

THE VILLAGE  
OF  
ONEIDA CASTLE  
CODES

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## **ARTICLE I**

### **General Provisions**

#### **§200-1. Title**

This chapter shall be known and may be cited as the “Oneida Castle Village Zoning Law”

#### **§200-2. Purpose**

A. This chapter is enacted in accordance with the provision as 4-412, 7-00, 7-702 and 7-704 of the Village Law.

B. This chapter is enacted for the purpose of promoting the health, safety, morals and general welfare of the community; and the regulations herein contained are made accordance with the Comprehensive Plan and designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote the health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations are made with reasonable consideration, among other things, as to the character of the districts and their peculiar suitability for particular uses, and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the village.

#### **§200-3. Interpretation of provisions**

A. The provisions of the chapter shall be held to be the minimum requirements for the provision of public health, safety and general welfare.

B. When this chapter imposes a greater restriction on the use of buildings or land or on building heights or requires larger open spaces or makes any other greater restriction than is required by any other law, ordinance, rule, regulation or by easements, covenants or agreements, the provisions of this chapter shall govern.

C. When any provision of this chapter imposes a greater restriction than another restriction, the more stringent shall govern.

D. When any provision of this chapter imposes a greater restriction than another restriction, the more stringent shall govern.

E. When any provision of this chapter imposes a greater restriction than another restriction, the more stringent shall govern.

#### **§200-4 Legislative Intent**

In accordance with Subdivision 3 of 20 of the Municipal Rule Law, the local laws, ordinance and certain resolutions of the Village of Oneida Castle, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 200, together with an Appendix, shall be known collectively as the “Code Of the Village of Oneida Castle,” hereafter termed as the “Code.” Wherever reference is made in any of the local laws, ordinances and resolutions contained in the “Code of the Village of Oneida Castle” to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

#### **§200-5 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 Board of Trustees of the Village Oneida Castle, and it is the intention of said Board 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 Section 200-5 below.

#### **§200-6 Repeal of Enactments Not Included in Code**

All local laws and ordinances of a general and permanent nature of the Village of Oneida Castle 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

#### **§200-7 Enactments Saved From Repeal; Matters Not Affected**

The repeal of local laws and ordinances provided for in section 4-7 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 provisions of the Village of Oneida Castle prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Oneida Castle 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 Village of Oneida Castle.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Oneida Castle.

- E. Any local law or ordinance of the Village of Oneida Castle 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 Village of Oneida Castle or any portion thereof.
- F. Any local law or ordinance of the Village of Oneida Castle appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Oneida Castle or other instruments or evidence of the village'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 changes.
- I. The annexation or dedication of property.
- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.

#### **§200-8 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 or 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 be rendered.

#### **§200-9 Copy of Code on File**

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Oneida 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 Village Clerk of the Village of Oneida Castle by impressing thereon the Seal of the Village of Oneida Castle, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while 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.

#### **§200-10 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 Village of Oneida Castle" or any new local laws or resolutions when enacted or adopted in such form as to indicate the intention of the Board of Trustees 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 Board Of Trustees deems desirable.

#### **§200-11 Code Book to be Kept Up-To-Date**

It shall be the duty of the Village Clerk to keep the up-to-date the certified copy of the book containing the Code of the Village of Oneida Castle required to be filed in the office of the Village Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees subsequent to the enactment of this local law in such form as to indicate the intention of said Board 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, or resolutions until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

#### **§200-12 Sale of Code Book; Supplementation**

Copies of the Code may be purchased from the Village Clerk of the Village of Oneida Castle upon payment of a fee to be set by resolution of the Board of Trustees, which Board may also arrange by resolution for the procedures for the periodic supplementation thereof.

#### **§200-13 Penalties for Tampering With Code**

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Oneida Castle or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village Of Oneida Castle 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 period of not more than fifteen (15) days, or both.

#### **§200-14 Changes in Previously adopted legislation**

- A. In compiling and preparing the local laws, ordinances or resolutions for publication as the Code of the Village of Oneida Castle, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Section B hereof. In addition, certain grammatical changes and other minor non-substantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinance and resolutions had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number

references are to the local laws, ordinances and resolutions as they have been renumbered and appear in Code.

**§200-15    Incorporation of Provisions into Code**

The provisions of this local law are hereby made Article 1 of Chapter 1 of the Code of the Village of Oneida Castle, such local law to be entitled “General Provisions, Article 1, Adoption of Code,” and the sections of this local law shall be numbered §1-1 to §16 inclusive.

**§200-16    When Effective**

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



## **ARTICLE II**

### **Definitions**

#### **§200-4. Word usage**

Words used in the present tense include the future tense; words in the singular number include the plural, and the plural the singular. The word “lot” includes the words “plot” and “parcel.” The word “building” includes the word “structure.” The word “used” shall be deemed also to include “designed, intended or arrange to be used.” The word “shall” is mandatory and not permissive. The word “may” is permissive and not mandatory.

#### **§200-5. Terms defined**

For the purposes of this chapter, certain words and terms used herein are defined as follows:

**ALLEY** – A public way which affords generally a secondary means of vehicular access to abutting property.

**ALTERATION, EXTERIOR** – Any building addition, new entranceway, business portal such as a delivery door or exhaust fan, or change in the supporting member of a building. A change in exterior façade (new siding or storefront) is not considered an “exterior alteration” unless it includes the items above, but such a change requires Planning Board review and approval if the property is located in any design review area.

**ALTERATION, INTERIOR** – The relocation of any local bearing support or wall, or the relocation, addition or removal of any non-load-bearing wall which would result in a change in any zoning requirement applicable to the property. [Example: If removing a non-load-bearing wall to expand a professional office to a previously unused portion of a building results in increasing the floor space by two hundred (200) square feet, then the off-street parking requirement for that office would be increased by one (1) space and therefore it would constitute an “interior alteration.”]

**AUTO SALES** – Any activity involving storing, parking or displaying more than one (1) motor vehicle on any lot for the purpose of selling same, regardless of ownership (personal property of landowner, displayed on consignment for owner, etc.). Specific regulations governing “auto sales” are contained in §200-47F(7).

**AUTO WASH** – A structure designed or intended primarily for the washing of automobiles using power washing equipment. Specific regulations governing “auto washes” are contained in § 200-47F(3).

**BASEMENT** – A story partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, as distinguished from a cellar, which is a story more than one-half (1/2) below such grade.

**BED-AND-BREAKFAST HOME** – A private residence that provides one (1) to three (3) guest rooms for a nightly rent or rate. The home is a residence, occupied by the owner while providing bed and breakfast, usually for one (1) party or family, for a short stay.

**BUILDING** – Any roofed structure intended for the shelter, housing or enclosure of persons, animals or chattels.

**BUILDING AREA** – Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

**BUILDING AUCTION** – A building or roofed structure used by an activity engaged in the public sale of property to the highest bidder.

**BUILDING COVERAGE** – That percentage of the lot area covered by the building area.

**BUILDING, HEIGHT OF** – The vertical distance measured from the established grade at the curb; or if no grade has been officially established at the curb, measured from the average level of the finished ground surface across the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING OR USE, ACCESSORY** - A building or use subordinate or supplemental to the main building or use on the same lot and customarily incidental thereto. Examples of “accessory uses” are private garages, storage shed, playhouses and private swimming pools. Specific regulations governing “accessory buildings” are contained in 200-24.

**BUSINESS OFFICE** - An office such as insurance, real estate, financial planning, stockbroker.

**CANOPY** – A permanent roof like shelter or shade attached to a building or on freestanding supports, or both, including canvas covering.

**DRIVE – IN SERVICE** – A traffic generating facility where a product is sold or a service performed for customers while there are in or near their motor vehicles in off-street parking or service areas. The term includes drive-in banking, drive-in food service, fast-food service, gasoline station, auto wash and similar uses. Specific regulations governing drive-in food services are contained in 200-47F(2).

**DWELLING, CONDOMINIUM:**

A. Any apartment, townhouse or other residential building or portion thereof involving a combination of two (2) kinds of ownership of real property:

(1) Fee simple ownership of the individual dwelling unit; and

(2) Undivided ownership, together with other purchasers, of the common elements of the structure, land appurtenances.

B. A “dwelling, condominium” shall be regulated as a two-family dwelling if it contains two (2) dwelling units only. It shall be regulated as a multifamily dwelling if it contains three (3) or more dwelling units.

**DWELLING, MOBILE HOME** – A structure, transportable in one (1) or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. It is considered under the purposed of this chapter to be real property.

**DWELLING, MULTIFAMILY** – A building or portion thereof is containing three (3) or more dwelling units.

**DWELLING, ONE-FAMILY** – A detached building containing one (1) dwelling unit only.

**DWELLING, SECTIONAL** – A factory-finished dwelling unit delivered to the building lot in halves or other major sections and erected on a permanent foundation, all complying with applicable local and state building codes. The term “sectional” includes “modular.”

**DWELLING, TOWNHOUSE** – One (1) of three (3) or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy for one (1) family per unit. Such dwelling shall be regulated as a multifamily dwelling.

**DWELLING, TWO-FAMILY** – A detached building containing two (2) dwelling units.

**DWELLING UNIT** – A building or portion thereof, providing complete housekeeping facilities for one (1) family.

**FAMILY** – One (1) or more persons related by blood, marriage or adoption maintaining a common household and living as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, rooming house, lodging house, club, fraternity, hotel or commune.

**FLOOR AREA RATION (FAR)** – The ratio of floor area permitted on a zoning lot to the size of the lot. Thus, a permitted “floor area ratio” of twenty-five hundredths (0.25) on a ten-thousand –square-foot lot would allow a building whose total floor area is two thousand five hundred (2,500) square feet. FAR provisions give developers flexibility in deciding whether to build a low building covering part of the lot or a high building covering only a very small portion of the lot.

**GARAGE, PRIVATE** - A roofed or enclosed space primarily designed or used for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

**GARAGE, PUBLIC** – A building or part thereof used for the storage, hiring, greasing, washing, servicing and repair of motor vehicles, operated for gain.

**GARAGE, STORAGE** – A building or part thereof used only for the storage of vehicles for gain and at which automotive fuels and oils are not sold and motor driven vehicles are not equipped, serviced, repaired, hired or sold.

**GASOLINE STATION** – Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning or otherwise servicing motor vehicles. Specific regulation governing “gasoline station” are contained in 200-47F (6).

**GROUP HOME** – A facility licensed or supervised by an appropriate state or federal agency to provide resident services and twenty-four-hour supervision to its residents. Such a facility is headed by agency-approved staff and functions as a single housekeeping unit.

**HOME OCCUPATION** – Any personal or professional service customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof and in

which there is kept no stock-in-trade. Specific regulations governing “home occupations” are contained in 200-47

**JUNKYARD** – A lot, land or structure or part thereof used for the collecting, storage or sale of wastepaper, rags, scrap metals, used or salvaged building or other discarded materials or for the collecting, dismantling, storage and salvaging of machinery or vehicles. It shall mean any place of storage or deposit, whether in connection with a business or not where one (1) or more unlicensed, old or secondhand motor vehicles no longer in condition for legal use on the public highways are held, whether for the purpose of resale of used parts or waste materials from or not. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk one (1) or more such vehicles. As used herein, the term “vehicle” shall mean passenger-type automobile, truck, tractor-truck, trailer, bus, motorcycle, snowmobile, or other vehicle, however propelled, as well as tractors, bulldozers, all boats, machinery and similar equipment.

**LAUNDERETTE** – A business premises equipped with individual clothe-washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority or residential hotel or club.

**LIVESTOCK** – Includes but is not limited to horses, cattle, hogs, fowl or furred animals.

**LOT** – A parcel of land considered as a unit, occupied or capable of being occupied by one (1) building and accessory buildings or uses or by a group of buildings united by a common use or interest, and including such open spaces as are required by this chapter and having the principal frontage upon a street or upon an officially approved place.

**LOT AREA** – The total horizontal area included within lot lines, except that no part of the area within a public right-of-way may be included in the computation of “lot area.”

**LOT, CORNER** – A lot located at the intersection of and fronting on two (2) or more intersecting streets and having an interior angle of the corner of intersection of less than one hundred thirty-five degrees (135).

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

**LOT, INTERIOR** – A lot other than a corner lot.

**LOT, THROUGH** – An interior lot having frontage on two (2) approximately parallel or converging streets.

**LOT WIDTH** – The distance between side lot lines, measured at right angles to the lot depth at a point from the front lot line equal to the front yard specified for the district.

**MARQUEE** – A permanent roofed structure projecting from a building, usually over an entrance, attached to the building or on freestanding supports, or both, including canvas covering.

**MOBILE HOME** – See “dwelling, mobile home.”

**MOTEL** – A building or group of building comprising three (3) or more individual sleeping units per building, used primarily for sheltering transient motorist, and accessory uses, such as restaurants and parking; includes, but is not limited to, the terms “motor courts,” “motor inn,” tourist court” and “hotel”.

**NONCONFORMING LOT** – Any lot in single ownership which does not conform to the minimum area and/or dimensions required in the district in which it is situated and where the owner of said lot does not own any adjoining unimproved property the subdivision of which could create one (1) or more conforming lots.

**NONCONFORMING SITUATION** – A building or use that does not comply with the regulation for the district in which it is situated and where such building or use existed legally on the effective date of this Zoning Chapter or its amendment.

**NURSING OR CONVALESCENT HOME** – Any dwelling used for the accommodation and care of persons with, or recuperated from, illness or incapacity, where nursing services are furnished for hire.

**OVERLAY DISTRICT** – A mapped zoning district that imposes a set of requirements in addition to those of the underlying districts.

**PARKING SPACE** – An off-street space available for the parking of one (1) motor vehicle and having an area of no less than one hundred eighty (180) square feet, exclusive of passageways and driveways thereto, and having direct access to a street, alley or aisle. Such off-street “parking space” shall be properly marked or delineated and be located on a durable hard surface base.

**PERMIT, BUILDING** – A certification required prior to any construction, addition, alteration, relocation or demolition as governed by the laws, ordinances and codes relating to properties and buildings.

**PERMIT, ZONING** – A certification required prior to any activity governed by this chapter.

**PLANNED DEVELOPMENT DISTRICT** – A tract of land in single ownership and/or controlled by an individual, partnership, cooperative or corporation, designed or capable of being designed and used as a unit or group of related units and having certain facilities in common, such as yards, open space, recreation areas, garages or parking areas. A “planned development district” may be residential, commercial, industrial, recreational or a combination of such uses.

**PROFESSIONAL OFFICE** – An office such as a physician, dentist, chiropractor, optometrist, lawyer, accountant, architect, landscape architect, engineer, veterinarian.

**RECREATIONAL VEHICLE** – A mobile unit designed and built for recreational travel, camping or vacation use which is equipped to provide portable temporary shelter. The term includes campers, truck mounts, pickup camper, travel trailers, converted bus motor home or similar vehicles.

**ROOMING HOUSE** – Any dwelling or portion thereof containing more than two (2) and less than ten (10) rooms that are used, rented or hired out to be occupied or that are occupied primarily for sleeping purposes for compensation, whether the compensation be paid directly or indirectly. The term “rooming house” shall be deemed to include lodging house or boardinghouse.

**SETBACK** – See “yard”.

**SIGN** - Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia or any government or government agency or of any civic, charitable, religious, patriotic, fraternal or similar organization. For purposes of administering this chapter, “signs” are further subdivided into the following three (3) categories:

**SIGN, ADVERTISING** –A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

**SIGN, BILLBOARD** – Advertising or business sign which contains a display area in excess of fifty (50) square feet.

**SIGN, BUSINESS** – A sign which directs attention to a business or profession conducted, or a commodity, service or entertainment sold or offered, upon the premises where such sign is located or to which it is affixed. A “for sale” or “for rent” sign relating to the lot o which it is displayed shall be deemed to be a “business sign”.

**SMALL MACHINE SHOP** –Any use wherein the primary occupation is the processing, fabrication, converting or altering of materials or goods, the operation of which is conducted solely within a building or group of buildings and which use creates no objectionable odors, fumes, dirt, vibration, glare or noise beyond the site containing the use.

**SPECIAL USE** – A use that would not be appropriate generally pr without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance or general welfare. Such use may be permitted in certain zoning districts as a “special use” if specific provision for the Board of Appeals’ review and approval for such “special use” is made in this chapter.

**STABLE, PRIVATE** – An accessory building in which one (1) or more horses, ponies or other livestock are kept for private use and not for hire, remuneration or sale.

**STORY** – That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there by no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF** – That part of a building between a pitched roof and the uppermost full story and having a floor area at least half as large as the floor below. Space with less than five (5) feet clear headroom shall not be considered as floor area.

**STREET** – A public thoroughfare which affords the principal means of access to abutting property.

**STRUCTURAL ALTERATION** – Any building addition or change in the supporting member of a building.

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

**SWIMMING POOL, PRIVATE** – A swimming pool installed for the primary use and enjoyment of the property owner and family and for the use of which no fee, membership in a group or club nor residency in a rental unit on or off the premises is required. “Private swimming pools” include permanent and portable swimming pools and are structures requiring zoning permits. Specific regulation governing “private swimming pools” are contained in 200-47F(4).

**SWIMMING POOL, PUBLIC** – Any swimming pool which does not fall within the definition of private swimming pool. “Public swimming pools” are structures. Specific regulation governing “public swimming pools” are contained in §200-47(5).

**SWIMMING POOL, WADING** – Any private swimming pool which is less than three (3) feet in height measured from the lowest point of the pool to the top rim and less than fifteen (15) feet in length or diameter. “Wading swimming pools” are exempt from the requirements of this chapter and are not structures.

**TOURIST HOME** – A dwelling in which overnight accommodation are provided or offered for transient guest for compensation.

**VARIANCE** – A departure authorized by the Board of Appeals from the terms of the chapter due to practical difficulty or a hardship peculiar to an individual lot or situation and otherwise in accord with the powers and duties of the Board of Appeals. “Variances” are further divided into use and area variances as follows:

**VARIANCE, USE** – An authorization by the Zoning Board of Appeals to allow a use normally prohibited in a zone district, such authorization to be granted only in accordance with 200-47D(1) of this chapter.

**VARIANCE, AREA** – An authorization by the Zoning Board of Appeals to sanction a violation of any zone district requirement other than a use requirement, such authorization to granted only in accordance with 200-47D(2) of this chapter.

**YARD** – An open space on the same lot with a building, unoccupied or unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this chapter.

**YARD, FRONT** – An open, unoccupied space on the same lot with a building, between the front line of the building and the street or highway line and extending the full width of the lot. For lots occupied by more than one (1) principal building, each building shall be deemed to have its own “front yard” with it width extending to the midpoint of the space between it and the adjoining building.

**YARD, REAR** – An open, unoccupied space, except for accessory buildings, on the same lot with the building, between the rear line of the building and rear lot line and extending the full width of the lot. For lots occupied by more than one (1) principal building, each building shall be deemed to have its own “rear yard” with it width extending to the midpoint of the space between it and the adjoining building.

**YARD, SIDE** – An open, unoccupied space on the same lot with the building, situated between the building and the side lot line and extending from the front yard to the rear yard.

