswego.

C. A violation of the provisions of this section shall be punishable by a minimum fine of fifty dollars ($50.) for the first offense and one hundred dollars ($100.) for each subsequent offense.

§ 180-12. Weekly sales reports.

Any person or firm permitted to conduct business under the provisions of this chapter shall file and attest to its accuracy a report containing the gross amount of sales for each week or portion thereof that such business is conducted. This report is to be filed on or before 12:00 noon on Monday or the first business day of each week for any portion of the preceding week in which sales were made. The report is to be filed with the City Clerk unless otherwise stipulated. The bond will not be returned until the report has been filed.

§ 180-13. Precious metals and jewelry.

In addition to the standing provisions of this chapter governing transient business transactions, the following provisions will apply to the purchase and/or sale of precious metals:

A. All transactions shall be in accepted trade standards, i.e., karat, metric, troy, etc.

B. The range of prices being paid must be conspicuously posted at a place where business is transacted.

C. Advertising must clearly state purchase prices being offered in relation to accepted trade standards.

D. Scales used in any purchase or sale must be New-York-State-type approved for both lightweight and heavyweight metals.

E. All purchases must be recorded and conform to the following:

(1) A full description of the item purchased.

(2) Name of seller, address and telephone number (identification used for confirmation of information will be a driver's license, social security card or other satisfactory identification with picture normally accepted as approved documents).

(3) A physical description of the seller, i.e., height, weight, color, hair, eyes and complexion, etc.

(4) No transactions shall be made with any individual under the age of eighteen (18).

(5) No transactions shall be conducted before 9:00 a.m. and after 9:00 p.m. Any records so

maintained shall be made available to any law enforcement officials at any time, covering transient business transactions conducted in the community and for a period of ninety (90) days thereafter if such is requested.

F. Any hawker, peddler, solicitor or transient business that purchases or sells precious metals must secure a bond in accordance with provisions outlined in § 180-4C of this chapter.

§ 180-14. Penalties for offenses. [Amended 10-28-1996 by L.L. No. 4-1996]

Except as otherwise provided herein, the violation of the provisions of this chapter shall constitute an offense, and a person guilty of such offense may be punished by a fine of not more than one thousand dollars ($1,000.) or by imprisonment not exceeding fifteen (15) days, or by both fine and imprisonment.

§ 180-15. Effect on other provisions.

This chapter shall not supersede the local law of any other.

§ 180-16. Administration. [Amended 5-23-1994 by L.L. No. 5-1994]

The Police Department of the City of Oswego, New York, is hereby designated to enforce this chapter.

Chapter 184, PLUMBING STANDARDS

[The current administrative rules and regulations governing plumbing installations for the City of Oswego, adopted 4-1-1981 by the City Council (now Common Council), are on file at the office of the City Clerk.]

Chapter 193, RECORDS

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 35, Art. I, of the 1980 Code; Art. II, 2-14-1990 (Ch. 35, Art. II, of the 1980 Code). Amendments noted where applicable.]

ARTICLE I, Removal of Records from City Hall [Adopted 5-12-1980 as Ch. 35, Art.

I, of the 1980 Code]

§ 193-1. Permission for removing papers or records.

No person or persons shall remove any papers, specifications, plans, documents or records or any property whatsoever belonging to the city from any room or department in the City Hall building, except with the permission of the Mayor, Common Council or department having charge of the same. Any person violating any of the provisions of this Article shall be subject to a fine of not less than five dollars ($5.) nor more than fifty dollars ($50.).

§ 193-2. Record of real property.

The City Clerk shall keep a record of all real property and interest in real property acquired by the city and shall provide and keep for the purpose a suitable book, which shall contain the following entries, to be made by him, relating to such property, together with such additional data in any particular case as he or the Mayor or Common Council may deem important.

A. Deeds of property.

(1) The name of the grantor.

(2) The character of the conveyance, whether quitclaim, warranty or full covenant deed, etc.

(3) The date of conveyance.

(4) The consideration.

(5) A description of the premises.

(6) All reservations, exceptions and conditions contained in the conveyance and any other portion of such conveyance which affects the interests or estate conveyed.

(7) The date when and the book and page where such deed is recorded in the office of the Clerk of Oswego County.

(8) The date of the acceptance of such conveyance by the Common Council.

(9) In case of lands that have been or may hereafter be so dedicated by any party, where no actual conveyance has been made, there shall be entered a description of such lands, with date and manner of dedication with reference to any matter of record and to all maps relating thereto. There shall also be entered any improvement or other act done by the city, declaring or indicating an intent to accept said lands for public use.

ARTICLE II, Records Retention [Adopted 2-14-1990 by (Ch. 35, Art. II, of the 1980 Code)]

§ 193-3. Adoption of Records Retention and Disposition Schedule MU-1.

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 193-4. Disposal of records.

In accordance with Article 57-A:

A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed.

B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

Chapter 199, SEWERS

[HISTORY: Adopted by the Common Council of the City of Oswego 11-9-2009 by L.L. No. 1-2009.[EN(59)] Amendments noted where applicable.]

GENERAL REFERENCES

Plumbing standards -- See Ch. 184.
Water -- See Ch. 263.

Part 1, Sewer Service Fees Outside City

ARTICLE I, Permit and Sewer Service Fees

§ 199-1. Permit required.

No person, firm, association, church, school or corporation shall lay any sewer to property located outside the City of Oswego to a sewer connected to the City sewage system without first obtaining a permit therefor as provided by this Part 1.

§ 199-2. Application for permit.

A. Application for permits shall be made, in writing, to the Common Council. Such application shall contain such information as the Common Council may require and shall be verified by the applicant.

B. Upon receipt of such application, the Common Council shall refer the same to the Commissioner of Works and the City Engineer for their report as to whether the proposed connection to the City sewer system should be made and as to whether the City sewer system is adequate to handle such additional sewage as may be required to be handled as a result of such proposed connection.

§ 199-3. Issuance and contents of permit.

A. The Common Council, upon receipt of a certificate of approval from the Commissioner of Works and the City Engineer, shall issue a permit to the applicant for the benefit of the owner of the property to be served by the proposed connection which shall inure to the benefit of the owner and his successors in title.

B. The permit shall state the address of the property to be served and the date of issuance and shall provide that such permit shall be revocable by the Common Council upon six months' written notice addressed to the owner of the property described in the permit, as he shall appear on the last assessment roll of the County of Oswego, and mailed to him by registered mail at the address set forth in the permit; the annual sewer service fee to be charged; and the date upon which the sewer service fee shall be payable to the City Chamberlain.

C. Said permit shall also contain notice to the effect that if the sewer service fee stated in the permit to any common user thereto is not paid within six months after the same shall become due in any year, the sewer connection therein provided for may be disconnected, and the opening thereto into the City sewer at the point of connection may be closed without further notice. Any unauthorized connections to the City sewer may be disconnected after giving three months' notice to the user in the same manner as set forth in § 199-6. Cost of maintenance to the point of connection with the City sewer is upon the persons seeking such

permits.

§ 199-4. Sewer service fee.

A. An annual sewer service fee of $312 per year for a sewer connection shall be charged by the City of Oswego to all homeowners for their individual dwellings and shall be payable quarterly, in advance, to the City Chamberlain. The first year's service charge shall be paid at the time the permit is issued and shall be prorated on the basis of the number of months left in the calendar year at the time the permit is issued. The annual sewer service fee may be amended from time to time by the Common Council.

B. Annual sewer service fees for all apartment houses, multiple dwellings, business establishments, schools, churches, nursing homes and other similar uses shall be based on in-City water consumption metered rates, with a yearly minimum sewer service fee of $216 per meter, per annum. The sewer service fee shall be payable in quarterly installments based on water consumption. The annual sewer service fee may be amended from time to time by the Common Council.

C. Annual sewer service fees for sewer districts adjoining the City of Oswego shall be based upon negotiated sewer use agreements between the City and the district, as amended from time to time and approved by the Common Council.

D. Annual sewer service fees for manufacturing plants (industries) discharging to the City sewer system, via sewer districts, shall be based upon negotiated sewer use agreements between the City and the industry, as amended from time to time and approved by the Common Council.

§ 199-5. Disconnection of service when in default of fee.

In the event that the sewer service fee herein provided for by any common user thereto shall remain unpaid on the first day of July in any calendar year, the Commissioner of Works shall cause the connection to the City sewer system to be discontinued and the opening provided therefor into the City sewer to be closed at the point of connection. Such service shall not be restored until the arrears in sewer service fees have been paid, together with the cost incurred in disconnecting and reconnecting such service.

§ 199-6. Revocation of permit.

Such permit may be revoked by the Common Council, which revocation shall be effective six months after written notice thereof shall have been given by sending the same by registered mail to the owner of the property described in the permit as his name shall appear from the last

preceding assessment roll of the County of Oswego.

§ 199-7. Penalties for offenses.

A violation of this Part 1 shall be punishable for the first offense by a fine not exceeding $100, and for the second and each subsequent offense by a fine of not less than $100 nor more than $200. Each day on which such violation continues shall constitute a separate offense.

Part 2, Sewer Use and Connections

ARTICLE II, Terminology

§ 199-8. Specific definitions; word usage.

A. Unless the context of usage indicates otherwise, the meaning of specific terms in this Part 2 shall be as follows:

ACCEPTABLE LIMITS -- Those amounts or concentrations of pollutants that will allow consistent compliance with all SPDES permit limits, residuals disposal regulations for nonhazardous wastes, and satisfactory operation and maintenance of the entire City POTW as determined by the City Engineer.

ACT -- The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.

ALLOWABLE HEADWORKS LOADING (AHL) -- The estimated maximum loading of a pollutant that can be received at the POTW's headworks that should not cause the POTW to violate a particular treatment plant or environmental criterion. AHLs are developed to prevent interference or pass-through.

APPROVAL AUTHORITY -- The United States Environmental Protection Agency (USEPA) or the New York State Department of Environmental Conservation (NYSDEC), in the event that the NYSDEC is delegated approval authority responsibility by the USEPA.

ASTM -- The American Society for Testing and Materials.

AUTHORIZED REPRESENTATIVE OF THE USER -- May be:

(1) A principal executive officer of at least the level of vice president if the user is a

corporation;

(2) A general partner or proprietor if the user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the discharge originates.

BOD (denoting Biochemical Oxygen Demand) -- The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN -- That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER -- The extension from the building drain to the POTW.

CITY -- The City of Oswego (incorporated in 1848) or the City Council of the City of Oswego, or the City's authorized representative.

CITY ENGINEER -- New York State licensed professional engineer, full-time on staff and employed by the City of Oswego, and otherwise qualified to oversee POTW operations. This definition shall also include his authorized deputy, agent or representative.

COMBINED SEWER -- A sewer intended to receive both wastewater and stormwater or surface water.

COMMERCIAL USER (CLASS II) -- Includes a property occupied by a nonresidential establishment not within the definition of an industrial user (Class III) and which is connected to the POTW.

COMPLIANCE -- Conformance with wastewater discharge permit limits and conformance with all the terms of this Part 2. Compliance shall be determined by periodic monitoring by the City and/or self-monitoring, as applicable.

CONTROL AUTHORITY -- The City or City Engineer.

CONTROL MANHOLE -- A structure maintained by the owner and approved by the City Engineer that is continuously and immediately accessible and adequate for the insertion of a flow metering device and the collection of samples, and suitable for inspection, observation sampling, testing and measuring of user discharges.

CONVENTIONAL POLLUTANT -- A pollutant that the POTW treatment plants were designed

to treat, defined in accordance with the Act.

COOLING WATER -- The water discharged from any system of condensation, air conditioning, cooling or refrigeration which does not come into contact with any raw material, intermediate product, waste product or final product.

DAY -- The twenty-four-hour period beginning at 12:01 a.m.

EASEMENT -- An acquired legal right for the specific use of land owned by others.

EPA -- The United States Environmental Protection Agency.

EXISTING SOURCE -- Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed National Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with § 307 of the Act.

GARBAGE -- The solid animal and vegetable waste resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking and serving of foods and from the packaging and canning of food.

GRAB SAMPLE -- A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

GROUNDWATER -- Water within the earth.

HEADWORKS -- The point at which wastewater enters the wastewater treatment plant. The headworks may consist of bar screens, comminutors, a wet well or pumps.

INDIRECT DISCHARGE -- The introduction of pollutants into a POTW from any nondomestic source regulated under § 307(b), (c) or (d) of the Act.

INDUSTRIAL CONTRIBUTORY FLOW METHOD BASED LIMIT -- The local limit being applied to permitted users based upon the maximum allowable industrial loading to the POTW and the maximum daily flow from the permitted users used for the contributory flow.

INDUSTRIAL USER (CLASS III) -- Any source of indirect discharge.

INDUSTRIAL WASTES -- The liquid wastes, other than sanitary wastewater, resulting from manufacturing, industrial or other processes.

INFILTRATION -- The water entering a sewer system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

INFLOW -- The water discharged into a sewer system, building drains and building sewers

from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, stormwater, surface runoff, street wash water or drainage. It does not include and is distinguished from infiltration.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT -- The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE -- A discharge that, alone or in conjunction with discharges by other sources, inhibits or disrupts any sewer system, wastewater treatment process, sludge disposal system or their operations and, therefore, is a cause of a violation of any requirement of the City's POTW SPDES permits (including an increase in the magnitude or duration of a violation) or of the prevention of sludge disposal by the POTW in accordance with the statutory provisions and regulations or permits (or more stringent state or local regulations) referenced by 40 CFR 403.3(I)(2).

MAXIMUM ALLOWABLE HEADWORKS LOADING (MAHL) -- The estimated maximum loading of a pollutant that can be received at the POTW's headworks without causing pass-through or interference; the most protective (lowest) of the AHLs (See definition.) estimated for a pollutant.

MAXIMUM ALLOWABLE INDUSTRIAL LOADING (MAIL) -- The estimated maximum loading of a pollutant that can be received at the POTW's headworks from all permitted industrial users and other controlled sources without causing pass-through or interference. The MAIL is usually calculated by applying a safety factor to the MAHL and discounting for uncontrolled sources, hauled waste and growth allowance.

MONITORING STATION -- A permanent structure constructed, maintained and operated by and at the owner's expense and approved by the City Engineer as to design and construction for the express purpose of providing an accessible point out of the traveled way for metering and sampling waste discharges continuously into the City POTW system in a safe and accurate manner.

MUNICIPAL NPDES/SPDES PERMIT -- The current State or National Pollutant Discharge Elimination System Permits, as issued by the United States Environmental Protection Agency or the New York State Department of Environmental Conservation, to the City of Oswego POTW.

NATIONAL CATEGORICAL PRETREATMENT STANDARD -- Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR

Chapter I, Subchapter N, Parts 405 through 471.

NATIONAL PROHIBITED DISCHARGE STANDARD -- Any regulation developed under the authority of § 307 (b) of the Act, and 40 CFR 403.5, and further described in Article VIII of this Part 2.

NATURAL OUTLET -- Any outlet into a watercourse, pond, ditch, lake or any other body of surface water or groundwater.

NEW SOURCE -- Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

OIL AND GREASE -- The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease and oil in wastewater, expressed in milligrams per liter.

OTHER WASTES -- Properly shredded solid wastes such as garbage, refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, cinder, ashes and all other discarded matter not normally present in wastewaters.

OWNER -- The person or persons who legally own, lease or occupy private property which discharges or will discharge to the City's POTW.

PASS-THROUGH -- The discharge which exits the City POTW into waters of the state in quantities which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permits (including an increase in the magnitude or duration of a violation).

PERMIT -- A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Part 2.

PERSON -- Any individual, firm, company, association, society, partnership, corporation, municipality or other similar organization, agency or group.

pH -- A measure of the acidity or alkalinity of a solution, expressed in standard units.

PHOSPHORUS -- The total quantity of phosphorus contained in a particular waste.

PLUMBING INSPECTOR -- City-licensed master plumber, full-time on staff and employed by the City, and otherwise qualified to oversee the construction/installation of sewer systems, building drains and building sewers.

POLLUTANT -- Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waters, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

POLLUTANT OF CONCERN (POC) -- Any pollutant that might reasonably be expected to be discharged to the POTW in sufficient amounts to pass through or interfere with the works, contaminate its sludge, cause problems in its collection system or jeopardize its workers.

POTW TREATMENT PLANT -- That portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT -- The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to discharge to the City of Oswego's POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, production process changes or by other means, except as prohibited by 40 CFR 403.6(d).

PRETREATMENT REQUIREMENTS -- Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on a user.

PRETREATMENT STANDARDS -- Prohibited discharge standards, national categorical pretreatment standards and local limits established pursuant to 40 CFR 403.5.

PRIORITY POLLUTANTS -- The most recently revised or updated list, developed by the EPA (after weighing the importance of toxicity, persistence, degradability and effect on organisms), in accordance with § 307(a)(1) of the Act.

PROPERLY SHREDDED GARBAGE -- Garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the wastewater

sewers, with no particle greater than 1/2 inch in any dimension.

PUBLICLY OWNED TREATMENT WORKS (POTW) -- A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Part 2, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

RESIDENTIAL USER (CLASS I) -- All premises used only for human residency and which is connected to the POTW.

RESTAURANTS -- Retail establishments selling prepared foods and drinks, caterers and industrial and institutional food service establishments, and shall include but not be limited to all establishments with a Standard Industrial Classification Manual Group No. 58.

SANITARY WASTEWATER -- Wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants or institutions, essentially free of industrial wastes or toxic materials.

SIGNIFICANT INDUSTRIAL USER (SIU)

(1) A user subject to national categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plants; or

(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in Subsection (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may, at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR 403.8(0(6), determine that such user should not be considered a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC) -- A user shall be deemed to be in significant noncompliance if any violation meets one or more of the following criteria: [Amended

2-27-2012 by L.L. No. 1-2012]

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations, which may include a violation of best management practices, which the City Engineer determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG -- Any discharge of water or wastewater in which the concentration of any limited constituent or quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration or flow during normal operation.

SPILL -- To allow or to cause, either inadvertently or intentionally, a substance to escape from its normal container or containment system and enter the POTW.

STANDARD INDUSTRIAL CLASSIFICATIONS (SICs) -- Classifications pursuant to the

Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

STANDARD METHODS -- The latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, Water Environmental Federation and American Water Works Association.

STATE -- The State of New York.

STORM SEWER -- A sewer for conveying storm, surface and other waters, which is not intended to be transported to a wastewater treatment facility.

SUBSTANCES OF CONCERN -- Toxic pollutants as defined by the NYSDEC that will, if discharged in sufficient quantities, cause significant harm to human health or the environment.

SUPERINTENDENT -- The New York State grade 4-A licensed sewage plant operator, full-time on staff and employed by the City, and otherwise qualified to oversee the operation and maintenance of wastewater treatment facilities.

SURFACE WATER -- Water which occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

TOTAL SUSPENDED SOLIDS -- The total suspended matter that either floats on the surface of, or is suspended in, water, wastewater or other liquid and which is removable by laboratory filtering.

TOXICS -- Those substances as defined and referred to in the Act or as designated by the Commissioner of the NYSDEC.

UNIFORM CONCENTRATION METHOD BASED LIMIT -- The local limit being applied to all permitted users based upon the maximum allowable industrial loading to the POTW and the total industrial maximum daily flow from all permitted users.

USER -- Any person who contributes, causes or permits the contribution of wastewater into the City's POTW

WASTEWATER -- A combination of liquid and water-carried wastes from residences, commercial buildings, industries and institutions, together with any groundwater, surface water or stormwater that may be present.

WASTEWATER DISCHARGE PERMIT -- The permit that shall be required for users as set forth in Article X of this Part 2 for entry of wastewater into the City POTW and issued pursuant to these regulations and may contain discharge restrictions as deemed appropriate by the City Engineer and limited only by such other bona fide agreements as may exist between the City of

Oswego and the user.

WASTEWATER FACILITY -- The combination of the wastewater sewers and treatment facilities.

WASTEWATER SEWER -- The structures, processes, equipment and arrangements necessary to collect and transport wastewaters to the wastewater treatment facility.

WASTEWATER TREATMENT FACILITY -- The structures, processes, equipment and arrangements necessary to treat and discharge wastewaters.

WEF -- The Water Environmental Federation.

B. Word usage. "May" is permissive, "shall" is mandatory.

§ 199-9. General definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this Part 2 and not defined in § 199-8 above shall be as defined in "Glossary: Water and Wastewater Control Engineering," prepared by the Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Environmental Federation, latest revision.

ARTICLE III, General Provisions

§ 199-10. Purpose; disclosure of policies and procedures to public.

A. The purpose of this Part 2 is to provide for the maximum possible beneficial public use of the City's POTW by:

(1) Preventing the introduction of substances into the POTW that will:

(a) Interfere with the POTW in any way;

(b) Pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation(s) of the POTW's SPDES permit(s);

(c) Increase the cost or otherwise hamper the disposal of POTW sludge(s) and/or residuals;

(d) Endanger municipal employees;

(e) Cause air pollution or groundwater pollution, directly or indirectly;

(f) Cause any public nuisance condition, directly or indirectly.

(2) Preventing new sources of infiltration and inflow and, as much as practical, eliminate existing sources of infiltration and inflow.

(3) Assuring that new sanitary sewers, building drains and building sewers are properly constructed.

(4) Providing procedures for complying with the requirements contained herein.

B. It shall be the policy of the Common Council to conduct all business with full disclosure to the public.

C. The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Part 2 and for requesting a hearing shall be formulated by the City and be made available to any resident of the City upon request.

D. The City shall formulate procedures to make available to the public for inspection such orders, statements of policy and interpretations used by the City in administration of this Part 2. No rule, regulation or civil order shall be valid until it has been available for public inspection.

§ 199-11. Scope.

A. The definitions of terms used in this Part 2 are found in Article II. The provisions of this Part 2 shall apply to the discharge of all wastewater to facilities of the City. This Part 2 provides for use of the City's POTW, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of wastewater discharge permits, minimum sewer connection standards and conditions and penalties and other procedures in cases of violation of this Part 2.

B. This Part 2 shall apply to the City of Oswego and to persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

§ 199-12. Administration.

Except as otherwise provided herein, the City Engineer shall administer, implement and enforce the provisions of this Part 2. Any powers granted to or duties imposed upon the City Engineer may be delegated by the City Engineer to other City personnel.

§ 199-13. Violations.

Any person found in violation of this Part 2 or any requirement of a permit issued hereunder shall be subject to the enforcement response actions stipulated in Article XI of this Part 2.

§ 199-14. Inspections.

A. The Administrator, bearing proper credentials and identification, shall be permitted to enter user properties at any time for the purposes of inspection, observation, measurement and sampling of the wastewater discharge to ensure that discharge to the City's POTW is in accordance with the provisions of this Part 2.

B. The Administrator, bearing proper credentials and identification, shall be permitted to enter user properties at any time for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any of the City's POTW lying within the user's property.

C. While performing the necessary work on user properties referred to in Subsections A and B above, the Administrator shall observe all safety rules established by the owner or occupant of the property and applicable to the premises.

D. While on user properties to perform inspections, wastewater sampling or other similar operations referred to in Subsections A and B above, the owner and occupant shall be:

   (1) Held harmless for personal injury or death of the Administrator and the loss of or damage to property of the owner or occupant by the Administrator; and

   (2) Indemnified against liability claims asserted against the owner or occupant for personal injury or death of the Administrator or for loss of or damage to the property of the City, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions as required by Article X of this Part 2.

§ 199-15. Vandalism prohibited.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the City's POTW. Any person who violates this section shall be subject to the enforcement response actions stipulated in Article XI of this Part 2.

§ 199-15.1. Severability.

A finding by any court or other jurisdiction that any part or provision of this chapter is invalid shall not affect the validity of any other part or provision of this chapter which can be given effect without the invalid parts or provisions.

§ 199-16. Amendments.

Public notice shall be given in accordance with applicable provisions of the City Charter, other City local laws and state and federal law prior to adoption of any amendments of this Part 2.

§ 199-17. Review of determinations.

A. Any person aggrieved by any order or ruling of the Administrator or by any charge, surcharge, assessment, fee or cost apportionment made under this Part 2 may seek review of said determination by serving a notice, in writing, of application for review with the City Clerk within 30 days of notice of said determination.

B. At a time and place and during specified hours, the Board of Review shall meet to hear complaints in relation to any determination. The City Clerk, City Chamberlain and City Assessor shall constitute the Board of Review.

§ 199-18. Repealer.

All other resolutions, ordinances and local laws and/or parts of resolutions, ordinances, local laws inconsistent herewith, be and the same are hereby repealed.

ARTICLE IV, Use of City's POTW

§ 199-19. Waste disposal.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Oswego, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

§ 199-20. Wastewater discharges.

It shall be unlawful to discharge without a SPDES permit to any natural outlet within the City of

Oswego or in any area under its jurisdiction. Wastewater discharges to the City's POTW are not authorized unless approved by the City Engineer in accordance with provisions of this Part 2.

§ 199-21. Building permit.

No person shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Part 2, is available. All housing construction or building development which takes place after this Part 2 is enacted shall provide for an approved system of sanitary sewers.

§ 199-22. Wastewater disposal.

Except as provided in this Part 2, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

§ 199-23. Connection required.

The owner of any house, building or property which is used for human occupancy, employment, recreation or other purposes, under the jurisdiction of this Part 2 and abutting on any street, alley or right-of-way in which there is or may be located a POTW, is required, at the owner's expense, to install suitable toilet facilities therein and to connect such facilities directly to the proper sewer in accordance with the provisions of this Part 2 within 90 days after the date of official notice to do so, provided that the proper wastewater sewer is within 100 feet (30.5 meters) of the property line. This section shall not apply to any person served by a privately constructed, owned, operated and maintained wastewater sewer and wastewater treatment facility which discharges directly to a natural outlet in accordance with the provisions of this Part 2 and applicable state and federal laws.

§ 199-24. Limitation on use.

The use of the City's wastewater sewers shall be strictly limited and restricted, except as provided in § 199-22 of this article, to receive and accept the discharge of sewage and other wastes, including industrial wastes, generated on or discharged from real property within the bounds of the service area of the POTW.

§ 199-25. Wastewater from outside POTW service area.

The City Common Council, on the recommendation of the City Engineer, shall have the

authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

A. If the person is a municipality, the City Engineer shall, prior to the City entering into an agreement, request the following from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality.

(2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the City Engineer may deem necessary.

B. If the person is a municipality, the agreement shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use local law which is at least as stringent as this Part 2 and local limits which are at least as stringent as those set out in § 199-64 of this Part 2. The requirement shall specify that such local law and limits must be revised as necessary to reflect changes made to the City's local law or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the City Engineer; and which of these activities will be conducted jointly by the contributing municipality and the City Engineer.

(4) A requirement for the contributing municipality to provide the City Engineer with access to all information that the contributing municipality obtains as part of its pretreatment activities.

(5) Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the City Engineer access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the City Engineer; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal

agreement.

C. If the person is not a municipality, the discharge shall be made only with the expressed written consent of the City Engineer (the issuance of a permit) setting forth the terms and conditions of such a discharge.

§ 199-26. Moratorium on use; correction of conditions.

At the recommendation of the City Engineer, who determines that one or more portions of the POTW is exceeding its hydraulic capacity at any time or any specific purpose of this Part 2 is being violated, the City Common Council shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by construction of new facilities, enlarging existing facilities, correction of inflow and infiltration or cleaning and repairing of existing facilities.

§ 199-27. Basis of sewer use requirement.

All requirements, directives and orders calling for mandatory use of the wastewater sewers, within the service area of the POTW, for the proper discharge of sewage and other wastes, including industrial wastes, shall be established and given by the City Common Council, NYSDEC, USEPA and/or other such state or federal agencies which have enforcement powers.

ARTICLE V, Private Wastewater Disposal

§ 199-28. Exclusions.

This Article V shall not apply to any private system which discharges to the POTW or which discharges directly to a natural outlet by authority of a separate SPDES permit and in compliance with applicable state and federal laws.

§ 199-29. Private system required.

All houses, buildings or properties which are required by other authority to have sanitary or industrial wastewater facilities, are subject to the jurisdiction of this Part 2 and are located where a proper wastewater sewer is not available as specified by the provisions of § 199-23 of this Part 2 shall be equipped, at the owner's expense, with suitable wastewater facilities connected to a

private wastewater disposal system which complies with the provisions of this article.

§ 199-30. Construction permit.

A. Before commencement of construction of a private wastewater facility required under § 199-29 above, the owner shall first obtain a written construction permit signed by the Plumbing Inspector. The application for such permit shall be made on a form furnished by the City which the applicant shall supplement with any plans, specifications and other information relevant to wastewater discharges as is deemed necessary by the City Engineer. A permit and inspection fee of $50 shall be paid to the City at the time the application is filed.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

   (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

   (2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

   (3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

   (4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

   (5) No application fees shall be refunded upon revocation of the permit.

   (6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 199-31. Design requirements.

The type, capacities, location and layout of a private wastewater facility shall be designed by a state-licensed professional engineer and shall be in accordance with the "Standards for Waste Treatment Works" (New York State Department of Health - NYSDOH) or "Standards for Commercial and Institutional Facilities" (NYSDEC), as appropriate. Septic tank or cesspool dischargers require the use of subsurface disposal. This requirement excludes deep well disposal as defined by state and federal laws.

§ 199-32. Operating permit.

A. Before commencement of operation of a private wastewater facility, the owner shall first obtain a written operating permit signed by the City Engineer. The operating permit shall not become effective until the installation is completed to the satisfaction of the City Engineer. The City Engineer shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the operating permit shall notify the City Engineer when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 16 normal business hours after receipt of notice by the City Engineer.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel

owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 199-33. Repair, rebuilding or relocation of nuisance-causing systems.

When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer or water supply system located in the City in such a manner, volume and concentration so as to create a hazardous, offensive or objectionable condition, in the opinion of City Engineer, Oswego County Health Department or the New York State Department of Health (NYSDOH), the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the City Engineer to do so, shall, within 90 days after receipt of such notice, repair, rebuild or relocate such wastewater disposal system for the purpose of eliminating such hazardous, offensive or objectionable conditions. The repair, rebuilding or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH and Oswego County Health Department at the owner's expense.

§ 199-34. Connection to available public sewer required.

At such time as a POTW becomes available as defined in § 199-23 to a property served by a

private wastewater facility, a direct connection shall be made to the wastewater sewer (in accordance with Article VII of this Part 2) within 90 days, and any septic tanks, cesspools and similar wastewater facilities shall be emptied by a licensed septage hauler, filled with suitable material or removed and properly disposed. When the connection is made to the wastewater sewer, the connection to the private wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate.

§ 199-35. Sanitary operation required; septage removal.

A. The owner shall operate and maintain the private wastewater facilities in a sanitary manner at all times in accordance with the conditions of the operating permit and at no expense to the City. Such facilities shall be subject to inspection by the City Engineer at any time.

B. Where a private wastewater disposal system utilizes a cesspool or a septic tank, septage shall be removed from the cesspool or septic tank by a licensed hauler of scavenger wastes at three-year intervals or more frequently.

§ 199-36. Further requirements.

No statement contained in this article shall be construed to prevent or interfere with any additional requirements that may be imposed by the Health Officer or other applicable authority.

ARTICLE VI, New Sewers or Sewer Extensions

§ 199-37. Design requirements.

New wastewater sewers and all extensions to wastewater sewers owned and operated by the City shall be designed by a professional engineer licensed to practice in the state in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards") and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from, the Oswego County Health Department and the NYSDEC before initiating any construction. Plans and specifications shall also be submitted to, and connection permit(s) obtained from, the City Engineer before initiating any construction. The design shall anticipate and allow for flows from all reasonably anticipated future extensions or developments within the immediate planning area.

§ 199-38. Approval of plans required; expenses; inspections; reporting.

When a person proposes to construct wastewater sewers or extensions to wastewater sewers in an area proposed for subdivision, the plans and specifications for construction shall be subject to the approval of the Oswego County Health Department and NYSDEC in accordance with § 199-37 of this article. Said person shall pay for the entire installation, including City connection permit(s), insurance coverage(s), a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains and all other expenses incidental thereto. Each building sewer shall be designed, installed and inspected pursuant to Article VII of this Part 2. Design and installation of wastewater sewers shall be as required by this Part 2 and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the wastewater sewer shall be subject to periodic inspection by the City Engineer without prior notice. The City Engineer shall determine whether the work is proceeding in general conformance with the approved plans and specifications and whether the completed work will perform as intended. The wastewater sewer, as constructed, must pass the tests required by this Part 2 before any building sewer is connected thereto. The City Engineer shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required may be established. No new wastewater sewers will be accepted by the City Common Council until such construction inspections have been made so as to assure the City thereto. The City Engineer has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise backfilled before they were inspected so as to permit inspection of the construction. The City Engineer shall report all findings of inspections and tests to the Mayor.

§ 199-39. Conformance of plans, specifications and materials required.

Plans and specifications for construction shall conform to the requirements of this article. Material and construction specifications for wastewater sewers shall conform to the City's standard requirements, which include, but are not limited to, type of pipe and joint, class of pipe and load factors, pipe installation, manholes and manhole installation and acceptance testing (air tests, infiltration/exfiltration tests, lamping and deflection tests); a copy of said standard requirements may be obtained from the City Engineer. When requested, the applicant shall submit to the City Engineer, Oswego County Health Department and NYSDEC all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished upon request.

§ 199-40. Final acceptance and guarantee.

All wastewater sewers and extensions to wastewater sewers constructed at the applicant's expense, after final approval and acceptance by the City Engineer, and concurrence by the City Common Council, shall become the property of the City and shall thereafter be operated and maintained by the City. No wastewater sewer shall be accepted by the City until four copies of as-built drawings have been so filed with the City Engineer and the City Engineer has approved the submitted drawings. Said wastewater sewers, after their acceptance by the City, shall be guaranteed against defects in materials or workmanship for one year by the applicant. The guarantee shall be in such form and contain such provision as deemed necessary by the City Common Council, secured by a surety bond or such other security as the City Common Council may approve.

§ 199-41. Indemnification and insurance required; permission required for excavation and cutting.

A. All contractors engaged in the installation of new sewers or sewer extensions and building sewers, who perform any work within the City's public right-of-way, shall file a bond, the amount of which shall be determined by the city, with the City Clerk to indemnify the City against loss, cost, damage or expense sustained or recovered on account of any negligence, omission or act of the person or any of his or their agents arising or resulting directly or indirectly by reason of such negligence, omission or act. All bonds shall contain a clause which stipulates that permits given by the City may be revoked at any time for just cause.

B. Before commencing work, the above person shall file insurance certificates with the City Chamberlain. A copy of the instructions for standard City insurance requirements may be obtained from the City Attorney.

C. Where it is necessary to enter upon or excavate any highway or cut any pavement, sidewalk or curbing, permission must be obtained from the owner(s) of said facilities.

ARTICLE VII, Building Sewers, Connections and Sewer Service Fees

§ 199-42. Connection permits and sewer service fees.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any wastewater sewer or a storm sewer without first obtaining a written permit

from the City Engineer.

B. There shall be three classes of permits for connections to the City's POTW: Class I, residential; Class II, commercial; and Class III, industrial. In all cases, the owner shall make application for a permit to connect to the City's POTW on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, wastewater information or other information considered pertinent in the judgment of the City Engineer required to administer this Part 2. A permit and inspection fee of $75 for a Class I, $75 for a Class II or $150 for a Class III connection permit shall be paid to the City at the time the application is filed.

C. Connection to a storm sewer shall be subject to a permit and inspection fee of $75. Such connections shall be subject to the provisions of this Part 2 and the approval of the City Engineer.

D. Annual sewer service fees for all in-City users connecting to the sanitary sewer system shall be based upon flat-rate water consumption at a minimum of $312 per year or on metered water consumption at a minimum of $216 per year. The sewer service fee shall be payable in quarterly installments, together with water consumption bills. The annual sewer service fees may be amended from time to time by the Common Council.

E. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the

permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 199-43. Connection costs.

The costs and expenses incidental to the building sewer installation and connection to the City's wastewater facilities shall be borne by the owner. The owner shall provide the City with indemnification and insurance in accordance with § 199-41 of this Part 2.

§ 199-44. Separate connections required; exceptions.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The City assumes no obligation or responsibility for damage caused by or resulting from any single-building sewer which serves two buildings.

§ 199-45. Existing building sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and test by the City Engineer, to meet the requirements of this Part 2.

§ 199-46. Design requirements.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe

placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9 shall apply.

§ 199-47. Elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the City's POTW, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the City sewer.

§ 199-48. Surface runoff and groundwater drains.

A. No person shall connect roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains to any sewer which is connected to the POTW unless such connection is authorized, in writing, by the City Engineer.

B. Except as provided in Subsection A above, roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

C. For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the City Engineer, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the City Engineer.

D. Swimming pool drains shall not be connected to any wastewater sewer.

E. It shall be a willful violation of this Part 2 for any person to reconnect any inflow source which has been disconnected pursuant to this article.

§ 199-49. Conformance to applicable codes.

A. The connection of a building sewer into a wastewater sewer shall conform to the requirements of the building and plumbing code or other applicable requirements of the City or the procedures set forth in appropriate specifications of the ASTM or the WEF Manual of Practice No. 9. The connection shall be made by a master plumber licensed in the City and shall be gastight and watertight and verified by proper testing. Any deviation from the

prescribed procedures and materials must be approved, in writing, by the City Engineer before installation.

B. The connection of a surface runoff or groundwater drain to a storm sewer or natural outlet designed to transport surface runoff or groundwater drainage shall conform to the requirements of the applicable building code or other applicable requirements of the City. The connection of any such drain to a wastewater sewer under special permit as provided under § 199-48A of this article shall conform to the requirements specified by the City Engineer as a condition of approval of such permit.

§ 199-50. Connection inspection.

The applicant for a building sewer or other drainage connection permit shall notify the City Engineer when such sewer or drainage connection is ready for inspection prior to its connection to the City's facilities. Such connection and testing as deemed necessary by the City Engineer shall be made under the supervision of the City Engineer.

§ 199-51. Permit deemed invalid for noncompliance.

Each connection permit issued to a property owner pursuant to the provisions of § 199-42 of this article shall be invalid unless work is commenced and completed in accordance with the terms thereof, and no work shall be done after any permit has expired unless and until a new permit shall have been obtained from the City Engineer. The City reserves the right to revoke any permit so issued upon violation of any of the provisions of this Part 2. The property owner whose permit shall be so revoked shall thereupon be required to secure a new permit upon such terms as the City may prescribe.

§ 199-52. Excavation guards and restoration.

Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

§ 199-53. Protection of capacity for existing users.

The City Engineer shall not issue a permit for any class of connection to the POTW unless there is sufficient capacity, not legally committed to other users, in the POTW to convey and adequately treat the quantity of wastewater which the required connection will add to the system. The City Engineer may permit such a connection if there are legally binding commitments to

provide the needed capacity.

§ 199-54. Oil, grease and sand interceptors or traps.

A. Where the buildings to be connected to the City POTW are used, in whole or in part, for the preparation or serving of food or for any other processing where grease or oil may be produced, including but not limited to schools and universities, hospitals, restaurants, hotels, nursing homes, shopping plazas, drug stores, bars and saloons, there shall be installed in each connection a grease interceptor or trap of design and make approved by the City Engineer.

B. All industrial and commercial storage or repair garages, automotive garages and gasoline stations with grease racks, grease pits or wash racks, all motor vehicle laundries and all facilities which have oily and/or flammable wastes as a result of manufacturing, storage, maintenance, repair or testing processes shall provide sand interceptors, catch basins and oil interceptors as are approved by the City Engineer.

C. Interceptors and separators shall be maintained in efficient operating condition by removal of accumulated grease, scum, oil or other floating substances and solids deposited in the interceptor or separator so as to preclude these substances from entering the POTW; or at scheduled intervals as directed by the City Engineer.

D. All building sewers from users defined by Subsections A, B and C above shall be provided with oil and grease interceptors or traps or other suitable pretreatment facilities as required to meet the provisions of § 199-60B(12).

E. A suitable access to facilitate observation, sampling and measurement of the treated wastewater discharged to the POTW shall be required.

ARTICLE VIII, Trucked or Hauled Waste

§ 199-55. Permits and application; dumping fee.

A. The discharge of trucked or hauled wastes into the City POTW will be permitted only with the prior written approval of the Common Council. Applicants for such permit shall apply on a form provided by the City Engineer. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR Part 364, approximate annual septage volume expected, service area and any other information that the City Engineer may require to determine whether the trucked or hauled

wastes could adversely impact the POTW.

B. The permittee of trucked or hauled wastes will also be charged a fee for each dumping in accordance with rates approved by the Common Council. The dumping fee shall be paid prior to dumping.

§ 199-56. Concurrent requirements.

The applicant for a permit to truck or haul and dump wastes shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement in any permit application shall be grounds for invalidating the permit. All permits issued by the City Engineer for this purpose shall be valid for not more than one year. The permittee shall also be duly permitted by the NYSDEC under 6 NYCRR Part 364 ("364 permit"). If, for any reason, the 364 permit is revoked, the 364 permit lapses or becomes invalid, then the permit issued under this article shall become invalid immediately. All acts performed in connection with the permit shall be subject to the inspection and regulations, as established by the City Engineer, the terms and conditions of the permit and all local and general laws, local laws and regulations which are now or may come into effect, and such permit may be suspended or revoked, at any time, by the City Engineer for willful, continued or persistent violation thereof.

§ 199-57. Dumping location and timing.

The City Engineer may require discharging at only certain locations within the POTW and only at certain times and on only certain days of the week or seasons of the year as shall be stated on said permit or as may be relocated by the City Engineer after appropriate notice. The time and conditions for permissible discharge shall be as set forth on the permit, or as may be revised by the City Engineer, after appropriate notice.

§ 199-58. Approval of dumping required; inspection.

Each discharge of trucked or hauled wastes shall be made only with the approval of the City Engineer. The City Engineer may require inspection, sampling and analysis of each load prior to the discharge of a load. Any extra costs associated with such inspection, sampling and analysis shall be paid by the permittee.

ARTICLE IX, Conditions of Use of City's POTW

§ 199-59. Discharge to storm sewers or natural outlets.

All discharge of stormwater, surface water, groundwater, roof runoff, subsurface drainage or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under § 199-48. Any connection, drain or arrangement which will permit any such waters to enter any other wastewater sewer shall be deemed to be a violation of this section and this Part 2.

§ 199-60. Prohibited discharge standards.

A. General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interferes with the operation or performance of the POTW. These general prohibitions apply to all users of the POTW, whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards or requirements.

B. Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create fire or explosive hazards or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the POTW (or at any point in the POTW) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchorates, bromates, carbides, hydrides and sulfides.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater which causes corrosive damage or hazard to structures, equipment or personnel of the POTW; in no case will discharges lower than a pH of 5.0 or greater

than 10.0 be allowed.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to § 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act,[EN(60)] the Clean Air Act,[EN(61)] the Toxic Substances Control Act,[EN(62)] Marine Protection, Research and Sanctuaries Act;[EN(63)] or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its SPDES permit(s) or the receiving water quality standards as a result of interference or pass-through.

(8) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater which contains heat in amounts which will accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the POTW or inhibit biological activity in the POTW treatment plant, but in no case shall the discharge of heated wastewater exceed 150° F. (65° C.) or cause the temperature of the influent to the POTW treatment plants to exceed 104° F. (40° C.). The City Engineer reserves the right in certain instances to prohibit or limit the discharge of heated wastewater with maximum temperatures less than 150° F. (65° C.).

(10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference with the POTW. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times

the average twenty-four-hour concentration, quantities or flow during normal operations.

(11) Any wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.

(12) Any wastewater containing fats, waxes, grease or oils which become visible solids when the wastes are cooled to 50° F. (10° C.); any petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in excess of 100 mg/l or in amounts that will cause interference or pass-through.

(13) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.

(14) Any wastewater with a closed cup flashpoint of less than 140° F. (60° C.) using the test methods specified in 40 CFR Part 261.21.

(15) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(16) Any trucked or hauled wastes, except as permitted by Article VIII of this Part 2.

§ 199-61. National Categorical Pretreatment Standards.

All users of the City's POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Engineer may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City Engineer shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

§ 199-62. Special agreements.

Nothing in this article shall be construed as preventing any special agreement or arrangements between the City and any user of the POTW whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. No discharge in violation of federal and state standards and local limits will be allowed.

§ 199-63. Water and energy conservation.

The conservation of water and energy shall be encouraged by the City Engineer. In establishing discharge restrictions upon users, he shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the City Engineer, each user shall provide the City Engineer with pertinent information showing that the quantities of substances or pollutants have not been nor will be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the City Engineer, he may make adjustments to discharge restrictions, which have been based on concentrations, to reflect the conservation steps.

§ 199-64. Maximum allowable headworks loading.

A. At no time shall the influent to the POTW contain quantities of pollutants in excess of maximum allowable headworks loading (MAHL) specified below:

EAST SIDE WASTEWATER TREATMENT PLANT

Maximum Allowable Headworks Loading (MAHL)

Pollutant	Pounds (per day)
BOD5	8,500
TSS	8,390
Cadmium	1.43
Chromium, total	27.99

EAST SIDE WASTEWATER TREATMENT PLANT

Maximum Allowable Headworks Loading (MAHL)

Pollutant	Pounds (per day)
Copper	11.82
Cyanide	2.80
Lead	1.13
Mercury	0.0208
Nickel	1.41
Silver	3.02
Zinc	8.40
Phenols, Total	3.73

WEST SIDE WASTEWATER TREATMENT PLANT

Maximum Allowable Headworks Loading (MAHL)

Pollutant	Pounds (per day)
BOD5	5,004
TSS	7,000
Chromium, total	34.49
Copper	11.43
Cyanide	3.44

WEST SIDE WASTEWATER TREATMENT PLANT

Maximum Allowable Headworks Loading (MAHL)

Pollutant	**Pounds (per day)**
Lead	5.84
Mercury	0.0317
Silver	3.71
Zinc	10.32

B. At no time shall permits allow for discharges in excess of the general and specific prohibitions set forth in § 199-60 of this article.

§ 199-64.1. Concentration limits.

A. No person shall discharge directly or indirectly into the City POTW wastewater containing any of the following pollutants in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by authorization under a wastewater discharge permit. These limits apply to permitted users without a permit limit for each specific parameter. These concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW ("end of pipe" concentrations).

Limits for Permitted Users

Pollutant	**Concentration (mg/l)**
Antimony*	0.003
Arsenic	0.007
Beryllium*	0.005

Limits for Permitted Users

Pollutant	**Concentration (mg/l)**
Cadmium	0.018
Chromium	0.10
Copper	0.14
Cyanide	0.082
Lead	0.058
Mercury	N/A
Nickel	0.050
Selenium*	0.001
Silver	0.019
Thallium*	0.003
Zinc	0.231
Phenols, total	0.000025

(1) All concentrations listed for metallic substances shall be as "total metal," which shall be defined as the value measured in a sample acidified to a pH value of two or less, without prior filtration.

(2) Concentration determinations shall be made on a composite sample taken from the user's daily discharge over a typical operational and/or production day.

(3) If it is determined that a grab sample taken from the user's discharge at any time during the daily operational and/or production period is representative, the City may elect to grab sample the discharge.

(4) Other substances which may be limited are:

(a) Antibiotics.

(b) Chemical compounds which, upon acidification, alkalinization, oxidation or reduction, in the discharge or after mixture with wastewater and its components in the POTW, produce toxic, flammable or explosive compounds.

(c) Pesticides, including algaecides, fungicides, herbicides, insecticides and rodenticides.

(d) Polyaromatic hydrocarbons.

(e) Viable pathogenic organisms from industrial processes or hospital procedures.

NOTES:

For the metals with a concentration less than the detection limit, 1/2 the detection limit was used for the concentration.

B. Furthermore, unpermitted users shall follow the limits as given in the table below, which is based off of Table 13 of EPA's Supplemental Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program from 1991.

Limits for Unpermitted Users

Pollutant	**Concentration (mg/1)**
Antimony	0.018[(1)]
Arsenic	0.034
Beryllium	0.013[(2)]
Cadmium	0.034
Chromium	0.216
Copper	0.552

Limits for Unpermitted Users

Cyanide	0.101
Lead	1.514
Mercury	N/A
Nickel	0.177
Selenium	0.016
Silver	0.123
Thallium	0.042[(2)]
Zinc	4.416
Phenols, total	0.244

NOTES:

All concentrations from Table 13 of the Supplemental Manual are based on the Industrial Laundries Average, except where noted above.

[(1)] Based off of Hospital Average.

[(2)] Based off of Truck Cleaners Average.

If the City Engineer determines that any of the above limits are not achievable for an unpermitted user, an industrial wastewater discharge permit will be required for the user.

C. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No.

6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 199-64.2. Allocation of maximum allowable industrial loadings (MAILs) as specific pollutant limitations.

The MAIL is the total daily mass of a particular pollutant that each treatment plant can accept from all permitted users and ensure it is protecting against pass-through and interference. The no net increase loading is the total daily mass of mercury that each treatment plant can accept from users. The MAIL for mercury is calculated by subtracting the total daily mass of mercury allocated to all unpermitted users from the no net increase loading for mercury. The following two tables include the MAIL that the City of Oswego's East and West Side Wastewater

Treatment Plants can accept from all permitted users for the listed pollutants (deemed pollutants of concern) for which limits were determined to be necessary. The tables also include the no net increase loading for mercury. In accordance with Article IX of this chapter, and to assure that the combined total daily mass of a pollutant discharged by all permitted users together does not exceed the MAIL, the City Engineer shall issue wastewater discharge permits to users, including mass limits and concentration limits as follows except as otherwise specified in this section.

A. Mass limits.

(1) Except as otherwise specified in this section (e.g., more stringent federal categorical mass limits apply, etc.), each permit shall restrict the discharge from each permitted user to a portion of the MAIL listed below for each listed pollutant using a mass limit. In determining what portion of the MAIL each user shall be allowed to discharge, the City Engineer shall consider:

(a) Historical discharge trends;

(b) Past pollution control efforts of each user as compared to other dischargers of the same pollutant;

(c) Potential for growth in the POTW services area;

(d) Potential for more restrictive regulatory requirements to be placed on the POTW discharge or sludge disposal method; and

(e) Treatability of the pollutant.

(2) These mass limits are applicable to wastewater effluents at the point just prior to discharge into the POTW and are to be applied as daily maximum limits in pounds per day.

B. Concentration limits.

(1) Except as otherwise specified in this section (e.g., more stringent federal categorical concentration limits apply, etc.), each permit shall restrict the discharge from each permitted user to a portion of the MAIL listed below for each pollutant by including a concentration limit in the permit based on either the uniform concentration method using the total industrial flow or using the industrial contributory flow method using the applicable portion of industrial flow. One method will (not both) be applied to all permitted users for a given pollutant. The basis for establishing a concentration limit using these methods is described as follows:

(a) A limit using the uniform concentration method based on total industrial flow is determined by dividing the MAIL listed below for a pollutant by the total industrial

flow to allocate the MAIL among the permitted users using a conversion factor of 8.34 pounds per milligram per liter per million gallons. The total industrial flow shall be determined by adding the maximum flow from each permitted user.

(b) A limit using the industrial contributory flow method is determined by dividing the MAIL listed below for a pollutant by the portion of each permitted user's contributory flow and by a conversion factor of 8.34 pounds per milligram per liter per million gallons. The industrial contributory flow shall be determined by adding the maximum flow from each permitted user that contributes the pollutant.

(2) These concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW and are to be applied as daily maximum limits. These limits are to be included in wastewater discharge permits independent of any mass-based limits as specified in this section.

C. If a permitted user can demonstrate that a pollutant is not present in his or her wastewater discharge at levels above the concentrations specified in § 199-64.1 of this article (i.e., domestic background concentrations) and if not other limit, as specified in other sections of this article, is applicable to the POTW discharge for that pollutant, then no limit shall be included in the wastewater discharge permit for that pollutant and instead the limit in § 199-64.1 of this article for that pollutant shall apply. However, for mercury, all permitted users will have a mass and concentration limit as specified in this section.

D. If the MAIL for a pollutant listed below is zero, then the mass and concentration limits specified above in this section do not apply. Instead, the limit specified in § 199-64.1 of this article (i.e., domestic background concentration) for that pollutant will be included in the user's permit unless another more stringent limit is applicable to the POTW discharge, as specified in other sections of this article, and is included in this permit. If both concentration- and mass-based limits are included in an industrial wastewater discharge permit, both limits apply independently of each other.

E. If more stringent federal categorical discharge limits apply to a permitted industrial user, per 40 CFR Parts 405 through 471 et. seq., the applicable categorical pretreatment standard will be included in the wastewater discharge permit in place of limits specified in this section if the limits are applied over the same duration (e.g., daily maximum, monthly average, etc.) and applied at the same location. All unpermitted users discharging into either the East Side or West Side POTW will be limited in their discharge of pollutants in accordance with concentration limits outlined in § 199-64.1 of this article. In addition, the City Engineer shall adhere to more restrictive regulatory requirements applicable to the POTW discharge in determining what portion of the MAIL each user shall be allowed to discharge. At no time shall permits allow for discharges in excess of the general and specific prohibitions set forth in § 1 99-64.2 of this article.

EAST SIDE WASTEWATER FACILITY

Pollutant	**MAIL**	**No Net Increase Loading (lb/day)****
Cadmium	1.03	
Chromium, total	22.8	
Copper	8.81	
Cyanide	1.55	
Lead	0.15	
Mercury	*	0.00101
Nickel	0.67	
Silver	2.39	
Zinc	4.55	
Phenols, total	3.13	

WEST SIDE WASTEWATER FACILITY

Pollutant	**MAIL**	**No Net Increase Loading (lb/day)****
Chromium, total	27.35	
Copper	7.27	
Cyanide	1.45	
Lead	2.75	

WEST SIDE WASTEWATER FACILITY

Pollutant	**MAIL**	**No Net Increase Loading (lb/day)****
Mercury	*	0.00385
Silver	2.72	
Zinc	3.33	

NOTES:

* The MAIL for mercury is calculated by subtracting the total daily mass of mercury allocated to all unpermitted users from the no net increase loading established in the table. Mercury loadings are subject to a no net increase requirement. A mercury monitoring and compliance program will be implemented to evaluate and maintain compliance by the industrial users with the no net increase requirement to both East Side and West Side Wastewater Facilities. Specific mercury limitations will be imposed upon industrial users, and numeric MAILs will be set based upon the results of the monitoring and compliance program.

** The no net increase loading will not be increased above this value in the future (i.e., as a result of future local limits technical analyses).

F. The East Side and West Side Wastewater Facilities will incorporate mass tracking systems to evaluate permitted industry allocations compared to the MAIL. The mass tracking program shall be updated each time a new industry is added, when a new permit limit is established or when there is new nonpermitted industrial or domestic growth.

