

# **ZONING LAW**

of the

# **TOWN of OSSIAN**

Ossian, New York

ADOPTED SEPTEMBER 8, 1998

# TABLE OF CONTENTS

## ZONING REGULATIONS

| <b>ARTICLE I ENACTMENT &amp; DEFINITIONS</b>                                  | <b>PAGE</b> |
|---|-------------|
| Section 101 - Title   | 5           |
| Section 102 - Purpose and Intent  | 5           |
| Section 103 - Conflict with other Laws  | 5           |
| Section 104 - Validity and Severability                                       | 5           |
| Section 105 - Interpretation  | 5           |
| Section 106 - Repeal of Prior Ordinance                                       | 6           |
| Section 107 - Amendments  | 6           |
| Section 108 - Effective Date  | 7           |
| Section 109 - Enforcement & Penalties for Offences                            | 7           |
| <br><b>ARTICLE II PERMITS &amp; APPLICATION PROCEDURES</b>                    |             |
| Section 201 - Permits Required  | 8           |
| Section 202 - Materials Required for Zoning Permit Applications               | 8           |
| Section 203 - Materials Required for Special Use Permits                      | 9           |
| Section 204 – Site Plan   | 10          |
| Section 205 – Fees  | 10          |
| <br><b>ARTICLE III ENFORCEMENT</b>  |             |
| Section 301 - Designation of Zoning Officer                                   | 11          |
| Section 302 - Duties & Procedures of Zoning Officer                           | 11          |
| <br><b>ARTICLE IV APPEALS &amp; PLANNING BOARD CREATION &amp; APPOINTMENT</b> |             |
| Section 401 - Appeals & Planning Board Creation & Appointment                 | 13          |
| Section 402 - Meeting Procedures  | 13          |
| Section 403 - Rule & Expenses   | 14          |
| Section 404 - General Duties  | 14          |
| Section 405 - General Procedures  | 14          |
| Section 406 - Standards for Granting Variances                                | 14          |
| Section 407 - Procedures for Granting a Variance                              | 16          |
| Section 408 - Notice of Public Hearing  | 16          |
| Section 409 - Creation & Appointment of a Planning Board                      | 16          |
| Section 410 - Officers, Rules & Expenses                                      | 16          |
| Section 411 - Functions of the Planning Board                                 | 17          |
| Section 412 - Procedures for Special Permits                                  | 17          |
| Section 413 - Required Referrals to the County Planning Board                 | 18          |
| Section 414 - Effect of County Planning Board Review                          | 19          |
| Section 415 - Report on Final Local Action                                    | 19          |
| <br><b>ARTICLE V ZONING DISTRICTS</b>   |             |
| Section 501 - Creation of Zoning Districts                                    | 20          |
| Section 502 - Zoning Map  | 20          |
| Section 503 - Interpretation of District Boundaries                           | 20          |

**ARTICLE VI ZONING DISTRICT REGULATIONS**

Section 601 - Agricultural / Residential 21  
Section 602 - Flood Hazard Overlay District (F) 24

**ARTICLE VII SPECIAL REGULATIONS**

Section 701 - Signs 25  
Section 702 - Parking 26  
Section 703 - Fences 27  
Section 704 - Camping Trailers 27  
Section 705 - State Environmental Quality Review 27  
Section 706 - Corner Lots 28  
Section 707 - Non-Conforming uses, Lots, Structures 28  
Section 708 - Pinball & Video Game Arcades 30  
Section 709 - Alternate Energy Systems 30  
Section 710 - Principal Buildings 30  
Section 711 - Swimming Pools 30  
Section 712 - Double-Wide Mobile Homes 31  
Section 713 - Other Additional Regulations 31

**ARTICLE VIII CRITERIA FOR GRANTING SPECIAL PERMITS**

Section 801 – Airports (includes private landing Strips) 33  
Section 802 - Campgrounds 34  
Section 803 - Clubs Lodges, Fraternal Organizations, ect. 36  
Section 804 - Day Care Centers 36  
Section 805 - Essential Service 36  
Section 806 - Excavation & Mining 37  
Section 807 - Farm Labor Camps 39  
Section 808 - Hotels & Motels 39  
Section 809 - Kennels & Animal Hospitals 39  
Section 810 - Single-Wide Mobile Homes & Mobile Home Parks 40  
Section 811 - Multiple Family Dwellings 42  
Section 812 - Motor Vehicle Repair Shops 43  
Section 813 - Public & Semi-Public Buildings & Grounds 44  
Section 814 - Gas Stations (may include Convenience Stores) 44  
Section 815 - Hospital, Nursing Homes & Health-Related Facilities 45  
Section 816 - Telecommunication Facilities 45  
Section 817 - Long Driveways 50  
Section 818 - Land Conservation 51  
Section 819 - Bed & Breakfast Inns 51  
Section 820 - Adult Uses 52  
Section 821 - Additional Standards For Special 52

**Article IX. SITE PLAN REVIEW**

Section 900 - Purpose 54  
Section 901 - Applications 54  
Section 902 - Procedure 54

|  |    |
|--|----|
| Section 903 - Pre-Application Conference         | 54 |
| Section 904 - Application For Site Plan Approval | 54 |
| Section 905 - Planning Board Review Of Site Plan | 55 |
| <br>   |    |
| <b>ARTICLE X. DEFINITIONS</b>                    |    |
| Section 1000 - Word Terms & Definitions          | 58 |
| Section 1001 - Definitions                       | 58 |
| <br>   |    |
| <b>TOWN OF OSSIAN - ZONING SCHEDULE</b>          | 69 |

# **ARTICLE I. GENERAL PROVISIONS**

## **Section 101 – TITLE**

The title of this Code is the “Zoning Law of the town of Ossian, New York.” The Law shall include this text and the official zoning map.

## **Section 102 – Purpose and Intent**

The objectives of this Zoning Law are:

1. To protect the natural environment of the Town
2. To provide for the orderly growth in agricultural, residential, commercial, and industrial use of land, consistent with economic and social needs of the community and with any development policies adopted by the Town.
3. To promote the health, safety and general welfare of the town consistent with the objectives of New Your State’s Town Law Section 263.

## **Section 103 – Conflict with Other Laws**

Whenever the requirements of this Law are at variance with the requirements of any lawfully adopted rules, regulations, laws or ordinances, the most restrictive or those imposing the higher standards shall govern.

## **Section 104 – Validity and Severability**

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

## **Section 105 – Interpretation**

In interpreting, construing and applying the provisions of this Law, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Law shall conflict abrogate, or annul any other Ordinance, local law, rule or regulation of the Town of Ossian previously adopted or which may hereafter be adopted and not in conflict with these Codes. Nor is it intended by this Law to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; however, that where this Law imposes a greater restriction upon the use of building or premises or upon the heights of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this Law shall control.

## **Section 106 – Repeal of Prior Ordinance**

All prior zoning ordinances of the Town of Ossian regulating or restricting buildings, the use of lands, and setbacks are hereby repealed and rescinded.

## **Section 107 – Amendments**

The regulations, restrictions, uses and boundaries provided in the Law and the zoning map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Section 264 and 265 of Article 16 of New York State's Town Law and all other laws of the State of New York applicable there to, and in accordance with the following procedures:

### **A. Petition for Zoning Changes or Amendment**

1. Whenever any person, firm or corporation desires that any amendments or changes be made in this Law, including the text and/ or map, as to any property in the Town there shall be presented to the town Board a petition requesting such change or amendment. The petition shall clearly describe the properties proposed for rezoning and there boundaries, and shall indicate the existing zoning district and the requested zoning district or districts. The petition shall also show existing highways, municipal boundary lines, state parks and State or County institutions, if such exist, within five hundred (500) feet of the proposed zoning change. The petition shall also list the names and addresses of all property owners bordering the proposed change. A filing fee, pursuant to regulation adopted by the Town Board, shall be paid at the time of filing the petition.
2. The Town board shall take action on the petitions as is described in Section 264 and 265 of the New York State Town Law.

### **B. Public Hearing Required**

1. No amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.
2. As required by NYS Town Law Section 264, notice of the place and of such hearing shall be published in a paper of general circulation in the town of Ossian at least ten days prior to the hearing.

### **C. Notification to Neighboring Towns**

1. If the proposed zoning change affects property within five hundred feet of boundaries of any town or country, state park or parkway, notice shall be sent to the Clerk of such town or country at least ten days prior to the date of the public hearing.

2. Such town or country or state park commissions shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as herein after provided.

#### D. Referral to County Planning Board

When the zoning change or amendment affects property within 500 feet of a municipal boundary, a state or county highway, or a state [or] county institution, a state or county park or recreation area (existing or proposed), a farm operation within an Agricultural District as defined by article 25-AA of the New York Agriculture & Markets Law, existing or proposed right-of-way of any county stream or drainage channel, details of the proposed change or amendment shall be sent to the County Planning Board pursuant to Section 239 of General Municipal Law.

### **Section 108 – Effective Date**

This Law shall take effect immediately after the same shall have been published and posted, as provided for by the Laws of the State of New York.

### **Section 109 – Enforcement & Penalties For Offenses**

#### A. Enforcement

It shall be the duty of the Town Board, or such officials authorized by it to enforce the provisions of this chapter or of any determination of the Board of Appeals and the Town Clerk or the Planning Board.

#### B. Penalties for offenses.

The violation of any of the provisions of this chapter is an offense and shall subject the person violating the same to fine not exceeding two hundred fifty dollars (\$250.00) or to imprisonment not exceeding fifteen (15) days, or both.

#### C. Continued violation

Each week's continued violation shall be considered a separate and distinct offense.

#### D. Attorneys Fee

In additions to all other remedies allowed, each person who violates any portion of this law shall also owe to the Town of Ossian all legal fees court costs and disbursements incurred by the Town to enforce this Law and cure each said violation.

## **ARTICLE II. PERMITS AND APPLICATION PROCEDURES**

### **Section 201 – Permits Required**

- A. Except as herein provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the uses listed as permitted uses in each zone by this Law, nor shall any open space contiguous to any building be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations designated in the Schedule and this Law for the zoning district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this Law.
- B. Application for a Zoning Permit shall be filed with the Town Clerk, (or with the ZEO) on forms approved by the Town.
- C. When a Building Permit is required, pursuant to the NYS Uniform Fire Prevention and Building Code, as administered in the Town of Ossian, the application for a Zoning Permit shall be submitted before or at the same time as the application for a Building Permit. No building permit will be granted until a Zoning Permit has been issued in accordance with the regulations of this Law.
- D. A zoning permit and building permit shall be valid for one year. The building/zoning permit may be renewed for an additional two years provided the applicant presents evidence of reasonable progress towards completion of construction. If construction or change of use is not completed during this time, the zoning/building permit becomes invalid.
- E. A zoning permit shall not be required for temporary used, as defined herein.
- F. Accessory building detached from the principal building and under 140 square feet do not require a building permit or a zoning permit. Accessory building must comply with all setback and dimensional requirements.

### **Section 202 – Materials Required With All Zoning Permit Applications**

The materials to be submitted with each application for a zoning permit shall indicate clearly the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building.