## **ARTICLE III**

### **Zoning Districts**

#### **§200-6. Districts Enumerated**

In order to regulate the location and use of a buildings, structures and land for trade, industry, residence and other purposed, and to regulate the height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces, the amount of parking space and the density of population, the Village of Oneida Castle is hereby divided into the following zoning districts:

RI	Residence
B1	Business
OF	Overlay Flood Area District

#### **§200-7. Zoning Map**

A. The locations and boundaries of the zoning districts hereby established are shown on the Master Zoning Map, entitled “Zoning Map, Village of Oneida Castle, New York” which is on file in the Village Office. The Zoning Map and all notations, references and other information shown thereon are hereby adopted and declared to be a part of this chapter.

B. The Planning Board shall delineate on the Master Zoning Map all amendments to district boundaries immediately upon the effective date of such amendment.

#### **§200-8. Interpretation of Boundaries**

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

A. District boundary lines are intended to follow center lines of streets or alleys, rights-of-way or watercourses, lot lines or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimensions shown on the Zoning Districts Map.

B. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

C. In un-subdivided land and where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.

D. If, after the application of the foregoing rules uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine the location of said lines.



#### **§200-9. Overlay Districts**

- A. In an overlay zoning district, property is placed simultaneously in two (2) districts and the requirements of both districts apply.
- B. The requirements of the overlay zone modify those of the basic district.

#### **§200-10. Annexed Properties**

Prior to annexation of any area by the village, the Board of Trustees shall have a public hearing and shall determine the zoning designation, to be effective on the date of annexation.

#### **§200-11. Uses prohibited in all districts**

- A. In all districts, uses are prohibited which would be injurious to the safety or welfare of the neighborhood because of health, noise, vibration, glare, dirt, odor, smoke or danger of fire or explosion.
- B. No garage or accessory building shall be occupied or used for residence or dwelling purposes.
- C. No recreational vehicle shall be occupied or used as a permanent residence or dwelling, but owners of such a vehicle may use it as a temporary dwelling while visiting residents of the property on which it is parked for fourteen (14) days maximum.
- D. The raising or harboring of livestock is prohibited in all districts. Common household pets are excepted from this provision, provided that there are not more than four (4) cats and/or dogs over six (6) months old.
- E. In all districts the dumping of refuse and waste material for landfill is prohibited. Fill material shall be as approved by the Village Codes Officer for the conditions required and for proper compaction, to grades approved by the Village Codes Officer.

## **ARTICLE IV**

### **District Regulations**

#### **§200-12. R1 Residence Districts.**

A. The purpose of the R1 Residence Districts is as follows:

- (1) To improve the character of residential areas by requiring standards of land use and lot and building size which accurately reflect existing and desirable development.
- (2) To protect the integrity of residential areas by prohibiting the intermixture of incompatible nonresidential uses.

B. In any R1 District, no building or premises shall be used and no building shall hereafter be erected or altered except for one (1) or more of the following uses:

(1) Uses permitted:

- (a) One or two-family dwellings.
- (b) Churches and other places of worship or religious education; convent, parish house or rectory.
- (c) Schools and libraries, public parks and playgrounds, fire stations.
- (d) Off-street parking for uses permitted in the R1 Residence District.
- (e) Accessory uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business, including a private garage for use of the residents of the premises.
- (f) Medical Building
- (g) Private swimming pool. Private outdoor swimming pools which are accessory to a principal residential use shall be regulated as follows:
  - [1] Such pool may be erected only on the same lot with the principal structure.
  - [2] Such pool may be erected only in the side or rear yard of such structure and not less than five (5) feet from the side or rear lot line.
  - [3] Such pool shall be surrounded by a fence at least four (4) feet in height, with a maximum clearance to adjoining grade of two (2) inches to prevent inadvertent entry.
  - [4] Such pool shall not adversely affect the character of any residential neighborhood.

- [5] There shall be no loudspeaker or amplifying devices allowed that project sound beyond the bounds of the lot.
- [6] Any pool lighting or spotlighting shall be directed away from, shaded or screened from all adjacent residential property.
- (2) The following uses, subject to approval by the Zoning Board of Appeals as special use:
  - (a) Three or four-family dwellings in existing structures, provided that parking lot area and residential living area requirements shall be met.
  - (b) Home occupation.
  - (c) Municipal or public utility structure.
  - (d) Funeral home.
  - (e) Cemetery.

### **§200-13. B1 Business Districts**

A. The purpose of the B1 Business District is as follows: to delineate an area where retail stores, personal services and offices; recreational, institutional and cultural facilities; and municipal buildings and services are provided for the community.

B. In any B-1 Business District, no building or premises shall be used and no building shall hereafter be altered or erected except for one (1) or more of the following uses:

- (1) Uses permitted:
  - (a) Any use permitted in the R1 Residence District
  - (b) Multifamily dwelling, condominium
  - (c) Three or four-family dwellings in existing structures, provided that parking lot area and residential living area requirements shall be met
  - (d) Business, professional and governmental offices
  - (e) Hotels, motels, tourist homes and rooming houses
  - (f) Retail stores
  - (g) Retail outlet for laundry, cleaning, pressing, dyeing or similar businesses
  - (h) Banks, including drive-in, and other monetary institutions

- (i) Restaurants where alcoholic beverage is served
  - (j) Service shops, such as barber- or beauty shop, shoe repair, tailor, photographer, optician, and florist
  - (k) Radio and television and household appliance shops
  - (l) Tailoring dressmaking, millinery, bakery, confectionery and similar shops, provided that all goods made or processed are sold at retail on the premises.
  - (m) Clubs, lodges, social and recreational buildings
  - (n) Laundromats.
  - (o) Funeral home
  - (p) Municipal or public utility building or structure
  - (q) Musical studios
  - (r) Storage garages
- (2) The following uses, subject to approval by the Board of Appeals as a special use:
- (a) Gasoline station
  - (b) Public garages
  - (c) Drive-in food services
  - (d) Restaurant or other place serving food and alcoholic beverages, or alcoholic beverages only
  - (e) Musical studios
  - (f) Public outdoor swimming pool accessory to a hotel or motel
  - (g) Marquees and canopies over a public walk or drive

#### **§200-14. OF Overlay Flood Area District**

A. The purpose of the OF Overlay Flood Area District is as follows: to delineate special flood hazard areas defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps.

B. General Process. The Flood Area District is an overlay. The uses in the underlying districts are permitted, subject to Zoning Board of Appeals review. Upon referral of a proposed action, the Zoning Board shall determine whether or not the proposal is within the one-hundred-year floodplain. This determination shall be based on the FEMA Flood Hazard Boundary Map as delineated on the Village

Zoning Map as the Flood Area Overlay District, or on other recognized professional hydrologic data. If it is determined that the proposal is within the one-hundred-year floodplain, then compliance with this section is required.

C. Procedures for action in floodplain areas.

- (1) Review criteria. In passing upon such applications, the Board may consider all relevant factors specified in other sections of this chapter and:
  - (a) The danger to life and property due to increased flood heights or velocities caused by encroachments
  - (b) The danger that materials may be swept onto other lands or downstream to the injury of others
  - (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners
  - (e) The importance of the services provided by the proposed facility to the community
  - (f) The requirements of the facility for a waterfront location
  - (g) The availability of alternative locations not subject to flooding for the proposed use
  - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future
  - (i) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area
  - (j) The safety of access to the property in times of flood by ordinary and emergency vehicles
  - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site
- (2) Such other factors as are relevant to the purposes of this chapter.
- (3) Standards for flood-prone area uses:
  - (a) All uses: No structures (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other use may be allowed which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodplain the floodplain or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an

equal degree of encroachment extending for a significant reach on both sides of the stream.

(b) Fill

- [1] Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof shall be not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- [2] Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulk heading.

(c) Structures (temporary or permanent)

- [1] Whenever possible, structures shall not be designed for human habitation.
- [2] Structures shall have a low flood-damage potential.
- [3] The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
  - [a] Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - [b] So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures; and
  - [c] Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other and other narrow sections of the stream or river; and
  - [d] Service facilities, such as electrical and heating equipment, shall be constructed at or above the regulatory flood-protection elevation for the particular area or flood proofed.
- (d) Storage of material and equipment
  - [e] The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited
  - [f] Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily available after flood warning.

- (3) Possible conditional requirements. Upon consideration of the factors listed above and the purpose of this chapter, the Planning Board may attach such conditions to the granting of permits as it deems necessary to further the purposed of this chapter. Among such conditions, without limitation because of specific enumeration, may be included:
- (a) Modification of waste disposal and water supply facilities
  - (b) Limitation on periods of use and operation
  - (c) Imposition of operational controls, sureties and deed restriction
  - (d) Requirements for construction of channel modifications, dikes, levees and other protective measures
  - (e) Flood proofing measures such as the following shall be designed consistent with the flood-protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory fold. The Board may require that the applicant submit a plan or document, certified by a registered professional engineer, that the flood proofing measures are consistent with the regulatory flood-protection elevation and associated flood factors for the particular area. The following flood proofing measures may be required, without limitation because of specific enumeration:
    - [1] Anchorage to resist flotation and lateral movement
    - [2] Installation of watertight doors, bulkheads and shutters or similar methods of construction
    - [3] Reinforcement of walls to resist water pressures
    - [4] Use of paints, membranes or mortars to reduce seepage of water through walls
    - [5] Addition of mass or weight to structures to resist flotation
    - [6] Installation of pumps to lower water levels in structures
    - [7] Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters
    - [8] Installation of pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures
    - [9] Construction to resist rupture or collapse caused by water pressure or floating debris
    - [10] Installation of valves or controls on sanitary and storm drains which will permit the drain to be closed to prevent backup of sewage and storm

waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices

- [11] Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and to provide protection from inundation by the regulatory flood.
- [12] Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare in a manner which will assure that the facilities are situated at elevation above the height associated with the regulatory protection elevation or are adequately flood proofed to prevent flotation of storage containers or damage to storage containers which could result in the escape of toxic materials into floodwaters.
- [13] Nonconforming uses. A structure or use of a structure or premises which was lawful before the passage or amendment of this chapter which is located in the defined floodplain but which is not in conformity with the provisions of this section may be continued, subject to the provisions of this section may be continued, subject to the provisions of Article VIII of this chapter and the following conditions:
  - (a) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its value, it shall not be reconstructed except in conformity with the provisions of this chapter. Reconstruction may be permitted, provided that adequate and safe flood-proofing is completed in conformity with Subsection C (3) of this section.



## **ARTICLE V**

### **Lot and Building Regulations**

#### **§200-20. General Regulations**

Regulations governing lot area and lot width, front, side and rear yard, building coverage and building height are as specified in Schedule A, which is hereby made a part of this chapter. The regulations appearing in Schedule A are subject to the supplementary regulations of Article VI and additional regulations as follows.

#### **§200-21. Additional Area Regulations**

A. Lots of less than required dimensions:

- (1) Any lot with an area or a width less than that required in the district in which said lot is located, may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.
- (2) In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than twenty-four (24) feet, the Board of Appeals shall determine and fix yard and coverage requirement for said lot to permit its reasonable utilization for a permitted use

**Schedule A – Village of Oneida Castle**

District	Permitted Principal Use	Special Permit By ZBA	Minimum Lot Size		Lot Coverage (Max. Percent)	<u>Minimum Lot Dimensions in Feet</u>			
			Area in Sq. Ft.	Width in Ft.		Front	One	<u>Side</u> Total	Rear
R-1	One Family		20,000	60	20	75	10	25	25
	Two Family		40,000	100	25	75	10	20	20
	Churches		--	--	--	75	10	--	--
	Libraries, Schools		--	--	--	75	10	--	--
	Parks		--	--	--	75	10	--	--
	Home Occupations		20,000	60	20	75	10	--	--
	Utility Stations		--	--	--	75	10	--	--
	Multiple Family Dwellings		4,000 DU	100	30	75	10	20	20
	Professional Offices		--	--	--	75	10	--	-
<hr/>									
B-1	R-1 Uses		Same As Above		20	0	0	0	25
Business	Multiple Dwellings		2,5000	50	40	10	5	10	20
	Retail Stores		None	None	40	0	0	0	25
	Offices		--	--	--	--	--	--	--
	Service Shops		--	--	--	--	--	--	--
	Undertaker		--	--	--	--	--	--	--
	Restaurants, Bakery		--	--	--	--	--	--	--
	Clubs, Lodges		--	--	--	--	--	--	--
	Laundries		--	--	--	--	--	--	--
	Gasoline Stations		10,000	100	10	--	--	--	--

B. Reduction of lot area: The minimum yards and open spaces, including lot area per family, required by this chapter for any building existing at the time of adoption of this chapter or for any dwelling hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this chapter.

C. Corner lot: On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. One (1) rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his or her application for a zoning permit. Nothing in this regulation shall be so interpreted as to reduce the building with of a corner lot facing an intersecting street and of record at the time of the passage of this chapter to less than twenty-four (24) feet.

D. Visibility at street corners: On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points twenty (20) feet distant from the point of intersection, measured along said right-of-way lines.

E. Front yard exceptions: The front yard of all building and structures hereafter constructed within a residence district shall be not less than the average front yard of all buildings in the block for a distance of three hundred (300) feet on each side of such building. A vacant lot within the said distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.

F. Transition yard requirements:

- (1) When two (2) zone districts with different front yard requirements meet between intersections on the same street, any buildings within fifty (50) feet of the district boundary line which are hereafter constructed or structurally altered shall have a front yard equal in depth to at least the average of the front yard requirements of the two (2) districts.
- (2) Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the district or in the more restricted district, whichever is greater.

G. Projecting architectural features, terraces, porches and fire escapes:

- (1) The space in any required yard shall be open and unobstructed except for the ordinary projections of windowsills, belt courses, cornices, eaves and other architectural features: provided, however, that such features shall not project more than two (2) feet into any required yard.
- (2) A paved terrace shall not be considered as part of a building in the determination of yard size or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure exceeding six (6) feet in height.

- (3) In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches or porches open at the side but roofed shall be considered a part of the building.
- (4) An open fire escape may extend into any required yard not more than six (6) feet, provided that such fire escape shall not be closer than four (4) feet at any point to any lot line.
- (5) Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.

H. Walls, fences and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall not any fence, wall or hedge, provided that in any residence district, no fence or wall shall exceed four (4) feet in height in any front yard or six (6) feet in height in any side or rear yard, and provided further that such fence or wall shall be no closer to any lot line than three (3) feet and shall comply with visibility at street corners as provided in Subsection D above. The decorative or finished side of any fence shall face outwards from the lot.

I. There shall not be any electric fences erected in the Village of Oneida Castle.

#### **§200-22. Additional Height Regulations**

A. Chimneys, spires, etc. The height limitations of this chapter shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; not to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or other structure which extends above the roof limitations.

B. Through lots. On through lots one hundred twenty (120) feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than one hundred twenty (120) feet deep, the height regulations and basis of height measurement of the street permitting the greater height shall apply to a depth of not more than one hundred twenty (120) feet from that street.

#### **§200-23. Accessory Buildings**

A. Number. There shall be not more than one (1) principal dwelling structure nor more than two (2) accessory buildings, including a private garage, on each lot intended or used for residential purposes, except that dwelling groups and large-scale developments shall not be subject to the provisions of this section.

B. Height. Accessory buildings shall not exceed one and one-half (1 ½) stories or fifteen (15) feet in height.

C. Location of unattached accessory buildings in R Districts and RT Districts. Accessory buildings not attached to a principal building may be erected within one (1) of the side yards or within the rear yard in accordance with the following:

- (1) Rear yard: five (5) feet from side or rear line, except ten (10) feet when abutting an alley.
- (2) Side yard.
  - (a) Interior lot: five (5) feet.
  - (b) Corner lot: same as for the principal building.
- (3) Not closer to a principal building than ten (10) feet.

D. Attached accessory building in R Districts and RT Districts. An accessory building attached by roof and/or walls to the principal building shall comply in all respects with the requirements of this chapter applicable to the principal building.

E. Accessory building in business and manufacturing districts. Non-dwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than ten (10) feet.

#### **§200-24. Residential ground floor areas**

Minimum residential ground floor areas, measured from the exterior faces or exterior walls, exclusive of garages and open porches, shall be as follows:

<b>Minimum Area Number of (square feet)</b>		
<b>District</b>	<b>Stories</b>	
Residential R1	Less than 2	1,000
Business B1	Less than 2	800
	2 or more	600

#### **§200-25. Residential Living Area Requirements**

Minimum living areas for dwelling units hereafter established shall be as follows:

A. One-and two-family dwellings. Minimum living areas shall be measured from exterior faces of exterior walls, exclusive of garages, cellars and unenclosed porches. Minimum living area per dwelling unit shall be one thousand (1,000) square feet.

B. Multifamily dwelling. Minimum living areas for each such dwelling unit shall be calculated by totaling the interior square footage of all rooms, halls and closets in the dwelling unit which are reserved for the use of that unit's residents, but excluding all areas shared in common with any other dwelling unit. Minimum living areas per individual dwelling unit shall be as follows:

- (1) Zero (0) bedroom: four hundred twenty-five (425) square feet (efficiency).
- (2) One (1) bedroom: five hundred twenty-five (525) square feet.
- (3) Two (2) bedrooms: six hundred fifty (650) square feet.
- (4) Three bedrooms: seven hundred seventy-five (775) square feet.

#### **§200-26. Floor Area Ratio**

The floor area ratio (FAR) specified in Schedule A (Zoning Schedule) is the maximum square footage of total floor area permitted for each square foot of land area, except that the specified maximum building coverage shall apply is a lesser density.

## **ARTICLE VI**

### **Supplementary Regulations**

#### **§200-27. Lots in More Than One District**

Where a district boundary line divides a lot in one (1) ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend not more than fifty (50) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

#### **§200-28. Signs**

A. This chapter regulates signs and street graphics in order to promote public welfare and safety as follows, to:

- (1) Encourage appropriate and compatible signs and graphics.
- (2) Lessen objectionable competition in sign size and placement.
- (3) Reduce the hazards of sign obstructions and distractions.
- (4) Create a more attractive business climate.
- (5) Conserve the value of buildings and properties.
- (6) Protect and enhance village appearance.

B. General sign regulations. The following regulations shall apply to all permitted sign and billboard uses:

- (1) Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.
- (2) Signs, other than an official traffic sign, shall not be erected within the right-of-way lines of any street.
- (3) Signs shall not project beyond property lines nor over public sidewalk areas except as noted in Article VIII of this chapter.
- (4) All temporary signs erected for any special event or political campaign shall be removed by the property owner when the circumstances leading to their erection no longer apply. In particular, all office seekers and their campaign organizations shall remove their candidate's signs and stickers within seven (7) days following the election.
- (5) No revolving, flashing or intermittently illuminated signs shall be permitted in any zone district, except that informational signs displaying the current time and/or temperature may flash as necessary to convey this information.

- (6) Signs for home occupations are further regulated under Article X of this chapter.
- (7) Signs for auto sales are further regulated under Article X of this chapter.
- (8) Nonconforming signs are subject to the restrictions contained in Article VIII of this chapter.
- (9) Flags, emblems or insignia of a nation, government or school may be displayed without a permit, except in connection with commercial purposes.
- (10) No sign shall be placed on any fence, utility pole or tree.
- (11) Any signs advertising garage sales or lawn sales shall be removed within twenty-four (24) hours after said sale has ended.

