

# TOWN OF OTEGO

# ZONING ORDINANCE

September 2002  
Amended June 2004  
Amended June 2005

The Otego Zoning Ordinance was written by the Otego Planning Board acting as the Zoning Commission with technical assistance from the Otsego County Planning Department.

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# ZONING ORDINANCE

## Town of Otego, New York

### ARTICLE I. PROVISIONS

#### Section 101 Title

This ordinance shall be known as the 2004 ORDINANCE amending the Town of Otego Zoning Ordinance (the “Zoning Ordinance”), which was originally adopted by the Town Board of the Town of Otego on September 18, 2002.

#### Section 102 Enacting Clause

Pursuant to the authority conferred by Article 16, Section 243 of the Town Law of the State of New York, the Town Board of the Town of Otego hereby adopts and enacts as follows.

#### Section 103 Purpose of Zoning Ordinance

The purpose of this zoning ordinance, its regulations and its zoning districts as outlined on the zoning map is to:

- A. Protect and promote the public health, safety, and general welfare of the town consistent with the objectives of Town Law 263;
- B. Guide the future growth and development in accordance with a comprehensive plan;
- C. Protect the character and the social and economic stability of all parts of the town, and to encourage the orderly and beneficial development of all parts of the town;
- D. Protect and conserve the economic and aesthetic value of land and buildings appropriate to the various districts established by this ordinance;
- E. Minimize conflicts among the uses of land and buildings;
- F. Provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings;
- G. Prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and sound management of the town’s natural resources in order to preserve the integrity, stability and beauty of the community and the value of the land;
- H. Preserve the natural beauty of the topography of the town and to insure appropriate development with regard to these natural features;

- I. Encourage and make suitable provisions for the accommodations of solar energy systems and equipment and access to sunlight necessary therefore.

#### Section 104 Conflict With Other Laws

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

#### Section 105

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

#### Section 106 Validity and Separability

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

#### Section 107 Effective Date

This ordinance shall take effect ten days after publication in a newspaper having general circulation in the town, but said ordinance shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Town Clerk under the corporate seal of the town; and showing the date of passage and entry in the minutes.

Maryalice Brown  
Town Clerk, Town of Otego

Effective date: September 18, 2002

## ARTICLE II. DEFINITIONS

### Section 201 General

For the purpose of this ordinance, the following terms and words shall be interpreted as follows:

- A. The word “person” includes a firm, association, organization, partnership, trust, company, agency, society or corporation as well as an individual.
- B. Words used in the present tense include the future tense.
- C. The singular includes the plural and the plural includes the singular.
- D. The words “shall” and “must” are mandatory.
- E. The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied.
- F. The word “lot” includes the words plot or parcel.

### Section 202 Definition of Key Terms

Accessory Building - Any building which is subordinate to and which use is incidental to the use of the principal building located on the same lot. 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. All accessory buildings or structures shall be located in rear or side yard only.

Accessory Use - Use which is customarily accessory and clearly incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Acre - For the purpose of calculating lot area under this ordinance, an acre shall be considered to consist of 43, 560 contiguous square feet.

Agriculture - The use of a parcel of land for agricultural purposes, including tilling of the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, aquatic farming, harvesting of trees and animal husbandry. It includes the necessary accessory uses and structures for packing, treating, and storing of products, produce and equipment, provided that the operation of any such accessory use shall be secondary to that of normal agricultural activities.

Alteration - A change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height or 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, from solar, wind, water and other sources.

Alternative Energy Systems, Private – Energy production facilities that are incidental and subordinate to a principal use established on a property. These systems include, but are not limited to, solar, wind, hydrologic and biomass systems.



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

Animal Husbandry - The care and breeding of domestic animals, including but not limited to cattle, hogs, horses, poultry and sheep. For purposes of this Ordinance operation of a kennel shall not be considered animal husbandry. Animals for educational or cultural projects are exempted.

Apartment Building – A structure containing three or more dwelling units.