At a minimum, the application by the following:

- A. Sketch Map. The sketch map shall be drawn approximately to scale and shall indicate
  - 1. Dimensions of the lot;



2. Exact size and location of all existing and proposed building on the lot;
  3. Existing or proposed location of water and sewage disposal systems,
  4. Existing and proposed parking area and driveway locations;
  5. Natural water courses, drainage ways and ponds;
  6. Significant natural or environmental features such as wooded area, rock out cropping, and steep slopes (more than 15%)
  7. Flood plain areas as defined in the current FEMA Flood Insurance Rate Map (FIRM) for the Town.
- B. Location map, showing the position of the property within the town, the street address, and the nearest cross-streets.
  - C. Documentation by the Livingston County Health Department or its authorized agent that adequate water supply and sewage disposal facilities can be available to the site.
  - D. Evidence of property ownership or intent to purchase.
  - E. Evidence of approved driveway plan, as permitted by the State Department of Transportation, County Highway Superintendent or Town Highway Superintendent, as appropriate.
  - F. License or Permit. For any use currently licensed or permitted by Federal, State, County or town agencies, evidence of a currently valid license or permit.
  - G. Fee. The appropriate non-refundable fee established by the Town board in its duly adopted fee schedule shall be paid and collected at the time of application.

### **Section 203 – Materials Required for Special Use Permits**

- A. When the Zoning Enforcement Officer determines that a proposed use is a Special Permit Use, the following information shall be required in addition to those listed in Section 202 :
  1. The location and capacity of existing and proposed vehicular access ways;
  2. The location and dimensions of any existing and proposed sidewalks, walkways or other areas established for pedestrian use;
  3. The design and treatment of existing and proposed open areas, buffer areas, and Screening devices, including dimensions of all areas devoted to lawns, trees, and other landscaping.

4. Provision for water supply, sewage disposal and storm drainage.

- B. The Applicant shall submit documents which demonstrate that proposed Special Permit Use meets the standards as listed in Article VIII of this Code.
- C. The Zoning Enforcement Officer may require the applicant to submit such other data and plans as may be required by the Zoning Board of Appeals to properly take action on the application.

**Section 204 – Site Plan**

The Town of Ossian Board hereby authorizes the Town Planning Board to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth in this Law.

Site Plan Review by the Planning board is required for all uses except for one and two family dwelling and general farming uses. Standards and procedures are specified in Article IX of this Law.

**Section 205 – Fees**

Permit and application fees shall be collected and paid according to the fee schedule adopted by the Town Board and in effect at the time of application. A fee schedule shall be posted at the Town Clerk's Office and available from the Zoning Enforcement Officer.

## **ARTICLE III. ENFORCEMENT**

### **SECTION 301- Designation of Zoning Enforcement Officer**

The duty of administering and enforcing this Law is hereby conferred upon the Zoning Enforcement officer (ZEO). The ZEO shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

### **Section 302 – Duties and Procedures of The Zoning Enforcement Officer**

#### A. Review zoning permits

1. The Zoning Enforcement Officer shall review all applications for zoning permit.
2. If the ZEO determines that a proposed use or structure meets the minimum requirements of this Law, he/she shall issue the zoning permit. If the applicant's plans do not meet the requirements of this Code, the ZEO must deny the permit. He/she shall not use discretionary judgment, but enforce the "letter of the law"
3. If the proposed use is determined to require a Special Permit the Zoning Enforcement Officer shall forward the application with all necessary information to the Secretary of the Zoning Boards of Appeals.
4. An applicant who has been denied a zoning permit may appeal the decision of the Zoning Enforcement Officer to the Zoning Board of Appeals. If an applicant requests an appeal, interpretation, or variance, the Zoning Enforcement Officer shall notify the Secretary of the Zoning Board of Appeals and forward all necessary information.

B. Upon written direction of the Zoning Board of Appeals, the Zoning Enforcement Officer is hereby empowered to issue zoning permits for uses or structures which have been granted variances, or favorable appeals.

C. Upon written direction of the Zoning Board of Appeals, the Zoning Enforcement Officer is hereby empowered to issue zoning permits for Special Permit Uses and uses with approved site plan by the Planning Board.

D. The Zoning Enforcement Officer shall not issue a Certificate of Compliance or Occupancy pursuant to the NYS Uniform Fire Prevention and Building Code unless the structure or use conforms to plans and conditions under which the Zoning Permit was granted.

E. Enforce the zoning code

1. It shall be the duty of the Zoning Enforcement Officer to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this code.
2. Where the Zoning Enforcement Officer, in the course of his/her duties, determines that any plans buildings, or premises are in violation of the provisions of this Law, he/she shall order the responsible party, in writing to remedy such conditions. Said written order shall specify:
  - a) The nature of the violation found to exist, citing the appropriate section of this Law;
  - b) The remedy ordered and the time permitted for such remedy;
  - c) The penalties and remedies which may be invoked by the Town; and
  - d) The violator's rights of appeals; as provided for by this Law.
3. The Zoning Enforcement Officer shall have the authority to obtain from the town Justice or other court of competent jurisdiction a stop order to constrain the continuance of the violation.

#### F. Records and Reports

1. The Zoning Enforcement Officer shall maintain a permanent record of all matters considered and all actions taken by him/her. Such records shall be filed with the Town Clerk and shall be available for the use of the Town Board and other officials of the Town and available for inspection by the public.
2. The Zoning Enforcement Officer shall prepare a written monthly report to be presented to the Town Board, describing and enumerating action taken and permits issued.

## **ARTICLE IV. ZONING BOARD OF APPEALS AND PLANNING BOARD**

### **SECTION 401- Creation and Appointment of Zoning Board of Appeals**

- A. A Zoning Board of Appeals (ZBA) is hereby created, pursuant to Section 267 of NYS Town Laws
- B. The Zoning Board of Appeals shall consist of five (5) members appointed by the Town Board.
- C. Members shall hold staggered five (5) years terms of office. If a vacancy shall occur otherwise than by expiration of a term, it shall be filled by the Town Board by appointment for the unexpired term.
- D. The town Board shall appoint the ZBA's chairman.
- E. No member of the Town Board shall be eligible for membership on the Board of Appeals.

### **Section 402 – Meeting Procedures**

- A. All meetings of the ZBA shall be held at the call of the chairman,[or at the request of three or more members] and at such other times as such board may determine.
- B. The presence of three (3) members shall constitute a quorum for the conduct of business before he board.
- C. All decisions shall be by a majority vote of the membership (three), except in those cases where the County Planning Board has returned a recommendation of disapproval or modification for an action referred to it pursuant to Section 239 l and m of the New York State General Municipal Law. In such cases, a majority plus one (four) shall be required for approval. (See Section 414)
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. With the Town Board's advance approval in each case, the Zoning board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the town attorney to attend its meetings.
- G. The Zoning Board of appeals may require the Zoning Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.

- H. All meetings of the Zoning Board of appeals shall be open to the public.
- I. The Zoning board of Appeals shall keep minutes of all its meetings.
- J. The Zoning Board of Appeals shall make factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board and the reasons therefore. These factual records may be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript but may be in narrative form. The factual record shall be taken by the secretary of the Board.
- K. The Zoning Board of Appeals shall make written findings for each decision. Findings shall state the reasoning behind, the basis for, the evidence relied on to reach the decision.

### **Section 403 – Rules And Expenses**

- A. The Zoning Board of Appeals may adopt rules or by-laws for its operation.
- B. The Town board may provide an appropriation to the ZBA to cover necessary expenses, including those required to maintain a written record of its meetings and to hold public hearings.

### **Section 404 – General Duties**

- A. Interpretation. Upon appeal from a decision by the Zoning Enforcement Officer, the ZBA shall decide any question involving interpretation of any provision of this Law, including zoning map boundaries.
- B. Variances. The ZBA shall hear requests for variances, upon denial of a zoning permit by the Zoning Enforcement Officer, according to the procedures and standards specified in this Law, and in Section 267 of Town Law.

### **Section 405 – General Procedures**

- A. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms approved by the ZBA and available from the Town Clerk or the Zoning Enforcement Officer.
- B. Every appeal or application shall refer to the specific provision of the code involved.

### **Section 406 – Standards for Granting Variances**

- A. Where carrying out the strict letter of the law would lead to unnecessary hardships, the ZBA has the power to vary or modify the provision of this law pursuant to the Standards set forth herein so that the spirit of the law shall be observed, public safety and welfare secured and substantial justice done.

B. There shall be two types of variances; Area Variances and Use Variances.

1. An area variance is an authorization to use land in a manner, which is not allowed by the dimensional or physical requirements of the zoning law.
2. A Use Variance permits a use of land, which is not permitted by this law.

C. Criteria for granting Area Variances.

The ZBA shall consider the following when deciding on application for area variances:

1. How substantial the variation is in relation to the requirement.
2. The effect, if the variance is allowed, on available governmental facilities (roads, fire protection, water, sewer, etc).
3. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created.
4. Whether the need for a variance can be avoided through some other method feasible for the applicant to pursue.
5. Whether the interests of justice will be served by allowing the variance.

D. Criteria for granting Use Variances.

The ZBA shall apply the following criteria when deciding on applications for use variances:

1. The land in question cannot yield a reasonable return if used only for a purpose permitted by the zoning. The lack of return must be substantial as demonstrated by competent financial evidence.
2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood.
3. The use sought to be authorized by the variance will not alter the essential character of the neighborhood.
4. The use to be authorized by the variance will not be contradictory or detrimental to the spirit or intent of the zoning district or zoning law itself, or harmful to the public good.
5. Any alleged hardships have not been self-created.

## **Section 407 – Procedures for Granting a Variance**

- A. All applications for variances shall be in writing on forms established by the ZBA. They are available from the Zoning Enforcement Officer or the Town Clerk.
- B. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- C. Upon receipt of the completed application, the ZBA shall:
  - 1. Schedule a public hearing
  - 2. Arrange publication of notice of the public hearing as described in section 408.
  - 3. Refer the application to the County Planning Board as required by New York State General Municipal Law Section 239, if required. (See Section 413-414).
  - 4. Determine whether the project is subject to SEQRA (NYS State Environmental Quality Review Act).
- D. Within 62 days of the public hearing, the ZBA shall render a decision. If matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be sent to the County Planning Board.

## **Section 408 – Notice of Public Hearing**

The Board shall fix a reasonable time for the hearing of appeals not to exceed 30 days from date the ZBA receives all necessary documents from the applicant and from the Town Planning Board where applicable, such as in site plan review, or not to exceed 60 days when referral to the County Planning Board is necessary.

## **Section 409 – Creation and Appointment of a Planning Board**

The Town Board authorizes the appointment of a seven member Planning Board as more fully described in Town Law Section 271. Terms of all planning board members shall be staggered as the law requires.

## **Section 410 – Officers, Rules and Expenses**

- A. The Town Board must select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.
- B. The Planning Board may adopt procedural rules or bylaws for its operation not inconsistent with this local law.



- C. The Town Board may provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

### **Section 411 – Functions of the Planning Board**

- A. Prepare or change a comprehensive land development plan or amendments thereto for the Town Board.
- B. Review and comment on all proposed zoning amendments, if requested by the Town Board.
- C. Conduct Site Plan Review as authorized by Town Law 274a and prescribed in Article IX of the local law.
- D. Render assistance to the Zoning Board of Appeals on its request.
- E. Research and report on any matter referred to it by the Town Board.
- F. Make investigations, maps, reports, and recommendations in any matter related to Planning and Development as it seems desirable providing expenditures of the Board do not exceed appropriations.