C. R1 Residential District

- (1) Non-illuminated and non-advertising signs are permitted as follows:
  - (a) One (1) nameplate, identification or professional sign not to exceed two (2) square feet of sign area showing the name and/or permitted home occupation of the occupant.
  - (b) One (1) sign not to exceed six (6) square feet of sign area pertaining to the sale, lease or rental of the lot or building.
  - (c) One (1) temporary sign not to exceed six (6) square feet of sign area during and pertaining to construction, repairs or alterations on the property.
  - (d) Institutional or religious sign not to exceed fifteen (15) square feet of sign area.
- (2) Illumination exception. Signs announcing the name of the occupant may be illuminated, provided that the source of light is directed away from or shielded from an adjacent residential property or street. Any such illuminated sign may include a professional title which is a commonly accepted form of address (i.e., R.F. Jones, D.D.S.) but may not advertise a home occupation.
- (3) Signs advertising functions, uses, products or services not pertaining to the premises on which they are located and mobile advertising or attracting devices are expressly prohibited; no vehicle or trailer on which an advertising or business identification sign in excess of two (2) square feet has been applied or painted shall be parked or stored forward of the building line for more than five (5) hours during any twenty-four (24) consecutive hours.



## **§200-29. Maintenance of Premises**

A. Structures damaged by fire. In addition to the other provisions of this chapter, any structure damaged by fire shall be demolished or repaired within six (6) months from the date of damage.

B. The exterior of all premises shall be kept free of the following matter, materials or conditions.

- (1) Refuse, as hereinabove described.
- (2) Rubbish, as hereinabove described.
- (3) Abandoned, uncovered or structurally unsound walls, shafts, towers, exterior cellar opening, basement hatchways, foundations or excavations.
- (4) Abandoned iceboxes, refrigerators, heaters, televisions sets and other similar major appliances.
- (5) Structurally unsafe or unsound buildings, structures or fences or parts thereof.
- (6) Animal excrement piles or manure piles within one hundred (100) feet of property line.
- (7) Buried refuse or rubbish.
- (8) Stagnant surface or ground water accumulations which create or are likely to create mosquito or other insect breeding areas.
- (9) Nuisances, as hereinabove described.
- (10) Vehicles or parts thereof, including boats and trailer, motorized or not, licensed or unlicensed, registered or unregistered, which vehicles or parts thereof are or have been junked, abandoned, dismantled or are in a state of visible disrepair for a period of more than two (2) weeks. This subsection shall take effect only where the conditions described herein are visible from surrounding or adjoining properties. No part of this subsection, however, shall be applicable to properties upon which the business of an automobile body shop or automobile dealership is conducted.
- (11) Dangerously loose and overhanging objects, including but not limited to dead trees or tree limbs, accumulations of ice or any object, natural or man-made, which could threaten the health and safety of persons if caused to fall, or other similar dangerously loose and overhanging objects which, by reason of their location above ground level, constitute an actual hazard to persons or vehicles in the vicinity thereof.
- (12) Broken glass or windows or rotted, missing or substantially destroyed window frames and sashes, door frames, exterior door or other major exterior component parts of buildings or structures.

#### A. PROHIBITED ACCUMULATIONS

No brush, grass, rubbish or weeds which constitute a fire or health hazard or public nuisance to the residents of the Village of Oneida Castle or the adjoining properties shall be permitted to grow, accumulate or spread on any real property in the Village of Oneida Castle.

#### B. ABATEMENT OF NUISANCE

Grass and weed growing on tracts or parcels of land within the Village of Oneida Castle Tax District adjoining land on which is situated a dwelling house or building shall be cut before the length is six (6) inches grass and weed growing on tracts or parcels of land within the Village Tax District adjoining on that portion of the premises bounded by the street or highway abutting the property on the front and the front line of the dwelling, house or building, including as well, any side lawn or lawn abutting upon any lot upon which is situated a dwelling house or building. Once the grass has reached the six (6) inch or more in length the Village Clerk will send the property owner a letter advising the owner of the property that the grass and weeds needs to be cut. If the owner of the property does not cut the grass and weeds within five (5) days of receipt of the letter the Village of Oneida Castle will cut the grass and weeds. The fee for cutting of the said grass and weeds shall be one hundred dollars (\$100.00) for the first quarter (1/4) of an hour and one hundred twenty-five dollars (\$125) for each quarter hour thereafter.

If property owner receives a second or more letters for not mowing their grass in the same year when it reaches six (6) inches and has received a letter written by the Village Clerk advising their lawn has reached six (6) inches and they have five (5) days to mow their lawn or the Village of Oneida Castle will do it with a charge of one hundred twenty-five dollars (\$125) for the first quarter (1/4) of an hour and one hundred fifty dollars (\$150) for each quarter thereafter.

The property owner shall also be responsible for any damage done to the village lawnmower if damage is done while mowing the property lawn or while driving to and from the violator's property. If the property is vacant and the owner or person or business can not be found the Village of Oneida Castle will have the right to mow the lawn and place the amount owed on the next assessment roll. The cost of mowing the lawn of occupied properties and repairs if needed shall be assessed against the property and placed upon the next assessment roll, if unpaid when such roll is adopted.

## **ARTICLE VII**

### **Off-Street Parking and Loading**

#### **§200-30. Off-Street Parking**

A. Off-street parking space shall be required for all buildings constructed or new uses established after the effective date hereof. Each off-street space shall consist of at least one hundred eighty (180) square feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements specified in this Article include Schedule B, which is hereby made a part of this chapter.

B. Each facility shall be subject to the following minimum requirements:

- (1) Each berth shall be not less than twelve (12) feet wide, thirty-three (33) feet long and fourteen (14) feet in height when covered.
- (2) Space for such berth may occupy any part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any R District unless wholly within a completely enclosed building.

#### **§200-31. Off-Street Loading**

At least one (1) off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or altered to have a gross floor area in excess of five thousand (5,000) square feet, computed as described in § 200-30. Space for off-street loading shall be in addition to space for off-street parking.

A. Each facility shall be subject to the following minimum requirements:

- (1) Each berth shall be not less than twelve (12) feet wide, thirty-three (33) feet long and fourteen (14) feet in height when covered.

Space for such berth may occupy any part of any required side or rear yard, except no such berth shall be located closer than one hundred (100) feet to any lot in any R District unless wholly within a completely enclosed building.

## **ARTICLE VIII**

### **Nonconforming Uses**

#### **§200-32. Continuation of Existing Use, Building or Structure**

Any nonconforming use, building or structure which existed lawfully at the time of this chapter may be continued, subject to the regulations which follow in this Article.

#### **§200-33. Registration**

It shall be the duty of the Zoning Enforcement Officer to give written notification to the owners (as they appear on the most current village tax rolls) of all nonconforming uses of land and buildings concerning their nonconforming status. Such notification shall be made within six (6) months of the date of adoption of this chapter or amendment and shall include such information as is necessary for the property owner to meet with the Zoning Enforcement Officer for a fuller explanation of nonconforming status. The Enforcement Officer shall also maintain a registration log listing the owner, address, date of such notification and particular nonconformity of each nonconforming property. Failure of the Zoning Enforcement Officer to so notify a property owner shall not relieve said property of its nonconforming status.

#### **200-34. Land**

The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

#### **§200-35. Buildings**

A. Additions. A building containing a nonconforming use shall not be added to or enlarged in any manner unless such nonconforming building and the use thereof are made to conform to all the regulations of the district in which it is located.

B. Alterations and repairs. No structural alterations shall be made to any building containing a nonconforming use unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a nonconforming building or structure in sound condition shall be permitted.

C. Changes. A nonconforming use of a building may not be changed except to a conforming use. When so changed, the nonconforming use shall not be resumed thereafter.

D. Discontinuance. A nonconforming use of a building or structure or a portion thereof which is discontinued for a period of twelve (12) consecutive months shall not be reestablished, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:

- (1) Vacancy of a nonconforming use of a building or discontinuance of a nonconforming use for a period of twelve (12) consecutive months.
  - (2) Manifestation of a clear intent on the part of the owner to abandon the nonconforming use.
- E. Extension. A nonconforming use may not be extended to any other part of such building.
- F. Restoration. A building devoted to a nonconforming use destroyed or damaged by fire, wind, explosion, structural failure or other natural cause to the extent of fifty percent (50%) or more of its assessed value at the time of such damage, as adjusted to full value, based upon State Board of Equalization rates, shall not be repaired, rebuilt or reoccupied except in conformity with the provisions of this chapter and after a zoning permit and certificate of zoning compliance have been issued by the Zoning Enforcement Officer.
- G. Removal. If any building in which any nonconforming use is conducted is removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform to the regulations of the district.
- H. Validity of permit. Any building for which a permit has been lawfully granted and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

#### **§200-36. Miscellaneous.**

- A. Nonconforming lots shall be subject to the following:
1. Residential lots in R1 Districts.
    - (a) If any yard or setback requirement cannot be met, residential development shall only be allowed if an area variance is granted by the Zoning Board of Appeals.
    - (b) If the residential living area requirements cannot be met, the Zoning Board of Appeals may grant an area variance reducing the required yard or setbacks, but shall not reduce the residential living area requirements.
  - (2) All others. Development on all other nonconforming lots shall only be permitted, provided that the Zoning Board of Appeals grants the appropriate variance.
- B. Nonconforming buildings shall be subject to the following:
- (1) All nonconforming building. Except as noted above, nonconforming building which comply with the use regulations of their zone districts may be altered, extended, enlarged, rebuilt or restored only if an appropriate variance has been granted by the Zoning Board of Appeals, unless such activity is required by law: provided, however, that such nonconforming buildings or structure in sound condition shall be permitted without a variance.

- C. Signs. Notwithstanding the foregoing, nonconforming signs shall be subject to the following regulations:
- (1) Signs which are nonconforming because they rotate, flash or are intermittently illuminated shall be modified to bring them into conformance within six (6) months after the owner has been notified of the nonconformity by written notice from the Code Enforcement Officer.
  - (2) Permanent signs which are nonconforming due to locations (i.e. overhanging a public right-of-way or located in a public right-of-way) shall be removed or brought into conformance within six (6) months after the owner has been notified of the nonconformity by written notice from the Enforcement Officer: provided, however, that said owner may appeal to the Zoning Board of Appeals for relief from the notice of nonconformity.
  - (3) Temporary or portable signs which are nonconforming due to location.
    - (a) Such signs shall be in violation of this chapter twenty-four (24) hours after the property owner or sign owner, whichever is appropriate, has been notified of the nonconformity by written notice from the Enforcement Officer.
    - (b) Once such a temporary or portable sign has been identified, proper written notice sent and the twenty-four-hour period exceeded, that sign shall thereafter be in violation of this chapter immediately upon being placed in a nonconforming location.
    - (c) Notwithstanding the foregoing, the Board of Trustees may grant interim permits for temporary signs announcing special events and thereby authorize them to be placed in nonconforming locations; provided, however, that any such permit shall expire twenty-four (24) hours after that special event, and at that time any such sign shall become subject to the restrictions in Subsection C(3)(a) above.
- D. Off-street parking. Notwithstanding any other provision of this chapter, off-street parking requirements shall be subject to the following exceptions:
- (1) Any conforming use or building existing as of the adoption of this chapter or amendment which does not conform to the off-street parking requirements may be changed to a new use without meeting the parking requirement, provided that the new use requires the same or less parking than the previous use.
  - (2) Changes to uses which require more parking shall only have to provide new off-street parking in an amount equal to the difference between the requirements for the two (2) uses as determined from Schedule B.
  - (3) Alterations or extensions to existing building which do not involve a change in use shall only have to provide additional off-street parking as required by Schedule B applied to such alteration or extension.

- (4) New buildings erected on lots with more than one (1) principal structure shall only have to provide additional off-street parking as required by the new building pursuant to Schedule B.

## **ARTICLE IX**

### **Administration and Enforcement**

#### **§200-37. Enforcement Officer.**

A. The provisions of this chapter shall be administered and enforced by a person designated by the Village Board as the Zoning Enforcement Officer. It shall be his duty to prepare such forms as are necessary to accomplish his duties, including but not limited to forms for zoning permits, certificates of zoning compliance, appeals to and final determinations from the Board of Appeals, requests for home occupation, sign permits and notices of zoning violations.

B. He shall have the power to make inspections of building or premises necessary to carry out his duties in the enforcement of this chapter. No zoning permit or certificate of zoning compliance required hereunder shall be issued by the Zoning Enforcement Officer except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of Article X.

#### **§200-38. Zoning permits.**

A. No building or structure shall be erected, moved, altered added to or enlarged, no interior or exterior alteration as defined herein shall be undertaken and no exaction for any building shall be begun unless and until a zoning permit for such work has been issue by the Zoning Enforcement Officer.

B. Applications for a zoning permit and certificate of zoning compliance shall be submitted in duplicate on a form or forms provided by the Zoning Enforcement Officer. Each application shall set forth the purpose for which the building is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot and the building and dimensions of required proposed yards. The Zoning Enforcement Officer may require such additional information, other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use and the use of the land are in conformity with the provisions of this chapter.

C. Zoning and building permit fees shall be as established by resolution of the Board of Trustees.

D. Permit shall be issued or denied within thirty (30) days of receipt of complete application, unless subject to design review.

E. If construction authorized by a permit has been started within one (1) year, said permit shall be null and void.

#### **§200-39. Certificate of zoning compliance.**

A. A certificate of zoning compliances is required for any of the following:

- (1) Occupancy and use of a building hereafter erected, altered, moved or extended, provided that such activity requires a zoning permit.
- (2) Change in the use of an existing building from one type of use to another.



- (3) Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.
  - (4) Change is the use of land, except for any use consisting primarily of tiling the soil or similar agricultural use.
- B. A certificate of zoning compliance shall be obtained, on application, from the Zoning Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter and to the plans on which the permit was issued.
  - (1) The Zoning Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of zoning compliance has been applied before issuing such certificate. Such inspection shall be made within five (5) days from the date of application, Saturdays, Sundays and legal holidays excepted.
  - (2) Failure to make such inspection and determination within the specified period of time shall be deemed to be disapproval of the application for a certificate of zoning compliance.

**§200-40. Penalties for offenses.**

- A. Any person, association, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days imprisonment, or both, for each offense; and each day that the violation is permitted to exist shall constitute a separate offense.
- B. In addition to the foregoing penalty, a violation of this chapter shall constitute disorderly conduct and the person violating the same shall be a disorderly person and such violation shall constitute disorderly conduct.
- C. In case of violation of this chapter, the village and its officers may, in addition to any other remedies conferred by law or ordinance, institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

## **ARTICLE X**

### **Zoning Board of Appeals**

#### **§200-41. Establishment; functions.**

- A. A Board of Appeals shall be established by resolution of the Board of Trustees. It shall consist of three (3) members appointed by the Board of Trustees for a term of five (5) years. The Chairman and a Deputy Chairman, who shall act in the absence or inability of the Chairman, shall be designated by the Mayor.
- B. This Board of Appeals shall have the duties, rights, powers and function conferred upon it by 7-712 of Article 7, as amended, of the Village Law and any other provisions of law or ordinance applicable thereto, including, but without limiting the generality of the foregoing, the following.

#### **§200-42. Meetings.**

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence, the Deputy Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

#### **§200-43. Records.**

All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Zoning Enforcement Officer. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record. Each decision shall set forth fully the reasons for the decision of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include referenced to the appropriate standards of § 200-46 where the appeal is for a variance or a special use.

#### **§200-44. Appeals.**

- A. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under this chapter.
  - (1) The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variation in this chapter. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the village.
- B. Such appeal shall be taken within thirty (30) days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Zoning Enforcement Officer and with

the Board of Appeals a notice of appeal, specifying the grounds thereof and accompanied by a site plan or other appropriate description sufficient to demonstrate the applicant's intent to the Zoning Board of Appeals. The Zoning Enforcement Officer shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken. Failure of the applicant to furnish such site plan or description, or failure of the applicant to furnish such additional or more detailed information as the Board of Appeals deems necessary, shall constitute sufficient grounds for the Board of Appeals to reject the appeal as incomplete; provided, however, that nothing herein shall prevent a rejected applicant from providing such additional or more detailed information and having the appeal subsequently accepted.

#### **§200-45. Stay of proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

#### **§200-46. Powers and duties.**

The Board of Appeals shall have the powers and duties prescribed by statute and by this chapter, as follows:

- A. Appellate jurisdiction.
  - (1) Appeals from the interpretation of the Zoning Enforcement Officer.
  - (2) To grant a variance in case of practical difficulty or unnecessary hardship.
- B. Original jurisdiction.
  - (1) Authorization of a permit for special uses where provided for in this chapter.
- C. Interpretation. On appeal from a determination of the Zoning Enforcement Officer, to hear and decide on questions where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Enforcement Officer involving the interpretation of any provision of this chapter.
- D. Variance. On appeal from a determination of the Zoning Enforcement Officer, to grant a variance where the property owner can show that his property was acquired in good faith and where the strict application of this chapter would result in practical difficulty or unnecessary hardship. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry off the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case, as follows:

- (1) Use variances. Upon written determination by the Zoning Enforcement Officer that a proposed use is prohibited by any provision of this chapter, a person aggrieved may appeal for relief by firmly establishing the following:
  - (a) The board of appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.
  - (b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate 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
    - (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
    - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhoods;
    - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - (4) that the alleged hardship has not been self-created
  - (c) The board of appeals, in granting of use variance, shall grant the minimum variances that it shall deem necessary and adequate to address the unnecessary hardship proved 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.
- (2) Area variances. Upon written determination by the Zoning Enforcement Officer that, while a proposed use is a permitted or accessory use, it does not strictly comply with all district regulations or other supplemental provisions of this chapter, a person aggrieved may appeal for relief by establishing the following:
  - (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the area variance.
  - (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance
  - (c) whether the requested area variance is substantial;
  - (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

- (e) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
- 3. In any case, the granting of the variance will be in harmony with the intent, spirit and purpose of this chapter and will not permit a use of the property in question for any purpose not permitted in the district in which such property is located or otherwise be injurious to the neighborhood.
- E. Special uses. On application, the Board of Appeals may authorize issuance of a permit for a special use for which approval of the Board is required under this chapter. In authorizing such permit, the Board may specify appropriate conditions in harmony with the following standards:
  - (1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.
  - (2) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children; relation to main traffic thoroughfares and to street and road intersections; and the general character and intensity of development of the neighborhood.
  - (3) The location and height of building, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.
- F. Special uses requiring Board of Appeals authorization include, but are not limited to, the following:
  - (1) Public utility or municipal structure or use. Such uses shall include electric or telephone substation, transformers and auxiliary apparatus serving a distribution area and water pumping stations in any residential district and shall be subject to the following regulations:
    - (a) Such facility shall not be located on a residential street (unless no other site is available) and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
    - (b) The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.
    - (c) Adequate fences, barriers and other safety devices shall be provided, and the facility shall be screen-planted in accordance with the dictates of the Board.