§ 199-65. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations on those in this chapter. The New York State Department of Environmental Conservation (NYSDEC) Ambient Water Quality Standards (AWQS) for Mercury in Surface Water, 6 NYCRR Part 703, are more stringent than the federal

water quality standards, USEPA Local Limits Development Guidance, Appendix D. The USEPA has required the City of Oswego to utilize the most stringent NYSDEC mercury AWQS standard for evaluation of allowable headworks loadings to the wastewater treatment facilities. This stringent standard results in a nonachievable maximum allowable industrial loading (MAIL) for mercury. Therefore, until achievable numeric limitations are developed, the no net increase in mercury loadings is required and shall not be exceeded even after achievable numeric limitations are developed.

§ 199-66. Supplementation of limitations.

A. Specific pollutant limitations contained in this Part 2 may be supplemented with more stringent limitations when, in the opinion of the City Engineer:

   (1) The limitations in this Part 2 are not sufficient to protect the POTW;

   (2) The limitations in this Part 2 are not sufficient to enable the POTW treatment plants to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permits;

   (3) The limitations in this Part 2 are not sufficient to enable the City to dispose of POTW sludge as desired;

   (4) Municipal employees or the public will be endangered; or

   (5) Air pollution and/or groundwater pollution will be caused.

B. The specific pollutant limitations shall be reviewed about every five years. The results of this review shall be reported to the Common Council. This Part 2 shall then be amended appropriately, if necessary. Any issued industrial wastewater discharge permits which have limitations based directly on any limitations which were changed shall be revised and amended, as appropriate.

§ 199-67. Substituting dilution for compliance prohibited.

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the City or state. The City Engineer may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

§ 199-68. Pretreatment of wastewater.

A. Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this Part 2 and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 199-60 of this article within the time limitations specified by the EPA, the state or the City Engineer, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Engineer for review and shall be acceptable to the City Engineer before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Part 2.

B. Additional pretreatment measures.

(1) Whenever deemed necessary, the City Engineer may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Part 2.

(2) The City Engineer may require any person discharging into the POTW to install and maintain, on his or her property and at his or her expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the City Engineer and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at his or her expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

§ 199-69. Wastewater analysis.

As a means of determining compliance with this Part 2, with applicable conditions of SPDES permits and with applicable state and federal law, all users shall be required to notify the City Engineer of any new or existing discharges to the POTW and submit a completed industrial chemical survey (ICS) form and a completed industrial wastewater survey (IWS) form to the City Engineer. When requested by the City Engineer, a user must submit information on the nature and characteristics of its wastewater within 60 days of the request and update such information as the City Engineer deems necessary. All information shall be furnished by the user in complete cooperation with the City Engineer.

§ 199-70. Notification to users.

The City Engineer shall, from time to time, notify users of applicable pretreatment standards and of other applicable requirements under §§ 204(B) and 405 of the Clean Water Act, and Subtitles C and D of the Resource Conservation and Recovery Act (RCRA).

§ 199-71. Permit required; violations.

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the City Engineer, except that a significant industrial user that has filed a timely application pursuant to § 199-72 of this article may continue to discharge for the time period specified therein.

B. The City Engineer may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Part 2.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Part 2 and subjects the wastewater discharge permittee to the sanctions set out in Article XI of this Part 2. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

D. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 199-72. Existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Part 2 and who wishes to continue such discharges in the future shall, within 60 days after said date, apply to the City Engineer for a wastewater discharge permit in accordance with § 199-74 of this article and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this Part 2 except in accordance with a wastewater discharge permit issued by the City Engineer.

§ 199-73. New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with § 199-74 of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

§ 199-74. Permit applications.

A. All users required to obtain a wastewater discharge permit must complete and file with the City an application in the form prescribed by the City and accompanied by a fee of $50. Existing users shall apply for a wastewater discharge permit within 60 days after the effective date of this Part 2, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of any application, the user shall submit, in units and terms appropriate for evaluation, the following information:

   (1) All information required by § 199-76B of this article.

   (2) Time and duration of discharges.

   (3) Average daily peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

   (4) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, flow drains and appurtenances by size, location and elevation, and all points of discharge.

   (5) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

   (6) Each product produced by type, amount, process or processes and rate of production.

   (7) Type and amount of raw materials processed (average and maximum per day).

   (8) Number and type of employees, hours of operation and proposed or actual hours of operation.

   (9) Any other information as may be deemed by the City Engineer to be necessary to evaluate the permit application.

B. Where a person owns, operates or occupies properties at more than one location, separate applications shall be made for each location as may be required by the City Engineer.

C. Incomplete or inaccurate applications will not be processed and will be returned to the user

for revision.

D. The City Engineer will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City Engineer will determine whether or not to issue a wastewater discharge permit. The City Engineer may deny any application for a wastewater discharge permit.

§ 199-75. Signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

§ 199-76. Permit conditions.

A. Wastewater discharge permits shall be expressly subject to all provisions of this Part 2 and all other applicable regulations, user charges and fees established by the City. The City Engineer or his designated representative shall have the authority to inspect and copy any and all wastewater discharge records.

B. Wastewater discharge permits must contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City Engineer in accordance with § 199-79 of this article and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Effluent limits based on applicable pretreatment standards.

(4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local

law.

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

C. Wastewater discharge permits may contain, but need not be limited to, the following conditions: [Amended 2-27-2012 by L.L. No. 1-2012]

(1) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

(2) Limits on average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.

(3) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities and equipment.

(4) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.

(5) Requirements for the development and implementation of slug control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges.

(6) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

(8) Where the City Engineer determines that a slug control plan is necessary, the slug control must be implemented.

(9) Other conditions as deemed appropriate by the City to ensure compliance with this Part 2 and state and federal laws, rules and regulations.

D. The City shall publish, in the largest daily newspaper(s) published in the City, an informal notice of intent to issue a wastewater discharge permit at least 14 days prior to issuance.

§ 199-77. Permit modifications.

A. Within 180 days of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously been issued a wastewater discharge permit, the user shall reapply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.

B. Wastewater discharge permits may be modified by the City Engineer upon 30 days' notice to the permittee for just cause. Just cause shall include, but not be limited to:

(1) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(2) Changes in federal, state or local pretreatment standards or requirements;

(3) Changes in processes used by the permittee or changes in discharge volume or character;

(4) A change in POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(5) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel or the receiving waters;

(6) Changes in the nature and character of the wastewater in the POTW as a result of other permitted discharges;

(7) Violation of any terms or conditions of the wastewater discharge permit;

(8) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(9) To correct typographical or other errors in the wastewater discharge permit; or

(10) To reflect a transfer of the facility ownership or operation to a new owner or operator.

§ 199-78. Permit duration.

Permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A permit may be issued for a period less than five years. Each permit will indicate a specific date upon which it will expire. The user shall apply for permit reissuance a

minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in § 199-77 of this article are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change.

§ 199-79. Permit transfer.

A. Wastewater discharge permits are issued to a specific user for a specific operation or discharge at a specific location. A wastewater discharge permit may be transferred to a new owner or operator only if the permittee gives at least 180 days' advance notice to the City Engineer and the City Engineer approves the wastewater discharge permit transfer. The notice to the City Engineer must include a written certification by the new owner or operator which:

   (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

   (2) Identifies the specific date on which the transfer is to occur; and

   (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

B. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

§ 199-80. Permit revocation.

A. The City Engineer may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:

   (1) Failure to notify the City Engineer of significant changes to the wastewater prior to the changed discharge.

   (2) Failure to provide prior notification to the City Engineer of changed conditions pursuant to § 199-81E of this article.

   (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

   (4) Falsifying self-monitoring reports.

(5) Tampering with monitoring equipment.

(6) Refusing to allow the City Engineer timely access to the facility premises and records.

(7) Failure to meet effluent limitations.

(8) Failure to pay fines.

(9) Failure to pay user charges.

(10) Failure to meet compliance schedules.

(11) Failure to complete a wastewater survey or the wastewater discharge permit application.

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility.

(13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this Part 2.

(14) To end all undesirable new or increased discharges.

B. Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

§ 199-81. Reporting requirements.

A. Baseline monitoring reports.

(1) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the City Engineer a report which contains the information listed in Subsection A(2) below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the City Engineer a report which contains the information listed in Subsection A(2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) Identifying information. The name and address of the facility, including the name of

the operator and owner.

(b) Environmental permits. A list of any environmental control permits held by or for the facility.

(c) Description of operations. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

(e) Measurement of pollutants.

[1] The categorical pretreatment standards applicable to each regulated process.

[2] The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the City Engineer, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 199-86 of this article.

[3] Sampling must be performed in accordance with procedures set out in § 199-86 of this article.

(f) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(g) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 199-81B of this article.

(h) Signature and certification. All baseline monitoring reports must be signed and

certified in accordance with § 199-75 of this article.

B. Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 199-81A(2)(g) of this article:

(1) The schedule shall contain progress increments in the forms of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine months;

(3) The user shall submit a progress report to the City Engineer no later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the City Engineer.

C. Reports on compliance with categorical pretreatment standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the City Engineer a report containing the information described in § 199-81A(2)(d) through (f) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 199-75 of this article.

D. Periodic compliance reports.

(1) All significant industrial users shall, at a frequency determined by the City Engineer, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows

for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 199-75 of this article.

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the City Engineer, using the procedures prescribed in § 199-86 of this article, the results of this monitoring shall be included in the report.

E. Reports of changed conditions. Each user must notify the City Engineer of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 90 days before the change.

(1) The City Engineer may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 199-74 of this article.

(2) The City Engineer may issue a wastewater discharge permit under § 199-74D of this article or modify an existing wastewater discharge permit under § 199-77B of this article in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater and the discharge of any previously unreported pollutants.

F. Reports of potential problems.

(1) In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the City Engineer of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such discharge, the user shall, unless waived by the City Engineer, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any

fines, penalties or other liability which may be imposed pursuant to this Part 2.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subsection F(1) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

G. Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City Engineer as the City Engineer may require.

H. Notice of violation/report sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the City Engineer within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Engineer within 30 days after becoming aware of the violation. The user is not required to resample if the City Engineer monitors at the user's facility at least once a month or if the City Engineer samples between the user's initial sampling and when the user receives the results of this sampling.

I. Notification of the discharge of hazardous waste.

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and NYSDEC, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month and an estimation of the mass constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 199-81E of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of § 199-81 A, C and D of this article.

(2) Discharges are exempt from the requirements of Subsection I(1) above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).

Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261:30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the City Engineer, the EPA Regional Waste Management Waste Division Director and NYSDEC of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Part 2, a permit issued thereunder or any applicable federal or state law.

J. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

K. Recordkeeping. users subject to the reporting requirements of this Part 2 shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this Part 2 and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the City or where the user has been specifically notified of a longer retention period by the City Engineer.

§ 199-82. Flow equalization.

No person shall cause the discharge of slugs to the POTW. Each person discharging into the POTW greater than 100,000 gallons per day or greater than 5% of the average daily flow in the POTW, whichever is less, shall install and maintain on his property and at his expense a suitable storage and flow-control facility to ensure equalization of flow over a twenty-four-hour period.

The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the City Engineer. A wastewater discharge permit may be issued solely for flow equalization.

§ 199-83. Monitoring facilities.

A. When required by the City Engineer, the owner of any property serviced by a building sewer carrying wastewater discharges that have caused or may cause interference or pass-through shall install and maintain suitable access and such necessary meters or other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the City Engineer. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

   (1) If there is more than one building sewer serving a user, the City Engineer may require the installation of a control manhole on each building sewer.

   (2) The City Engineer may require that such monitoring facilities include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater.

B. The City may, when such a location would be impractical or cause undue hardship on the user, allow the monitoring facilities to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

C. The City Engineer shall consider such factors as the volume and strength of the discharge, POTW treatment plant removal capabilities, rate of discharge, qualities of toxic materials in the discharge and cost effectiveness in determining whether or not access and equipment for monitoring the wastewater discharge shall be required.

D. Where the City Engineer determines access and equipment for monitoring or measuring the wastewater discharges is not practicable, reliable or cost effective, the City Engineer may specify alternative methods of determining the characteristics of the wastewater's discharge which will, in the City Engineer's judgment, provide an equitable measurement of such characteristics.

§ 199-84. Pretreatment and flow equalization facilities; monitoring stations.

A. Users shall provide necessary wastewater treatment as required to comply with this Part 2 and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the Code of Federal Regulations. Any facilities required to

pretreat wastewater to acceptable levels to the City shall be provided, operated and maintained at the user's expense.

B. Preliminary treatment and flow equalization facilities or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe and operational by the owner at his expense. Where an industrial user has such treatment, equalization or monitoring facilities at the time this Part 2 is enacted, the City Engineer may approve or disapprove the adequacy of such facilities. Where the City Engineer disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization or monitoring are required, plans and specifications for such facilities shall be prepared by a state-licensed professional engineer and submitted to the City Engineer.

§ 199-85. Vandalism and/or tampering prohibited.

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access to or render inaccurate or cause or permit the negligent breaking, damaging, destroying, uncovering or defacing of tampering with, preventing access to or rendering inaccurate of any measuring, sampling and/or testing device or mechanism installed pursuant to any requirement under this Part 2, except as approved by the City Engineer.

§ 199-86. Sampling and analysis.

A. Sample collection.

(1) Except as indicated in Subsection A(2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event that flow proportional samples are infeasible, the City Engineer may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

B. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must

be performed in accordance with procedures approved by the EPA.

§ 199-87. Accidental discharges; SPCC plan.

A. The City Engineer may require any user to develop, submit for approval and implement a plan to provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Part 2 or of any wastewater discharge permit. At least once every two years, the City Engineer shall evaluate whether each significant industrial user needs an accidental or slug discharge control plan. Users shall immediately notify the City Engineer of the discharge of wastes in violation of this Part 2 or any permit. Such discharges may result from the breakdown of pretreatment equipment, accidents caused by mechanical failure or negligence or other causes.

B. Where possible, such immediate notification shall allow the City Engineer to initiate appropriate counter-measure action at the POTW. The user shall prepare a detailed written statement following any accidental or slug discharge which describes the causes of the discharge and the measures being taken to prevent future occurrences within five days of the occurrence, and the City Engineer shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

C. When required by the City Engineer, detailed plans and procedures to prevent accidental or slug discharges shall be submitted to the City Engineer for approval. These plans and procedures shall be called a "Slug Prevention, Control and Countermeasure (SPCC) Plan." The plan shall address, at a minimum, the following:

   (1) Description of discharge practices, including nonroutine batch discharges;

   (2) Description of stored chemicals;

   (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any provision of the permit and any prohibited discharge standards;

   (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

§ 199-88. Posting notices.

In order that the industrial user's employees be informed of the City's requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of the City's requirements and whom to call in case of an accidental discharge in violation of this Part 2.

§ 199-89. Sample splitting.

When so requested in advance by an industrial user and when taking a sample of industrial wastewater, the City representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of a size adequate for the anticipated analytical protocols, including any quality control (QC) procedures. One of the volumes shall be given to the industry whose wastewater was sampled and the other shall be retained by the City for its own analysis.

§ 199-90. Confidential information.

A. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user under applicable state law. Any such request must be asserted at the time of submission of the information or data.

B. When requested and demonstrated by the person furnishing a report that the information obtained in Subsection A above should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this Part 2, the NPDES/SPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics, reports of accidental discharges and other effluent data, as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

§ 199-91. Compliance monitoring.

A. Right of entry: inspection and sampling. The City Engineer shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Part 2 and any wastewater discharge permit or order issued hereunder. Users shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

   (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City Engineer will be permitted to enter without delay for the purposes of performing specific responsibilities.

   (2) The City Engineer shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

   (3) The City Engineer may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated once per year to ensure their accuracy.

   (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City Engineer and shall not be replaced. The costs of clearing such access shall be borne by the user.

   (5) Unreasonable delays in allowing the City Engineer access to the user's premises shall be a violation of this Part 2.

B. Search warrants. If the City Engineer has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Part 2 or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Part 2 or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then the City Engineer may seek issuance of a search warrant from the City Court of the City of Oswego.

§ 199-92. Liability of property owner.

During the performance, on private premises, of inspections, sampling or other similar operations referred to in § 199-91 of this article, said representatives shall observe all applicable

safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the representatives and the loss of or damage to the representative's supplies and/or equipment; and the representative shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the representative and against liability claims asserted against the owner or occupant for personal injury or death of the representative or for loss of or damage to the representative's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

§ 199-93. Special agreements.

A. Nothing in this article shall be construed as preventing any special agreement or arrangement between the City and any user of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the City Common Council shall consider whether the wastewater will:

   (1) Pass through or cause interference.

   (2) Endanger the public municipal employees.

   (3) Cause violation of the SPDES permit(s).

   (4) Interfere with any purpose stated in Article III.

   (5) Prevent the equitable compensation to the City for wastewater conveyance and treatment and sludge management and disposal.

B. No discharge in violation of federal and state standards and local limits will be allowed under the terms of such special agreements.

§ 199-94. Publication of users in significant noncompliance.

The City Engineer shall publish annually, in the largest daily newspaper published in the City, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" is defined in Article II, § 199-8, of this Part 2.

§ 199-95. Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing

user in a specific industrial subcategory that establishes pretreatment standards or establishes that such a user is exempt from pretreatment standards, such federal regulations shall immediately supersede applicable sections of this article.

§ 199-96. Revision of pretreatment standards.

The City Engineer shall promptly apply for and obtain authorization from the EPA to revise discharge limitations for those substances listed in the Federal Categorical Pretreatment Standards for which consistent removal occurs in the POTW treatment plant of the City. The City Engineer shall not adopt or enforce discharge limitations more stringent than the requested limitations until the state or EPA acts on the application.

ARTICLE XI, Enforcement and Penalties

§ 199-97. Enforcement response plan.

A. The City Engineer has prepared an enforcement response plan. The enforcement response plan, in a step-by-step fashion, outlines the procedures to be followed to identify, document and respond to violations by users of the POTW. All violations by users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

B. The enforcement response plan:

   (1) Describes how the City Engineer will investigate instances of noncompliance.

   (2) Describes the types of escalated enforcement actions that the City Engineer will take in response to all anticipated types of user violations and the time periods within which to initiate and follow up these actions.

   (3) Reflects the City Common Council's responsibility to enforce all applicable standards and requirements.

C. The enforcement response plan contains:

   (1) Criteria for scheduling periodic inspection and/or sampling visits to POTW users.

   (2) Forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence.

(3) Systems to track due dates, compliance schedule milestones and pending enforcement actions.

(4) Criteria, responsible personnel and procedures to select and initiate an enforcement action.

D. The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as:

(1) Magnitude of the violation;

(2) Duration of the violation;

(3) Effect of the violation on the receiving water;

(4) Effect of the violation of the POTW;

(5) Effect of the violation of the health and safety of the POTW employees;

(6) Compliance history of the user;

(7) Good faith of the user, as shall promote consistent and timely use of enforcement remedies.

E. The City Common Council has adopted the enforcement response plan. The enforcement response plan, which is incorporated by reference herein, shall be and is hereby deemed to be a part of this Part 2. A copy of the adopted enforcement response plan may be obtained from the City Engineer. The enforcement response plan shall be reviewed about every five years.

§ 199-98. Administrative remedies.

A. Notification of violation. When the City Engineer finds that a user has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the City Engineer may serve upon that user a written notice of violation. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City Engineer. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City Engineer to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

B. Consent orders. The City Engineer may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible

for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Subsections D and E of this section and shall be judicially enforceable.

C. Show-cause hearing. The City Engineer may order a user which has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the City Engineer and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show-cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

D. Compliance orders. When the City Engineer finds that a user has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the City Engineer may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. Cease-and-desist orders.

(1) When the City Engineer finds that a user has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the City Engineer may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or

terminating the discharge.

(2) Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

F. Administrative fines.

(1) When the City Engineer finds that a user has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the City Engineer may fine such user in an amount not to exceed $1,000. Such fines shall be assessed on a per-violation-per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(2) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1.5% per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.

(3) Users desiring to dispute such fines must file a written request for the City Engineer to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. Where a request has merit, the City Engineer may convene a hearing on the matter. In the event that the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City Engineer may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

G. Emergency suspensions. The City Engineer may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City Engineer may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Engineer may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The City Engineer may

allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless the termination proceedings in Subsection H of this section are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the City Engineer prior to the date of any show-cause or termination hearing under Subsections C and D of this section.

(3) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

H. Termination of discharge.

(1) In addition to the provisions in § 199-80 of this Part 2, any user who violates the following conditions is subject to discharge termination:

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(e) Violation of the pretreatment standards in Article IX of this Part 2.

(2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Subsection C of this section why the proposed action should not be taken. Exercise of this option by the City Engineer shall not be a bar to, or a prerequisite for, taking any other action against the user.

§ 199-99. Judicial remedies.

A. Injunctive relief. When the City Engineer finds that a user has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the City Engineer may petition the Court of the City of Oswego through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this Part 2 on activities

of the user. The City Engineer may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

B. Civil penalties.

(1) A user who has violated or continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of $1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The City may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

C. Criminal prosecution.

(1) A user who willfully or negligently violates any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class A misdemeanor, punishable by a fine of not less than $500 nor more than $1,000 per violation, per day, or imprisonment for not more than one year, or both.

(2) A user who willfully or negligently introduces any substances into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a Class A misdemeanor and be subject to a penalty of not more than $1,000 or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this Part 2, wastewater discharge permit or order issued

hereunder or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Part 2 shall, upon conviction, be punished by a fine of not more than $1,000 per violation, per day, or imprisonment for not more than one year, or both.

D. Remedies nonexclusive. The remedies provided for in this Part 2 are not exclusive. The City Engineer may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City Engineer may take other action against any user when the circumstances warrant. Further, the City Engineer is empowered to take more than one enforcement action against any noncompliant user.

§ 199-100. Supplemental enforcement action.

A. Performance bonds. The City Engineer may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part 2, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless such user first files a satisfactory bond payable to the City in a sum not to exceed a value determined by the City Engineer to be necessary to achieve consistent compliance.

B. Liability insurance. The City Engineer may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part 2, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

C. Water supply severance. Whenever a user has violated and continues to violate any provision of this Part 2, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

ARTICLE XII, Effective Date

§ 199-101. When effective.

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

Chapter 207, SOLID WASTE

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 5-12-1980 as Ch. 117 of the 1980 Code; Art. II, 7-12-1993 (Ch. 96 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards -- See Ch. 153.

ARTICLE I, Hazardous Waste Disposal [Adopted 5-12-1980 as Ch. 117 of the 1980 Code]

§ 207-1. Declaration of policy.

A. It is hereby declared to be the public policy of the City of Oswego to preserve, protect and improve its environment and its air, land and water resources in order to promote the health, safety, welfare and comfort of the inhabitants of the city.

B. It shall further be the policy of the city to control and minimize air and water pollution and promote the health, safety and welfare of the inhabitants of the city by:

   (1) Formulating and implementing regulations to reduce the air and water pollution caused by any waste disposal facility.

   (2) Prohibiting the disposal or storage, in landfills, secured or otherwise, of any hazardous wastes.

C. The improper disposal of industrial and chemical wastes and other hazardous substances is resulting in an adverse impact on the health, safety and welfare of the people of the City of Oswego. The need for safe and environmentally sound waste management is especially acute with regard to the incineration or disposal, by burning or by other means, of such wastes.

§ 207-2. Definitions.

The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this section:

AIR-CLEANING DEVICE -- Any equipment, method or process used with a waste disposal

facility to remove, reduce or render less noxious air contaminants and particulate matter discharged by the facility.

AIR CONTAMINANT -- A dust, fume, gas, mist, odor, smoke, vapor, noise or any combination thereof.

ALTERED FACILITY -- Any waste disposal facility that has been changed, modified, remodeled or has undergone repairs beyond ordinary and reasonable maintenance after the effective date of this Article.

EMERGENCY SITUATION -- Any sudden, unexpected or unforeseen condition which poses an immediate threat to the public health, safety or welfare as to require immediate action or a condition which is reasonably believed to require immediate action to enforce the provisions and regulations of this Article.

EXISTING FACILITY -- Any waste disposal facility erected prior to the effective date of this Article.

HAZARDOUS WASTE -- Any waste or combination of wastes which poses a present or potential hazard to the health and welfare of humans, living organisms or the environment. It includes, but is not limited to, those materials listed in the current 49 CFR 172.

INCINERATION -- A controlled combustion or other conversion process to convert waste to a less bulky, less toxic or less noxious form in a facility designed for such use.

NEW FACILITY -- Any waste disposal facility erected after the effective date of this Article.

PERSON -- Any private individual, partnership, copartnership, firm, company, corporation, association or joint-stock company or other entity and any representative thereof.

POLLUTION -- The presence in the environment of one (1) or more conditions or air contaminants formed as a result of a waste disposal process, which are in quantities which are or may be injurious to the public health, safety and welfare and interfere with the comfortable enjoyment of life and property.

TOXIC SUBSTANCE and TOXIC POLLUTANT -- Any substance or material which causes or has a tendency to cause harm or adversely affects the health, upon contact with or accumulation in or upon the body, of a person or living organism.

WASTE -- Industrial or chemical materials and their by-products intended to be destroyed or otherwise disposed of.

WASTE DISPOSAL FACILITY -- Any privately owned building, premises, equipment or other property used for the storage, containment, processing and disposal of wastes. Without limiting the generality of the foregoing, this term shall include privately owned and operated incinerators

and similar disposal facilities.

§ 207-3. General regulations; violations.

A. Permit required. No person shall establish or operate any facility for any method of waste and hazardous waste processing and disposal without having first obtained a permit from the Common Council in accordance with the provisions of this section.

B. Violations.

(1) A person shall be in violation of this Article if he disposes of any waste or hazardous waste at any place other than a disposal facility for which a permit has been issued by the Common Council.

(2) A person shall be in violation of this Article if he allows property or land under his control to be used for the disposal of any waste, hazardous waste or containers for such wastes unless permission for such use has been granted by the Common Council.

(3) A person shall be in violation of this Article if he permits or causes the release of toxic pollutants or toxic substances of any kind at any waste disposal facility or upon property or land under his control or occupation.

(4) It shall be a violation of this Article to store or dispose of any radioactive waste materials within the City of Oswego.

(5) It shall be a violation of this Article to store or dispose of any waste or hazardous waste in any landfill, secured or otherwise.

C. Compliance with all regulations required. As of December 31, 1980, no person shall construct, operate or cause to be used any waste disposal facility unless it is capable of being operated in full compliance with the provisions of this Article, in addition to the applicable federal and state regulations. The application for a permit and the permit itself shall both clearly state this condition.

§ 207-4. Permit procedure.

A. Permits to establish or operate any waste disposal facility shall be issued by the Common Council in accordance with the provisions of this section.

B. Permit applications shall be issued by the office of the City Engineer.

C. Contents of application. Application for a permit to establish or operate any waste disposal

facility shall be made to the Common Council.

(1) The application shall include two (2) sets of:

(a) Complete plans and specifications.

(b) Design data.

(c) Proposed operating procedures.

(d) The proposed maintenance and inspection program.

(e) The proposed inventory control plan.

(f) The proposed spill containment plan.

(g) Such other information as may be required by the Common Council.

(2) All of the above information shall be prepared by a registered professional engineer of the State of New York.

D. Where an environmental quality review is or shall be required by any federal, state or local law, the applicant shall furnish all the necessary information and bear the expense of preparation of any environmental impact statement.

E. The City Engineer shall review and consider all permit applications submitted to the Common Council for the operation of waste disposal facilities and, after consideration, recommend, with documentation, to the Common Council that a permit be granted or denied.

F. Granting or denial of permit.

(1) After receiving the opinion of the City Engineer, the Common Council shall have ninety (90) days to either grant or deny a permit.

(2) The application shall be publicly noticed and presented at a public hearing before the Council may render its decision.

(3) If an applicant is not granted a permit, he shall be notified, in writing, of the reasons for the denial.

G. Evaluation of criteria.

(1) In determining whether or not to grant its approval, the City Engineer and the Common Council shall evaluate the proposed facility's design and environmental impact in light of the following criteria:

(a) The material handling system and whether the building and equipment are designed

for safe and organized receipt and handling of the waste material.

(b) In the case of an incinerator, the incinerator components should be designed to assure that proper combustion occurs.

(c) Air-pollution control equipment is required for adequate treatment of the exhaust gases before they are emitted to the atmosphere.

(d) Water-pollution control equipment is required to adequately treat the scrubber water before it is discharged.

(e) Due consideration shall be given to the geological and hydrological character of the proposed site.

(2) The Common Council shall issue a permit if, after such review and consideration of the City Engineer's report, it determines that such a facility will be in compliance with the standards and requirements of this Article.

H. The issuance of any permit shall be contingent upon the applicant furnishing to the city a bond or other security in the amount of five hundred thousand dollars ($500,000.), naming the City of Oswego as obligee. The condition of the bond or security shall be that, if the principal fails to comply with any of the provisions of this Article or for any reason ceases to operate or abandons the disposal facility, the obligor and the sureties on the bond or security shall reimburse the city, to the extent of the bond or security, for any and all expenses incurred in restoring or dismantling the facility.

I. Unless otherwise provided by the Common Council, any permit issued shall be valid for one (1) year, with provision for renewal. The application for renewal shall contain a statement of any changes in the information submitted in the last approved permit application and shall be made, in writing, to the Common Council at least thirty (30) days in advance of the expiration of the permit. If the permit is not renewed, the applicant shall be notified, in writing, of the reasons therefor.

J. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or

renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 207-5. Operational requirements.

A. No person shall construct or operate any disposal facility which will emit more than five (5) grains per one hundred (100) SCF of particulate matter and which cannot comply with the ambient air quality standards for New York, as set forth in the New York Codes, Rules and Regulations.

B. It shall be a violation of this Article to operate any waste disposal facility in such a manner as to allow the emission into the atmosphere of any air contaminants and particulate matter in excess of that allowed by Subsection A or in such quantity as may be detrimental to any person or the public or endangers the health, safety and welfare of the members of the community or which causes or has a tendency to cause damage to property or business.

C. No person shall use or cause to be used any disposal facility, unless all components and pollution control devices are connected and are functioning properly.

D. The operation of any waste disposal facility equipped with any type of air-cleaning device or other pollution control equipment shall be conditioned upon demonstration and approval of a system for treatment of pollutants and contaminants withdrawn by that equipment.

E. No person shall cause, permit or allow any waste or hazardous substance to be handled, transported, stored, incinerated or disposed of in any manner which allows or causes such waste material to leach, leak, run off or enter the land or surrounding waters or waterways, or both.

F. All tank and barrel storage areas shall be enclosed by impermeable lined enclosures to ensure the prevention and control of any spills or leakage.

G. All waste materials shall be handled and stored in such a manner as not to pose a threat to the health, safety and welfare of humans or other living organisms.

(1) No person shall cause or allow the storage of any liquid industrial, chemical or hazardous waste in open pools, lagoons or other means of open containment.

(2) All such wastes shall be stored in tanks or upright metal barrels.

(a) Barrels and tanks shall be stored and maintained so that they do not tip, spill or leak. In no event shall barrels be stored on top of one another.

(b) The number of barrels containing waste material that may be stored on the premises of the incinerator shall be limited to the amount of waste that can be disposed of properly within thirty (30) days.

(c) Empty barrels shall not be allowed to accumulate and shall be removed from the premises within thirty (30) days after receipt.

(d) All barrels and tanks must be located so as to allow complete visual inspection for leakage and structural integrity.

(e) Records shall be kept of the receipt and disposal of each barrel. These shall include the date of receipt and disposition, the name and address of the generator of the waste and a complete description of the contents of said barrel or container.

H. No person shall operate any liquid waste incinerator or disposal facility without maintaining a detailed inventory control plan.

(1) The owner or operator of the facility shall record the type and quantity of all waste materials received and disposed of.

(2) All waste material must be subjected to complete chemical and physical quantitative and qualitative analysis before it is disposed of, and a record of such analyses shall be kept

available for inspection by the City Engineer or his representative.

(3) The owner or operator shall record and comply with all disposal instructions recommended by the manufacturer or generator of a particular waste material.

I. No person shall construct or operate any waste disposal facility without implementation of an inspection and maintenance program.

(1) With regard to waste incinerator or similar disposal facility, such a program shall include the following:

(a) For barrel dumping and tank unloading area, daily inspection for spills, leaky pump seals or valves and monthly testing of pump high-level control devices.

(b) For storage containers, weekly inspection of storage containers for structural defects, leaks or spills and monthly inspection and testing of high-level control and alarms.

(c) For pump rooms, daily visual inspection for leaky pump seals and valves.

(d) For spill containment structures, weekly inspection of all containment structures.

(e) For plant operating areas, visual inspection on each shift of operation, and each inspection must be noted in the plant operation log.

(2) All employees of the disposal facility are to be instructed in the proper inspection procedure and cleanup techniques on no less than an annual basis, and records of such instruction shall be made available to the City Engineer or his representative when the facility is operating and at any other reasonable time.

§ 207-6. Inspection and emergency procedures.

A. Inspections.

(1) The city shall have the right to inspect private property to determine if a waste disposal facility is operating in compliance with the provisions of this Article.

(2) The owner of any waste disposal facility may be, required to conduct emission tests and submit written reports of measured emissions during start-up and at regular intervals thereafter. The cost of such testing shall be borne by the home owner of the disposal facility.

(3) Inspection by City Engineer.

(a) For the purpose of determining compliance with the provisions of this Article, the owner, operator or authorized representative of any waste disposal facility shall,

upon request, grant free access for inspection by the City Engineer or his authorized representative.

(b) Before undertaking such an inspection, the Engineer or his authorized representative shall present to the owner, operator or agent in charge of the facility appropriate credentials and a written statement as to the reason for the inspection.

(c) Inspections shall be permitted whenever the facility is in operation and at such other times as may be reasonable and necessary in the opinion of the City Engineer or his representative.

(d) The City Engineer or his representative shall be permitted to:

[1] Inspect and copy all inventory records and log books.

[2] Inspect and obtain samples of any wastes on the premises and any containers or labeling for such wastes.

[3] Make any other inspections as he may decide is necessary to determine compliance with the provisions of this Article.

B. Emergency procedure.

(1) When a malfunction or emergency situation at any disposal facility occurs which creates emissions which exceed any of the provisions of this Article or any of the applicable state and federal regulations, the owner and/or operator of the facility shall immediately notify, by telephone, the following:

(a) The City Engineer or someone authorized to receive notice in his absence.

(b) The State Department of Environmental Conservation.

(c) The United States Environmental Protection Agency.

(2) Written notice to the above shall follow within twenty-four (24) hours of the occurrence of the malfunction or emergency.

(3) If, after having received such notice, the City Engineer finds that continued operation of the disposal facility is contributing to pollution of the air or water, or both, of the city and that such pollution poses a danger to the public health, welfare and safety, he shall order the facility to cease operation.

(4) Such an order must be complied with immediately, and, upon issuance of such an order, the Common Council, if requested by the party affected by the order, shall schedule a hearing on the matter within five (5) days.

§ 207-7. Penalties for offenses; claims.

A. Any person who knowingly violates the provision of this Article shall be subject to a fine of one hundred dollars ($100.) or to imprisonment for a period not to exceed three (3) months, or both. Each day of violation shall constitute a separate offense.

B. All persons participating or found to have participated in any violation shall be severely liable to the penalties outlined in Subsection A.

C. Action pursuant to Subsection A shall not be a bar to enforcement of this Article by injunction or other appropriate remedy. The City Attorney shall have the power to institute and maintain any and all enforcement proceedings.

D. Nothing in this Article shall be construed to abridge or limit the right of any person to damages or other relief or account of injury to person or property and to maintain any appropriate action or proceeding therefor.

E. Any permit granted under the provisions of this Article may be suspended for not longer than sixty (60) days for violation of any provision of this Article or whenever, in the written and documented opinion of the Common Council, the New York Department of Public Health or the New York Department of Environmental Conservation, the continued operation of any waste disposal facility would endanger the health, welfare or safety of the public. The notice of suspension may be served upon the owner personally or by leaving a copy at the facility with the person in charge.

F. Any permit may be revoked at any time for violation of any provision of this Article. Revocation may occur only after the Common Council has held a public hearing at which the owner and other persons interested in the facility shall have had the right to be heard.

G. In the case of a suspension, upon written notification from the owner that all violations for which the suspension was invoked have been corrected, the City Engineer or his authorized representatives shall inspect the disposal facility within five (5) working days after receipt of the notice. If it is determined from this inspection that the violations have been corrected, the Common Council shall immediately terminate the suspension by written notice to the owner.

§ 207-8. Severability.

It is hereby declared to be the intention of the governing body that the several provisions of this Article are separable in accordance with the following:

A. If any court of competent jurisdiction shall adjudge any provision of this Article to be invalid, such judgment shall not affect any other provisions of this Article not specifically

included in the judgment.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Article to a particular structure, site, facility or operation, such judgment shall not affect the application of the provisions in question to any other structure, site, facility or operation not specifically included in the judgment.

§ 207-9. Construal of provisions; higher standards to prevail.

A. This Article shall not be construed to relieve any person from any present or future requirement arising from any state or federal law.

B. Where the conditions imposed by any provision of this Article are more restrictive than comparable conditions imposed by any other applicable law, ordinance, rule or regulation, the provision which establishes the higher standards for the promotion and protection of the public health, safety and general welfare shall prevail.

§ 207-10. Imposition of additional requirements permitted.

For purposes of protecting and providing for the public health, safety and welfare, the governing body may impose additional requirements for the operation of waste disposal facilities, consistent with the intent of this Article.

ARTICLE II, Collection [Adopted 7-12-1993 by (Ch. 96 of the 1980 Code)]

§ 207-11. Title.

This Article shall be known as the "City of Oswego Solid Waste Collection Ordinance."

§ 207-12. Enforcement.

It shall be the duty of the local Police Department to enforce the provisions of this Article.

§ 207-13. Definitions.

For the purpose of this Article, the terms used herein are defined as follows:

ASHES -- The residue resulting from the burning of wood, coal, coke or other combustible materials.

BUILDING DEBRIS -- Scrap lumber, concrete, pipe, bricks, plaster and similar materials resulting from building construction, maintenance and alteration.

BULKY WASTES -- Large oversize wastes that require special handling for collection and shall include, but not be limited to, furniture, appliances, crates, etc.

BUSINESS -- Any individual, association, partnership, firm or corporation having an established business within the City of Oswego.

COLLECTOR -- Any individual, association, partnership, firm or corporation in the business of collecting garbage and refuse within the City of Oswego.

CONTRACTOR -- Any individual, association, partnership, firm or corporation in any business dealing with construction or the collection of junk; and any individual, association, partnership, firm or corporation which owns a truck which is not licensed for refuse collection.

GARBAGE -- All animal and vegetable wastes resulting from the handling, processing, preparation, cooking or consumption of food.

MAJOR HAULER -- Any individual, association, partnership, firm or corporation who owns, controls or operates motor vehicles with the intention to haul waste for a fee and operates a vehicle with a gross weight in excess of 18,000 pounds. [Added 3-8-2004]

MINOR HAULER -- Any individual, association, partnership, firm or corporation who owns, controls or operates motor vehicles with the intention to haul waste for a fee and operates a vehicle with a gross weight under 18.000 pounds. [Added 3-8-2004]

OWNER -- The owner, agent, lessee, tenant, occupant or other person who manages or controls a building, house or lot who or which causes, creates or contributes to the origination of refuse or who is responsible for its storage, removal or disposal.

PERSON -- Any individual, association, partnership, firm or corporation.

RECYCLABLE MATERIALS -- Any and all materials deemed recyclable under Oswego County's Mandatory Recycling Program.

REFUSE and SOLID WASTES -- All solid wastes, including, but not limited to, garbage, ashes, rubbish, bulky wastes and building debris.

RESIDENT -- Any individual who resides within the City of Oswego.

RUBBISH -- Glass, metal, paper, plant and tree growth, wood or nonputrescible solid wastes.

YARD WASTES -- Grass (lawn) clippings, other plants, leaves and brush and other tree waste, but does not include stumps.

§ 207-14. Compliance; license required.

Waste collection shall comply in every detail to the standards set forth in this Article and with all applicable county, state and national laws. No person shall engage in any form of waste collection operation without obtaining a license from the Common Council.

§ 207-15. Dumping in prohibited areas.

It shall be unlawful for any person to dump, place, deposit or permit to be deposited upon any public or private property, or upon any street, sidewalk or other public place in the City of Oswego, any garbage, ashes, rubbish, yard wastes, building debris or other objectionable wastes, except as hereinafter provided.

§ 207-16. Open burning prohibited; exceptions.

A. No person shall make or assist in the making of any fire for the burning of any waste product refuse of any kind, including, but not limited to, garbage, paper, paper products, cartons, tree trimmings, leaves, brush and lawn or garden debris of any kind, at any time in any public street or public place within the City of Oswego.

B. No person shall conduct on-site open burning of rubbish generated by residential activities, including, but not limited to, garbage, rubbish, paper, paper products, cartons, tree trimmings, leaves, brush and lawn or garden debris of any kind at any time or any place, including his own property, within the limits of the City of Oswego.

C. The Common Council of the City of Oswego may petition the New York State Air Pollution Control Board to designate an area wherein on-site open burning of certain types would be permitted and allowed.

§ 207-17. (Reserved) EN(64)

§ 207-18. (Reserved) EN(65)

§ 207-19. Residential permits.

A. No resident shall collect any solid wastes within the city or transport any solid wastes over the streets of the city except those solid wastes originating from the resident's own property.

B. All residents who utilize the county landfill for the disposition of their own solid wastes must obtain an annual sticker or punch card issued in accordance with the rules promulgated by the Oswego County Department of Public Works, Solid Waste Division.

§ 207-20. Licensed collectors; fees. [Amended 3-8-2004]

A. Licenses required. No collector shall collect any solid wastes within the City or transport any solid wastes over the streets of the City without having first obtaining a license from the City Clerk. Solid wastes originating from the collector's own property shall be excluded from the licensing requirements.

B. Collector's application for a license. All applications for a collector's license shall be in writing and shall contain such information as the Common Council shall require and shall be verified by the applicant. Applications for a license shall be obtained at the office of the City Clerk on forms provided by said office. The applicant shall file with his application a certificate or affidavit of insurance as hereinafter set forth and shall play the required license fee. Upon receipt of such application properly executed, the City Clerk shall refer the same to the Common Council for its approval before issuing the license.

C. License fee.

(1) Each collector, including major haulers, shall be required to pay a license fee of $500 per year.

(2) Minor haulers shall be required to pay a license fee of $50 per year.

D. Insurance. The certificate or affidavit to be filed with the application shall be executed by the representatives of a duly qualified insurance company evidencing that said insurance company has issued liability and property damage insurance policies covering the following:

(1) All operations of the applicant, or any other person, firm or corporation employed by him in solid waste collection within the corporate limits of the City of Oswego.

(2) The disposal of such garbage and refuse to and within the designated and approved treatment and/or disposal facility.

(3) Protecting the public and any person from injuries or damages sustained by reason of

carrying on the work of garbage and refuse collection and disposal.

(4) The certificate or affidavit shall specifically evidence the following amounts of insurance coverage which shall remain in effect for the term of the license, name the City of Oswego as additional insured and shall provide that written notice be given to the City Clerk 30 days prior to any change in the conditions of the certificate or expiration or cancellation thereof:

(a) Public liability insurance: $1,000,000 per person; $2,000,000 per occurrence.

(b) Property damage: $100,000 per accident.

E. Inspection by City.

(1) Upon notice from the City Clerk that an application has been received, the Common Council shall make or cause to be made an inspection by the Police Chief, or his designee, to determine that all New York State inspection requirements have been complied with and in addition to any and all requirements contained the Solid Waste Collection Ordinance; and if the same meets the requirements herein specified, the Common Council shall file its approval with the City Clerk.

(2) Additional inspections or investigations of equipment and operations may be made from time to tin at the discretion of the Police Chief. A violation of the conditions of this article may result in a fine and/or a revocation of the applicant's license as may be determined by the Common Council.

F. Issuance of license. Upon receipt of approval from the Common Council, the filing of the proper certificates and affidavits of insurance and the payment of the license fee, the City Clerk shall thereupon issue the applicant a license. All licenses shall expire on December 31 following the date of issue.

G. Renewal of license. Renewal licenses shall be issued in the same manner and subject to the same conditions as original licenses and also shall be subject to any additional requirements in effect at the time of application for renewal.

H. Issuance of duplicate licenses. Whenever proof by means of a sworn affidavit shall be submitted to the City Clerk that a license issued for the purpose set forth in this article has been lost or destroyed, the City Clerk may, upon payment of $5 by the applicant, issue a new license in lieu of the one that has been lost or destroyed.

I. License not transferable. No license issued under this article's provisions shall be transferable.

J. Revocation of license. Upon receipt of three or more complaints against a licensee, the

Common Council, after a hearing, shall have the power to suspend or revoke a license granted or renewed pursuant to this article for violation of any part of this article or any applicable rules, regulations, codes or ordinances relating to the collection, handling, hauling or disposal of solid wastes.

K. Condition of vehicles. All vehicles used in the transportation of solid wastes within the City shall be kept in a sanitary condition and shall be so constructed so as to prevent leakage in transit. The body of the truck shall be wholly enclosed or shall at all times be kept covered with an adequate cover. Loading of vehicles shall be done in such a manner as to prevent spilling or loss of contents.

L. Frequency of collections. Collection of solid wastes from private residences shall be made not less than once a week. All acceptable wastes in approved containers placed out for collection shall be collected at each pickup. Collections of garbage from stores, hotels, restaurants, clubs, boardinghouses or other commercial establishments must be made on a regular schedule.

M. (Reserved)[EN(66)]

N. Pickup service. Each waste collection licensee hereunder shall provide an adequate and prompt response to all complaints from patrons on missed service and improper handling and shall promptly furnish the missed service and correct the improper handling. Such service shall be promptly available to service complaints from any City official for material improperly deposited within the limits of the streets or highways during transit.

§ 207-21. Licensed contractors. [Amended 3-8-2004]

License required. No contractor shall collect any solid wastes within the City or transport any solid wastes over the streets of the City without first having obtained a license from the City Clerk and having paid the approved license fee as set forth herein (§ 207-20C).

§ 207-22. Penalties for offenses. [Amended 3-8-2004]

A. Any collector who violates any provision of this article or fails to comply with the orders of the local Police Department shall be liable for a fine not exceeding $500 for a single violation or a failure. Each day during which a violation continues shall be deemed to be a separate and distinct violation.

B. Any other person who violates any provision of this article or fails to comply with the orders of the local Police Department shall be liable to a fine not exceeding $100 for a single violation or failure. Each day during which a violation continues shall be deemed to be a

separate and distinct violation.

Chapter 211, STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 59.
Animals -- See Ch. 63.
Bicycles -- See Ch. 72.
Moving of buildings -- See Ch. 84.
Harbors -- See Ch. 143.
Noise -- See Ch. 165.
Peddling and soliciting -- See Ch. 180.
Taxicabs -- See Ch. 228.
Theatrical performances, shows and exhibitions -- See Ch. 232.
Trees -- See Ch. 230.
Utility poles -- See Ch. 245.
Vacant property -- See Ch. 249.
Abandoned vehicles -- See Ch. 253.
Vehicles and traffic -- See Ch. 257.
Zoning -- See Ch. 280.

ARTICLE I, Snow and Ice Removal [Adopted 5-12-1980 as Ch. 95, § 95-1, of the 1980 Code]

§ 211-1. (Reserved) EN(67)

§ 211-2. Penalties for offenses. [Added 10-28-1996 by L.L. No. 4-1996;EN(68) amended 12-9-1996]

Every person neglecting or refusing to perform the duty imposed upon him or her by this article shall be subject to a fine of not more than $5.

ARTICLE II, Street Obstructions [Adopted 5-12-1980 as Ch. 99, §§ 99-9 through

99-12, 99-14 and 99-15, of the 1980 Code]

§ 211-3. Building materials.

No person shall place or cause to be placed any material for building in or upon any street, sidewalk, park, lane or public ground without written permission from the Department of Public Works and upon filing with said Department a bond to the City of Oswego, approved by said Department. The Department of Public Works is authorized to grant permission, in writing, to place and keep building materials in any of the public streets, including sidewalks, for a period of time not exceeding four (4) months; but such permission shall not authorize the obstructing of more than one-third (1/3) of the sidewalk and one-half (1/2) of said street opposite the lot on which a structure is to be made by the person to whom permission is granted, and such permission may be revoked at any time by the Department of Public Works in its discretion.

§ 211-4. Removal of building materials.

Every person to whom permission is granted, as aforesaid, shall cause all the timber, building materials and rubbish arising therefrom to be removed from the street or sidewalk at the expiration of the time limited in such permission or at any time such permission shall be revoked by the Department of Public Works. Any person so placing or causing to be placed such materials or failing to remove the same when notified by the Department of Public Works, contrary to the provisions of this section, shall be subject to a fine as set forth herein for every twenty-four (24) hours such materials may remain in said street, park, lane or public ground without the permission of the Department of Public Works.

§ 211-5. Vendors' stands.

No person shall use or occupy any sidewalk, street, alley, park or public ground, except the designated public market grounds, within the city for the purpose of a huckster's stand or as a place for vending any fruits, nuts or other articles without permission from the Mayor, in writing. Any person violating any of the provisions of this section shall be subject to a fine as provide herein.

§ 211-6. Placing materials in streets and sidewalks. [Amended 10-28-1996 by L.L. No. 4-1996]

No person shall place or deposit on any sidewalk or in any street any article, material or thing, except as permitted so to do by §§ 211-7 and 211-8, the Department of Public Works or by the law or other ordinances of this city, and the person or persons depositing or placing the same on

any sidewalk or in any street, or the owner or occupant of premises in front of which the same shall be deposited or placed who shall knowingly permit such depositing or placing of said substances or materials or knowingly suffer the same to remain so deposited and placed shall be deemed guilty of a violation of this section and subject to a fine as provided herein; and after twenty-four (24) hours' notice to the person or persons depositing or placing or permitting said substances or material to be so deposited or placed on the sidewalk or in the street or to the owner or occupant of said premises, the Department of Public Works may summarily remove the same. The cost and expense of such removal may be collected of the offender by the City of Oswego in any court of competent jurisdiction with costs of suit.

§ 211-7. Merchandise within four feet of building. [Amended 3-12-2007]

It shall be lawful for any person to place or set out for sale any goods or merchandise on the sidewalk in front of and within four feet of his or her store or building. The Police Chief or his/her designee shall have the authority to temporarily suspend the use of the sidewalk for such purpose when necessary for public safety.

§ 211-8. Receiving and delivering merchandise.

It shall be lawful for any person to place and leave for a period not exceeding one (1) hour, on four (4) feet of the outer edge of the sidewalk in front of his store or building, any goods, wares or merchandise which he shall be in the act of receiving or delivering.

§ 211-9. Penalties for offenses. [Added 10-28-1996 by L.L. No. 4-1996]

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE III, Cellarways and Vaults [Adopted 5-12-1980 as Ch. 99, §§ 99-16 through 99-18 and 99-23, of the 1980 Code]

§ 211-10. Cellarways guarded.

No passageway intended to be kept open leading from any cellar or basement into any street in this city shall be constructed or kept or suffered to remain so as to extend more than six (6) feet into such street, nor unless the same have a secure and convenient railing on the sides thereof.

For a violation of the foregoing provisions, the owner or occupant of the building to which such passageway is appurtenant is and are subject to a fine as provided herein, and for every week such passageway shall be suffered to remain after notice given by the Department of Public Works to alter or amend such passageway conformable to this Article, such owner or occupant shall be subject to the same fine as provided herein. No such passageway shall be made in any street whose width is less than fifty (50) feet. For a violation of the last foregoing provision of this section, the owner or occupant or occupants to which such passageway is appurtenant is and are guilty of a misdemeanor.

§ 211-11. Closing doors to cellarways.

No passageway or door leading from any cellar or basement to a street in this city which is not intended to be constantly open shall be unclosed or left open at any time, except when in actual use. For a violation of this section, the owner or owners, occupant or occupants of the building to which such passageway or doorway is appurtenant shall be subject to a fine as provided herein.

§ 211-12. Construction and repair of cellarway doors.

All passageways, doorways and other openings constructed in any sidewalk or street leading to the cellar, basement or vault of any store, building or other structure shall hereafter be securely protected and strongly safeguarded by the owner or owners of any such store, building or other structure with strong metal (iron or steel) doors or covers. All such doors and covers shall be constructed and installed flush and even with the surface of the sidewalk and street, and no hinge or part thereof shall project above the upper surface of any such door or doors, cover or covers. The upper surface of any such door or doors or cover or covers shall be adequately roughened with suitable grooves, corrugations or indentations therein and thereon. Whenever any door or doors or cover or covers of any such passageway, doorway or other opening, now or hereafter installed in any sidewalk or street, becomes or is insecure, unsafe or dangerous by reason of wear, age or otherwise, the owner of any store, building or other structure to which the same is appurtenant shall promptly repair and restore the same to a safe and secure condition or, if necessary, promptly replace the same with a new door or doors or cover or covers constructed and installed in form and manner prescribed by this section. For a violation of this section or any provision thereof, the owner of any store, building or other structure having a passageway, doorway or other opening leading from the sidewalk or street to the cellar, basement or vault thereof shall, upon conviction thereof, be subject to a fine as provided herein.

§ 211-13. Vaults under sidewalks.

All vaults under sidewalks in this city shall be constructed of brick or stone, and the outside of

the grating or opening into the street shall be within one (1) foot of the outside of the curbstone of the sidewalk, and all such vaults shall be completed, and the ground and sidewalk replaced over them within two (2) weeks after they are respectively commenced. Every person violating any of the provisions of this section, whether the owner or builder of such vault, shall be subject to a fine as provided herein.

§ 211-14. Penalties for offenses. EN(69)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE IV, Encroachments [Adopted 5-12-1980 as Ch. 99, §§ 99-5, 99-7 and 99-20, of the 1980 Code]

§ 211-15. Porches, stairs and buildings extending into street.

A. No porch, stoop, piazza, bay window, stairs or portion of building(s) shall be erected or placed or encroach on any street unless by permission of the Common Council.

B. The permission of the Common Council is hereby given that any such structure heretofore erected or placed or encroaching on any street may continue to be maintained without the permission of the Common Council.

C. Any person violating this section shall be subject to a fine as provided herein for every day the violation shall remain after notice from the Common Council to correct the same.

§ 211-16. Awnings.

Cloth awnings may be constructed in front of any store or building within said city to project over the sidewalk not to exceed ten (10) feet, provided that such awnings are supported by an iron framework securely attached to said building in such a manner as to be at all times safe and self-supporting, and provided that every part of such awning is at least seven (7) feet above the surface of the sidewalk. Every owner or occupant of any building within said city shall at all times keep the awnings in front of such buildings free from snow, ice, dirt or other obstructions. No person or firm shall suspend from any awning or over any sidewalk merchandise or articles of any kind. No wooden awnings, hereafter, shall be erected without the consent of the Common Council. The owners of all wooden buildings within said city shall construct and maintain conductor pipes which shall convey all water from said awnings to the street gutters and shall

repair said awnings in such a manner as to protect the sidewalk from leakage.

§ 211-17. Gates of fences.

All gates attached to fences on any lot in this city which open into or communicate with the street shall open inwards from the street or sidewalk and shall at all times be kept from obstructing the sidewalk, except when any person or persons shall be passing through the same. All steps under gates shall be even with or inside of the fence line. A violation of any of the provisions of this section shall subject the owner or occupant of the premises to which such gate is appurtenant to a fine as provided herein.