### **Section 412 – Procedures for Special Permits**

- A. The Zoning Board of Appeals is hereby granted authority, pursuant to Section 274b, of NYS Town Law, to issue special permits for uses listed in this law, subject to criteria specified in this local law.
- B. The Zoning Board of Appeals may also apply conditions to the special permit which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the special permit use.
- C. Procedures
  1. The Zoning Enforcement Officer shall refer the completed special permit application to the Zoning Board of Appeals within ten (10) days after receiving a complete application.
  2. At its next regular or special meeting, the Zoning Board of Appeals shall designate a public hearing date within a reasonable period of time, not to exceed sixty-two (62) days from the date application was made.
  3. The Town Zoning Board of Appeals shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.

4. The notice of the public hearing shall be sent and published in the official newspaper at least five (5) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
5. At least ten (10) days before the public hearing, the Zoning Board of Appeals shall mail notices thereof to the applicant and to the County Planning Board, as required by Section 239 of the NYS General Municipal Law. Such notice shall be accompanied by a full statement of the matter under consideration as defined in Section 239 of the NYS General Municipal Law. (See Section 413, 414, 415).
6. The Zoning Board of Appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.
7. The Zoning Board of Appeals shall make a factual record of all its proceedings involving the granting or denial of a special permit. The decision of the Zoning Board of Appeals shall contain the reasons for its decision.
8. The Zoning Board of Appeals shall render its decision, either approving, approving with conditions, or denying, within sixty-two (62) days after the hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

#### D. Findings

1. The Zoning Board of Appeals may grant a special permit for uses permitted by special permit in the zoning district or districts involved provided that all requirements and conditions set forth in Article VII and elsewhere in this Law are complied with.
2. The Zoning Board of Appeals shall make written findings for each special permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of Article VII shall be substantiated.
3. The decision of the Zoning Board of Appeals on the application after the holding of the public hearing shall be filed in the office of the town clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

#### **Section 413 – Required referrals to the County Planning Board**

New York State General Municipal Law Section 239 (l) & (m) require that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local Board. Any proposal for a special permit, variance, site plan

approval, change in the zoning law text or map (rezoning, amending the zoning law) which would affect real property lying within a distance of 500 feet from the boundary of:

- any county
- any town
- any village
- any existing or proposed county or state park
- any stream or canal owned by the county
- any existing or proposed county or state owned land on which a public building or institution is situated
- any farm operation in a n agricultural district pursuant to Article 25-AA of the Agriculture and Markets Law

must be referred to the County Planning Board who shall have thirty (30) days from the date of County receipt, as defined by Section 239 (l) of New York State General Municipal Law, to take action on the matter. By mutual agreement of the county and the municipality such 30 day period may be extended in special cases.

#### **Section 414 – Effect of County Planning Board Review**

- A. If the county approves a referral, then the local board's decision is governed by a majority vote.
- B. If the county disapproves or approves subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one (supermajority) vote.

#### **Section 415 – Report on Final Local Action**

The local board must send a copy of its final decision and reasons for such decision on a county referral case to the County Planning Board within seven (7) days after the local decision is reached.

## **ARTICLE V. ZONING DISTRICTS**

### **SECTION 501- Creation of Zoning Districts**

For the purpose of promoting public health, safety, and general welfare of the Town of Ossian, the Town is hereby governed as one (1) undifferentiated zoning district, entitled the A/R – Agricultural / Residential Zoning District.

Commercial, Industrial or other districts are not provided for at this time but procedures are provided for considering such uses or any other special use upon proper application.

### **SECTION 502 - Zoning Map**

Said zoning district is bounded as shown on the map entitled "Zoning Map of the Town of Ossian" adopted by the Town Board and including all subsequent amendments duly adopted by the Town Board. The Zoning Map shall be on file in the Office of the Town Clerk. The Zoning Map, with all explanatory materials, is hereby made a part of this local law.

### **SECTION 503- Interpretation of District Boundaries**

- A. Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow or run parallel to the center lines of streets, the center lines of railroad right of way, existing lot lines, the Town boundary, the mean water level of streams and other waterways, all as shown on the Zoning Map.
- B. In case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

## **ARTICLE VI. ZONING DISTRICT REGULATIONS**

### **SECTION 601 – A/R Agricultural / Residential**

#### A. Purpose

The A/R Zoning District is intended to promote a balance of agriculture and low density residential development, along with other compatible uses.

#### B. Permitted Uses.

The following uses shall be permitted in the A/R District, pursuant to the regulations and standards contained in this Code.

1. All customary agricultural operations and structures necessary for those operations are permitted.
2. One and two family dwellings, and customary accessory uses and structures, except single wide mobile homes.

Single wide mobile homes can only be located in mobile home parks.

3. Recreation areas, including but not limited to parks, playgrounds, athletic fields, golf courses, riding stables.
4. On lots greater than three (3) acres, bank earth product excavations for use on the premises only are permitted providing the normal angle of repose of the earth product being excavated is not exceeded. All State Regulations shall be satisfied. Excavations within one hundred (100) feet of the right-of-way or a property line shall require a special permit to be granted by the Zoning Board of Appeals.

On lots of three (3) acres or less, open excavations shall not be maintained except those excavations made for the erection of a building structure. No excavation can be done for the purpose of building without first obtaining a zoning and / or building permit.

5. Farm camps are permitted for temporary occupancy by migrant farm workers and their families in accordance with the provisions of all applicable laws, regulations, ordinances and codes now in effect or as may hereafter be established.
6. Seasonal roadside stands.

Roadside stands shall be permitted for the sale of produce of agricultural products primarily grown or produced in the Town of Ossian.

7. Home occupations, including professional offices with a home.

Home offices shall be permitted for activities such as hair dressing, laundering, television and radio repair, lawn mower and bicycle repair, and other uses which the Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a home occupation and shall be permitted for professionals such as a doctor, dentist, veterinarian, lawyer, architect, accountant, broker, surveyor, or other profession which the Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Zoning Enforcement Officer shall request an interpretation from the Board of Appeals before issuing a Zoning Permit for any home occupation not listed above.

**The following requirements shall apply to all home occupations:**

- a) The property owner and operator of the home occupation must occupy the dwelling and reside there on a full time basis.
- b) A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- c) No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than forty (40) percent of the floor area of an accessory structure shall be used for a home occupation (except garages).
- d) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of color, materials, construction, lighting, or the emissions of sound, noises, or vibrations.
- e) No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- f) No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- g) One (1) sign shall be permitted not to exceed 2'x2' dimensions. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- h) One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
- i) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- j) A home occupation shall not be interpreted to include the following:

Commercial stables and kennels, Restaurants, Musical and dancing instruction to groups exceeding four (4) pupils, Convalescent homes, Mortuary establishments, Garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

8. Ponds.

A pond or any artificial body of water over a depth of two feet must be set back a minimum of one hundred (100) feet from all property lines and existing septic systems.

C. Special Permit Uses

The following uses shall be permitted, provided the standards specified in Article VIII are met in addition to other requirements of this local law. A Special Permit shall be required from the Zoning Board of Appeals, pursuant to procedures specified in Section 412 of this Code.

1. Campgrounds (see section 802)
2. Motor vehicle service stations (see Sec. 814)
3. Kennels (see Sec. 810)
4. Airports (see Sec. 801)
5. Single-wide Mobile homes and Mobile home parks (see Sec. 811)
6. Excavation and mining operations (see Sec. 807)
7. Hospital, nursing home, or health related facility (see Sec. 817)
8. Animal hospital (see Sec. 810)
9. Day care centers (see Sec. 804)
10. Essential services (see Sec. 806)
11. Clubs, lodges, or fraternal organizations (see Sec. 803)
12. Multiple family dwellings (see Sec. 812)
13. Bed and Breakfast Inns (see Sec. 820)
14. Churches and similar places of worship, parish houses, and convents
15. Public utilities
16. Telecommunication towers and related facilities (see Section 817)
17. Professionals which are licensed by the State of New York such as Physicians, Dentist, and Veterinarians Offices (excluding home offices, see Section 601 (B)(7))
18. Retail business and personal service establishments (such as convenience store, laundromat)
19. Private and parochial schools and libraries, public or private
20. Bar, tavern or any use, other than a restaurant or an adult use, which is licensed to provide alcoholic beverages for on-premises consumption
21. Restaurant, including accessory outdoor dining facilities
22. Other uses determined by the Zoning Board of Appeals to be related or similar in nature to those listed above.

D. Area specifications

Minimum lot size: 60,000 sq. ft.  
Minimum lot width at front building line: 200 ft.  
Minimum setbacks: See zoning schedule.

A larger minimum lot size shall be required when the County Health Department determines, after reviewing soils and perk test data, that a larger lot size is necessary for adequate operation of an on-site sewage disposal system.

The minimum frontage along a public road shall be 50 feet. Flag-shaped lots are permitted.

If a dwelling is located more than 200 feet from a public road, a special use permit for a long driveway is required, subject to the criteria in Section 818 of this code.

### **SECTION 602- Flood Hazard Overlay District (F)**

- A. The boundaries of the Flood hazard District shall coincide with the Flood Insurance Rate map published by the Federal Emergency Management Administration. The regulations of this district shall be in addition to those of the underlying zoning district. The provisions of this district shall take precedence over any other zoning article, ordinance or code to the extent that the provisions of this zone are inconsistent with such other provisions.
- B. Purpose  
The purpose of the Flood hazard District (F) is to protect human life and health, minimize property damage, minimize surface and groundwater pollution, and provide public awareness of the flooding potential.
- C. Applicability  
These regulations apply to all areas of special flood hazard zones within the jurisdiction of the Town of Ossian. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This code does not imply that areas outside district boundaries or land uses permitted within such districts will be free from flooding or flood damages.
- D. Permitted uses  
Permitted uses shall be specified by the underlying zoning district.
- E. Special provisions  
Any development or substantial improvement within an F District shall meet the requirements contained in Local Law #1 of 1983, "Relating to Flood Damage Prevention for the Town of Ossian," as such law may be amended from time to time, in addition to those otherwise applicable to it under this Code.



## ARTICLE VII. SPECIAL REGULATIONS

### SECTION 701 – Signs

- A. For the purpose of these regulations, the term “sign” does not include:
1. Signs erected and maintained pursuant to and in discharge of any governmental function, including state or federal historic markers, or required by any law, ordinance or governmental regulation.
  2. Repainting, cleaning and other normal maintenance and repair of a sign or sign structure, unless a structural change is made or if the repair is in violation of the sign regulations.
  3. Memorial tablets or signs and locally designated historic markers not exceeding two square feet in area.
  4. Flags, emblems or insignias of the United States, the State of New York, town, counties, other countries and states, the United Nations or similar organizations of which this nation is a member.
  5. Signs for the direction or convenience of the public, including signs which identify rest rooms or locations of public telephones or traffic control devices; however, the total area shall not exceed two square feet.
- B. Signs shall be permitted according to standards listed below unless otherwise stated in this Law.