- (2) Drive-in food service. In addition to meeting the minimum yard and lot coverage requirements, such businesses where persons are served in automobiles or out-of-doors shall be subject to the following regulation:
  - (a) Such use shall not be closer than two hundred (200) feet to a residence district, the “use” referring to the principal building.
  - (b) Such use shall have frontage on a public street.
  - (c) Ingress and egress shall be so designed as to minimize traffic congestion, and for this purpose, the number and location of driveways shall be subject to review and approval of the Board of Appeals.
  - (d) Such use shall be adequately fenced and screened from any adjacent residential property, and lighting shall be directed away from adjacent property.
- (3) Auto wash. In addition to meeting the minimum yard and lot coverage requirements, any auto wash establishment shall be subject to the following regulations:
  - (a) Such establishment shall not be closer than two hundred (200) feet to a residence district.
  - (b) The wash water shall not pollute any stream nor create a hazard because of surface drainage.
  - (c) The number and location of driveways shall be subject to a review and approval of the Board of Appeals.
  - (d) Such establishment, in addition to meeting the off-street parking requirements of Schedule B, shall provide three (3) stacking spaces or more per bay on the lot to prevent the waiting of automobiles in the public street.
- (4) (Reserved)
- (5) Public swimming pools.
  - (a) All such uses shall conform to the same restrictions as apply to accessory uses in the same zone district.
  - (b) All such uses shall be constructed, maintained and operated in accordance with all applicable New York State statutes and policies, including Bulletin 27, Swimming Pools and Bathing Beaches, and Bulletin 31, Policies Governing the Preparation of Plans for Artificial Swimming Pools, and Part 6, Swimming Pools and Bathing Beaches, of the New York State Sanitary Code.
- (6) Gasoline station. No gasoline station shall be permitted except where the Board determines:
  - (a) That the proposed use is consistent with the intent and purpose of this chapter to promote public health, safety, morals and the general welfare.

- (b) That the location and size of the use, the site layout and its relation to any street shall be such that vehicular traffic and turning movements and their relation to pedestrian traffic will not be more hazardous than the normal traffic of the district.
- (c) That the nature, location, size and site layout and height of walls and fences, and display of signs in connection with the use shall be such that the use will not hinder the appropriate development and use of adjacent land and buildings or impair the value thereof.
- (d) That the location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings by reason of noise, fumes or flashing of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses.
- (e) That the nature, location, size and site layout of the use shall be such that it will be a harmonious part of the business or commercial district in which it is situated.
- (f) That the location of the filling station or gasoline pumps and islands shall be on premises which shall not be less than two hundred (200) feet from any church, school or public playground, measured along the street line from the nearest boundary line of the premises on which such filling station or pump may be located to the nearest boundary line of the premises on which such church, school or playground is located.

(7) Auto sales.

- (a) The sale of new or used motor vehicles shall not be permitted except where the Zoning Board of Appeals determines:
  - [1] That the proposed use is consistent with the intent and purpose of this chapter to promote public health, safety, morals and the general welfare.
  - [2] That the location of the use, the parking areas for vehicles for sale and their layout in relation to any street, lot entrance and other activities which normally occur on the same lot shall be such that on-site and off-site vehicular traffic and turning movements and their relation to pedestrian traffic will not be more hazardous than the normal on-site and off-site traffic.
  - [3] That the nature, location, size and site layout and height of walls and fences, and display of signs in connection with the use shall be such that the use will not hinder the appropriate development and use of adjacent land and buildings or impair the value thereof.

[4] That the location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings by reason of noise or flashing lights to a greater degree than is normal with respect to the proximity of commercial to residential uses.

(b) In addition to the above, auto sales which are to be the principal use on any lot shall be further regulated as follows:

[1] All required yards, setbacks, lot coverage, etc., requirements shall be as listed for “auto sales/principal” use in Schedule A.

[2] Signs shall be allowed in accordance with 200-29 of this chapter, and in addition, no more than one (1) sign shall appear on each motor vehicle and each such sign shall have a maximum size of one hundred forty-four (144) square inches.

[3] Unusual advertising devices such as streamers, colored flags or radio antenna decorations are prohibited.

[4] Any area lighting shall be directed away from or shaded or screened from any residential zone or use. Such lighting shall be extinguished or reduced during nonbusiness hours to a degree consistent with security surveillance requirements.

(a) In addition to Subsection F(7)(a) and (b) above, auto sales which are to be an accessory use on any lot shall be further regulated as follows:

[1] All required yards, setbacks, lot coverage, etc., requirements shall be as listed for “auto sales/accessory” use in Schedule A.

[2] All motor vehicles for sale shall be in proper working condition and must bear a New York State Department of Motor Vehicles’ registration.

## 8. Home occupation.

(a) Permitted home occupations shall include, but not be limited to, the following: teaching (musical, art, dance or craft instruction limited to a single pupil at a time); barbershop and/or beauty shop limited to one (1) operating chair; sewing; and the skilled practice of an accountant, architect, artist, dentists, doctor, engineer, lawyer, planner, realtor, writer or member of a similar lawful profession conducted within a dwelling occupied by the same. Similar unlisted uses may be authorized by the Board of Appeals.

(b) The conducting of a medical clinic, animal hospital, kennel or any similar use shall not be deemed to be a home occupation.



- (c) No home occupation shall be permitted except where the Board of Appeals determines:
- [1] That the specific occupation requested agrees with the letter or intent of the definition of “home occupation” contained herein.
  - [2] That the home occupation shall be carried on by a member of the family residing in the dwelling unit and that, in particular, the practitioner resides in that dwelling unit.
  - [3] That the occupation or profession shall be carried on wholly within the principal building within a building or other permanent structure accessory thereto.
  - [4] That no more than one (1) nonfamily member shall be engaged in the home occupation.
  - [5] That there will be no exterior display or sign (including signs clearly visible through windows or glass doors) except one (1) unlighted identification sign not more than two (2) square feet in area, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
  - [6] That no offensive noise, vibration, smoke, dust, odors, heat, light, glare or garbage shall be produced.
  - [7] That the home occupation will occupy no more than twenty-five percent (25%) of the residential living area contained in the principal building.

G. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### **§200-47. Hearings and Determinations.**

The Board of Appeals shall fix a reasonable time for the hearing of an appeal and give due notice thereof to the parties and by publication at least once in the official newspaper ten (10) days before the date of the hearing and shall decide the same within sixty-two (62) days. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

**§200-48. Action Against Determination.**

Any person or persons aggrieved by any decision of the Board of Appeals may apply to the State Supreme Court for relief by a proceeding under Article 78 of the Civil Law and Rules. Such an action, by law, must be instituted within thirty (30) days after the filing of the decision in the office of the Village Clerk.

## **ARTICLE XI**

### **Amendment Procedure**

#### **§200-49. Initiation of Procedure.**

- A. The Village Board may, from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this chapter.
- B. Whenever the owners of fifty percent (50%) or more of the frontage in any district or part thereof shall present a petition, duly signed and acknowledged, to the Village Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Village Board to vote upon said petition within forty-five (45) days after the filing of the same by the petitioners with the Village Clerk.
- C. The Zoning Board of Appeals, may by resolution, propose an amendment, supplement or change of the regulations to the Village Board. Within thirty (30) days from the time such resolution is filed with the Village Clerk, it shall be the duty of the Board to vote on such proposed amendment.
- D. Amendment of the Zoning Ordinance may be subject to the State Environmental Quality Review process (SEQR). Village Board should identify the types of action the zone change is according to SEQR regulations. Depending on the size of the zone change and several other factors, it may be Type 1 or an unlisted action. To make a decision, the Board should consult.

NYCRR 617. If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement has been filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement is completed.

#### **§200-50. Referral to Planning Board.**

- A. Whenever any zoning regulation or any amendment, including any application for a special use or variance, would change the district classification of or a regulation applying to real property in an area as described in 239-l and 239-m of the General Municipal Law, said application or zoning regulation or amendment shall be referred to the Oneida County Department of Planning, which Department shall report its recommendations to the Village Board. Failure of the Oneida County Department of Planning to report within thirty (30) days may be construed to be approval of the Department.
  - (1) The concurring vote of a majority plus one (1) of the Village Board of Trustees shall be necessary to override the Oneida County Department of Planning recommendations of approval with modifications or disapproval.

- (2) Within thirty (30) days after final action by the Village Board on the recommendations, modifications or disapproval of a referred matter, the Board shall file a report of the final action with the County Planning Department. Any defect in complying with this referral procedure will render the Village Board powerless to take further action under the adoption procedure.

#### **§200-51. Hearings on Proposed Amendment.**

- A. Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. Such hearing may be held by the Village Board, by a committee of the Board on request of the Village Board. In addition to the public notice of a hearing, notice shall be given in writing either personally or by mail to all property owners of the land included in such proposed change and the land immediately adjacent extending one hundred (100) feet therefrom and the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the village.
- B. Where more than twelve (12) properties are included in such change and the Village Board, by resolution, determines that notice in writing to each property owner is not feasible, the notice of hearing shall be published in the official paper once a week for three (3) successive weeks and shall be posted in twelve (12) public places in the village, of which six(6) shall be in the area affected.

#### **§200-52. Adoption of Amendments.**

After the public hearing, a majority both of the members of the Village Board shall be required to amend the Zoning Chapter, except as described in 200-54, Protest petitions.

#### **§200-53. Protest petitions.**

If a protest against a proposed amendment, supplement or change is presented to the Village Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of the land included in such proposed change or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of the Village Board.

#### **§200-54. Applicability of Construction Codes.**

Nothing herein contained shall be construed to limit the applicability of the New York State Uniform Fire Prevention and Building Construction Code.

**ZONING**  
**VILLAGE OF ONEIDA CASTLE**

**SCHEDULE B**  
**OFF-STREET PARKING**

Minimum off-street parking spaces are defined below.

<b>Use</b>	<b>Requirement</b>
<b>A. R1 Districts</b>	
Bed and breakfast-tourist	2 per family plus one per guest room
Church	per 10 seats in main assembly room
Dwelling, 1- and 2-family	1 per dwelling unit
Dwelling, multifamily	1 1 ½ per dwelling unit
Funeral home	10, plus space for all employees and resident personnel
Home occupation	2, plus any space required for dwelling
Nursing home	1 per each four beds
Professional office	same as business office
Public assembly	1 per 10
School	1 per 10 auditorium seats or 1 per 15 classrooms whichever is greater
<b>B. B1 Zone District</b>	
All uses	sufficient parking spaces be provided so there is no need for on-street parking.

## **ARTICLE XII**

### **ASSESSMENTS**

#### **§201-1. Legislative Intent.**

#### **§201-2. Termination of Assessing Unit Status.**

#### **§201-3. Position of Assessor Abolished.**

#### **§201-4. Board of Assessment Review abolished.**

#### **§201-5. Levy of taxes.**

#### **§201-6. Copy to be Filed.**

#### **§201-7. When Effective; Referendum.**

#### **§201-1. Legislative Intent.**

The intent of the Board of Trustees of the Village of Oneida Castle is to implement 1402 Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the village's status as an assessing unit, as now provided in the Village Law and the Real Property Tax Law. It is also the intent of this chapter to abolish the position of Assessor (or Board of Assessors) and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Oneida Castle.

#### **§201-2. Termination of Assessing Unit Status.**

On or after the effective date of this chapter, the Village of Oneida Castle shall cease to being an assessing unit.

#### **§201-3. Position of Assessor Abolished.**

The position of Assessor in the Village of Oneida Castle is hereby abolished.

#### **§201-4. Board of Assessment Review Abolished.**

The Board of Assessment Review in the Village of Oneida Castle is hereby abolished.

**§201-5. Levy of Taxes.**

On or after the effective date of this chapter, taxes in the Village of Oneida Castle shall be levied on a copy of the applicable part of the assessment roll of the Town (or county) of Oneida, with the taxable status date of such town (or county) controlling for village purposes.

**§201-6. Copy to be Filed.**

Within five (5) days of the effective date of this chapter, the Board of Trustees of the Village of Oneida Castle shall file a copy of such law with the Clerk and Assessor (or Board of Assessors) of the Town (or county) of Oneida and with the State Board of Equalization and Assessment.

**§201-7. When Effective; Referendum.**

This chapter shall take effect immediately upon filing with the Secretary of State; provided, however, that such chapter is subject to a permissive referendum, and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.

**ARTICLE XIII**  
**CODE OF ETHICS**

**§300-1. Purpose.**

**§300-2. Definitions.**

**§300-3. Standards of Conduct.**

**§300-4. Claims Not Barred.**

**§300-5. Distribution of Copies.**

**§300-6. Penalties for Offenses.**

**§300-1. Purpose.**

Pursuant to the provision of 806 of the General Municipal Law, the Board of Trustees of the Village of Oneida Castle recognizes that there are rules of ethical conduct for public officers and employees which must be adhered to by such officers and employees if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in local government of the village. The purpose of this chapter is to promulgate and set forth the such rules of ethical conduct for the officers and employees of the Village of Oneida Castle. These rules shall provide guidance for official conduct of the officers and employees of the Village of Oneida Castle. The adoption of such rules of ethical conduct shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interesting contracts of municipal officers and employees.

**§300-2. Definitions.**

A. As used in this chapter, the following terms shall have the meaning indicated:

INTEREST – Pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE – An officer or employee of the Village of Oneida Castle, whether paid or unpaid, including members of any administrative board, commission or any other agency thereof. No person shall be deemed to be a ‘municipal officer or employee’ solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

VILLAGE - The Incorporated Village of Oneida Castle.

B. The word “shall” is mandatory, and the word “may” is permissive.



### **§300-3. Standards of Conduct.**

Every officer or employee of the village shall be subject to and abide by the following standards of conduct:

- A. Gifts. He or she shall not, directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars (\$75) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
- B. Confidential information. He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interest.
- C. Representation before one's own agency. He or she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He or she shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his or her municipality, whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Board of Trustees and any officer or employee of the village, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees, shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation.
- F. Investment in conflict with official duties. He or she shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties.
- G. Private employment. He or she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interest when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.
- H. Future employment. He or she shall not, after the termination of service or employment with such municipality, appear before any board or agency of the village in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under active consideration.

#### **§300-4. Claims Not Barred.**

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee or any claim, account, demand or suit against the village or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

#### **§300-5. Distribution of Copies.**

The mayor of the village shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code nor the enforcement of provisions thereof.

#### **§300-6. Penalties for Offenses.**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violated any of the provision of this code may be fines, suspended or removed from office or employment, as the case may be, in the manner provided by law.

## **ARTICLE XIV**

### **BUILDING CONSTRUCTION**

#### **ARTICLE I Standards**

#### **ARTICLE II Enforcement**

**§320-1. Purpose.**

**§320-2. Summary of information.**

**§320-3. Combination of positions.**

**§320-4. Revocation of building zoning permits.**

**§320-5. Stop orders.**

**§320-6. Right of entry.**

**§320-7. Certificate of occupancy.**

**§320-8. Permit fees.**

#### **ARTICLE I Standards**

Pursuant to Article 18 of the Executive Law, the New York State Uniform Fire Prevention and Building Code will be the controlling provisions in regard to building construction in the Village of Oneida Castle. A copy of the Uniform Fire Prevention and Building Code is on file in the office of the Village Clerk]

#### **ARTICLE II Enforcement**

**§320-1. Purpose.**

For the purpose of promoting the general welfare of the Village of Oneida Castle, the Board of Trustees does hereby enact this Article to regulate the use and occupation of property within the Village of Oneida Castle in accordance with the powers and authority granted it under the New York Village Law. This Article contains provisions for building zoning permits, certificates of occupancy and inspections.

## **§320-2. Summary of Information.**

In order for a better understanding of these matters, the following is a summary of relevant information.

### **A. Building zoning permits.**

- (1) A building zoning permit is used by the Village of Oneida Castle to determine whether proposed construction complies with relevant zoning laws and building codes. A permit is required prior to the commencement of construction in order to establish the mechanism whereby the village receives notice that construction is contemplated for a certain piece of property. Such notice is of benefit not only to the village but also to other interested members of the community.
- (2) The application for a building zoning permit requires information sufficient to enable the local officials issuing the permit to make the determination that the proposed work will be in conformance with the requirements of Chapter 200, Zoning. Adoption of the permit system provides officials with an opportunity to review all proposed work for code compliance prior to the commencement of construction activity.
- (3) Exceptions to the requirements for a building zoning permit are the following.
  - (a) Necessary repairs which do not materially affect structural features.
  - (b) Replacement of windows and doors.
  - (c) Alterations to existing building provided that they:
    - [1] Do not materially affect structural features.
    - [2] Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits.
    - [3] Do not involve the installation or extension of electrical systems.
    - [4] Do not include the installation of solid-fuel burning heating appliances and associated chimneys or flues.
- (3) Although exceptions to the requirements for a building zoning permit are permitted for the three (3) types of construction listed above, such work still must comply with any applicable provisions of the New York State Uniform Fire Prevention and Building Code. Furthermore, it is within the power of local officials to inspect such construction to determine whether such construction conforms to the New York State Uniform Fire Prevention and Building Code despite the fact that the minimum standards allow exceptions.
- (4) Fees are charged by the village as part of the application process for a building zoning permit. These fees provide income to offset, at least in part, the costs incurred in enforcing the Code. The amount of fees charged is as set forth from time to time by resolution of the Board of Trustees.

- (5) The village requires a permit fee to be paid at the time that the application is filed. The fee charged is designed to cover the whole construction process. The initial fee is based on an estimated cost of construction, and if the actual construction costs are greater, the fee is adjusted to reflect the actual costs before issuing a certificate of occupancy.
- A. Certificate of occupancy. The certificate of occupancy is a devise used to restrict the use of a building or structure to a specific type of use or occupancy. This Article prohibits the use of new buildings or new additions to existing buildings until a certificate of occupancy has been issued. By issuing a certificate of occupancy, the village acknowledges that construction has been completed and that no material violations of applicable Code provisions have been observed during the course of construction.
- B. Inspections.
- (1) The Village of Oneida Castle has an ongoing comprehensive program of inspections essential to successful enforcement. Such inspections include the following:
- (a) When a building zoning permit has been issued, inspections are conducted during the course of construction for the purpose of observing the compliance of construction with the Code.
- (b) Prior to the issuance of a certificate of occupancy.
- (c) Periodic general inspection by Code Enforcement Officers.
- (d) In response to bona fide complaints regarding conditions or activities allegedly failing to comply with the Code.
- (2) Through such inspections and procedures, compliance with the Code is enforced benefiting all property owners within the village.

### **§320-3. Combination of Positions.**

The Building Zoning Officer and the Ordinance Enforcement Officer are separate positions, but they can be combined as one (1) at the Board of Trustee's discretion.

### **§320-4. Revocation of Building Zoning Permit.**

The Building Zoning Officer may revoke a building zoning permit theretofore issued and approved in the following instances:

- A. Where he or she finds that there has been any false statement or misrepresentation as to a material fact in the application plans or specifications on which the building zoning permit was based.
- B. Where he or she finds that the building zoning permit was issued in error and should not have been issued in accordance with the applicable law.

C. Where he or she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

D. Where the person to whom a building zoning permit has been issued fails or refuses to comply with a stop order issued by the Building Zoning Officer.