§ 211-18. Penalties for offenses. EN(70)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE V, Games and Sports [Adopted 5-12-1980 as Ch. 99, §§ 99-40 through 99-43, of the 1980 Code]

§ 211-19. Throwing objects against windows.

No person shall throw stones or balls of ice or snow or other dangerous missiles or shoot with or use a bow and arrow, gun or air gun in a street or park or upon or from any bridge or against any private house, structure or building, nor apply or use any tick-a-tack or any device for the purpose of making a noise on or against the same or the windows thereof. Any person violating any of the provisions of this section shall be subject to a fine as provided herein.

§ 211-20. Missile-throwing devices prohibited.

No person shall have in his possession a toy pistol, crotch, rubber sling or other device for throwing missiles of any kind, with intent to use the same to the injury of persons or property, or to the annoyance or discomfort of any person upon any street, park or public ground. Any person violating this section is subject to a fine as provided herein.

§ 211-21. Games and sports prohibited.

No person or persons shall at any time play ball or knock or drive any ball or play cricket, football, golf, tennis, shinny or quoits or pitch pennies or other coins or raise or fly any kite or balloon in or over any street, highway, lane or alley, wharf, dock, bridge, park or public ground of this city without permission of the Common Council. Any person violating this section shall be subject to a fine as provided herein.

§ 211-22. Sliding restricted. EN(71)

No person shall use any small or hand sled or sled or sleigh without horses or bobsled or double-runner for the amusement of sliding on any of the sidewalks or in any of the streets in this city, except in such street or streets as may be set apart by the Common Council for that purpose. Any person violating this section shall be subject to a fine as provided herein.

§ 211-23. Penalties for offenses. EN(72)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE VI, Buildings [Adopted 5-12-1980 as Ch. 99, §§ 99-1 through 99-3, of the 1980 Code]

§ 211-24. Numbering of buildings.

Every owner or occupant of a dwelling house, store or shop in the City of Oswego shall affix the proper number of the same on or over the front door of his or her house, store or shop, which number shall be designated by the City Engineer. Such number shall be so affixed within twenty (20) days after notice shall be published in the official paper by the Assessor requiring numbers to be so affixed. Every person neglecting to comply with this section shall be subject to a fine as provided herein.EN(73)

§ 211-25. Building lines; notice; legal action.

No person shall erect or place, or suffer or procure to be erected or placed, any building in said city bounded on the line of the street unless the line of such building as related to the street line shall have been first laid down by the City Engineer; and if any building, or any part, portion or projection thereof (except cornices, window caps and sills) which shall be erected or placed,

shall project beyond the line of the street, the owner or builder thereof shall, within ten (10) days after notice given to him by the Common Council, remove said building or any projection thereon, save as above excepted, to the line of the street. A violation of either or any of the provisions of this section is a misdemeanor, and each day after notice shall be given, as aforesaid, that such building or buildings or projection or projections shall be continued is a fresh misdemeanor, not merged in any way by a prior offense or conviction. The provisions of this section shall not in any way affect the right of the City of Oswego to take such legal action by ejectment or otherwise, as it may be entitled to, to compel the removal of such building or buildings or projection or projections from the street.

§ 211-26. Buildings and fences on city property.

No person shall erect or place, or procure or cause to be erected or placed, in any street, alley, lane or highway, or any public park or public ground of this city, any building or part of a building of any description, or any fence or part of a fence, or other structure, except such as is prescribed by resolution or allowed by law. The punishment for a violation of this section shall be subject to a fine as provided herein, and a further fine of ten dollars ($10.) for every twenty-four (24) hours any building or part of a building, fence or other structure shall be suffered to remain, contrary to the provisions of this section, after notice from the Common Council to remove the same.

§ 211-27. Penalties for offenses. EN(74)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE VII, Destruction of Property [Adopted 5-12-1980 as Ch. 99, §§ 99-36, 99-37, 99-46 and 99-47, of the 1980 Code]

§ 211-28. Injuring grass.

No person shall cut, tread down, pull up, trample upon or injure the grass growing in any park or public grounds of the city, or in any grass plot or border in any street, or ride, drive, stand, lie or walk upon any part of the same which is or hereafter may be laid out and appropriated for grass or shrubbery. Any person violating any of the provisions of this section shall be subject to a fine as provided herein.

§ 211-29. Removing sod, stone, sand, etc.

No person shall, without permission from the Department of Public Works, dig, remove or carry away or cause to be dug, removed or carried away, any sod, turf, stone, earth, sand or gravel from any street, park or public ground in this city. Any person violating any of the provisions of this section shall be subject to a fine as provided herein.

§ 211-30. Hydrants.

Except as permitted by the Department of Water or in case of fire, or as otherwise allowed by law, no person shall open, use, draw water from or in any manner interfere with any hydrant or street sprinkler bibbs in the City of Oswego. Any person who shall break, injure, deface, remove or in any manner tamper with the hydrant, street or service box or any box, jacket, housing or covering to the same or any part thereof shall, upon conviction thereof, be punishable by a fine as provided herein or by imprisonment in the County Jail or by both such fine and imprisonment.

§ 211-31. Drinking facilities. EN(75)

No person shall place in any drinking fountain set up or established in any street of the city for the use of man or beast, any dirt, stone, ashes, rubbish, offal, filth or any other foreign matter, nor in any way deface, injure or unlawfully move such drinking fountain. A violation of this section is punishable by a fine as provided herein.

§ 211-32. Penalties for offenses. EN(76)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE VIII, Littering [Adopted 5-12-1980 as Ch. 99, §§ 99-53 and 99-54, of the 1980 Code]

§ 211-33. Handbills, etc., prohibited.

It shall hereafter be unlawful for any person to throw, drop or scatter any handbill, advertisement or circular upon any of the streets, bridges or public places of this city or upon the sidewalks or

crosswalks thereof, or in, upon or about the house, yard or premises of any person, association or corporation. Any person violating this section shall be subject to a fine as provided herein.

§ 211-34. Carrying placards prohibited.

Any person carrying advertising boards or placards through the streets or on the sidewalks of this city without the permission of the Mayor or Common Council shall be subject to a fine as provided herein.

§ 211-35. Penalties for offenses. EN(77)

Any violation of any of the provisions of this Article shall be subject to a fine of not more than one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE IX, Miscellaneous [Adopted 5-12-1980 as Ch. 99, §§ 99-49 and 99-55, of the 1980 Code]

§ 211-36. Cutting wood or mixing cement. EN(78)

No person or persons shall at any time cut, saw suffer or procure to be cut, sawed or split, any firewood, cordwood, boxes or other substance or material or mix or cause to be mixed or deposited any mortar, cement or plaster on any sidewalk or asphalt pavement of this city. Any person violating this section shall be subject to a fine as provided herein.

§ 211-37. Rubbish around buildings and lots. EN(79)

The occupant of any building or lot and the owner of any unoccupied building or lot in this city shall clear off and remove and keep cleared off and removed all chips, rubbish, materials and obstructions, excepting snow and ice from the sidewalk, grass plot or border, and street to the center thereof opposite his premises, except such as are authorized to remain by virtue of law or any ordinance. Any person neglecting or refusing to comply with this section shall be subject to a fine as provided herein.

§ 211-38. Penalties for offenses. [Added 10-28-1996 by L.L. No. 4-1996]

Any violation of any of the provisions of this Article shall be subject to a fine of not more than

one hundred dollars ($100.) and any other remedies provided herein.

ARTICLE X, Excavations [Adopted 5-12-1980 as Ch. 46 of the 1980 Code]

§ 211-39. Permit required.

It shall be unlawful for any person, firm, company or corporation to make or cause to be made any excavation in or under any street, sidewalk or public place, or any portion thereof, whether paved or otherwise, in the City of Oswego for any purpose whatsoever, except upon compliance with the provisions of this Article and after obtaining a permit and paying the fee hereinafter provided for.

§ 211-40. Application for permit.

A. At least twenty-four (24) hours prior to the commencement of work, any person, firm, company or corporation proposing to undertake any excavation referred to in § 211-39 hereof, shall file an application for a permit to do such work with the Department of Public Works upon a form to be provided by such department. A sketch showing the location, dimensions and character of the proposed excavation shall be incorporated in or accompany such application.

B. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

   (1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

   (2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

   (3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies

occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 211-41. Deposit required.

Prior to the issuance of a permit, the applicant shall deposit with the City Chamberlain a sum of money in cash or by certified check sufficient to reimburse the city for all expenses which may be incurred by the city in restoring the excavated surface to a condition satisfactory to the Commissioner of Public Works in the event that the applicant shall fail to so restore such surface. Such deposit shall be computed as follows:

A. For concrete, macadam, brick, blacktop or other hard surface road, sidewalk or public area, two dollars ($2.) per square foot of excavation. Minimum deposit: one hundred dollars ($100.).

B. For gravel, dirt or other surface, one dollar ($1.) per square foot of excavation. Minimum deposit fifty dollars ($50.).

C. In the event that part of the surface to be excavated is covered by Subsection A and part by Subsection B of this section, the deposit shall be based on the square footage of each type of surface, and the minimum deposit shall be one hundred dollars ($100.).

§ 211-42. Fee with application.

A fee of five dollars ($5.) shall accompany each application for such a permit. Such fee shall be retained by the city to cover the cost of issuing the permit and making any inspections required.

§ 211-43. Expiration of permit.

Each permit shall expire six (6) months from the date of its issuance.

§ 211-44. Liability insurance.

A. No permit shall be issued until the applicant has filed with the Department of Public Works a certificate of insurance from an insurance company authorized to do business in the State of New York certifying that the applicant has in full force and effect a policy of public liability insurance indemnifying the City of Oswego, New York and/or the Commissioner of Public Works of said city as named insureds against any loss, damage or injury which might be incurred by reason of the negligence of the applicant in making such excavation or in performance of any work incidental thereto, or in guarding or failing to guard the same, or in failing to properly restore the area in which the excavation is made to a proper and safe condition, or by reason of any negligent act or omission of the applicant incident to such excavation or restoration, and including omissions and supervisory acts of the Department of Public Works of the City of Oswego. Such certificate shall provide that the City of Oswego shall be given at least ten (10) days' notice of any intent to cancel in any manner the policy referred to, or of any change of the terms or limits of said policy.

B. The limits of liability of said insurance shall be not less than the following:

   (1) For damages arising out of bodily injury, including death at any time resulting therefrom sustained by one (1) person in one (1) accident: one hundred thousand dollars ($100,000.).

   (2) For damages arising out of bodily injury, including death at any time resulting therefrom sustained by two (2) or more persons in any one (1) accident: three hundred thousand dollars ($300,000.).

   (3) For damages arising from injury to or destruction of property during the policy period: one hundred thousand dollars ($100,000.).

§ 211-45. Surety bond.

No permit shall be issued until the applicant has also filed with the Department of Public Works a satisfactory surety bond of a surety company authorized to do business in the State of New

York in a sum to be no greater than the cost of restoring the excavated area to a proper and safe condition, which sum and which condition shall be determined by the Commissioner of Public Works of the City of Oswego; provided, however, that such bond shall be in the sum of at least five hundred dollars ($500.) and which bond shall be conditioned upon compliance by the applicant with the terms of this Article.

§ 211-46. Issuance and exhibiting of permit.

Upon compliance with the foregoing provisions of this section, the Department of Public Works shall issue a permit to the applicant. The applicant shall cause such permit to be carried on the job and to be exhibited upon request to representatives of the Department of Public Works and of the Police Department at any time during the progress of the work.

§ 211-47. Regulations to be complied with.

The applicant shall comply with all of the following in connection with such excavation:

A. Provide proper lighting, barricading, reflectors, signs and warnings to protect and warn the public with regard to such excavation.

B. Gutters shall be kept clear so that the free flow of water is permitted.

C. All work shall be pursued diligently and continuously as far as possible until completed.

D. Not more than one-half (1/2) of the paved width of any street shall be closed to traffic at one (1) time.

E. In the event that the full width of any sidewalk shall be closed during such work, the applicant shall provide a safe way of travel for pedestrians.

F. The size of the excavation shall not exceed that for which the permit was issued.

G. All work shall be subject to the inspection and approval of the Department of Public Works.

H. After backfilling excavations which have been sheeted, the sheeting shall be left in place and cut down one (1) foot below grade.

I. No tunneling or undercutting is permitted.

J. Excavations shall be carefully backfilled with clean earth deposited in four-inch layers and tamped. Frozen earth or stones over six (6) inches in size shall not be used in backfill. Silt and loam are to be replaced by bank-run gravel. The Department of Public Works shall be notified, in writing, when backfilling is completed. The applicant shall maintain the proper

amount of backfill in the excavation for a period of thirty (30) days after completion of the original backfilling.

K. Pavement and other finished surfaces are to be replaced according to instructions and specifications of the Department of Public Works.

§ 211-48. Applicant's failure to complete work.

In the event that the applicant does not complete the work according to the instructions and specifications of the Department of Public Works and in a manner satisfactory to the Commissioner of Public Works within a reasonable time after being advised of such objections by the Department of Public Works, then, in that event, the work may be completed by the Department of Public Works and the cost of such completion shall be borne by the applicant at the rate provided in § 211-41 hereof, and such payment shall be deducted by the Department of Public Works from the amount deposited by the applicant, and the balance, if any, shall be refunded to the applicant.

§ 211-49. Refund upon completion.

Upon completion of the work to the satisfaction of the Commissioner of Public Works, the Department of Public Works shall refund to the, applicant the deposit provided for in § 211-41 herein.

§ 211-50. Penalties for offenses.

Any person or corporation violating any of the provisions of this Article, upon conviction thereof, shall be subject to a fine of not more than one hundred dollars ($100.) for each offense. Every violation of any provision of this Article shall be a separate and distinct offense, and, in case of continuing violation, every day's continuance thereof shall be deemed to be a separate and distinct offense. A violation of this Article shall constitute disorderly conduct, and any person violating the same shall be a disorderly person.

Chapter 215, STRIKEBREAKERS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 99A of the 1980 Code. Amendments noted where applicable.]

§ 215-1. Recruiting, procuring or supplying prohibited.

No person, partnership, agency, firm or corporation or officer, employee or agent thereof, shall recruit, procure, supply or refer any person for employment who customarily and repeatedly offers himself for employment in place of any employee involved in a labor dispute in which such person, partnership, agency, firm or corporation is not directly involved.

§ 215-2. Hiring prohibited.

No person, partnership, firm or corporation involved in a labor dispute shall, directly or indirectly:

A. Employ in the place of an employee involved in such a dispute, any person who customarily and repeatedly offers himself for employment in the place of employees involved in a labor dispute.

B. Contract or arrange with any other person, partnership, agency, firm or corporation to recruit, procure, supply or refer persons for employment who customarily and repeatedly offer themselves for employment in place of employees involved in such labor dispute.

§ 215-3. Repeatedly acting as a strikebreaker prohibited.

No person who customarily and repeatedly offers himself for employment in place of employees involved in a labor dispute shall take or offer to take the place in employment for any employee involved in a labor dispute.

§ 215-4. Penalties for offenses.

Any person, partnership, agency, firm or corporation, or any officer, employee or agent thereof, who or which shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment by a fine of not more than two hundred dollars ($200.) or by imprisonment for a period not to exceed three (3) months, or by both such fine and imprisonment.

Chapter 224, TAXATION

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

ARTICLE I, Sales and Compensating Use Tax [Adopted 5-12-1980 as Ch. 101, Art. I, of the 1980 Code]

§ 224-1. Definitions.

A. When used in this Article, the term "person" includes an individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

B. When used in this Article for the purpose of the taxes imposed by §§ 224-2A, B, C, D and 224-4, the following terms shall have the meanings indicated:

PURCHASE AT RETAIL -- A purchase by any person for any purpose other than those set forth as exceptions under the definition of "retail sale" within this section.

PURCHASER -- A person who purchases property or to whom are rendered services, the receipts from which are taxable under this Article.

RECEIPT -- The amount of the sale price of any property and the charge for any service taxable under this Article, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for tangible personal property accepted in part payment and intended for resale and excluding the cost of transportation of tangible personal property sold at retail where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For special rules governing computation of receipts, see § 224-5.

RETAIL SALE -- A sale of tangible personal property to any person for any purpose other than for resale as such or as a physical component part of tangible personal property, or for use by that person in performing the services subject to tax under § 224-2C(1), (2), (3) and (5) where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax. The term "retail sale" does not include:

(1) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the law of New York or any other jurisdiction.

(2) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(3) The distribution of property by a partnership to its partners in whole or partial liquidation.

(4) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(5) The contribution of property to a partnership in consideration for a partnership interest therein.

SALE, SELLING or PURCHASE -- Any transfer of title or possession, or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this Article for a consideration or any agreement therefor.

TANGIBLE PERSONAL PROPERTY -- Corporeal personal property of any nature. However, except for purposes of the tax imposed by § 224-2B, such term shall not include gas, electricity, refrigeration and steam.

USE -- The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property or any consumption of such property.

VENDOR -- Includes:

(1) A person making sales of tangible personal property or services, the receipts from which are taxed by this Article.

(2) A person maintaining a place of business in the state and making sales, whether at such place of business or elsewhere, to persons within the city of tangible personal property or services, the use of which is taxed by this Article.

(3) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the city of tangible personal property or services, the use of which is taxed by this Article.

(4) Any other person making sales to persons within the City of Oswego of tangible personal property or services, the use of which is taxed by this Article, who may be authorized by the Tax Commission to correct such tax.

(5) The State of New York, any of its agencies, instrumentalities, public corporations

(including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons.

(6) Any salesman, representative, peddler or canvasser who is treated by the Tax Commission as a vendor, pursuant to the provisions of § 1101, Subdivision (b)(8), of the Tax Law. [Amended 10-28-1996 by L.L. No. 4-1996]

C. When used in this Article for the purposes of the tax imposed under § 224-2E, the following terms shall have the meanings indicated::

HOTEL -- A building, a portion of which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boardinghouse or club, whether or not meals are served.

OCCUPANCY -- The use or possession or the right to use or possession of any room in a hotel.

OCCUPANT -- A person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

OPERATOR -- Any person operating a hotel.

PERMANENT RESIDENT -- Any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

RENT -- The consideration received for occupancy valued in money, whether received in money or otherwise.

ROOM -- Any room or rooms of any kind in any part or portion of a hotel which is available or let out for any purpose other than a place of assembly.

D. When used in this Article for purposes of the tax imposed under § 224-2F, the following terms shall have the meanings indicated::

ACTIVE ANNUAL MEMBER -- A member who is not a life member but who enjoys full club privileges, as distinguished from the privileges enjoyed by a person holding a nonresident membership, an associate membership or other partial or restricted membership.

ADMISSION CHARGE -- The amount paid for admission, including any service charge and any charges for entertainment or amusement or for the use of facilities therefor.

AMUSEMENT CHARGE -- Any admission charge, dues or charges for roof garden, cabaret or other similar place.

CHARGE FOR A ROOF GARDEN, CABARET OR OTHER SIMILAR PLACE -- Any charge made for admission, refreshment, service or merchandise at a roof garden, cabaret or other similar place.

DRAMATIC OR MUSICAL ARTS ADMISSION CHARGE -- Any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live dramatic, choreographic or musical performance.

DUES -- Any dues or membership fee, including any assessment, irrespective of the purpose for which made, and any charges for social or sports privileges or facilities. "Dues" of a life member shall be an annual equivalent to the amount paid as dues, within this definition, by an active annual member, whether or not the life member paid for his life membership prior to the imposition of the tax by this Article.

INITIATION FEE -- Any payment, contribution or loan required as a condition precedent to membership, whether or not such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed or loaned.

LESSOR -- Any person who is the owner, licensee or lessee of any place of amusement or roof garden, cabaret or other similar place which he leases, subleases or grants a license to use to other persons who make amusement charges or admission charges.

PATRON -- Any person who pays an amusement charge or who is otherwise required to pay the tax imposed under § 224-2F.

PLACE OF AMUSEMENT -- Any place where any facilities for entertainment, amusement or sports are provided.

RECIPIENT -- Any person who collects or receives or is under a duty to collect an amusement charge.

ROOF GARDEN, CABARET OR OTHER SIMILAR PLACE -- Any roof garden, cabaret or other similar place which furnishes a public performance for profit.

SOCIAL OR ATHLETIC CLUB -- Any club or organization of which a material purpose or activity is social or athletic.

§ 224-2. Sales tax imposed. [Amended 6-28-2010]

On and after September 1, 2004, there is hereby imposed and there shall be paid a tax of 4% upon:

A. The receipts from every retail sale of tangible personal property, except as otherwise

provided in this Article.

B. The receipts from every sale, other than sales for resale, of gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature, and from every sale, other than sales for resale, of telephony and telegraphy and telephone and telegraph service of whatever nature, except interstate and international telephony and telegraphy and telephone and telegraph service.

C. The receipts from every sale, except for resale, of the following services:

(1) The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news.

(2) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(3) Installing tangible personal property or maintaining, servicing or repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, and except any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining, and except for installing property which, when installed, will constitute an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the Real Property Tax Law, and except such services rendered with respect to commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than with respect to articles purchased for the original equipping of a new ship); provided, however, that nothing contained in this subsection shall be construed to exclude from tax under this subsection or under Subsection B of this section any charge made by a person furnishing service subject to tax under Subsection B of this section for installing property at the premises of a purchaser of such

a taxable service for use in connection with such service.

(4) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe-deposit boxes or similar space.

(5) Maintaining, servicing or repairing real property, property or land, as such terms are defined in the Real Property Tax Law, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, property or land by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services performed on a regular contractual basis for a term of not less than 30 days, other than window cleaning, rodent and pest control and trash removal from buildings.

NOTE: Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in Subsection C(1) through (5) are not receipts subject to the taxes imposed under such subsection.

D. Food and drink.

(1) Irrespective of price, when beer, wine or other alcoholic beverages are sold or when the charge to the patron or customer is $1 or more for the sale of food and drink of any nature or of food alone, receipts from every such sale in or by restaurants, taverns or other establishments in this city or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers (except those receipts taxed pursuant to Subsection F of this section).

(2) In all instances where the sale is for consumption on the premises where sold.

(3) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink.

(4) In those instances where the sale is for consumption off the premises of the vendor and consists of a meal or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores, other than those which are principally engaged in

selling prepared foods.

NOTE: The tax imposed by this subdivision shall not apply to food or drink which is sold to an airline for consumption while in flight.

E. The rent for every occupancy of a room or rooms in a hotel in this city, except that the tax shall not be imposed upon a permanent resident or where the rent is not more than at the rate of $2 per day.

F. Admission charges.

(1) Any admission charge where such admission charge is in excess of $0.10 to or for the use of any place of amusement in the city, except charges for admission to race tracks, boxing, sparring or wrestling matches or exhibitions which charges are taxed under laws of this state, except taxes imposed by Article 28 of the Tax Law of the State of New York, or dramatic or musical arts performances or motion-picture theaters, and except charges to a patron for admission to or use of facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The dues paid to any social or athletic club in this city if the dues of an active annual member, exclusive of the initiation fee, are in excess of $10 per year, and on the initiation fee alone, regardless of the amount of dues, if such initiation fee is in excess of $10, except that the tax shall not apply to a fraternal society, order or association operating under the lodge system or any fraternal association of students of a college or university. Where the tax on dues applies to any such social or athletic club, the tax shall be paid by all members thereof regardless of the amount of their dues and shall be paid on all dues or initiation fees for a period commencing on or after March 1, 1968. In the case of a life membership, the tax shall be upon the annual amount paid by active annual members as dues, whether or not the life member paid for or was admitted to such membership prior to the imposition of the tax under this Article, and shall be paid annually by the person holding such life membership at the time for payment of dues by active annual members.

(3) The amount paid as charges of a roof garden, cabaret or other similar place in the state.

§ 224-3. Transitional provisions.

A. The taxes imposed under § 224-2A, C and D shall be paid upon all sales made and services rendered on or after March 1, 1968, although made on or rendered under a prior contract, except as provided in § 224-12, and except that a delivery or transfer of possession of tangible personal property made after said date pursuant to an agreement for the sale of said property made before November 1, 1967, shall not be subject to tax if such agreement for the sale of said property was made in writing; the particular item or items of property so sold or agreed to be sold were segregated before November 1, 1967, from any other similar property in the possession of the vendor and identified as having been appropriated to such sale or agreement of sale; and the purchaser, before March 1, 1968, shall have paid to the vendor not less than 10% of the sale price of said property.

B. The tax imposed under § 224-2B shall be paid with respect to receipts for property or services sold on or after March 1, 1968, although made under a prior contract. Where property or service is sold on a monthly, quarterly or other term basis and the bills for such property or services are based on meter readings, the amount received on each bill for such property or service for a month or other term shall be a receipt subject to the tax, but such tax shall be applicable to all bills based on meters read on or after March 1, 1968, only where more than 1/2 of the number of days included in the month or other period billed are days subsequent to February 29, 1968; provided, however, that where such bills are for telephone or telegraph service, the tax shall apply to all receipts on such bills dated on or after March 1, 1968, for which no previous bill was rendered, except, however, charges for services furnished before the date of the first of such bills.

C. The tax imposed under § 224-2E shall be paid upon any occupancy on and after March 1, 1968, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed under such Subsection E to the extent that it covers any period on and after March 1, 1968, and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

D. Except as otherwise hereinafter provided, the tax imposed under § 224-2F shall be applicable to any admission to or the use of facilities of a place of amusement occurring on or after March 1, 1968, whether or not the admission charge has been paid prior to such date, unless the tickets were actually sold and delivered (other than for resale) prior to March 1, 1968, to a person attending the performance occurring on or after such date.

E. A refund or credit equal to the amount of the sales or compensating use tax paid on the sale

or use of tangible personal property, under a local law, ordinance or resolution imposed pursuant to the authority of Chapter 873 of the laws of 1934, as amended, or Chapter 278 of the Laws of 1947, as amended, shall be allowed upon application to the Tax Commission as provided for herein, where such property has been used by the purchaser or user in performing the services subject to tax under § 224-2C(1), (2), (3) and (5), and such property has become a physical component part of the property upon which the services are performed or has been transferred to the purchaser of the service in conjunction with the performance of the service subject to tax, except that such refund or credit may not exceed the combined state and local taxes, if any, paid, pursuant to Article 28 of the Tax Law and under the tax imposed by this article, on the sale or use of the service in connection with which such property was used.

F. With respect to the additional tax of 1% imposed effective March 1, 1972, the provisions of Subsections A, B, C, D and E of this section apply, except that, for the purposes of this subsection, all references in said Subsections A, B, C and D to March 1, 1968, should be read as referring to March 1, 1972; all references in said Subsection A to November 1, 1967, shall be read as referring to November 1, 1971; and the reference in Subsection B to February 29, 1968, shall be read as referring to February 29, 1972. Nothing herein contained shall be deemed to exempt from tax at the rate in effect prior to March 1, 1972, any transactions which may not be subject to the additional tax imposed effective on that date.

G. With respect to the additional tax of 1% imposed effective September 1, 2004, the provisions of Subsections A, B, C, D and E of this section apply, except that, for the purposes of this subsection, all references in said Subsections A, B, C and D to March 1, 1968, should be read as referring to September 1, 2004. Nothing herein contained shall be deemed to exempt from tax at the rate in effect prior to September 1, 2004, any transactions which may not be subject to the additional tax imposed effective on that date. [Added 6-28-2010]

§ 224-4. Compensating use tax imposed. [Amended 6-28-2010]

A. Except to the extent that property or services already have been or will be subject to the sales tax under this article, there is hereby imposed on every person a use tax for the use within this City on and after September 1, 2004, except as otherwise exempted under this article:

(1) Of any tangible personal property purchased at retail.

(2) Of any tangible personal property manufactured, processed or assembled by the user if items of the same kind of tangible personal property are offered for sale by him in the regular course of business.

(3) Of any of the services described in § 224-2C(1).

(4) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any of the services described under § 224-2C(2) and (3) have been performed.

B. For the purposes of Subsection A(l) of this section, the tax shall be at the rate of 4% of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for tangible personal property accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of Subsection A(2) of this section, the tax shall be at the rate of 4% of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. Notwithstanding the foregoing, for the purposes of Subsection A(2) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of an addition or capital improvement to real property, property or land, as the terms "real property," "property" or "land" are defined in the Real Property Tax Law, over and above the prevailing normal purchase price, prior to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land. For the purposes of Subsection A(3) and (4) of this section, the tax shall not be at the rate of 4% of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation of property so transferred and of the tangible personal property so transferred and of the tangible personal property upon which the service was performed, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser.

§ 224-5. Computing receipts.

A. The retail sales tax imposed under § 224-2A and the compensating use tax imposed under § 224-4 when computed in respect to tangible personal property wherever manufactured, processed or assembled and used by such manufacturer, processor or assembler in the regular course of business within this city shall be based on the price at which items of the same kind of tangible personal property are offered for sale by him.

B. Tangible personal property which has been purchased by a resident of this city outside of this city for use outside of this city and subsequently becomes subject to the compensating use tax imposed under this Article shall be taxed on the basis of the purchase price of such

property; provided, however, that:

(1) Where a taxpayer affirmatively shows that the property was used outside this city by him for more than six months prior to its use within this city, such property shall be taxed on the basis of current market value of the property at the time of its first use within this city. The value of such property for compensating use tax purposes may not exceed its cost.

(2) The compensating use tax on such tangible personal property brought into this city (other than for complete consumption or for incorporation into real property located in this city and used in the performance of a contract or subcontract within this city by a purchaser or user for a period of less than six months) may be based, at the option of the taxpayer, on the fair rental value of such property for the period of use within this city.

C. With respect to property leased or sold under a contract deferring payments, tax shall be payable at such times and in such amounts as may be prescribed by the State Tax Commission as provided in § 1132 of the Tax Law.

D. If the State Tax Commission has prescribed or shall prescribe schedules of the amount of tax to be collected upon each gallon of motor fuel and diesel motor fuel sold at retail service stations, and upon each pack of cigarettes, as provided in § 1111 of the Tax Law, the tax thereon shall be collected as prescribed in such schedules.

§ 224-6. Exemptions from sales and use tax.

A. Receipts from the following shall be exempt from the tax on retail sales imposed under § 224-2A and the compensating use tax imposed under § 224-4:

(1) Food, food products, beverages, dietary foods and health supplements sold for human consumption, but not including candy and confectionery; fruit drinks which contain less than 70% of natural fruit juice; soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa); and beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under § 224-2D.

(2) Water, when delivered to the consumer through mains or pipes.

(3) Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or disease in human beings and products consumed by humans for the preservation of health, but not including medical equipment and

supplies other than such drugs and medicines or cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein.

(4) Prosthetic aids, hearing aids or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity.

(5) Newspapers and periodicals.

(6) Tangible personal property, except property incorporated in a building or structure, for use or consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and fur-bearing animals and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(7) Tangible personal property sold by a mortician, undertaker or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale within the meaning of "retail sale," as defined in § 224-1B of this Article, and shall not be exempt from the retail sales tax.

(8) Commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship).

(9) Fuel sold to an airline for use in its airplanes.

(10) Tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

(11) The flags of the United States of America and the State of New York.

(12) Tangible personal property sold through coin-operated vending machines at $0.10 or less, provided that the retailer is primarily engaged in making such sales and maintains records satisfactory to the State Tax Commission.

B. Telephony and telegraphy and telephone and telegraph service used by newspapers, radio broadcasters and television broadcasters in the collection or dissemination of news shall be exempt from the tax imposed under § 224-2B if the charge for such service is a toll charge or

a charge for mileage service, including the associated station terminal equipment.

C. Gas, electricity, refrigeration and steam and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in research and development in the experimental or laboratory sense shall be exempt from the tax imposed under § 224-2B. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

D. All sales of tangible personal property for use or consumption directly and exclusively in the production of tangible personal property; gas, electricity, refrigeration or steam, for sale by manufacturing, processing, generating, assembling, refining, mining, extracting, farming, agriculture, horticulture or floriculture; and all sales of telephone central office equipment and station apparatus or comparable telegraph equipment for use directly and exclusively in receiving at destination or in initiating and switching telephone or telegraph communication shall be exempt from the taxes imposed under § 224-2A and B.

E. Services otherwise taxable under § 224-2C(1), (2) or (3) herein shall be exempt from tax under this subsection if the tangible personal property upon which services were performed is delivered to the purchaser outside the city for use outside the city.

F. Telephone and telegraph service paid for by inserting coins in coin-operated telephones where the charge is $0.10 or less shall be exempt from the tax imposed under § 224-2B.

G. Services rendered by a veterinarian licensed and registered as required by the Education Law which constitutes the practice of veterinary medicine as defined in said law, including hospitalization for which no separate boarding charge is made, shall not be subject to tax under § 224-2C(3), but the exemption allowed by this subsection shall not apply to other services provided by a veterinarian to pets and other animals, including but not limited to boarding, grooming and clipping. Articles of tangible personal property designed for use in some manner relating to domestic animals or poultry, when sold by a veterinarian, shall not be subject to tax under § 224-2A or 224-4. However, the sale of any such articles of tangible personal property to a veterinarian shall not be deemed a sale for resale within the meaning of retail sale, as defined in § 224-1B, and shall not be exempt from the retail sales tax.

H. Residential energy sources and services shall be exempt from the tax imposed under § 224-2. [Added 3-10-1997[EN(80)]]

§ 224-7. Exempt organizations.

A. Except as otherwise provided in this section, any sale or amusement charge by or to any of

the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this Article.

(1) The State of New York or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer or where it is a vendor of services or property of a kind not ordinarily sold by private persons.

(2) The United States of America or any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer or where it sells services or property of a kind not ordinarily sold by private persons.

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer or where it sells services or property of a kind not ordinarily sold by private persons.

(4) Any corporation, association, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation and which does not participate or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

B. Nothing in this section shall exempt retail sales of tangible personal property by any shop or store operated by an organization described in Subsection A(4) of this section from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

C. Where any organization described in Subsection A(4) of this section carries on its activities in furtherance of the purposes for which it was organized in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises, rents therefrom received by such corporation or association shall not be subject to tax hereunder.

D. Admission charges.

(1) Except as provided in Subsection D(2), any admissions, all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under § 224-2F:

(a) An organization described in Subsection A(4) of this section.

(b) A society or organization conducted for the sole purpose of maintaining symphony

orchestras or operas and receiving substantial support from voluntary contributions.

(c) National Guard Organizations, posts or organizations of war veterans or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in this state and if no part of their net earning inures to the benefit of any private stockholder or individual.

(d) A police or fire department of a political subdivision of the state or a voluntary fire or ambulance company or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under Subsection D(1) shall not apply in the case of admissions to:

(a) Any athletic game or exhibition, unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless, in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more of the organizations described in Subsection A(4) of this section.

(b) Carnivals, rodeos or circuses in which any professional performer or operator participates for compensation.

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under § 224-2F:

(a) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, provided that the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(b) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens, provided that no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(c) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of said historic sites, houses, shrines and museums, provided that no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

§ 224-8. Transactions not wholly completed within city.

A. Where a sale of tangible personal property or services other than those described in § 224-2B, including an agreement therefor, is made in this city, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser elsewhere, such sale shall not be subject to tax under this Article. However, if delivery occurs or will occur in a city, county or school district imposing a tax on the sale or use of such property pursuant to the authority of Article 29 of the Tax Law, the vendor shall be required to collect from the purchaser, as provided in § 1254 of the Tax Law of the State of New York, the aggregate sales or compensating use taxes imposed by the city, if any, county and school district in which delivery occurs or will occur, for distribution by the State Tax Commission to such taxing jurisdiction or jurisdictions.

B. Where a sale of tangible personal property or services other than those described in § 224-2B, including an agreement therefor, is made outside the city, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser in this city, such sale and use of such property or services shall be subject to tax under this Article, and the vendor shall be required to collect from the purchaser, as provided in § 1254 of the Tax Law of the State of New York, the sale or use tax imposed in this Article for distribution by the State Tax Commission to this city.

C. For the purpose of this section, delivery shall be deemed to include transfer of possession to the purchaser and the receiving of the property by the purchaser.

§ 224-9. Sales of motor vehicles.

A. Where a sale of a motor vehicle, including an agreement therefor, is made in this city to a nonresident thereof, such sale shall not be subject to tax under this Article, despite the fact that such motor vehicle is delivered to the purchaser within this city, provided that the purchaser furnished to the vendor, prior to taking delivery, proof satisfactory to the Tax Commission that the purchaser:

(1) Is a nonresident of this city.

(2) Has no permanent place of abode in this city.

(3) Is not engaged in carrying on in this city any employment, trade or business or profession in which the motor vehicle will be used in this city, and such other proof as the Tax Commission may require to ensure proper administration of the taxes imposed under § 224-2A. However, if the purchaser resides in a city, county or school district imposing a tax on the use of such motor vehicle, the vendor shall be required to collect

from the purchaser, as provided in § 1254 of the Tax Law of the State of New York, the aggregate compensating use taxes imposed by the city, if any, county and school district in which the purchaser resides, for distribution by the State Tax Commission to such taxing jurisdiction or jurisdictions.

B. A vendor shall not be liable for failure to collect tax on such sale of a motor vehicle, provided that the proof furnished to him by the purchaser pursuant to Subsection A of this section shows that the purchaser's residence is not in any city, county or school district which imposes a tax on the use of such motor vehicle, and provided that the vendor keeps such proof available for inspection by the Tax Commission; and further provided that such proof is not known by the vendor, prior to making physical delivery of the motor vehicle, to be false.

C. For the purpose of this section, the term "motor vehicle" shall include a motor vehicle as defined in § 125 of the Vehicle and Traffic Law of the State of New York, and a trailer as defined in § 156 of such law.

§ 224-10. Territorial limitations.

Any tax imposed under the authority of this Article shall apply only within the territorial limits of this city, except that any establishment located partially within this city and partially within a town or towns and receiving any services or utilities provided by this city shall be deemed to be wholly within the city for the purposes of the taxes imposed by § 224-2B and C.

§ 224-11. Exemptions from use tax.

The following uses of property shall not be subject to the compensating use tax imposed under this Article:

A. In respect to the use of property used by the purchaser in this city prior to March 1, 1968.

B. In respect to the use of property purchased by the user while a nonresident of this city, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the city. A person, while engaged in any manner in carrying on in this city any employment, trade, business or profession, shall not be deemed a nonresident with respect to the use in this city of property in such employment, trade, business or profession.

C. In respect to the use of property or services upon the sale of which the purchaser would be expressly exempt from the taxes imposed under § 224-2A, B or C.

D. In respect to the use of property which is converted into or becomes a component part of a

product produced for sale by the purchaser.

E. In respect to the use of paper in the publication of newspapers and periodicals.

F. In respect to the use of property or services to the extent that a retail sales tax or a compensating use tax was legally due and paid thereon, without any right to a refund or credit thereof, to any municipal corporation in this state or any other state or jurisdiction within any other state, but only when it is shown that such other state or jurisdiction allows a corresponding exemption with respect to the sale or use of tangible personal property or of any of the services upon which such a sale or compensating use tax was paid to this state and any of its municipal corporations. For the purpose of this subsection, a payment to the State Tax Commission of a tax imposed by a municipal corporation shall be deemed a payment to such municipal corporation. To the extent that a compensating use tax imposed pursuant to this Article and the compensating use tax imposed by Article 28 of the Tax Law are at a higher aggregate rate than the rate of tax imposed in the first taxing jurisdiction, the exemption provided above shall be inapplicable and the taxes imposed pursuant to this Article and by Article 28 of the Tax Law shall apply to the extent of the difference between such aggregate rate and the rate paid in the first taxing jurisdiction.

§ 224-12. Refunds or credits.

A. Subject to the conditions and limitations provided for herein, a refund or credit shall be allowed for a tax paid pursuant to § 224-2A or 224-4:

(1) On the sale or use within this city of tangible personal property if the purchaser or user, in the performance of a contract, later incorporates that tangible personal property into real property located outside this city.

(2) On the sale or use of tangible personal property purchased in bulk or any portion thereof which is stored and not used by the purchaser or user within this city if that property is subsequently reshipped by such purchaser or user to a point outside this city for use outside this city.

(3) On the sale to or use by a contractor or subcontractor of tangible personal property if that property is used by him solely in the performance of a preexisting lump sum of unit price construction contract.

(4) On the sale or use within this city of tangible personal property not purchased for resale, if the use of such property in this city is restricted to fabricating such property (including incorporating it into or assembling it with other tangible personal property), processing, printing or imprinting such property and such property is then shipped to a point outside

this city for use outside this city.

B. For the purposes of Subsection A(3), the term "preexisting lump sum or unit price construction contract" shall mean a contract for the construction of improvements to real property under which the amount payable to the contractor or subcontractor is fixed, without regard to the costs incurred by him in the performance thereof, and which was irrevocably entered into prior to the date of the enactment of this Article or the enactment of a law increasing the rate of tax imposed under this Article or resulted from the acceptance by a governmental agency of a bid accompanied by a bond or other performance guaranty which was irrevocably submitted prior to such date. Where the tax on the sale or use of such tangible personal property has been paid to the vendor, to qualify for such refund or credit such tangible personal property must be incorporated into real property as required in Subsection A(1) above, reshipped as required in Subsection A(2) above or used in the manner described in Subsection A(3) or A(4) above within three years after the date such tax was payable to the State Tax Commission by the vendor pursuant to § 1137 of the Tax Law. Where the tax on the sale or use of such tangible personal property was paid by the applicant for the credit or refund directly to the State Tax Commission, to qualify for such refund or credit such tangible personal property must be incorporated into real property as required in Subsection A(1) above, reshipped as required in Subsection A(2) above or used in the manner described in Subsection A(3) or A(4) above within three years after the date such tax was payable to the State Tax Commission by such applicant pursuant to Article 28 of the Tax Law.

C. A refund or credit equal to the amount of sales or compensating use tax imposed by Article 28 of the Tax Law and under this Article and paid on the sale or use of tangible personal property shall be allowed where such property has been used by the purchaser or user in performing the services subject to tax under § 224-2C(1), (2), (3) and (5) and such property has become a physical component part of the property upon which the services are performed or has been transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

§ 224-13. Administration and collection. [Amended 10-28-1996 by L.L. No. 4-1996]

The taxes imposed under the authority of this Article shall be administered and collected by the State Tax Commission in the same manner as the taxes imposed under Article 28 of the Tax Law are administered and collected by such Commission. All of the provisions of said Article 28 relating to or applicable to the administration and collection of the taxes imposed by that Article shall apply to the taxes imposed by this Article, including §§ 1101, 1106, Subdivision (e), 1111, 1118, 1119, and 1131 through 1147, with the same force and effect as if those provisions had been incorporated in full into this Article, except as otherwise provided in § 1250 of the Tax

Law.

§ 224-14. Disposition of revenues.

Net collections distributed to this city by the State Tax Commission pursuant to § 1261 of the Tax Law of the State of New York shall be paid into the treasury of the city, shall be credited to and deposited in the general fund thereof and shall be available for any city purpose. Expenditures from the proceeds of the taxes imposed by this Article shall not be considered as part of the cost of government within the meaning of any limitation on expenditures contained in any general, special or local law applicable to this city. As used in this section, "net collections" shall mean the moneys collected from the taxes imposed pursuant to this Article after deducting therefrom expenses of administration and collection and amounts refunded or to be refunded.

§ 224-15. Construction and enforcement.

This Article shall be construed and enforced in conformity with Articles 28 and 29 of the Tax Law of the State of New York pursuant to which the same is enacted.

ARTICLE II, Business Investment Exemption [Adopted 5-12-1980 as Ch. 101, Art. III, of the 1980 Code]

§ 224-16. Percentage of exemption reduced.

Pursuant to the provisions of Chapter 278 of the Laws of 1976 of the State of New York and § 485-b, Subdivision 7, of the Real Property Tax Law, the City of Oswego reduces the exemption provided for therein to 0%.

ARTICLE III, Senior Citizens Tax Exemption and Water Rate Reduction [Adopted 4-10-1995 as L.L. No. 1-1995]

§ 224-17. Amendment of certain provisions.

In pursuance of the provision of § 467 of the Real Property Tax Law of the State of New York, the Charter of the City of Oswego, New York, as heretofore amended and superseded, is hereby

amended to read as follows below.

§ 224-18. Partial exemption granted; conditions; penalties.

Real Property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by a husband and wife or by siblings, one of whom is 65 years of age or over, shall be partially exempt from taxation by the City of Oswego in which the property is located according to the following:

A. If the income of the owner or the combined income of the owners of the property, for the income tax year immediately preceding the date of making application for exemption does not exceed the following levels as provided by § 467 of the Real Property Tax Law:

Annual Income	Assessed Valuation Exempt From Taxation
$17,500 or less	50%
More than $17,500, but less than $18,500	45%
$18,500 or more, but less than $19,500	40%
$19,500 or more, but less than $20,500	35%
$20,500 or more, but less than $21,400	30%
$21,400 or more, but less than $22,300	25%
$22,300 or more, but less than $23,200	20%
$23,200 or more, but less than $24,100	15%
$24,100 or more, but less than $25,000	10%

B. Income tax year shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year.

C. Where the title is vested in either the husband or wife, their combined income may not

exceed such sum, except as provided in § 467 of the New York Real Property Tax Law.

D. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, not rental income, salary or earnings and net income from self-employment, but shall not include return of capital, gifts or inheritances or moneys earned through employment in the federal foster grandparent program. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

E. Except as in otherwise provided in § 467 of the New York Real Property Tax Law, the title must have been vested in the name of the owner or all of the owners of the property for at least 24 consecutive months prior to the date of the making of the application for exemption.

F. The property must also be used exclusively for residential purposes and be the legal residence of and occupied in whole or in part by the owner or by all the owners of the property, except as is otherwise provided in § 467 of the New York Real Property Tax Law.

G. The application for such exemption must be made by the owner or one of the owners of the property, on a form prescribed by the State of New York, and shall furnish the required information and be properly executed and shall be filed in the Assessor's office of the City of Oswego, New York, on or before the appropriate taxable status date.

H. Pursuant to the Real Property Tax Law § 467, Subdivision 6, at least 60 days prior to the appropriate taxable status date, the assessing authority shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be billed on or before taxable status date and be approved in order for the exemption to be granted. The assessing authority shall, within three days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his application at least one self-addressed, prepaid envelope of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subsection, such notice shall be on a form prescribed by the State Board and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form or notices or the failure of such persons to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

I. Any exemption provided by this Article shall be computed after all other partial exemptions

allowed by law have been subtracted from the total amount assessed.

J. The real property tax exemption on real property owned by husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded solely because or the death of the older spouse so long as the surviving spouse is at least 62 years of age.

K. Any conviction of having made any willful false statement in the application for such exemption noted above shall be punishable by a fine of not more than $100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

L. This section relating to partial exemption from taxation of property shall apply to assessment rolls prepared on the basis of the taxable status dates occurring on and after November 20, 1995.

§ 224-19. Partial exemption from water rents.

A. Real property owned by one or more persons, either of whom is eligible for a partial exemption of taxation of property pursuant, to the provisions of § 224-18 herein, shall be partially exempt from water rents if the income of the owner or the combined income of the owners of the property, for the income tax year immediately preceding the date of making application for exemption, does not exceed the following levels:

Annual Income	Reduction of Water Rents
$17,500 or less	75%
More than $17,500, but less than $18,500	70%
$18,500 or more, but less than $19,500	65%
$19,500 or more, but less than $20,500	60%
$20,500 or more, but less than $21,400	55%
$21,400 or more, but less than $22,300	50%
$22,300 or more, but less than $23,200	45%
$23,200 or more, but less than $24,100	40%

$24,100 or more, but less than $25,000	35%

B. Subsection A, relating to partial exemption from water rents, shall apply to assessment rolls prepared on the basis of the taxable status dates occurring on and after November 30, 1994.

ARTICLE IV, Veterans Exemption [Adopted 11-13-1995 as L.L. No. 5-1995]

§ 224-20. Enabling legislation.

The New York State Legislature has adopted and the Governor has signed into law Chapter 410, § 1, of the Laws of 1994, entitled, "An Act to Amend the Real Property Tax Law in Relation to the Veterans Exemptions and to Repeal Subdivision 5 of § 458 of the Real Property Tax Law Relating Thereto."

§ 224-21. Applicability of statute to city.

The provision of the Real Property Tax Law § 458, as amended, relative to veterans exemption shall apply to city real property taxes levied by the City of Oswego.

§ 224-22. Requirements for exemption.

A. Notwithstanding the limitation on the amount of exemption prescribed in Subdivisions 1 or 2 of § 458 of the Real Property Tax Law, if the total assessed value of the real property for which such exemption has been granted increases or decreases as the result of a revaluation or update of assessments and a material change in level of assessment, as provided in the Real Property Tax Law, is certified for the assessment roll pursuant to the rules of the State Board, the Assessor shall increase or decrease the amount of such exemption by multiplying the amount of such exemption by such change in level of assessment. If the Assessor receives the certification after the completion, verification and filing of the final assessment roll, the Assessor shall certify the amount of exemption as recomputed pursuant to this subsection and such local Assessor is hereby directed and authorized to enter the recomputed exemption on the roll.

B. Owners of property who previously received an exemption pursuant to § 458 of the Real Property Tax Law, but opted instead to receive exemption pursuant to § 458-a of the Real Property Tax Law may, within one year from the adoption of this Article, make application

to again receive an exemption pursuant to § 458. The Assessor shall recompute all exemptions granted pursuant to this section by multiplying the amount of each such exemption by the cumulative change in level of assessment certified by the State Board measured from the assessment roll immediately preceding the assessment roll on which exemptions were first granted pursuant to § 458-a; provided, however, that if an exemption pursuant to this section was initially granted to a parcel on a later assessment roll, the cumulative change in level factor to be used in recomputing the exemption shall be measured from the assessment roll immediately preceding the assessment roll on which that exemption was initially granted. No refunds or retroactive entitlements shall be granted.

C. Such adjustments shall be made by the Assessor in the manner provided in § 458, Subdivision 1(3), of the Real Property Tax Law, and, except as provided in Subsection B herein, no application need be filed by or on behalf of any owner of any eligible property.

§ 224-23. Applicability to assessment roll.

This Article shall be applied to an assessment roll prepared on the basis of a taxable status date occurring on or after November 30, 1995.

ARTICLE V, Redemption of Delinquent Property Taxes [Adopted 2-26-1996 by L.L. No. 1-1996]

§ 224-24. Statutory authority; purpose.

A. Statutory authority.

(1) Article 11 of the Real Property Tax Law, as amended by Chapter 602 of the Laws of 1993, Chapter 532 of the Laws of 1994 and Chapter 579 of the Laws of 1995, establishes new procedures for the enforcement of delinquent real property taxes, beginning with taxes becoming liens on and after January 1, 1995.

(2) New § 1110 of the Real Property Tax Law prescribes a standard redemption period of two years after the lien date.

(3) New § 1111 of the Real Property Tax Law allows a tax district to adopt a local law extending the redemption period for residential or farm property, or both, to three or four years after the lien date.

B. The purpose of this article is to extend the redemption period as authorized by law.

§ 224-25. Redemption period.

The redemption period for residential and farm property shall expire four years after the lien date.

§ 224-26. Filing with State Board.

A copy of this article shall be filed with the State Board of Real Property Services within 30 days after its enactment.

ARTICLE VI, Alternative Veterans Exemption [Adopted 1-27-1997 by L.L. No. 1-1997]

§ 224-27. Enabling legislation.

The New York State Legislature has adopted and the Governor has signed into law Chapter 477 of the Laws of New York, 1996, entitled, "An Act to amend the real property tax law in relation to the Alternative Veteran's Exemption, and to repeal certain provisions of the real property tax law relating thereto."

§ 224-28. Purpose.

The provision of the Real Property Tax Law § 458-a, as amended, relative to the alternative veteran's exemption, shall apply to city real property taxes levied by the City of Oswego.

§ 224-29. Requirements.

A. The City of Oswego hereby increases the maximum exemptions allowable in paragraphs (a), (b) and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law to the increased maximum exemptions allowable by Chapter 477 of the Laws of New York 1996, such that the increased maximum exemptions shall be as follows:

   (1) The maximum exemption allowable in paragraph (a) of Subdivision 2 of § 458-a of the Real Property Tax Law for veterans, as defined by paragraph (e) of Subdivision 1 of § 458-a of the Real Property Tax law, shall be increased from $12,000 to $18,000.

(2) The additional maximum exemption allowable in paragraph (b) of Subdivision 2 of § 458-a of the Real Property Tax Law for veterans who served in a combat theater or combat zone of operations shall be increased from $8,000 to $12,000.

(3) The additional maximum exemption allowable in paragraph (c) of Subdivision 2 of § 458-a of the Real Property Tax Law for veterans with a service-connected disability shall be increased from $40,000 to $60,000.

B. Such adjustments shall be made by the Assessor in the manner provided in § 458-a, Subdivision 2 of the Real Property Tax Law, and no new application need be filed by or on behalf of any owner of any currently eligible property to qualify for the increased maximum exemption.

§ 224-30. Applicability.

This article shall be applied to an assessment roll prepared on the basis of a taxable status date occurring on or after November 30, 1997.

ARTICLE VII, Installment Payment of Delinquent Taxes [Adopted 11-27-2000 by L.L. No. 3-2000]

§ 224-31. Purpose.

The Oswego Common Council hereby finds it appropriate to provide taxpayers with the opportunity to pay delinquent taxes by means of installment payment agreement.

§ 224-32. Definitions.

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

ELIGIBLE DELINQUENT TAXES -- The delinquent taxes, including interest, penalties and other charges, which have accrued against a parcel as of the date on which an installment agreement is executed.

ELIGIBLE OWNER -- An owner of real property who is eligible to or has entered into an installment agreement.

INSTALLMENT AGREEMENT -- A written agreement between an eligible owner and the City Treasurer providing for the payment of eligible delinquent taxes in installments pursuant to the

provisions of this article.

PRINCIPAL -- The amount of the delinquent tax, excluding all interest, penalties and other charges.

§ 224-33. Applicability; commencement.

Installment payment of eligible delinquent taxes shall be available to each eligible owner on a uniform basis pursuant to the provisions of this article. Such installment payment of eligible delinquent taxes shall commence upon the signing of an agreement between the Oswego City Treasurer and the eligible owner. The agreement shall be kept on file in the office of the Oswego City Treasurer.

§ 224-34. Terms and conditions.

The installment agreement shall be on the following terms and conditions:

A. The term of the agreement shall be two years or 24 months.

B. The amount due under the agreement shall be the eligible delinquent tax plus the interest that is to accrue on each installment payment.

C. The amount due shall be paid, as nearly as possible, in equal amounts, semiannually, on the last day of the month in which it is to be paid.

D. Upon execution of the agreement, the eligible owner shall pay to the Oswego City Treasurer a sum equal to 25% of the eligible delinquent taxes.

E. Payments shall be applied first to interest, penalties and other charges and then to principal.

§ 224-35. Interest and penalties.