#### General Standards:

1. No sign shall consist of lights which flash or move or appear to move.
2. No sign shall be higher than the principal building to which it is accessory.
3. No sign shall project into a public right-of-way.
4. No sign shall be erected on a public utility pole or traffic control structure.
5. All existing signs at the time of the enactment of this Law shall be allowed to remain as long as they are properly maintained and their use remains current.
6. Temporary unlighted signs erected by individuals and by and for non-profit organizations such as churches, American Legion, Boy Scouts, political organizations, etc., advertising suppers, banquets, benefits, fund raising sales etc., may be erected for a forty (40) day period without permit in any District, provided that the sign will not constitute a traffic or safety hazard and shall be removed within forty-eight (48) hours after the advertised event. Failure to so

remove shall constitute a violation by both the organization sponsoring the event and the person(s) who placed the signs.

7. One sign is permitted per lot, not to exceed twenty (20) square feet per side (except as otherwise specified in this Law). Traffic direction signs are excluded.

#### C. Sign maintenance

Maintenance of all signs:

1. All signs and all components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
2. If the message portion of a sign is removed or a business or other activity is no longer operating, it shall be the property owner's responsibility to assure that the abandoned sign is promptly removed or properly covered to the satisfaction of the Zoning Enforcement Officer.

#### D. Address Numbers on Structures

Principal building used or to be used for residential, mixed occupancy, commercial, industrial or storage purposes shall bear or display at least two sets of street numbers which have been assigned by the Town.

1. One set of street numbers is to be a minimum height of five inches and mounted in a secure fashion to the building's front wall, or to a porch or other fixed appurtenance in front of the building, or otherwise mounted in a manner approved by the Zoning Enforcement Officer.
2. One set of street numbers is to be a minimum height of four inches on the mailbox or on a post not more than ten feet from the roadway.

All street numbers affixed to the building shall be mounted at a height between four feet and ten feet above grade. Trees, shrubs or other obstructions shall not block the view of the street numbers.

### **SECTION 702 – Parking**

A. This section is designed to reduce problems caused by inadequate or poorly designed parking facilities.

1. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads. Adequacy of parking shall be determined by the Town Planning Board through the site plan review process.

2. A violation shall occur if there is parking on off-site areas neighboring property or road right-of-ways more than three times during one month.
3. A parking space shall be not less than 10'x20' exclusive of accessways and driveways. Single family residences need not exclude driveway area.
4. Off-street parking areas for non-residential uses shall provide access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes which include no parking markers.

#### B. Minimum Parking Standards

Minimum standards supplementary to the basic standard cited above are as follows:

1. One parking space for every three seats in a public meeting place.
2. One parking space for each employee at places of employment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
3. One parking space for every one hundred (100) feet or gross floor area in supermarkets and self-service food stores.

#### **SECTION 703 - Fences**

No fence, hedge, wall, shrubbery, or other single post or tree shall cause obstruction to vision at street intersections, nor constitute a traffic or safety hazard.

#### **SECTION 704 – Camping Trailers**

No person shall use or place any camping trailer on any premises within the Town except on a temporary basis not to exceed one hundred eighty (180) days in any one calendar year. An annual permit is required for any such use or placement of a camping trailer. All such camping trailers must be registered with the NYS Department of Motor Vehicles.

Exception: "If you are the occupant of a house you may store your camping trailer there as long as you don't use and or occupy it on said premises without a permit." (If you use and or occupy it you would then have to comply with the first part of Section 704.)

#### **SECTION 705 – State Environmental Quality Review (SEQR)**

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct.

Article 8 and part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

- B. All actions (8 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.

|                           |                         |
|---------------------------|-------------------------|
| Zoning Text Amendments    | Town Board              |
| Zoning District Amendment | Town Board              |
| Special Permits           | Zoning Board of Appeals |
| Variances                 | Zoning Board of Appeals |
| Site Plan                 | Planning Board          |

- D. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement as part of the application. Review, notice and action on the EIS shall be conducted according to Part 617 of 8 NYCRR.

**SECTION 706 – Corner Lots**

- A. On corner lots, the sides facing both streets shall be considered front yards. Of the other sides, one shall be considered a rear yard and the other a side yard at the owner's option.

**SECTION 707 – Non-conforming Uses, Lots, Structures**

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of these regulations and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions.

- A. Intent- It is the intent of these regulations to permit non-conforming uses, lots and structures, to continue until they are removed, but not to encourage their survival.
- B. Enlargement- No non-conforming uses or structures shall be enlarged or increased, nor extended to occupy a greater area of land or structure thereon than was occupied at the effective date of the adoption of these regulations.
- C. Unsafe Structures- Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
- D. Alterations- A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost 50 percent of the full value of said structure, unless the structure shall be changed to a conforming se. In

addition, pursuant to paragraph B above, such reconstruction or alteration shall not occupy a greater area of land.

- E. Restoration- No non-conforming structure damaged by fire or other causes to the extent or more than 75 percent of its full value shall be repaired or rebuilt except in conformity with the requirements of these regulations.
- F. Discontinuance- Whenever a non-conforming use has been discontinued for a period of one (1) year, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations.
- G. Changes- Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use. No non-conforming use shall be changed or enlarged to include any other type of non-conforming use.
- H. Displacement- no non-conforming use shall be extended to displace a nonconforming use.
- I. Moving – should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.
- J. Existing Undersized Lots of Record
- K. Existing Undersized Lots of Record
  - 1. Subdivision- No conforming lot shall be subdivided into one or more non-conforming lots.
  - 2. Any recorded lot held in single and separate ownership prior to the adoption of these regulations and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered as complying with these regulations and no variance therefore shall be required provided that:
    - a. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district;
    - b. The minimum yard requirements set by these regulations are met.
  - 3. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single-family dwelling.
  - 4. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

## **SECTION 708 – Pinball and Video Game Arcades**

- A. Pinball and video game arcades shall not be permitted as home occupations.
- B. Arcades shall be closed between the hours of 12:00 midnight and 8:00 AM.

## **SECTION 709 – Alternate Energy Systems**

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property and of a radius at least equal to the height of the tower.
- B. All appurtenant electrical equipment shall cause no undue interference or noise.
- C. Windmill blades shall clear the ground at their lowest point by at least ten (10) feet.
- D. Solar panels shall be installed within the structure of the house, where feasible. Detached solar panels shall be located in the rear yard and subject to the setback requirements for accessory buildings.

## **SECTION 710 – Principal Buildings**

No single-family or two-family residential lot shall have erected upon it more than one principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered to provide a yard or open space for any other principal building.

## **SECTION 711 – Swimming Pools**

Residential swimming pools in all districts (both in ground and above ground), for private use only, and applying to a permanently constructed pool used for bathing or swimming, twenty four (24) inches or more in depth or with a water surface exceeding two hundred and fifty (250) square feet, shall not be constructed or maintained unless:

- A. Such pool shall be no closer than ten (10) feet from side or rear property line and shall have a front yard setback of at least one hundred (100) feet.
- B. There shall be erected and maintained a protective fence extending from the ground to a height of not less than four (4) feet above the ground level, with posts at intervals of not more than eight (8) feet enclosing the entire premises upon which such pool is constructed or entirely surrounding the area in which such pool is located, except that such fence may include one (1) or more separate gates

which shall be capable of being closed and locked and which such gates shall be constructed so as to provide an opening in excess of four (4) feet in width.

- C. All man-made ponds within five hundred feet of a neighboring residence shall conform to this section.

### **SECTION 712 – Double-wide Mobile Homes**

Double-wide mobile homes shall be installed according to manufacturer's instructions and secured with adequate tie downs, upon concrete piers planted at least three (3) feet into the ground. Piers must be a minimum of twelve (12) inches square or diameter, and set on a concrete pad of six (6) inches thick and eighteen (18) inches square or diameter. The mobile home must be skirted prior to the issuance of a certificate of occupancy.

### **SECTION 713 – Other Additional Regulations**

- A. Partially destroyed structures by any means, shall not be permitted to continue as such for a period in excess of six (6) months.
- B. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this Law for the principal building. Detached accessory building shall be located to the rear of the front building line of the principal building, and if located in a side or rear yard area, shall not be within ten (10) feet of any line. Busses, cars, trucks, truck bodies, or truck trailers shall not be used for storage purposes.
- C. No construction on or use of any lot shall at any time interfere with the normal public road construction or maintenance. No parking on road right-of-way is allowed.
- D. Any public activity, for profit or charity, not related directly to farming operations or the sale of residential or personal property that is expected to draw more than fifty (50) persons, excepting organizations qualifying under Rural Section 8, is permitted after issuance of a Special Use Permit.
- E. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as it will not infringe upon any of the provisions of this Law either with respect to any existing structures or use and any proposed structures or use.
- F. No front yard shall be used for any open storage of boats, camping trailers, utility trailers, motorized camping vans, major appliances or other equipment. No new or used building material shall be left unhoused for more than thirty (30) days unless they are to be used for a building for which a building permit has been issued and shall be removed from the premises not later than the date on which

the building permit expires or within thirty (30) days after the occupancy of the dwelling, whichever is the prior date.



## **ARTICLE VIII: CRITERIA FOR GRANTING SPECIAL PERMITS**

The Zoning Board of Appeals shall grant Special Use Permits where the application demonstrates that the proposed use meets the conditions specified in the Zoning Law and will not adversely affect the surrounding area or the health, safety and general welfare of the Town.

The following specifications shall be applied to all applications for special permits in addition to zoning district regulations and other requirements of this Law.

### **SECTION 801 – Airports (includes private landing strips)**

An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special use permits outlined in Section 412, the following statements and information:

- A. Name and address of the proponent.
- B. Classification of the proposed airport (Commercial, non-commercial, or restricted).
- C. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)
- D. Number of aircraft expected to be based at the airport initially and within five (5) years.
- E. Type of aircraft expected to be based at the airport (single-engine, multi-engine, turboprop, jet, etc.)
- F. Whether an instrument approach procedure will be offered.
- G. Statement as to the anticipated number of daily operations.
- H. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
- I. A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of 249 of the New York State General Business Law.
- J. A site plan of the airport which includes the following in addition to other site plan requirements given in Article II.
  1. Scale no smaller than one inch equals one hundred feet (1" – 100').
  2. Locations of existing and proposed structures.

3. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the nearest 30 minutes.
  4. Existing and proposed contours at five (5) foot intervals.
  5. Location of aircraft parking and tie-down areas.
  6. Provision for access and off-street parking.
  7. Provisions for sanitary waste disposal and water supply.
  8. Location and method of fuel storage.
- K. An area map at a scale of no less than one inch equals five hundred feet (1" – 500').
1. Distances, power lines, or other possible obstructions within two thousand (2,000) feet of the ends of runways shall be accurately plotted;
  2. Properties within five hundred (500) feet shall be plotted and owners identified.

### **SECTION 802 – Campgrounds**

Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreation purposes. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.

- A. Minimum area: fifteen (15) acres.
- B. Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- C. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street.
- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- E. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses

to the camping grounds and must be approved by the Town Planning Board through site plan review. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds subject to the following restrictions:

1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping grounds. Such establishments shall be restricted in their use to occupants of the camping ground.
2. Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the camping ground.

F. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.

G. Streets in camping grounds shall be private, but shall be constructed with a stabilized travel way and shall meet the following minimum stabilized travel way width requirements:

|  |         |
|--|---------|
| One way, no parking  | 12 feet |
| One way with parking on one side, or two way with no parking | 18 feet |
| Two way with parking on one side                             | 27 feet |
| Two way with parking on both sides                           | 34 feet |

H. Each travel-trailer site shall be at least two thousand five hundred (2,500) square feet in area and have a minimum width of forty (40) feet.