#### **§320-5. Stop Orders.**

Whenever the Building Zoning Officer has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building laws, ordinances or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building zoning permit was issued or in an unsafe and dangerous manner, he or she 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 order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

#### **§320-6. Right of Entry**

The Building Zoning Officer and the Zoning Enforcement Officer, upon the showing of proper credentials and in the discharge of their duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

#### **§320-7. Certificate of Occupancy.**

- A. No use or occupancy of land shall be hereafter established, and no building hereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy shall have been issued by the Building Zoning Officer in accordance with the provisions of the State Uniform Fire Prevention and Building Code. The certificate of occupancy specified in this section shall not be issued until approval has been granted, in writing, by the Oneida County Department of Health.
- B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building zoning permit shall continue to be occupied or used for more than thirty (30) days after completion of the alteration or work unless a certificate of occupancy shall have been issued by the Building Zoning Officer.
- C. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building zoning permit, the Building Zoning Officer shall issue a certificate of occupancy upon the form provided by him or her.

**§320-8. Permit fees.**

Building permit fees shall be set from time to time by resolution of the Board of Trustees.

## **ARTICLE XV**

### **GARBAGE, RUBBISH AND REFUSE**

**§350-1. Prohibited disposal.**

**§350-2. Unlawful storage.**

**§350-3. Definitions and word usage.**

**§350-4 Permitted Curbside Deposit**

**§350-5. Importation and dumping prohibited.**

**§350-6. Penalties for offenses.**

### **GENERAL REFERENCES**

**Junkyards – See Chapter 128.**

**§350-1. Prohibited disposal.**

A. No person shall throw, cast or direct or permit any garbage, trash, refuse or rubbish of any kind to be thrown upon any street, walk, lawn, road, park or other public place or upon any private property, whether owned by such person or not, within the village; and further, no person shall cast, place or sweep anywhere within the village any rubbish or refuse (grass clippings) in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, drain, gutter, parkway or other public place or into any occupied premises within the village.

B. No person shall throw, dump, deposit or place, or cause to be thrown, dumped, deposited or place, upon any street within the village or within the limits of the right-of-way of such street or upon private lands adjacent thereto, any refuse, trash, garbage, rubbish, litter or any noxious or offensive matter.

**§350-2. Unlawful storage.**

It shall be unlawful for any person, either as owner, occupant, lessee, agent, tenant or otherwise, to store or deposit or cause or permit to be stored or deposited abandoned, junked or discarded refrigerators, stoves, furnaces, furniture items or building materials on any residential or commercial property in the village not specifically designated by the Zoning Ordinance or other ordinances or by licensed use for such storage or disposition.



### **§350-3. Definitions and word usage.**

A. For the purposed of this chapter, the following terms shall have the meanings indicated:

DUMPING – The throwing, placing, depositing or leaving, or causing to be dumped, thrown, placed, deposited or left, of any refuse of any kind or any object or substance which tends to pollute, mark or deface, into, upon or about any public street, highway, alley, road, right-of-way, park or other public place or any stream, watercourse or any other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts.

B. The term “shall” is mandatory, “may” is permissive.

### **§350-4. Permitted curbside deposit.**

This chapter does not permit the placing of household garbage (or waste) cans or bags, nor approved recyclable materials, curbside the day before scheduled pickup.

### **§350-5. Importation and dumping prohibited.**

It shall be unlawful for any person, whether said person is a resident of the Village of Oneida Castle or not, to engage in the importation and dumping within the boundaries of the Village of Oneida Castle.

### **§350-6. Penalties for offenses.**

Any person who shall violate any of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.) or be subject to imprisonment for not more than fifteen (15) days. Each violation of this chapter shall be deemed a separate offense.

## **ARTICLE XVI**

### **JUNKYARDS**

#### **ARTICLE I General Provisions**

**§370-1. Location.**

**§370-2. License required fee.**

#### **ARTICLE II Junked and Abandoned Motor Vehicles**

**§370-3. Purpose.**

**§370-4. Definitions.**

**§370-5. License and approval of location required for junkyard.**

**§370-6. Application for license and approval.**

**§370-7. Hearing.**

**§370-8. Consideration and determination.**

**§370-9. Aesthetic considerations.**

**§370-10. Issuance or denial of license; appeal.**

**§370-11. License fees.**

**§370-12. Fencing requirements.**

**§370-13. Established junkyards.**

**§370-14. Location restrictions.**

**§370-15. Outdoor storage on private property.**

**§370-16. Removal procedures.**

**§370-17. Disposition of vehicles.**

**§370-18. Penalties for offenses.**

## **ARTICLE I**

### **General Provisions**

#### **§370-1. Location.**

No person shall establish or operate a yard for the purchase, sale or storage of junk, used automobiles, trucks or the parts thereof within the corporate limits of the Village of Oneida Castle unless such yard is located in a zone where such establishments are expressly permitted by the zoning chapter of this Code. All such yards shall be operated subject to the terms and conditions which the Board of Trustees shall from time to time establish.

#### **§370-2. License required; fee.**

Each owner or operator of such a yard shall be required to obtain an annual permit, to be known as a "junk dealer's license." The cost of such license is hereby fixed at the sum of twenty – five (\$25.) per year or major fraction thereof.

## **ARTICLE II**

### **Junked and Abandoned Motor Vehicles**

#### **§370-3. Purpose.**

A. This Article is enacted in recognition of the fact that junk cars abandoned or stored on private property can constitute both a public and private nuisance. They, amongst other sources of potential injuries, are a source of potential injury to children and others who may find them an attractive nuisance; they are oftentimes replete with broken glass, sharp and torn metal edges and points, gasoline fumes, gasoline remaining in tanks of a highly explosive and combustible nature and hurtful acid in batteries.

B. Junk cars constitute blight on the village's landscape; they destroy the aesthetic qualities of the village and they are generally otherwise unsightly. Their existence tends to depreciate not only the property on which they are located but also the property of other persons in the neighborhood and the village generally. They constitute the village a less safe and less pleasant place in which to live and to do business. The control of the storage of junked motor vehicles outdoors on privately owned property, as well as abandoned vehicles on privately owned property, is, therefore, a necessity for the preservation, safety and welfare of the community. The intent of this Article is to establish a procedure for the control and timely removal of these junked and abandoned motor vehicles where they are found in the village outside duly licensed establishments.

C. With increasing frequency, vehicles which are not roadworthy have been licensed with the apparent intent to avoid the requirements of this Article. As a result, vehicles which are not roadworthy and which are physically unattractive and detrimental to the health and will-being of residential areas are being retained upon residential property contrary to the purpose expressed at the time of the enactment of this

article. It is the purpose of this amendment to indicated with certainty that the retention of motor vehicles on residential property must be for the purpose of eventual use and enjoyment of said vehicles upon the highways of the State of New York and not simply to avoid the time or expense of removal. It is further the purpose hereof to encourage the owners thereof to commence repair, renovation and removal of dangerous articles from their premises to promote the general health and well-being desired in the Village of Oneida Castle.

#### **§370-4. Definitions.**

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

**ABANDONED MOTOR VEHICLES** – The same definition as that contained in 1124 of the Vehicle and Traffic Law of the State of New York, as now or hereafter amended.

**ENFORCEMENT OFFICER** – The individual designated by the Board of Trustees to investigate and commence action upon violation of this Article. Such individual shall be the Code Enforcement Officer or a police officer of the village unless the Board of Trustees, by resolution, designated some other or additional officer.

**JUNK MOTOR VEHICLE** – Any motor vehicle that is unlicensed and is not in condition for legal use on the public highway or is licensed or unlicensed and is dismantled or partly dismantled and which is being used for the purpose of resale as a whole or as used parts therefrom or for purposes of reclaiming for use some or all of the materials therein for the purpose of disposing of the same or is in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair or does not display a current New York State inspection sticker applicable to said vehicle.

**JUNKYARD** – Any place of storage or deposit, whether in connection with another business or not, where one (1) or more unregistered, old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk one (1) or more such vehicles; provided, however, that the term “junkyard” shall not be construed to mean an establishment using facilities for processing iron, steel or nonferrous scrap for sale or re-melting purposes only.

**MOTOR VEHICLE** – All vehicles propelled or drawn by power other than muscular power, originally intended or constructed to be for use on public highways.

**OWNER OF MOTOR VEHICLE** – Any person, firm, partnership or corporation having the primary interest in or title to a motor vehicle, including a person entitled to the use and possession of a vehicle, subject to a security interest in another person, and also including any lessee or Bailee of a motor vehicle having the use thereof under lease or otherwise.

**OWNER OF PRIVATE PROPERTY** – Any person, firm, partnership or corporation, whether business or membership or religious, charitable or otherwise, or any purchaser, tenant, lessee, occupant, under tenant,

receiver or assignee of private premises or private property or any other unit or entity owning real property in the Village of Oneida Castle.

PERSON – Any individual person or persons, firm, partnership or corporation, whether business, membership, religious, charitable or otherwise, or any association or other unit or entity owning or occupying real property in the Village of Oneida Castle.

PERMISES OR PROPERTY – Includes all parcels of privately owned real property located within the boundaries of the Village of Oneida Castle, whether occupied or vacant, irrespective of size or topography.

#### **§370-5. License and approval required for junkyard.**

No person shall operate, establish or maintain a junkyard in the Village of Oneida Castle until:

- A. He has obtained a license to operate a junkyard business.
- B. He has obtained a certificate of approval for the location of such junkyard.

#### **§370-6. Application for license and approval.**

Application for the license and the certificate of approved location shall be made, in writing, to the Village Board of the Village of Oneida Castle, and the application shall be accompanied by a certificate from the Zoning Board of Appeals of the Village of Oneida Castle that the proposed location is not within an established district restricted against such use or otherwise contrary to the prohibitions of Ch. 200, Zoning. The application shall contain the legal description of the land to be included within the junkyard.

#### **§370-7. Hearing.**

A hearing on the application shall be held within the Village of Oneida Castle not less than two (2) or more than four (4) weeks from the date of the receipt of the application by the Village Board of said Village of Oneida Castle. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application, and shall be published once in a newspaper having a circulation within the Village of Oneida Castle, which publication shall be not less than fifteen (15) days before the date of the hearing.

#### **§370-8. Considerations for determination.**

At the time and place set for the hearing, the Village Board of the Village of Oneida Castle shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to other matters within the purposes of this section.

**§370-9. Aesthetic considerations.**

At the hearing regarding location of the junkyard, the Board of Trustees of the Village of Oneida Castle may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Board of Trustees of the Village of Oneida Castle may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

**§370-10. Issuance or denial of license; appeal.**

After the hearing the Board of Trustees of the Village of Oneida Castle shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of its findings to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued, to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided that all provisions of this Article are complied with during the license period, the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Board of Trustees of the Village of Oneida Castle may be reviewed under Article 78 of the Civil Practice Law and Rules.

**§370-11. License fees.**

The annual license fee shall be twenty-five dollars (\$25.) to be paid at the time the application is made and annually thereafter in the event of renewal. In the event that the application is not granted, the fee shall be returned to the applicant. In addition to the license fee, the Board of Trustees of the Village of Oneida Castle shall assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and shall make the license conditional upon payment of the same. The applicant shall pay the estimated advertising costs at the time the application is made.

**§370-12. Fencing requirements.**

A. Before use, a new junkyard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens the enclosed materials and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet to a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junkyard shall be accomplished within the enclosure. All burning of such motor vehicles

and parts and other junk shall be confined to the hours between sunrise and sunset, except on Sundays, when no burning shall take place. Stacking and piling of such motor vehicles and parts and other junk shall not exceed eight (8) feet in height.

B. Where the topography, natural growth of timber or other considerations accomplish the purposes of this Article in whole or in part, the fencing requirements hereunder may be reduced by the Board of Trustees of the Village of Oneida Castle upon granting the license; provided, however, that such natural barrier conforms to the purposes of this Article.

#### **§370-13. Established junkyards.**

For the purposes of this Article, the location of junkyards already established shall be considered approved by the governing board of the municipality where located and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this Article, however, the owner shall furnish the Board of Trustees the information as to location which is required in an application, together with the license fee, and the Board of Trustees shall issue him a license valid until the next April 1, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this Article, including the fencing requirements set forth above.

#### **§370-14. Location restrictions.**

Notwithstanding any of the foregoing provisions of this Article, no junkyard hereafter established shall be licensed to operate if such yard or any part thereof shall be within five hundred (500) feet of a church, school, hospital, public building or place of public assembly.

#### **§370-15. Outdoor storage on private property.**

It shall be unlawful for any person within the Village of Oneida Castle to store or deposit, or cause, suffer or permit to be stored or deposited, a junked or abandoned motor vehicle, or part or piece thereof, on any private property within the Village of Oneida Castle without a license to do so, unless:

A. Such motor vehicle is stored or deposited in a completely enclosed building or reinforced covering which completely obscures the same from view.

B. Such motor vehicle is under repair, reconstruction or refurbishing by the owners thereof, who much actually be residing on the premises. Not more than one (1) such motor vehicle shall be permitted at any one time on any premises. Such motor vehicle must be so maintained and protected as to not create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises more than thirty (30) days unless the owner thereof has obtained an extension from the Zoning Board of Appeals, for good cause shown, upon a petition thereto.

#### **§370-16. Removal procedures.**

Any junked or abandoned motor vehicle, as defined herein, shall be removed from the premises on which it is located by the Village of Oneida Castle in the manner hereinafter provided:

A. Notice to remove. The enforcement officer, upon detecting an abandoned or junked motor vehicle, shall serve written notice on the person owning the premises on which the same is located, ordering such person to remove the same or cause the same to be removed therefrom within ten (10) days of the date of service of said notice. Such notice shall be served personally or upon a person of suitable age and discretion residing upon the premises and/or, failing the above, by registered mail to the owner's last known address, as shown on the latest completed assessment roll of the village, if the owner. Such notice shall specify the vehicle to be removed and shall also indicate the appeal procedure specified in Subsection B hereof. The current assessment roll shall be presumptive evidence of the ownership of any parcel of land upon which junked or abandoned vehicles are detected.

B. Appeal of notice. The owner of any premises who received notice to remove junked or abandoned motor vehicle may petition the Zoning Board of Appeals of the village for a hearing. Such petition shall be filed with the Clerk of the Village of Oneida Castle within ten (10) days of the date when service of the notice on the owner is complete. The filing of such petition shall stay removal proceedings, pending hearing and determination of the petition by the Zoning Board of Appeals, which shall notify the owner of the premises of its decision in writing. If the decision of the Zoning Board of Appeals affirms the notice of the enforcement officer, the owner of the premises shall remove the designated vehicle(s), within five (5) days of the date of such decision. The Zoning Board of Appeals shall also have the discretion to grant extensions for the removal of cited vehicle(s) may be retained upon the premises.

C. In the event said junked or abandoned motor vehicle or vehicles are not removed from the premises within the time required in Subsection A or B above, the Village of Oneida Castle or its agent may enter upon the premises and remove and dispose of the junked or abandoned motor vehicle or vehicle(s). The expense of such removal and disposal shall be a lawful charge against the owner and occupant of the premises and may be added to the property owner's tax bill.

#### **§370-17. Disposition of vehicles.**

The provisions of 1334 of the Vehicle Traffic Law of the State of New York shall govern removal and disposition of abandoned motor vehicles.

#### **§370-18. Penalties for offenses.**

Any person committing an offense against the provisions of this Article shall be guilty of a violation pursuant to the provisions of the Penal Law and, upon conviction thereof, shall be punishable for each offense by a fine of not less than one hundred and fifty dollars (\$150) nor more than two hundred fifty dollars (\$250) for the first offense; for the second conviction by a fine not less than two hundred and fifty dollars (\$250) nor more than four hundred dollars (\$400); and for the third conviction by a fine of not less than six hundred dollars (\$600) and or by imprisonment for not more than fifteen (15) days or both. Every day a violation of this section shall continue shall constitute a separate and punishable offense.



**ARTICLE XVII**  
**PEACE AND GOOD ORDER**

**§400-1. Disorderly conduct.**

**§400-2. Defacing sidewalks or trees; posting bills.**

**§400-3. Defacing public or private property.**

**§400-4. Disorderly operation of motor vehicles.**

**§400-5. Carnivals and exhibitions.**

**§400-6. Penalties for offenses.**

**§400-1. Disorderly conduct.**

No person shall engage in fighting or in violent, tumultuous or threatening behavior anywhere in the village; nor shall anyone in a public place use abusive or obscene language or make an obscene gesture in a manner that annoys another person; nor shall any person make unnecessary and unreasonable noise, whether in a public place or private residence, in a manner that disturbs the peace of another person. "Noise" is defined to include any noise which is plainly audible at a distance of 100 feet from the area, apartment building, structure or vehicle from which the noise originates. "Noise" shall include barking dogs.

**§400-2. Defacing sidewalks or trees; posting bills.**

No person shall write, make, draw or paint any writing, printing, picture, marks or device of any kind on any sidewalk, tree or shrub in this Village, or stick, fasten or post any placard, bill or paper thereon, except the posting and affixing of notices required by law.

**§400-3. Defacing public or private property.**

No person shall injure, deface or tarnish any public building or any property belonging to the Village in any way whatsoever; nor shall any person wantonly or willfully injure, deface tarnish or besmear any wall, pump, hydrant, fountain, bridge, fence, railing, house or structure or any shade tree or shrub within the Village.

**§400-4. Disorderly operation of motor vehicles.**

No person shall operate a motor vehicle, as defined in the Vehicle Traffic Law of the State of New York, upon any highway, road, street, driveway or parking lot, public or private, in the Village of Oneida Castle, in such a manner as to cause or create a disturbance or to cause alarm or fear for the safety of persons or property or to unreasonably disturb the peace and quiet of any person or persons in the Village of Oneida Castle.

**§400-5. Carnivals and exhibitions.**

No person shall conduct, operate or maintain any circus, street show, carnival, or other public exhibition, other than athletics, in the Village without obtaining a license or permit therefore, which license or permit shall be granted by the Mayor and countersigned by the Clerk on the payment of a license fee to be established by resolution, and the said permit or license shall expressly limit the time within which such circus, street show, carnival or exhibition may be operated.

**§400-6. Penalties for offenses.**

Any person committing an offense against the provisions of this chapter shall be guilty of a violation pursuant to the provision of the Penal Law and, upon conviction thereof, shall be punishable for each offense by a fine of not more the \$250 or by imprisonment for not more than 15 days, or both.

## **ARTICLE XVIII**

### **PEDDLING AND SOLICITING**

#### **§550-1. Definitions and word usage.**

#### **§550-2. Exemptions.**

#### **§550-3. Permit required.**

#### **§550-4. License and fee.**

#### **§550-5. Penalties for offenses.**

#### **§550-1. Definitions and word usage.**

A. 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 a person transacts business or deals in goods, wares, or merchandise he or she hawks, peddles or solicits for during regular business hours.

**HAWKERS or PEDDLERS** – Includes any person, either principal or agent, who in any public street or public place or by going from house to house or place of business to place of business, on foot or by means or any conveyance, sells, barter, offers for sale, carries or exposes for sale or barter any good or merchandise except mild, fresh fruits and vegetables, newspapers and periodicals.

**SOLICITOR** – Includes any person who goes from house to house or from place to place or who stands in any street or public place, taking or offering to take orders for good, wares or merchandise except newspapers, fresh fruits and vegetables or milk.