Interest on the total amount of eligible delinquent taxes, less the amount of the down payment made by the eligible owner, shall be that amount as determined pursuant to § 924-a of the Real Property Tax Law. The rate of interest in effect on the date the agreement is signed shall remain constant during the period of the agreement. If an installment is not paid on or before the date it is due, interest shall be added at the rate prescribed by § 924-a of the Real Property Tax Law for each month or portion thereof until paid. In addition, if an installment is not paid by the end of the fifteenth calendar day after the payment due date, a late charge of five percent of the overdue payment shall be added.

§ 224-36. Default.

A. The eligible owner shall be deemed to be in default of the agreement upon:

(1) Nonpayment of any installment within thirty days from the payment due date;

(2) Nonpayment of any tax, special ad valorem levy or special assessment which is levied subsequent to the signing of the agreement by the tax district, and which is not paid prior to the expiration of the warrant of the collecting officer; or

(3) Default of the eligible owner on another agreement made and executed pursuant to this article.

B. In the event of a default, the City of Oswego shall require the entire unpaid balance, with interest and late charges, to be paid in full. The City of Oswego shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of law, special tax act, charter or local law.

C. Where an eligible owner is in default and the City of Oswego does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the City of Oswego shall not be deemed to have waived the right to do so.

§ 224-37. Eligibility to enter into agreement.

A property owner shall be eligible to enter into an agreement pursuant to this article no earlier than thirty days after the delivery of the return of unpaid taxes to the Oswego City Treasurer.

§ 224-38. Notification of potential eligible owners.

A. Within 45 days after receiving the return of unpaid taxes from the collecting officer, or as soon thereafter as is practicable, the Oswego City Treasurer shall notify, by first class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies. The Oswego City Treasurer shall add one dollar to the amount of the tax lien for such mailing.

B. The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.

C. The enforcing officer shall not be required to notify the eligible owner when an installment is

due.

§ 224-39. Exceptions to eligibility.

A property owner shall not be eligible to enter into an agreement pursuant to this article where:

A. There is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such person and such delinquent tax lien are not eligible to be made part of the agreement pursuant to this article.

B. Such person is the owner of another parcel within the City of Oswego on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this article.

C. Such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this article.

§ 224-40. Effect of agreement on tax lien.

The provisions of this article shall not affect the tax lien against the property except that the lien shall be reduced by the payments made under an installment agreement, and that the lien shall not be foreclosed during the period of installment payments, provided that such installment payments are not in default.

ARTICLE VIII, Exemption for Certain Capital Improvements to Residential Buildings [Adopted 4-13-2015 by L.L. No. 3-2015]

§ 224-41. Purpose.

This article is adopted pursuant to § 421-f of the Real Property Tax Law for the purpose of exempting capital improvements to residential buildings from taxation and special ad valorem levies as hereinafter provided and shall be applied in accordance with that statute, as amended from time to time.

§ 224-42. Definitions.

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

RECONSTRUCTION, ALTERATION and IMPROVEMENT -- Shall not include ordinary maintenance and repairs, but shall include an addition, remodeling, or modernization to an existing residential structure to prevent physical deterioration of the structure or to comply with applicable building, sanitary, health and/or fire codes.

RESIDENTIAL BUILDING -- Any building or structure designed and occupied exclusively for residential purposes by not more than two families.

§ 224-43. Exemption criteria.

A. Residential buildings reconstructed, altered, or improved subsequent to the effective date of this article shall be exempt from taxation and special ad valorem levies to the extent provided herein.

B. No such exemption shall be granted for reconstruction, alterations or improvements, unless:

   (1) Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this article; and

   (2) The value of such reconstruction, alteration, or improvement exceeds $3,000; and

   (3) The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

C. Nothing herein shall require any Assessor to find that any alteration, installation or improvement has necessarily increased or improved the assessed value of any property.

§ 224-44. Duration and amount of exemption.

A. The buildings described in § 224-43 shall be exempt for a period of eight years to the extent of the following percentages of the increase in the exemption base as defined in Real Property Tax Law § 421-f as the increase in assessed value thereof attributable to such reconstruction, alteration or improvement, modified as required by Real Property Tax Law § 421-f 2(a)(ii).

Year	Exemption Percentage
1	100.0%

Year	Exemption Percentage
2	87.5%
3	75.0%
4	62.5%
5	50.0%
6	37.5%
7	25.0%
8	12.5%

B. The exemption shall be limited to $80,000 in increased market value of the property attributable to such reconstruction, alteration or improvement.

§ 224-45. Application for and grant of exemption.

A. An exemption shall be granted only upon application by the owner of the building on a form prescribed by the Commissioner of the Department of Taxation and Finance. The application shall be filed with the Assessor of the local municipality having the power to assess property for taxation on or before the appropriate taxable status date of such local municipality.

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

§ 224-46. Termination or denial of exemption.

A. In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes, or title thereto is transferred to other than the heirs or distributes of the owner, the exemption shall cease.

B. No such exemption shall be granted to an applicant who is in violation of any City of

Oswego code, ordinance or local law (hereinafter "violations") or owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature to the City of Oswego (hereinafter "unpaid monies").

(1) The applicant shall have the burden of providing proof in a form acceptable to the Department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such exemption shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such exemptions shall be denied regardless of whether such unpaid violations or unpaid monies occurred or accrued before the effective date of this article.

(4) Such exemption, once granted, shall be immediately revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the exemption is granted. Upon such revocation, all such exemptions shall immediately cease, the property shall be assessed at its full value, and the resulting taxes due from the revocation of the exemption shall be prorated from the date of the revocation to the end of the tax year and shall immediately become due and payable.

(5) The applicant may reapply for the exemption once all violations have been corrected and/or unpaid monies have been paid. The reinstitution of the exemption shall commence with the assessment role prepared on the basis of the next taxable status date. The exemption percentage then to be applied shall be the same percentage which would have been applied for the year in which the revocation is reinstituted as if the exemption had not been revoked.

§ 224-47. Qualification for exemption.

Such reconstruction, alteration or improvement must be completed before it qualifies for the residential improvements exemption. "Completed" means that a certificate of occupancy has been issued for that portion of the building for which an application for exemption is filed.

§ 224-48. When effective; filing; expiration.

This article shall become effective upon filing in the office of the Secretary of State, as provided and in the manner described in the Municipal Home Rule Law. Following its adoption, a copy of this article shall be sent to and filed with the Office of Real Property Tax Services, a Division of

the Department of Taxation and Finance, with the Director of the Real Property Tax Services of Oswego County, and with the Assessor of the City of Oswego. This article shall automatically expire and the exemption authorized hereunder shall no longer be available to new applicants after three years from the date of its adoption unless further acted upon by action of the Common Council of the City of Oswego. This article shall automatically expire and be of no further effect and the exemption granted hereunder shall cease immediately upon the adoption of a local law by the Common Council of the City of Oswego pursuant to any amendment of Real Property Tax Law § 421-f, including a special law enacted by the State Legislature pursuant to a Home Rule request under the Municipal Home Rule Law. However, all exemptions granted hereunder which shall have become effective prior to the automatic expiration thereof by any event defined in this section shall continue beyond such expiration according to the terms of §§ 224-41 through 224-47 hereof.

Chapter 228, TAXICABS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 102 of the 1980 Code; amended in its entirety 1-28-2013 by L.L. No. 1-2013. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic -- See Ch. 257.

§ 228-1. Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following words shall have the meaning given to them by this section:

OPERATOR -- Any person owning or having control of the use of one or more taxicabs used for hire upon the streets of the City of Oswego or engaged in the business of operating a taxicab or which is at any time used to carry passengers for hire.

PERSON -- One or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

STREET -- Any street, alley, avenue, court, bridge, lane or public place in the City of Oswego.

TAXICAB -- Any motor vehicle engaged in the business of or at any time used to carry persons for hire, whether the same is operated from a street stand or subject to calls from a garage or otherwise operated for hire, except vehicles subject to the provisions of the Transportation

Corporation Law.

TAXICAB DRIVER -- Any person who drives a taxicab, whether such person is the owner of such taxicab or employed by a taxicab owner or operator.

TAXICAB LICENSE -- Permission granted by the City of Oswego to any person to operate or keep for hire any taxicab in such City.

TAXICAB LICENSEE -- The owner of any taxicab or taxicabs for which a taxicab license has been issued hereunder.

TAXICAB STAND -- Any place alongside the curb of a street or elsewhere which is exclusively reserved by the Traffic Control Maintenance Supervisor for the use of taxicabs.

TAXI DRIVER'S LICENSE -- Permission granted by the City of Oswego to any person to drive upon the streets of such City any licensed taxicab.

§ 228-2. Certain types of licenses required.

It shall be unlawful for any person to drive, operate or keep for hire or pay within the limits of the City of Oswego any taxicab without first having obtained and paid for a license to drive or a license for operating or keeping for pay or hire, or both, and having the same in force and effect, under the provisions of this chapter.

§ 228-3. Taxi driver's license required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the limits of the City of Oswego without such driver having first obtained and paid for and having in force and effect a driver's license under the provisions of this chapter.

§ 228-4. Application for taxi driver's license.

Each applicant for a taxi driver's license must comply with the following to the satisfaction of the Chief of Police:

A. Must first have obtained a state chauffeur's license.

B. Be of the age of 18 years or over.

C. Be of sound physique, have good eyesight, and not be subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him/her unfit for the safe

operation of a public vehicle.

D. Be able to read and write the English language.

E. Be clean in dress and person and not addicted to the use of intoxicating liquor or drugs.

F. Produce, on forms to be provided by the Chief of Police, affidavits of good character from two reputable citizens of the City of Oswego who have known him/her personally and have observed his/her conduct for at least one year next preceding the date of his/her application; and a further testimonial on a form provided for that purpose from his/her employer, unless, in the opinion of the Chief of Police, sufficient reason is given for its omission.

G. Fill out, upon a blank form to be provided by the Chief of Police, a statement giving his/her full name; residence; place of residence for five years previous to moving to his/her present address; age; height; color of eyes and hair; place of birth; length of time he/she has resided in the City; whether a citizen of the United States; places of previous employment; whether married or single; whether he/she has ever been convicted of a felony or misdemeanor; whether he/she has been summoned to court; whether he/she has been previously licensed as a driver or chauffeur and, if so, whether his/her license has ever been revoked, and for what cause, and the number of the chauffeur's license issued by the state, which statement shall be signed and sworn to by the applicant and filed with the Chief of Police as a permanent record. Any false statements by the applicant for a taxi driver's license shall be promptly reported by the Chief of Police and the District Attorney of Oswego County. The Chief of Police is hereby authorized and empowered to require such additional information as he or she may deem necessary.

H. Any new applicant for, or renewal of, a taxi driver's license must submit to a background investigation conducted by the Oswego City Police Department. Any person applying for a taxi driver's license must submit their fingerprints and any applicable fees in the form and manner as prescribed by New York State Division of Criminal Justice Services. The Chief of Police and the City Clerk, or respective designees, will be responsible for reviewing the criminal history record information (CHRI) disseminated by DCIS; and if a prospective applicant has been convicted of any of the criminal offenses specifically mentioned in this chapter, any decision regarding such prospective applicant's fitness for a license must be made upon consideration of New York State Correction Law §§ 701-703-b and §§ 751-753. Correction Law §§ 701-703-b provides for certificates of relief from disability and certificates of good conduct and §§ 751-753 sets forth NY's public policy to encourage the licensure and employment of persons previously convicted of one or more criminal offenses and factors that should be considered in making hiring determinations. An applicant may be denied a taxi driver's license on the basis of his or her criminal record in accordance with the aforementioned state and federal laws, and including but not limited to New York Human Rights Law § 296 and New York Correction Law Article 23-A. [Amended 4-14-2014 by

L.L. No. 1-2014]

I. Any new applicant for, or renewal of, a taxi driver's license must submit a copy of his/her current New York State Department of Motor Vehicles abstract of driving record.

§ 228-5. Issuance, form and terms of taxi driver's license; temporary permits.

A. Upon satisfactory fulfillment of the foregoing requirements, the City Clerk's office shall issue to the applicant a taxi driver's license.

B. Each license shall be stamped by the Seal of the City. All licenses shall be numbered in the order in which they are issued and shall contain the name and place of residence of the licensee and the dates of issuance and expiration of the license.

C. Any licensee who defaces, removes or obliterates any official entry made upon his/her license shall be punished by the revocation of his/her license.

D. A taxi driver's license will expire on April 30, unless previously suspended or revoked.

E. No temporary permit shall be issued except when an extraordinary public emergency arises affecting transportation of the public upon the streets within the City. Such temporary permits, when issued, shall be upon such terms and conditions as the Chief of Police shall provide, but such temporary permit shall in no event be granted for a longer period than 20 days and may be renewable for similar periods, from time to time as may be necessary, only upon the written recommendation of the Chief of Police made to the Common Council and approved by it.

F. Such license or permit shall be carried by the licensee at all times when operating or in charge of any taxicab.

§ 228-6. Renewal of taxi driver's license.

The City Clerk's office may renew a taxi driver's license from year to year by appropriate endorsement of the Chief of Police. A driver, in applying for a renewal of his/her license, shall make such application not less than 30 days next preceding its expiration, upon a form to be furnished by the Chief of Police entitled "Application for Renewal of License," which shall be filled out with the full name and address of the applicant, together with a statement of the date upon which his/her original license was granted and the number thereof and such other information as the Chief of Police may deem necessary. The application must be approved by the Chief of Police.

§ 228-7. Fees for taxi driver's license. [Amended 4-14-2014 by L.L. No. 1-2014]

The following license fees shall be paid for a taxi driver's license or renewal thereof: $100. All fees are nonrefundable.

§ 228-8. Suspension or revocation of license or permit.

A taxi driver's license or permit may at any time be suspended or revoked for cause after a hearing by the Chief of Police. Any such suspension shall be noted on the license, together with a statement of the reasons therefor. A second suspension for the same reason or, in any case, a third suspension of a taxi driver's license shall revoke the license. No taxi driver whose license or permit has been revoked shall be again licensed as a taxicab driver in the City. The Chief of Police shall notify the Police Department whenever such a license or permit is suspended or revoked.

§ 228-9. Record of taxi driver's licenses and permits.

There shall be kept in the office of the City Clerk a complete record of each license or permit issued to a driver and of all renewals, suspensions and revocations thereof, which record shall be kept on file with the original application of the driver for a license.

§ 228-10. Licensing of vehicles; application.

It shall be unlawful for any person to operate or permit to be operated a taxicab upon the streets of the City of Oswego without first having obtained therefor a taxicab license under the provisions of this chapter from the Chief of Police. Such license shall be valid for one year, expiring on April 30, unless suspended or revoked. Application for a taxicab license shall be made by the owner upon blank forms furnished by the City Clerk's office. Such application shall contain:

A. The name, age and residence of the person applying for the license and what, if any, previous experience he/she has had in such business.

B. The name, age and residence of the person to be in immediate charge of any such taxicab(s).

C. The type of motor car to be used, the horsepower, the factory number, the state license number, the number of years the vehicle has been driven, and the seating capacity according to its trade rating.

D. Whether previously licensed to operate a taxicab and, if so, where.

E. Whether license to operate a taxicab has ever been revoked and, if so, for what cause.

F. A certificate of the State Commissioner of Motor Vehicles or other evidence satisfactory to the Chief of Police that the applicant has complied with the provisions of § 370 of the Vehicle and Traffic Law of the State of New York.

G. Such other information as the Chief of Police may deem necessary.

§ 228-11. Inspection of vehicles prior to licensing.

A. No vehicle shall be licensed until it has a valid New York State inspection sticker.

B. All vehicles shall be inspected for cleanliness, good appearance and whether suitably painted and varnished. The Chief of Police or someone designated by him/her shall make such examination and inspection before a license is issued. The Chief of Police shall refuse to license or, if already issued, revoke or suspend the license for any vehicle found by him/her or someone designated by him/her to be unfit or unsuited for public patronage.

§ 228-12. Indemnity bonds or insurance policies.

It shall not be lawful for any person to operate a taxicab or permit a taxicab to be operated within the City of Oswego unless and until he/she fully complies with all the provisions and requirements of § 370 of the Vehicle and Traffic Law of the State of New York, nor shall any license hereunder be issued until or unless an applicant therefor fully complies with the provisions and requirements of said § 370. Upon noncompliance by any licensee hereunder at any time with the provisions and requirements of said § 370, the Chief of Police shall forthwith suspend or revoke the license of such a licensee.

§ 228-13. License card; license number.

If, upon inspection, a taxicab is found to be of lawful construction and in proper condition, in accordance with the provisions of this chapter, and upon the approval of the application and bond and the payment of the license fee hereinafter set forth, the same shall be licensed by delivering to the owner a card of such size and form as may be prescribed by the Chief of Police. The card shall contain the official license number of the taxicab, together with the date of inspection of the same and a statement to the effect that, in case of any complaints, the Chief of Police shall be notified, giving the license number of the taxicab. Such card shall be signed by the City Clerk. The license number assigned hereunder shall in each case be the same as that

assigned to the vehicle for that year, pursuant to law. Any licensee who defaces, obliterates or changes any official entry made upon his/her license shall have his/her license revoked. Should the state license number of a taxicab be changed during the life of the taxicab license, such change and number shall be immediately reported by the licensee to the Chief of Police and City Clerk.

§ 228-14. License fees for vehicles. [Amended 4-14-2014 by L.L. No. 1-2014]

The following license fees shall be charged: $200 for one taxicab and $100 for each additional cab owned by the same licensed operator. This license will not be transferable to any other vehicle. All fee are nonrefundable.

§ 228-15. Inspection of licensed taxicabs.

The Chief of Police shall inspect or cause to be inspected all taxicabs from time to time, as hereinbefore provided for, or on the complaint of any citizen, as often as may be necessary.

§ 228-16. Suspension or revocation of taxicab license.

Taxicab licenses may be revoked or suspended at any time for cause after a hearing by the Chief of Police if the vehicle shall be used for immoral or illegal business or purpose or for a violation of any ordinance or state law governing the operation of motor vehicles. When the license is suspended or revoked, the taxicab license hereinbefore provided for shall be retained by the Chief of Police and shall be returned only after the expiration of the suspension period.

§ 228-17. Register of licensed taxicabs.

The City Clerk shall keep a register of the name of each person owning or operating a taxicab licensed under this chapter, together with the license number and the description and make of such vehicle, with the date and complete record of inspection made of it. Such record shall be open to the inspection of the public at all reasonable times.

§ 228-18. Taxicab stands.

All public taxicab stands heretofore established are hereby abolished. The Traffic Control Maintenance Supervisor is hereby authorized to locate and designate taxicab stands. He/she shall further designate the number of such taxicabs that shall be allowed to stand at any of the places designated by him/her and shall provide a metal sign, which shall be attached to a post or

stanchion adjacent to such stand, and on which sign shall be placed the number of vehicles allowed at the particular stand.

§ 228-19. Number of taxicabs allowed at stands.

Only taxicabs in such numbers as are set forth on the metal sign may remain at the stand while waiting for employment.

§ 228-20. Payment of fares; refusal of business; additional passengers.

A. Prepayment. Every driver of a taxicab shall have the right to demand payment of the legal fare in advance and may refuse employment unless so prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey any orderly person or persons upon request anywhere in the City unless previously engaged or unable to do so.

B. No driver of a licensed taxicab shall carry any person other than the passenger or passengers first employing a taxicab.

C. Overcharge. No person shall charge or attempt to charge any passenger a greater or lower rate of fare than that fixed and established in the owner's schedule filed as required by § 228-25 of this chapter.

§ 228-21. Cruising; soliciting.

No taxicab, while awaiting employment by passengers, shall stand on any public street or place other than at or upon a taxicab stand designated or established in accordance with this chapter. Cruising or driving about the streets soliciting passengers is prohibited. Following the established bus routes of the City of Oswego and picking up passengers thereon is prohibited. It shall be the duty of all police officers to notify the Chief of Police of any known violation of this provision. Any driver or operator violating this section shall, after a hearing before the Chief of Police or the Recorder of the City of Oswego, be deprived of his/her license.

§ 228-22. Return of license; nontransferability.

Every person to whom a license has been issued under the provisions of this chapter shall, upon discontinuing or abandoning the operation or driving of a taxicab, return such license to the City Clerk unless such license has been lost or for other reason cannot be restored. Such badge, plate, license and permit shall not be assigned or transferred to any other person or be applicable to any other motor vehicle than the one specified therein. Any licensee who permits his/her license to

be used by any other person, and any person who uses such license granted or given to any other person, shall each be guilty of a violation of this chapter. Whenever a license shall be lost, stolen or destroyed without fault on the part of the holder, his/her agent or employees, a duplicate in lieu thereof under the original application and bond may be issued by the City Clerk upon the filing of a sworn affidavit containing the facts of such loss or theft and upon the payment of $10.

§ 228-23. License number on vehicle. [Amended 4-14-2014 by L.L. No. 1-2014]

Every taxicab shall have "Licensed Taxicab No. _____", and the name of the company, plainly painted in letters at least four inches in height with at least one-fourth-inch stroke with proper and distinct colors, on both sides of such taxicab, together with, if such owner elects, the minimum and maximum rates of fare to be charged per trip by such taxicab, but the same shall not be so arranged as to lead to confusion in quickly identifying such taxicab. Also, every taxicab shall have a nonblinking white or yellow top light on the vehicle. The Chief of Police may, in his/her discretion, upon the written application of a taxicab owner, by written order filed in his/her office and with the Chief of Police, dispense with the display of the foregoing data in the form herein prescribed and may permit and authorize the display of same by some other means.

§ 228-24. Cleaning of taxicabs; door locks; smoking.

A. Every holder of a taxicab license shall at all times keep the inside of the cab operated by him/her in a clean and sanitary condition and shall at least once each day thoroughly clean the inside of such taxicab.

B. No owner or driver of a taxicab shall at any time so fasten or lock the doors on a taxicab that it is impossible for a passenger to open the same from the inside. Every owner shall provide means for unfastening doors on taxicabs so that such doors may be readily opened on the inside by a passenger.

C. There shall be no smoking in any taxicab which is at the time being used to carry passengers.

§ 228-25. Rates of fare.

It shall be unlawful for any taxicab owner or operator or for any taxicab driver to charge a fare for taxicab service of less than $0.25 per trip. Every person owning and operating a taxicab or taxicabs in the City of Oswego shall file, in the office of the Chief of Police and in the office of the City Clerk, a schedule of rates in which he/she shall set forth:

A. The minimum rate per trip to be charged for taxicab service furnished by him.

B. To what point or points, place or places, zone or zones his/her scheduled minimum rate shall apply.

C. The rate or rates of fare to be charged per trip to any point or points, place or places, zone or zones to which his/her scheduled minimum rate of fare does not apply.

D. The maximum number of passengers to be carried for the scheduled rates of fare. Every such owner shall give notice of the filing of his/her schedule of rates of fare and any alterations thereof as amendments thereto by publication thereof once in the official City paper.

§ 228-26. Penalties for offenses.

A. Owners. Any owner or driver of a taxicab not licensed or equipped in accordance with the provisions of this chapter or of a taxicab the license of which has been suspended or revoked who engages in the business of a taxicab, as defined herein, or attempts to engage in such business or solicits passengers for hire shall, upon conviction, be punished by a fine of not more than $250 or imprisonment for 15 days, or by both such fine and imprisonment.

B. Drivers. Any person not having been duly licensed as a taxicab driver or any person whose license as such driver has been revoked or any person whose license has been suspended, and who, during the term of suspension drives for hire a taxicab upon the streets, shall, upon conviction, be punished by a fine of not more than $250 or imprisonment for 15 days, or by both such fine and imprisonment.

C. Upon conviction of any person for any violation of a provision of this chapter for which no punishment is specifically provided, the punishment upon conviction for such violation shall be a fine of not more than $250 or imprisonment for 15 days, or both such fine and imprisonment.

D. Suspension and revocation of license. In addition to the fine or imprisonment, or both, authorized by this chapter, any licensee shall be subject to the suspension or revocation of his/her license upon conviction for any violation of this chapter. The Chief of Police may, in his/her discretion, suspend or revoke a license granted under any provision of this chapter, pending or in advance of the criminal prosecution of the licensee.

§ 228-27. When effective.

This chapter shall become effective immediately upon filing with the Secretary of State.

Chapter 232, THEATRICAL PERFORMANCES, SHOWS AND EXHIBITIONS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 105 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Noise -- See Ch. 165.

§ 232-1. License required; penalties. EN(81)

No person, corporation, company or association shall exhibit for money or other valuable consideration any theatrical representation, concert, circus, street fairs, acrobatic exhibition, feats of strength, boxing exhibitions, feats of horsemanship, movies or other natural or artificial curiosity or open or maintain any hall, rink or place for skating or other amusement for the public for entrance to which a fee shall be charged or for hire without first obtaining a license therefor. Such licenses may, in his discretion, be granted by the Mayor and City Clerk upon payment of a license fee, the amount of which shall be fixed by the Common Council. The license which may be granted shall specify the object and the length of time for which it has been issued or granted, but no license shall be granted by the Mayor and City Clerk for the use of the streets, highways, parks, playgrounds or any other public place or property owned or controlled by the city to any person, corporation, company or association for a circus or so-called street carnival or street fair, unless the use of such public space shall have been first granted by the Common Council. It shall be the duty of any person, corporation, company or association so licensed to keep and maintain good order in and about the place of exhibition and amusement and, for that purpose, to keep at his, their or its own expense, a sufficient police force. Any person, corporation, company or association who shall violate any of the provisions of this chapter shall be subject to a fine of not less than twenty-five dollars ($25.) nor more than fifty dollars ($50.).EN(82)

§ 232-2. Exemptions.

No license, however, shall be required for musical parties, concerts, theatrical representations, exhibitions of pictures, paintings or statuary or other entertainment given, made or exhibited by or under the auspices of citizens of the city who shall not make such exhibitions, musical parties, concerts or theatrical representations a business or profession.

§ 232-3. License fees.

The following are established as the license fees for theatrical and musical representations and other exhibitions:

A. For theatrical representations, one (1) exhibition, five dollars ($5.); two (2) exhibitions, seven dollars and fifty cents ($7.50); and three (3) exhibitions, ten dollars ($10.).

B. For operas, one (1) exhibition, five dollars ($5.); two (2) exhibitions, seven dollars and fifty cents ($7.50); and three (3) exhibitions, ten dollars ($10.).

C. For panoramas, one (1) exhibition, five dollars ($5.); two (2) exhibitions, seven dollars and fifty cents ($7.50); and three (3) exhibitions, ten dollars ($10.).[EN(83)]

D. For gift exhibitions, one (1) exhibition, ten dollars ($10.); two (2) exhibitions, fifteen dollars ($15.); and three (3) exhibitions, twenty dollars ($20.).

E. [EN(84)]For movie theaters, theater or other places where moving pictures are exhibited, the following fees:

(1) Where said movie, theater or place has a seating capacity of one thousand (1,000) persons or over, the sum of seventy-five dollars ($75.) per year.

(2) Where said movie, theater or place has a seating capacity of five hundred (500) persons and less than one thousand (1,000) persons, the sum of fifty dollars ($50.) per year.

(3) Where said movie, theater or place has a seating capacity of less than five hundred (500), the sum of twenty-five dollars ($25.) per year.

F. For circuses, the following fees:

(1) For a circus exhibiting or performing in more than one (1) ring, the sum of fifty dollars ($50.) per day.

(2) For a circus exhibiting or performing in one (1) ring, the sum of twenty-five dollars ($25.) per day.

G. For all other exhibitions not hereintofore specified, one (1) exhibition, five dollars ($5.); two (2) exhibitions, seven dollars and fifty cents ($7.50); three (3) exhibitions, ten dollars ($10.); one (1) week, fifteen dollars ($15.); two (2) weeks, thirty dollars ($30.); and one (1) year, five hundred dollars ($500.). [Amended 3-13-1995[EN(85)]]

Chapter 236, TRAILERS

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch.109 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic -- See Ch. 257.
Zoning -- See Ch. 280.

§ 236-1. Definition.

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

TRAILER -- Unless a different meaning appears from the context, any vehicle or structure so designed and constructed in such manner as will permit occupancy thereof as sleeping quarters for one (1) or more persons, or the conduct of any business or profession, occupation or trade, or use as a selling or advertising device and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks.

§ 236-2. Parking restricted.

It shall be unlawful, within the limits of the City of Oswego, for any person to park any trailer on any street, alley or highway or other public place or on any tract of land owned by any person, occupied or unoccupied, within the City of Oswego, except as provided in this chapter.

§ 236-3. Temporary parking.

Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one (1) hour, subject to any other and further prohibition, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

§ 236-4. Unoccupied trailers.

No person shall park or occupy any trailer on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside a trailer camp or trailer park approved by the City of Oswego; except the parking of only one (1) unoccupied trailer in an accessory private garage building or in a rear yard in any district

is permitted, provided that no living quarters shall be maintained or any business practiced in said trailer while such trailer is so parked or stored.

§ 236-5. Penalties for offenses.

Any person found guilty of violating any provision of this chapter shall be punishable by a fine of not less than five dollars ($5.) and not more than five hundred dollars ($500.), and every day such violation exists shall constitute a separate offense and be punishable as such hereunder. In the event that a person convicted of such violation is fined and does not immediately pay such fine or penalty, he may be committed to the Oswego County Jail for the term of one (1) day for each and every dollar of said fine or penalty not paid up to a total of one hundred eighty (180) days, but in no event shall such confinement for any one (1) offense exceed one hundred eighty (180) days.

Chapter 240, TREES

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 99, §§ 99-34, 99-35 and 99-38, of the 1980 Code; amended in its entirety 11-28-2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Coastal erosion control -- See Ch. 95.
Dutch elm disease -- See Ch. 104.
Parks and recreation -- See Ch. 173.
Streets and sidewalks -- See Ch. 211.
Utility poles -- See Ch. 245.
Vacant and occupied property maintenance -- See Ch. 249.

§ 240-1. Purpose.

A. This chapter shall promote and protect the public health, safety and general welfare by providing for the coordination of planting, maintenance and removal of trees, shrubs and other woody plants within the City of Oswego.

B. This chapter shall protect and expand the urban tree canopy in order that the City of Oswego benefits from:

   (1) Retaining stormwater runoff;

   (2) Reducing energy costs for City buildings;

(3) Improving urban air quality through absorption of carbon dioxide and production of oxygen;

(4) Enhancing property values along tree-lined streets and parks;

(5) Improving walkability and a safer urban environment;

(6) Improving aesthetic quality and tourist attraction;

(7) Reducing carbon and particulates in the air;

(8) Reducing the heat island effect in urban environments through increasing shade, producing free air conditioning;

(9) Blocking cold winter winds;

(10) Reducing noise pollution;

(11) Improving natural habitat for birds and other wildlife;

(12) Increasing the number of pocket parks and green spaces;

(13) Controlling soil erosion;

C. This chapter shall provide training for City officials, employees, students, volunteers and residents on methods to improve maintenance and survival of trees in public space and issues regarding tree health.

D. This chapter shall achieve certain goals of the City of Oswego 2020 Vision Comprehensive Plan and the 2011 Strategic Plan, including the following:

(1) Qualification and certification of the City of Oswego as a Tree City USA.

(2) Continuing volunteer opportunities to educate the public on tree maintenance, benefits of reforestation and carbon reduction through a citizen tree steward program.

(3) Becoming eligible for state and federal grants for tree plantings, tree maintenance, and tree education programs.

(4) Involving citizens in planning and coordinating the establishment of a diversified and healthy urban forest through the establishment of a City of Oswego Tree Advisory Board as required by Tree City USA.

§ 240-2. Authority and duties.

A. The City of Oswego Common Council shall have the authority to receive and act upon

requests and complaints with respect to trees.

B. The City of Oswego Department of Public Works shall have the authority for planting of trees, major pruning, climbing up and removal of hazardous trees on City property for pedestrian and street safety together with all authority granted in Article XII, §§ C12-05 and C12-07B of the City Charter.

C. The City of Oswego Department of Code Enforcement shall have the authority to enforce this chapter.

D. The Oswego tree stewards shall be authorized to provide training and educational programs to the public on tree maintenance and tree survival. It shall be further authorized, with the consent of the Department of Public Works, to provide tree maintenance and mulching services for small trees in public space and to plant bare-root trees without assistance.

E. The City of Oswego budget for tree planting, pruning, maintenance, equipment, inventory, tree steward program, educational materials and volunteer in-kind contributions shall be calculated as part of the City of Oswego's annual contribution to the Tree City USA program.

F. The Tree City USA program is important to the preservation and improvement of the City of Oswego's tree canopy. The Tree Advisory Board, the Oswego Tree Stewards Program and the City Department of Public Works will create and maintain an inventory of all City trees in public space and provide training programs for City residents and volunteers to instruct citizens on the proper methods to nurture and care for City trees and increase the overall tree canopy.

§ 240-3. Tree Advisory Board.

A. There shall be established a Tree Advisory Board.

(1) The Tree Advisory Board shall consist of seven members from the City of Oswego.

(2) The Mayor shall appoint five members of the Tree Advisory Board, including one member from the Common Council and four members from a variety of backgrounds such as homeowners, renters, business-owners, City employees, college representatives and community representatives. The Mayor shall appoint new members to the Board to fill any vacancies in those five positions, including those with unexpired terms.

(3) The four citizen members shall have three-year staggered terms of service, with the exception of the first year when two Board members shall be appointed for a term of three years; one Board member shall be appointed for a term of two years, and one Board member shall be appointed for a term of one year.

(4) The Commissioner of Public Works shall designate one member from the Department of Public Works to serve at the discretion of the Commissioner.

(5) The Director of Code Enforcement shall designate one member.

B. Duties and responsibilities of the Tree Advisory Board are as follows:

(1) Hold public meetings for discussion of issues concerning trees within the City of Oswego.

(2) Mitigate issues concerning trees in public space or on private property and offer alternative solutions to preserve and improve the City's tree inventory.

(3) When requested by the Common Council, review issues of code enforcement of trees, tree removals or other tree-related matters and make recommendations to the Common Council for resolution.

(4) Study, investigate and provide advisory opinions to the City of Oswego's Common Council and the Department of Public Works, Department of Code Enforcement and Community Development office on issues regarding tree planting, maintenance and preservation of trees within the City.

(5) Create a written tree plan and preferred species list to ensure diversity in size and variety in the City's tree inventory and to discourage the spread of invasive species, diseases and pests in the City's tree canopy.

(6) Establish and maintain an inventory of trees in parks and public space.

(7) Provide a forum for conflict resolution and provide advisory opinions to the Common Council, the Department of Public Works and the Department of Code Enforcement on issues between adjacent property owners regarding trees.

§ 240-4. Standards for planting, maintenance and removal of trees.

A. The City of Oswego establishes the following standards for planting, maintenance and removal of trees in public space and strongly recommends their guidance for trees on private property:

(1) Tree City USA Bulletin #9, Section 9-16;

(2) American Standard for Nursery Stock ANSI Z60.1-2004; and

(3) Tree Care Industry Association ANSI A300 Standards.

B. All ornamental or shade trees hereafter planted in any public space shall be planted in

accordance with § 240-4A above.

§ 240-5. Prohibited acts.

A. Certain practices in public space shall be prohibited by this chapter, whether work is done by the City, by contractors, or by others, including the following:

(1) Severe pruning or topping of trees that damages the tree or violates standard nursery practice.

(2) Volcano mulching, a practice which rots tree trunks, promotes girdling roots and kills the tree crown by heaping mulch above the tree trunk's natural root spread.

(3) Grading of the soil around trees in such a way that reduces root volume or piles dirt or debris within the root zone that causes stress to the tree.

(4) Girdling a tree with wire or other material whether intentional or not.

(5) Any activity which materially restricts water, air or fertilizer from getting to a tree or otherwise threatens tree health.

(6) Planting high-liability trees such as poplars, willows and ash, for the duration of the emerald ash borer threat, that are prone to early death due to pests or disease.

(7) Harming or removing landmark trees.

(a) Landmark trees are those trees in public space set aside for special treatment due to their size, age, rarity, association with a historical event or person, or other special characteristic.

(b) The designation of landmark trees is the responsibility of the City of Oswego Common Council.

§ 240-6. Removal and replacement of trees.

A. In cases where a private property owner needs to remove an otherwise healthy tree in public space, the Tree Advisory Board shall meet with the ward Councilor and the property owner to determine the mitigation required under this chapter. The property owner must show just cause for the removal of the tree. Mitigation to restore the urban forest canopy and make the City whole will be considered any time a tree is removed from public space. Mitigation shall consist of replacing the tree with a tree or trees of equal size or total diameter measured at four feet from the ground either on the parcel from which the tree was removed or at another

mutually agreed-upon location.

B. When a developer of any commercial development or three or more contiguous residential units removes a tree or trees on private property, the developer shall meet with the ward Councilor and the Tree Advisory Board to determine any mitigation for the tree removal. Mitigation shall consist of replacing the tree with a tree or trees of equal size or total diameter inches at four feet from the ground either on the parcel from which the tree was removed or at another mutually agreed-upon location.

C. Donations and requests to plant privately donated trees in public space shall be considered by the Common Council and processed through the appropriate ward Councilor. The Tree Advisory Board shall be consulted to consider tree type, size and potential pest problems.

§ 240-7. Hazardous trees on private property.

A. All dead, defective, diseased or decayed trees shall be pruned until safe or removed at the direction of the Department of Code Enforcement.

B. The City of Oswego shall have the right to remove any dead, diseased or otherwise dangerous trees on private property within the City of Oswego when such tree(s) constitutes a hazard to public safety, health or property, or harbors insects or disease which pose a threat to other City trees.

C. Notification in writing will be made by the Director of Code Enforcement to the property owner with copies to the Councilor of the ward and the Chair of the Tree Advisory Board.

D. Removal or pruning of a tree on private property shall be done at the expense of the private property owner within the time required by the Director of the Department of Code Enforcement.

E. Failure to comply will result in the City removing such hazardous tree and charging to the property owner's tax assessment the cost of removal and a surcharge pursuant to § 249-10C of the City Code.

F. In the case of emerald ash borer or similar pest infestation, ice storm or other emergencies, state and/or federal regulations shall take precedence to allow for the Department of Public Works to immediately dispose of such trees.

§ 240-8. Enforcement; penalties for offenses.

A. Enforcement. The City of Oswego Department of Code Enforcement shall be responsible for the enforcement of this chapter. The City of Oswego Common Council and all City agencies

and departments as well as the Tree Advisory Board shall report violations of the Tree Ordinance to the City of Oswego Department of Code Enforcement.

B. Penalties for offenses. Any person failing to comply with any of the provisions of this chapter shall be guilty of a violation, and upon conviction thereof shall be fined a sum not less than $200 and not greater than $1,000 or by imprisonment for up to 15 days in jail, or by both such fine and imprisonment.

Chapter 242, TRESPASSING AND PUBLIC URINATION AND DEFECATION

[HISTORY: Adopted by the Common Council of the City of Oswego 8-10-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 59.
Noise -- See Ch. 165.
Nuisance abatement -- See Ch. 170.

§ 242-1. Title; purpose.

This chapter shall be known as the "Trespassing and Public Urinating and Defecating Ordinance of the City of Oswego," for the prevention of trespass on private property and to prevent urination and defecation in public places.

§ 242-2. Prohibited activities.

A. A person who intrudes upon any lot or parcel of private land within the bounds of the City of Oswego without permission from the owner thereof, or without lawful authority, is guilty of the offense of trespass.

B. No person shall urinate or defecate on any lot or parcel of private land within public view or in any public place. For purposes of this section, the term "public place" shall mean any highway, street, alley, sidewalk, park, playground, parking area or lot, public building, school, mall, or any other public facility or ground, whether vacant or improved, or any other place to which the public or substantial group of persons has access, but excluding restrooms.

§ 242-3. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not less than $250 nor greater than $500 and/or imprisonment for no more than 15 days, or both.

Chapter 245, UTILITY POLES

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 114 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 211.

§ 245-1. Consent required.

No telegraph, telephone, electric light or railway company, or other corporation, association or person, shall erect any post or pole to support wires or lines for the transmission of electricity in any public way or grounds without and until the legal consent, in writing, duly acknowledged, of at least one-half (1/2) of the owners of abutting property shall have first been obtained and filed with the City Clerk, nor without the consent of the Common Council previously obtained, in which the exact location of each post or pole proposed to be erected shall be duly set forth, and no wire or line for the transmission of electricity for any purpose shall be attached to any tree, building, erection or fixture of any kind, in any public away or grounds, by cross arms or other means, except by permission of the Department of Public Works previously obtained, in which permission such tree, building, erection of fixture shall be duly described.

§ 245-2. Hearing on petitions.

No corporation or person shall attach any wire or wires for the transmission of electricity for any purpose, except the lines and wires of the City of Oswego, to any post or pole already erected for the use of another corporation or person, except by the consent of the owner and the Common Council previously obtained. A hearing upon all petitions to the Common Council for permission to erect posts or poles to support wires or lines or to attach wires or lines to trees or other fixtures for the transmission of electricity for any purpose shall be given to all parties interested before the proper committee of the Common Council, who shall recommend to such Council such action as may be deemed expedient. Notice of the filing of such petition and of the hearing thereon shall be given by the petitioner or petitioners by publication for at least three (3) days in the official papers to all persons owning or occupying the land along the streets or ways upon which locations are paid for, which notice shall state briefly the streets or ways or the parts

thereof to which such petition relates.

§ 245-3. Quality of poles; tree injury.

None but sound, straight, well-formed posts or poles, smooth and free from decay, of quality satisfactory to the Superintendent of Public Works, shall be erected and maintained in any public way, bridge or grounds, under the permission to erect posts or poles to support wires for telegraph or telephone or other lines for the transmission of electricity. No telegraph, telephone or other company, person or corporation, their servants or agents shall cut or in any way deface or mar or injure any tree or the limbs thereof in erecting or maintaining in any of the streets or public places in this city any of their poles, wires or other structures without the consent of the Department of Public Works and of the owner of the premises in front of which any such tree or trees are standing, and then only under the immediate supervision of the Superintendent of Public Works or any persons designated by him.

§ 245-4. Erection and maintenance.

All posts or poles erected and maintained in the public ways for the support of wires, for telegraph or telephone service and other lines for the transmission of electricity shall be set and maintained in a perpendicular position, as nearly as practicable, of uniform height as nearly as practicable, and in line with each other; and shall be shaved and kept properly painted by the owners thereof in such colors and manner as the Department of Public Works may direct from time to time, and with the words "Post No Bills" painted thereon under the direction and approval of the Superintendent of Public Works. All posts and poles used for carrying of wires for telegraph or telephone service and other lines for the transmission of electricity or in connection therewith which are not erected, kept and maintained in conformity with the preceding ordinances may be summarily removed by the Superintendent of Public Works after two (2) days' notice to the owner or his agent or employee to remove the same.

§ 245-5. Height of wires and poles.

No wire for telegraph or telephone service or other line for the transmission of electricity shall be attached to any post or pole, tree or other fixture at a point less than twenty (20) feet above the level of the street or ground nor run along or across any public street or way, except by the permission of the Common Council; and, except by such permission, no post or pole more than forty (40) feet high shall be erected for the support of such wires or lines.

§ 245-6. Marking of poles.

Every corporation or person maintaining or operating a wire or line of wire for telegraph or telephone service or other line for the transmission of electricity shall mark such post or pole, structure or fixture in a clear and legible manner and keep the same so marked with the name of the corporation or persons maintaining or operating such line or wire; and when any line or wire shall be affixed to the post or pole or fixture of another corporation or person, it shall be attached to a suitable arm or bracket.

§ 245-7. Permit for excavations; restoration of streets.

A. No street, highway or bridge shall be torn up or disturbed for the purpose of laying, repairing, changing or removing lines, wires or conduits, or erecting, altering or removing posts, poles or other fixtures used for carrying electric lines or wires without a permit first obtained from the Department of Public Works upon filing with said Department the required bond indicating the time, manner and place of disturbance, with the conditions under which such tearing up or disturbance is permitted. No formal permit shall be necessary to sanction the temporary removal of covers to manholes for the purpose of removing or repairing lines, wires or cables. Whenever any opening is made in any street, highway or bridge for the purpose aforesaid or for any repairs, such street, highway or bridge shall be promptly restored by the person or corporation owning or operating the lines or wires to a good condition, satisfactory to the Department of Public Works and shall be kept and maintained in such condition by such person or corporation for two (2) years thereafter; and if not immediately so restored, kept and maintained, the same may be done by the city at the expense of such person or corporation, without previous notice of the intention so to do.

B. The Department of Public Works shall have power to remove from any street or public place any post or pole erected for carrying any telegraph or telephone or other wire or wires for any purpose when said post or pole shall not bear the name of the owner thereof plainly printed thereon or when said post or pole shall be used for carrying or supporting any wire or wires which are no longer used for any such purposes or when such wire or wires have been removed therefrom.

C. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 245-8. Penalties for offenses.

Any person violating the provisions of this chapter shall be subject to a fine of not less than five dollars ($5.) nor more than fifty dollars ($50.).

Chapter 249, VACANT AND OCCUPIED PROPERTY MAINTENANCE

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 77 of the 1980 Code; amended in its entirety 8-25-2008 by Res. No. 349. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Dangerous buildings -- See Ch. 83.
Solid waste -- See Ch. 207.
Streets and sidewalks -- See Ch. 211.
Trees -- See Ch. 240.
Utility poles -- See Ch. 245
Abandoned or junk vehicles -- See Ch. 253.

§ 249-1. Scope.

The provisions of this chapter shall apply to all existing premises and constitute minimum requirements and standards for safe and sanitary maintenance.

§ 249-2. Purpose.

This chapter is intended to provide standards to safeguard public safety, health and general welfare insofar as they are affected by the maintenance of premises.

§ 249-3. Definitions.

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

CODE ENFORCEMENT OFFICIAL -- An employee of the City of Oswego with the authority to enforce state and local ordinances and codes, including but not limited to the Police, Fire and Code Enforcement Departments of the City.

NATURAL HABITAT -- Uncultivated habitat whereupon native vegetation exists in a pristine state.

PERMANENT DUMPSTER -- A dumpster that acts as the primary depository of waste materials and garbage for the premises.

TEMPORARY DUMPSTER -- A dumpster that is used for transitory collection of construction debris, junk or other materials.

§ 249-4. Inspection.

Any real property owned by an individual, corporation, or other entity is, when reported to the proper authorities, subject to inspection by Code Enforcement officials of the City of Oswego,

New York.

§ 249-5. Preparation of solid waste for collection. [Amended 10-28-2013]

A. Preparation of solid wastes for collection shall be the responsibility of the following persons:

   (1) In owner-occupied property, all owners shall be responsible.

   (2) In non-owner-occupied property, all occupants shall be responsible.

B. Garbage and refuse. Garbage and refuse originating from private and multiple dwellings shall be drained of surplus liquid and securely wrapped in paper or plastic bags prior to disposition in an approved collection container. Garbage and refuse originating in institutions, cafeterias and commercial establishments shall be drained of surplus liquid prior to disposition in an approved collection container.

C. Building debris. Building debris shall be placed at the point of collection in approved collection containers. The gross weight of the building debris shall not exceed 75 pounds. Building debris and other large items, i.e., refrigerators and stoves, that are too large for placement in collection containers shall be deemed "bulky waste." Any item that has a door shall have it removed or the latching mechanism disabled.

§ 249-6. Approved collection containers.

A. Approved collection containers shall be made of adequate material, shall be of substantial construction, shall have handles and shall have attached tight-fitting covers tethered to the can. They shall be watertight and shall be fly- and rodent-tight. Approved collection containers shall be clearly marked for identification by the owner, either by name or street number. Collection containers for private dwellings shall have a capacity conducive to the applicable hauler's ability to dump and maintain. [Amended 10-28-2013]

B. There shall also be required separate collection containers for any materials deemed recyclable under Oswego County's Mandatory Recycling Program and shall be subject to changes at any time as Oswego County finds it necessary to change.

C. Location of collection containers. The resident shall be required to keep all collection containers, including those used for recycling, in an area away from the street in a location in back of, or alongside of, their own premises until the scheduled pickup day, at which time residents may place their trash container(s) at the edge of the pavement, street or road anytime after 5:00 a.m. on said day. On or before 9:00 p.m. of that same day, the trash container(s) shall be returned to the proper storage location as stated in this subsection. The trash hauler will return the container(s) to the location where they were found at the time of

pickup.

§ 249-7. Dumpster requirements; permit fee.

A. All metal trash dumpsters shall be screened from street or public view by a six-foot screening enclosure.

   (1) The type of enclosure shall be a wooden fence, concrete masonry units, bricks or other opaque material approved by the Zoning Administrator.

   (2) The enclosure for a metal dumpster shall be placed on a four-inch pad that matches the adjacent grade and paving to provide positive drainage and shall not be located on any required parking spaces.

B. Permanent dumpsters shall be located within a rear or side yard as approved by the Zoning Administrator but shall not be located closer than five feet to a lot line nor in a location not visible from the street right-of-way unless contained in an approved screening enclosure installed in accordance with § 249-7A of this chapter.

C. Temporary dumpsters shall be located in an area as approved by the Department of Code Enforcement. Obstructing the public sidewalk or street shall be prohibited unless specifically authorized by the Chief of Police or his designee.

D. No dumpster shall be located on premises without a permit authorizing its placement.

   (1) On forms provided by the Department of Code Enforcement, the applicant shall identify the size and location of a permanent dumpster relative to the property lines. If required, details shall be provided regarding the enclosure surrounding the dumpster. The permit shall be issued annually. The Department, for good cause, may revoke said permit. The fee for said permit shall be $25.

   (2) On forms provided by the Department of Code Enforcement, the applicant shall identify the size and location of a temporary dumpster relative to the property lines. The fee for said permit shall be $10 and shall be 30 days in duration. The Department, for good cause, may revoke said permit.

E. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

§ 249-8. Yard, tree and swimming pool maintenance required.

A. All premises shall be maintained free from debris and noxious weeds or grass in excess of 10 inches in height. Bushes shall not exceed four feet in height in a front yard and six feet in height in a side or rear yard. Vacant structures shall be secured from illegal entry on the basement and first floor levels. Exception: Natural habitat shall be maintained free from debris and noxious weeds or grass only where native vegetation interferes with vehicular lines of sight or pedestrian access to a public sidewalk.

B. All dead, defective, diseased or decayed trees shall be pruned until safe or removed at the direction of the Department of Code Enforcement.

C. Residential swimming pools shall be maintained in a clean and sanitary condition, and in good repair. Existing fences surrounding pools shall be continuous and free from defects that may allow entry by unauthorized persons.

§ 249-9. Cleaning of public sidewalks. [Amended 10-12-2010]

A. It is the duty of every owner and of every owner, tenant and occupant of property within the limits of this City where public sidewalks exist, and of every owner of property within the limits of this City where public sidewalks and crosswalks exist, when unoccupied, to cause said sidewalks and crosswalks to be cleared of snow, slush or ice on or before 7:00 p.m. of every day that any snow, slush or ice may be upon the same. All public sidewalks shall be cleaned to a path of at least 30 inches in width, or the width of any existing sidewalk which is less than 30 inches. In case the snow or ice cannot be removed, then the same shall be sprinkled with sand or salt before the hour mentioned. Sawdust shall not be used.

B. Section 249-9A shall not apply to property owners in residential districts, as established by the Zoning Ordinance,[EN(86)] where sidewalks are constructed with a curb immediately adjacent to the sidewalk.

C. In the event that a snow emergency is declared by the Mayor of the City of Oswego, § 249-9A shall be suspended until such time that the declared snow emergency has ended.

§ 249-10. Notification of violation and remedies.

A. Upon notification of a violation of any sections of this chapter, the Code Enforcement Official will notify the owner, tenant and occupant of his/her findings and explain, in detail, the steps the owner, tenant and occupant must take to bring the premises into compliance. This may be done by any of the following methods:

   (1) By certified mail, return receipt requested.

   (2) By registered mail, return receipt requested.

   (3) Hand delivery by a Code Enforcement official.

   (4) By U.S. Mail.

B. The Code Enforcement Official will also set a day by which time the work must be completed.

C. If the work is not completed as required in the notification sent to the owner pursuant to Subsection A herein, the City may go upon the premises in violation and may take or cause

to take appropriate measures to alleviate the conditions complained of. In the event that the City does take action as herein described, the City shall ascertain the costs of such remedial measures and place said amount upon the tax rolls for said property, plus an administrative surcharge in the amounts listed below: [Amended 6-22-2009]

Value of Work	**Surcharge**
$1-$99	$100
$100-$199	$150
$200-$299	$200
Greater than $300	$250

D. If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this chapter, the Director of Code Enforcement is empowered to immediately institute any appropriate action, charge or proceedings in the proper legal court to enforce the provisions of this ordinance and for the prosecution of any owner, occupant or offender.

E. In the event that two notices of violation of any section of this chapter have been previously sent to the owner, tenant or occupant of a residential home within a six-month period, the requirement of a notification pursuant to § 249-10A shall be waived, and the Director of Code Enforcement, or his designee, is empowered to immediately institute any appropriate action pursuant to § 249-10D. [Added 10-28-2013]

§ 249-10.1. Emergency conditions. [Added 8-26-2013]

All premises shall be maintained properly such that it shall not be a threat to public safety. In the event that the Department of Code Enforcement identifies a structure or premises that imminently endangers the public health, safety or welfare, it shall take appropriate measures to render the condition safe pursuant to § 249-11 of this chapter.

§ 249-11. Criminal penalties for offenses.

A violation of any provision of this chapter shall be punishable by a fine of up to $100. Each day

of continued violation shall constitute a separate additional violation. If more than one provision is violated, each provision violated shall be considered a separate violation, each liable to the maximum penalties as herein specified.

§ 249-12. Criminal penalties for willful offenses.

A. Any person who willfully or recklessly violates any provision of this chapter; willfully or recklessly violates or fails to comply with any requirement of an order of the Department; or willfully makes or causes any other person to make any false or misleading statement on any notice or other document required to be filed pursuant to this chapter or on any application or any accompanying document for the granting of any permit or any other action by the Department pursuant to this chapter shall be guilty of an offense punishable by a fine of not less than $100 nor more than $250 for each violation or by imprisonment for up to 15 days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

B. A person commits a willful violation when he/she intentionally acts, or intentionally fails to act, to cause a desired result that violates this chapter. A person commits a substantial risk that the act or failure to act will result in a condition constituting a violation of this chapter which will endanger the life, health, safety or general welfare of another person.

C. In a prosecution for a willful or reckless violation of a provision of this chapter, evidence of prior service of civil process or of prior judgments from the same violation and relating to the same premises shall be admissible on the issue of the defendant's knowledge of the existing violation.

D. Evidence that the defendant had knowledge or notice of the violation and failed to correct the same for more than one month or take reasonable action to explain to the Department this failure shall be evidence of the willfulness of the defendant's action.

E. This subsection shall not be construed to prevent conviction for a willful violation on other grounds.

§ 249-13. Criminal penalties for refusing access.

Any person who refuses entry or access to an officer or an inspector of the Department to any premises or any part thereof that the officer or inspector is lawfully authorized to inspect or who unreasonably interferes with an authorized inspection shall be guilty of an offense punishable by a fine of not more than $50 or by imprisonment for not more than five days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

Chapter 253, VEHICLES, ABANDONED OR JUNK

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 66 of the 1980 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 211.
Vehicles and traffic -- See Ch. 257.