I. A minimum of eight (8) percent of the gross area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreational facilities. No travel-trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.

J. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.

K. All utilities shall be underground.

- L. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- M. All applicable sanitation standards promulgated by the State of the New York shall be met.
- N. Setbacks. Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes and the motor vehicles propelling or carrying the same may be located not closer than fifteen (15) feet to any side or rear lot line nor closer than sixty (60) feet to any front line.

**SECTION 803 – Clubs (lodges, fraternal organizations, etc.)**

- A. Minimum lot size and setbacks: same as required by underlying zoning.
- B. Landscaping areas or screening adequate to protect adjacent properties and land uses shall be provided on all side and rear lot lines.
- C. Minimum parking shall be one (1) per employee and one (1) per each three (3) members.
- D. Entrance and exit points shall be from major or secondary roads.

**SECTION 804 – Day Care Centers**

- A. Must have an active outdoor play area of 100 square feet per child.
- B. Outdoor play area must be appropriately fenced in or otherwise protected from roads and nearby properties.
- C. No outdoor play equipment may be placed within ten (10) feet of any property line, fence, or structure.
- D. Minimum parking shall be one (1) space per staff member plus one (1) space per each ten (10) children.

**SECTION 805 – Essential Services**

- A. Essential services may be allowed as special permit uses in all districts upon the approval of special use permit by the Zoning Board of Appeals. Applications for telecommunication towers and related uses are subject to Section 817: Telecommunication Facilities of this local law.
- B. The Zoning Board shall determine the following prior to approving a special permit:

1. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
2. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
3. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
4. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground.
5. All service connections from distribution lines to consumers shall be placed underground.
6. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
7. All major electrical transformer facilities or substations, if above ground, shall be secured by an outer and inner fence, each ten (10) feet from each other at any point; also no transformer or associated switches shall be closer than one hundred (100) feet from any lot line.

### **SECTION 806 – Excavation and Mining**

This section shall apply to all excavation and mining other than that allowed as a home use under permitted uses in Section 604 B (4) above.

- A. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.
- B. Minimum lot area: ten (10) acres.
- C. All building and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line.
- D. All equipment used for excavations and processing shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practical, noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- E. All operations shall be conducted between the hours of seven o'clock in the morning (7:00 AM) and six o'clock in the evening (6:00 PM) with no Sunday or

holiday operations, and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

- F. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site plan review and approval process within one (1) year after the termination of operations, at the expense of the operator.
- G. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.
- H. The Zoning Board of Appeals shall consider the following criteria in their review of the special use permit request:
  - 1. The current use of the property proposed to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
  - 2. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the area or of surrounding areas.
  - 3. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability of feasibility for future development purposes.
  - 4. The amount of time, as estimated by the applicant, that will be required for the completion of the proposed excavation and the restoration of the property.
  - 5. Noise and/or vibrations that may be created by the proposed operation.
  - 6. Additional traffic that may be created by the proposed operation. Deleterious effects, if any, on the property in the general area of the proposed operation.
  - 7. All other criteria which from time to time may be relevant to a proposed operation.
- I. Special permits for excavation operations are of two (2) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.
- J. No persons, firm or corporation shall strip, excavate, or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill

shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.

- K. No excavation can be done for the purposes of building without first obtaining a zoning and building permit.

### **SECTION 807 – Farm Labor Camps**

- A. Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, rules or regulations.
- B. Housing facilities maintained shall be set back at least three hundred (300) feet from all property lines.
- C. Special permits for labor camps are of one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.

### **SECTION 808 – Hotels and Motels**

- A. Minimum lot size: two (2) acres; minimum lot width: two hundred (200) feet; minimum front setback: one hundred (100) feet; minimum side and rear setbacks: forty (40) feet.
- B. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops, and other personal service shops for the convenience of guests maybe be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.

### **SECTION 809 – Kennels and Animal Hospitals**

- A. Minimum lot size: same as required by zoning.
- B. Adequate landscaping or fencing shall be provided to create a visual, sound and smell buffer between such facility and adjacent properties.
- C. All buildings, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
- D. All animals shall be kept within a totally enclosed building between 8:00 PM and 6:00 AM.
- E. Lot coverage shall not exceed fifty (50) percent.
- F. Entrance and exit points shall be from major or secondary roads only.

## **SECTION 810 – Single-wide Mobile Homes and Mobile Home Parks**

- A. Single-wide mobile home shall require special use permit and shall locate only in mobile home parks.
- B. Special use permits for the establishment and operation of mobile home parks are of one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.
- C. The minimum site area of proposed mobile home parks shall not be less than twenty (20) acres.
- D. Mobile home lots shall have an area of not less than seven thousand two hundred (7,200) square feet. Each mobile home lot shall front on an interior park roadway and have a minimum width of fifty (50) feet.
- E. Minimum front setback for mobile homes: twenty (20) feet; minimum side setback: five (5) feet on one side with a total of twenty (20) feet on both sides; minimum rear setback: ten (10) feet.
- F. The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public street line shall be seventy (70) feet, and from every other lot line of the mobile home park shall be forty (40) feet.
- G. Not more than one (1) mobile home shall be located on any one (1) mobile home lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- H. At least one (1) service building shall be constructed in each mobile home park which shall be adequate to provide for storage of all equipment, tools, and materials necessary for the maintenance of the park, and all such equipment, tools, and materials shall be stored within said building when they are not in use.
- I. Each mobile home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a paved sidewalk having a minimum width of twenty-four (24) inches.
- J. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site plan approval.
- K. Every roadway within a mobile home park shall have a minimum pavement width of twenty-two (22) feet and a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist they shall have a minimum diameter of seventy (70) feet.



- L. A complete water distribution system approved by the Health Department, including a water-service pipe for each mobile home lot and approximately spaced fire hydrants shall be installed.
- M. A public sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each mobile home lot.
- N. All public utility, electric gas, cable television and telephone lines shall be installed underground.
- O. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways with each other, or with abutting public road, and at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.
- P. Pedestrian walkways shall be provided along at least one side of all interior streets having a width of approximately four (4) feet.
- Q. A landscape plan shall be prepared and carried out which will assure the Zoning board of Appeals that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- R. No mobile home shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site plan for the mobile home park.
- S. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- T. All fuel tanks used for heating within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed underground in accordance with NFPA standards.
- U. Every mobile home park shall have a recreational area or open-space area for use by the occupants of the mobile home park. Such areas shall be as centrally located as the topography and design of the park permit. Such area shall be not less than ten thousand (10,000) square feet or one thousand (1,000) square feet per mobile home lot in the park, whichever is greater.
- V. The park owner shall provide for the regular collection and disposal of garbage, trash, and rubbish.

- W. No more than one (1) accessory building shall be permitted on any mobile home lot.
- X. Each mobile home shall be enclosed at the bottom with a fire resistant skirt or enclosure within thirty (30) days after the placement of the mobile home on the lot.
- Y. No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed on or added or attached to the exterior of any mobile home.
- Z. No mobile home shall be offered for sale, display for sale or sold within a mobile home park unless such mobile home is located on a mobile home space and is connected to an electric public utility supply and to a public sewer and public water supply.
- AA. Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles.

The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provisions of this subsection shall apply to mobile home parks hereafter established within the Town.

- BB. Sale of lots. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the town, shall thereupon immediately invalidate the permit for such park approved by the Town Board. Any use of any of the premises within the mobile home park other than as a mobile home park shall thereupon immediately invalidate the special permit of such park approved by the Planning Board.
- CC. Home occupations. Home occupations are not permitted in mobile homes located within a mobile home park.

### **SECTION 811 – Multiple Family Dwellings**

- A. The maximum gross density shall not exceed eight (8) units per acre.
- B. Minimum habitable floor area requirements:
  - 1. Townhouse units, two (2) bedrooms or less: eight hundred fifty (850) square feet.
  - 2. Townhouse unit, three (3) bedrooms or more: one thousand (1,000) square feet.
  - 3. Apartment unit, efficiency: five hundred fifty (550) square feet.

4. Apartment unit, one bedroom: six hundred seventy-five (675) square feet.
5. Apartment unit, two (2) bedrooms: eight hundred (800) square feet.
6. Apartment unit, three (3) bedrooms: nine hundred fifty (950) square feet.
7. No more than twenty (20) percent of the total units within a multiple-family dwelling development shall be three (3) or more bedroom units.

C. Setback requirements

1. The minimum front setback from any public street shall be one hundred (100) feet.
2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
3. Minimum distance between buildings in a multiple family dwelling development shall be eighty (80) feet.

D. All stairways to the second floor or higher shall be located inside the building.

E. Access to public road:

1. All multiple-family dwelling developments must have direct access to public road.
2. If there are more than twelve (12) dwelling units in a multiple-family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
3. If there are more than fifty (50) dwelling units in a multiple-family development, or if in the opinion of the Zoning Board of Appeals the location or topography of the site indicates the need for additional access, the Planning board may require such additional access as a condition of site plan approval.

F. Off-street parking shall be provided in the amount of two (2) spaces for each unit.

G. The aggregate lot coverage of multiple-family dwelling developments shall not exceed thirty (30) percent of the total lot area.

H. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, landscaping, and lighting.

**SECTION 812 – Motor Vehicle Repair Shops**

A. Entrance and exit driveways shall have an unrestricted width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not

nearer than ten (10) feet from any property line, and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.

- B. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than 48 hours, and these shall be in areas effectively screened from all property lines. All such vehicles shall be stored in a neat, orderly manner.
- C. Any repair of motor vehicles shall be performed in a fully enclosed building. No motor vehicle parts shall be stored outside of an enclosed building.
- D. No unlicensed motor vehicle shall be stored or parked outdoors for more than 30 days. No more than 2 unlicensed motor vehicles may be stored or parked outdoors at one time.

**SECTION 813 – Public and Semi-Public Buildings and Grounds**

- A. Minimum lot size: see zoning schedule; minimum lot frontage: 100 feet.
- B. Landscaped areas at least ten (10) feet in width or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
- C. No structure or use shall be located within fifteen (15) feet of any adjacent property line.
- D. Entrance and exit points shall be from major or secondary roads.
- E. Parking areas shall not be within ten (10) feet of any property line.

**SECTION 814 – Gas Station/ (May include convenience store)**

- A. Entrance and exit driveways shall have an unrestrictive width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than fifteen (15) feet from any property line, and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
- B. Entrance and exit points shall be from a major or secondary road.
- C. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.
- D. Gasoline pumps shall be located not less than twenty (20) feet from the street line and not less than thirty (30) feet from all other property lines.
- E. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.

- F. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than fifty (50) persons, or within 500 feet of another gasoline station or repair garage on the same side of a street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- G. Landscaped areas of at least ten (10) feet in width shall be provided along with property lines to lessen any visual unattractiveness.
- H. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- I. Any repair of motor vehicles shall be performed in a fully enclosed building and no more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicle shall be stored outside of an enclosed building.

**SECTION 815 – Hospitals, Nursing Homes, and Health-Related Facilities**

- A. Off-street parking shall be provided as required in Section 702.
- B. Adequate buffering and landscaping will be provided as the Planning Board may determine necessary.
- C. Sewer and water facilities shall receive approval of the Livingston County Health Department or the New York State Department of Environmental Conservation.