Bed and Breakfast - An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee. Meals may or may not be provided. Tourist homes, boarding houses, and inns are included here; however, resthomes or homes for the aged are not.

Buildable Sites - A site able to support a habitable structure with required separation distances for a well and septic system that will not adversely affect neighboring sites and water supplies. The site must also be accessible to emergency vehicles as required by law.

Building - A structure wholly or partially enclosed with exterior walls and a roof, affording shelter to persons, animals or property.

Building and Farm Supplies – A business that sells farm products and building materials.

Bulk Storage - The storage of chemicals, petroleum products and other materials in above-ground containers for subsequent release to distributors or retail dealers or outlets. In addition, the definition includes all storage of more than 1100 gallons, if the product is to be used on site and is not for resale.

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

Campground - A parcel of land used or intended to be used to provide two or more sites for the parking of travel trailers, placement of tents or other temporary or movable sleeping accommodations.

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

Cell Towers – Those telecommunication devices not licensed as public utilities fall under this definition. Any speculation cell towers that are not FCC licensed are considered cell towers under this zoning ordinance.

Cemetery - Property used for the interring of the dead.

Certificate of Compliance - A form of protection afforded the owner or occupant of a structure by serving as proof of compliance with the regulations in effect at the time of construction or alternation.

Club - Any organization catering exclusively 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, provided there are no vending stands, merchandising or commercial activities, except as required for the membership and purposes of such club. Clubs shall include lodges, fraternal organizations, social and service organizations; gun, hunt and fish clubs, mutual benefit societies, and other like organizations.

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

Commercial Gardening - Land and/or building used to raise flowers, plants, shrubs, trees or produce for sale.

Commercial Recreation - A parcel of land which may include facilities for recreation purposes, utilized by the public for a fee. Activities include, but are not limited to, bowling alleys, ski slopes, tennis courts, golf courses, swimming pools, movie houses, drive-in theatres and health clubs.

Commercial storage - A structure or set of structures containing separate storage spaces of varying sizes leased or rented on an individual basis.

Condominium - A building or group of buildings, in which units are owned individually; and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Convenience Store - A small retail establishment offering for sale a limited line of groceries, household items, and take out food, intended for the convenience of the neighborhood. It does not include automotive service stations or vehicle repair shops.

Cul-de-Sac - The turnaround at the end of a dead-end street.

Cultural Recreation - Indoor or outdoor establishments promoting social and intellectual advancement such as libraries, museums, art galleries, concert halls and theaters, but excluding movie houses and drive-ins.

Development Limitations - An assessment of existing natural and manmade elements relating to land, water, air, plant animal, people and community character in the town and an indication of the suitability of particular areas for development.

Dish Antenna - Any concave, circular or dish-shaped device designed for receiving communication or television signals from space, but does not include conventional television, radio and amateur radio antennas.

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

Dwelling Unit - A structure or portion thereof that is used exclusively for human habitation.

Dwelling, Farm Labor - A building containing only one dwelling unit and occupied by one family, members of which are employed on the farm.

Dwelling, Multiple Family - A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Townhouse - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one or more common fire resistant walls.

Dwelling, Two-family - A detached building designed for year-round occupancy by two families living independently of each other, other than a manufactured home, recreational vehicle, camp or rooming house.

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

Educational Institution - An institution, either public or private providing full-time day instruction and a course of study which meets the requirements of the New York State Education Law or a nursery, day care or kindergarten which meets all pertinent requirements set by the New York State Education Law and or the New York State Health Code.

Enclosed Manufacturing – Manufacturing that occurs totally within an enclosed building or structure. Such manufacturing may involve the processing and manufacturing of materials or products predominately from extracted or raw material. Said activities do not require the storage of large volumes of highly flammable, toxic materials or explosive materials needed for the manufacturing process.

Family - One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit.

Farm - Not less than 10 acres of land, used in the preceding two years for the production for sale of crops, livestock and livestock products with an average gross sales value of ten thousand (\$10,000) or more. Includes land which otherwise satisfies the requirements for eligibility for an agricultural value assessment.