§ 253-1. Purpose. [Amended 7-11-2005 by Res. No. 268-2005]

The seriousness of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles upon City property, City streets, and privately owned land, within the City of Oswego, increases with each passing month. The outdoor storage of such vehicles constitutes an attractive nuisance to children and a peril to safety, depreciates neighborhoods and is unsightly for adjoining property owners.

§ 253-2. Definitions. [Amended 4-22-2002; 7-11-2005 by Res. No. 268-2005]

A. As used in this chapter and throughout the City Code, the following words shall have the meanings indicated:

JUNKED, ABANDONED OR DISCARDED MOTOR VEHICLE -- Any truck, automobile, or motor vehicle of any type that fits any of the following criteria: uninspected, unregistered, without valid license plates or otherwise not in physical condition for use on public thoroughfares. This shall also include any portion of said motor vehicle, such as the trailer of a tractor trailer, or the rear section of a multiwheeled vehicle.

B. Exceptions to this section will be granted only to new- and used-car sales establishments duly licensed and approved to do business in the City of Oswego and the State of New York and at registered motor vehicle repair shops when such storage is temporary in nature. For the purpose of this section, "temporary" shall mean only that length of time that is absolutely necessary to perform the automotive repairs causing the vehicle to be in such storage.

§ 253-3. Storage on City property. [Amended 4-22-2002]

The storage or parking of any junked motor vehicle, as defined by this chapter, is strictly prohibited on any City street or vacant property owned by the City of Oswego. When speaking of a City street in conjunction with this chapter, the word "street" is not confined to the paved

roadway but encompasses all property owned and controlled by the City of Oswego from building line to building line on any City street or thoroughfare.

§ 253-4. Storage on private property. [Amended 4-22-2002; 7-11-2005 by Res. No. 268-2005]

The storage of any motor vehicle that qualifies as junked, abandoned or discarded, under this chapter, on any private property within the confines of the City of Oswego shall constitute a violation of this chapter. Such junked or abandoned vehicles shall be stored in an enclosed garage, or placed in licensed junkyards that are licensed by the City and designated for that purpose.

§ 253-5. Notice. [Amended 4-22-2002]

Upon complaint by a citizen or upon a finding taken by a City official, formal written notice shall be served upon the owner of the vehicle(s) involved or, in the case of private property, upon the property owner, of any violation of this chapter. Notice shall require the owner of the vehicle, or property owner, to remedy the violation within 14 calendar days. Such service shall be carried out by a representative of the City of Oswego, through the office of the City Engineer or the City Police Department.

§ 253-6. Penalties for offenses. [Amended 4-22-2002]

A. If any property owner, occupant, lessee, agent or tenant fails to remedy the violation within 14 calendar days, it will result in the vehicle being removed by the City of Oswego and the costs associated thereof shall be assessed against the owner of the vehicle, in accordance with § 257-68 of the Vehicle and Traffic Law of the City of Oswego. After the removal of any vehicle as provided in this article, the vehicle shall be stored in a suitable place at the expense of the owner. For the purpose of this section, a "suitable place" shall be deemed to mean a properly fenced-in area owned or maintained by the City or a privately owned fenced-in area for which a towing company has provided a bond and evidence of insurance in the minimum amount of $1,000,000 naming the City of Oswego as an additional named insured on such policy. The Traffic Section shall maintain a list of such suitable places. A storage charge shall be $20 per day. Such charge shall be in addition to any fine payable for violation of laws, ordinances, rules or regulations. [Amended 4-13-2009]

B. Any property owner, occupant, lessee, agent or tenant who shall refuse and neglect to remove the abandoned, junked, discarded and unlicensed motor vehicle, as directed by this chapter, or shall otherwise violate the provisions of this chapter, or who shall resist or

obstruct the agents of the City from removing the vehicle(s) involved, shall be subject to a fine not to exceed $500 for each violation of this chapter.

Chapter 257, VEHICLES AND TRAFFIC

[HISTORY: Adopted City of Oswego Common Council 3-11-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Taxicabs -- See Ch. 228.
Trailers -- See Ch. 236.

ARTICLE I, Terminology; Time Standard

§ 257-1. Definitions; word usage.

A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

ABANDONED VEHICLE -- A motor vehicle shall be deemed to be an abandoned vehicle if left unattended and: [Added 11-8-2004 by Res. No. 424-2004]

(1) With no number plates affixed thereto, for more than six hours on any highway or other public place;

(2) For more than 24 hours on any highway or other public place, except a portion of highway or public place on which parking is legally permitted;

(3) For more than 48 hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted;

(4) For more than 96 hours on property of another if left without permission of the owner.

AUTOMOBILE -- Shall have the same meaning or definition as prescribed in § 125 of the New

York State Vehicle and Traffic Law. [Added 11-8-2004 by Res. No. 424-2004]

BOOT -- A device to disable a vehicle through a locking mechanism placed in the vehicle's wheel for immobilization. [Added 11-8-2004 by Res. No. 424-2004]

CONGESTED DISTRICT -- All streets in the City of Oswego that lay within or upon the following boundaries:

(1) West Side of river: from the northerly line of West Seneca Street to the southerly line of West Utica Street; from the westerly edge of the Oswego River to the westerly line of West Fifth Street.

(2) Washington Boulevard: between the easterly line of Sheldon Avenue and the west city line.

(3) East Side of river: from the northerly line of East Cayuga Street to the southerly line of East Oneida Street; from the westerly edge of the Oswego River to the easterly line of East Fourth Street.

CURBLINE -- The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS -- All recognized city legal holidays. [Amended 10-28-1996 by L.L. No. 4-1996]

OPERATOR -- Every individual who shall operate a vehicle as the owner thereof or as the agent, employee or permittee of the owner or who is in actual physical control of a vehicle.

PLAY VEHICLES [Added 11-24-1997; amended 11-8-2004 by Res. No. 424-2004]:

(1) IN-LINE SKATES -- Shoes, skates or footwear with a single row of roller wheels.

(2) ROLLER SKATES -- Shoes, skates or footwear with two or more rows of roller wheels.

(3) SCOOTER -- A long footboard made of wood, plastic, fiberglass, metal or similar material with wheels attached to each end of the board and an upright steering handle propelled by muscular or mechanical power.

(4) SKATEBOARD -- A narrow board made of wood, plastic, fiberglass, metal or similar material, with roller-type wheels attached to each end of the board and which is used for gliding on any hard surface, without any mechanism or other device for steering.

PUBLIC PARKING LOT -- A plot or parcel of land or building owned and/or leased by this city, not including the highways, upon or within which the parking of vehicles is regulated by signs.

STREET -- Any public street, avenue, road, alley, highway, lane, path or other public place

located in the City of Oswego and established for the use of vehicles.

§ 257-2. Official time standard.

Whenever certain hours are named herein or on traffic control devices they shall mean the time standard which is in current use in this state.

ARTICLE II, Compliance with Provisions

§ 257-3. Compliance required.

Except where obedience to the provisions of this chapter is required by the Vehicle and Traffic Law of the State of New York, every person is hereby required to obey all applicable provisions of this chapter and of every regulation adopted pursuant thereto, provided that, where applicable, notice of such provisions or regulations is properly posted as required by law.

ARTICLE III, Administration and Enforcement

§ 257-4. Traffic Committee.

A. Establishment. There is hereby established a Traffic Committee which is to be appointed by the Mayor and directly responsible to him. Said Committee shall consist of five persons, one of whom shall be a member of the police force, one of whom shall be a member of the Traffic Section and one of whom shall be a member of the Common Council, and two shall be individuals representing the general public. The term of the office of each member of the Committee shall be two years and shall coincide with the term of the Common Council. The Chairman of the Committee shall be designated by the Mayor. [Amended 3-12-2007]

B. Powers and duties.

   (1) Pursuant to § 1603 of the Vehicle and Traffic Law, the Traffic Committee is hereby authorized to adopt regulations in accordance with and implementing the provisions of this chapter and the Vehicle and Traffic Law with respect to specific intersections, streets or parts thereof. Such regulations shall be made, and where pertinent, with reference to the appropriate schedule established by § 257-5 below. The Traffic Committee is also hereby authorized to act by regulation on any matter delegated to it by

the Common Council in keeping with the provisions of this chapter and the Vehicle and Traffic Law.

(2) The Traffic Committee shall coordinate traffic activities, carry on educational activities in traffic matters, supervise the preparation and publication of traffic reports, receive complaints having to do with traffic matters, review proposals for the installation of traffic control devices and the establishment of traffic control measures and work with the Traffic Section and other city officials and agencies in developing ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

C. Attestation of regulations. All regulations of the Traffic Committee shall, prior to going into effect, be signed by the Mayor and attested to by the City Clerk. Copies of all such regulations, as signed, shall be kept on file in the office of the City Clerk.

§ 257-5. System of Schedules Book.

For the purpose of maintaining a record of all regulations adopted by the Traffic Committee or Common Council pursuant to this chapter, there is hereby established a System of Schedules Book, on file in the Traffic Section, in which shall be entered all such regulations upon their adoption. All regulations shall be adopted with reference to the appropriate schedule as indicated by various sections of this chapter.

§ 257-6. Traffic Section. [Amended 11-8-2004 by Res. No. 424-2004]

There is hereby established and organized a Traffic Section in the Police Department of the City of Oswego effective January 1, 2005.

A. The Traffic Section shall install and maintain traffic control devices, when and as required under the provisions of this chapter, to make effective the provisions of this chapter and regulations adopted pursuant thereto and may install and maintain such additional traffic control devices as the Traffic Committee may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

B. The Traffic Section shall work closely with the Traffic Committee on matters of traffic policies, traffic studies and implementation of traffic plans and regulations.

C. The Traffic Section shall impound vehicles under Article X of this chapter and dispose of all unclaimed vehicles under the rules and regulations as set forth by the New York State Department of Motor Vehicles.

D. The head of the Traffic Section shall have the authority to order the installation and maintenance of traffic control devices when and as required to regulate, warn or guide traffic at construction sites in the City of Oswego.

E. The head of the Traffic Section shall have the authority to order the installation and maintenance of traffic control devices when and as required to regulate, warn or guide traffic around emergency situations for a period not to exceed 48 hours.

§ 257-7. Powers and duties of Police Department.

It shall be the duty of the Police Department to:

A. Enforce this chapter and regulations of the city and provisions of state law applicable to the use and operation of motor vehicles.

B. Cooperate with officers and agencies of the city in the administration of traffic laws and in developing ways and means to improve traffic conditions.

C. Investigate traffic accidents and make a full and complete report thereof and to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

D. Maintain a suitable system of filing traffic accident reports.

(1) Accident reports or cards referring to them shall be filed in the Police Department. Such reports shall be available for the use and information of the Traffic Section and may be examined by any person having an interest therein or by such person's attorney or agent. The Police Department shall also, upon request, certify copies of reports of accidents for the fee prescribed in § 67-a of the Public Officers Law.

(2) The Police Department shall receive and properly file all accident reports made to it under state law or under any ordinance of this city.

E. Work with the Traffic Section in conducting studies of accidents and determine remedial measures to be recommended to the Traffic Committee whenever the accidents at any particular location become numerous.

F. Maintain drivers files.

(1) The Police Department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

(2) Said Department shall study the cases of all the drivers charged with frequent or serious

violations of the traffic laws or involved in frequent traffic accidents or any serious accident and shall attempt to discover the reasons therefor and shall take whatever steps are lawful and reasonable to prevent such occurrences in the future.

(3) Annually prepare a traffic report, which shall be filed with the Mayor. Such report shall contain information on traffic matters in this city as follows:

(a) The number of traffic accidents, the number of persons killed, the number of persons injured and other pertinent data on traffic accidents.

(b) The number of traffic accidents investigated and other pertinent data on the safety activities of the police.

§ 257-8. Issuance of notice of traffic infractions.

A. Whenever any person is found, by a police officer, committing any traffic infraction, other than speeding, contrary to the provisions of this chapter, such officer shall take the name, address and operator's license number of such person and the registration number of the motor vehicle involved and issue him, on a uniform traffic ticket, with notice to answer to the charge against him at a specified time and day, within 15 days, in City Court. [Amended 11-8-2004 by Res. No. 424-2004]

B. Whenever any person is found, by a police officer, committing the traffic infraction of speeding, causing or contributing to an accident resulting in injury or in violation of the provisions of the Vehicle and Traffic Law of the State of New York or some other ordinance of the city pertaining to traffic, which is expressly declared by such law or ordinance to be a misdemeanor, such officer shall issue a notice to answer the charge to such person for his appearance in City Court at a designated time and day within fifteen days or shall arrest such person, as the exigencies of the case may require. [Amended 11-8-2004 by Res. No. 424-2004]

C. Whenever any vehicle without an operator is found, by a police officer or parking attendant, stopped, standing in such a manner as to constitute a traffic infraction, such officer or parking attendant shall take any information displayed on the vehicle which may tend to identify its user and, if a motor vehicle or motorcycle, the registration number thereon and affix conspicuously to such vehicle a notice, in writing, for the driver to answer the charge to such person for his appearance in City Court at a designated time and day within 15 days to answer the charge(s) against him or to pay such fines within the specified time to the Traffic Violations Bureau. [Amended 3-28-1994; 11-8-2004 by Res. No. 424-2004]

D. Whenever any officer or parking attendant shall have issued or affixed any notice of traffic infraction as above provided, such officer or parking attendant shall, within a reasonable time

or upon completion of his tour of duty, deposit such stubs or copies required with the Traffic Violations Bureau and the required copies and signed information for the City Court with the desk officer on duty at that time in the Police Station. [Amended 3-28-1994]

§ 257-9. Direction of traffic.

A. Officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided, however, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

B. Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

§ 257-10. Emergency regulations. [Amended 11-8-2004 by Res. No. 424-2004]

The Mayor may, in his discretion, during times of major disaster or other special conditions and in the interest of public safety, order the Police Department to temporarily direct, control, divert, exclude and regulate traffic on the streets and prohibit and regulate parking through the Police Department by means of posting temporary signs or signals or through the use of local television and radio stations and local newspapers. Temporary regulations shall not remain in effect for more than 10 days without the approval of the Traffic Committee.

ARTICLE IV, Traffic Violations Bureau

§ 257-11. Establishment. [Added 11-8-2004 by Res. No. 424-2004]

The City of Oswego shall establish a Traffic Violations Bureau, under the direction of the Chief of Police, to assist the Court with the adjudication process in the disposition of offenses in relation to traffic violations. The Chief of Police shall be in charge of such person or persons in the Bureau, and the Bureau shall be open at such hours as the Chief of Police may designate, effective January 1. 2005.

§ 257-12. Powers and duties.

A. If a violator of any parking rules or regulations does not appear in answer to a notice of

traffic infraction, the Traffic Violations Bureau may send to the owner of the motor vehicle to which the notice was affixed a letter informing him of the violation and warning him that he will be held responsible for the appearance of the offender. If the owner or violator does not respond to such letter of warning within three days, the Traffic Violations Bureau may have a summons served on the owner requiring him to appear and answer to the charges against the operator of his vehicle.

B. If any person who has received a notice or parking violation fails to appear at the Traffic Violations Bureau within the specified time, the Bureau may forthwith cause a complaint to be entered and a warrant issued for his arrest. The Traffic Violations Bureau shall not accept fines or bail from such person after a warrant has been issued for his arrest.

C. The Traffic Violations Bureau shall perform such other or additional duties and keep such other and additional records as shall be prescribed by the Chief of Police or his designee of the City of Oswego. [Amended 11-8-2004 by Res. No. 424-2004]

§ 257-13. Designation of fines.

The Traffic Committee shall designate the fines to be paid for offenses, which may be satisfied at the Traffic Violations Bureau as provided in this chapter, including, if deemed advisable, a graduated scale of fines for first, second, third and subsequent offenses and, if deemed advisable, a graduated scale of fines for the failure to answer an infraction upon notice, provided that these fines are within the limits established as penalties for violations of state traffic laws and city ordinances, rules and regulations.

§ 257-14. Forms.

The Traffic Violations Bureau shall provide suitable, serially numbered forms for notifying violators to appear and answer to traffic infractions and charges of violating the provisions of the traffic laws, ordinances, rules and regulations. Such forms shall be issued and receipted by the Chief of Police or some other person authorized by him.

ARTICLE V, Traffic Regulations

§ 257-15. Traffic control signals.

Traffic control signals shall be installed, maintained and operated at the intersections and locations described in the regulations duly adopted by the Traffic Committee and entered in the

System of Schedules Book, Schedule I.

§ 257-16. Turns on red signals.

Vehicular traffic facing a steady red signal is hereby authorized to turn, after stopping, as indicated at the intersections and locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule II, in accordance with the provisions of § 1111, Subdivision (d)2, of the Vehicle and Traffic Law.

§ 257-17. One-way streets.

The streets or highways or parts thereof described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule III, are hereby designated as one-way streets.

§ 257-18. Prohibited turns.

The turning of vehicles is hereby prohibited as indicated at the intersections and locations described in the regulations duly adopted by the Traffic Committee and entered in the Systems of Schedules Book, Schedule IV, during the hours designated in said schedule.

§ 257-19. U-turns.

The turning of vehicles so as to proceed in the opposite direction (otherwise known as a "U-turn") is hereby prohibited in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule V.

§ 257-20. Through streets.

The streets or parts of streets described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule VI, are hereby designated as through streets, and flashing red signals, stop signs or yield signs shall be erected as indicated at entrances thereto.

§ 257-21. Stop intersections.

The intersections described in the regulations duly adopted by the Traffic Committee and entered

in the System of Schedules Book, Schedule VII, are hereby designated as stop intersections, and stop signs (or flashing red signals, if indicated) shall be erected as indicated.

§ 257-22. Yield intersections.

The intersections described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule VIII, are hereby designated as yield intersections, and yield signs shall be erected as indicated.

§ 257-23. Speed limits.

A. Speed limits generally. Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed on or along streets and highways within the city, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in the regulations duly adopted by the Common Council and entered in the System of Schedules Book, Schedule IX, shall be as indicated, except that the maximum speed limit for certain streets which are a part of the state highway system shall be as established by the State Department of Transportation.

B. School speed limits. The maximum speed limits at which vehicles may proceed along highways and streets or parts thereof adjacent to school buildings within the city are hereby established as described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule X, during the hours indicated.

C. No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards that exist. [Added 11-8-2004 by Res. No. 424-2004]

D. Except as provided in Subsection A of this section, whatever maximum school speed limits have been established on or along the highway and streets or parts thereof adjacent to school buildings within the city as authorized in Subsection B of this section, no person shall drive in excess of such maximum school speed limits during: [Added 11-8-2004 by Res. No. 424-2004]

   (1) School days at times indicated on the school zone speed limit sign; provided, however, that such time shall be between the hours of 7:00 a.m. and 6:00 p.m. or all of the times within such hours; or

   (2) A period when the beacons attached to the school zone speed limit sign are flashing and such sign is equipped with a notice that indicates that the school zone speed limit is in effect when such beacons are flashing.

E. Except as provided in Subsections A and B, whatever maximum speed limits other than school speed limits established as authorized in Subsection B and D, no person shall drive a vehicle proceeding on or along streets and highways within the city or parts of streets in excess of such maximum speed limits at any time. [Added 11-8-2004 by Res. No. 424-2004]

F. Upon conviction for violation of Subsection A, B, C, D or E, the Court shall record the speed upon which the conviction was based and submit the certificate required, if any, to be filed with the New York State Department of Motor Vehicles Commissioner pursuant to § 514 of the New York State Vehicle and Traffic Law. [Added 11-8-2004 by Res. No. 424-2004]

(1) Every person convicted of a violation of Subsection A or E shall be punished as follows:

(a) Where the court enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than 10 miles per hour, the fine shall not be less than $45 or more than $150;

(b) Where the court enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than 10 miles per hour and by not more than 30 miles per hour, the fine shall not be less than $90 or more than $300 or by imprisonment for not more than 15 days, or by both such fine and imprisonment;

(c) Where the court enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than 30 miles per hour, the fine shall not be less than $180 or more than $600 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(2) Every person convicted of a violation of Subsection C, shall be punished by a fine of not less than $45 nor more than $150 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.

(3) Every person convicted of a violation of Subsection B or D, which such violation occurs in a school speed zone during a school day between the hours of 7:00 a.m. and 6:00 p.m., shall be punished as follows:

(a) Where the court enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than 10 miles per hour, the fine shall not be less than $90 or more than $300;

(b) Where the court enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than 10 miles per hour and by not more than 30 miles per hour, the fine shall not be less than $180 or more than $600 or by imprisonment for not more than 15 days, or by both such fine and imprisonment;

(c) Where the court enters that the speed upon which the conviction was based exceeded

the applicable speed limit by more than 30 miles per hour, the fine shall not be less than $360 or more than $1,200 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(4) Notwithstanding the foregoing provisions of this section, the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional $150 if the conviction is for a second violation of any subsection of this section where both violations were committed within an eighteen-month period, and the maximum fine provided increased by an additional $375 if the conviction is for a third or subsequent violation of any subsection of this section where all such violations were committed within an eighteen-month period. Where an additional fine is provided by this subsection, a sentence of imprisonment for not more than 30 days may be imposed in place of or in addition to any fine imposed.

ARTICLE VI, Parking, Standing and Stopping

§ 257-24. Applicability.

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 257-25. Manner of parking.

Wherever a space shall be marked off on the surface of any street or public parking lot for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

§ 257-26. Parking in public space restricted.

A. No person shall park a motorized vehicle or automobile upon a street other than upon the roadway against the curb or, in the case of a bicycle, upon the sidewalk in a rack to support the bicycle or against a building or at the curb in such a manner as to afford the least obstruction to pedestrian traffic.

B. No person shall park an automobile or any other vehicle upon a street of the city in such a manner as to block, impede or prevent free passage into a driveway leading from the street.

C. No person shall park an automobile or any other vehicle in such a manner as to block, impede or prevent the free passage of pedestrians on the sidewalks. [Amended 5-9-1988; 3-26-1990]

D. No person shall henceforth park any vehicle between the curb and a private property line on any street except: [Amended 3-26-1990; 9-8-1997]

(1) That portion of the paved street which is open to the public thoroughfare and that paved or graveled portion of driveway on a public property in the City of Oswego, unless the City of Oswego has issued a permit for said parking and said permit is then, on the date of an alleged violation, still in effect; or

(2) That area of public space between the curb and sidewalk, as well as between the sidewalk and street line, which has been allocated for parking by Common Council resolution, provided that such area has a preferred surface of turf stone, concrete, or brick pavers surface cover. Asphalt surface cover may also be used. Any water shutoff cap located under such public property shall be brought to grade when the parking pavement is installed; and [Amended 5-26-1998; 9-25-2006; 10-24-2011]

(3) He or she is the owner of the property in front of which said vehicle is parked or he or she has permission from the owner to park said vehicle on such city-owned property.

E. No person shall park an automobile or any other vehicle within 20 feet of a crosswalk at an intersection, unless a different distance is indicated by official signs, markings or parking meters. [Added 11-8-2004]

F. No person shall park an automobile or any other vehicle in such a manner as to block, impede or prevent the free passage of pedestrians on a crosswalk. [Added 11-8-2004]

G. No person shall park an automobile or any other vehicle alongside or opposite any street excavation or obstruction which when parking, standing or stopping would obstruct traffic. [Added 11-8-2004]

H. No person shall park an automobile or any other vehicle upon any bridge or elevated structure upon a highway or within a highway tunnel, unless otherwise indicated by official signs, markings or parking meters. [Added 11-8-2004]

I. No person shall park any automobile or any other vehicle on any railroad tracks in such a manner as to block, impede or prevent the free passage of railroad trains. [Added 11-8-2004]

J. No person shall park any automobile or any other vehicle in such a manner as to block, impede or prevent the use of a fire hydrant, unless otherwise indicated by official signs or markings. [Added 11-8-2004]

§ 257-27. Winter parking restrictions. [Amended 3-26-1990; 3-12-2007; 6-8-2009; 11-26-2012]

The Mayor, at his discretion, may impose an alternate side parking restriction commencing on or after December 1 and continuing through March 31. The Mayor may, however, begin the alternate side parking restriction prior to December 1 at his discretion based on weather conditions. The Mayor may also suspend or remove the alternate side parking restriction prior to March 31 at his discretion if weather conditions permit. During such time as the alternate side parking restriction is imposed, the parking of any vehicle on any City street or highway from 1:00 a.m. to 6:00 a.m. on an even-numbered side of the street on an odd calendar day, or on an odd-numbered side of the street on an even calendar day, shall be prohibited. This is in addition to, and not in lieu of, any other permanent parking restriction that may apply.

§ 257-28. Parallel parking. [Amended 11-8-2004 by Res. No. 424-2004]

Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway shall be so stopped, standing or parked parallel and within 12 inches from the edge or curb of the roadway and headed in the direction of lawful traffic.

§ 257-29. Parking or standing for certain purposes prohibited.

No person shall leave a vehicle parked or standing upon any roadway for the principal purpose of greasing or repairing such vehicle, except repairs necessitated by an emergency.

§ 257-30. Authority to establish parking regulations in certain parking areas. [Amended 11-27-1989]

The Traffic Committee is hereby authorized, pursuant to the written request of the owner, the person in general charge of the operation and control of such area or the Fire Chief of the city thereof, to prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of hospitals, shopping centers, private apartment complexes and private condominium complexes and to enforce said regulations and to determine that the cost of said signage for said regulations shall be borne by the hospital, shopping center or private apartment complex and that such signage be in conformance with the Manual of Uniform Traffic Control Devices.

§ 257-31. Authority to enforce traffic violations on private property. [Added 11-27-1989]

For the purpose of protecting the property of the city's inhabitants and to preserve peace and good order, no person shall park a motorized vehicle, automobile or trailer on the lawns or driveways of privately owned property without the consent of the owner of such property. This provision shall be enforced pursuant to § 257-8 of this chapter.

§ 257-32. No parking at any time.

The parking of vehicles is hereby prohibited at all times in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XI.

§ 257-33. Standing prohibited.

The standing of vehicles at any time is hereby prohibited in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XII.

§ 257-34. Stopping prohibited.

The stopping of vehicles at any time is hereby prohibited in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XIII.

§ 257-35. Parking prohibited certain hours and/or days.

The parking of vehicles is hereby prohibited during certain hours and/or certain days in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XIV, during the times and days indicated.

§ 257-36. Limited time parking.

The parking of vehicles is hereby prohibited in the locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Scheduled Book, Schedule XV, for a longer period of time than that designated, during the hours indicated, on any day except

Sundays and holidays.

§ 257-37. Off-street parking areas.

The properties owned or leased by the City of Oswego and described in the regulations duly adopted by the Traffic Committee are hereby designated as off-street municipal parking areas, and parking in such areas shall be restricted as indicated by regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XVI.

ARTICLE VII, Special Zones and Areas

§ 257-38. Reserved parking areas.

A. The parking of vehicles in the reserved parking zone for the handicapped is hereby prohibited, unless the vehicle is transporting and discharging a handicapped individual and a valid handicapped parking permit is in effect and visibly displayed or the vehicle has been licensed by the New York State Department of Motor Vehicles with a handicapped license.

B. Reserved parking zones for the handicapped are hereby established at locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XVII.

C. The parking of vehicles in a reserved parking zone for official vehicles is hereby prohibited unless the vehicle is so designated and marked as the vehicle for which the zone was designated.

D. Reserve parking zones for official vehicles are hereby established at locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XVIII.

§ 257-39. Snow emergency streets; snow removal zones.

A. Snow emergency streets are hereby established on streets described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XIX.

B. The parking of vehicles on posted snow emergency streets during a period of snow emergency as designated by the Mayor under Article III, § 257-10, is hereby prohibited.

C. The head of the Traffic Section shall have the authority to prohibit parking on streets, by the use of temporary signs and for a period not to exceed 24 hours, for the purposes of snow removal. Such regulations shall have the full effect of a standard no-parking regulation.

§ 257-40. Loading zones.

The locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XX, are hereby designed as loading zones, and the standing and parking of vehicles is hereby prohibited in such locations, except for the expressed purpose of loading and unloading of merchandise, goods and materials.

§ 257-41. Bus stops.

The locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XXI, are hereby designated as bus stops, and the parking or standing of vehicles other than buses is hereby prohibited in such locations.

§ 257-42. Taxi stands.

The locations described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Section XXII, are hereby designated as taxi stands, and the standing or parking of vehicles other than taxis is hereby prohibited in such locations. Taxis using such stands shall not be left unattended and shall be subject to all other vehicles and traffic regulations of the city.

ARTICLE VIII, Trucks and Buses

§ 257-43. Truck exclusions.

A. All trucks, and/or commercial vehicles, tractors or tractor-trailer combinations, in excess of five tons are hereby excluded from the streets and highways or parts thereof described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XXIII.

B. The regulations established in this section shall not be construed to prevent the delivery or pickup of merchandise or other property along the streets or highways from which such

vehicles and combinations are otherwise excluded.

§ 257-44. Weight exclusions.

All vehicles in excess of the tonnage described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XXIV, are hereby excluded from designated structures in the City of Oswego.

§ 257-45. Height exclusions.

All vehicles in excess of the minimum height described in the regulations duly adopted by the Traffic Committee and entered in the System of Schedules Book, Schedule XXV, are hereby excluded from designated roadways in the City of Oswego.

§ 257-46. Parking restrictions.

A. No bus, truck, tractor or tractor-trailer combination in excess of 25 feet in length shall be parked on any street or highway of this city.

B. Buses, trucks, tractors or tractor-trailer combinations in excess of 25 feet in length may be parked or left standing for a period of time not in excess of 30 minutes, for comfort only, provided that the prior specific permission of a police officer is obtained.

C. No trailer section of a tractor-trailer combination shall be parked or left standing on any street or public space of this city unless connected to a tractor section and in condition to be moved at any time.

D. No boat, trailer or recreational vehicle shall be parked or left standing on any street, municipal parking lot or public space of this city unless it is connected to a licensed motorized vehicle and in condition to move at any time and said boat, trailer or recreational vehicle shall not exceed 20 feet in length. Municipal parking lots authorized by the Traffic Committee shall be posted and exempt from this restriction. [Added 4-22-1991]

§ 257-47. Restrictions of loading and unloading.

No truck, tractor or tractor-trailer combination in excess of 25 feet in length shall be stopped or left standing for the purposes of loading or unloading freight and merchandise on any street in the congested district of the City of Oswego between the hours of 12:00 noon and 1:30 p.m.

ARTICLE IX, Miscellaneous

§ 257-48. Pushcarts.

Every person propelling any pushcart or similar vehicle upon a street or highway within the city shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which, by their very nature, can have no application.

§ 257-49. Play vehicles. [Amended 11-24-1997]

A. No person shall use or operate a play vehicle upon any public street, highway, public space, sidewalk or any public property in the City of Oswego:

(1) In a careless manner, without due caution or care toward themselves and others; or

(2) While acting in any manner that may create a risk of harm or danger to any person or property; or

(3) In any manner to impede or interfere with pedestrian or vehicular traffic; or

(4) In any areas where signs are legally posted forbidding such activity; or

(5) On any sidewalk, street or lands which, because of their condition or maintenance, are not safe or suitable for such activity.

B. Operators of play vehicles shall observe the following precautions:

(1) Every person operating a play vehicle shall operate the same in strict compliance with Article 34 of the New York State Vehicle and Traffic Law, in any provision that shall apply to said vehicle.

(2) The operator of a play vehicle emerging from an alley, driveway or building shall, upon approaching a sidewalk, yield the right-of-way to all pedestrians.

(3) Whenever a play vehicle is operated upon a sidewalk, the operator shall yield the right-of-way to all pedestrians and shall give an audible signal before overtaking and passing such pedestrian.

(4) Whenever a play vehicle is operated upon a public street, public space or roadway, the operator shall yield the right-of-way to any motor vehicle traffic.

(5) No person shall operate a play vehicle from 1/2 hour after sunset to 1/2 hour before sunrise unless such person is wearing reflective clothing, which shall be visible for a distance of not less than 50 feet or, when directly in front of the lawful beams of headlights on a motor vehicle, shall be visible for a distance of not less than 300 feet. Reflective clothing shall be described, for the purpose of this section, as any shirt, vest, jacket or other readily visible piece of clothing that shall be equipped with a reflective surface.

C. Violation of this section shall subject the violator to the following penalties:

(1) Any person violating any provision of this section shall be subject to the penalties provided in § 257-70 of the Code of the City of Oswego.

(2) In the event of a minor under the age of 16 years, the police are authorized to impound any play vehicle used in violation of these sections until the parent or guardian responsible for the minor shall appear at the Police Department with said minor.

§ 257-50. Closing of streets.

A. Except in the case of an emergency, and then only with the permission of the Police Department, no street shall be closed to traffic to allow operation therein of equipment for any construction or demolition work or other work on private property.

B. When streets are closed to traffic on account of any public improvement or work by any public service corporation, previous notice thereof shall be given to the Police Department and the Fire Department.

C. The Chief of Police shall have the authority to issue permits to close off streets or sidewalks for street bazaars, block dances and the like, subject to notification of the Chief Engineer of the Fire Department, the Traffic Section and the Commissioner of Public Works.

§ 257-51. Blocking of parking areas.

A. In connection with construction work on private property, no person shall place any barricades or other obstructions adjacent to the curbline in the traveled portion of the streets to prevent the parking or standing of vehicles, except in an emergency and then only with the consent of the Police Department.

B. The Traffic Section, upon approval of the Police Department, is hereby authorized, upon request of an owner of property or contractor, to place, temporarily, signs banning parking or standing in streets or highways adjacent to construction or demolition work. Such signs shall remain the property of the City of Oswego and shall be returned in good condition at the

completion of the project for which they were issued.

§ 257-52. Permit for loading or unloading of vehicles.

The Chief of Police is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials where reasonably necessary and when the same will not interfere with traffic or public safety and subject to terms and conditions set forth in such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein, and it shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit. Such permits shall be issued to cover only extraordinary or emergency conditions and shall not be construed to apply to any arterial within the boundaries of the City of Oswego.

§ 257-53. Driving through processions.

No driver of a vehicle, except an authorized emergency vehicle, shall drive between the vehicle comprising a funeral or other authorized procession while the same is in motion and when such vehicles are conspicuously designated. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

§ 257-54. Parking of commercial, farming and construction vehicles.

A. It shall be unlawful for any person to park overnight upon the streets of the city, without a permit from the Chief of Police, an unattended commercial, farm or construction vehicle or apparatus in such a manner that traffic may be obstructed or of such nature that children may be unduly attracted to it and thereby exposed to injury and unreasonable danger.

B. The Chief of Police shall have the authority to issue a permit to the owner of a commercial, farm or construction vehicle or apparatus which will allow him to leave the same unattended upon the city street overnight; provided, however, that the vehicle or apparatus is incapable of being started, operated or moved in any manner and that it is well lighted and protected with suitable flares and barricades and other such safeguards as the Chief of Police may specify.

§ 257-55. Vehicles on sidewalks.

No person shall ride, drive or operate any vehicle along any public sidewalk or footpath intended for the use of pedestrians. This section shall not apply to children 10 years of age or under nor to

invalids or cripples who cannot walk.

§ 257-56. Unnecessary noise from sounding of horns.

It shall be prohibited for any driver to sound his horn or cause or allow it to be sounded in any manner other than as a warning device. Specific restrictions are placed on wedding parties and other groups of vehicles traveling together as a means of celebration.

§ 257-57. Blowing of whistles.

It shall be prohibited to blow or sound or cause or allow to be blown or sounded a whistle similar in sound to a police whistle which, by its very nature, might confuse other drivers of vehicles on any street where there is heavy traffic at the time or at any time in the congested district of the City of Oswego.

§ 257-58. Use of loudspeakers and public address and sound systems.

A. The use of loudspeakers and public address and sound systems shall be prohibited on any street outside the congested district between the hours of 8:00 p.m. and 9:00 a.m.

B. The use of loudspeakers and public address and sound systems shall be prohibited on all streets and parts of streets in the congested district of this city between the hours of 6:00 p.m. and 10:00 a.m. and between the hours of 11:45 a.m. and 1:15 p.m.

C. The Police Department or Fire Department shall be permitted the use of such speakers and sound systems required in the performance of their duty throughout the 24 hours of the day.

§ 257-59. Special parking permits.

A. The Chief of Police shall have the authority to issue daily parking permits to contractors and their employees for the purpose of performing jobs. Such permits must be surrendered by the end of the day in which they are issued.

B. The Chief of Police shall have the authority to issue permanent parking permits to the personnel of the city or county government using city owned or county owned vehicles or vehicles owned by themselves in the process of performing their services to the county or the city. The personnel regularly working within departments of their government not requiring a vehicle for the performance of their duties are excluded from the use of such permits.

C. The Chief of Police shall have the authority to issue parking permits for one, two or three

days for the purpose of conventions, conferences or for visiting dignitaries.

D. The Chief of Police shall have the authority to issue permanent parking permits to handicapped persons as specified in § 1203-a of the Vehicle and Traffic Law of New York. These permits must be renewed annually on January 1.

§ 257-60. Keeping of records; reports.

A permanent record shall be maintained by the Chief of Police as to all permits issued under § 257-59 of this chapter, and a monthly report shall be submitted to the Traffic Committee, by the 10th day of the following month, covering the number of permits issued, period of time required and the basis for the permit.

§ 257-61. Operation of sound trucks.

The Chief of Police shall have the authority to issue one- , three- and fifteen-day permits to operators of sound trucks for the purpose of advertising upon the streets of this city under the provisions of § 257-58A and B of this chapter.

§ 257-62. Permits for business advertising.

The Chief of Police shall have the authority to issue one- , three- and fifteen-day permits to owners and managers of business places in this city for the purpose of advertising through the use of loudspeakers and public address systems under the provisions of § 257-58A and B of this chapter.

§ 257-63. Permits for music on certain holidays.

The Chief of Police shall have the authority to issue one- , three- and fifteen-day permits to owners and managers of business places in this city for the use of sound equipment in the playing of Easter and Christmas music.

§ 257-64. Parade permits.

The Chief of Police and the Mayor shall each have the authority to issue permits to organizations to parade through the streets of the city, provided that they meet the provisions of § 257-58A and B of this chapter. These permits may be revoked by both the Chief of Police and the Mayor acting together without prior notice.

§ 257-65. Revocation of permits.

The Chief of Police may revoke any permits issued under §§ 257-50C, 257-54B, 257-59, 257-62, 257-62, 257-63 and 257-64 of this chapter at any time after giving 24 hours' notice to the holder of the permit at the address given in the application.

§ 257-66. Restrictions on railroad trains.

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for the purposes of travel for a period longer than five minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching.

§ 257-67. Inspected vehicles. [Added 11-8-2004 by Res. No. 424-2004[EN(87)]]

No motor vehicle shall be parked upon the streets of the city unless a valid certificate or certificates of inspection is or are displayed upon the automobile or affixed to the registration certificate and in accordance with § 306(b) of the Vehicle and Traffic Law.

§ 257-68. Registered vehicles. [Added 11-8-2004 by Res. No. 424-2004]

No motor vehicle shall be parked upon a street of the city unless a valid certificate of registration is displayed upon the automobile and in accordance with § 401(l)(b) of the Vehicle and Traffic Law.

§ 257-69. License plates. [Added 11-8-2004 by Res. No. 424-2004]

No person shall park any automobile or any other vehicle without a license plate, or with only one license plate, or an improper license plate attached to the automobile or vehicle, unless exempted by the New York State Vehicle and Traffic Law.

ARTICLE X, Removal and Storage of Vehicles [Amended 11-28-1988; 11-8-2004 by Res. No. 424-2004]

§ 257-70. Authority to impound vehicles.

A. When any vehicle is parked or abandoned on any street, highway or parking area within this city during a snowstorm, flood, fire or other public emergency which affects that portion of the public street, highway or parking area upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Police Department of the City of Oswego.

B. When any vehicle is found unattended on any street, highway or parking lot within the city where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Police Department or the Traffic Section of the City of Oswego.

C. When any vehicle is parked or abandoned on any street, highway or parking lot within this city where stopping, standing or parking is prohibited, said vehicle may be removed by or under the direction of the Police Department of the City of Oswego.

D. After the removal of any vehicle as provided in this article, the vehicle shall be stored in a suitable place at the expense of the owner. For the purpose of this section, a "suitable place" shall be deemed to mean a properly fenced-in area owned or maintained by the City or a privately owned fenced-in area for which a towing company has provided a bond and evidence of insurance in the minimum amount of $1,000,000 naming the City of Oswego as an additional named insured on such policy. The Traffic Section shall maintain a list of such suitable places. A storage charge shall be $20 per day. Such charge shall be in addition to any fine payable for violation of laws, ordinances, rules or regulations. [Added 4-13-2009]

§ 257-71. Authority to impound or immobilize vehicles for delinquent parking tickets. [Amended 4-13-2009]

A. The City of Oswego finds that a significant number of vehicle owners fail to respond to parking summonses (tickets) issued for violations of parking orders, rules, regulations, ordinances and local laws; that a significant number of such owners are persistent violators; and that by reason of out-of-state registration of such vehicles, transfer of ownership and reregistration of such vehicles and other devices, violators frequently are able to evade existing enforcement measures.

B. By reason of the foregoing, the City of Oswego finds that the health, welfare and safety will be served by adoption of an ordinance providing additional means of enforcing parking orders, rules, regulations, ordinances and local laws in the case of vehicle owners who fail to timely respond to summonses (tickets) issued for parking violations.

C. The Chief of Police or his/ her designee is hereby authorized to provide for the removal of

and/or immobilization of vehicles against which three or more parking summonses (tickets) have been issued if three or more of such summonses (tickets) have not been answered within 60 days of the issuance date or dates shown on such summonses (tickets).

D. Any such vehicle found to be operating or parked on any Oswego City street, highway or parking area may be removed under the direction of the Police Department. In addition to, or in lieu of, towing, any such vehicle may be immobilized in such manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place. In any case involving immobilization of a vehicle pursuant to this subsection, such member of the Police Department shall cause to be placed on such vehicle, in a conspicuous manner, notice sufficient to warn any individual to the effect that any attempt to move such vehicle might result in damage to such vehicle.

E. If full payment of the outstanding fines for parking violations is not made by 5:00 p.m. on the day the vehicle is immobilized by a "boot" device, the Police Department may have the vehicle removed by towing or other means, and the registered owner would also be responsible for towing and storage fees.

F. Release of vehicle. Before the owner or person in charge of any vehicle taken into custody, or immobilized as above provided, shall be allowed to repossess or to secure the release of said vehicle, the owner or his/her agent shall pay, in cash or certified check, or the posting of a security bond, the following:

(1) To the City of Oswego: all sums legally due for parking fines issued against such vehicle and any motor vehicle registered in the name of the registered owner of the impounded motor vehicle.

(2) To the City of Oswego: a fee as set out in § 257-72C for the application and removal of said boot or immobilization device placed on such vehicle.

(3) To the towing service: the cost of towing and storage as set out in § 257-72B, if applicable.

G. If, after a vehicle has been towed or immobilized, any person shall remove such vehicle without complying with Subsection F(1) or shall do any damage to the immobilization device, then the owner of such vehicle and the person removing such vehicle or doing such damage shall, in addition to any other fines or penalties provided for under this subsection, be charged with criminal mischief, a Class A misdemeanor, and shall be liable for any damage done to the immobilization device or mechanism and in addition, be subject to a fine of not more than $100. In the event that the damages caused to the immobilization device or mechanism renders the said immobilization device or mechanism unable to be used again, then the person(s) damaging said immobilization device or mechanism shall be charged with

a felony and shall be liable for the damages done to the immobilization device or mechanism and, in addition, be subject to a fine of not more than $500.

(1) The owner of such vehicle may, as a defense to this Subsection G, plead and prove that at the time of such removal or damage, such vehicle was stolen, but only if, prior to such act or acts, notice of a stolen vehicle had been given to the applicable police authority.

§ 257-72. Storage; charges; fees.

A. After the removal of any vehicle as provided in this article, or in accordance with any other law, ordinance, rule or regulation governing the same, the vehicle shall be stored in a suitable place at the expense of the owner. For the purpose of this section, a "suitable place" shall be deemed to mean a properly fenced-in area owned or maintained by the city or a privately owned fenced-in area for which a towing company has provided a bond and evidence of insurance in an amount deemed satisfactory by the City Attorney. A list of such suitable places shall be maintained by the Traffic Section. [Amended 5-29-2012]

B. The owner or person in charge of the vehicle may redeem the same upon receipt of payment of the outstanding parking fines, in accordance with § 257-71F(l) and/or amount of all expenses actually and necessarily incurred in effecting such removal. Removal charges shall be $75, and storage charges shall be $20 per day or a fraction thereof. Such charges shall be in addition to any fine payable due to violation of laws, ordinances, rules or regulations. [Amended 4-13-2009]

C. The owner or person in charge of the vehicle shall pay a fee of $50 for the placement of the immobilization device or mechanism on his or her vehicle.

§ 257-73. Notice of removal.

The Traffic Violations Bureau shall, without delay, ascertain, to the extent possible, the owner of the vehicle or person having the same in charge and shall notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem the same.

ARTICLE XI, Penalties for Offenses; When Effective [Amended 11-28-1988; 11-8-2004 by Res. No. 424-2004]

§ 257-74. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter other than speeding tickets shall for a first conviction thereof be punished by a fine of not more than $100 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of 18 months, such person shall be punished by a fine of not more than $200 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than $300 or by imprisonment for not more than 90 days or by both fine and imprisonment.

§ 257-75. When effective.

A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York and § 46 of the Highway Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.

B. Any part of parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law and Section 46 of the Highway Law of the State of New York shall take effect from and after the day on which approval, in writing, is received from both the New York State Department of Transportation and the New York State Department of Public Works.

Chapter 263, WATER

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

GENERAL REFERENCES

Harbors -- See Ch. 143.
Plumbing -- See Ch. 184.
Sewers -- See Ch. 199.
Waterfront revitalization -- See Ch. 267.

ARTICLE I, Water System [Adopted 5-12-1980 as Ch. 116 of the 1980 Code]

§ 263-1. Inspection prior to use. [Amended 10-28-1996 by L.L. No. 4-1996]

All water pipes, water services and plumbing fixtures, works and instrumentalities that use and operate with water drawn from and supplied by any water main of the water supply system of the City of Oswego, or water main of the water supply system of a water district supplied with water from the water supply system of the City of Oswego, shall conform to, comply with and meet the standards and requirements fixed and prescribed by the Charter and Plumbing Code of the City of Oswego and the New York State Uniform Fire Prevention and Building Code[EN(88)] and Public Health Law of the State of New York. All such water pipes, water services and plumbing fixtures, works and instrumentalities, before water may be drawn and supplied thereto from any such water main, shall be inspected by the Plumbing Inspector of the City of Oswego, who, if he finds that the same conforms to and meets the prescribed standards and requirements, shall thereupon issue and file with the Department of Water his inspection report and certification to that effect. In cases where water is to be drawn and supplied from a water main of a water district, he shall also file his inspection report and certification with the water district or town official in charge thereof. In the event that such inspector finds that such water pipes, water services and plumbing fixtures, works and instrumentalities do not conform to and meet the prescribed standards and requirements, then he shall promptly notify, in writing, the owner of such water pipes, water services and plumbing fixtures, works and instrumentalities and the plumber and/or contractor installing the same, specifying generally wherein such pipes, services and plumbing fixtures, works and instrumentalities do not conform to and meet the prescribed standards and requirements.

§ 263-2. Penalties for offenses.

Any person who shall turn on a supply of water from any such water main to any such water pipe, water service and plumbing fixtures, works and instrumentalities before the inspection herein required has been made and the inspection report and certificate of compliance therewith has been filed as herein required shall, upon conviction thereof, be subject to a fine of not more than one hundred dollars ($100.) or to imprisonment in the Oswego County Jail for not more than three (3) months or to both such fine and imprisonment.

ARTICLE II, Cross-Connection Control Program [Adopted 7-25-1994]

§ 263-3. Purpose.

The purposes of this Article are as follows:

A. To protect the public potable water supply served by the Oswego Water Department from the possibility of contamination or pollution by isolating, within its customers internal

distribution system, such contaminants or pollutants which could backflow or backsiphon into the public water system.

B. To promote the elimination or control of existing cross-connections, actual or potential, between its customers' in-plant potable water system and nonpotable systems.

C. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

§ 263-4. Authority. [Amended 10-28-1996 by L.L. No. 4-1996]

Authority for the adoption of this chapter is derived from the following:

A. In accordance with the Federal Safe Drinking Water Act of 1974 and the statutes of the State of New York, Chapter 879 Article II, Section 1100, which state that the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

B. The Oswego Water Department, Rules and Regulations, as adopted.

§ 263-5. Superintendent of Water powers and duties.

The Superintendent of Water shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Superintendent of Water, an approved backflow device is required at the city's water service connection to any customer's premises, the Superintendent of Water, or his delegated agent, shall give notice, in writing, to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall, within ninety (90) days, install such approved device or devices, at his own expense, and failure or refusal or inability on the part of the customer to install said device or devices within ninety (90) days shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed or by fines of up to five hundred dollars ($500.) per month.

§ 263-6. Definitions.

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

APPROVED -- Accepted by the Superintendent of Water as meeting an applicable specification

stated or cited in this regulation, or as suitable for the proposed use.

AUXILIARY WATER SUPPLY -- Any water supply on or available to the premises other than the purveyor's approved public potable water supply.

BACKFLOW -- The flow of water or other liquids, mixtures or substances under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTER -- A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as any of the following:

A. AIR GAP -- A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

B. ATMOSPHERIC VACUUM BREAKER -- A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

C. BAROMETRIC LOOP -- A fabricated piping arrangement rising at least thirty five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.

D. DOUBLE-CHECK VALVE ASSEMBLY -- An assembly of two (2) independently operating spring-loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

E. DOUBLE-CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT -- A device having two (2) spring-loaded check valves separated by an atmospheric vent chamber.

F. HOSE BIBB VACUUM BREAKER -- A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

G. PRESSURE VACUUM BREAKER -- A device containing one (1) or two (2) independently operated spring-loaded check valves and an independently operated spring-loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

H. REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTER -- An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing

shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

I. RESIDENTIAL DUAL CHECK -- An assembly of two (2) spring-loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.

BACKPRESSURE -- A condition in which the owners system pressure is greater than the suppliers system pressure.

BACKSIPHONAGE -- The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

COMMISSION -- The State of New York Water Supply and Pollution Control Commission.

CONTAINMENT -- A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.

CONTAMINANT -- A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

CROSS-CONNECTION -- Any actual or potential connection between the public water supply and a source of contamination or pollution.

DEPARTMENT -- City of Oswego Water Department.

FIXTURE ISOLATION -- A method of backflow prevention in which a backflow preventer is located to correct a cross-connection at an in-plant location rather than at a water service entrance.

OWNER -- Any person who has legal title to or license to operate or habitat in a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

PERSON -- Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality or the United States or any other legal entity.

PERMIT -- A document issued by the Department which allows the use of a backflow preventer.

POLLUTANT -- A foreign substance that if permitted to get into the public water system will degrade its quality so as to constitute a moderate hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

WATER SERVICE ENTRANCE -- That point in the owners water system beyond the sanitary control of the City; generally considered to be the outlet end of the water meter and always before any unprotected branch.

SUPERINTENDENT OF WATER -- The Superintended, or his delegated representative in charge of the Oswego Department of Water, is invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of the ordinance.

§ 263-7. Administration of program.

A. The Department will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the Commission's Cross-connection Regulations and is approved by the Commission.

B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Regulations if a cross-connection is permitted.

C. If the Department requires that the public supply be protected by containment, the owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose. He may utilize public health officials or personnel from the Department or their delegated representatives to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices and the proper installation of these devices.

§ 263-8. Requirements.

A. Department.

(1) On new installations, the Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, issue permits and perform inspections and testing. In any case, a minimum of a dual-check valve will be required in any new construction.

(2) For premises existing prior to the start of this program, the Department will perform evaluations and inspections of plans and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed; however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.

(3) The Department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to ensure satisfactory operation.

(4) The Department shall inform the owner by letter, of any failure to comply, by the time of the first reinspection. The Department will allow an additional fifteen (15) days for the correction. In the event that the owner fails to comply with the necessary correction by the time of the second reinspection, the Department will inform the owner, by letter, that the water service to the owner's premises will be terminated within a period not to exceed five (5) days. In the event that the owner informs the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department, but in no case will exceed an additional thirty (30) days.

(5) If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

(6) The Department shall have on file a list of private contractors who are certified backflow device testers. All charges for these tests will be paid by the owner of the building or property.

(7) The Department will begin initial premises inspections to determine the nature of existing or potential hazards following the approval of this program during the calendar year 1994. Initial focus will be on high-hazard industries and commercial premises.

B. Owner.

(1) The owner shall be responsible for the elimination or protection of all cross-connections on his premises.

(2) The owner, after having been informed by a letter from the Department, shall, at his expense, install, maintain, and test or have tested any and all backflow preventers on his premises.

(3) The owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.

(4) The owner shall inform the Department of any proposed or modified cross-connections and also any existing cross-connections of which the owner is aware but has not been found by the Department.

(5) The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow

testing to take place.

(6) The owner shall install backflow preventers in a manner approved by the Department.

(7) The owner shall install only backflow preventers approved by the Department.

(8) Any owner having a private well or other private water source must have a permit if the well or source is cross-connected to the Department's system. Permission to cross-connect may be denied by the Department. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.

(9) In the event that the owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.

(10) The owner shall be responsible for the payment of all fees for permits, annual or semiannual device testing, retesting, in the case that the device fails to operate correctly, and second reinspections for noncompliance with Department requirements.

§ 263-9. Degree of hazard.

The Department recognizes the threat to the public water system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices or double-check valves.

§ 263-10. Permits.

A. The Department shall not permit a cross-connection within the public water supply system, unless it is considered necessary and that it cannot be eliminated.

B. Cross-connection permits that are required for each backflow prevention device are obtained from the Department. A fee of twenty-five dollars ($25.) will be charged for the initial permit and twenty-five dollars ($25.) for the renewal of each permit.

C. Permits shall be renewed every three (3) years and are nontransferable. Permits are subject to revocation and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service.

D. A permit is not required when fixture isolation is achieved with the utilization of a nontestable backflow preventer.

§ 263-11. Existing in-use backflow prevention devices.

Any existing backflow preventer shall be allowed by the Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or will result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device or a reduced pressure principle device must be installed in the event that no backflow device was present.

§ 263-12. Periodic testing.

A. Reduced pressure principle backflow devices shall be tested and inspected at least semiannually.

B. Periodic testing shall be performed by the Department's certified tester or his delegated representative. This testing will be done at the owner's expense.

C. The testing shall be conducted during the Department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the Department.

D. Any backflow preventer which fails during a periodic test will be repaired or replaced. When repairs are necessary, upon completion of the repair, the device will be retested at owners expense to insure correct operation. High-hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools or a replacement device. Parallel installation of two (2) devices is an effective means of the owner ensuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.