**SECTION 816 – Telecommunication Facilities**

- A. Application
  - 1. No telecommunication facility shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
  - 2. These regulations shall apply to all property within the Agricultural District in the Town.
- B. General Criteria

No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunication Facility shall be authorized by the Zoning Board of Appeals unless it finds that such Telecommunication Facility:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
3. Is considered a public utility in the State of New York;
4. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
5. Complies with all other requirements of this local law, unless expressly superseded herein;
6. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility.

### C. Co-location

1. The shared use of existing Telecommunications Facilities shall be preferred to the construction of new Facilities. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. Any special permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure. Copies of written requests and responses for shared use shall be provided. The application shall also include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five (75%) percent of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to new construction.
2. The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facility sites or other structures in the inventory due to one (1) or more of the following reasons.
  - a. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities;
  - b. The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot be reasonably prevented;
  - c. Existing or approved Telecommunications Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

- d. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structure;
  - e. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.
3. The applicant must examine the feasibility of designing a proposed commercial communication tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the Zoning Board of Appeals for special use permit approvals. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
- a. The number of FCC licenses foreseeable available for the area;
  - b. The kind of tower site and structure proposed;
  - c. The number of existing and potential licenses without tower spaces/sites;
  - d. Available spaces on existing and approved towers, and;
  - e. Potential adverse visual impact by a tower designed for shared usage.

#### D. Submission of Application and Site Plan

All applications for a special use permit shall be by written application on forms provided by the Town of Ossian Zoning Enforcement Officer. The application shall include a site plan setting for the specific site data on a map, acceptable in form and content to the Town Zoning Board of Appeals, which shall be prepared to scale and in sufficient detail and accuracy and which shall show the following:

1. The location of property lines and permanent easements;
2. The location of the communications tower, together with guy wires and guy anchors, if applicable;
3. A side elevation or other sketch of the tower showing the proposed antenna;
4. The location of all structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of those structures to the communications tower;
5. The names of adjacent landowners as appears on the Town of Ossian's Assessor's records;

6. The location, nature and extent of any proposed fencing, landscaping and/or screening;
7. The location and nature of proposed utility easements and access road, if applicable;
8. Inventory report as described in Section 817 (C);
9. A completed visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
10. A grid or map of all the owners/applicant's existing communications tower site areas in the Town of Ossian and site areas proposed or projected by the owner/applicant for installations for a period of two (2) years.

#### E. Dimensional Standards

1. A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) upon its zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
2. All telecommunications facilities shall be located on a single parcel.
3. All telecommunication facilities shall comply with the setback standards of the Agricultural Zoning District. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of a telecommunications facility shall not result in the creation of a non-conforming lot.

#### F. Lighting and Markings

1. Towers shall not be artificially lighted and marked beyond the requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Zoning Board of Appeals, such a requirement would be of direct benefit to public safety.

#### G. Appearance and Buffering



1. The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Zoning Board of Appeals. Any tower that is not subject to FAA-markings, pursuant to Section 603.14 (g) contained herein, shall otherwise:
  - a. Have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Zoning Board of Appeals, or;
  - b. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
3. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. A Visual EAF as described in Section 603.14(d) is required.
5. The Zoning Board of Appeals shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structure and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation.
6. Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.
7. A monopole or guyed tower (if sufficient land is available to applicant) is preferred over a freestanding communications tower.

#### H. Traffic, Access and Safety

1. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways must provide adequate emergency vehicles and service access. The access way shall be constructed to closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

3. Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) feet in height, the top foot of which may, at the discretion of the Zoning Board of Appeals in deference to the character of the neighborhood, be comprised of three strands of barbed wire to discourage unauthorized access to the site.
4. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the areas within the fenced perimeters has been entered.
5. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

I. Security and Removal

1. At the time of submittal of the application of a special use permit for a telecommunications facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the telecommunications facility and property restoration with the municipality as the assignee,, in an amount approved by the Zoning Board of Appeals, but not less than thirty thousand (\$30,000).
3. At times of renewal or modification of the special use permit, the Zoning Board of Appeals may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

**SECTION 817 - Long Driveways**

- A. Long driveways must be accessible by emergency vehicles.
- B. For purposes of this section, driveways which are more than 100 feet in length shall be considered long driveways.

C. Design and construction standards for driveways for specially permitted uses are as follows:

Minimum pavement width: 14 ft.  
Maximum Grade: 8%

The Zoning Board of Appeals may waive the design and construction standard for driveways for special permit uses if deemed appropriate and the driveway will not adversely affect the surrounding area or the health, safety and general welfare of Town residents.

### **SECTION 818 – Land Conservation**

Special permit approval by the Zoning Board of Appeals is required for any proposed use which the Zoning Officer finds fits into one (1) or more of the following categories:

- A. Proposed construction would require the filling in or drainage of a natural, normally year-round swamp, marsh or wetland of one (1) acre or more.
- B. The average slope of the proposed site is fifteen (15) percent or more.
- C. The proposed site is in a fifty (50) year flood plain, as established by the Army Corps of engineers.
- D. Top soil is planned to be transported outside the Town for sale.
- E. Trees and vegetation are planned to be completely removed from a site of one half (1/2) acre or more on which the average slope is ten (10) percent or more, unless under supervision of the Soil Conservation Services.

### **SECTION 819 – Bed and Breakfast Inns**

- A. A “Bed and Breakfast Inn” shall mean an owner occupied residential dwelling that makes available sleeping units for overnight accommodations (for no more than ten days) to transient paying guests, with or without inclusion of one (1) morning meal prepaying guest as part of the accommodations provided. Sleeping units shall have no provisions for cooking.
- B. Special Requirements
  - 1. The number of sleeping rooms made available to the public shall be limited to eight (8).
  - 2. At least 1.5 off-street parking spaces must be provided for each rentable room.
  - 3. Screening of the parking area shall be installed when necessary to shield neighboring residents from headlight glare.

4. One sign shall be allowed on the site, limited to less than sixteen square feet in size.
5. Water and sewer service shall be adequate to serve the number of available rooms.

### **SECTION 820 – Adult Uses**

Adult uses, including but not limited to adult bookstores, adult entertainment cabarets, adult theaters, and peep shows, are subject to the following requirements in addition to those set forth in this local law:

- A. No such adult use shall be allowed within five hundred feet of another adult use.
- B. No adult use shall be located within 1000 feet of recreational facilities, a preexisting school, place of worship, cemetery, park, or playground or other areas where large numbers of minors travel or congregate. The distances are to be measured from one property line to another property boundary line.
- C. An establishment will be considered an adult use if more than twenty-five percent of the total area, sales or inventory is used for adult use.
- D. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating the

### **SECTION 821 – Additional Standards for Special Uses**

- A. Building height: no building or structure shall exceed three (3) stories in height, unless deemed appropriate by the Zoning Board of Appeals.
- B. No industrial or minimum use shall result in or cause:
  1. Dissemination of dust, smoke, smog, observable gas, fumes, or odors, or other atmospheric pollution, objectionable noise, glare, or vibration or electrical interference.
  2. Hazard of fire or explosion or other hazard to any adjacent building or to any plant growth on any land adjacent to the site or the use.
- C. A permit for any special permit use shall be granted only if evidence is presented which establishes that:
  1. The proposed building or use will be in harmony with the general purpose, goals, objectives and standards of this local law.
  2. The proposed building, or hours of operation, or use will not have a substantial or undue adverse effect upon adjacent property, the character of the

neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health & safety and general welfare.

3. The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable zoning district regulations.
4. The proposed building or use will be adequately served by essential public facilities and service.
5. The proposed building or use complies with all additional standards imposed on it by the particular provision of this local law authorizing such use.
6. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate, vicinity through building design, site design, landscaping and screening.
7. If determined appropriate by the Zoning Board of Appeals, a performance bond or other suitable financial guaranty can be required to assure compliance with the condition of the special use permit.

## **ARTICLE IX; SITE PLAN REVIEW**

### **SECTION 900 - Purpose**

The intent of this section is to set forth additional standards applying to certain land uses and activities. The nature of these uses and activities required special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Code.

### **SECTION 901 - Applications**

All applications for zoning permits, zoning variances, or special permits, except for one and two family dwellings and their permitted accessory uses or any addition to a single family dwelling or general farming use shall be accompanied by an application for site plan approval. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of this Code have been met.

### **SECTION 902 - Procedure**

- A. Each application for a building permit, variance or special permit for any structure, building or use, other than one or two family dwellings and their permitted accessory uses and any addition to a single family dwelling or general farming use, shall be referred to the Town Planning Board. The application shall be made to the Planning Board by filing it with the town Clerk. The Zoning Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting. The applicant may wish to attend the Planning board meeting to answer questions concerning the application.
- B. The Planning Board shall conduct a public hearing and render a decision according to current New York Town Law.
- C. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the office of the Town Clerk and shall be mailed to the applicant.

### **SECTION 903 - Pre-Application Conference**

A pre-application conference may be held between the Planning board and applicant to review the basic site design concept and generally determine the information to be required on the site plan.

### **SECTION 904 - Application For Site Plan Approval**

An application for site plan approval shall be made in writing to the zoning Enforcement Officer and shall be accompanied by information drawn from the

following checklist. The Planning Board may require additional information if necessary, to complete this review.

A. Plan Checklist for all site plans:

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale;
4. Existing watercourse and bodies of water;
5. Location of any slopes of 5% or greater;
6. Proposed grading and drainage;
7. Location, proposed use and height of all buildings and site improvements including culvert, drains, retaining walls and fences;
8. Location, design and construction materials of all driveways, access roads, parking and truck loading areas, showing points of entry and exit from the site;
9. Location of outdoor storage, if any;
10. Description of the method of sewage disposal and location of the facilities;
11. Identification of water source; including location of well and water lines;
12. Location, size and design and construction materials of all proposed sign;
13. Location and proposed development of all buffer areas, including existing vegetative cover;
14. Location and design of outdoor lighting facilities;
15. General landscaping plan.
16. Names of adjacent property owners and respective location of adjacent owners property lines.

B. As necessary, the Planning Board may require the following;

1. Provision for pedestrian access, if necessary;
2. Location of fire lanes and hydrants;
3. Designation of the amount of building area proposed for retail sales or similar commercial activity;
4. Other elements integral to the proposed development as considered necessary by the Planning Board.

**SECTION 905 – Planning Board Review Of Site Plan**

The planning Board's review of the site plan shall include, as appropriate, the following;

A. General Considerations

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersection, road widths, pavement surfaces, dividers and traffic controls.

2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size and design and general site compatibility of building, lighting and signs.
5. Adequacy of storm water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, includes the maximum feasible retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Protection of solar access on adjacent or neighboring properties.
11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
12. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

#### B. Consultant Review

The Planning Board may consult with the town building inspector, fire commissioners, highway department, county planning department and other local county officials, in addition to representatives of federal and state agencies including, but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

#### C. Public Hearing

The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in the official newspaper of the town at least five



(5) days before the public hearing. Decision shall be rendered within forty-five (45) days of the public hearing.

## **ARTICLE X. DEFINITIONS**

### **SECTION 1000 – Word Terms and Definitions**

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

The word “person” includes a firm association, organization, partnership, trust, company or corporation as well as an individual.