B. The term “shall” is mandatory; “may” is permissive.

#### **§550-2. Exemptions.**

The provisions of this chapter shall not apply to any sales conducted by order of any court; nor to wholesalers selling to retailers or to merchants having an established place of business within the village; nor to farmers or truck gardeners who sell or dispose of products of their own farms; nor to any honorably discharged soldier, sailor or marine who has procured a license as provided by the laws of the State of New York; nor to those engaged in interstate traffic and commerce, except that they shall obtain a permit as required herein but any fee shall be waived.

#### **§550-3. Permit required.**

It shall be unlawful for any person, either principal or agent, to conduct any business, solicitation or presentation of any kind by going house to house or door to door within the corporate limits of the Village

of Oneida Castle without first having registered with the Village Clerk and having in their possession a valid registration permit with a current effective date. Said permit shall be signed by the Commissioner of Public Safety and issued free of charge.

**§550-4. License and fee.**

No person shall conduct a transient retail business in any store, office, building or tent in the Village of Oneida Castle for the sale of advertised or represented to be bankrupt stock, fire damaged, water damaged or any like representation or device without first having taken out a license and paying the fee therefore, which said fee shall be as set forth from time to time by resolution of the Board of Trustees. Said license shall be issued by the Village Clerk.

**§550-5. Penalties for offenses.**

Any person convicted of violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days imprisonment, or both.

**ARTICLE XIX**  
**ADULT ENTERTAINMENT**

**§600-1. Purpose and intent.**

**§600-2. Definitions**

**§600-3. Classification of businesses.**

**§600-4. Businesses prohibited in certain areas.**

**§600-5. Promotion of pornography,**

**§600-6. Promotion of pornography involving minors unlawful.**

**§600-7. Affirmative defenses.**

**§600-8. Penalties for offenses.**

**§600-1. Purpose and intent.**

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the citizens of the Village of Oneida Castle and to establish reasonable and uniform regulations regarding the location and concentration of sexually oriented businesses and the promotion of pornography within the Village of Oneida Castle. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented material. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; neither is it the intent or the effect of this chapter to condone or legitimize the distribution of obscene materials.

**§600-2. Definitions.**

The words and phrases set forth below shall have the meanings respectively ascribed to them.

**ADULT ARCADE** – Any place to which the public is permitted or invited or in which 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 an audience and where the image is so displayed, distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE** – A commercial establishment having a substantial or significant portion of its stock-in-trade, including but not limited to books, magazines, periodicals, visual representations or writing, distinguished or characterized by emphasis on matter depicting, describing or related to specific anatomical areas or to specified sexual activities or an establishment with a segment or section devoted to

the sale or display of such materials. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting or describing specified sexual activities or specified anatomical areas and still be characterized as and 'adult bookstore.' Such other business purposes will not serve to exempt such commercial establishment from being characterized as an "adult bookstore" so long as one (1) 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:

- 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 descriptions of specified sexual activities or specified anatomical areas.

**ADULT MOTEL** – A hotel, motel or similar commercial establishment which 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 of specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic productions.

**ADULT MOTIONS PICTURE THEATER** – A commercial establishment where, for any form or consideration, films, motion pictures, videocassettes, slides or similar graphic reproductions are displayed which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**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.

**AUDIENCE** – One (1) or more persons who are permitted to view a performance for valuable consideration of, in or from a public place.

**DISPLAY PUBLICLY** – The exposing, placing, posting, exhibiting or in any other fashion displaying in any location, whether public or private, material or a performance in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public place or vehicle.

**DISSEMINATE** – To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present materials or to offer or agree to do the same or to have in one's possession with intent to do the same.

ESCORT – A person who, for consideration, agrees or offers to act as a companion, guide or date for a person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY – A person or business association who or which furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT – Includes any of the following:

- A. The opening or commencement of any sexually oriented businesses as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business;
- D. The relocation of any sexually oriented business.

NUDE MODEL STUDIO – Any place where a person who appears in a state of nudity or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY – Uncovered or less than opaquely covered post pubertal human genitals or pubic area, the post pubertal human female breast below the point immediately above the top of the areola or the covered human genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

PANDER – Advertising or propagandizing in connection with the sale of material, the offering of a service or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE – Any live or reproduced exhibition, including but not limited any play, motion picture film, dance or appearance presented before an audience.

PORNOGRAPHY – Any material or performance is “pornography” if all of the following elements are present:

- A. Considered as a whole by the average person applying the contemporary community standards of the Village of Oneida Castle, it appeals to the prurient interest.
- B. It depicts, describes or represents, in a patently offensive way, sexual conduct, as hereinafter defined.
- C. It lacks serious literary, artistic, political or scientific value. PORNOGRAPHY FOR MINORS – Any material performance is “pornography for minors” if all of the following elements are present:

1. Considered as a whole by the average person applying the contemporary community standards of the Village of Oneida Castle with respect to what is suitable for minors, it is presented in such a way as to appeal to a minor's prurient interest.
2. It depicts, describes or represents, in a patently offensive way, nudity or sexual conduct, as herein defined.
3. It lacks serious literary, artistic, political or scientific value for minors.

**PRURIENT INTERESTS** – Desire or craving for sexual stimulation or gratification. In determining “prurient interest”, the material or performance shall be judged with reference to average person, unless it appears from the character of the material or performance that it is designed to appeal to prurient interest in a particular group of persons, including but not limited to homosexuals, or sadomasochists. In that case, it shall be judged with reference to the particular group for which it was designed.

**PUBLIC PLACE OR VEHICLE** – Any of the streets, alleys, parks, boulevards, schools or other public property in the Village of Oneida Castle or any dance hall, rental hall, theater, amusement park, liquor establishment or depot, place of public accommodation or other private property generally frequented by the public for the purpose of education, recreation, amusement, entertainment, sport, shopping or travel or any vehicle for public transportation, owned or operated by the government, either directly or through a public corporation or authority, or owned or operated by any nongovernmental agency for the use, enjoyment or transportation of the general public.

**SADOMASOCHISTIC ABUSE** – Flagellation or torture by or upon a person who is nude or clad is undergarments or in a sexually revealing or bizarre costume or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.

#### **SEXUAL CONDUCT:**

- (1) Masturbation
- (2) Sexual intercourse, whether genital-genital, oral genital, oral-anal, or anal genital.
- (3) Any erotic fondling or touching of any parts of the covered or uncovered genitals, buttocks, pubic area or breast of the female.
- (4) Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof.
- (5) Sexual excitement, as hereinafter defined.
- (6) Sadomasochistic abuse, as hereinabove defined.
  - a. The conduct described in Subsection A (1) through (6), inclusive, is “sexual conduct,” whether or not it is engaged in alone or between members of the same sex or between members of the opposite sex or between humans and animals or between humans and inanimate objects. **SEXUAL ENCOUNTER CENTER** – A business or commercial enterprise that, as one (1) of its primary business purposes, offers for any form of consideration:



- b. Physical contact in the form of wrestling or tumbling between person of the opposite sex;  
or
- c. Activities between male and female persons and/or persons of the same sex when one (1)  
or more of the persons is in a state of nudity.

**SEXUAL EXCITEMENT** – The facial expression, movements, utterances or other responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal or who experiences the physical or sensual reactions of humans engaging in or witnessing sexual conduct.

**SEXUALLY ORIENTED BUSINESS** – An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS** – Human genitals, pubic region, buttocks or female breasts below a point immediately above the top of the areola.

**SPECIFIED SEXUAL ACTIVITIES** – Human male genitals in a discernibly turgid state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

**§600-3. Classification of businesses.**

- A. Adult arcades.
- B. Adult bookstores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion picture theaters.
- F. Adult theaters.
- G. Escort agencies.
- H. Nude model studios.
- I. Sexual encounter centers.

**§600-4. Businesses prohibited in certain areas.**

It shall be unlawful to establish or maintain any sexually oriented business in or within five hundred (500) feet of another sexually oriented business, a church, a public or private elementary or secondary school, a boundary of any residential district, a public park adjacent to any residential district or the property line of a lot devoted to residential use.

**§600-5. Promotion of pornography unlawful.**

A. It shall be unlawful for any person to promote pornography. A person commits the offense of promoting pornography if, knowing its content and character, him or her:

- (1) Disseminates or causes to be disseminated any pornographic material in or from a public place or vehicles or for valuable consideration or has in his or her possession any pornographic material with intent to so disseminate or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for such dissemination of pornographic material.
- (2) Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
- (3) Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which is pornographic.
- (4) Produces, presents, directs or knowingly allows the use of any business, building, vehicle, or place owned, leased, conducted or managed by him or her for a pornographic performance before an audience.
- (5) Participates in that portion of a love performance before an audience which makes it pornographic.
- (6) Panders, displays publicly or disseminates door to door any pornographic material or performances or causes such pandering, public display or door-to-door dissemination.

B. For the purposes of this section, possession of two (2) or more identical copies of any pornographic material by any person engaged in the business of disseminating material, as defined above, shall be prima facie evidence of possession with intent to disseminate for valuable consideration.

**§600-6. Promotion of pornography involving minors unlawful.**

A. It shall be unlawful for any person to promote pornography for minors. A person commits the offense of promoting pornography for minors if, knowing its content and character, he or she:

- (1) Disseminates or causes to be disseminated to a minor material which is pornography for minors or knowingly allows the use of any business, building, vehicle or place owned, leased,

conducted or managed by him or her for the dissemination to a minor of material which is pornography for minors.

(2) Exhibits to a minor a motion picture film or other performance which is pornography for minors.

(3) Sells to a minor an admission ticket or pass to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion picture film or other performance which is pornography for minors.

(4) Admits a minor to any building, vehicle or place where there is being exhibited or is about to be exhibited a motion picture film or other performance which is pornography for minors.

(5) Knowingly produces, presents, directs or allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him or her for the presentation of a performance which is pornography for minors before an audience which includes a minor.

(6) Displays publicly or disseminates door to door any material or performance which is pornography for minors or causes such public display or door-to-door dissemination.

B. The provisions of Subsection A(1) through (5) do not apply to a parent, guardian or other persons in local parentis to the minor.

#### **§600-7. Affirmative defenses.**

It shall be an affirmative defense to a prosecution under 62-5 or 62-6 of this chapter if the pornographic material was disseminated by a person who was acting in his or her capacity as:

- A. A teacher of an accredited course of study related to pornography at a state-approved educational institution.
- B. A licensed medical practitioner or psychologist in the treatment of a patient.
- C. A participant in the criminal justice system, such as a legislator, Judge, prosecutor, law enforcement official or similar or related position.
- D. A supplier to any person described in Subsection A through C above.

#### **§600-8. Penalties for offenses.**

A. Fines. Any person convicted of violating this chapter shall be guilty of a violation and, upon conviction before any Justice of the Peace, shall be subject to a fine not exceeding one thousand dollars (\$1000.) and costs for each offense and, in default of payment thereof, shall be subject to imprisonment in the appropriate jail for a period not exceeding thirty (30) days.

B. Injunction. The Council may institute proceedings in equity in the Court of Common Pleas of the Village of Oneida Castle for the purpose of enjoining the sale, resale, lending, distribution, exhibit, gift or

show of such pornographic literature, books, magazines, pamphlets, newspapers, story papers, papers, comic books, writings, drawings, photographs, figures or images or any written or printed matter of an obscene nature contrary to the provisions of this section, and, for such purposes, jurisdiction is hereby conferred upon said Court. A preliminary injunction may issue and a hearing thereafter to be held thereon in conformity with the Rules of Civil Procedure upon the averment of the Council that the sale, resale, lending, distribution, exhibit, gift or show of such publications constitutes a danger to the welfare or peace of the community.

## **ARTICLE XX**

### **ALCOHOLIC BEVERAGES**

**§650-1. Legislative intent and purpose.**

**§650-2. Consumption and possession in certain public and private places.**

**§650-3. Exceptions.**

**§650-4. Penalties for offenses.**

**[HISTORY: Adopted by the Board of Trustees of the Village of where applicable. Oneida Castle at time of adoption of Code: see Ch. 1, General Provisions, Art. I. Amendments noted]**

**§650-1. Legislative intent and purpose.**

A. The Village Board finds that the unrestricted consumption of alcoholic beverages in certain public places often leads to disorders and related problems as well as the littering of such public places and is disturbing to the public and threatens peace and good order.

B. The purpose of this chapter is to prohibit the consumption of alcoholic beverages in certain public places in order to prevent disorderly behavior and the littering of public places and to protect the public health, safety and welfare and to promote the public good.

**§650-2. Consumption and possession in certain public and private places.**

A. Prohibited. No person shall, within the Village of Oneida Castle drink or otherwise consume liquor, wine, beer or other alcoholic beverages while such person is in or upon any public sidewalk, street, highway, parking lot, vehicle or such other place, as defined by 240.00 of the penal Law of the State of New York, except public parks, or on private property without invitation or permission of the owner or occupant of such property. The abuse of alcoholic beverages is prohibited in all village public parks.

B. Possession of open containers. No person shall carry or have in his or her possession within the Village of Oneida Castle any open bottle or open container containing liquor, wine, beer or other alcoholic beverage with the intent of the possessor or another to consume the same in any of the public places described in Subsection A of this section.

C. Presumptions.

- (1) The possession of an open bottle or open container wrapped, unwrapped or with the top expose in a public place, as herein defined, shall be presumptive evidence that such open bottle or open container is intended to be consumed in a public place.

- (2) An open bottle or open container in any vehicle while in or on any public sidewalk, street, highway, parking lot, public park or other public place, as defined by 240.00 of the Penal Law of the State of New York, shall be presumptive evidence that the same is in the possession of all the occupants thereof.

#### **§650-3. Exceptions.**

Upon written application to the Village Board on forms provided by the Village Clerk, the Board may grant special permission for the use of alcoholic beverages in or on the public sidewalks, streets, highways, parking lots or other public places as defined by 240.00 of the Penal Law of the State of New York, except public parks, but only for the times, dates and places specified in the application. Said application shall contain, among other things, a list of three (3) names and addresses of those who are responsible for the activity.

#### **§650-4. Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall, upon convicting thereof, be guilty of a violation pursuant to the Penal Law and shall be punishable, for each offense, by a fine of not more than two hundred fifty dollars (\$250) or by imprisonment for not more than fifteen (15) days, or both.

## **ARTICLE XXI**

### **GAMES OF CHANCE**

#### **§670-1. Authority.**

#### **§670-2. Definitions.**

#### **§670-3. License required; Sunday games.**

#### **§670-4. When effective.**

#### **§670-1. Authority.**

This Chapter is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York and shall be known as the “Games of Chance Law of the Village of Oneida Castle.”

#### **§670-2. Definitions.**

The words and terms used in this chapter shall have the same meanings as such words and terms have in Article 9-A of the General Municipal Law of the State of New York.

#### **§670-3. License required; Sunday games.**

A. Games of chance may be conducted in the village by an authorized organization, after that organization obtains a license therefore, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law of the State of New York as well as the rules and regulations of the New York State Racing and Wagering Board and this chapter.

B. The conduct of games of chance of Sundays is authorized, except as otherwise restricted in Article 9-A of the General Municipal Law.

#### **§670-4. Enforcement powers and duties.**

The powers and duties set forth in Subdivision 1 or 194 of the General Municipal Law shall be exercised by the chief law enforcement officer of the Village of Oneida Castle.

#### **§670-5. When effective.**

This chapter shall take effect immediately upon filing with the Secretary of State after approval thereof by the voters of the village voting thereon at a general village election to be held pursuant to the provisions of the Municipal Home Rule Law.

## **ARTICLE XXII**

### **SKATEBOARDS**

#### **§700-1. Definitions.**

#### **§700-2. Prohibited acts.**

#### **§700-3. Penalties for offenses.**

#### **§700-1. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings indicated:

**SKATEBOARD** – A platform which is mounted on wheels, having no mechanism or other device with which to steer or control the direction of movement thereof while being used, operated or ridden.

#### **§700-2. Prohibited acts.**

A. Operation of any skateboard is hereby prohibited within all roadways and on all pedestrian sidewalks and parks within Oneida Castle Village limits

B. Operation of skateboards is also prohibited on any and all business and manufacturing premises without prior approval of the owner or owners.

#### **§700-3. Penalties for Offenses.**

Any person found violating the above section shall have his or her skateboard immediately impounded. In the case of a first offense, the skateboard will be returned to the rider at the New York State Police Department upon the appearance of the rider, if the rider is of age eighteen (18) years or older, or appearance there of the rider accompanied by his parent or guardian, if the rider is under the age of eighteen (18). In the case of a second offense, the skateboard shall be taken from the rider and not returned to him or her for fifteen (15) days, upon appearance at the New York State Police Department as aforesaid. In the case of a third offense, the skateboard shall be taken away from the rider and not returned to him or her for one (1) year from the date of the violation, upon appearance at the New York State Police Department as set forth above. If the skateboard is not claimed at the police station after a year and a half, the police may dispose of it in accordance with provisions for disposing of property under the New York State Personal Property Law as lost and found property.



## **ARTICLE XXIII**

### **PARKS AND RECREATION**

**§720-1. Rules and regulations.**

**§720-2. Use of park facilities.**

**§720-3. Establishing and amending activities.**

**§720-4. Posting of regulations.**

**§720-5. Penalties for offenses.**

**§720-1.** The following rules and regulations shall be applicable to all parks, open spaces and recreation areas of the Village of Oneida Castle:

A. Hours. All parks, public open spaces and recreation areas shall be open to the public between the hours of 6:00 a.m., local prevailing time, and 10:00 p.m. on Sunday through Saturday. No person or persons shall be in, on or about the above premises during the prohibited times except those persons going to or from a scheduled event at the parks; public open spaces; recreation areas; Village Board meetings; meetings of the Board of Trustees or any other board or agency of the village on village business; or police business; or scheduled events in the village.

B. Parking.

- (1) No vehicles shall be parked overnight without the approval of the Village Board.
- (2) Grass areas must not be used for roadways, parking or for other purposes which may injure or destroy the turf or landscaping.

C. Automobile and vehicular use

- (1) Unauthorized motor vehicles, whether licensed or unlicensed, including motorbikes, motorcycles, minibikes, snowmobiles and all-terrain vehicles, are not permitted within the parks, open spaces or recreational areas.
- (2) All vehicles are restricted to roadways except those used for maintenance or police work.
- (3) The Village Board of Trustees shall regulate speed, traffic control and vehicular regulations on and about any roads, driveways, parking areas or other areas within any of the village parks. Such regulations will be prominently posted in the parks and will be strictly enforced.

D. The following activities and uses are prohibited:

- (1) Camping.
- (2) Hunting.
- (3) Shooting.
- (4) Trapping.
- (5) The possession or use of firearms, air rifles, spring guns, bow and arrows (except on a defined range approved by the Police Departments, if any), slingshots, BB guns, or rifles or darts.
- (6) Destruction of or interference with wildlife or their feeding grounds, nests or resting or breeding places.
- (7) Open Burning.
- (8) Organized team and/or league sports, except with written approval of the Mayor or Board of Trustees.