E. Backflow prevention devices will be tested more frequently than specified in Subsection A above, in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be born by the owner.

§ 263-13. Records and reports.

A. Records. The Department will initiate and maintain the following:

(1) Master files on customer cross-connection tests and/or inspections.

(2) Master files on cross-connection permits.

(3) Copies of permits and permit applications.

(4) Copies of lists and summaries.

B. Reports. The Department will submit the following:

(1) Initial listing of low-hazard cross-connections to the state.

(2) Initial listing of high-hazard cross-connections to the state.

(3) Annual update lists of Subsections B(1) and (2) above.

(4) Annual summary of cross-connection inspections to the State.

§ 263-14. Charges.

The Department will publish a list of fees or charges for the following services or permits:

A. Testing fees.

B. Retesting fees.

C. Fee for reinspection.

D. Charges for after-hours inspections or tests.

ARTICLE III, Water Haulers [Adopted 2-11-2002]

§ 263-15. Regulation of water haulers.

A. Water permit required. No person purchasing and hauling water from the Oswego City Water Department, in self-contained containers more than 200 gallons, shall transport any water over the streets of the City without having first obtained a water hauling permit from the City Clerk.

B. Application for water permit. A hauler's application for a hauling permit shall be in writing and shall contain such information as the Common Council shall require and shall be verified

by the applicant. Applications for a water hauling permit shall be obtained at the office of the City Clerk on forms provided by said office. The applicant shall file with his application a certificate or affidavit of insurance as hereinafter set forth and shall pay the required water hauling permit fee. Upon receipt of such application properly executed, the City Clerk shall refer the same to the Oswego City Police Department for a background check before issuing the water hauling permit and personal identification badge. Upon receiving the water hauling permit, the permit will be displayed in a conspicuous place on the driver's side window of each hauler.

(1) No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(a) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(b) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(c) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(d) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(e) No application fees shall be refunded upon revocation of the permit.

(f) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(g) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a

substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

C. Renewal. On or before December 31 of each and every year hereafter, the water permit shall be renewed by each water hauler. In the event the water permit is not renewed on or before December 31 of each year, the hauler will be suspended from hauling water within the City limits until the permit fee is paid.

D. Permit fee. Each water hauler shall be required to pay a permit fee of $200 for the first truck and $100 for each additional truck owned by a water hauling company, and a further fee of $25 for each additional driver or hauler owned by any water hauler company or used by any water hauler company in its water hauling operations, for the personal identification badge. Every year, the permit fee and i.d. badge fee shall be adjusted pursuant to the consumer price index. In the event of an increase in the fees, each water hauler shall be given notice of the increase.

(1) The permit fee shall be payable to the City Clerk; and

(2) The personal identification badge fee shall be paid to the City Police.

E. Insurance. The certificate or affidavit to be filed with the application shall be executed by the representatives of a duly qualified insurance company evidencing that said insurance company has issued liability and property damage insurance policies covering the following:

(1) All operations of the applicant, or any other person, firm or corporation employed by him/her within the corporate limits of the City of Oswego;

(2) Protecting the public and any person from injuries or damages sustained by reason of carrying on the work of hauling water;

(3) The certificate of affidavit shall specifically evidence the following amounts of insurance coverage, which shall remain in effect for the term of the license, and shall provide that written notice shall be given to the City Clerk 30 days prior to any change in the conditions of the certificate or any expiration or cancellation thereof;

(a) Public liability insurance: $500,000 per person; $1,000,000 per event.

(b) Property damage: $1,000,000 per accident.

F. Issuance of duplicate permits and/or i.d. badges. Whenever proof by means of a sworn affidavit shall be submitted to the City Clerk that a permit issued for the purpose set forth in this section has been lost or destroyed, the City Clerk may, upon payment of $5 by the

applicant, issue a new permit in lieu of the one that has been lost and/or destroyed. In the event the i.d. badge has been lost or destroyed, upon a sworn affidavit submitted to the City Police, the City Police, upon payment of $5 by the applicant, issue a new i.d. badge in lieu of the one that has been lost and/or destroyed.

G. Permit not transferable. No permit issued under this section provisions shall be transferable.

H. Revocation of permit. Upon receipt of one or more complaints against a hauler, the Common Council, after a hearing, shall have the power to suspend or revoke a permit granted or renewed pursuant to this section for violation of any part of this section or any applicable rules, regulations, codes or ordinances relating to the hauling of water.

I. Health permits. All water hauling companies and/or individuals authorized to haul water shall file, at the time of application, a certificate or permit issued by the Oswego County Health Department authorization to be a reseller of water.

J. Fees. The Water Department shall bill each water hauler monthly for the water consumption at the rate of $8 per 1,000 gallons. This rate is to be adjusted annually pursuant to the consumer price index.

K. Nonpayment of monthly charges. In the event any water hauler is more than 60 days in arrears in the monthly water consumption bill, then said water hauler's permit shall be suspended until the arrears are paid in full.

L. Penalties for offenses.

(1) Any hauler who violates any provision of this section or fails to comply with the orders of the local Police Department shall be liable for a fine not exceeding $500 for a single violation or a failure.

(2) Any other person who violates any provision of this section or fails to comply with the order of the local Police Department shall be liable to a fine not exceeding $100 for a single violation or failure.

M. Severability. Should any section, paragraph, sentence, clause or phrase in this section be declared unconstitutional or invalid for any reason, the remainder of the section shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this section are declared to be severable.

Chapter 267, WATERFRONT REVITALIZATION PROGRAM

[HISTORY: Adopted by the Common Council of the City of Oswego 4-28-1986 as L.L. No. 1-1986 (Ch. 119 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Harbors -- See Ch. 143.
Zoning -- See Ch. 280.

§ 267-1. Title.

This chapter shall be known and may be cited as the "City of Oswego Local Waterfront Revitalization Program Consistency Law."

§ 267-2. Purpose.

The purpose of this chapter is to provide for the protection and beneficial use of the natural and man-made resources within the City of Oswego waterfront by ensuring that certain actions proposed by city agencies will be undertaken in a manner consistent with the policies and purposes of the city's Local Waterfront Revitalization Program (LWRP).

§ 267-3. Statutory authority.

This chapter is adopted under the authority of the Municipal Home Rule Law, the State Environmental Quality Review Act (SEQRA)[EN(89)] and the State Environmental Quality Review Regulations, as amended.

§ 267-4. Applicability.

All agencies of the City of Oswego must comply with this chapter prior to carrying out any action within the waterfront area when such action is classified as Type I or unlisted under Part 617 of SEQRA.

§ 267-5. Definitions.

A. As used in this chapter, the following terms shall have the meaning indicated:

ACTION -- Either a Type I or unlisted action, as defined in SEQRA regulations at 6 NYCRR 617.2.

CITY -- The City of Oswego.

CITY AGENCY -- Any board, department, office, other bodies or officers of the City of

Oswego.

COMMON COUNCIL -- The Common Council of the City of Oswego.

EAF -- An environmental assessment form, as defined at 6 NYCRR 617.2(1).

EIS -- An environmental impact statement, as defined at 6 NYCRR 617.2(m).

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) -- The New York State local program to implement the New York State Coastal Management Program within the City of Oswego, as approved by the Secretary of State, pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State).

PART 617 -- The State Environmental Quality Review Regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

POLICIES AND PURPOSES OF THE OSWEGO LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) -- Those policies as listed and explained in Section 3 as well as the proposed land and water uses and projects as found in Section 4 of the Oswego Local Waterfront Revitalization Program Document, adopted on April 28, 1986, by Resolution No. 156-1986, a copy of which is on file in the City Clerk's Office and available for inspection during normal business hours. [Added 10-27-1986 by L.L. No. 3-1986]

SEQRA -- The State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).

WATERFRONT AREA -- That portion of the New York State coastal area within the City of Oswego as delineated in the City of Oswego Local Waterfront Revitalization Program.

B. All other terms for which definitions are given in SEQRA and/or Part 617 shall have the same meanings in this chapter. [Amended 10-27-1986 by L.L. No. 3-1986]

§ 267-6. Consistency review.

A. A city agency proposing to undertake a Type I action in the waterfront area shall refer the action, together with all pertinent information to the Common Council Legislative Planning Committee for review and recommendations regarding the action's consistency with the policies and purposes of the LWRP.

B. A city agency proposing to undertake an unlisted action in the waterfront area shall refer the action, together with all pertinent information, to the Chairman of the Common Council Legislative Planning Committee to determine whether a review is required by the full Legislative Planning Committee.

C. In either case, the review of the proposed action's consistency and preparation of written recommendations to the referring city agency shall be completed within thirty (30) days of a complete referral. A determination by the Chairman of the Common Council Legislative Planning Committee that additional information is needed for review shall automatically delay the start of the thirty-day review period until such time as complete information is submitted.

§ 267-7. Determination of consistency.

A. Certification of consistency.

(1) Prior to undertaking a proposed Type I or unlisted action in the waterfront area, each city agency shall either:

(a) Find and certify, in writing, that the action will not substantially hinder the achievement of any of the policies and purposes of the LWRP; or

(b) If the action will substantially hinder the achievement of any policy or purpose of the LWRP, the city agency shall instead find and certify that the following three (3) requirements are satisfied:

[1] No reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy or purpose.

[2] The action taken will minimize all adverse effects on the local policy and purpose to the maximum extent practicable.

[3] The action will result in an overriding regional or statewide public benefit.

(2) Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with the LWRP.

B. Such certifications shall only be made:

(1) Following a determination, pursuant to Section 6 or 7 of Part 617, that the proposed action will not have any significant adverse environmental impacts and, if referred to the Common Council Legislative Planning Committee for review and recommendation pursuant to § 267-6 of this chapter, either upon receipt of such recommendation, in writing, or after the lapse of thirty (30) days for the recommendation; or

(2) As part of findings prepared by the city agency, pursuant to Section 9 of Part 617, if the proposed action has been determined to have significant adverse environmental impacts and made subject to the environmental impact statement (EIS) procedures of Section 8

of Part 617.

C. Where certification is made as part of findings prepared pursuant to 6 NYCRR 69.9 [i.e., where § 267-7B(2) applies], it shall be filed with the findings in that section. Otherwise it shall filed with the City Clerk before that action is taken.

§ 267-8. When effective.

This chapter shall take effect immediately upon approval of the City of Oswego Local Waterfront Revitalization Program by the New York State Secretary of State.

Chapter 272, WEIGHTS AND MEASURES

[HISTORY: Adopted by the Common Council of the City of Oswego 5-12-1980 as Ch. 121 of the 1980 Code. Amendments noted where applicable.[EN(90)]]

§ 272-1. Approved weighing devices; penalties.

Every person, resident in the City of Oswego, selling meat or articles of provision by retail, whether by weight or measure, shall provide himself with scales, weights and measures sealed and marked with the appropriate devices by the Director of Weights and Measures, and use the same to ascertain the amount of such commodities so sold, but no spring balance, spring scale, spring steelyards or spring weighing machine shall be used for any such purpose, unless at least one (1) face or dial of any such spring balance, spring scale or spring steelyard or spring weighing machine shall at all times, when being used for weighing commodities for sale, be turned toward and exposed to the full view of the purchaser for whom said scales or any of them are being used. A violation of any of the provisions of this chapter is punishable by a fine of not less than two dollars ($2.) nor more than ten dollars ($10.).

§ 272-2. Incorrect weights and amounts; penalties.

Every person who sells, attempts to sell or expose for sale any article of provisions in any market or elsewhere within the city by light weight or short count or short measurement is subject to a fine of not less than ten dollars ($10.) nor more than fifty dollars ($50.).

§ 272-3. Use of sealed and marked weighing devices; penalty.

Any person using weights, measures, scale beams or steelyards in weighing any article intended

to be purchased or sold in the city, or in the weight or measurement of which other persons or the public are interested, shall cause such weights, measures, scale beams or steelyards to be sealed and marked by the Director of Weights and Measures, and any person who shall neglect or refuse to have the same so marked and sealed shall be subject to a fine of five dollars ($5.).

§ 272-4. Inspection.

The Director of Weights and Measures shall have the care and custody of the city standards of weights and measures and all weights and measures adjusted by him shall be made conformable to the standards of the state. He shall at least twice in each year and oftener, if he deems it necessary, visit the markets, stores, shops and other places where weights, measures, scales, beams or other measuring apparatus are used and examine the same, and also measures marked on any counter, seat or fixture, and in case they be found not conforming to law, to report the same to the Common Council.[EN(91)]

§ 272-5. Director to keep register; failure to conform; penalties.

The Director shall make a regular register of the weights, measures and beams inspected by him, in which he shall record the names of the persons owning the same and whether the same are conformable to the standards of the state. When any such beam, weight or measure is not conformable, if the Director shall require the same to be properly adjusted, and if the owner shall neglect or refuse so to do, such owner shall be subject to a fine of not less than five dollars ($5.) nor more than ten dollars ($10.) and to a like fine for every twenty-four (24) hours he shall continue such neglect and (or) refusal after the first conviction.

§ 272-6. Public scales; weighers.

The Common Council shall designate annually as many scales as public scales for the weighing of coal, hay and other articles as the public good may require. The owner or owners, lessee or lessees of the scales so designated shall be the public weigher or weighers hereinafter referred to during the period for which said scales are so designated. Such public weigher or weighers shall be sworn to a faithful performance of his or their duties before entering upon the discharge of them.

§ 272-7. Weigher's procedure.

Every such weigher or his representative shall be at or near the scales of which he has the charge at all reasonable times, ready to weigh all articles offered for that purpose. He shall deliver to the

driver or owner or purchaser of every load weighed a certificate under his hand specifying the name of the driver or owner, his place of residence, the name of the article weighed, the weight thereof and the tare, the date and the fees charged. He shall keep a true account of all articles weighed by him and record the same in a book kept for that purpose, which shall at all times be open for public inspection, and when filled be delivered to the City Clerk. Said record shall contain the same particulars that are required to be stated in the certificate described in this chapter.

§ 272-8. Records.

The City Clerk shall furnish to said weigher and each of them blank certificates having spaces indicated thereon for the name of the owner or driver of the load as required, his place of residence, the name of the article weighed, the weight thereof, the tare, the date and fees charged and the name of the weigher.

§ 272-9. Record of fees.

The City Clerk shall keep a record of the number of blank certificates furnished each weigher or weighers, and settlements shall be made quarterly from the first of January each year with the city for the city's portion of the fees received for weighing by such weigher or weighers, and such settlements shall be adjusted in accordance with the number of blank certificates returned by said weigher or weighers to the City Clerk on such quarterly settlements.

§ 272-10. Weighing fees.

The fees for weighing to be received by the weighers, which they shall pay to the City Clerk quarterly, less the percentage hereinafter mentioned, shall be as follows,: one cent and a half ($0.015) for every hundred (100) pounds of coal, pig iron, ice or sand, and one cent ($0.01) for every hundred (100) pounds of an other article; provided, however, that the fees for weighing any article, other than hay and straw, shall never be less than ten cents ($0.10); and provided further that the fees for weighing stone shall be ten cents ($0.10) for a single load, and fifteen cents ($0.15) for a double load. The vehicle containing the same and other tare shall be weighed without charge, and no fees shall be taken for weighing done on account of the city.

§ 272-11. Weigher's compensation; remainder of fees.

Each weigher shall receive and may retain as full compensation for his services a sum equal to seventy-five percent (75%) of the fees received by him. He shall pay the remainder of such fees

to the City Clerk, who shall immediately turn the same over to the City Chamberlain, who shall place the same to the credit of the contingent fund of the city.

§ 272-12. Maintenance of scales.

It shall be the duty of the weighers to keep the scales under their care in good order and clear of snow and ice, so that they shall be in good condition for use at all times, and the Director of Weights and Measures shall have the general control and supervision of all such scales and shall test and certify the same once in every three (3) months in each year.

§ 272-13. Weigher's dishonesty; penalty. EN(92)

A weigher who shall falsely or fraudulently weigh or certify to the weight of any hay, coal or other articles or fail to furnish a statement, as required, of the actual tare thereof or willfully refuse to give the certificate provided for in the foregoing section upon due payment of the fees or fail to account to and pay over to the City Chamberlain the city's share of the fees received by him shall be guilty of a misdemeanor punishable by a fine of one thousand dollars ($1,000.) or imprisonment for one (1) year, or both.

Chapter 274, WIRELESS TELECOMMUNICATIONS FACILITIES

[HISTORY: Adopted by the Common Council of the City of Oswego 6-14-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Trees -- See Ch. 240.
Utility poles -- See Ch. 245.
Zoning -- See Ch. 280.

§ 274-1. Purpose and legislative intent.

A. The Telecommunications Act of 1996 affirmed the City of Oswego's authority concerning the placement, construction and modification of wireless telecommunications facilities. The City of Oswego finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants.

B. The Common Council further finds that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the

City and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this chapter is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Oswego.

§ 274-2. Severability.

A. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

B. Any special use permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

§ 274-3. Definitions.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

ACCESSORY FACILITY OR STRUCTURE -- An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including, but not limited to, utility or transmission equipment storage sheds or cabinets.

ANTENNA -- A system of electrical conductors that transmits or receives electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the

City's siting, building and permitting authority.

APPLICANT -- Any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

APPLICATION -- All necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

COLLOCATION -- The use of a tower or structure to support antennas for the provision of wireless services without increasing the height of the tower or structure.

COMMERCIAL IMPRACTICABILITY OR COMMERCIALLY IMPRACTICABLE -- The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercial impracticable" and shall not render an act or the terms of an agreement "commercially impracticable."

COMPLETED APPLICATION -- An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

COUNCIL -- The Common Council of the City of Oswego.

FAA -- The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC -- The Federal Communications Commission, or its duly designated and authorized successor agency.

HEIGHT -- When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

MODIFICATION or MODIFY -- The addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER -- Non-ionizing electromagnetic radiation.

PERSON -- Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY -- See definition for "wireless telecommunications facilities."

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS -- All have the same meaning as defined and used in the 1996 Telecommunications Act.

RFE -- Radio frequency emissions.

STEALTH or STEALTH TECHNOLOGY -- Minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

TELECOMMUNICATIONS -- The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS SITE -- See definition for "wireless telecommunications facilities."

TELECOMMUNICATIONS STRUCTURE -- A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

TEMPORARY -- Temporary in relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than 90 days.

WIRELESS TELECOMMUNICATIONS FACILITIES -- Means and includes a "telecommunications tower" and "tower" and "telecommunications site" and "personal wireless facility"; a structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures that employ stealth technology, including, but not limited to, structures such as a multistory building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt

from the City's siting, building and permitting authority, excluding those used exclusively for the City's fire, police or exclusively for private, noncommercial radio and television reception and private citizen's bands, amateur radio and other similar noncommercial telecommunications where the height of the facility is below the height limits set forth in this chapter.

§ 274-4. Policy and goals for special use permits.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the City's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this chapter, the City hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

A. Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;

B. Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.

C. Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless telecommunications facilities among service providers;

D. Promoting and encouraging, wherever possible, the placement, height, stability and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

§ 274-5. Special use permit application and other requirements.

A. All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this chapter. The City Council is the officially designated agency or body of the City to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The City may at its discretion delegate or designate other official agencies of the City to accept, review, analyze, evaluate and make recommendations

to the City Council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

(1) No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies"). [Added 2-9-2015 by L.L. No. 2-2015; amended 8-14-2015 by L.L. No. 6-2015]

(a) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(b) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(c) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(d) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(e) No application fees shall be refunded upon revocation of the permit.

(f) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(g) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10% of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

B. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of

the contents and representations made therein and attesting to the truth and completeness of the information.

(1) If the application is for a new tower, the landowner, if different than the applicant, shall also sign the application. If applicant owns the property, a copy of the ownership record is required.

(2) If the application is for a collocation or modification, the applicant must provide documentation to verify it has the right to proceed as proposed on the site. This would require an executed copy of the lease with the landowner or landlord. If the applicant owns the site, a copy of the ownership record is required.

C. The City may reject applications not meeting the requirements stated herein or which are otherwise incomplete.

D. The applicant shall include a statement in writing:

(1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, state and federal laws, rules, and regulations;

(2) That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the state.

E. No wireless telecommunications facilities shall be installed or constructed until the application is reviewed and approved by the City, and the special use permit has been issued.

F. All applications for the construction or installation of new wireless telecommunications facilities shall contain the information hereinafter set forth. Where a certification is called for in this chapter, such certification shall bear the signature and seal of a professional engineer licensed in the state. The application shall include the following information:

(1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

(2) The name, address and phone number of the person preparing the report;

(3) The name, address, and phone number of the property owner and applicant, and to include the legal name of the applicant. If the site is a tower and the owner is different

that the applicant, provide name and address of the tower owner;

(4) The postal address and Tax Map parcel number of the property;

(5) The zoning district or designation in which the property is situated;

(6) The size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

(7) The location of the nearest residential structure;

(8) The location, size and height of all structures on the property which is the subject of the application;

(9) The location, size and height of all proposed and existing antennas and all appurtenant structures;

(10) The type, locations and dimensions of all proposed and existing landscaping, and fencing;

(11) The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;

(12) The make, model and manufacturer of the tower and antenna(s);

(13) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;

(14) The frequency, modulation and class of service of radio or other transmitting equipment;

(15) The actual intended transmission and the maximum effective radiated power of the antenna(s);

(16) The direction of maximum lobes and associated radiation of the antenna(s);

(17) Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the wireless telecommunications facility with the proposed installation will be in full compliance with the current FCC RFE's guidelines (NIER); if not categorically excluded, a complete RFE's study is required to provide verification.

(18) A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;

(19) A copy of the FCC license applicable for the intended use of the wireless

telecommunications facilities;

(20) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.

G. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the application, along with any letters of rejection stating the reason for rejection.

H. The applicant shall certify that the telecommunications facility, foundation and attachments are designed and will be constructed to meet all local, City, state and federal structural requirements for loads, including wind and ice loads.

I. The applicant shall furnish a visual impact assessment, which shall include:

(1) A " Zone of Visibility Map," which shall be provided in order to determine locations from which the tower may be seen.

(2) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites, at a preapplication meeting.

(3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

J. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed wireless telecommunications facilities.

K. Any and all representations made by the applicant to the City on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the City.

L. All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National

Electrical Code where appropriate.

M. All wireless telecommunications facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.

N. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may required by the City.

O. At a telecommunications site, an access road, turnaround space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

P. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code, New York State Fire Protection Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

Q. A holder of a special use permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

R. An applicant shall submit to the City the number of completed applications determined to be needed at the preapplication meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities.

S. The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future collocations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna

as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

(1) The foreseeable number of FCC licenses available for the area;

(2) The kind of wireless telecommunications facilities site and structure proposed;

(3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;

(4) Available space on existing and approved towers.

T. The owner of the proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

(1) Respond within 60 days to a request for information from a potential shared-use applicant;

(2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

(3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(4) Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit for the tower.

U. There shall be a preapplication meeting. The purpose of the preapplication meeting will be to address issues that will help to expedite the review and permitting process. A preapplication meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the City's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.

V. The holder of a special use permit shall notify the City of any intended modification of a wireless telecommunications facility and shall apply to the City to modify, relocate or rebuild a wireless telecommunications facility.

W. In order to better inform the public, in the case of a new telecommunications tower, the

applicant shall, prior to the public hearing on the application, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the City. The applicant shall inform the City, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.

X. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines, that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

§ 274-6. Location of wireless telecommunications facilities.

A. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, (1) being the highest priority and (4) being the lowest priority: [Amended 9-27-2004by Res. No. 385-2004]

   (1) On existing towers or other structures without increasing the height of the tower or structure;

   (2) On City-owned properties;

   (3) On properties in areas zoned for industrial use;

   (4) On properties in areas zoned for commercial use;

B. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

C. An applicant may not bypass sites of higher priority by stating the site proposed is the only

site leased or selected. An application shall address collocation as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of commercial impracticability or hardship.

D. Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

E. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

F. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application for any of the following reasons:

(1) Conflict with safety and safety-related codes and/or requirements;

(2) Conflict with the historic nature or character of a neighborhood or historical district;

(3) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

(4) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;

(5) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to commercial property;

(6) Conflicts with the provisions of this chapter.

§ 274-7. Shared use of wireless telecommunications facilities and other structures.

A. The City, as opposed to the construction of a new tower, shall prefer locating on existing towers or others structures without increasing the height. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some

other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure cannot be used.

B. An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

C. Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

§ 274-8. Height of telecommunications tower(s).

A. The applicant shall submit documentation justifying the total height of any tower, facility and/or antenna and the basis therefor. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

B. No tower constructed after the effective date of this chapter, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, City, state, and/or any federal statute, law, local law, City ordinance, code, rule or regulation.

§ 274-9. Visibility of wireless telecommunications facilities.

A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.

B. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this chapter.

C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

§ 274-10. Security of wireless telecommunications facilities.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and be constructed or shielded in such a manner that they cannot

be climbed or collided with; and

B. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

§ 274-11. Signage.

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, except OSHA, including advertising, shall be permitted.

§ 274-12. Lot size and setbacks.

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 10% of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

§ 274-13. Retention of expert assistance and reimbursement by applicant.

A. The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.

B. An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be $8,500. The placement of the $8,500 with the City shall precede the preapplication meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for their services in reviewing the application, including the construction and modification of the site,

once permitted. If at any time during the process this escrow account has a balance less than $2,500, the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least $5,000. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

C. The total amount of the funds needed as set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

§ 274-14. Exceptions from special use permit requirement.

A. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those noncommercial exceptions noted in the definition of "wireless telecommunications facilities."

B. All wireless telecommunications facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist; provided, however, that any visible modification of an existing wireless telecommunications facility must comply with this chapter.

§ 274-15. Public hearing and notification requirements.

A. Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the City, notice of which shall be published in the official newspaper of the City no less than 10 calendar days prior to the scheduled date of the public hearing. In order that the City may notify nearby landowners, the application shall contain the names and address of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.

B. The City Common Council shall schedule the public hearing referred to in Subsection A of this section once it finds the application is complete; the City Common Council, at any stage prior to issuing a special use permit, may require such additional information as it deems

necessary.

§ 274-16. Action on application for special use permit.

A. The City will undertake a review of an application pursuant to this chapter in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

B. The City may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.

C. After the public hearing and after formally considering the application, the City may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

D. If the City approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within 10 calendar days of the City's action, and the special use permit shall be issued within 30 days after such approval by the City Engineer. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the wireless telecommunications facilities covered by the special use permit.

E. If the City denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within 10 calendar days of the City's action.

§ 274-17. Extent and parameters of special use permit.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

A. Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the City.

B. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this chapter after prior written notice to the

holder of the special use permit.

§ 274-18. Application fee.

A. At the time that a person submits an application for a special use permit for a new tower, such person shall pay a nonrefundable application fee of $5,000 to the City. If the application is for a special use permit for collocating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the nonrefundable fee shall be $2,500.

B. No application fee is required in order to recertify a special use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in Subsection A shall apply.

§ 274-19. Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at their cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least $75,000 for a tower facility and $25,000 for a collocation on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terns and conditions of this chapter and conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit.

§ 274-20. Reservation of authority to inspect wireless telecommunications facilities.

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

§ 274-21. Liability insurance.

A. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

(1) Commercial general liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

(2) Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate;

(3) Workers compensation and disability: statutory amounts.

B. The commercial general liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional named insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' prior written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.

F. Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 274-22. Indemnification.

A. Any application for wireless telecommunications facilities that is proposed for City property, pursuant to this chapter, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses

arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

B. Notwithstanding the requirements noted in Subsection A of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a special use permit for wireless telecommunications facilities.

§ 274-23. Penalties for offenses.

A. In the event of a violation of this chapter or any special use permit issued pursuant to this chapter, the City may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the City, fines or penalties as set forth below.

B. Failure of the holder of a special use permit to comply with provisions of this chapter shall constitute a violation of this chapter and shall subject the applicant to the code enforcement provisions and procedures as provided in Chapter 280 of the Code of the City of Oswego.

C. Notwithstanding anything in this chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the City.

§ 274-24. Default and/or revocation.

If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the City shall notify the holder of the special use permit in writing of such violation.

§ 274-25. Removal of wireless telecommunications facilities.

A. Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of wireless telecommunications facilities:

(1) Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 990 consecutive days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

(2) Permitted wireless telecommunications facilities fall into such a state of disrepair that they create a health or safety hazard;

(3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

B. If the City makes such a determination as noted in Subsection A of this section, then the City shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed; the City may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the City. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the City.

D. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

E. If the City removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove them from the site to a lawful location within 10 days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

F. Notwithstanding anything in this section to the contrary, the City may approve a temporary

use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the special use permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

§ 274-26. Relief.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this chapter may request such at the preapplication meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the City, its residents and other service providers.

§ 274-27. Periodic regulatory review by City.

A. The City may at any time conduct a review and examination of this entire chapter.

B. If, after such a periodic review and examination of this chapter, the City determines that one or more provisions of this chapter should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire chapter at any time.

C. Notwithstanding the provisions of Subsections A and B of this section, the City may at any time and in any manner (to the extent permitted by federal, state, or local law) amend, add, repeal, and/or delete one or more provisions of this chapter.

§ 274-28. Adherence to state and/or federal rules and regulations.

A. To the extent that the holder of a special use permit for wireless telecommunications

facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RFE's standards.

B. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security, are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

§ 274-29. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, state or federal government, this chapter shall apply.

§ 274-30. When effective.

This chapter shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

§ 274-31. Authority.

This chapter is enacted pursuant to applicable authority granted by the state and federal government.

Chapter 276, WRIGHT'S LANDING

[HISTORY: Adopted by the Common Council of the City of Oswego: Art. I, 4-25-1983 as L.L. No. 3-1983 (Ch. 122 of the 1980 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Harbors -- See Ch. 143.

ARTICLE I, Rental Facilities [Adopted 4-25-1983 as L.L. No. 3-1983 (Ch. 122 of the 1980 Code)]

§ 276-1. Title.

This Article shall be known as the "Facilities Rental Law for Wright's Landing."

§ 276-2. Definitions.

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

NONRESIDENT -- A person who resides in any place other than the legal boundaries of the City of Oswego. EN(93)

RESIDENT -- A person whose legal residence is within the municipal boundaries of the City of Oswego.

SPECIAL EVENTS -- The events held at various times during each year, determined by the Common Council to be in the public interest, involving the primary and essential use of the Wright's Landing facilities.

TRANSIENT -- Any nonresident desiring less than seasonal rentals.

§ 276-3. Operation rules; fees.

A. Fees for boat slip rental, transient docking or any other purpose may be set by Common Council resolution annually on or before February 1 of each year. Fees for special events may be negotiated between the Common Council and any user or sponsor of the event. Special events shall be designated by the Common Council by resolution.EN(94)

B. The City of Oswego, through its Recreation Department, may establish rules for the safe and orderly operation of the Wright's Landing boating center. The city may require, through a rental contract, compliance with provisions which protect municipal property and the public good.

Chapter 280, ZONING

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

GENERAL REFERENCES

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

ARTICLE I, General Provisions

§ 280-1. Authority; adoption.

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

§ 280-2. Title.

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

§ 280-3. Purpose.

A. The purpose of this chapter, regulations and zoning districts as outlined on the Zoning Map are to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the street; to secure safety from fire, flood and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to promote the health, safety and general welfare of the public; for protection of residential neighborhoods; to promote health, safety, morals and comfort of residential properties; to protect neighborhoods from incompatible activities; for preservation and protection of property values, and to promote the appropriate use of the waterfront and allow adequate public access to the water. [Amended 4-14-1986; 5-29-2007]

B. This chapter's regulations and zoning districts have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

§ 280-4. Applicability.

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

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

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

A. Interpretation of intent of chapter. The provisions of this chapter shall be regarded as the minimum requirements for the protection and promotion of the health, safety and general welfare of the public.

B. Conflict between laws. This chapter is not intended to interfere with, abrogate or annul any other ordinance, regulation or other provisions of law. When this chapter imposes restrictions different from those imposed by any other statute, ordinance, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

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

the effective date of this chapter.

§ 280-6. Establishment of districts.

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

R1 Residential 1

R2 Residential 2

R3 Residential 3

R4 Residential 4

B1 Neighborhood Business

B2 Central Business

B3 Redevelopment

IN Industrial

PD Planned Development

§ 280-7. Zoning Map established.

The zoning districts are shown, defined and bounded on the Zoning Map accompanying this chapter. The Zoning Map is hereby made a part of this chapter and shall be on file in the office of the City Clerk.

§ 280-8. Interpretation of district boundaries.

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

A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such lines shall be construed to be

coincident with said boundaries.

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

C. Where district boundaries are so indicated that they follow the lot lines approximately, said district boundaries shall be construed to be coincident with such lot lines.

D. Where the boundary of a district follows a railroad line, such boundary shall be construed to be located midway between the main tracks of said railroad line.

E. Where the boundary of a district follows the Oswego River or a stream, such boundary shall be construed to be at the midpoint, or coincident with the center line, of the river or of such stream.

F. Where the boundary of a zoning district follows the Lake Ontario shoreline, the district boundary shall be construed to be such shoreline coincident with the limits of the City of Oswego; but if in the future water areas are filled and the shoreline advanced or if docks, piers and such other structures attached directly to the shoreline, or not directly attached but forming part of the physical facilities located on the shore, are constructed, such zoning district shall include these areas and facilities.

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

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

A. The regulations of the more restrictive district may be applied to the entire lot.

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

ARTICLE II, Terminology

§ 280-10. Word usage.

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

§ 280-11. Definitions.

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

ACCESSORY USE -- A use, building or other structure clearly incidental or subordinate, but customary, to a principal use. [Amended 3-14-1983]

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

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

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

B. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

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

A. Persons who appear in a state of nudity;

B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

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

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

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

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

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

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

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

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

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

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

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

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

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

on which such sign is located.

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

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

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

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

BUILDING HEIGHT -- Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

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

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

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

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

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

CONVALESCENT HOME AND CLINIC -- See definition of "nursing home." [Added

10-28-1996 by L.L. No. 4-1996]

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

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

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

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

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

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

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

EARTHMOVING OPERATIONS -- Any mining, quarrying, landfilling excavation or removal of earth products prior to processing for the purpose of sale or any other commercial purpose. Earth products include, but are not limited to, topsoil, landfill, sand, gravel, clay or stone. The removal of topsoil and landfill operations for the necessary and normal operations directly undertaken in connection with the construction of a building for which a building permit has been issued or the development of a subdivision plan is not within the purview of this definition.

[Added 10-28-1996 by L.L. No. 4-1996]

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

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

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

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

A. Purpose. It is the purpose of this chapter to define the definition of "family" in order to promote the legitimate preservation of the character of single-family areas, without violating the United States Due Process Clause and the New York State Due Process Clause by not excluding a group which is, in every but biological sense, a single family or a household which poses no threat to the good of preserving the character of the traditional single-family neighborhood.

B. The definition of "family" shall be:

   (1) Those related by blood, marriage or adoption, likely to be found in a unitary family; or

   (2) Not more than four unrelated individuals living in a stable nontransient household group; or

   (3) Not more than four unrelated individuals living in a stable transient household group.

C. It shall be a rebuttable presumption that a group of five or more persons living in a single dwelling unit to produce evidence that they constitute the definition of "functionally equivalent traditional family."

D. Factors in determining a group as a "functionally equivalent traditional family" shall be:

   (1) The group shares the entire dwelling unit; and

   (2) The group lives and cooks together as a single housekeeping unit; and

   (3) The group shares expenses for food, rent, utilities and other household expenses; and

   (4) The group is previously established as permanent and stable; and

(5) Each member of the group has equal access to all living areas within the single dwelling unit.

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

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

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

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

(1) Basement spaces, if included in the count of the number of stories or used for commercial purposes other than storage.

(2) Elevator shafts and stairwells at each floor.

(3) Floor space used for mechanical equipment, with structural headroom of seven feet six inches or more.

(4) Penthouses.

(5) Attic spaces providing structural headroom of seven feet six inches or more, whether or not a floor has actually been laid.

(6) Interior balconies and mezzanines.

(7) Enclosed porches.

(8) Accessory uses not including space used for accessory off-street parking.

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

(1) Accessory water tanks and cooling towers.

(2) Uncovered steps; exterior fire escapes.

(3) Terraces, breezeways, open porches and outside balconies.

(4) Accessory off-street parking spaces.

(5) Accessory off-street loading berths.

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

HOME OCCUPATION -- Accessory use of a service character conducted within a dwelling by residents thereof which is clearly secondary to dwelling use for living purposes and does not change the character or have any exterior evidence of such use and which conforms to the following additional conditions: [Amended 3-14-1983]

A. "Home occupations" shall be carried on wholly within the dwelling or an accessory building to the equivalent of one-third (1/3) the ground floor area of the dwelling. Not more than one nonresident person outside the family shall be employed. There shall be no exterior storage of materials used in the occupation and no storage in any location of merchandise available for sale on the premises.

B. "Home occupation" includes artists, baby-sitting, cooking, drafting, dressmaking, laundering, upholsterer, photographer, professional residence-office and other trades and businesses of a similar nature.

C. "Home occupation" shall not include animal hospitals, antique or other retail sales involving merchandise for sale on the premises, barber- or beauty shops, clinics, commercial stables or kennels, convalescent homes, garages or repair of motor vehicles, electrical, radio and television repair, furniture refinishing, mortuary, music or dancing instruction in groups, restaurants, woodworkings, machine shops, pattern making, sheet metal shops, tinsmithing shops, animal grooming, contracting offices and other trades and businesses of a similar nature. [Amended 8-27-1984]

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

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

JUNKYARD -- An area of land with or without buildings used for or occupied by the storage, keeping or abandonment of junk, including scrap metals or other scrap, used or salvaged

building materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more wrecked or broken-down vehicles or the major parts thereof for three months or more shall be deemed to make the lot a "junkyard."

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

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

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

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

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

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

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

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

MOBILE HOME -- A movable living unit, with or without wheels, whether on a foundation or rigid support, capable of being used for living quarters year round and not built to New York State Uniform Fire Prevention and Building Code regulations. A "mobile home" shall contain at least 380 square feet of floor area. A prefabricated dwelling built to New York Uniform Fire Prevention and Building Code regulations shall not be considered a "mobile home." [Amended 10-28-1996 by L.L. No. 4-1996]

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

MOORING SLIP -- Any dock, arrangement of piles or methods used to berth, secure or fasten a

boat. [Added 4-14-1986]

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

NOISOME AND INJURIOUS SUBSTANCES, CONDITIONS AND OPERATIONS

A. Physical hazard by reason of fire, explosion, radiation or other such cause to persons or property in the same or an adjacent district.

B. Discharge of any liquid or solid waste into any stream or body of water or into any public or private disposal system or into the ground of any materials of such nature that may contaminate any water supply, including the groundwater supply.

C. Storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin.

D. Smoke, measured at the point of emission, of a shade that is darker than No. 3 on the Ringelmann Chart.

E. Fly ash or dust which can cause damage to the health of persons, animals or plant life or to other forms of property or excessive soil, measured at or beyond any property line.

F. Offensive or objectionable odors noticeable at the property line or beyond.

G. Reflected or direct glare caused by any process, lighting or reflecting material in a degree to be objectionable at any property line or beyond.

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

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

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

NURSING HOMES -- An approved or licensed establishment which provides full-time

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

OSWEGO WATERFRONT REVITALIZATION AREA BOUNDARY -- That portion of the New York State Coastal Area Boundary within the City of Oswego Local Waterfront Revitalization Program (LWRP) described and mapped in Section One of the Oswego LWRP, adopted on April 28, 1986, by Resolution No. 156-1986,[EN(95)] a copy of which is on file in the City Clerks office and is available for inspection during normal business hours. [Added 1-12-1987]

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

OWNER -- The person or persons holding title to the property.

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

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

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

POLICIES AND PURPOSES OF THE OSWEGO LOCAL WATERFRONT REVITALIZATION PROGRAM -- Those policies as listed and explained in Section Three, as well as the proposed land and water uses and projects as found in Section Four, of the Oswego Local Waterfront Revitalization Program Document, adopted on April 28, 1986, by Res. No. 156-1986,[EN(96)] a copy of which is on file in the City Clerks office and available for inspection during normal business hours. [Added 1-12-1987]

PROFESSIONAL MEDICAL AND DENTAL OFFICES -- A commercial use or building

where personal services, as distinguished from the practice of a trade or business, are rendered by a practitioner of the learned professions, such as a lawyer or a physician, chiropractor, dentist, optometrist, architect, landscape architect, engineer or public accountant (as defined in the Education Law of the State of New York). [Added 10-28-1996 by L.L. No. 4-1996]

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

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

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

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

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

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

(1) Auto body repair businesses.

(2) Automotive repair businesses.

(3) Small engine repair businesses.

(4) Outboard motor repair businesses.

(5) Construction equipment repair businesses.

(6) Heavy maintenance for truck businesses.

(7) Repair for truck businesses.

(8) Gasoline service stations.

(9) Amusement arcades.

RETAIL STORE [Repealed 8-27-1984]

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

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

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

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is in a state of nudity or semi nude; or

B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude, except for medical procedures involving a licensed medical provider.

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

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

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

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

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

A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

C. Masturbation, actual or simulated.

D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C above.

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

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

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

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

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

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

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

A. Is devoted to outdoor recreational space, greenery and service space for household activities (such as clothes drying) which are normally carried on outdoors.

B. Conforms to the minimum dimensions prescribed for the appropriate district.

C. Is not devoted to private roadways open to vehicular transportation, accessory off-street parking space or loading berths.

D. Contains no structures, except as specifically permitted in this chapter.

E. Is structurally safe and adequately surfaced and protected.

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

USE -- This term is employed in referring to:

A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied; or

B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building, or other structure, or on land.

WATERWAYS OF THE CITY OF OSWEGO

A. That area of land within which or upon which the flow of water is ordinarily confined due to existing topography; and

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

WHOLESALE STORE -- Establishments or places of business primarily engaged in selling merchandise to retailers, industries, commercial institutions, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies. [Added 10-28-1996 by L.L. No. 4-1996]

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

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

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

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

YARD, SIDE -- A yard situated between the building and the side line of the lot and extending

from the front yard (or from the front lot line, if there is no required front yard) to the rear yard (or rear lot line).

ARTICLE III, Planned Development District

§ 280-12. Bulk requirements for multiple-family and condominium dwelling units. [Amended 10-11-2005]

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

A. Lot area minimum: 10,000 square feet, plus an additional 1,500 square feet for each one-bedroom unit, 2,000 square feet for each two-bedroom unit and 2,500 square feet for each three-or-more-bedroom units.

B. Minimum lot width at building line: 120 feet.

C. Front yard minimum: 40 feet.

D. Rear yard minimum: 40 feet.

E. Side yard minimum: 25 feet.

F. Maximum coverage: 20%.

G. Maximum units per building: 50.

H. Maximum building height: six stories or 70 feet, whichever is less (accessory buildings: 15 feet).

I. Supplementary regulations:

(1) As set forth in Article XVII hereof.

(2) Site plan approval required.

(3) No multiple-family or condominium dwelling units are permitted in basements.

§ 280-13. General regulations.

A. Provision is included for Planned Development Districts to permit establishment of areas in

which diverse residential, commercial and industrial uses may be brought together as a compatible and unified plan of development which is in the interest and general welfare of the public, with any such district containing a minimum of five acres or more.

B. Area, yard, coverage, height and supplementary regulation requirements shall be comparable to minimum requirements in appropriate residential, commercial or industrial zoning districts for each specific use, except where the Planning Board finds that it is in the public interest to modify these requirements.

§ 280-14. Site plans required.

The owner shall submit three sets of site plans of the proposed development to the Planning Board for review, as required under § 280-48.

§ 280-15. Findings required for approval of plans for development.

The Planning Board shall recommend the approval with modifications or disapproval of the site plans. The Planning Board may recommend to the Common Council establishment of a Planned Development District, provided that it finds facts submitted with the plans established that:

A. Uses proposed will not be detrimental to present and potential surrounding uses.

B. Land surrounding the proposed development can be planned in coordination with the proposed development and that it be compatible in use.

C. The proposed zoning change is in conformance with the intent of the Comprehensive Plan.

D. Existing and proposed streets are suitable and adequate to carry anticipated traffic within and in the vicinity of the proposed district.

E. Existing and proposed utility services are adequate for proposed development.

F. Each phase of the proposed development, as proposed to be completed, contains the required parking spaces and landscaped areas necessary for creating and sustaining a desirable and stable environment.

§ 280-16. Public hearings for planned development approval.

A. The Common Council may amend the Zoning Map after holding a public hearing, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with site plans approved by the Common Council. An appropriate

notation to that effect shall be made on three sets of plans. One set shall be retained by the City Clerk, and one set shall be retained by the Zoning Administrator.

B. Planned development approval by the Common Council shall be secured by the owner for each phase of development.

ARTICLE IV, R1 Residential 1 District

§ 280-17. Permitted uses. [Amended 9-8-1980]

Within any R1 Residential 1 District, a building, structure, lot or land shall be used for only one of the following permitted uses or for only one special permitted use listed in § 280-18:

A. One-family dwellings.

B. Schools.

C. Religious institutions.

D. Accessory uses.

§ 280-18. Special permit uses. [Amended 9-8-1980]

Within any R1 Residential 1 District, a building, structure, lot or land shall be used for only one of the following uses after issuance of a special permit or for only one of the permitted uses listed in § 280-17:

A. Home occupation.

B. Public utility facilities.

C. Outdoor recreation.

§ 280-19. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any R1 Residential 1 District, area, yard, coverage and height requirements shall be as follows: [Amended 9-8-1980; 5-29-2007]

height requirements shall be as follows: [Amended 9-8-1980; 5-29-2007]

	One-Family Dwelling	**All Other Uses (except public utility)**
Minimum lot area (square feet)	40,000	80,000
Minimum lot width (feet)	150	200
Minimum yards (feet):		
Front	50	50
Rear	50	50
Side	30	30
Maximum coverage		
Building area	15%	15%
Paved area	25%	25%
Maximum height		
Principal building	3 stories or 35 feet, whichever is less	
Accessory building	15 feet	

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required for nonresidential uses.

ARTICLE V, R2 Residential 2 District

§ 280-20. Permitted uses. [Amended 9-8-1980]

Within any R2 Residential 2 District, a building, structure, lot or land shall be used for only one of the following permitted uses or for only one special permitted use listed in § 280-21:

A. One-family dwellings.

B. Schools.

C. Religious institutions.

D. Agricultural uses.

E. Accessory uses.

§ 280-21. Special permit uses. [Amended 9-8-1980]

Within any R2 Residential 2 District, a building, structure, lot or land shall be used for only one of the following uses after issuance of a special permit or for only one of the permitted uses listed in § 280-20:

A. Home occupation.

B. Public utility facilities.

C. Outdoor recreation.

D. Community centers.

E. Hospitals or nursing homes.

F. Clubs.

G. Philanthropic institutions.

H. Internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

I. Internal conversion of preexisting nonconforming use for additional living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

§ 280-22. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any R2 Residential 2 District, area, yard, coverage and

height requirements shall be as follows: [Amended 9-8-1980; 5-29-2007]

	One-Family Dwelling	**All Other Uses (except public utility)**
Minimum lot area (square feet)	10,000	50,000
Minimum lot width (feet)	75	150
Minimum yards (feet):		
Front	25	50
Rear	30	50
Side:		
Total	25	30
Minimum	8	
Maximum coverage		
Building area	25%	20%
Paved area	25% Shall not exceed 1,750 square feet	25% Shall not exceed 1,750 square feet
Maximum height		
Principal building	3 stories or 35 feet, whichever is less	
Accessory building	15 feet	

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required for nonresidential uses.

ARTICLE VI, R3 Residential 3 District

§ 280-23. Permitted uses. [Amended 9-8-1980; 8-24-1991; 1-25-1993; 6-14-1993]

Within any R3 Residential 3 District, a building, structure, lot or land shall be used for only one of the following permitted uses or for only one special permitted use listed in § 280-24:

A. One-family dwellings.

B. Schools.

C. Religious institutions.

D. Accessory uses.

§ 280-24. Special permit uses. [Amended 7-14-1980; 9-8-1980]

Within any R3 Residential 3 District, a building, structure, lot or land shall be used for only one of the following uses after issuance of a special permit or for only one of the permitted uses listed in § 280-23:

A. Home occupation.

B. Public utility facilities.

C. Outdoor recreations.

D. Community centers.

E. Hospitals, nursing homes, convalescent homes, assisted living homes, independent living facilities and clinics. [Amended 10-15-2013]

F. Clubs, nonresident. [Amended 6-14-1993]

G. Philanthropic institutions.

H. Barbershops, beauty parlors and tanning salons. [Amended 6-14-1993]

I. Professional, medical and dental offices.

J. Funeral homes.

K. Additions to owner-occupied two-family dwellings (addition limited to single-story,

two-hundred-square-feet, nonsleeping quarters). Additions allowed for sleeping quarters for the disabled or handicapped meeting ADA requirements. [Added 8-24-1981; amended 6-14-1993; 5-29-2007]

L. Tourist homes [Added 12-15-1992]

M. Parking. [Added 1-25-1993]

N. New two-family dwellings. [Added 6-14-1993; amended 5-29-2007]

O. Antique sales. [Added 7-9-2001]

P. Miscellaneous storage buildings. [Added 7-9-2001]

Q. Internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

R. Internal conversion of preexisting nonconforming use for additional living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

§ 280-25. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any R3 Residential 3 District, area, yard, coverage and height requirements shall be as follows: [Amended 9-8-1980; 5-29-2007; 7-9-2007]

	One-Family Dwelling	**Two-Family Dwelling**	**All Other Uses (except public utility)**
Minimum lot area (square feet)	5,000	10,000	25,000
Minimum lot width (feet)	50	100	100
Minimum yards (feet):			
Front	25	25	40
Rear	25	25	40

	One-Family Dwelling	Two-Family Dwelling	All Other Uses (except public utility)
Side:			
Total	16	16	20
Minimum	6	6	
Maximum coverage			
Building area	30%	30%	20%
Paved area	25%	25%	25%
Maximum height			
Principal buildings	3 stories or 35 feet, whichever is less		
Accessory buildings	15 feet		

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required for nonresidential uses.

D. Bulk requirement (area, yard, coverage, height and supplementary regulations) as specified in § 280-28 for the R4 Residential 4 District shall apply to multiple-family dwellings.

ARTICLE VII, R4 Residential 4 District

§ 280-26. Permitted uses. [Amended 9-8-1980; 8-24-1981; 1-25-1993; 6-14-1993]

Within any R4 Residential 4 District, a building, structure, lot or land shall be used for only one of the following permitted uses or for only one special permitted use listed in § 280-27:

A. One-family dwellings.

B. New two-family dwellings.

C. Schools.

D. Religious institutions.

E. Accessory uses.

§ 280-27. Special permit uses. [Amended 9-8-1980]

Within any R4 Residential 4 District, a building, structure, lot or land shall be used for only one of the following uses after issuance of a special permit or for only one of the permitted uses listed in § 280-26:

A. Home occupation.

B. Public utility facilities.

C. Outdoor recreation.

D. Community centers.

E. Hospitals, nursing homes, convalescent homes and clinics.

F. Clubs.

G. Philanthropic institutions.

H. Boardinghouses.

I. Barbershops and beauty parlors.

J. Dormitories.

K. Professional, medical and dental offices.

L. Funeral homes.

M. Internal conversion or additions to two-family dwellings. [Amended 8-24-1981]

N. Tourist homes. [Added 12-15-1992]

O. Parking. [Added 1-25-1993]

P. New multiple-family dwellings. [Added 6-14-1993; amended 7-28-2008 by Res. No. 295]

Q. Condominium dwellings as a special permit use in the R-4 Residential District. [Added 10-11-2005]

R. Internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

S. Internal conversion of preexisting nonconforming use for additional living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

§ 280-28. Bulk requirements; supplementary regulations.

A. Residential uses.

(1) Area, yard, coverage and height. In any R4 Residential 4 District, area, yard, coverage and height requirements for residential uses shall be as follows: [Amended 9-8-1980; 10-11-2005; 5-29-2007]

	One-Family	**Two-Family**	**Multiple-Family or Condominium**
Minimum lot area (square feet)	5,000	6,000	10,000; 2,500 each unit
Minimum lot width (feet)	50	60	100
Minimum yards (feet):			
Front	25	25	30
Rear	25	25	35
Side:			
Total	16	10	20
Minimum	6		
Maximum coverage			
Building area	30%	30%	25%

	One-Family	**Two-Family**	**Multiple-Family or Condominium**
Paved area	25%	25%	25%
Maximum units per building			8
Maximum building height	3 stories or 35 feet, whichever is less		

(2) Supplementary regulations for residential uses in any R4 Residential 4 District shall be as set forth in Article XVII hereof.

(3) Site plan approval shall be required for multiple-family and condominium uses. [Amended 10-11-2005]

B. All other uses (except public utility).

(1) Area, yard, coverage and height. In any R4 Residential 4 District, area, yard, coverage and height requirements for all other uses (except public utility) shall be as follows:

Minimum lot area	25,000 square feet
Minimum lot frontage	100 feet
Minimum yards:	
Front	40 feet
Rear	40 feet
Side	20 feet
Maximum coverage	20%
Maximum building height	3 stories or 35 feet, whichever is less

(2) Supplementary regulations for all other uses (except public utility) in any R4 Residential

4 District shall be as set forth in Article XVII hereof.

(3) Site plan approval shall be required.

ARTICLE VIII, B1 Neighborhood Business District

§ 280-29. Permitted uses.

The following uses are permitted in B1 Neighborhood Business Districts:

A. Retail stores and retail services.

B. Business offices.

C. Personal services.

D. Restaurants and bars.

E. Hotels and motels.

F. Religious institutions.

G. Community centers.

H. Indoor recreation.

I. Clubs.

J. Accessory uses.

§ 280-30. Special permit uses.

The following uses are permitted in B1 Neighborhood Business Districts after issuance of a special permit:

A. Gasoline stations and car washes.

B. Drive-in service.

C. Wholesale stores.

D. Public utility facilities.

E. Commercial parking.

F. Automobile sales.

G. Funeral homes.

H. Other commercial uses upon the finding that such use is compatible with those permitted and which will not be detrimental to other uses within the district or to adjoining land use.

I. Multiple-family dwellings.

J. One- and two-family dwellings. [Added 8-9-1982]

K. Commercial marinas, mooring slips and private marina yacht clubs. [Added 4-14-1986]

L. EN(97)Condominium dwellings as a special permit use in the B-1 Neighborhood Business District. [Added 10-11-2005]

M. Internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

N. Internal conversion of preexisting nonconforming use for additional living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

§ 280-31. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any B1 Neighborhood Business District, area, yard, coverage and height requirements shall be as follows: [Amended 9-8-1980; 5-29-2007]

Minimum district area	10 acres
Minimum lot area	10,000 square feet
Minimum lot width	120 feet
Minimum yards:	
Front	25 feet
Rear	25 feet; 50 feet when abutting residential districts

Side	12 feet; 50 feet when abutting residential districts
Maximum coverage	
Building area	30%
Paved area	25%
Maximum height	
Principal building	3 stories or 40 feet, whichever is less
Accessory building	15 feet

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required.[EN(98)]

ARTICLE IX, B2 Central Business District

§ 280-32. Permitted uses.