Words used in the present tense include the future tense.

The singular includes the plural.

The words “shall” and “must” are mandatory.

The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied.

The word “lot” includes the words plot or parcel.

### **SECTION 1001 – Definitions**

**Accessory Use:** An accessory use or facility services the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.

**Accessory Building:** A subordinate building located on the same lot with the main building occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

**Agriculture:** The use of land for agricultural purposes including tilling of the soil, dairying, pasture, agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals.

**Airport:** Any facility for the purpose of engaging aircraft to flight. Airports shall include a landing strip on private property used primarily for private, non-commercial use by the owner or tenant.

**Alterations:** As applied to a building or Structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, the moving from one location to another.

**Alternative Energy Systems:** Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on the site and may be attached to or separate from the principal structure. Examples include windmills and solar water heaters.

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

**Antenna:** A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications.

**Basement:** A story partly underground and having more than one-half(1/2) of its height above the average level of the finished grade at the front of the building.

**Building:** Any structure that has one or more floors and a roof, and is intended for the shelter, housing or enclosure of person, animals or chattel.

**Building Height:** The vertical distance measured from the main level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, tanks, and similar projection.

**Building Line:** A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surfaces. All yard requirements are measured to the building line.

**Business, Convenience:** Small commercial establishments catering primarily to nearby residential areas providing convenience goods and service including but not limited to grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons, barber shops, carry out dry cleaning and laundry pickup stations.

**Camping Trailer:** Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels and drawn by a power-driven vehicle, or such type vehicle having its wheels removed.

**Campground:** A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers tents or moveable or temporary dwellings, rooms or sleeping quarters of any kind.

**Carpport:** A roofed structure, with two enclosing walls, used for the storage of one or more automobiles.

**Clubs:** Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such club. For the purpose of this code clubs shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

**Dwelling:** A building or portion thereof used exclusively as the residence or sleeping place of one or more persons.

**Dwelling Unit:** One or more rooms providing living facilities for one family including equipment for cooking living and sleeping purposes and provisions for the same.

**Dwelling One-Family:** A building or dwelling unit designed for or occupied exclusively by one (1) or more persons living as a single, non-profit house-keeping unit.

**Dwelling Two-Family:** A building containing two(2) dwelling units and used exclusively for occupancy by two families living independently of each other, or two (2) one-family dwellings have a party wall in common.

**Dwelling Multi-Family:** A building containing more than two (2) dwelling units and used exclusively for occupancy by more than two families living independently of each other.

**Dwelling Detached:** A dwelling having no party wall in common with another building.

**Family:** One or more persons related to each other by blood, marriage or adoption(or not more than four individuals who are not so related), living together as a single housekeeping unit. A group home for not more than twelve (12) persons, seventeen (17) years of age or less who are not related, as above, to the adult occupants of the unit shall be considered a family for this ordinance when it has an internal structure akin to a traditional (biological unitary) family and an external appearance of a relatively normal, stable and permanent family unit and is operated or supervised by a qualified social service agency.

**Farm:** Any parcel containing ten (10 ) acres or more of land which is used for gain in the raising of agricultural crops, trees and/ or nursery stock, livestock, poultry or dairy products.

**Farm Buildings:** Any building used for the house of agricultural equipment, product, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm as defined by this article. The term "farm building" shall not include "farm dwelling".

**Farm Labor Camp – Private:** A labor camp housing facilities, building or buildings in which people are housed who are employed in the individual farmer’s personal farming operation.

**Farm Labor Camp – Commercial:** Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than the owner of the camp.

**Flood Hazard Area Special:** Maximum area of the flood plain that on the average, is likely to be flooded once every 100 years.

**Flood Plain:** A land area adjoining a river, stream, watercourse, ocean, bay or lake which is susceptible to flooding.

**Flood proofing:** Any combination of structural and non-structural additions, changes or adjustments to properties and structures which significantly reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

**Floodway Encroachments Lines:** The lines marking the limits of the floodways on official Federal, State and local flood plain maps.

**Floor Area Gross:** For the purpose of applying the requirements for off-street parking and loading, “gross floor area” in the case of offices, merchandising or service types of uses, shall mean the total floor area to be used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms fitting or alteration rooms or general maintenance or enclosed or enclosed pedestrian malls or corridors.

**Floor Area, Habitable:** The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business.

**Front Building Line:** A line drawn parallel to an adjoining road right of way, which contains the point at the front of a structure that is closest to the road. A corner lot includes two front building lines.

**Garages, Private:** An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage for the storage of motor vehicles and/ or other household items.

**Garages, Public:** Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline or oil.

**Home occupation:** An occupation conducted in a dwelling unit or customary accessory structure provided that: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

**Kennel:** Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed, bred, boarded, trained or sold.

**Lot:** A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

(a) **Corner Lot:** A parcel of land at the junction of and fronting on two or more intersecting streets.

(b) **Through Lot:** An interior lot having frontage on two parallel or approximately parallel streets.

**Lot Area:** An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

**Lot Depth:** The main distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

**Lot Frontage:** The front of a lot shall be construed to be the portion nearest the highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to highways shall be considered frontage and yards shall be provided as indicated under "Yards" in these definitions.

**Lot Line:** Any boundary line of a lot.

**Lot Width:** The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

**Mobile Home:** A structure, transportable in one (1) or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and included the plumbing, heating, air-conditioning and electrical systems contained therein and complies with Part 1220 of the NYS Uniform Fire Prevention and Building Code and Federal HUD standards, excluding however, travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the NYS Uniform Building Code.

**Mobile Home, Double-Wide:** A mobile home consisting of two (2) sections, combined at the site, with a width of no less than twenty (20) feet, while still retaining

their individual chassis for possible future movement and complying with Part 1220 of the NYS Uniform fire Prevention and building Code and Federal HUD standards, excluding however, travel trailers motorized homes, pickup coaches and camping trailers. This definition does not include modular manufactured homes as defined by the NYS Uniform building Code.

**Mobile Home Park:** A parcel of land where two or more mobile homes are parked or which is planned and improved for the placement of mobile homes by the public.

**Modular Homes:** A factory-manufactured home incorporates structures or components designed for residential occupancy, constructed, by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a foundation at a building site, Such home shall be constructed and installed in accordance with the requirements of Subchapter B of the NYS Fire Prevention and building Code and shall bear an insignia of approval issued by the NYS Fire Prevention and Building Code Council. Factory-manufactured homes shall be deemed to be one- or two-family or multiple dwellings. This definition does not include double-wide homes as defined by the NYS Uniform Building Code.

**Motel:** A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meetings rooms, retail business activities and related activities and related activities primarily to accommodate the occupants, but open to the general public: The term "motel" includes buildings designated as auto cabins auto courts, motor lodges, tourist courts and similar terms.

**Motor Vehicle Repair Shop:** A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles which is licensed by the State of New York.

**Non-Conforming Lot:** A lot existing at the time of enactment of this code or any amendment thereto, which does not conform to the area regulation of the district or zone in which it is situated.

**Non-Conforming Use:** A use of land existing at the time of enactment of this code and which does not conform to the regulations of the district or zone in which it is located.

**Parking Space:** Space available for the parking of one motor vehicle exclusive of passageways and driveways giving access thereto.

**Parking Space Off-Street:** An off-street area of berth with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

**Permitted Use (Or Use Of Right):** A land use allowed under the regulations of this code.

**Principal Building:** A building in which is conducted the main or principal use of the lot on which said building is located.

**Principal Use:** The main use to which a building or lot is to be used.

**Professional Offices:** The office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to, doctor, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

**Public And Semi-Public Building And Grounds:** The words "public and semi-public buildings and grounds, " as used in this code are intended to designate any one

(1) or more of the following uses, including but not limited to grounds and accessory building necessary for their use:

- A. Churches, places of worship, parish houses and convents.
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- C. Nursery school, elementary schools, high schools colleges or universities.
- D. Golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
- E. Public libraries and museums.
- F. Not-for-profit fire, ambulance and public safety buildings.
- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
- H. Not-for-profit membership corporation established for cultural, social, or recreational purposes.
- I. Recreational facilities, either for profit or not-for-profit, such as swimming, tennis, platform tennis, bowling, hockey, ice skating or other indoor or outdoor sports.
- J. Day-care centers approved by the New York State Department of Social Welfare.



**Recreation Area:** Recreation area is the sum of all open or covered areas used for recreation purposes.

**Restaurant:** Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or quasi-public or community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**Right-Of-Way:** Land set aside for use as a street, alley, or other means of travel.

**Retail Gasoline Outlet:** Any establishment that sells gasoline to the public. This includes service station, convenience stores, car washes or any other facility that sells gasoline.

**Road Major:** Streets or highways connecting through roads with each other and also handle internal movement within the town.

**Road Secondary:** Streets or highways serving to connect major roads with each other and also to handle internal movement within the town.

**Road Local:** Streets or highways which primarily function to give direct access to adjoining property. Local roads are the internal part of the system to provide movement within residential or other land use areas.

**Road Line:** That line determining the limit of the highway right-of-way of the public, either existing or contemplated.

**Setback-Front:** The required open unoccupied space between the road or street centerline line and the front of the main structure, but not including porches, entrance steps and other similar structures on the front of the main structure.

**Setback-Back:** The required open unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

**Setback-Side:** The required open unoccupied space measured from the side lot lines to the nearest part of the main or accessory structure.

**Sign:** Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge or insignia of any public, quasi-public, civic, charitable or religious groups.

**Sign Area:** The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected,

enclosed, four-sided (straight side) geometric shape which most closely outlines the said sign.

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

**Site Plan Review:** A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this Code.

**Solar Access:** Space open to the sun and clear of overhangs or shade.

**Special Permit Uses:** Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this Code are met.

**Street line:** The limit of the street width or highway right-of-way, whichever is greater. Also known as road line.

**Story:** That portion of a building between the surface of any floor and the surface of the floor next above, any portion of a building used for human occupancy between the top most floor and the roof. For purposes of height measurement, in determining the permissible number of stories, a basement shall be counted but a cellar shall not be counted.

**Story Half:** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Structure:** Anything constructed or erected with a fixed location on the ground or Attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, billboards and poster panels.

**Swimming Pool:** Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing, or wading and permanently installed or constructed either above or below ground.

**Substantial Improvement:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

**Telecommunication Facility:** Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communication and private radio communications services, and are regulated by

Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A Telecommunication Facility shall include monopole, guyed, latticework tower (s), and other similar structures, as well as antenna (s), switching stations principle and accessory telecommunication equipment and supporting masts, wires, structures and buildings.

**Temporary Or Seasonal Occupancy:** The use of any premises, structure or use for living and/or sleeping purposes for one hundred eighty (180) days or less in any calendar years.

**Temporary Use:** An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work and seasonable produce stands.

**Use:** The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

**Variance:** A variance is any departure from the strict letter of these regulations granted by the Zoning Board of appeals as it applies to a particular piece of property, usually pertaining to dimensional requirements only. Variances run with the land and are not particular to any one landowner.

**Yard:** An open space on the same lot with building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

**Yard Front:** The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line.

**Yard Rear:** An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches.

**Yard Side:** An open space on the same lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills, and other such fixtures and open steps.