E. Animal control.

- (1) No animals are allowed in the parks or public open spaces or recreational areas.
- (2) Horses shall be permitted on the park roadways, trails and non-playground grassy areas. Horses are not permitted in any ball fields or in picnic areas.
- (3) The individual in charge of an animal entering any park or recreational area is required to be in possession of proper implements for the gathering and disposal of animal feces. All feces will be collected immediately, removed from the park or recreational area and disposed of in accordance with accepted sanitary standards.

F. Fires.

- (1) Fires may be built only in fireplaces provided or in grills brought to the park for this purpose.
- (2) All fires will be extinguished before leaving.
- (3) Campfires or fires for use in conjunction with scouting or social activities which cannot be accommodated in existing fireplaces or grills may be permitted upon application to and upon written approval from the Village Mayor.

G. Respect for park property.

- (1) Cutting, mutilating, removing or taking away of trees, shrubs, turf, plants, flowers or other natural phenomena or the removal, defacing or damaging of any park or

recreational area property, including but not limited to buildings, equipment, supplies or other property, is prohibited.

- (2) Buildings, fences, fountains, statuary, benches, signs or other structures must not be injured or defaced in any way.
- (3) Games, contests or sports are permitted only in areas designed for such use and in no case shall such use be permitted in areas where lawns or planting may be injured or where such games or contests may be in conflict with park regulations.
- (4) Moving of picnic tables or other park equipment is prohibited.
- (6) Any person using a village park shall be fully and financially responsible for any damages that person may inflict upon park property and equipment.

#### H. Conduct.

- (1) Disorderly conduct as defined in statutes of the New York State Law, ordinances of the Village of Oneida Castle or in the common law, is prohibited.
- (2) All use of any indecent, lewd or vulgar behavior or language is prohibited.

#### I. Disposal or waste material.

- (1) No person shall discard any form of waste material, paper or rubbish except in containers supplied for that purpose.
- (2) Violators will be prosecuted and subject to a fine.

#### J. Picnics.

- (1) Picnics will be allowed only on locations provided for that purpose.
- (2) Persons holding picnics shall clean up and place all wastepaper and other refuse in receptacles provided for that purpose.

### **§720-2. Use of park facilities.**

#### A. Preparation of facilities for usage; security deposit.

- (1) Preparation of park facilities for use shall be the responsibility of the village or caretaker as may be designated from time to time by the Board of Trustees.

#### B. Opening of building; cancellation of activities.

- (1) The village shall have the discretion to cancel activities due to weather or other circumstances.

- (2) Park building shall only be open under the direct supervision of the department designated from time to time by the Board of Trustees.

**§720-3. Establishing and amending activities.**

The Board of Trustees of the Village of Oneida Castle may, by resolution, from time to time establish additional rules and regulations, and, if it so desires, alter, amend and supplement the rules and regulations established herein for the operation, use and protection of the village parks. Such rules and regulations may include, but shall not be limited to, regulations governing the times for the presence of persons therein, the nature and extent of the permitted and prohibited uses thereof and such other matters as the Board of Trustees may deem necessary or proper for the protection of the parks and persons and property therein.

**§720-4. Posting of regulations.**

All rules and regulations established under the authority of this chapter and established hereafter shall be posted at a conspicuous place or places in each park to which they are applicable. Appropriate signs may be posted to direct or warn persons with respect to the rules and regulations and their operation.

**§720-5. Penalties for offenses.**

- A. Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed two hundred fifty dollars (\$250.) or to imprisonment for a term not to exceed fifteen (15) days, or both.
- B. Each and every violation of any provision of the terms of this chapter and each and every day a violation occurs shall constitute a separate and distinct offense under this chapter, and each such offenses shall be subject to separate and distinct penalties hereunder.
- C. The penalties provided in this section shall not be the exclusive method of enforcing compliance with the provisions of this chapter, but shall be in addition to all other legal and equitable remedies available to the Village of Oneida Castle.

## **ARTICLE XXIV**

### **CURFEW**

#### **§750-1. Title.**

#### **§750-2. Purpose and legislative intent.**

#### **§750-3. Definitions.**

#### **§750-4. Establishment; hours.**

#### **§750-5. Exceptions**

#### **§750-6. Parental responsibility.**

#### **§750-7. Penalties for offenses.**

#### **§750-1. Title.**

This chapter shall be entitled: “An Ordinance of the Village of Oneida Castle, Oneida County, New York, Establishing a Curfew During Nocturnal Hours for Minor Children Under the Age of Seventeen (17) Years.”

#### **§750-2. Purpose and legislative intent.**

It is hereby declared to be the policy of the Village of Oneida Castle to minimize nocturnal crime, juvenile delinquency and vandalism and to prevent the destruction and damage of both public and private property. By this chapter, the Village of Oneida Castle seeks to promote the safety and general welfare of the residents of the Village of Oneida Castle by prescribing, in accordance with prevailing community standards, regulations concerning the presence of minors on streets, roads, highways, public parks or other public areas of the village at night, all for the good of minors, for the furtherance of family responsibility and for the public good, safety and welfare. The Board finds that a curfew for minors meets a very local need and will be a significant factor in minimizing juvenile delinquency. This chapter takes into consideration also the danger hours for nocturnal crime and for accumulations of minors with potential risk incident to immaturity. Parental responsibility for the whereabouts of children is the norm; and, as parental control increases, the likelihood of juvenile delinquency decreases and there is a need for nocturnal curfew for minors, to achieve under local conditions the purposes herein stated.

#### **§750-3. Definitions.**

A. As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

MINOR – Any person under the age of seventeen (17), or in equivalent phrasing often herein employed, any person sixteen (16) or less years of age.

PARENT – Any person having legal custody of a minor as a natural or adoptive parent, as a legal guardian, as a person who stands in loco parentis or as a person to whom legal custody has been given by order of court.

PUBLIC PARKS and PUBLIC AREAS – Includes, but is not limited to, recreational and other places, whether privately or publicly owned and open to the general public, and those places visited by many persons and accessible to the public.

REMAIN or LOITER – To stay behind, to tarry or to stay unnecessarily upon the streets, roads, highways, public parks or other public area, including the congregating in groups (or interacting minors) totaling four (4) or more person in which any minor involved would not be using the streets, roads, highways, public parks or other public areas for ordinary or serious purposes such as mere passage or proceeding home. To implement this definition with additional precision and precaution, numerous exceptions are expressly set forth in 83-5 hereof so that this is not a mere prohibitory-type Curfew Local Law.

STREET, ROAD and HIGHWAY – A way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. The terms “street,” “road” and “highway” include the legal right-of-way. including but not limited to traffic lanes, curbs, sidewalks, whether paved or unpaved, and any grass plots or other ground found within the legal right-of-way of a “street,” “road” and “highway” apply irrespective of what they are called or formally named, whether an alley, avenue, court, drive, boulevard or otherwise.

TIME OF NIGHT – Based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight saving time, general observed at that hour by the public in the village.

VILLAGE or VILLAGE OF ONEIDA CASTLE – The Village of Oneida Castle, Oneida County, New York.

YEARS OF AGE – Continues from one (1) birthday, such as the 16<sup>th</sup>, to , but not including, the day of the next, such as the 17<sup>th</sup> birthday, making it clear that sixteen (16) or less years of age is herein treated as equivalent to the phrase “under seventeen (17) years of age.”

B. The word “shall” is mandatory; the word “may” is permissive.

#### **§750-4. Establishment; hours.**

It shall be unlawful and a violation of this chapter for any person sixteen (16) or less years of age [under seventeen (17)] to be or loiter or remain in or upon the streets, roads, highways, public parks or other public area within the Village of Oneida Castle at night during the period ending at 6:00 a.m. and beginning at 10:00 p.m.

#### **§750-5. Exceptions.**

In the following exception cases, a minor on or upon a village street, road, highway, public park or other public area during the nocturnal hours for which §83-4 is intended to provide the maximum limits of regulation (and a clear general guide for minors, their parents and their fellow citizens) shall not, however, be considered in violation of this chapter:

A. When accompanied by a parent of such minor.

B. When accompanied by an adult authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose within a specified area.

C. When exercising First Amendment rights protected by the United State Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the intention of such exercise by exhibiting to Police Department personnel a written statement, signed by such minor and countersigned by a parent of such minor, with their home address and telephone number, specifying when, where and in what manner said minor will be on or upon the streets, roads, highways, public parks or public areas at night (during hours when the chapter is otherwise applicable to said minor) in the exercise of a First Amendment right specified in such statement.

D. In case of reasonable necessity, but only after such minor's parent has communicated to the Village Board the facts establishing such reasonable necessity relating to specified streets, roads, highways, public parks or other public areas at a designated time for a described purpose, including points of origin and destination.

E. When the minor is on the sidewalk or the area immediately in front of the place where such minor resides or is on the sidewalk or the area immediately in front of either next door neighbor not communicating an objection to any Village Board Member.

F. When authorized by special permit from the Village Mayor, carried on the person of the minor thus authorized, as follows: When necessary nighttime activities of a minor may be inadequately provided for by other provisions of this chapter, then recourse may be had to the Mayor of the village for a special permit as the circumstances warrant. Upon the Mayor's finding of necessity for the use of the streets, roads, roads, highways, public parks or other public areas to the extent warranted by a written application signed by a minor and by a parent of such minor, if feasible, stating the name, address and telephone number of a parent thereof; the height, weight, sex, color of eyes and hair and other physical characteristics of such minor; the necessity which requires such minor to remain upon the streets, roads, roads, highways, public parks or other public areas during the curfew hours otherwise applicable; and the route to be taken and the beginning an ending of the period of time involved by date and hour, the Mayor may grant a permit, in writing, for the use by such minor of such streets, roads, roads, highways, public parks or other public areas at such hours as in the Mayor's judgment may be necessary. In an emergency this may be handled by telephone or other effective communication, with a corresponding record being made contemporaneously, either to the Mayor or, if unavailable, to a Village Board member authorized by the Mayor to act on his behalf in an emergency.

G. When authorized by resolution passed by the Village Board of Oneida Castle in other similar cases of reasonable necessity, similarly handled but adapted to necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis by the Mayor. Normally, such resolution by the Village Board permitting use of the streets, roads, roads, highways, public parks or other public

areas should be passed sufficiently in advance to permit appropriate publicity through news media and through other agencies, such as schools, and shall define the activity, the scope of the use of the street, roads, roads, highways, public parks or other public area permitted, the period of time involved, not to extend more than thirty (30) minutes beyond the time for termination of such activity, and the reason for finding that such resolution is reasonably necessary.

H. When the minor carries a certified card of employment, reviewable each calendar month when the facts so warrant, dated or reissued not more than forty-five (45) days previously, signed by the Mayor and briefly identifying the minor, the addresses of his home and of his place of employment and his hours of employment.

I. When the minor is, with parental consent, in a motor vehicle. This contemplates normal travel. This clearly exempts bona fide interstate movement through Oneida Castle. This also exempts interstate travel beginning or ending in Oneida Castle.

#### **§750-6. Parental responsibility.**

It shall be unlawful and a violation of this chapter for a parent, as defined herein, having legal custody of a minor, knowingly to permit or by inefficient control to allow such minor to be or remain or loiter upon any street, road, roads, highways, public parks or other public areas of the village under circumstances not constituting an exception to, or otherwise beyond the scope of, this chapter. The term “knowingly” includes knowledge which a parent should reasonably be expected to have concerning the location or whereabouts so a minor in that parent’s legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.

#### **§750-7. Penalties for offenses.**

Any person convicted for violating any provision of this chapter shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars (\$250.) or fifteen (15) days’ imprisonment, or both.



## **ARTICLE XXV**

### **REGULATING THE USE OF SNOWMOBILES AND ALL-TERRAIN VEHICLES IN THE VILLAGE OF ONEIDA CASTLE.**

**BE IT ENACTED BY THE BOATD OF TRUSTEES OF THE VILLAGE OF ONEIDA CASTLE.**

**§770-1. Title**

**§770-2. Authority**

**§770-3. Purpose**

**§770-4. Definitions**

**§770-5. Operations on village streets and public lands**

**§770-6. Parks and other public lands, other than highways.**

**§770-7. Financial security**

**§770-8. Penalties and offenses.**

**§770-1. Title.**

The title of this Law shall be “Snowmobiles and All-Terrain Vehicle Regulation” in the Village of Oneida Castle.

**§770-2. Authority.**

This Local Law is enacted pursuant to the Laws of the State of New York.

**§770-3. Purpose.**

The purpose of this local law is to protect the public health, welfare and safety by regulating the operation of snowmobiles and all-terrain vehicles on Village of Oneida Castle streets in a manner which will be compatible with the use of such streets for vehicle and pedestrian travel and other uses, and which will promote the safe and proper use of snowmobiles and all-terrain vehicles and minimize detrimental effects of such on the environment. It is further intended herein that the use of snowmobiles and all-terrain vehicles herein allowed shall be for the purpose of gaining access to a permissible area to another, and not for “pleasure operating”.

**§770-4. Definitions.**

The terms, words, and phrases used in this local law shall have the same meaning as such terms, words and phrases as defined in the New York State Parks, Recreation and Historic Preservation Law and the New York State Vehicle and Traffic Law.

Whenever the word “Village” is used herein it shall mean the Village of Oneida Castle.

**SNOWMOBILE** – Shall mean any self-propelled vehicle designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more ski, belts or cleats.

**ALL-TERRAIN VEHICLE OR ATV** – Shall mean any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions and only incidentally operated on public highways providing that such vehicle does not exceed sixty inches, or eight hundred pounds dry weight.

**SHOULDER**-Shall mean that portion of the highway immediately adjacent to the right side of a roadway which is customarily used for emergency travel and parking.

**ACCOMPANY** – Shall mean to be within a reasonable distance of the person accompanied.

#### **§770-5 Operations on village streets and public lands**

It shall be unlawful to drive or operate any snowmobile or all-terrain vehicle on, over, or across any public way or public lands, highways, roads, streets, avenues, alleys, public places, public driveways, parks, waters or other property of, or owned by the Village. It is hereby determined that outside banks and shoulders of all Village streets and highways are non-existent, or by reason or normally prevailing snow conditions and conditions of terrain are impossible.

Operation of snowmobiles on Village streets shall be subject to the applicable provisions of Article 25 of the New York State Office of Parks, Recreation and Historic Preservation law, the rules and regulation of the Office of Parks and Recreation.

##### **A. Emergencies.**

When authorized or directed by the Mayor or by emergency personnel a snowmobile may be operated on any portion of the public highways for the purpose of a special emergency as authorized by Subdivision 2 of the Article 25.05 of the Parks, Recreation and Historic Preservation Law.

**B. Sidewalks.** The use and operation of snowmobiles and all-terrain vehicles on public sidewalks is strictly prohibited.

#### **§770-6. Parks and other public lands, other than highways.**

The use and operation of snowmobiles and all-terrain vehicles is prohibited in any parks or on any public lands in the Village of Oneida Castle.

#### **§770-7. Financial security**

It shall be unlawful for any person to operate a snowmobile or all-terrain vehicle in the Village unless the owner or operator of such vehicle is insured against public liability and carried with him proof of financial responsibility in the manner prescribed by the Office of Parks and Recreation and of the

minimum amount as provided in the Parks, Recreation and Historic Preservation Law of the State of New York.

Such proof shall be displayed by the owner or operator of NY vehicle upon request to any law enforcement officer or to any person who has suffered either personal injury or damage to property as a result of the operation of such vehicle by any such owner or operator.

#### **§770-8. Offenses and Penalties**

A. Unless otherwise specifically provided, any person who violated any provisions of this local law or of any rule, regulation or order adopted pursuant thereto, shall be guilty of a:

1. Traffic infraction, if such provision, law, rule, regulation or order is one which regulates traffic as specified in Section 155 of the Vehicle and Traffic Law, but does not relate to snowmobiles.
2. Violation for any other offense.

B. A traffic infraction shall be punishable as provided in paragraph (b) of Section 1800 of the Vehicle and Traffic Law in the same manner as if the offense were a violation of the Vehicle and Traffic Law. A violation shall be punishable as provided in the Penal Law, except that the maximum fine may not exceed two hundred dollars (\$200.).

C. Severability Should any portion whatsoever of this local law be held invalid or unenforceable for any reason by any court of competent jurisdiction, such portion shall be deemed severable, but only to the extent of such holding, and such holding shall not affect the remaining portions thereof.

This local law shall take effect immediately upon filing with the Department of State.

## **ARTICLE XXVI**

### **ANIMAL CONTROL IN THE VILLAGE OF ONEIDA CASTLE**

**§800-1. Title.**

**§800-2. Authority.**

**§800-3. Purpose.**

**§800-4. Definitions.**

**§800-5. Impounding and enforcing.**

**§800-6. Restraining or confining cats and dogs.**

**§800-7. Domestic animals at large.**

**§800-8. Dangerous animals.**

**§800-9. Animal care.**

**§800-10. Molesting and enticing animals.**

**§800-11. Unlawful transportation.**

**§800-12. Animal Waste.**

**§800-13. Nuisances.**

**§800-14. Dog forfeiture.**

**§800-15. Violation and penalties.**

#### **§800-1. Title**

The title of this Law shall be “Animal Control Law of the Village of Oneida Castle.

#### **§800-2. Authority**

This local law is enacted pursuant to Article 7 of the Agriculture and Market Law of the State of New York together with any future modifications thereof. All provisions of said Article 7 are applicable and incorporated herein except where modified hereby. The relevant portions of the Conservation Law and Public Health Law also apply.

### **§800-3. Purpose**

The purpose of this Local Law is to protect the health, safety and well-being of the persons, property, wildlife, and animals imposing restriction on keeping and running of animals at large within the Village of Oneida Castle. This law is being enacted because the running at large and other uncontrolled behavior of animals has caused harm to persons, damage to property, and created a nuisance in the Village of Oneida Castle.

### **§800-4. Definitions.**

For the purpose of this Local Law, the terms as hereinafter used are defined as follows:

**Agriculture and Market Law** – The Agriculture and Market Law of the State of New York in effect during the life of this Local Law. The Agriculture and Market Law is abbreviated as Agr. & M.L. All terms defined in Section 108 of Agr. & M.L. shall have the same meaning as used herein unless specifically modified.

**Animal Control Officer – Dog Warden** – Any person authorized by the Village Board, County or State Legislature from time to time, directed or permitted to enforce the provisions of the Agr. & M.L.

**Animal Hospital** – A facility operated by a veterinarian or certified animal care persons for the purpose of treating sick or injured animals.

**Animal** – Animal shall mean any live vertebrae creature, domestic or wild.

**Animal Owner** – An animal owner is a person, persons, firm, association or corporation: Purchased the license for the animal and is the registered owner; or professes ownership of the animal; or has custody or control of the animal; or harbors or is otherwise responsible for the animal; or is the parent, guardian or head of household of any minor under 18 years of age who owns or harbors the animal; or brings into or permits the animal to come in the Village. For proof purposes, any person harboring, possessing or controlling an animal for a period of one week prior to the filing of any complaint charging a violation of the Local Law or Agr. & M.L. shall be held and deemed to be the owner of such animal for the purpose of this Local Law. Parents, guardians or heads of household, as mentioned above shall be deemed to have custody and control of animals owned or harbored by minors and shall be responsible for compliance with this Local Law and Agr. & M.L. in the Village.