The following uses are permitted in B2 Central Business Districts:

A. Retail stores and retail service.

B. Business offices.

C. Personal service.

D. Restaurants and bars.

E. Hotels and motels.

F. Religious institutions.

G. Community centers.

H. Indoor recreation.

I. Clubs.

J. Funeral homes.

K. Accessory uses.

§ 280-33. Special permit uses.

The following uses are permitted in B2 Central Business Districts after issuance of a special permit:

A. Gasoline stations and car washes.

B. Drive-in service.

C. Wholesale stores.

D. Public utility facilities.

E. Commercial parking.

F. Automobile sales.

G. Other commercial uses upon the finding that such use is compatible with those permitted and which will not be detrimental to other uses within the district or to adjoining land use.

H. Multiple-family dwellings.

I. One- and two-family dwellings. [Added 8-9-1982]

J. Commercial marinas, mooring slips and private marina yacht clubs. [Added 4-14-1986]

K. Residential use of second and/or third floor premises or portions thereof, as separate one-family dwelling units, as "family" is defined in this chapter. [Amended 2-14-1995]

L. Condominium dwellings as a special permit use in the B-2 Central Business District. [Added 10-11-2005]

M. Internal conversion of attached garage or porch to living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

N. Internal conversion of preexisting nonconforming use for additional living space (bedrooms, kitchen, family room or bathroom). A kitchen shall not be installed unless it is replacing an existing kitchen. [Added 6-22-2009]

§ 280-34. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any B2 Central Business District, area, yard, coverage and height requirements shall be as follows:

Minimum district area	10 acres
Minimum yards:	
Rear	25 feet
Side	12 feet when abutting residential districts
Maximum coverage	75%
Maximum height	50 feet

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required.

ARTICLE X, B3 Redevelopment District

§ 280-35. Permitted uses.

The following uses are permitted in the B3 Redevelopment District:

A. Multiple-family dwellings.

B. Banks and professional, governmental and business, offices and studios.

C. Retail shops and service establishments, including caterers.

D. Hotels, motels, places of assembly and eating and drinking establishments, including drive-in or curb-service establishments. [Amended 12-10-2007]

E. Parking lots and garage structures not accessory to other permitted uses.

F. Sewage pumping stations owned by a public authority.

G. Canal lock gatehouses.

H. Public utility facilities.

I. Bus passenger shelters, provided that there are no more than 20 seats in an open roofed structure.

J. Parks.

K. Accessory uses.

L. Condominium dwellings as a permitted use in the B-3 Redevelopment District. [Added 10-11-2005]

§ 280-36. Special permit uses. [Amended 4-14-1986]

The following uses are permitted in the B3 Redevelopment District after issuance of a special permit:

A. Commercial marinas, mooring slips and private marina yacht clubs.

§ 280-37. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any B3 Redevelopment District, area, yard, coverage and height requirements shall be as follows: [Amended 9-8-1980; 10-11-2005]

	Multiple-Family or Condominium Dwellings	**All Other Permitted Uses**
Minimum lot area (square feet)	435 for each dwelling unit	5,000
Minimum lot width (feet)	60	60
Minimum front yard	None	None
Minimum rear and side yard	None required, but if provided, must be at	

	Multiple-Family or Condominium Dwellings	All Other Permitted Uses
	least 12 feet	
Maximum floor area ratio	4.00	2.25
Maximum height:		
Stories	15	15
Feet	165	165
Maximum coverage (percent)	40%	50%
Except for following commercial buildings within 300 feet of a municipal parking lot:		
Garage structures		100%
Retail shop and service establishments		100%
Hotels and motels		50%
All other commercial buildings		85%

B. No private parking spaces are required for any use other than apartments, hotels or motels, if such use is located within 300 feet of a municipal parking lot.

C. Other supplementary regulations shall be as set forth in Article XVII hereof.

D. Site plan approval shall be required.

ARTICLE XI, IN Industrial District

§ 280-38. Permitted uses.

The following uses are permitted in the IN Industrial District:

A. Enclosed manufacturing industries.

B. Enclosed warehouse or wholesale use.

C. Public utility facilities.

D. Enclosed service and repair.

E. Enclosed industrial processes and services.

F. Machinery and transportation equipment; sales, service and repair.

G. Freight or trucking terminals.

H. Gasoline stations and car washes.

I. Animal hospitals.

J. Garages.

K. Parking.

L. Accessory uses.

M. Certain nonconforming residential uses pursuant to § 280-31. [Amended 7-10-1995]

N. Permitted adult businesses as set forth in §280-80.3D and fully in compliance with §280-80.3D and §280-40 (Bulk requirements; supplementary regulations, for IN Industrial District) shall be allowed only in the AO-IN Adult Overlay of the Industrial District. [Added 10-22-2001]

§ 280-39. Special permit uses.

The following uses are permitted in the IN Industrial District after issuance of a special permit:

A. Open storage yards.

B. Outdoor drive-in theaters.

C. Retail stores.

D. Quarries, excavation and earthmoving.

E. Other industrial and commercial uses upon the finding that such use is compatible with those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.

F. Commercial marinas, mooring slips and private marina yacht clubs. [Added 4-14-1986]

§ 280-40. Bulk requirements; supplementary regulations.

A. Area, yard, coverage and height. In any IN Industrial District, area, yard, coverage and height requirements shall be as follows: [Amended 9-8-1980]

Minimum district area	25 acres
Minimum lot area	10,000 square feet
Minimum lot width	100 feet
Minimum yards:	
Front	25 feet
Rear	12 feet; 50 feet when abutting residential districts
Side	12 feet, 50 feet when abutting residential districts
Maximum coverage	35%

B. Supplementary regulations shall be as set forth in Article XVII hereof.

C. Site plan approval shall be required.

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

§ 280-40.1. Purpose.

A. The AO-IN Adult Overlay of the Industrial District is intended to address the purpose and findings set forth in § 280-80.3 of this chapter.

B. The AO-IN Adult Overlay of the Industrial District may be overlaid upon any part or all of any Industrial District established pursuant to this chapter which is found to be appropriate for such treatment, pursuant to the procedure for amendment of the Zoning Map in accordance with Article XXI, Amendments, of this chapter.

§ 280-40.2. Overlay district.

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

§ 280-40.3. Permitted uses.

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

A. Adult arcades;

B. Adult bookstores;

C. Adult video stores;

D. Adult cabarets;

E. Adult motion-picture theaters;

F. Adult theaters;

G. Escort agencies;

H. Nude model studios.

§ 280-40.4. Bulk requirements; supplementary regulations.

Area, yard, coverage and height, supplementary regulations and site plan approval requirements for the AO-IN Adult Overlay of the Industrial District are the same as required in the IN

Industrial District as set forth in § 280-40 of this chapter.

ARTICLE XII, Special Permits

§ 280-41. Requirements for permit.

Before granting a special permit for any use conditionally permitted by the zoning district regulations, the Board of Appeals shall determine that the proposed use will:

A. Be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.

B. Be in accordance with the City Master Plan and provide any appropriate conditions and safeguards in harmony with the general purpose of this chapter.

C. Cause no undue traffic congestion or create an unnecessary traffic hazard.

D. Include traffic access, interior circulation and parking and loading spaces, adequate in location and design.

E. Not have a substantially adverse effect upon the character of or property values in the area.

F. Incorporate adequate safeguards, screening, fences and landscaping to protect and maintain the harmony of the surrounding area.

G. Not otherwise impair the public health, safety and general welfare.

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

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

A. Lot area minimum: 100,000 square feet.

B. Yard minimums: 50 feet.

C. The Oswego County Health Department shall give written certification that hospitals and sanitariums in the proposed location will not have a detrimental effect on the general level of health in the surrounding neighborhood.

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

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

A. Projection screens and parking areas shall be no closer than 50 feet to any street line and no closer than 100 feet to a residential district.

B. Projection screens shall not be visible from any major street.

C. All parking areas, accessways and driveways shall be paved with dustless material.

D. Loudspeakers shall be limited to the individual type designed to be heard by the occupants of one car.

E. Entrances and exits shall connect only to major streets and shall be designed so as not to interfere with or impede traffic flow.

F. Entrance car reservoir spaces shall be provided to accommodate no less than 5% of the theater's parking capacity.

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

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

A. All excavation operations shall not adversely affect drainage or structural safety of adjoining lots and buildings. They shall not contribute to soil erosion by wind or water or create or involve any kind of noisome or injurious substances, conditions or operations.

B. Open excavations deeper than 10 feet or having a slope greater than 30° from the horizontal shall be surrounded by a fence at least six feet high and no closer than 50 feet to the edge of the excavation or other hazardous condition.

C. The slope of a pile of any material excavated shall not exceed its normal angle of repose.

D. No excavation shall take place closer than 100 feet to a vertical plane created by the projection of any length of the lot line vertically into the ground, nor shall any mechanical equipment be stationed or supplies or excavated material stored any closer than 100 feet to the lot line.

E. Before any excavation starts, plans shall be submitted to the Board of Appeals indicating:

(1) Existing topography, showing contour lines at vertical intervals of no more than two

feet; drainage courses and other pertinent physical conditions; areas to be excavated; and the extent of such excavations.

(2) Proposed rehabilitation of the area after excavation operations cease, including finished grades, drainage and such other information as is necessary to fully explain the site conditions after operations cease.

(3) All drawings and plans shall be approved by the City Engineer prior to consideration by the Board of Appeals.

F. Before any excavations are made, performance bonds shall be posted with the City Clerk in an amount equal to the estimated cost of rehabilitation of the site as determined by the City Engineer, except that none of the foregoing provisions shall apply to installation, construction, erection, laying, repair, maintenance and removal of electric, telephone and gas lines.

G. Prior to the release of any performance bonds, the City Engineer shall certify that the finished grades, drainage and other features pertinent to rehabilitation of the land all conform to the plans, or modifications thereof, approved by the Board of Appeals, and that topsoil to a depth of six inches has been distributed over all excavated portions of the site being rehabilitated.

§ 280-45. Special provisions applicable to landfills.

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

§ 280-46. Special regulations for gasoline stations.

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

A. A gasoline station lot shall not be located within 200 feet of any lot occupied by a school, public library, theater, religious institution, hospital, fire station or other public gathering

place unless a street lies between such establishment and the gasoline station. Measurement shall be made between the nearest respective lot lines.

B. Lot size shall be at least 20,000 square feet.

C. Lot frontage shall be at least 150 feet.

D. Lot depth shall be at least 125 feet.

E. Pumps and lubricating and other service devices shall be located at least 35 feet from front lot line and side and rear lot lines.

F. All fuel and oil shall be stored at least 20 feet from any property line.

G. All automobile parts and dismantled vehicles are to be stored within an enclosed building; no repair work is to be performed outside a building.

H. No signs shall extend beyond pumps nor exceed 20 feet in height.

I. There shall be no more than two access driveways from the street. The maximum width of each access driveway shall be 40 feet.

J. A suitably curbed landscaped area shall be maintained at least five feet in depth along all street frontage not used as a driveway.

K. No automobile service establishment shall have an opening in the roof, side or rear walls less than 15 feet from any lot line.

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

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

A. Low profile equipment shall be used, where feasible.

B. The facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.

C. A landscaped area at least 15 feet wide shall be maintained in front, rear and side yards.

ARTICLE XIII, Site Plan Approval

§ 280-48. Approval by Planning Board required.

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

§ 280-49. Application requirements.

A. The owner shall submit a site plan and supporting data prepared by an architect, landscape architect, engineer, land surveyor or planner and, if required, may include the following information presented in drawn form, accompanied by a written text:

   (1) A survey and photographs of the property, showing existing features, including contours, large trees, buildings, structures, streets, utility easements, rights-of-way, land use, zoning and ownership of the surrounding property.

   (2) A site plan showing proposed lots, blocks, building locations and land use areas.

   (3) Traffic circulation, parking and loading spaces and pedestrian walks.

   (4) Landscaping plans, including site grading, landscape design and open and recreation areas.

   (5) Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations and sections.

   (6) Preliminary engineering plans, including street improvements, storm drainage systems, public utility extensions, water supplies and sanitary sewer facilities.

   (7) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.

   (8) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.

   (9) A description of the proposed uses, including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated.

B. With respect to property within the Oswego Waterfront Revitalization Area boundary, the owner shall demonstrate how the proposed development will enhance the waterfront area or otherwise fulfill the city's waterfront revitalization program[EN(99)] and, in addition, provide, where possible, for visual and physical access to the shore and water in conformance with the

city's waterfront revitalization program. [Added 4-14-1986]

§ 280-50. Site plan approval procedure.

A. In accordance with the provisions of § 30-a of the General City Law, the Planning Board shall review the site plan and supporting data before approval or approval with stated conditions is given, taking into consideration the following: [Amended 10-28-1996 by L.L. No. 4-1996]

   (1) Harmonious relationship between proposed uses and existing adjacent uses.

   (2) Maximum safety of vehicular circulation between the site and the street network.

   (3) Adequacy of interior circulation, parking and loading facilities with particular attention to vehicular and pedestrian safety.

   (4) Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

B. With respect to property within the Oswego Waterfront Revitalization Area boundary, the Board shall consider how the proposed development will enhance the waterfront area or otherwise fulfill the policies and purposes of the Oswego Local Waterfront Revitalization Program and, in addition, provide, where possible, for visual and physical access to the shore and water in conformance with the city's waterfront revitalization program. [Added 1-12-1987]

C. The Board may require changes or additions in relation to yards, driveways, entrances and exits, landscaping and location and height of buildings and enclosures to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with changes or additions. Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

§ 280-51. Performance bond.

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

ARTICLE XIV, Off-Street Parking and Loading

§ 280-52. Requirements.

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

A. Residential uses. [Amended 10-11-2005; 7-9-2007; 12-10-2007]

(1) R1, R2, R3 and R4 Districts:

(a) One- and two-family dwellings as well as condominium dwellings: two parking spaces for every dwelling unit.

(b) Multiple-family dwellings: five parking spaces for every three dwelling units.

(c) Professional residence-offices: three parking spaces, plus one additional parking space for every 200 square feet of office space.

(2) B1 and B2 Districts:

(a) One- and two-family dwellings: one parking space for every dwelling unit. The parking spaces shall be located either on the subject property or on other leased or owned properties within 500 feet.

(b) Multiple-family dwellings and condominium dwellings: five parking spaces for every four dwelling units. The parking spaces shall be located either on the subject property or on other leased or owned properties within 500 feet.

(c) Single-room occupancy: one parking space for every two rooms. The parking spaces shall be located either on the subject property or on leased or owned property within 500 feet.

(d) If the property owner is unable to meet the foregoing criteria with regard to the location of the required parking spaces, the property owner may petition the Common Council for permission to use available parking spaces in a nearby municipal lot.

B. Hotels, motels, tourist homes, boardinghouses, dormitories, fraternities, sororities or nursing homes: three parking spaces, plus one space for every guest room or person.

C. Hospitals: three parking spaces, plus one space for every two beds.

D. Places of public assembly: one parking space for every five seats; or one parking space for every 100 square feet of floor area.

E. Business, professional and medical offices: three parking spaces, plus one space for every 200 square feet of office area.

F. Commercial and business uses in groups over 20,000 square feet of business floor area: one parking space for every 100 square feet of business area.

G. Commercial and business uses as individual establishments on separate lots: one parking space for every 300 square feet of business area, plus one parking space for every motor vehicle used directly in the business.

H. Restaurants and eating and drinking establishments: one parking space for every 100 square feet of floor area.

I. Industrial, wholesale, warehouse, storage, freight and trucking uses: one parking space for every motor vehicle used directly in the business, plus additional parking as required by the Board.

J. Unspecified uses: as required by the Planning Board based upon use intensity, turnover, customers, employees and vehicles used.

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

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

   (1) Require additional spaces if it finds the requirements insufficient.

   (2) Require fewer spaces if it finds the requirements excessive.

   (3) Permit spaces for separate uses to be combined in one parking lot.

B. The Board shall take into account existing parking spaces in the vicinity of the proposed development.

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

A. Required parking shall be provided within 500 feet of the use for which it is intended. If provided on a separate lot, such parking areas shall be held in the same ownership as the lot

containing the use.

B. A parking plan shall be submitted to the Planning Board for approval for any parking area in Residential (R1, R2, R3 and R4) and Neighborhood Business (B1) Districts containing more than two required parking spaces. The paved area of the property shall not exceed 25% of the total area of the property. This plan shall be a part of a site plan, in which case it shall be reviewed and approved in accordance with §§ 280-48 through 280-51. The location and dimensions of all access roadways shall be approved by the City Engineer. [Amended 1-25-1993; 5-29-2007]

C. Off-street parking for one-family, two-family and multiple-family residences. [Amended 5-29-2007; 7-9-2007]

   (1) Driveways for one-family, two-family and multiple-family residences may be counted in calculating required off-street parking spaces (including stacked parking), except that parking on driveways in front yards may be calculated only if permitted by a special permit

   (2) Parking for new two-family dwellings constructed after August 1, 2007, shall be placed in a single parking lot located on the property, without stacked parking.

D. Unobstructed and direct access shall be provided between every parking area and a public street. Access roadways shall cross front yards approximately perpendicular to the street line. The minimum width of access roadways shall at least conform to the following schedule:

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

E. Parking spaces shall be at least 8 1/2 feet wide and 18 feet long. [Amended 10-15-2013]

F. If a parking area is attendant controlled, the parking plan may not show aisles, driveways and spaces, but shall show landscaping, lighting and access to public streets. The plan shall also show the location, dimensions and elevations of the attendant's structure and the waiting areas for patrons. Parking in an attendant-controlled facility shall be provided at a rate of 250

square feet of parking area for each space required.

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

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

B. Open parking areas may be permitted in front yards by special permit if it can be shown to the satisfaction of the Board of Appeals that such areas will benefit the public, not impede pedestrian movement, be aesthetically suitable and be adequately landscaped.

C. Open parking spaces, in public space, between the curb and sidewalk and between the sidewalk and property line, as well as between the curb and property line in cases where there are no sidewalks, shall require Common Council approval. [Added 5-29-2007]

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

A. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required and shall not be located within required front yards, side yards, off-street parking areas or accessways.

B. Each required loading space shall be at least 35 feet long, 12 feet wide and 14 feet high.

C. Accessways, at least 12 feet in width and 14 feet of vertical clearance, shall connect all loading spaces or areas with a street. Such accessways may be coincidental with access roadways or driveways to parking areas.

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

A. All parking or loading areas shall be paved with concrete, asphalt or brick and shall be adequately drained. [Amended 1-25-1993]

B. In residential districts, parking areas for three or more vehicles adjoining side or rear lot lines shall be screened from adjacent residential lots by walls, fences or hedges to prevent the viewing of parked automobiles from the minimum side yard or rear yard of such adjacent lots.

C. In nonresidential districts, parking or loading areas shall be visually screened so that vehicles parked therein shall not be visible at ground level from any residential lot within 100 feet.

Lighting for parking areas shall not be directed toward any residential lots or buildings.

D. At least 10% of the total required off-street parking area shall be landscaped according to a landscaping plan approved as a part of site plan approval.

ARTICLE XV, Signs

§ 280-58. General sign regulations. [Amended 3-14-1983]

A. No sign shall be constructed, erected, altered or relocated until a sign permit has been issued by the Zoning Administrator. Application for a sign permit shall be made by the property owner to the Zoning Administrator on forms he shall prescribe. The Zoning Administrator may refer an application for a sign permit to the Planning Board for an advisory opinion. The Common Council, from time to time, shall establish a schedule of sign permit application fees to defray the administration costs in processing the application.

B. An application for a sign in public space shall be approved by the Common Council before the issuance of a sign permit.

C. Signs, including support structures, shall be removed within 60 days following the closing of the permitted facility for which the sign was issued. [Added 5-8-2006]

§ 280-59. Signs in residential districts or for residential uses. [Amended 7-11-2005]

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

A. "For rent" and "for sale" signs. [Amended 5-8-2006]

(1) One "for rent" sign not exceeding one square foot in area displayed inside the window of the residential dwelling for which a rental unit is offered.

(2) One "for sale" sign not exceeding five square feet in area on each face for any one residential structure, subdivision or project.

B. Directional or informational real estate signs not exceeding four square feet in area on each face. [Amended 5-8-2006]

C. Signs necessary for public safety or welfare.

D. One ground sign per lot shall be allowed by special permit in R3 and R4 Residential Districts

for licensed professional offices that are otherwise allowed in those districts by special permit. Such signs shall be set back at least 10 feet from any street line or any other lot line and shall not exceed 20 square feet in area on each face.

E. Lighting, as identified in § 280-65, of ground signs in R3 and R4 Residential Districts may be allowed by special permit, but in no case shall the sign be illuminated more than one hour before or one hour after the regular business hours of the professional office.

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

The following signs are permitted in business and industrial districts:

A. All signs permitted under § 280-59.

B. Business signs, with a total area not to exceed three square feet for each one lineal foot of building frontage.

C. Nonilluminated professional A-frame or "inverted-T" signs in public space having a total area not to exceed 20 square feet (including both sides); meeting all of the following: [Amended 5-8-1995; 7-10-2006]

(1) Professional-grade portable signage shall be placed within four feet of the curb, not at the building wall or in the middle of the sidewalk, except in areas where green space is within the first four feet from the curb, the applicant would have the option to place the sign in green space or inside the sidewalk, whichever is beneficial to the store owner.

(2) Every business that wants to use public space for an A-frame or inverted-T sign must first obtain approval from the Common Council for use of the public space as well as a permit for the sign.

(3) A-frame or inverted-T signs shall only be permitted to advertise the business that they front.

(4) Placement of signs shall be at the curb directly in front of the business only during business hours.

(5) Signs shall be removed during high winds, and removed when the business is closed. Signs shall be maintained by business owners.

(6) The City will issue an identifiable sticker with the permit that must be visibly placed on each sign to show code compliance and that the proper permit was obtained.

D. Marquee illuminated flashing portable signs are prohibited both on private properties as well

as on public space. [Added 7-10-2006]

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

Post signs shall meet the following requirements:

A. The top of a post sign shall not exceed 20 feet in height above the average grade. The bottommost part of a post sign shall not be less than 10 feet above grade at the site of the sign placement.

B. Said sign shall be set back at least 10 feet from any street line or any other lot line.

C. Said sign shall not exceed 80 square feet in area on each face. The supports for the sign shall not exceed two-post construction (nonlattice type).

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

A. Ground signs shall not exceed 30 square feet on each face, except for ground signs in R3 and R4 Residential Districts as permitted in § 280-59 which shall not exceed 20 square feet on each face.

B. Said sign shall be set back at least 10 feet from any street line or any other lot line.

C. The top of a ground sign shall not exceed four feet in height above the average grade at the site of the sign placement. The bottommost part of a ground sign shall be at grade or may be within a planter.

§ 280-61.2. Flag/feather signs. [Added 6-10-2013]

Flag/feather signs shall meet the following requirements:

A. Said sign shall not be placed in public space.

B. Said sign shall not exceed 30 square feet of area.

C. Said sign shall be placed a minimum of 12 feet from any public walkway/or sidewalk.

D. No more than two signs shall be placed per property street frontage.

E. The sign permit shall be valid for 120 days only.

F. The sign permit fee shall be $0.50 per square foot of signage on each face.

§ 280-62. Building signs.

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

A. Project more than one foot beyond the building line or into any required yard.

B. Be installed above the cornice line of the main roof of the building to which they are affixed. [Amended 8-24-2009; 12-10-2012]

C. Be painted directly upon an exterior wall.

D. Exceed 30 square feet, if it is a banner. [Added 6-22-1992]

§ 280-63. Projecting signs. [Amended 10-14-1997; 8-13-2012]

A. Projecting signs may be permitted in B1, B2 and B3 Commercial Districts only. All projecting signs shall be subject to review by the Historical Review Committee for consistency with Downtown Design Guidelines and safety. Projecting signs that will be located over City property and City rights-of-way require review and approval by the Oswego Common Council.

B. Signs attached to or supported by a building and having their display face perpendicular to a building shall be permitted once they have met the following requirements:

(1) The sign shall measure no more than 18 inches by 24 inches and must be attached to a black steel mounting bracket secured to the facade of the building and extending no more than 36 inches from the facade.

(2) The lowest point of the perpendicular sign must extend at least eight feet from the height of the sidewalk, and the height can be adjusted upward to accommodate the architectural variations of the facades belonging to particular buildings in the City. No signs will be allowed at a height of greater than 12 feet.

(3) If multiple businesses exist in a building storefront, multiple signs can be considered. The separation between signs must be a least eight feet, and there can be no more than three feet separate mounted signs on a facade 25 feet wide. The Historical Review Committee will consider an alternate sign to identify multiple businesses in a building; for example, three business names on one mounted sign meeting the specifications previously described in § 280-63B(1) above.

(4) Signs shall be centered on the building facade, whenever possible, and no signs will be

allowed within eight feet of each other.

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

A. Every sign shall be designed and located in such a manner as to:

(1) Not impair public safety.

(2) Not restrict clear vision between a sidewalk and street.

(3) Not be confused with any traffic sign or signal.

(4) Not prevent free access to any door, window or fire escape.

(5) Withstand a wind pressure loads of at least 30 pounds per square foot.

B. Portable signs, except A-frame signs permitted by § 280-60C, sandwich board and sidewalk or curb signs shall not be permitted in any district or public space. [Amended 5-8-1995]

§ 280-65. Illuminated and flashing signs.

A. Signs may be illuminated by a steady light, provided that such lighting will not be directed or create glare onto other properties or be a hazard to traffic.

B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or traffic control.

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

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

A. Is in the public interest and not to the detriment of the public safety or welfare or not detrimental to surrounding properties.

B. Is of a character, size and location that it will be in harmony with the orderly development of the district.

ARTICLE XVI, Mobile Home Parks

§ 280-67. Mobile homes.

No person shall park a mobile home on any public or private property, except as follows:

A. In an approved mobile home park.

B. In a district specifically zoned to permit mobile homes as a living accommodation.

C. In an approved mobile home sales lot.

§ 280-68. Permit required for mobile home parks.

A. No person shall construct or operate a mobile home park without first obtaining a permit and site plan approval.

B. Application for a mobile home park permit shall be made to the Planning Board and shall be accompanied by a site plan in accordance with §§ 280-48 through 280-51.

C. The Board may accept the plans, accept the plans with recommended changes or reject the plans.

§ 280-69. Mobile home park standards.

The following regulations shall apply to all mobile homes in mobile home parks:

A. Mobile home parks shall be at least five acres in area and shall provide for individual mobile home lots, access driveways and parking.

B. Each mobile home lot shall:

(1) Be at least 8,000 square feet in area and at least 70 feet wide by 100 feet in depth.

(2) Front onto an access driveway or street.

(3) Be provided with a concrete paved area at least 100 square feet in area.

(4) Have an attachment for water supply. The water supply source must be approved by the City Engineer and County Health Department.

(5) Have an attachment for sewage disposal. The method of sewage disposal must be in compliance with the City Engineer and County Health Department.

(6) Have an attachment for electrical power supply.

C. All access driveways within a mobile home park must be at least 30 feet in width and be built to City standards.

D. No mobile home lot or service building shall be closer to a public street right-of-way line than 50 feet nor closer to a property line than 30 feet.

E. Screening.

(1) A strip of land at least 25 feet in width shall be maintained as a landscaped area abutting all mobile home park property lines.

(2) Visual screening of all parked mobile homes shall be provided on the lot along streets and adjoining lot lines. Such visual screening shall be at least six feet in height and shall consist of landscaping, walls or other screening devices.

F. No additions shall be made to a mobile home except a canopy and/or porch open on three sides, an addition made by the mobile home manufacturer or an addition built in conformance with the New York State Uniform Fire Prevention and Building Code. [Amended 10-28-1996 by L.L. No. 4-1996]

ARTICLE XVII, Supplementary Regulations

§ 280-70. Swimming pools.

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

A. No swimming pool shall be constructed or erected until a building permit is granted. Application for a building permit shall be accompanied by a plan showing the exact location and construction of the pool, filtering system, power supply, existing buildings, water, sewer, power and gas lines, the method of disposal of wastewater and type, size and location of fencing.

B. Yards. A swimming pool shall not be located in a front yard, and the pool and the appurtenances thereto shall be located so as to have a yard not less than five feet in width on all sides, except where the pool is attached to a principal structure.

C. Fences. Pools shall be surrounded by a fence or barrier at least four feet in height, strong enough to make the pool inaccessible to small children, and shall have a gate equipped with self-closing, self-locking devices.

D. Lighting. Pool lighting shall not shine or reflect onto adjoining property.

E. Overhead power lines. No overhead power lines shall pass over the pool nor be maintained within 20 feet of the pool.

F. Maintenance equipment. All heating, filtering, disinfectant and recirculating equipment shall be located at least five feet away from property lines and be effectively enclosed or screened from view from adjacent properties.

G. Filling. No pool shall be filled between the hours of 7:00 a.m. and 8:00 p.m.[EN(100)]

H. Maintenance and abandonment of swimming pools. [Amended 6-11-2012]

(1) Every swimming pool presently constructed or installed or hereinafter constructed or installed shall be maintained at all times in such manner as never to constitute a nuisance, hazard or menace to the public health or safety.

(a) The water contained in swimming pools shall, at all times, be properly chlorinated and the quality maintained so as to be suitable for human bathing and swimming.

(b) At no time shall the water contained in a swimming pool or, if the swimming pool has been drained, shall rain water or water from some other source be permitted to accumulate or pond in the swimming pool such that the water becomes stagnant and could harbor mosquito larvae or other vector.

(2) No in-ground swimming pool shall be abandoned or its use permanently discontinued unless the owner of the property shall fill in the swimming area with clean soil and restore the surface of the ground to its original grade within 30 days of abandonment or discontinuance of the use of the swimming pool.

(3) If the pool is an aboveground swimming pool, the owner of the property shall demolish the swimming pool, remove the demolition debris from the property, and restore the land on which the swimming pool was located to its original condition within 30 days of abandonment or discontinuance of the use of the swimming pool.

(4) Any such hazard that may exist or develop in or in consequence of or in connection with any swimming pool, shall be abated by the person in possession, owning or having jurisdiction over such swimming pool within 10 days of receipt of the notice from the City Zoning Enforcement Officer.

(a) In the event the person in possession, owning or having jurisdiction over a swimming pool does not abate a swimming pool hazard or hazards within 10 days of receipt of the notice from the City Zoning Enforcement Officer or permits a swimming pool hazard or hazards to recur more than three times during any one

calendar year, the swimming pool shall be deemed to be abandoned.

(b) In the event the owner of the property on which a swimming pool has been abandoned or its use permanently discontinued shall fail to fill an in-ground swimming pool with clean soil, or demolish an aboveground swimming pool and remove the debris within 30 days after receipt of written notice from the Zoning Enforcement Officer, the person in possession, owning or having jurisdiction over such swimming pool shall be issued a court appearance ticket pursuant to § 280-99 of this chapter.

(c) In the event that an abandoned or permanently discontinued in-ground or aboveground swimming pool has not been filled in or removed resulting from a court action, the City reserves the right to enter the owner's property to fill in or remove the abandoned swimming pool. The cost of filling or removal of a pool on the owner's property shall be charged against the property upon which the pool exists, in the same manner as a local assessment, provided for in the Charter of the City of Oswego. [Added 4-8-2013]

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

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

In any residential district, the following regulations shall apply:

A. Vans, buses and trucks of more than 3/4 ton carrying capacity, motor vehicles used for drag or stock car racing and an abandoned, discarded or junked vehicle as defined in § 253-2 must be parked in an enclosed garage.

B. Trailers, campers, boats, snowmobiles and other recreation vehicles shall be parked in a garage or side or rear yard.

(1) Use of a parked trailer, camper or recreational vehicle for temporary living quarters shall be limited to no more than 30 days per calendar year. [Added 10-15-2013]

C. Exceptions to these parking location regulations may be granted after issuance of a special permit; however, in no case shall a special permit be granted for the storage of an abandoned or junk vehicle, as defined in § 253-2.

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

10-15-2013]

A. No utility, temporary storage (pod) or permanent storage building shall be erected until a building permit has been issued therefor.

B. No utility, temporary storage (pod) or permanent storage building shall be erected in a front yard or public space.

C. Utility, temporary storage (pod) and permanent storage buildings up to 10 feet in height and not more than 144 square feet in area may be permitted in side and rear yards, no less than six feet from the side or rear property line.

D. Any utility, temporary storage (pod), or permanent storage building greater than 144 square feet in area, regardless of height, shall be classified as an accessory building and shall conform to yard setback and coverage requirements.

E. For the purpose of this section, the height shall be measured from the average ground grade to the highest point of the roof.

§ 280-72.1. Solar panel structures. [Added 8-24-2009]

A. No ground-mounted or roof-mounted solar panel structure shall be erected until a building permit has been issued therefor.

B. Solar panel structures shall not be erected in a front yard.

C. Solar panel structures shall not be erected or mounted on facades of buildings.

D. Solar panel structures shall be classified as "accessory uses" and conform to height limitations and lot coverage requirements of the district in which the panels are located.

E. Solar panel structures shall be set back from property lines 10 feet in side yards and rear yards, or the height of the solar structure, whichever is greater.

F. For the purpose of this section, the allowed height of the solar structure shall be measured from the average ground grade to the highest point on the solar panel.

G. Solar panels mounted on roofs shall not protrude more than 10 feet above the peak of the roof or higher than the height limitation of the principal building/accessory building, whichever is less.

H. Solar panels shall not glare or reflect onto neighboring properties in proximity to the panel installation.

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

A. Purpose. It is the purpose of this section to regulate the placement, construction and installation of wind-energy-producing systems while promoting the safe, effective and efficient use of such systems. These regulations relate to siting of wind-energy-producing systems in the City of Oswego and do not address large-scale wind farms which are typically intended to sell energy directly to power companies or retail users.

B. Findings. The City of Oswego finds and declares that wind energy is an abundant, renewable and nonpolluting energy resource of the City and that its conversion to electricity will reduce the City's dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.

C. The City of Oswego further finds and declares that regulation of siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public and for preserving the aesthetics of the community.

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

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

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

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

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

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

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

E. Site plan review: The following submission guidelines shall be required for Planning Board applications:

(1) Wind system design.

(a) Tower: The tower shall be either steel lattice or solid tube monotower and designed to handle the maximum potential load as certified by a New York State licensed engineer. In addition, under no circumstances shall the height of the system exceed the height specified by the manufacturer of the system.

(b) Minimum blade height: The minimum distance between the ground and the turbine blades must be 25 feet, measured at the lowest point of the blade arc.

(c) Color: The tower shall maintain a neutral, nonreflective exterior color that blends with the surrounding environment.

(d) Advertising: No wind tower, turbine, building or other structure associated with a wind energy system may be used to advertise or promote any product or service. A weather-resistant sign on the exterior of the tower, no greater than two square feet in size, shall include the name and address of the current owner, twenty-four-hour emergency phone number and the model and serial number of the system. Such weather-resistant sign shall be viewable by a Code Enforcement Officer. Such sign shall also warn of electrical shock or high voltage. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind turbine, tower, building or other structure associated with a wind energy system so as to be viewable from any public road.

(e) Lighting: Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be designed to minimize glare on abutting properties and, except as required by the FAA, be directed downward with full cutoff fixtures to reduce light pollution.

(f) Access to tower: The base of the tower shall not be climbable for a distance of 15 feet or the tower shall be enclosed with a six-foot-tall fence.

(g) Emergency access: To the greatest extent possible, existing roadways shall be used for access to the tower. In case a new roadway must be constructed to access the wind energy system, it shall be constructed to allow for the passage of emergency vehicles. Each application shall include a letter from the Oswego Fire Department certifying acceptable emergency access to the wind system.

(h) System braking: The wind energy system shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, turbine

components or enclosed shelter. The applicant shall file an Emergency Procedures Plan with the City of Oswego Code Enforcement and Zoning Officers explaining how the wind energy system may be shut down in case of an emergency.

(2) Plot plan and development drawings: All plans and drawings shall be prepared by a New York State licensed engineer that describe the following:

(a) Property lines and physical dimensions of the proposed site, including contours at five-foot intervals;

(b) Location, dimensions and types of all existing structures and uses on the site;

(c) Location and elevation of the proposed on-site wind energy system;

(d) Location and size of structures or trees above 30 feet within a five-hundred-foot radius of the proposed wind energy system;

(e) Location of all roads and other service structures proposed as part of the installation;

(f) Location of all existing aboveground utility lines, transmission towers and existing wind energy systems within 1,200 linear feet of the site;

(g) Where applicable, the location of all transmission facilities proposed for installation;

(h) Soil type at construction site, along with an engineering analysis of the tower showing compliance with the Uniform Statewide Building Code;[EN(101)]

(i) Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information can be supplied by the manufacturer;

(j) Compliance with the requirements contained in the New York State net metering law and accompanying regulations unless the applicant intends, and so states on the application, that the wind energy system will not be connected to the utility grid;

(k) Wind survey or other substantiation demonstrating that the proposed site is capable of meeting the manufacturer's specified electrical output. Any such wind survey or other substantiation must be conducted at the exact proposed construction site so as to demonstrate the existence of sufficient wind to power the system;

(l) Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material;

(m) Shadow/flicker: Wind facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that flicker does not have significant adverse impact on neighboring or adjacent uses through either siting or

mitigation.

(n) Land clearing, soil erosion and habitat impacts: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations and ordinances.

(o) Scenic view impact: A wind energy system shall not be installed in a location where the Planning Board determines the wind system to be detrimental to the general neighborhood character. Final determination of permissible system height and location on a lot shall be decided by the Planning Board as part of the site plan review. A wind energy system shall not be installed in a location that would substantially detract from or block a scenic view, as viewed from any public mad, right-of-way, publicly owned land or privately owned land within the City of Oswego.

(p) State Environmental Quality Review Act[EN(102)] requirements: A full environmental assessment form, including a visual impact analysis, shall be submitted with the application for site plan review.

(q) Visualizations: The Planning Board shall select between three and eight sight lines, including from the nearest building with a view of the wind facility, for preconstruction and postconstruction view representations. Sites for the view representations shall be selected from populated areas or public ways within a one-mile radius of the wind facility. View representations shall have the following characteristics:

[1] Within 21 days of filing of a special permit, the applicant shall arrange for a balloon test (with a balloon diameter of at least eight feet), or a crane test, at the proposed site to illustrate the height and position of the proposed tower. The date (and alternate dates to allow for inclement weather), time and location of such test shall be advertised in the City's official newspaper at least 15 days, but not more than 21 days, prior to the primary date of the test. The balloon or crane test shall be conducted for at least two days, one of which shall be a Saturday or a Sunday.

[2] The applicant will submit photographs showing the wind energy system imposed on the photograph with the tower height established in reference to a balloon flown to the proposed height at the site.

[3] View representations shall be in color and include actual preconstruction photographs and accurate postconstruction simulations of the height and breadth of the wind energy system (e.g., superimpositions of the wind facility onto

photographs of existing views).

[4] Scaled use shall depict a one-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features, buildings and tree coverage.

[5] Each view representation shall include a description of the technical procedures followed in producing the visualization (distances, angles, camera lens, etc.).

(r) Avian impact study: No impact study for birds and bats will be required for residential wind systems of 100 feet and under; industrial and commercial towers over 100 feet in height will require an avian impact study.

F. Required permits: No person, firm or corporation or other entity being the owner or occupant of any land or premises within the City of Oswego shall use or permit the use of land or premises for the construction of a tower for an on-site wind energy system without first obtaining site plan approval from the Planning Board and a special use permit from the Zoning Board of Appeals.

(1) Special use permit: In addition to the criteria established by definition in § 280-90, the following criteria are hereby established for purposes of granting a special use permit for a wind energy system:

(a) Ownership: Ownership of the wind energy system shall be the same as the owner of the fee interest in the real property upon which it is located. In the event of transfer of ownership of the property, the ownership of the wind energy system shall also be transferred to the new owner or the system shall be decommissioned and removed.

(b) Zoning district lot requirements: Wind energy systems are permissible in the R-2, R-3, B-1 and Industrial districts only. A wind energy system shall not be allowed on any parcel unless a main structure occupied by inhabitants more than 25% of the time exists thereon. In any event, there shall be no more than one wind energy system per parcel.

(c) Net metering requirements: The applicant shall certify that he/she will comply with the requirements contained in the New York State net metering law and accompanying regulations unless the applicant intends, and so states on the application, that the wind energy system will not be connected to the utility grid.

(d) Proximity to radio, television, telephone and wireless internet systems: A wind energy system shall not be located in an area where its proximity interferes with existing fixed broadcast, retransmission or reception antennas for radio, television, or any microwave transmission systems such as cell phone towers or wireless

Internet transmission systems.

(e) Noise limitations: Noise emanating from wind energy systems shall not exceed 50 decibels, as measured at the closest property line. The maximum noise level may be exceeded during short-term events such as severe storms involving high wind speeds (greater than 30 miles per hour).

(f) Height: The height of the system shall not exceed 100 feet for residential applications and 200 feet for commercial applications and 300 feet for industrial applications.

(g) Lightning protection: All wind energy systems shall have lightning protection.

(h) Underground electrical connection: All power lines from the wind turbine to interconnecting electrical equipment must be located underground and meet all applicable national and state electrical codes, and underground power lines shall be recorded with the New York Underground Facility Protection Organization (UFPO).

(2) Setbacks: Wind energy systems shall comply with all setbacks within the affected zoning district, in addition to the requirements listed below, If setback requirements overlap between the affected zone and this section, the more stringent requirement(s) supersede(s):

(a) All wind energy systems will be placed in the rear yard;

(b) Setback distances shall be equal to 125% of the system height from all adjacent property lines;

(c) Setback distances shall be equal to 125% of the tower fall/collapse zone from any dwelling inhabited by humans on the proposed site;

(d) Anchor points for guy wires for the on-site use of a wind energy system tower shall be located no closer than five feet from the property line and shall not be placed on or across any aboveground electric transmission distribution lines. Cover all anchors and guy wires. All guy covers or cables shall be colored with high visibility orange or yellow paint for 10 feet above the ground.

G. Public hearing: No action shall be taken by the Zoning Board of Appeals to issue a special use permit until after a public notice and hearing. Notice of the public hearing shall be published in the official newspaper of the City of Oswego at least 10 days before the date set for such hearing, and written notice of the hearing shall be mailed to the applicant or his/her agent at the address provided in the application at least 10 days before such hearing. The City of Oswego Zoning Office, in turn, shall be responsible for notifying, by USPS certified mail, all property owners of record within 200 feet of the boundary line of the property to which

the application relates of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the City Assessor. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.

H. Waiver: The City of Oswego Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

I. Insurance. Prior to the issuance of any special use permit under this chapter, the applicant shall provide the Zoning Board of Appeals proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, that liability insurance has been obtained to cover any property damage or personal injuries which might result from the failure of the wind energy system or any part thereof. In the event of a transfer of ownership of the property containing a wind energy system, the new owner shall be required to provide the Zoning Board of Appeals proof that it has obtained the requisite property and personal liability insurance coverage under this section. An insurance policy issued under this section shall provide for notice to the Zoning Board of Appeals in the event that such policy is cancelled. Such insurance policy may be an existing homeowners' or farm insurance policy for the property on which the wind energy system is to be located. The Oswego Common Council, in consultation with the City of Oswego's insurers, may set the level of insurance required under this section at whatever level it deems adequate.

J. Power to impose conditions: In granting any site plan approval, special use permit or variance for an on-site wind-energy-producing system, the Zoning Board of Appeals or Planning Board, as the case may be, may impose reasonable conditions to the extent that such Board finds that these conditions are necessary to minimize any adverse effect or impact on neighboring properties or on the community.

K. Inspections: The Code Enforcement Officer and Zoning Officer shall have the right at any reasonable time to enter, in the company of the owner or his/her agent, the premises on which a wind energy system is being or has been constructed to inspect all components of the installation. When practicable, the City officers shall provide the owner with written notice of his/her intent to conduct an inspection at least 24 hours before such inspection. Upon inspection, the City officers may order the owner to make repairs or alterations to the system in the event that the system is deemed deficient or dangerous and may order that the wind energy system cease operation until such repairs or alterations are made. In the event that the wind energy system is deemed to pose an immediate danger to life or property, the City officers shall have the right to enter the property forthwith, without the owner being present, and to take such action as is deemed reasonably necessary to eliminate such danger.

L. Failure to repair. In the event the owner of a wind energy system fails to make the repairs or alterations requested by the City officers within 60 days, the City officers shall order the

owner to remove the wind turbine and all accessory structures from the property within 45 days. If the owner fails to remove the tower within such time, the City shall arrange to have the wind turbine and all accessory structures removed. The total expense of such removal shall constitute a lien on the real property on which the wind turbine and accessory structures were located until paid or otherwise satisfied or discharged.

M. Nonuse. If any wind energy system is not operated for a continuous period of six months, the City will notify the owner by registered mail and provide 45 days for a response.

(1) In the response, the owner shall set forth reasons for the operational disruption and provide a timetable for corrective action. Such timetable for corrective action shall not exceed 45 days.

(2) If the owner is unable to place the wind energy system back in service on or before 120 days from the date the City mailed the notice required under this section, the owner shall remove the wind turbine and all accessory structures from the site, as well as restore the site to its original condition, within 30 days. Failure to remove the wind turbine/accessory structures and restore the site in accordance with these regulations shall be a violation of this chapter. In the event the owner fails to remove the wind turbine/accessory structures and restore the site as required by this section, the City may arrange to have such work completed. The total expense of such work shall constitute a lien on the real property upon which the wind turbine and accessory structures were located until paid or otherwise satisfied or discharged.

§ 280-73. Supplementary height regulations.

District building height regulations shall not apply to the following structures placed on top of buildings: flagpoles, radio or television antennas, transmission towers or cables, spires or cupolas, chimneys, elevators or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers or any similar structures or accessory uses, provided that no such structures in their aggregate coverage occupy more than 10% of the roof area of the building and do not protrude more than 10 feet above the roof line.

§ 280-74. Supplementary yard regulations.

A. Use of required yards. No principal or accessory use shall be located in any required front or side yard unless specifically permitted by the regulations of the district in which the use is located.

B. Corner lots. On a corner lot, each side which abuts a street shall be deemed a front lot line, and the required yard along each such lot line shall be a required front yard. The owner may

decide which of the remaining yards shall be the required side yard and the required rear yard.

C. Side yards for attached buildings. Side yards for semidetached houses or row houses shall be required in the end lots of the total structure.

D. Through lots. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.

E. Principal buildings on the same lot. If two or more principal residential buildings are located on the same lot, one building's exterior walls containing windows shall be separated from the nearest point on any adjacent building by a horizontal distance, perpendicular to the wall with windows, equal to at least twice the width of the required side yard for the particular district in which the buildings are located.

F. Accessory buildings.

(1) Accessory buildings unattached to principal buildings shall be no closer to the principal buildings than 12 feet or a distance equal to the height of each such accessory building, whichever is the greater.

(2) Any accessory building physically attached to a principal building is deemed part of such principal building in applying bulk regulations.

G. Where property and building lines are not parallel, yard setbacks shall be based on an average of the two extreme dimensions at each building line and the absolute allowable minimum yard setback in each case being at least 50% of the required setback as stated in other sections of this chapter.

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

A. Open fire escapes may project beyond the building line a maximum of six feet into required side or rear yards or courts. They may not project into required front yards or usable open spaces nor shall they be placed on walls facing toward a street, except with the permission of and in compliance with conditions imposed by the Common Council of the City of Oswego, New York.

B. An arbor, open trellis, flagpole, unroofed steps, unroofed terrace (not more than three feet above ground level) or recreation, athletic or drying yard equipment shall be permitted in any required yard, court or usable open space. [Amended 10-28-1996 by L.L. No. 4-1996]

C. Other permitted projections beyond the building line into a required yard, court or usable open space are:

(1) An awning or movable canopy for a maximum projection of six feet.

(2) Cornices or eaves for a maximum projection of three feet.

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

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

A. Required area. For every multiple-family dwelling unit there shall be provided an area of at least 300 square feet of usable open space.

B. Location. Such required usable open space may be provided in more than one plot.

C. Slope. The maximum slope of required usable open space shall not exceed 5%.

D. Planning Board review. The Planning Board in its review of the site plan for any multiple-family development may require active recreational equipment to be installed and maintained to serve the needs of residents.

§ 280-77. Supplementary lot width regulations. [Added 9-8-1980]

The minimum lot frontage in all districts shall be at least 40 feet on a public street except in those districts where there is no minimum lot area requirement.

ARTICLE XVIII, Miscellaneous Regulations

§ 280-78. Temporary uses and structures.

A. Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year for incidental nonconforming uses, provided that such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit, as follows:

(1) Temporary uses incidental to a construction project.

(2) Temporary real estate sales office incidental to a subdivision.

(3) Temporary roadside stand for sale of agricultural products raised on the property.

(4) Other similar temporary incidental uses.

§ 280-79. General landscaping requirements.

The following are the minimum landscaping requirements:

A. Along any district boundary where a nonresidential district abuts a residential district, there shall be provided within the nonresidential district a landscaped area at least 20 feet wide, which shall be suitably landscaped and maintained to provide visual screening from adjacent residential properties.

B. Where any nonresidential land use in a residential district abuts any residential land use, there shall be provided by the nonresidential use a landscaped area at least 15 feet wide, which shall be suitably landscaped and maintained to provide visual screening from adjacent residential properties.

C. In any Planned Unit Development District, landscaping shall be provided as required by the Planning Board.

D. Specifications.

(1) Required landscaping shall consist of shade trees, deciduous shrubs, evergreens, well-kept grassed areas and ground cover.

(2) One shade tree at least eight feet in height and at least two inches in diameter measured at a point six inches above finished grade level shall be planted no nearer than five feet to any lot line for each 500 square feet of required landscaped area; and one deciduous shrub or evergreen shall be planted for every 200 square feet of required landscaped area.

(3) All such landscaping shall be maintained in a healthy growing condition with ground cover or grassed areas.

(4) The Planning Board may require fencing or suitable landscaping to provide adequate screening of property. Such fencing shall be erected so that the finished or smooth side faces the public.

§ 280-80. Fences, hedges and walls.

A. In residential districts, fences, hedges and walls not exceeding a height of four feet in a front yard or six feet in a side or rear yard shall be permitted. Fences, hedges and walls up to eight feet in height may be permitted by the Board of Appeals anywhere on a lot when it finds that:

(1) They will contribute to the aesthetic appearance of the neighborhood and are an integral

part of the premises.

(2) They will not adversely affect the access of adjoining lots to light and air.

B. In nonresidential districts adjoining residential districts, fences, hedges and walls shall not exceed eight feet in height along the boundary; elsewhere there shall be no restriction on the height of fences, hedges or walls.

C. No obstructions higher than two feet above an adjacent curb elevation shall be permitted on a corner lot within a triangular area consisting of intersecting street lines and a line connecting points on the street lines, 30 feet from the point of intersection.[EN(103)]

D. All fences in public space shall require approval of the Common Council.

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

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

§ 280-80.2. (Reserved)

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

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

B. Findings. The Mayor and members of the City Council of the City of Oswego are all residents of the city and represent one of the seven wards in the city or the city-at-large. The Mayor and members of the Council are familiar with the city and the issues raised by sexually oriented businesses in the city and throughout the country. The Mayor and Council

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

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are not properly controlled by the operators of the establishments. Further, there are not adequate legal provisions making the owners of these establishments responsible for the activities that occur on their premises.

(2) Employees of sexually oriented businesses engage in or may be requested to engage in sexual behavior as a result of the type of employment in which they are engaged.

(3) Sexual acts, including masturbation, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.

(4) The "entertainment" offered at sexually oriented businesses often encourages sexual activities, which create unhealthy conditions.

(5) Persons frequently visit sexually oriented businesses for the purpose of engaging in sexual activities within the premises of such sexually oriented businesses.

(6) Communicable diseases may be spread by sexual activities, including, but not limited to, human immunodeficiency virus (HIV), AIDS, hepatitis B, and venereal diseases.

(7) AIDS, HIV, hepatitis B and venereal diseases are serious health concerns in the local community.

(8) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to

regulate those activities and maintain those facilities.

(9) Numerous studies and reports have determined that semen is found in certain areas of sexually oriented businesses, particularly where persons view adult-oriented films or adult entertainment.

(10) The Council further determines that sexual encounter centers, as defined herein, do not serve a legitimate purpose, offer a location at which sexual activities and acts of prostitution can readily occur, and provide a location at which sexually transmitted diseases may be spread. The Council thus determines that sexual encounter centers should be prohibited.

(11) The Council further determines that adult hotels or motels, as defined herein, offer a location at which sexual activities and acts of prostitution can readily occur due to the offering of short-term or hourly rooms with beds, and provide a location at which sexually transmitted diseases may be spread. The Council thus determines that adult hotels or motels should be prohibited.

(12) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter.

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

ESTABLISHMENT -- Includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business.

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.

(3) The additions of any sexually oriented business to any other existing sexually oriented business.

(4) The relocation of any sexually oriented business.

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

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

PERSON -- An individual, proprietorship, partnership, corporation, association or other legal

entity.

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

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

(1) The sale, lease or sublease of the business.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

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

(1) A permitted adult use may not be operated within 500 feet of:

(a) A church, synagogue or regular place of worship.

(b) A public or private elementary or secondary school.

(c) A boundary of any residential district.

(d) A public park adjacent to any residential district.

(2) A permitted adult use may not be operated within 500 feet of another adult use or on the same lot or parcel of land.

(3) A permitted adult use may not be operated in the same building, structure or portion thereof containing another adult use.

(4) For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or

residential lot.

(5) For purposes of Subsection D(2) of this section, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(6) All adult uses shall be conducted in an enclosed building with a setback from any public street of at least 100 feet. Regardless of location or distance, no one who is passing by any enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

(7) Under no circumstances shall sexual encounter centers or adult hotels or motels as defined herein be permitted uses.

E. Inspection requirements.

(1) A person may operate an adult use business only within an AO-IN Adult Overlay of the Industrial District of the City of Oswego only in accordance with the provisions of this section.

(2) Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, rules and regulations of the Health Department, Fire Department and City Code Enforcement Officer.

(3) The Health Department, Fire Department, and the City Code Enforcement Officer and other code enforcement officials shall complete their certification that the premises is in compliance, or not in compliance, within 20 days of the inspection of the premises by such officials. The certification shall be promptly presented to the City Engineer and within 10 days of the receipt of all required certifications verifying that the premises is in compliance, together with a completed application for an adult use permit and permit application fee of $25, the City Engineer shall issue an adult use permit to the applicant.

(4) The City Engineer shall suspend the right to conduct such adult use by suspending an adult use permit for a period not to exceed 30 days if he determines that the owner and/or operator or an employee of the owner and/or operator has:

(a) Violated or is not in compliance with any section of this chapter.

(b) Engaged in illegal use of alcoholic beverages while on the adult use business premises.

(c) Refused to allow an inspection of the adult use business premises as authorized by this chapter.

(d) Knowingly permitted gambling by any person on the adult use business premises.

(e) Knowingly allowed possession, use or sale of controlled substances on the premises.