Farm, hobby - An agricultural operation where the keeping of animals is primarily for the enjoyment and/or consumption of food for the household and where any income generated is not more than ½ of the household's total income.

Farm Labor Dwelling – A dwelling unit or units used for living purposes by those who work on active farms as hired hands.

Farm Stand – A stand for the display and sale of farm produce.

Financial Guarantee - A financial security in an amount sufficient to guarantee the installation of basic public improvements. Such improvements may include, but are not limited to, public water supply, sewage disposal systems, storm drains and sewers, roads, pavements markings, traffic signs and signals and sidewalks. Acceptable financial securities must be approved by the Town Attorney and the Town Board and may be in one of several forms, including, but not limited to, a performance bond executed by a surety company, a certified check and irrevocable letter of credit drawn in favor of the Town.

Flag Lot - A lot not meeting the required frontage along a public or private road and where access to this road is by a narrow strip of land.

Flea Market - An occasional or periodic market held in an open area or structure where individuals or groups of individual sellers offer goods for sale to the public.

Flood Plain - An area of land susceptible to being inundated by water as defined and mapped in the Flood Damage Prevention Local Law and adopted by the Town pursuant to the Federal Flood Insurance Program.

Floor Area - For residential units, floor area is all heated and ventilated and thereby habitable areas within the dwelling unit, including basement and habitable attic space.

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

Garage, Private - An accessory building or part of a principal building used for the storage of one or more motor vehicles provided that no business, occupation or service is conducted for profit herein. A carport or similarly covered area for the storage or housing of one or more automobiles, with or without walls, but not fully enclosed, is part of this definition.

Garage, Public - Any garage, other than a private garage, operated for gain or available on a rental basis for the storage of motor vehicles.

Gas and Fuel Distribution - A large facility at which gasoline, fuel, propane and similar types of energy products are stored for distribution to outlying residential dwelling units and commercial facilities which have contracted for such.

Habitable Floor Area - The total number of square feet of floor space within a building, which is enclosed and usable for human occupancy or the conduct of business. Unheated basements and attached garages are excluded.

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

Height - The vertical distance measured from the elevation of the finished grade to the high point of a structure.

Home Occupation - An occupation or other subordinate use of a nonresidential nature which is conducted within a dwelling unit, or building accessory thereto, which is clearly incidental and accessory or secondary to the use of the property for residential purposes.

Hotel - A facility offering transient lodging accommodations to the general public and providing additional service such as restaurants, meeting rooms, and recreation facilities.

Junkyard - Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase or sale, disassembly, packing, sorting, salvage, buying, selling or exchange of waste paper, rags, scrap metal or other discarded or scrap goods, materials, machinery; or two or more unregistered, inoperable motor vehicles. Automobile junkyards, as defined in the General Municipal Law, Section 136, shall be included within this definition.

Kennel - a place where four (4) or more dogs are boarded for fee and/or are bred for sale.

Light Industry – A use engaged in the manufacture, predominantly from previously prepared material of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Lot - A designated parcel, tract or area of land established by plat, subdivision, or other legal means, to be used, developed or built upon as a unit.

Lot Area - The total area included within lot lines and as determined by the most recent official records or recordings on the town tax maps or by survey calculation.

Lot Corner - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot Coverage - The percentage of the lot area that is covered by the buildings or paved areas on the lot.

Lot Depth - The minimum distance from the road right-of-way line of a lot to the rear lot line of such lot.

Lot Line - Any boundary of a lot. Any lot line or not a rear line not a front line shall be deemed a side line.

Lot Line, Front - The front of a lot shall be construed to be the portion adjacent to or nearest the road. On corner lots and through lots, all sides adjacent to roads shall be considered front yards.

Lot Line, Rear - The lot line generally opposite the street line.

Lot Line, Through - A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot Width - The distance between side lot lines at the front building line as prescribed by the front setback regulations.