**Animal Shelter** – Any facility operated by a humane society, or by a municipality agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or State Law.

**At Large** – Any animal shall be deemed at large when it is off property of its owner and not under 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.

**Commercial Animal Establishments** – Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel.

**Commercial Animal Establishments** – Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel.

**Confined** – An animal is securely confined or restrained when it is kept on the owner's premises either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire, or other effective tether or such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, it is securely confined in a crate, on a tether or in other container, or so restrained within an enclosed vehicle in a manner consistent with the dog's good health so that it cannot be expected to escape therefrom (see Agr. & M.L. Section 353 and 356 – Cruelty to Animals).

**Domestic Animal** – This term shall include domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confines domestic hares or rabbits and game birds raised in confinement under permit or license from New York State Department of Environmental Conservation.

**Fowl** – Not limited to chickens, roosters, turkeys, ducks, and geese.

**Grooming Shop** – A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

**Household Pets** – Dogs, cats, and other such small domesticated animals raised for enjoyment of the owner and normally housed or cared for entirely within the confines of a residence. Household pets, as defined herein, shall include mice, gerbils, hamsters, parakeets, goldfish, tropical fish and non-poisonous reptiles, and other related species.

**Kennel** – A kennel is a facility that constitutes a business for keeping animals for hire, or the business of raising animals for sale.

**Livestock** – Animals, and especially farm animals, raised for use, profit or enjoyment including horses, donkeys, mules, cattle, sheep, goats, swine, fowl, duck, geese, turkeys, domestically raised mink or fox or other similar furbearing animals, wild or exotic animals and those species of reptiles, fish and birds not normal housed or cased for entirely within the confines of a residence.

**Owner** – Any individual who owns, harbors, or keeps any Domestic animal, household pet or livestock.

**Pet** – Shall include dogs, cats, cage birds, and other animals commonly harbored in a home as a house pet.

**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 animal.

**Recreational Areas** – Recreational areas shall mean any real property owned the Village, County or State located in the Village which is used for recreational purposes by the public, including but not limited to, parks and playgrounds.

**Residence** – A residence shall mean a structure or group of structures containing one or more rooms with provisions for complete living including sanitary and sleeping facilities for year round use for one or more families.

**Restraint** – An animal is under restraint if it is secured by leash or lead, or under the control of a competent person not less than twelve (12) years of age and obedient to that person's commands, on or within a vehicle being driven or parked on the street, or within the property limit of its owner or keeper, or upon the premises of another with consent of such other person.

**Run At Large** – The terms "run at large" shall mean to permit animals freedom to run in public place or on private lands without the knowledge, consent and approval of the owner of such lands, or running on any public highway.

**Village** – The "Village" as used herein shall mean any designated area within the boundary lines of the Village of Oneida Castle

#### **§800-5. Impounding of animals and enforcing**

A. The Dog Warden or any peace officer shall be the enforcing officer for carrying out the terms of this chapter. They shall investigate any complaints lodged by any person against any animal owner for allegedly violating this chapter

B. It is the duty of the Dog Warden to seize and impound animals running at large, in addition to the dogs that are seized for other violations.

C. Every animal seized by the Dog Warden shall be maintained, redeemed, sold or disposed of in accordance with article 7 of the Arg. M.L.

#### **§800-6. Restraining or confining dogs or cats.**

A. No owner shall permit or allow any dog to run at large within the Village of Oneida Castle unless such animal is under restraint.

B. No unsprayed female dog or cat in heat shall be permitted outside a building or fenced in area.

C. No person who owns an animal shall permit the premises, structures or enclosures in which such animal is kept to be unclean or unsanitary.

#### **§800-7. Domestic animals at large or grazing in public.**

No owner or person having care of any domestic animals shall permit or suffer the same or any of them to go at large, or to graze on any public ground, park or walk of this village.

**§800-8. Dangerous animals.**

No person shall own or harbor any dangerous animal or any animal which shall attack or attempt to bite any person or other animal under that person's control, peaceably passing along the street, lane, park, or square of the Village or any place the person or animal may legally be.

**§800-9. Animal care, treatment, etc., generally.**

A. No owner shall fail to provide their animal with sufficient good and wholesome food, water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and when with human care and treatment.

B. No owner of an animal shall abandon such animal

C. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or animals and humans.

D. No person shall unjustifiably administer any poisonous drug or substance to any animal not covered in Section 361 of the Agr & M.L., nor shall a person unjustifiably expose such animal to any drug or substance with the intent such drug be taken by such animal.

E. No person shall willfully or unjustifiably interfere with, injure, destroy or tamper with, or willfully set on foot, instigate, engage in or in any act which any animals used for the purpose of breeding, racing, or competitive exhibition of skill breed or stamina impaired.

F. 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.

**§800-10. Molesting or enticing animals.**

No person shall entice, seize or molest any animal while it is being held or led by any person, or properly muzzle or wearing a licensed tag, except where such action is incidental to the enforcement of some law or regulation.

**§800-11. Unlawful transporting animals.**

No person shall transport any animal, or lawfully in his possession, for the purpose of killing or selling such animal.

**§800-12. Animal Waste.**

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public walks, recreation areas, or another's private property.



### **§800-13. Nuisances.**

A. An owner of an animal shall not permit such animal, either licensed or unlicensed, to become a public nuisance. An animal presumed to be a public nuisance if it shall:

- (1) Persist or consistently bark, howl, whine, or snarl or growl.
- (2) Cause personal injury.
- (3) Cause damage to personal property.
- (4) Transport trash or create impairment of lawns, hedges, flowerbeds and gardens on property other than that of the owner or of anyone having animal in custody.
- (5) Persistently bark, chase, or growl, or snarl, at pedestrians who are using the sidewalk while the animal is on the property of the owner or harbor.
- (6) Roam with one or more animals in a pack.
- (7) Be in the habit of chasing or barking at any vehicle.
- (8) Kill other animals, except for mice and rats.
- (9) Be in any store where perishable goods are sold, or any part of any restaurant where food is prepared, except for Seeing Eye dogs.

B. No person shall keep or harbor such number of dogs or cats as to constitute a nuisance.

### **§800-14. Dog forfeiture, adoption, and euthanizing.**

All dogs seized pursuant to this Local Law will be subject to forfeiture, adoption and euthanizing as set forth in Section 118, Agr. & M.L., and Animal Shelter Rules and Regulations.

### **§800-15. Violations and appearance tickets.**

The Village dog warden may serve appearance tickets personally to anyone violating any section of this Local Law as required by law. All appearance tickets shall be made for the defendant to appear at the Town of Vernon Court on such days as the court is in session.

### **§800-16. Penalties.**

Any person committing an offense against or violating any section or provisions of this local law relating to animals in the Village of Oneida Castle shall, upon conviction, be punished by a fine not exceeding one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense, and three hundred dollars (\$300) for the third and subsequent offenses.

## **ARTICLE XXVII**

### **GARAGE SALES IN THE VILLAGE OF ONEIDA CASTLE**

**§850-1. Title.**

**§850-2. Authority**

**§850-3. Purpose.**

**§850-4. Definitions.**

**§850-5. Limitations.**

**§850-6. Source of merchandise.**

**§850-7. Hours of sale.**

**§850-8. Advertising.**

**§850-9. Exemptions.**

**§850-10. Permits**

**§850-11. Enforcement and responsibility.**

**§850-12. Penalties.**

**§850-13. Effective Date**

**§850-1 Title**

The title of this Law shall be “Garage Sales” in the Village of Oneida Castle.

**§850-2. Authority**

This Local Law is enacted pursuant to the Laws of the State of New York.

### **§850-3. Purpose**

The purpose of this Local Law is to protect the health, safety and well-being of the persons and property of the Village of Oneida Castle. This Law is being enacted to control and regulate garage sales in the Village of Oneida Castle.

### **§850-4. Definitions**

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

**GARAGE SALE** - Includes all sales entitled “garage sale,” “lawn sale,” “attic sale,” “estate sale”, “rummage sale,” “flea market sale,” “antique sale,” or any similar casual sale of tangible personal property which is promoted by any means whereby the public at large is or can be made aware of said sale.

**GOODS** - Includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

**PERSON** - Includes individuals, partnerships, voluntary associations and corporations. For the purpose of the provisions of this chapter, “person” shall include family or household groups occupying the same dwelling unit.

### **§850-5. Limitation of Garage Sales**

It shall be unlawful for any person to conduct more than two (2) garage sales within a twelve month period in the Village of Oneida Castle. The garage sales shall not be more than four (4) days in duration and there shall be a minimum of three (3) months between each garage sale.

### **§850-6. Source of Merchandise Offered For Sale**

The merchandise offered at the sale shall be only used, unwanted items of personal property acquired for normal use by the licensee. No new or used merchandise from other sources shall be offered for sale.

### **§850-7. Hours of Sale**

All garage sales shall be conducted between the hours of 9:00 a.m. and 6:00 p.m. only.

### **§850-8. Advertisement; Signs**

A. Garage sales may be advertised through the newspaper or other news media. One sign not greater in size than two by two feet may be installed on the property where the sale is being conducted. All such signs must contain the name and address of the person conducting the sale.

B. No sign shall be placed on the public right -of-way or on property other than where the sale is being conducted. No lighted signs shall be used.

C. The sign shall be displayed only during the sale and shall be removed within 24 hours after completion of the sale.

#### **§850-9. Exemptions**

The provisions of this chapter shall not apply to or affect the following persons or sales:

A. Persons selling good pursuant to an order or process of a court of competent jurisdiction.

B. Persons acting in accordance with their powers and duties as public officials.  
Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

D. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been complied with.

E. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the Village of Oneida Castle under the protection of the nonconforming use provisions thereof, or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited.

F. Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption.

#### **§850-10. Permits**

A. Any garage sale as defined in this local law shall require a permit issued at the Vernon Town Codes Office and must be filed with the Oneida Castle Village Clerk. There will be a permit issued and must be placed in a location where it can be seen by the public. There shall be no charge for this permit.

#### **§850-11. Enforcement; Responsibility for Good Order:**

A. It shall be the duty of the Village Codes Officer to investigate any violations of this chapter brought to its attention by complaint or arising during performance of its normal duties.

B. The owner of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on said premises or permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises.

**§850-12. Penalties for Offenses**

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both.

**§850-13. Effective date**

This Chapter shall take effect as provided by law.

## **ARTICLE XXVIII**

### **DISCHARGE OF FIREARMS IN THE VILLAGE**

#### **§900-1. Title.**

#### **§900-2. Authority.**

#### **§900-3. Purpose.**

#### **§900-4. Definitions.**

#### **§900-5. Exemptions.**

#### **§900-6. Penalties.**

#### **§900-1. Title.**

The title of this Law shall be “Discharge of Firearms” in the Village of Oneida Castle.

#### **§900-2. Authority.**

This Local Law is adopted pursuant to Section 10, Article 2 of the New York State Municipal Home Rule Law, Section 4-412 of the Village law of State of New York and New York Constitution.

#### **§900-3. Purpose.**

The Board of Trustees hereby find the population growth within the territorial; limits of the Village has increased, and it is necessary in the interest of the health, safety and welfare of its citizens to prohibit the discharge of firearms in the Village of Oneida Castle except when necessary in accordance with this chapter.

#### **§900-4. Definitions.**

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

**FIREARM** – Any pistol, revolver, rifle, shotgun, air gun, or bow and arrow which discharge a bullet, cartridge, shell, shot, arrow or other missile propelled by burning or explosion of gunpowder, by high pressure from pumping or other means, by spring which is set by cocking operation or by the application and release of tension or pressure to a bowstring attached to such weapon or instrument.

**§900-5. Exemptions.**

A. Persons that have obtained a permit to do so from the Village of Oneida Castle Board of Trustees or any person authorize by said Board to grant such permits.

B. Law Enforcement officers in the performance of their official duties

C. Persons in defense of their person or in defense of another.

**§900-6. Penalties.**

A person found in violation of this section shall be subject to a fine not to exceed two hundred and fifty dollars (\$250) or imprisonment for not more than fifteen (15) days or both. This local law shall become effective immediately upon filing with the Secretary of State.

**ARTICLE XXIX**

**FLOOD DAMAGE PROTECTION**

**See Oneida Castle Adoption Resolution 14-09-03**



## **ARTICLE XXXI**

### **UNSAFE BUILDING LAW**

#### **§960-1. Purpose**

Unsafe buildings pose a threat to the life and property in the Village of Oneida Castle. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at the doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this local law to provide for the safety, health protection and general welfare of persons and property in the Village of Oneida Castle by requiring such unsafe buildings be repaired or demolished.

#### **§960-2. Article Name**

This local law shall be known as the “Unsafe Building Law” of the Village of Oneida Castle.

#### **§960-3. Definitions**

Building – means any building, structure or portion thereof used for residential, business or industrial purpose.

Codes Enforcement Officer – means the Codes Enforcement Officer for the Village of Oneida Castle or such person appointed by the Board of Trustees to enforce the provisions of the local law.

#### **§960-4. Code Enforcement Officers Duties**

The Codes Enforcement Officer, when in his own opinion or upon receipt of information that a building, (1) is or may become too dangerous or unsafe to the general public, (2) is open at the doorways and windows making it accessible to and object of attraction to minors under eighteen (18) years of age as well as vagrants and other trespassers, (3) is or may become a place of rodent infestation, (4) presents any other danger to health, safety, morals and general welfare to the public, or (5) is unfit for the purpose for which it may lawfully be used, he shall cause or make an inspection thereof and report in writing to the Board of Trustees his findings and recommendations in regard to its repair or demolition and removal.

#### **§960-5. Board of Trustees Determination**

Board of Trustees shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants. That such building is unsafe and dangerous, and orders its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the same manner provided herein.

It will be the Board of Trustee who will determine who will have authority to perform necessary actions to secure premises and are reported unsafe by the Code Enforcement Officer and authorized by Board of Trustee Resolution. All expenses incurred in the repair, demolition and removal will be the property owner's responsibility.

(Amended Law)

ARTICLE XXXI

**Sewer Ordinance 970-1**

**A LOCAL LAW REQUIRING AND MANDATING THAT ALL PROPERTY OWNERS AND PROPERTY USERS WITHIN THE VILLAGE OF ONEIDA CASTLE SEWER IMPROVEMENT AREA NO.1, AND ALL ADDITIONAL SEWER DISTRICTS, WHETHER HEREOF OR HEREAFTER CREATED, CONNECT TO THE VILLAGE OF ONEIDA CASTLE SEWERS WITHIN A ONE (1) YEAR PERIOD FOR THE OVERALL SAFTY, HEALTH AND WELL BEING OF THE PERSONS OR PROPERTIES LOCATED WITHIN SAID VILLAGE.**

Be it enacted by the Village Board of the Village of Oneida Castle, Oneida County, New York as follows:

Section 1. All properties located within the Village of Oneida Castle Sewer Improvement Area No. 1 or any heretofore or herein after created districts that are in the proximity of or adjacent to the Village of Oneida Castle sewers shall be connected to said sewers as hereafter provided.

Section 2. All business or commercial users as generally defined or as provided for in the Village Zoning Law, and any amendments thereto, shall be so connected to the Oneida Castle Village Sewer System when the sewer system becomes available, unless otherwise required to be so connected prior thereto.

Section 3. All residential users as generally defined or as provided for in the Village Zoning Law, and any amendments thereto, shall be so connected to the Village of Oneida Castle sewer system when sewers become available, unless otherwise required to be so connected prior hereto.

Section 4. The Village of Oneida Castle requires any commercial business hooking up to the Oneida Castle Sewer System or resident doing their own hookup to the Oneida Castle Sewer System must carry a minimum liability insurance policy one million dollars (\$1,000,000)

Section 5. All such gravity laterals shall be (6) inches in diameter and all pressure sewer laterals shall be 1.5 inches or 1.25 inches and conform, in any event, to any rules and regulations covering Sanitary Sewer Connections and Specifications Relative thereto and shall be inspected and approved by the Village of Oneida Castle Codes.

Section 6. All residential, business and commercial property laterals shall have a clean out located at the end of their line within (2) feet of the Oneida Castle Village permanent easement line or property line which shall be directed toward the sewer main.

Section 7. A violation of this Local Law is hereby declared to be a violation and shall render the owner of the land, or the tenant or user of said land, or any other person, corporation or entity guilty of violation thereof, to a fine not exceeding five hundred dollars(\$500) or imprisonment for a period not to exceed fifteen(15) days or both said fine and imprisonment. Each week's continued violation shall constitute a separate additional violation.

Section 8. The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision thereof.

Section 9. This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Dated: November 9, 2020

Jean Canada, Oneida Castle Clerk

## **ARTICLE LX**

### **Notice of Highway Defects**

Title. A Local law providing for written notification of defects and obstructions on streets, bridges, sidewalks, crosswalks, and culverts in the Village of Oneida Castle.

Section 1. No civil actions shall be maintained against the Village of Oneida Castle or the Oneida Castle Village Board for damages or injuries to person or property sustained by reason of any street, bridge, sidewalk, crosswalk, or culvert being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such bridge, street, sidewalk, crosswalk, or culvert was actually given to the Oneida Castle Village Clerk and there was a failure or neglect within a reasonable time after the giving of such 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 street, bridge, sidewalk, crosswalk, or culvert, unless written notice thereof, specifying the particular place, was actually given to the Oneida Castle Village Clerk and there was a failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

Section 2. The Oneida Castle Village Clerk shall cause all written notices received pursuant to this local law to be presented to the Oneida Castle Village Board at the next Oneida Castle Village Board meeting.

Section 3. This local law shall take effect immediately upon its filing in the office of the Secretary of State

## ARTICLE LXI

### Sidewalk Ordinance

Purpose. The purpose of this sidewalk ordinance is to keep all sidewalks in the Village of Oneida Castle in a good state of repair and free from defects and debris so it is safe for any person to walk, run or jog without fear of falling and injuring themselves because of defects or disrepair.

Definitions. A. "owner" means:

1. in the case of land, any person who is recorded on the tax records as the owner of the land, or
2. in the case of property other than land, any person who is in lawful possession thereof.

B. "occupant" means:

1. a person who is in physical possession of a property, or
2. a person who has responsibility for, and control over, the condition of a property, the activities conducted on that property, and the persons allowed to enter that property.

C. "person" includes any individual, corporation, society, association, partnership or firm, and the successor or the heir, executor, administrators, or other legal representatives of a person.

D. "sidewalk" means that part of a highway or street especially adapted to the use of ordinarily used by pedestrians and includes that part of the highway or street between the curb line (or edge of the roadway where there is no curb line) and the adjacent property line, whether or not paved or improved.

Responsibility; Whereas, every occupant, owner or person of every house, shop, building, lot, parcel of land, or other property that adjoins or is abutting to or on a sidewalk in the Village of Oneida Castle shall be charged with the responsibility to keep such sidewalk in a good state of repair and free from defects and debris. Failure to maintain will result in the Village of Oneida Castle undertaking such repair or remedy and charging back to the property owner.

**On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner shall be held liable in tort for such damages to another. Alternatively, should the Village of Oneida Castle be called upon to make such payment to a third party, the Village will look to the adjoining/abutting landowner for contribution and indemnity.**