(f) Knowingly allowed prostitution on the premises.

(g) Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises.

(5) An owner or operator of a sexually oriented business shall permit representatives of the City Police Department or any other law enforcement agencies having jurisdiction, Health Department, Fire Department, Code Enforcement Officer or other city departments or agencies to inspect the premises of an adult use business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(6) Prior to any suspension, the City Engineer shall provide to the owner and/or operator a notice stating the grounds for the suspension. The notice stating the grounds shall be provided to the owner and/or operator in writing. The owner and/or operator has the right to appeal this notice in writing to the City Engineer within 10 days of receipt of said notice. The City Engineer may not suspend the right to conduct such adult use until 15 days after the notice is given to the owner and/or operator or until after receiving the owner's and/or operator's response, whichever is sooner.

F. Enforcement.

(1) A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any way which is contrary to those regulations shall be subject to criminal prosecution under this Code or by civil injunction by the City Attorney in any court of competent jurisdiction.

(2) The continuation of a violation of the provisions of this section shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

(3) Each violation of the provisions of this section shall subject the owner and/or operator to a fine in the amount of $250 for each such violation in addition to any other penalties otherwise imposed hereunder.

ARTICLE XIX, Nonconforming Uses

§ 280-81. General regulations for nonconforming uses.

A. These provisions shall apply to all nonconforming uses existing on the effective date of this chapter and to uses that become nonconforming by reason of any amendment thereof and to buildings or other structures housing such uses.

B. Continuance. Any nonconforming use may be continued indefinitely, except as hereinafter provided.

C. Abandonment. [Amended 12-10-2012; 6-10-2013]

(1) If active and continuous operations or occupancy are ceased by a nonconforming use for an uninterrupted period of one calendar year or more, the building, structure or lot occupied by such nonconforming use shall immediately thereafter and henceforth be eligible for or occupied by only conforming uses.

(2) Notwithstanding the provisions of § 280-81C(1), if a prior nonconforming use has ceased its nonconforming use for one year or more, the owner may apply to the Zoning Board of Appeals for a special permit to use the building, structure or lot for the purpose that it was originally constructed.

(3) In making its decision, the Zoning Board of Appeals shall consider the following criteria:

(a) Whether the owner can establish the original constructed use of the building or structure to justify reinstatement of the nonconforming use.

(b) Whether the owner has adequate parking on the property available to meet the requirements of § 280-52 of the Zoning Ordinance.

(c) Whether the proposed use of the building, structure or lot is in harmony with the neighborhood and will not adversely increase the population and vehicular density of the neighborhood.

(d) Whether the proposed use of the building, structure or lot is the most economically viable alternative to reestablish the original use of the property.

(e) Whether it is necessary that the special permit be granted with conditions.

D. Change to another nonconforming use. A nonconforming use may be changed to another nonconforming use by special permit from the Board of Appeals, if the Board deems the proposed nonconforming use to be sufficiently similar in nature to the existing nonconforming use and closer in character to surrounding conforming uses than is the

existing nonconforming use.

E. Extension. A nonconforming use shall not be enlarged or extended or relocated to a different position on the lot which it occupies. [Amended 6-14-1993]

F. Any nonconforming use, as hereinbefore or hereinafter referred to, is an affirmative defense in any action or proceeding. [Added 3-14-1983]

G. In an Industrial District included in an Economic Development Zone (EDZ), an existing nonconforming residential use may be continued with respect to the same number of existing one-family dwellings situate on the premises; however, the size of the one-family dwellings and accessory uses shall not be subject to the requirements of Subsection E of this section. [Amended 7-10-1995]

§ 280-82. Damaged nonconforming uses.

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

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

A. Maintenance and repairs. Customary maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and minor alterations, so long as they do not increase or expand the nonconforming use.

B. Structural alterations. No structural alterations are permitted, except when required by law or when adapting or remodeling a building or other structure for a conforming use.

§ 280-84. Buildings nonconforming in bulk.

A. Changes or alterations. Buildings and structures which are only nonconforming in bulk may be altered, moved, reconstructed or enlarged, provided that each change does not increase the degree of, or create any new, nonconforming bulk in such building and does not violate any other provisions of this chapter.

B. Reduction in lot area. No lot shall be reduced in area so that it creates a nonconforming bulk

or use in violation of any regulations contained in this chapter.

§ 280-85. Existing undersized lots.

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

A. A one-family residence, provided that the following minimum standards are met:

(1) Lot area minimum: 3,800 square feet.

(2) Lot width at building line: 40 feet.

(3) Front yard: 25 feet.

(4) Rear yard: 25 feet.

(5) Side yards: 14 feet total, four feet minimum.

(6) Maximum coverage: 30%.

(7) Maximum building height: three stories or 35 feet, whichever is less.

(8) Minimum habitable floor area: 650 square feet, excluding basement.

(9) Supplementary regulations: as set forth in Article V.

B. Parking and garage, provided that site plan approval is obtained from the Planning Board and landscaping and screening is installed.

§ 280-86. Nonconforming signs.

A. Nonconforming signs shall be removed when the use of the property on which the sign is located is discontinued.

B. Nonconforming signs may not be enlarged, extended, relocated or altered in any way, except to make them conform to provisions of this chapter. This provision shall not restrict routine maintenance of nonconforming signs involving replacement of electrical parts and repainting.

ARTICLE XX, Board of Appeals; Variances

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

The Board of Appeals of the City of Oswego existing at the time of adoption of this amendment shall continue to serve. The Board shall consist of seven members holding no elective office in the City, one of whom shall serve as Chairman, and shall receive no compensation for their services. Six members shall be appointed by the Mayor for terms of three years, beginning upon the date of the expiration of present appointments of existing members. The seventh member shall be appointed by the Mayor for a three year term commencing July 1, 1994. In case of vacancies in the membership of the Board, the Mayor shall appoint new members to serve the unexpired part of the term of the vacant position.

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

A. The Board of Appeals shall be empowered and required to:

   (1) Hear and decide appeals from any order, requirement, decision or determination of the Zoning Administrator.

   (2) Hear and decide all matters referred to it by the Zoning Administrator.

   (3) Decide any question involving interpretation of any provision of this chapter.

B. In exercising the above-mentioned powers and duties, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, decision or determination as ought to be made, and to that end have all the powers of the Zoning Administrator from whom the appeal is made.

C. The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which such Board is required to pass.

D. Every decision of the Board of Appeals shall be subject to review in accordance with Article 78 of the Civil Practice Act, and such decision may be so appealed by any person aggrieved or by an officer, department, board or bureau of the city.

E. Any appeal from a decision of the Zoning Administrator properly filed with the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals that, by reason of facts stated in the

certification, a stay would, in his opinion, cause imminent peril to life and property.

F. The Board of Appeals shall have the power to grant a restraining order to stay all proceedings in furtherance of the action appealed from, over any action by the Zoning Administrator from whom the appeal is taken, upon notice to the Zoning Administrator and on due cause shown.

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

A. Area variances.

(1) Application and issuance. Where strict application of any of the requirements of this chapter, in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building, the Board of Appeals shall have the power to grant a variance from any of the regulations or provisions of this chapter relating to area, bulk, construction or alteration of buildings or structures or any part thereof, so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done. Application for variance shall be made to the Zoning Administrator in such a form as he/she may prescribe.

(2) Referral to the Planning Board. Whenever a variance is requested involving development for which a site plan or subdivision plat is required or for which Planning Board approval is requisite, the Planning Board shall also consider the application for variance and render advice to the Board of Appeals.

(3) Findings. An area variance shall be granted by the Board of Appeals only if and wherever it finds that:

(a) There are special circumstances or physical conditions, fully described in the findings, applying to the land or buildings for which the variance is sought and that said circumstances or conditions are peculiar to such particular land or building and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.

(b) For reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building involved and that the variance, as granted by the Board of Appeals, is the minimum variance to accomplish this purpose.

(c) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(4) Prescription of conditions. In granting any area variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

(5) Limitations on granting area variances. In no case shall an area variance be granted solely for reasons of additional financial gain on the part of the owner of the land or building involved or for relief of any self-imposed hardship.

B. Use variances.

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

(a) Referral to Planning Board. At least 45 days before the date of public hearing held in connection with any application for a use variance submitted, the Board of Appeals shall transmit to the Planning Board a copy of said application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the use variance applied for. [Added 6-10-2013]

(2) No such use variance shall be granted by the Board of Appeals without the applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

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

(d) The alleged hardship has not been self-created.

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

§ 280-90. Special permits.

A. Application and issuance of special permit. On referral by the Zoning Administrator after application has been made to him for a building permit, or on direct application, the Board of Appeals is hereby authorized to issue a special permit for any use for which this chapter requires the obtaining of such permit from the Board of Appeals, subject to applicable regulations of this chapter.

B. Referral to Planning Board. At least 45 days before the date of public hearing held in connection with any application for a special permit submitted, the Board of Appeals shall transmit to the Planning Board a copy of said application,and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the special permit applied for.

C. Time limit, transfer and revocation. The Board of Appeals shall grant all special permits with no time limit for specified use approved by the special permit. Transfer of use to a new owner shall require the same conditions and requirements as specified in the granted special permit. Any special permit granted by the Board of Appeals is revocable or subject to reconsideration (rehearing) should any problem arise resulting from the use thereof, based on referral to the Board by the Zoning Administrator. [Amended 4-26-2004; 5-10-2010]

D. Submission of plans. Each application for a special permit shall be accompanied by three copies of a proposed plan showing the size and placement of the lot, the design and location of the proposed facilities (including driveways, parking spaces, screens and fences) and existing and proposed contour lines at an appropriate scale. The location of the subject lot and all streets within a radius of 1,000 feet shall be shown on a separate drawing.

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

A. Form of application.

(1) The Board of Appeals shall act in strict accordance with the procedures specified by law

and by this chapter and shall determine its own rules of conduct. All appeals and applications made to this Board shall be taken in writing on forms prescribed by the Board.

(2) The Chairman of the Zoning Board of Appeals shall be empowered to administer oaths during any proceeding before the Board. [Added 3-14-1983]

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

(1) Any person allegedly aggrieved by the strict application of any of the requirements of this chapter or desiring to deviate therefrom may apply to the Board of Appeals for a variance from any such requirements. Such application shall state the specific provisions of this chapter from which variance is sought and shall state precisely the interpretation which is sought and the details of the variance which is sought, together with the special circumstances which allegedly justify such variance.

(2) Appeals or applications shall be taken within such time as shall be prescribed by the Board of Appeals by general rule by the filing with the Zoning Administrator from whom the appeal is taken, and with the Board of Appeals, of a notice of appeal, specifying the grounds thereon.

(3) The Zoning Administrator shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken.

C. Public hearing.

(1) The Board of Appeals shall, after due notice, hold a public hearing on every appeal or application for a variance or for a special permit referred or taken to said Board or upon which it is required to pass, in accordance with this chapter and the law. The Board of Appeals shall have published a notice of each such public hearing in a newspaper of general circulation in the City at least 10 days prior to such hearing.

(2) All property owners within a one-hundred-foot radius of the appellant shall be notified of the public hearing, in writing, by first class mail, by the Recording Secretary for the Zoning Board of Appeals. [Amended 3-25-1991]

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

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

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

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

§ 280-92. Relief from decisions; appeals.

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

ARTICLE XXI, Amendments

§ 280-93. Amendment procedure.

A. The Common Council may, after public notice and hearing, amend or repeal the regulations or districts established by this chapter or appurtenant Zoning Map either on its own motion or on petition by owners of property in accordance with provisions of § 83, Article 5-A, of the General City Law of the State of New York.

B. All such petitions shall be addressed to the Common Council and shall be filed with the City Clerk who shall forward them to the Common Council.

C. The Common Council shall transmit a copy of each proposed zoning change to the Planning Board with the request that its advisory opinion on such proposed change be submitted to the Common Council.

D. The Planning Board may petition the Common Council for changes in this chapter or appurtenant Zoning Map, which proposed changes shall be given public notice and hearing and voted upon by the Common Council.

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

A. The Planning Board shall submit its advisory opinion, in writing, to the Common Council.

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

§ 280-95. Public hearings on amendments.

A. A public hearing shall be called by the Common Council relative to any proposed change in this chapter or appurtenant Zoning Map before it shall vote upon such change.

B. The Common Council shall have published a notice of any public hearing to amend the text or schedules of this chapter or appurtenant Zoning Map in a newspaper of general circulation in the City at least 10 days prior to the date set for such hearing. Such notice shall describe the area, regulations or requirements of the proposed amendment.

C. The Common Council shall have a copy of such notice served or posted by registered mail to the Clerk of any town whose boundaries are within 500 feet of property affected by the proposed amendment and shall similarly notify the County Planning Board. Within seven days of the final action on such amendments, the City Clerk shall notify the County Planning Board of the Council's action.

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

ARTICLE XXII, Administration and Enforcement

§ 280-96. Enforcement official designated.

This chapter shall be enforced by the Zoning Administrator of the City of Oswego, who shall be the City Engineer. No building permit or certificate of compliance shall be issued by the Zoning Administrator for any purpose except in compliance with the provisions of this chapter.

§ 280-97. Inspections; notice of violations.

A. The Zoning Administrator is authorized to inspect and examine or cause to be inspected and examined any building, structure, place, premises or use in the City with regard to the provisions of this chapter and to issue a written order for the proper remedying or compliance, within a reasonable period of time, of any condition found to be in violation thereof, subject to the provisions of this chapter.

B. The police shall report all violations to the Zoning Administrator, Chief of Police and Fire Chief, and the Health Department Inspector shall, at the request of the Zoning Administrator or on their initiative, examine or investigate any building, structure, use or premises with regard to any provision of this chapter and shall issue reports and recommendations to the Zoning Administrator regarding any violations thereof.

§ 280-98. Legal action by Zoning Administrator.

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

§ 280-99. Authorization to issue appearance tickets.

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

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

If the Zoning Administrator fails to proceed with any action in accordance with § 280-97 within a ten-day period following written request by any person, then any three or more persons residing or owning property in the district or in an adjacent district wherein an alleged violation of this chapter exists and who are jointly or severally aggrieved by such violation may institute such appropriate action, charge or proceeding.

§ 280-101. Penalties for offenses.

A. A violation of any provision of this chapter shall be punishable by a fine of up to $1,000. Each day of continued violation shall constitute a separate additional violation. If more than one provision is violated, each provision violated shall be considered a separate violation, each liable to the maximum penalties as herein specified. [Amended 6-12-2006]

B. Criminal penalties for violations.

(1) Any person who willfully or recklessly violates any provision of this chapter; willfully or recklessly violates or fails to comply with any requirements of an order of the Department; or willfully makes or causes any other person to make any false or misleading statement on any notice or other document required to be filed pursuant to this chapter or on any application or any accompanying document for the granting of any permit or any other action by the Department pursuant to this chapter shall be guilty of an offense punishable by a fine of not less than $1,000 nor more than $2,500 for each violation or by imprisonment for up to 15 days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York. [Amended 4-26-1982; 6-12-2006]

(2) A person commits a willful violation when he intentionally acts, or intentionally fails to act, to cause a desired result that violates this chapter. A person commits a reckless violation when he acts, or fails to act, with a conscious disregard of a substantial risk that the act or failure to act will result in a condition, constituting a violation of this chapter, which will endanger the life, health, safety or general welfare of another person.

(3) In a prosecution for a willful or reckless violation of a provision of this chapter, evidence of prior service of civil process or of prior judgments from the same violation and relating to the same premises shall be admissible on the issue of the defendant's knowledge of the existing violation.

(4) Evidence that the defendant had knowledge or notice of the violation and failed to correct the same for more than one month or take reasonable action to explain to the Department this failure shall be evidence of the willfulness of defendant's action. This subsection shall not be construed to prevent conviction for a willful violation on other

grounds.

(5) Any person who refuses entry or access to an officer or an inspector of the department to any premises or any part thereof that the officer or inspector is lawfully authorized to inspect or who unreasonably interferes with an authorized inspection shall be guilty of an offense, punishable by a fine of not more than $50 or by imprisonment for not more than five days, or by both such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

§ 280-102. Administrative fees.

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

§ 280-103. Building permits.

A. Permit required. [Amended 3-14-1983; 10-9-2007]

(1) All persons proposing to construct, erect, alter, extend, relocate or structurally change any building, structure or portion thereof, shall apply to the Zoning Administrator/Code Enforcement Director for a building permit. Applications shall be made solely by the property owner. Applications shall include detailed floor plans, showing all scaled dimensions, together with specified uses. No building, structure or portion thereof shall be constructed, erected, altered, extended, relocated or structurally changed until a building permit has been issued jointly by the Zoning Administrator and Code Enforcement Director. [Amended 7-12-2010]

(2) In the B1 Neighborhood Business District and the B2 Central Business District, all persons proposing to construct, erect, alter, extend, relocate or structurally change the facades of buildings, including but not limited to siding, windows and painting of facades, shall apply to the Zoning Administrator for a building permit. Such application shall comply with the downtown design guidelines, as amended, and shall be referred to the Architectural Review Committee for a certificate of consistency prior to issuance of a building permit.

B. The Zoning Administrator shall, after determining whether or not such proposed construction, erection, alteration, extension, relocation or structural change is in violation of any provisions of this chapter, either approve or disapprove any such application and shall issue a building permit for any such application which he approves.

C. Any such application for any proposed construction, erection, alteration, extension, relocation or structural change of a building, structure or portion thereof shall be accompanied by two copies of all plans drawn to scale showing the dimensions and location on the lot or in the building of the proposed construction, erection, alteration, extension, relocation or structural change, and showing its relation to any existing buildings or other structures.

D. All applications for a building permit shall be made in duplicate, and the Zoning Administrator, in issuing a building permit, shall return to the applicant one copy of the approved application and plans, marked with approval. If disapproved, the reasons shall be stated on one copy of the application and plans and that copy shall be returned to the applicant.

E. If approval is required by the Board of Appeals, Planning Board or other agency for any such proposed construction, erection, alteration, extension, relocation or structural change, such approval shall be obtained in writing and submitted along with the application for a building permit.

F. Every building permit issued shall become void after the expiration of one calendar year immediately following the date of issuance, and any further work on any premises after the expiration date or extension period of such building permit has passed shall constitute a violation of this chapter. Prior to such expiration date, the applicant may either apply for a new building permit or make application to the Board of Appeals for an extension of the expiration date of the original building permit.

G. The Board of Appeals may for just cause extend the expiration date of any building permit for a reasonable time period and may attach reasonable conditions to such extension relating to work involved or situations that exist as a result of the work.

H. Any building permit issued after effective date of this amendment in violation of provisions of this chapter shall be null and void and of no effect, and no further proceedings for revocation and nullification thereof will be necessary; and any work undertaken or use established pursuant to any such permit shall be unlawful and liable to penalties in accordance with this chapter.

I. The Zoning Administrator shall inspect or cause to be inspected any building, structure or portion thereof after completion of any work for which a building permit was issued.

J. Excavation relating to the construction on the same lot of a building for which a building permit has been issued shall be permitted in any district. In the event that construction of a building is stopped prior to completion, and the building permit thereof is allowed to expire, the premises shall immediately be cleared of any rubbish, building materials or other unsightly accumulations relating to construction; and any excavation to a depth greater than

two feet below existing grade shall immediately be filled in and topsoil replaced, or all excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the excavated area. Where necessary, suitable gates will be installed with locks.

K. No building permit shall be issued for a building, structure or use located on a lot or land which does not have frontage on a dedicated street. [Added 9-8-1980]

L. No building permit shall be issued for more than one principal building, structure or use located on a lot or land in a residential district. [Added 9-8-1980]

§ 280-104. Zoning certificates of compliance.

A. Application for a zoning certificate of compliance shall be made to the Zoning Administrator:

(1) To use a building or structure following construction, erection, alteration, extension, relocation or structural changes, wholly or in part.

(2) To change the use of an existing building or a part thereof.

(3) To use vacant land or to change the use of land.

B. The Zoning Administrator shall issue a zoning certificate of compliance after inspection of the premises if he is satisfied that the work for which the building permit was issued is completed and complies with all provisions of this chapter and other applicable ordinances.

C. Every applicant for a zoning certificate of compliance shall refer in his application to the building permit which he was issued or, in case none was needed, he shall submit such additional data as is required in an application for a building permit.

D. No building or structure following construction, erection, alteration, extension, relocation or structural changes, wholly or in part, and no existing building or part thereof may be changed in use and no vacant land may be changed in use until a zoning certificate of compliance has been issued by the Zoning Administrator. [Amended 3-14-1983]

E. A zoning certificate of compliance shall continue in effect as long as such building, structure or portion thereof, or the use of same, or the use of land shall remain in conformity with the provisions of this chapter, including any further amendment thereto or other applicable ordinances.

F. One copy of every zoning certificate of compliance issued in accordance with this chapter shall be filed with the City Clerk, and one copy shall be retained by the Zoning

Administrator.

G. If the Zoning Administrator declines to issue a zoning certificate of compliance, his reasons for doing so shall be stated on one copy of the application, and that copy shall be returned to the applicant.

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

A. No such permit shall be granted to or renewed for an applicant who is in violation of any City of Oswego code, ordinance or local law (hereinafter "violations") or who owes property taxes, water or sewer fees, special assessments, fines for violations of City ordinances or any other fees or past due monies of any name or nature owed to the City of Oswego (hereinafter "unpaid monies").

(1) The applicant shall have the burden of providing proof in a form acceptable to the department that there are no such violations or unpaid monies.

(2) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies relate to a parcel of real property for which the application is made or another parcel owned by applicant or are personal to the applicant.

(3) In the event that the applicant has accrued violations or unpaid monies, such permit or renewal thereof shall be denied regardless of whether such violations or unpaid monies occurred or accrued before the effective date of this local law.

(4) Such permit, once granted, shall be revoked in the event that the applicant accrues violations or unpaid monies, or violations or unpaid monies are discovered, after the permit is granted. The revocation shall take effect five business days after receipt by the permit holder of notice from the City of Oswego of the pending revocation. Upon such revocation, all permitted activities and privileges shall immediately cease.

(5) No application fees shall be refunded upon revocation of the permit.

(6) The applicant must reapply for the issuance of such revoked permit by submitting a new application and paying all necessary application fees, and any such permitted activities or privileges may only be resumed once a new permit has been granted.

(7) All requirements set forth herein shall also apply to nonperson entities and such permit or renewal thereof shall be denied to an entity, or revoked, if a person with a substantial interest in such entity owes such unpaid monies or has accrued such violations. A "person with a substantial interest" shall mean an ownership interest of more than 10%

of, membership on the governing board of, holding an office in or holding the ability to cast or control more than 10% of the votes in such entity.

APPENDIX

Chapter A285, COMMON COUNCIL RULES

[HISTORY: Adopted by the Common Council of the City of Oswego 1-5-2015 by Res. No. 3-2015.[EN(104)] Amendments noted where applicable.]

§ A285-1. Rule I: Call to Order.

Upon the appearance of a quorum, the Mayor shall take the chair and call the Council to order.

§ A285-2. Rule II: Powers of the Mayor.

The Mayor or, in his absence, the President of the Council shall preserve order and decorum, and all questions of order shall be decided by him. The President of the Council shall not forfeit his vote when serving in the absence of the Mayor. The Mayor shall cast a vote on matters before the Council only in the event of a tie, in which case it shall be counted toward a majority.

§ A285-3. Rule III: Duties of the Council President.

Pursuant to the Code of the City of Oswego, New York, Article III, § C3-01, of the City Charter, the Council at its January 1 meeting shall appoint a presiding officer or president whose duties shall be as follows:

A. The Council President shall preside at Council meetings in the absence of the Mayor.

B. The Council President shall present an annual legislative proposal, the parts of which he shall refer to the appropriate committee for review and presentation to the full Council during the ensuing year.

C. The Council President shall serve as an ex-officio member of all standing committees of the Council and shall chair discussions of the budget by the Common Council.

D. Pursuant to the Code of the City of Oswego, New York, Article IV, § C4-02, of the City Charter, the Council President shall become Acting Mayor of the City upon the Mayor's

death, resignation or incapacity, or at the Mayor's request upon his absence from the City.

E. The Council President shall see that the Mayor's charge to the Committee provided for in the Code of the City of Oswego, New York, Article IV, § C4-05, of the City Charter, is carried out, including the scheduling of regular meetings and the availability of minutes of those meetings.

F. The Council President shall receive additional compensation of $5,000 per year.

§ A285-4. Rule IV: Council Vice President.

The Council at its January 1 meeting shall elect a Council Vice President who shall immediately assume the duties of the Council President should the position of the Council President become vacant.

A. The Council Vice President shall receive additional compensation of $2,500 per year.

§ A285-5. Rule V: Manner of Speaking by Members.

No member shall speak unless recognized by the Chair and then shall confine his remarks to the question before the Council.

§ A285-6. Rule VI: Members Required to Vote.

Every member shall vote when a question is stated from the Chair, unless excused by a majority vote of the Council, or by the Chair for a conflict of interest. The roll call vote shall be initiated by the Councilor of the First Ward at the first meeting of the year, by the Councilor of the Second Ward at the second meeting of the year, and continuing sequentially. In the absence of the Councilor whose turn it is to initiate the roll call vote, the Councilor of the next-numbered ward shall be first to initiate the vote, continuing thereon sequentially.

§ A285-7. Rule VII: Resolutions or Motions.

The following rules and procedures shall govern the presentation of matters for Council action:

A. All petitions, reports, resolutions, formal motions and amendments shall be reduced to writing by the members of the Council offering the same.

B. Any resolution introduced at any meeting shall, before it is introduced, be submitted to the appropriate committee concerned therewith. Questions concerning the assignment of

resolutions to committees shall be decided by the President of the Council. Within five weeks of its referral to committee, every resolution shall be reported back to the Common Council, with the committee's favorable or unfavorable recommendation.

C. The Common Council may waive Rule VII, Subsection B, at any Council meeting in order to consider matters that require action before the next scheduled committee meeting.

D. All resolutions, petitions, reports and formal motions will be filed in the office of the City Clerk before 5:00 p.m. on the Wednesday immediately preceding the Monday Council meeting. In the event of a holiday on Wednesday, Thursday or Friday of the week preceding the Council meeting, all resolutions, etc., will be filed in the office of the City Clerk before 5:00 p.m. on the Tuesday preceding the Council meeting.

§ A285-8. Rule VIII: Reconsideration of a Decided Question.

When a question has been once put and decided, it shall be in order for any member who voted with the majority to move for a reconsideration thereof; but no motion for reconsideration of any vote shall be in order after the second regular meeting following such vote. A motion for reconsideration, if lost, shall not be repeated at the same meeting of the Council.

§ A285-9. Rule IX: Motion When Question Is Under Debate.

When a question is under debate, no motion shall be heard but to adjourn, to lie it on the table, for the previous question, to postpone indefinitely, to postpone to a day certain or to amend, which several motions shall have precedence in the order in which they are arranged. The motion to adjourn, to lie on the table and relating to the priority of business shall be decided without debate upon the main question.

§ A285-10. Rule X: Order of Proceedings.

A. The order of proceedings shall be as follows:

(1) Roll call for public hearing(s).

(2) Public hearing(s).

(3) Adjournment of public hearing(s).

(4) Public session (15 minutes); comments from the public (five minutes per person).

(5) Pledge of allegiance to the Flag.

(6) Roll call for regular meeting.

(7) General reports (from Mayor, Councilors, department heads, committees, etc.).

(8) Petitions from public.

(9) Resolution to adopt local law(s).

(10) Resolution to authorize public hearing(s) on local law(s) if adopted.

(11) Motions and reports of same (as distinguished from above).

(12) Continuation of agenda items.

(13) Unfinished business.

(14) Adjournment.

B. Note: Executive sessions will be called if necessary.

§ A285-11. Rule XI: Changes in Standing Rules or Orders.

No standing rule or order of the Council shall be rescinded, changed or suspended, except by a vote of a majority of all the members of the Council.

§ A285-12. Rule XII: Questions of Procedure.

All questions of procedure shall be determined by the current edition of Robert's Rules of Order, being governed by any and all applicable New York State statutes and/or laws.

§ A285-13. Rule XIII: Special Meetings of the Common Council.

The Mayor shall be authorized to call special meetings of the Common Council when it is necessary for the Council to consider matters that require action before the Council's next regular meeting or when requested to do so by the President of the Council. Notice of the date, time, place and purpose of the meeting shall be provided to all Councilors at least one day prior to such meeting. Only matters listed on the agenda for the special meeting can be acted upon at such meeting.

§ A285-14. Rule XIV: Public Session.

There shall be a fifteen-minute public session prior to each Common Council meeting which

shall commence at 7:15 p.m. Members of the public who wish to speak at the public session shall be required to list their name and address on a signup sheet prior to the commencement of the public session. Each member of the public shall be allotted a five-minute time period to speak to the Mayor and the Common Council. During the public session, no person shall be permitted to use profanity, to engage in name calling, or to personally attack any City officer or employee or any other member of the public.

Chapter A286, TELEVISION FRANCHISE

[On 5-12-1980 the Common Council of the City of Oswego adopted an ordinance granting a franchise agreement with Teleprompter of Oswego, Inc., now known as "Group W Cable, Inc.," for the operation and maintenance of a community television system. That ordinance, effective 9-22-1980, as amended, is on file in the office of the City Clerk, where it may be examined during regular office hours.]

DISPOSITION LIST

The following is a chronological listing of legislation of the City of Oswego adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the City Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 1-1996, adopted 2-26-1996. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the City Clerk.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 2-1996	5-28-1996	Charter amendment	Charter
	6-23-1996	Animals amendment	Superseded by L.L. No. 1-2011
L.L.No. 3-1996	10-28-1996	Charter amendment	Charter

Enactment	Adoption Date	Subject	Disposition
L.L. No. 4-1996	10-28-1996	Adoption of Code	Ch. 1, Art. I
L.L. No. 5-1996	11-25-1996	Peddling and soliciting amendment	Ch. 180
	12-9-1996	Streets and sidewalks amendment	Ch. 211, Art. I
L.L. No. 1-1997	1-27-1997	Alternative veterans exemption	Ch. 224, Art. VI
	2-10-1997	Zoning amendment	Ch. 280
L.L. No. 2-1997	2-10-1997	Sewers amendment	Superseded by L.L. No. 1-2009
	2-10-1997	Sewers amendment	Ch. 199, Parts 2, 3 and 4 (repealer only)
	3-10-1997	Sales and compensating use tax amendment	Ch. 224, Art. I
	8-11-1997	Zoning amendment	Ch. 280
	9-8-1997	Vehicles and traffic amendment	Ch. 257
	10-14-1997	Zoning amendment	Ch. 280
	10-14-1997	Zoning amendment	Ch. 280
	10-14-1997	Vacant property amendment	Ch. 249
	11-24-1997	Vehicles and traffic amendment	Ch. 257
	1-12-1998	Zoning Map amendment	NCM
	3-9-1998	Zoning Map amendment	NCM

Enactment	Adoption Date	Subject	Disposition
	5-26-1998	Vehicles and traffic amendment	Ch. 257
	6-22-1998	Fire prevention and building construction amendment	Ch. 126
	8-10-1998	Fire prevention and building construction amendment	Ch. 126
	8-24-1998	Zoning Map amendment	NCM
	12-14-1998	Zoning Map amendment	NCM
	3-8-1999	Zoning Map amendment	NCM
	4-26-1999	Zoning Map amendment	NCM
	5-10-1999	Alarm systems	Ch. 57
L.L. No. 1-1999	8-9-1999	Retirement incentive program	NCM
L.L. No. 2-1999	7-26-1999	Charter amendment	Charter
L.L. No. 3-1999	11-8-1999	Flood damage prevention amendment	Ch. 133
	7-26-1999	Parks and recreation	Ch. 173
L.L. No. 1-2000	3-27-2000	Flood damage prevention amendment	Ch. 133
L.L. No. 2-2000	7-24-2000	Retirement incentive program	NCM
	10-10-2000	Zoning Map amendment	NCM
L.L. No. 3-2000	11-27-2000	Taxation: installment payment of eligible delinquent taxes	Ch. 224, Art. VII
L.L. No. 1-2001	6-4-2001	Reapportionment amendment	Ch. 44

Enactment	Adoption Date	Subject	Disposition
	7-9-2001	Zoning amendment	Ch. 280
	7-9-2001	Zoning amendment	Ch. 280
	10-22-2001	Zoning amendment (adult uses)	Ch. 280
	1-14-2002	Zoning Map amendment	NCM
	1-14-2002	Dogs and other animals amendment	Superseded by L.L. No. 1-2011
	2-11-2002	Water haulers	Ch. 263, Art. III
	3-11-2002	Zoning Map amendment	NCM
	3-11-2002	Zoning Map amendment	NCM
	3-11-2002	Zoning Map amendment	NCM
	3-11-2002	Zoning Map amendment	NCM
	4-22-2002	Abandoned or junk vehicles amendment	Ch. 253
	6-10-2002	Electrical standards amendment	Ch. 108
	6-10-2002	Nuisance abatement	Ch. 170
	6-10-2002	Zoning Map amendment	NCM
	7-8-2002	Bicycles amendment	Ch. 72
L.L. No. 1-2002	7-22-2002	Retirement incentive program	NCM
L.L. No. 2-2002	7-8-2002	Charter amendment	§ C4-07
	10-15-2002	Zoning Map amendment	NCM

Enactment	Adoption Date	Subject	Disposition
	11-12-2002	Zoning Map amendment	NCM
	1-6-2003	Rules of Common Council	Superseded 1-1-2004
L.L. No. 1-2003	4-14-2003	Economic Development Zone boundaries amendment	Ch. 106 (footnote only)
L.L. No. 2-2003	5-12-2003	Reapportionment amendment	Ch. 44
	6-9-2003	Zoning Map amendment	NCM
L.L. No. 3-2003	6-23-2003	Charter amendment	§ C2-02
L.L. No. 4-2003	12-22-2003	Charter amendment	§ C4-01
	1-1-2004	Rules of Common Council	Superseded 1-1-2005
	3-8-2004	Solid waste amendment	Ch. 207
	4-26-2004	Zoning amendment	Ch. 280
	6-14-2004	Wireless telecommunications facilities	Ch. 274
Res. No. 372c	9-13-2004	Surcharge on traffic violations	Repealed by statute
Res. No. 385-2004	9-27-2004	Wireless telecommunications facilities amendment	Ch. 274
	11-8-2004	Vehicles and traffic amendment	Ch. 257
Res. No. 2-2005	1-3-2005	Rules of Common Council	Superseded 1-1-2006
Res. No. 62-2005	2-28-2005	Zoning Map amendment	NCM
	2-28-2005	Dogs and other animals amendment	Superseded by L.L. No. 1-2011
		Rules of Common Council	

Enactment	Adoption Date	Subject	Disposition
Res. No. 109-2005	4-11-2005	amendment	Superseded 1-1-2006
	7-11-2005	Zoning amendment	Ch. 280
	7-11-2005	Zoning amendment; abandoned or junk vehicles amendment	Chs. 280; 253
	10-11-2005	Zoning amendment	Ch. 280
	10-11-2005	Dogs and other animals amendment	Superseded by L.L. No. 1-2011
Res. No. 566-2005	12-12-2005	Zoning Map amendment	NCM
L.L. No. 1-2005	12-12-2005	Empire Zone boundaries amendment	Ch. 106 (footnote only)
Res. No. 2-2006	1-1-2006	Common Council rules	Superseded 1-1-2007
	5-8-2006	Zoning amendment	Ch. 280
	5-8-2006	Zoning amendment	Ch. 280
L.L. No. 1-2006	6-12-2006	Charter amendment	§§ C3-01; C4-02
	6-12-2006	Zoning amendment	Ch. 280
	7-10-2006	Zoning amendment	Ch. 280
	9-25-2006	Vehicles and traffic amendment	Ch. 257
	9-25-2006	Parks and recreation amendment	Ch. 173
L.L. No. 2-2006	9-25-2006	Application for Empire Zone status designation	NCM

Enactment	Adoption Date	Subject	Disposition
	10-24-2006	Nuisance abatement amendment	Ch. 170
	1-1-2007	Common Council rules	Superseded 1-1-2010
L.L. No. 1-2007	2-13-2007	Charter amendment	§ C2-01
	2-26-2007	Nuisance abatement amendment	Ch. 170
	3-12-2007	Street obstructions amendment	Ch. 211, Art. II
	3-12-2007	Vehicles and traffic amendment	Ch. 257
L.L. No. 2-2007	4-9-2007	Charter amendment	§§ C4-04; C4-10F; C4-11
L.L. No. 3-2007	4-9-2007	Charter amendment	§ C6-00
	4-23-2007	Noise amendment	Ch. 165
L.L. No. 4-2007	5-14-2007	Charter amendment	§ C13-00
L.L. No. 5-2007	5-14-2007	Charter amendment	§ C10-01
	5-29-2007	Zoning amendment	Ch. 280
	5-29-2007	Dogs and other animals amendment	Superseded by L.L. No. 1-2011
	7-9-2007	Zoning amendment	Ch. 280
L.L. No. 6-2007	7-9-2007	Charter amendment	§§ C16-00 -- C16-05; § C16-07; § C16-08; § C16-11; § C16-12
	10-9-2007	Zoning amendment	Ch. 280

Enactment	Adoption Date	Subject	Disposition
	10-9-2007	Zoning amendment	Ch. 280
	12-10-2007	Zoning amendment	Ch. 280
	12-10-2007	Zoning amendment	Ch. 280
	1-1-2008	Common Council Rules	Superseded by Res. No. 3-2010
	3-10-2008	Electrical standards: licensing of electricians amendment	Ch. 108, Art. II
Res. No. 131-2008	4-14-2008	Zoning Map amendment	NCM
Res. No. 295-2008	7-28-2008	Zoning amendment	Ch. 280
Res. No. 347-2008	8-25-2008	Solid waste: collection amendment	Ch. 207, Art. II
Res. No. 348-2008	8-25-2008	Streets and sidewalks: snow and ice removal amendment	Ch. 211, Art. I
Res. No. 349-2008	8-25-2008	Vacant and occupied property maintenance amendment	Ch. 249
	12-9-2008	Zoning Map amendment	NCM
	1-1-2009	Common Council Rules	Superseded by Res. No. 3-2010
	4-13-2009	Abandoned or junk vehicles amendment	Ch. 253
	4-13-2009	Vehicles and traffic amendment	Ch. 257
	4-13-2009	Nuisance abatement amendment	Ch. 170
		Vehicles and traffic	

Enactment	Adoption Date	Subject	Disposition
	6-8-2009	amendment	Ch. 257
	6-22-2009	Zoning amendment	Ch. 280
	6-22-2009	Vacant and occupied property maintenance amendment	Ch. 249
	8-10-2009	Nuisance abatement amendment	Ch. 170
	8-10-2009	Trespassing and public urinating and defecating	Ch. 242
	8-24-2009	Zoning amendment	Ch. 280
	8-24-2009	Zoning amendment	Ch. 280
	8-24-2009	Zoning amendment	Ch. 280
L.L. No. 1-2009	11-9-2009	Sewers	Ch. 199
Res. No. 502-2009	11-23-2009	Zoning amendment	Ch. 280
Res. No. 554-2009	12-28-2009	Housing standards amendment	Ch. 149
Res. No. 3-2010	1-1-2010	Common Council Rules	Superseded by Res. No. 3-2011
L.L. No. 1-2010	4-12-2010	Charter amendment	§ C2-01
	4-12-2010	Zoning amendment	Ch. 280
	5-10-2010	Zoning amendment	Ch. 280
	6-28-2010	Taxation: sales and compensating use tax amendment	Ch. 224, Art. I

Enactment	Adoption Date	Subject	Disposition
	7-12-2010	Zoning amendment	Ch. 280
	10-12-2010	Vacant and occupied property maintenance amendment	Ch. 249
L.L. No. 2-2010		Animals amendment	Tabled
Res. No. 3-2011	1-3-2011	Common Council Rules	Superseded by Res. No. 28-2013
	1-10-2011	Zoning Map amendment	NCM
L.L. No. 1-2011	1-24-2011	Animals amendment	Ch. 63
L.L. No. 2-2011	5-23-2011	Charter amendment; junkyards amendment; Common Council Rules amendment	§§ C2-00, C3-00, C3-03, C19-06; Chs. 153; A285 (superseded by Res. No. 28-2013)
	8-8-2011	Fire prevention and building construction amendment	Ch. 126
	10-24-2011	Vehicles and traffic amendment	Ch. 257
L.L. No. 3-2011	11-28-2011	Charter amendment	§ C4-07
	11-28-2011	Trees amendment	Ch. 240
Res. No. 425-2011	11-28-2011	Planned development district amendment	NCM
Res. No. 442-2011	12-12-2011	Planned development district amendment	NCM
Res. No. 3-2012	1-1-2012	Common Council Rules	Superseded by Res. No. 28-2013
	2-14-2012	Zoning Map amendment	NCM

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2012	2-27-2012	Sewers amendment	Ch. 199
	3-12-2012	Zoning Map amendment	NCM
	3-12-2012	Zoning Map amendment	NCM
	5-29-2012	Vehicles and traffic amendment	Ch. 257
	6-11-2012	Zoning amendment	Ch. 280
	8-13-2012	Zoning amendment	Ch. 280
L.L. No. 2-2012	9-24-2012	Taxicabs amendment	Ch. 228
L.L. No. 3-2012	10-22-2012	Tax levy limit override 2013	NCM
	10-22-2012	Zoning Map amendment	NCM
	11-26-2012	Vehicles and traffic amendment	Ch. 257
	12-10-2012	Zoning amendment	Ch. 280
	12-10-2012	Zoning amendment	Ch. 280
Res. No. 28-2013	1-14-2013	Common Council Rules	Superseded by Res. No. 3-2015
L.L. No. 1-2013	1-28-2013	Taxicabs amendment	Ch. 228
	4-8-2013	Zoning amendment	Ch. 280
L.L. No. 2-2013	4-22-2013	Flood damage prevention amendment	Ch. 133
	6-10-2013	Zoning amendment	Ch. 280
	6-10-2013	Zoning amendment	Ch. 280

Enactment	Adoption Date	Subject	Disposition
	6-10-2013	Zoning amendment	Ch. 280
	8-26-2013	Noise amendment	Ch. 165
	8-26-2013	Vacant and occupied property maintenance amendment	Ch. 249
	10-15-2013	Zoning amendment	Ch. 280
	10-15-2013	Zoning amendment	Ch. 280
	10-15-2013	Zoning amendment	Ch. 280
	10-15-2013	Zoning amendment	Ch. 280
L.L. No. 3-2013	10-28-2013	Tax levy limit override 2014	NCM
	10-28-2013	Vacant and occupied property maintenance amendment	Ch. 249
	2-10-2014	Zoning Map amendment	NCM
	3-24-2014	Zoning Map amendment	NCM
	3-24-2014	Zoning Map amendment	NCM
L.L. No. 1-2014	4-14-2014	Taxicabs amendment	Ch. 228
L.L. No. 2-2014	7-28-2014	Charter amendment	§ C4-07
Res. No. 411	9-22-2014	Vacant buildings	Ch. 85
L.L. No. 3-2014	11-10-2014	Animals amendment	Ch. 63
L.L. No. 4-2014	11-24-2014	Tax levy limit override 2015	NCM
Res. No. 3-2015	1-5-2015	Common Council Rules	Ch. A285
L.L. No. 1-2015	1-26-2015	Tax levy limit override 2016	NCM

Enactment	Adoption Date	Subject	Disposition
L.L. No. 2-2015	2-9-2015	Denial or revocation of permit	Charter, § C13-07; Ch. 59; Ch. 63; Ch. 95; Ch. 126; Ch. 149; Ch. 180; Ch. 199; Ch. 207, Art. I; Ch. 211, Art. X; Ch. 245; Ch. 249; Ch. 263, Art. III; Ch. 274; Ch. 280
L.L. No. 3-2015	4-13-2015	Taxation: exemption for certain capital improvements to residential buildings	Ch. 224, Art. VIII
L.L. No. 4-2015	5-11-2015	Charter amendment	§ C2-01
L.L. No. 5-2015	5-26-2015	Reapportionment amendment	Ch. 44
L.L. No. 6-2015	8-24-2015	Denial or revocation of permit amendment	Charter, § C13-07; Ch. 59; Ch. 63; Ch. 95; Ch. 126; Ch. 149; Ch. 180; Ch. 199; Ch. 207, Art. I; Ch. 211, Art. X; Ch. 245; Ch. 249; Ch. 263, Art. III; Ch. 274; Ch. 280
L.L. No. 1-2016	2-8-2016	Charter repealer	§ C2-01
L.L. No. 2-2016	3-28-2016	Code of Ethics amendment	Ch. 15
L.L. No. 3-2016	5-9-2016	Secondhand dealers and collateral loan brokers	Ch. 176

Endnotes

1 (Popup - Popup)

Editor's Note: See also Ch. 44, Reapportionment.

2 (Popup - Popup)

Editor's Note: Former § C2-01, City officers and employees, as amended, was repealed 2-8-2016 by L.L. No. 1-2016.

3 (Popup - Popup)

Editor's Note: This local law was approved at referendum 11-4-2003.

4 (Popup - Popup)

Editor's Note: This local law was approved at referendum 11-5-2002.

5 (Popup - Popup)

Editor's Note: This local law was approved at referendum on 11-4-2014.

6 (Popup - Popup)

Editor's Note: Former § C10-01, regarding a City Director of Weights and Measures, was repealed 5-14-2007 by L.L. No. 5-2007.

7 (Popup - Popup)

Editor's Note: This local law was approved by the voters of the City of Oswego at the general election held on November 2, 1999.

8 (Popup - Popup)

Editor's Note: Former § C14-03, dealing with the right-of-way for fire vehicles and emergency vehicles, which immediately followed this section, was deleted 10-28-1996 by L.L. No. 3-1996.

9 (Popup - Popup)

Editor's Note: Said table is on file at the office of the City Clerk. Copies may be available at the Personnel Department, Police Department and Mayor's office.

10 (Popup - Popup)

Editor's Note: Former § C16-05, regarding verification of the assessment rolls, was repealed 7-9-2007 by L.L. No. 6-2007.

11 (Popup - Popup)

Editor's Note: See also Ch. 224, Taxation.

12 (Popup - Popup)

Editor's Note: Some provisions of the 1895 Charter are still in effect. A copy of the 1895 Charter is available at the City Clerk's office for public examination.

13 (Popup - Popup)

Editor's Note: Some provisions of the 1895 Charter are still in effect. A copy of the 1895 Charter is available at the City Clerk's office for public examination.

14 (Popup - Popup)

Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 10-28-1996 by L.L. No. 4-1996." Schedule A, which contains a complete description of all changes, is on file in the city offices.

15 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

16 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

17 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

18 (Popup - Popup)

Editor's Note: See Charter at the beginning of the Code.

19 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

20 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

21 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

22 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

23 (Popup - Popup)

Editor's Note: See also Ch. 280, Zoning.

24 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

25 (Popup - Popup)

Editor's Note: This local law also superseded former Ch. 63, Animals, consisting of Art. I, Dogs and Other Animals, adopted 5-12-1980 as Ch. 6, Art. I, and Ch. 99, § 99-28, of the 1980 Code, as amended, and Art. II, Dead Animals, adopted 1-13-1992 (Ch. 6, Art. II, of the 1980 Code), as amended.

26 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

27 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

28 (Popup - Popup)

Editor's Note: Former § 72-14, Penalties for offenses, which immediately followed this section, was repealed 7-8-2002.

29 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

30 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

31 (Popup - Popup)

Editor's Note: See § 430 of the Executive Law.

32 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

33 (Popup - Popup)

Editor's Note: Said legislation was approved at referendum 7-1-1958.

34 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

35 (Popup - Popup)

Editor's Note: The Article passed at a special election held 5-24-1978.

36 (Popup - Popup)

Editor's Note: See Ch. 126, Fire prevention and building construction.

37 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

38 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

39 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

40 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

41 (Popup - Popup)

Editor's Note: For information regarding said referendum, consult the City Clerk's office.

42 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

43 (Popup - Popup)

Editor's Note: Said map is on file at the office of the City Engineer.

44 (Popup - Popup)

Editor's Note: Former Subsection C(2), dealing with filing with the office of State Comptroller, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

45 (Popup - Popup)

Editor's Note: The former definition of "director," which immediately followed this definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

46 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

47 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

48 (Popup - Popup)

Editor's Note: Former § 40-1, Addition to Agriculture and Markets Law, which immediately preceded this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

49 (Popup - Popup)

Editor's Note: Exhibit A is on file in the office of the City Clerk. The boundaries of the Economic Development Zone were amended 4-14-2003 by L.L. No. 1-2003. The boundaries of the Empire Zone were further amended 12-12-2005 by L.L. No. 1-2005 to comply with amendments to General Municipal Law §§ 957 and 961 which require municipalities to configure Empire Zone acreage into three distinct and contiguous areas. A complete description of the changes is on file in the office of the City Clerk.

50 (Popup - Popup)

Editor's Note: The former definition of "Bureau of Code Enforcement police officer," amended 10-28-1996 by L.L. No. 4-1996, which immediately followed this definition, was repealed 6-22-1998.

51 (Popup - Popup)

Editor's Note: See Ch. 83, Dangerous Buildings.

52 (Popup - Popup)

Editor's Note: The former definition of "Code Enforcement Bureau Chief," which immediately followed this definition, was superseded 6-22-1998. See now the definition of "Director of Code

Enforcement."

53 (Popup - Popup)

Editor's Note: This ordinance also repealed former Subsection C, regarding litigation or appearance tickets for uncorrected violations, as amended, which immediately followed this subsection.

54 (Popup - Popup)

Editor's Note: Article 12 of the Public Health Law was repealed by L. 1972, c. 664, § 6, effective 9-1-1972; see now Article 17 of the Environmental Conservation Law.

55 (Popup - Popup)

Editor's Note: See Ch. 176, Pawnbrokers.

56 (Popup - Popup)

Editor's Note: See also 6 NYCRR Subchapter E.

57 (Popup - Popup)

Editor's Note: This ordinance also renumbered former §§ 170-4 through 170-15 as §§ 170-5 through 170-16, respectively.

58 (Popup - Popup)

Editor's Note: This local law also repealed former Ch. 176, Pawnbrokers, adopted 5-12-1980 as Ch. 81 of the 1980 Code, as amended.

59 (Popup - Popup)

Editor's Note: This local law also superseded former Ch. 199, Sewers, which was comprised of Part 1, Sewer Rents Outside City, adopted 5-12-1980 as Ch. 91 of the 1980 Code, and Part 2, Sewers, adopted 2-10-1997 by L.L. No. 2-1997. Former Part 3, Sewer Use, adopted 8-27-1984 (Ch. 93 of the 1980 Code), and Former Part 4, Sewer Use, adopted 10-27-1986 by L.L. No. 2-1986 (Ch. 94 of the 1980 Code), were repealed 2-10-1997.

60 (Popup - Popup)

Editor's Note: See 42 U.S.C. § 6903 et seq.

61 (Popup - Popup)

Editor's Note: See 42 U.S.C. § 7401 et seq.

62 (Popup - Popup)

Editor's Note: See 15 U.S.C. § 2601 et seq.

63 (Popup - Popup)

Editor's Note: See 33 U.S.C. § 1401 through § 1445 and 16 U.S.C. § 1431 through § 1445.

64 (Popup - Popup)

Editor's Note: Former § 207-17, Preparation of solid waste for collection, as amended, was repealed 8-25-2008 by Res. No. 347. See now Ch. 249, Vacant and Occupied Property Maintenance, § 249-5.

65 (Popup - Popup)

Editor's Note: Former § 207-18, Approved collection containers, as amended, was repealed 8-25-2008 by Res. No. 347. See now Ch. 249, Vacant and Occupied Property Maintenance, § 249-6A and B.

66 (Popup - Popup)

Editor's Note: Former Subsection M, Location of collection containers, was repealed 8-25-2008 by Res. No. 347. See now Ch. 249, Vacant and Occupied Property Maintenance, § 249-6C.

67 (Popup - Popup)

Editor's Note: Former § 211-1, Cleaning of sidewalks; use of sand, etc., was repealed 8-25-2008 by Res. No. 348. See now Ch. 249, Vacant and Occupied Property Maintenance, § 249-9.

68 (Popup - Popup)

Editor's Note: This local law also deleted former §§ 95-2, Cleaning by City, 95-3, Statement of expense, 95-4, Action against property owner, and 95-5, Assessment of costs.

69 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

70 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

71 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

72 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

73 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

74 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

75 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

76 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

77 (Popup - Popup)

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

78 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

79 (Popup - Popup)

Editor's Note: See also Ch. 207, Solid Waste.

80 (Popup - Popup)

Editor's Note: This resolution was vetoed by the Mayor, which veto was overridden by a vote of the Common Council 3-24-1997.

81 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

82 (Popup - Popup)

Editor's Note: Former § 232-2, Sunday performance restrictions; violations, which immediately followed this section, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

83 (Popup - Popup)

Editor's Note: Former Subsection D, dealing with negro minstrels, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

84 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

85 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. In addition, former § 232-5, Carnivals prohibited; penalties, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

86 (Popup - Popup)

Editor's Note: See Ch. 280, Zoning.

87 (Popup - Popup)

Editor's Note: This resolution also provided for the amendment and renumbering of former §§ 257-67 through 257-71 as §§ 257-70 through 257-75, respectively.

88 (Popup - Popup)

Editor's Note: See Charter, Ch. 184, Plumbing, and Ch. 126, Fire Prevention and Building Construction.

89 (Popup - Popup)

Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

90 (Popup - Popup)

Editor's Note: The County of Oswego is the current enforcement agency for the provisions of this chapter.

91 (Popup - Popup)

Editor's Note: For additional powers and duties, see Agriculture and Market Laws, Article 16.

92 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

93 (Popup - Popup)

Editor's Note: The former definition of "boating season", which immediately preceded this

definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

94 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

95 (Popup - Popup)

Editor's Note: See Ch. 267, Waterfront Revitalization.

96 (Popup - Popup)

Editor's Note: See Ch. 267, Waterfront Revitalization.

97 (Popup - Popup)

Editor's Note: Former Subsection L, dealing with residential uses of second and third floor premises, which immediately followed this subsection, was deleted 10-28-1996 by L.L. No. 4-1996.

98 (Popup - Popup)

Editor's Note: Former Subsection D, regarding bulk requirements, which immediately followed this subsection, was repealed 10-11-2005.

99 (Popup - Popup)

Editor's Note: See Ch. 267, Waterfront Revitalization Program.

100 (Popup - Popup)

Editor's Note: Former Subsection H, dealing with existing swimming pools, which immediately followed this subsection, was deleted 10-28-1996 by L.L. No. 4-1996.

101 (Popup - Popup)

Editor's Note: See Executive Law § 370 et seq.

102 (Popup - Popup)

Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

103 (Popup - Popup)

Editor's Note: Former Subsection D, which regulated the placement of fence posts and other structural fence supports, which immediately followed this subsection, was repealed 7-25-1983.

104 (Popup - Popup)

Editor's Note: This resolution also superseded former Ch. A285, Common Council Rules, adopted 1-14-2013 by Res. No. 28-2013.