Manufactured Housing or Manufactured Home – A factory built, single family structure that is manufactured under the authority of 42 US C. Sec. 5401, the National Manufactured Home Construction and Safety Standards Act (also known as the HUD Code), is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. Manufactured Homes meet the HUD Code.

Manufactured Home Park - A parcel of land under one ownership that has been planned and improved for the placement of three or more manufactured homes for rental purposes for non-transient use. Such definition shall not include farm dwellings located on an active farm whereby the persons living in said dwelling are hired hands on the farm.

Manufacturing - Any process whereby the nature, size or shape of articles or raw materials are changed or where articles are assembled.

Mineral Extraction - Operations extracting gravel, rock, stone, sand, fill, topsoil or minerals from the surface or below the ground for sale as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building.

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

Modular Built Dwelling Unit - A dwelling unit constructed on site in accordance with the New York State Uniform Fire Prevention and building Code, not the HUD Code, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motel - A building or group of buildings providing individual sleeping accommodations complete with bathrooms for travelers. Each lodging unit has direct access to the outside and a parking spot.

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

Non-Conforming Building, Use or Lot - A building, structure, use of land or lot, lawfully existing at the time of enactment of this ordinance, which does not conform to the regulations of the district or districts in which it is located.

Nursery or Greenhouse - See Commercial Gardening.

Open Space - An area between buildings, or between a building and a boundary line of the parcel, that is situated for recreation, gardening or other outdoor activities conducive to the principal lot use and size. Such space must be free of automobile traffic, parking and undue hazards as well as being readily accessible to all those whom it shall be used by.

Outdoor Recreation - Any recreational use particularly oriented to and utilizing the outdoor character of a parcel, including, but not limited to, snowmobile, trail bike, jeep and all-terrain vehicle trails; bicycle trail, horse trail, playground, picnic area or similar use in which no major physical alteration to the land occurs.

Overlay Zone - A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Parking Space - An off street paved or unsurfaced space which is accessible and available for the parking of one motor vehicle.

Performance Standards - A criterion established to control nuisances including, but not limited to, noise, odor, smoke, toxic or hazardous matter, vibration, fire and explosive hazards, and glare or heat generated by or inherent to, uses of land or buildings.

Permitted Principal Use - For the purpose of this ordinance, any use which is allowed by right in a zoned district without review by the Planning Board.

Planning Board - The Town of Otego Planning Board.

Public Facilities - All village, town, city, county, state and Federal government owned buildings and land including, but not limited to, town halls and highway department garages.

Public Parks and Recreational Facilities - Land in public ownership set aside for public use which may or may not have developed recreational facilities, such as playgrounds, tennis courts, horse and bike trails, baseball fields, picnic areas, swimming pool, and/or lavatories.

Public Utilities – Telephone, Electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures, sewer pipes, valves or structures; pumping stations, telephone exchanges and repeater stations; and all other facilities, equipment, and structures necessary for conducting a service by a government on a public utility. This definition includes all cellular telecommunication towers licensed by the FCC. It does not include speculation towers erected by companies not licensed by the FCC. Such companies do not meet this definition, even if they have an FCC carrier proposed to operate on their tower. The tower itself must be owned by an FCC licensed company to meet this definition.

Recreational Activities – A development planned, maintained, operated and integrated with a major recreation facility such as a golf course, ski resort, cross country ski trails, little league baseball facility, etc.

Recreational Vehicles and Equipment - Includes boats and boat trailers, pick-up campers or coaches (designed to be mounted on automotive or truck vehicles), motorized dwellings, travel trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Religious Institution - Church, temple, parish home, convent, seminary and retreat houses.

Research Laboratory – An establishment or other facility for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development.

Retail trade - An enclosed store engaged in selling goods or merchandise to the general public, for personal or household consumption and rendering services incidental to the sale of such goods.

Resort - A facility for transient guests where the primary attraction is generally recreational facilities or activities.