**Zoning Certificate Of Compliance:** A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this Code.

**Zoning Enforcement Officer:** The official designated to administer and enforce this Code.

**Zoning Permit:** A document issued by the Zoning Officer authorizing the use of lots, Structures, uses of land and structures, and the characteristics of the uses in conformity with this Code.

# TOWN of OSSIAN

## Zoning Schedule

| <u>Zone</u> | <u>Permitted Principal Uses</u> | <u>Special Permit Uses***</u>            | <u>Minimum Lot Size</u> | <u>Setbacks* Front**/ Rear / Side</u> | <u>Minimum Lot Width</u> |
|-------------|---------------------------------|--|-------------------------|---------------------------------------|--------------------------|
| A/R         | Agriculture                     | Campgrounds                              | 60,000 sq ft            | 100' / 75' / 30'                      | 200 feet                 |
|             | Agribusiness                    | Motor Vehicle Service Station            |                         |                                       |                          |
|             | 1 & 2 Family Home               | Kennels                                  |                         |                                       |                          |
|             | Roadside Stands                 | Airports                                 |                         |                                       |                          |
|             | Home Offices                    | Mobile Home Parks                        |                         |                                       |                          |
|             |                                 | Excavation & Mining                      |                         |                                       |                          |
|             |                                 | Animal Hospital                          |                         |                                       |                          |
|             |                                 | Day Care Center                          |                         |                                       |                          |
|             |                                 | Essential Services                       |                         |                                       |                          |
|             |                                 | Clubs, Lodges or Fraternal Organizations |                         |                                       |                          |

\* For properties on State Route 436, the following setbacks apply:

Front: 120 feet

Rear: 75 feet

Side: 30 feet

\*\* Front Setback is measured from road centerline.

\*\*\* For any use not specifically listed above, the dimensional requirements, including setbacks, minimum lot width and minimum lot size will be at the discretion of the Zoning Board of Appeals through the special use permit process.

\*\*\*\* The above requirements apply unless otherwise stated in this law.

**Town of Ossian**

**New York State Uniform Fire Prevention and Building Code**

**Local Law #1 - 2012**

**SECTION 1. PURPOSE AND INTENT**

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town of Ossian. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

## **SECTION 2. DEFINITIONS**

In this local law:

"Building Permit" shall mean a permit issued pursuant to section 4 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Certificate of Occupancy" or "Certificate of Compliance" shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

"Code Enforcement Officer" shall mean the code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

"Code Enforcement Personnel" shall include the Code Enforcement Officer and all Inspectors.

"Compliance Order" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

"Energy Code" shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

"Inspector" shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this local law.

"Operating Permit" shall mean a permit issued pursuant to section 10 of this local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Permit Holder" shall mean the Person to whom a Building Permit has been issued.

"Person" shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind of description.

"Stop Work Order" shall mean an order issued pursuant to section 6 of this local law.

"Temporary Certificate" shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

"Town" shall mean the Town of Ossian

"Uniform Code" shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

### **SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS**

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate. All such terms and conditions must be agreed to by a signed writing by the applicant(s) before a permit or certificate shall be issued;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town of Ossian;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town of Ossian's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.



(b) The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of the Town of Ossian.

## **SECTION 4. BUILDING PERMITS**

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in and dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction of installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground.

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge of impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or

an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued, violates the Uniform Code or the Energy code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and The Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of a application for a Building Permit, for an amended Building Permit or for renewal of a Building Permit.

## **SECTION 5. CONSTRUCTION INSPECTIONS.**

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) work site prior to the issuance of a Building Permit;

- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof, shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

## **SECTION 6. STOP WORK ORDERS.**

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of stop work orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part of assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## **SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE**

(a) Certificates of Occupancy or Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy or Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the

work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy or Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) If the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke - detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. The Code Enforcement Officer shall revoke or suspend a Certificate of Occupancy, Certificate of Compliance or Temporary Certificate if either:

(1) the Code Enforcement Officer determines that a certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such time period as he shall specify; or

(2) after a fire or other calamity the structure or any significant portion is rendered unsafe for human occupancy as determined by the Code Enforcement Officer; or

(3) the premises are determined to be an unsafe structure as determined pursuant to section 9.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or for a Temporary Certificate.

## **SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION**

The chief of any fire department providing fire fighting services for a property within this Town of Ossian shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

## **SECTION 9. UNSAFE BUILDING AND STRUCTURES**



Pursuant to Town Law section 130, subdivision 16, unsafe structures and equipment therein in the Town of Ossian shall be identified and addressed by the following procedures:

(a) The Code Enforcement Officer shall conduct an inspection of the premises and provide a report to the Town Board of the Town of Ossian.

(b) If, after review of said report, the Town Board of the Town of Ossian, by resolution determines that there is probably cause to believe that a structure is unsafe, it shall direct:

(1) that a notice be served on the owner or someone of the owner's executors, legal representatives, agents, lessees and any other person having a vested or contingent interest in same, either personally or by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees and other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the office of the county clerk or county register, containing a description of the premises, a statement of the particulars in which the building or structure is alleged to be unsafe or dangerous, and that an order requiring same to be made safe and secure or removed may be made after the hearing set forth in said notice, and if said service be made by registered mail, for a copy of such notice to be posted on the premises.

(2) the proposed time within which the person served with such notice shall commence the securing or removal of buildings or structures, which time shall be contained in said notice.

(3) that said notice shall also advise the owner and such persons having an interest in the property or structure as is herein above prescribed that if they object to said notice and direction and/or any part thereof, they have a right to a due process hearing conducted by the Town Board of the Town of Ossian, at a time, date and location established by said Board and set forth in said notice to repair or demolish, said hearing date to be no later than thirty (30) days after the notice is served.

(4) the filing of a copy of such notice in the office of the county clerk of the county within which such building or structure is located, which notice shall be filed by such clerk in the same manner as a notice of pendency pursuant to Article sixty-five of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this paragraph. A notice so filed shall be effective for a period of one year from the date of filing, provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the town attorney. The clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

(c) if, after the due process hearing, the Town Board of the Town of Ossian determines that the structure is unsafe, then the Board shall direct:

(1) the time within which the building or structure shall be secured, and either repaired or removed;

(2) the removal of such building or structure by the town in the event such owner fails or refuses to repair or remove the same within the time provided; and

(3) the assessment of all costs and expense incurred by the town in connection with the proceedings to remove or secure, including the cost of actually removing said building or structure, against the last on which said buildings or structures are located.

## **SECTION 10. OPERATING PERMITS**

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town of Ossian.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall

be performed or provided by such person or persons as many be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwelling not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and /or property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

Provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 12. COMPLAINTS**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and / or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction and filing such report with the complaint.

### **SECTION 13. RECORD KEEPING**

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and test performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and

(9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

### **SECTION 14. PROGRAM REVIEW AND REPORTING**

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town of Ossian, a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 ( Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Ossian on a form prescribed by the Secretary of State, a report of the activities of this Town of Ossian relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town of Ossian is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town of Ossian in connection with administration and enforcement of the Uniform Code.

## **SECTION 15. VIOLATIONS**

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is / are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code or this local law, or any term or condition of any

Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town of Ossian.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town of Ossian in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law or any term or condition of any Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town of Ossian, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Ossian.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

(f) Attorneys Fees. The Town of Ossian shall be entitled to all attorneys fees, costs and disbursements necessarily and reasonably incurred to cure each and every violation of the Uniform Code, Energy Code and / or this local law, to also include civil litigation to enforce and collect same, from the violator(s) thereof.

## **SECTION 16. FEES**

The present fee schedule is attached hereto at Appendix 1. Such fee schedule may thereafter be amended from time to time by resolution of the Town Board. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

## **SECTION 17. INTERMUNICIPAL AGREEMENTS**

The Town Board of this Town of Ossian may, by resolution, authorize the Supervisor of this Town of Ossian to enter into an agreement, in the name of the Town of Ossian with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

## **SECTION 18. PARTIAL INVALIDITY**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

## **SECTION 19. CONFLICT BETWEEN LAWS**

In the event of a conflict between the terms of the Local Law and another local law or ordinance, then the provisions of this Local Law shall control in the applications and enforcement of the New York State Uniform Fire Prevention and Building Code.

## **SECTION 20. ATTENUATION**

To provide for sufficient time to comply with this local law, no violation shall be enforced until four (4) months after this local law becomes effective. However, notices of violations may be served beforehand to advise of violations determined to exist.

## **SECTION 21. EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.





**TOWN OF OSSIAN**

**LOCAL LAW No 7 - 2017**

**A LOCAL LAW TO AMEND THE ZONING LAW OF THE TOWN OF OSSIAN**

**SECTION 1. NAME OF LAW**

The name of this law is "A Local Law to Amend the Zoning Law of the Town of Ossian, Livingston County, New York."

**SECTION 2. PURPOSE AND INTENT**

The purpose of this law is to amend the Town's Zoning Law with the intent to better the health and public welfare of the Town of Ossian

**SECTION 3. AMENDMENTS**

The Town of Ossian Zoning Law, as currently enacted and amended, is hereby further amended as follows:

A. New Section 601 B 9

Article VI, Section 601 B, which deals with permitted uses in an A/R Agricultural/Residential Zone, is hereby amended by adding to it a new paragraph 9 as follows:

9. The keeping of farm animals or livestock in connection with a dwelling on a lot of less than ten (10) acres shall conform to the following conditions:

- a) The farm animals shall be owned by the family residing in the dwelling.
- b) The lot on which farm animals are kept shall have the following minimum area for each type of animal unit, provided however that if more than one animal unit is kept, not less than 50% of minimum lot area per unit shall be provided for each additional unit.

| <u>Animal Unit</u>                          | <u>Minimum Lot Area</u> |
|---|-------------------------|
| 1 dairy or beef cattle                      | 160,000 square feet     |
| 1 horse, mule, sheep, goat, pony, hog, etc. | 120,000 square feet     |

- c) Any building or structure housing farm animals and any riding ring or livestock run or yard shall be set back a minimum of 100 feet from a property line or street right-of-way line. Adequate fencing shall be provided and permanently maintained to contain the farm animals within the lot.
- d) The keeping of farm animals shall not impair the residential character of the premises nor create a hazard to health. Manure heaps shall be screened from view of any lot and shall be a minimum of 100 feet from any property line and from the 100-year floodplain boundary or 200 feet from the centerline of the stream, whichever is greater.

e) A minimum 125-foot setback from Route 436 shall be required.

**B. SECTION 713 - Other Additional Regulations**

1. Section 713 B is hereby amended as follows:

The last sentence of said paragraph B shall now also prohibit shipping and storage containers and shall now read:

Buses, cars, trucks, truck bodies, shipping and storage containers or truck trailers shall not be used for storage purposes.

2. New Section 713, paragraphs G and H

The following two (2) new paragraphs are hereby added to Section 713:

G. No more than two (2) accessory buildings of 140 square feet or less than one story only each shall be placed on legal size lot.

H. There shall be a minimum of 10 feet between roof lines.

C. As amended hereby, the Town of Ossian Zoning Laws as enacted and previously amended continues in full force and effect.

**SECTION 4. PUBLICATION**

This law or a summary or abstract thereof shall be published once in a county newspaper having circulation in this town.

**SECTION 5. EFFECTIVE DATE**

This Local Law shall take effect immediately, provided that ten (10) days have elapsed since publication and the law has been filed with the Secretary of State of the State of New York.