Roads - A public or private way which affords the principal means of access to abutting properties.

Road Right-of-Way - The right-of-way line of a road as indicated by usage, dedication, or by deed of record.

Roadside Stand - A permanent or temporary structure used for the display, support, and protection of products with the intent to sell to buyers.

Sanitary Landfill - Publicly operated solid waste disposal in which the waste is spread in thin layers, compacted, and covered with soil at the end of each day.

Sawmill – A facility where lumber is machine cut into boards.

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

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

Setback, Front - The required open space extending across the entire width of the lot between the road center line and the front of the main building.

Setback, Rear - The required open space extending across the entire width of the lot between the rear lot line and the back of the main building.

Setback, Side - The required open space extending from the rear setback line and the front setback line between the side lot line and the side of the main building.

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

Sign - Any material, object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, announcement, direction, advertisement or any other similar message either free standing or printed on a building or structure.

Sign Area - The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure, unless the support is used to form an integral background for the display. The structure supporting the sign shall be excluded unless the structure is designed in such a way to form an integral background for the display.

Sign Face - The area or display surface used for the message.

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

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

Stable, Private - See Farm, Hobby.

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

Stick Built Dwelling Unit - A home which is assembled on site from scratch and which meets the specific standards set forth in the New York State Uniform Fire Protection and Building Code, not those stated in the HUD Code.

Structure - Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Subdivision - The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or divisions of land for any purpose.



Substantial Improvement - Any extension, repair, reconstruction, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure, either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred. The term does not include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Use - The specific purpose or activity for which land or buildings are designed, arranged or intended or for which land or buildings are occupied or maintained.

Variance - Permission to depart from the literal requirements of the ordinance.

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

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

Warehousing - Storage facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

Watershed Area - That area in which all of the surface runoff is concentrated into a particular stream.

Wholesaling - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

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

Yard - An open space that lies between the principal or accessory building or buildings and the nearest lot line.

Yard, Front - An open, unoccupied space on the same lot with a building, between the front setback line and the front lot line, and extending the full width of the lot.

Yard, Rear - An open space, unoccupied except for accessory buildings on the same lot with a building, between the rear setback line and the rear lot line and extending the full width of the lot.

Yard, Side - An open space, unoccupied except for accessory buildings on the same lot with a building, situated between the building and the side lot line, and extending from the front yard to the rear yard.

Zero Lot Line - The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning Board of Appeals - The Town Zoning Board of Appeals.

Zoning District - An area within the Town for which the regulations and requirements governing land use and structures upon it are uniform.

Zoning Enforcement Officer (ZEO) - An individual appointed by the Town Board and given the responsibility to oversee and enforce the zoning ordinance.

## **ARTICLE III. DISTRICT AND DISTRICT MAPS**

### Section 301 Establishment of Zoning Districts

For the purpose of promoting public health, safety, morals, and general welfare of the Town of Otego, the town is hereby divided into the following zoning districts:

- A. Residential Commercial
- B. Rural Residential
- C. Rural
- D. Light Industrial

### Section 302 Zoning District Map

The boundaries of each of the zoning districts listed in Section 301 are hereby established as shown on the duly adopted Zoning Map which accompanies this ordinance and which, with all explanatory matter thereon and amendments thereto, is hereby declared a part of this ordinance. The development limitation overlay maps are also declared to be a part of this ordinance.

A copy of the zoning district map and overlays, including the latest amendments thereto, shall be kept up to date and filed in the Town Clerk's Office for the use and benefit of the public.

### Section 303 Designation of Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of any zoning district, as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, streams or railroads, such center lines shall be construed to be such boundaries.
- B. Where district boundary lines are indicated as following or approximately following plotted lot lines or other property lines as shown on the Town of Otego Tax Map, such lot lines shall be construed to be such boundaries.
- C. Where district boundary lines are shown separated from any parallel or approximately parallel to any of the features listed in paragraphs A and B above, such boundary lines shall be construed to be parallel to such features and at such distance therefrom as shown on the map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.
- D. Where a district boundary line divides a lot of record at the effective date of this ordinance or any subsequent amendment thereto, the regulations for the less restricted part shall extend not more than 50 feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

### Section 304 Determination of Zoning District Boundaries

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 IV. DISTRICT REGULATIONS**

### Section 401 Application of Regulations

Except as hereinafter provided no building, structure or land shall be used or occupied unless for a use expressly permitted by, and in conformity with, the general and supplementary regulations specified in this ordinance for the zoning district in which it is located.

No building shall be erected, nor existing building be moved, altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot area and building location regulations hereinafter designed for the district in which such building or open space is located.

### Section 402 Intent

The legislative intent of Article IV is to set forth land uses or activities which are permitted in the Town of Otego, to specify and designate the zoning districts in which each use or activity will be permitted, with or without special conditions, or after a special permit has been granted, and to establish appropriate density, area, and other bulk regulations which will be applicable within each district.

### Section 403 Schedule of Regulations

Regulations for land uses or activities permitted in the various land use districts, or land uses or activities requiring special permits or conditions attached to them are set forth in Schedule I. (Schedule I is hereby adopted and made part of this ordinance.) Regulations for lot size, yards, building height and similar density, area and other bulk requirements are set forth in the following text.

### Section 404 Residential Commercial District (R-1)

Purpose The purpose of this zoning district is to include those lands that are a mixture of residential and commercial uses. This will enable the fewest number of non-conforming uses and will encourage the continued development of commercial uses along the town's major roads where commercial businesses are likely to settle. This district includes those lands located along State Route 7 and county Route 48. The zoning map specifically describes the boundaries of this district.

### Permitted Uses

1. One, one-family, or two-family stick built or modular unit per lot
2. Agriculture

3. Forest Management Practices
4. Wildlife Management Practices
5. Bed and Breakfasts

#### Permitted Accessory Uses

Located on the same lot with the permitted principal use. Some accessory uses are subject to additional conditions as set forth in Article 500, Supplementary Regulations.

1. Private garage
2. Parking
3. Farm labor dwelling
4. Home occupation, home professional office
5. Private swimming pool
6. Garden house, tool shed, storage shed
7. Nursery/greenhouse, non-commercial
8. Roadside stand, Farm Stand
9. Recreational vehicles and equipment
10. Signs
11. Dish antennae
12. Alternative energy systems, private
13. Private stable, hobby farm, non-commercial agriculture
14. Other uses and buildings that are customarily accessory, provided such uses are clearly incidental to the principal use and does not include any activity commonly conducted as a business.

#### Special Permit Uses

Multiple Family Dwelling  
 Manufactured Home Park  
 Educational Institutions  
 Public Facilities/Utilities  
 Cell Towers  
 Health Care Facilities  
 Religious Institution  
 Animal Hospital Facilities  
 Recreational Activities  
 Building and Farm Supply Retail and Wholesale Stores  
 Business and Offices  
 Carwash  
 Commercial Storage  
 Club  
 Drive-In Uses  
 Eating and Drinking Establishment  
 Hotel/Motel  
 Kennel  
 Motor Vehicles Sales/Repair Shop  
 Convenience Store  
 Retail Trade  
 Service Establishment  
 Shopping Center  
 Service Station  
 Bulk Storage

Research Laboratory  
Sawmill, Lumberyard  
Warehouse and Storage  
Wholesaling  
Gas and Fuel distribution

Special Permit Uses require an application for approval to the Otego Planning Board.

#### Density, Height, Area and Yard Requirements

1. Minimum lot size: 2 acres
2. Minimum frontage: 170 feet
3. Maximum height: 35 feet
4. Front setback: 50 feet from the edge of the right of way of the road or 75 feet from the centerline of the road
5. Side Yard: 25 feet
6. Rear Yard: 35 feet
7. Maximum lot depth ratio: 4-1

#### Section 405 Rural Residential District (R-2)

Purpose – The purpose of this zoning district is to provide for a variety of mixed uses with a minimum small lot size. The small lot size will ensure that first time homebuyers have a chance to erect homes. This district is located along all county roads in the town. The exact boundaries of this district are shown on the town’s zoning map.

#### Permitted Uses –

One, one family or two family stick built or modular unit per lot  
One manufactured home per lot  
Agriculture, Farms, Hobby Farms  
Forest Management Practices  
Wildlife Management Practices  
Bed and breakfasts  
Commercial Gardening

#### Accessory Uses

Same as in residential commercial zone

#### Special Permitted Uses

Townhouse Dwelling  
Apartment Buildings  
Educational Institution  
Recreational Activities  
Public Facilities/Utilities  
Health Care Facilities  
Religious Institution

Animal Hospital Facilities  
Building and Farm Supplies  
Business or Office  
Campground/Summer Camp  
Service Establishment  
Research Laboratory  
Sawmill, Lumberyard  
Wholesaling

#### Density, Height, Area and Yard Requirements

1. Minimum lot size: 2 acres
2. Minimum frontage: 170 feet
3. Maximum height: 35'
4. Front setback: 50 feet from the edge of right of way or 75 feet from the centerline of road
5. Side setback: 35 feet
6. Rear setback: 50 feet
7. Maximum lot depth ratio: 4-1

#### Section 406 Rural District (R-3)

Purpose – The purpose of this district is to permit low density, residential development in those areas of the town that are far removed from services, infrastructure and/or which have steep slopes and environmental features that prohibit densely populated settlements. This zoning district is located along town roads. It also covers those lots in the town that have no public access to a roads. (i.e. their access is through private easements). The exact boundaries of this district are shown on the zoning map.

#### Permitted Uses

One, one family or two family stick built or modular unit per lot  
Agriculture, Farms, Hobby Farms  
Forest Management Practices  
Wildlife Management Practices  
Bed and Breakfasts

#### Accessory Uses

Same as Residential-Commercial Zone and Rural Residential Zone

#### Special Permitted Uses

Educational Institution  
Recreational Activities

Public Facilities/Utilities  
Religious Institution  
Campground/Summer Camp

### Density, Height, Area, and Yard Requirements

1. Minimum lot size: 3 Acres
2. Minimum frontage: 170 Feet
3. Maximum height: 35 Feet
4. Front Yard Setback: 50 Feet from the edge of right of way of 75 feet from the centerline of road
5. Side Setback 35 Feet
6. Rear Setback: 50 Feet
7. Maximum lot depth ratio: 4-1

### Section 407 Light Industrial District (R-4)

Purpose – This zone is an overlay zone, one that has additional requirements beyond that of the district underlying it. The zone overlies part of the Residential-Commercial district in the town and allows for development of properties in the town that are well suited for light industrial use. These lands include those located in close proximity to I88 and those that have been included in the county’s application to the State for designation as an Economic Development Zone (EDZ). This overlay zone is delineated on the town’s zoning map.

Permitted Uses - All uses of the underlying zone.

Accessory Uses – All uses of the underlying zone.

#### Special Permitted Uses

All uses of the underlying zone  
Light industry  
Enclosed Manufacturing

### Density, Height, Area and Yard Requirements

Same as the Underlying District

### Section 408 Equivalent Uses

Any use of land or buildings not specifically listed in Schedule I for the applicable zoning district is not permitted. In the case of any dispute over the meaning of a word, phrase, sentence, definition or of Schedule I, the Zoning Enforcement Officer is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in Article I. Any determination made by the Zoning Enforcement Officer may be appealed to the Zoning Board of Appeals in the manner prescribed in Article IX.

- A. When a use is not specified in Schedule I, a landowner may request in writing the Planning Board to initiate an amendment to this ordinance to provide for the use. The Planning Board shall act upon said request within 90 days, and may pass a resolution to provide for the use if it finds that:
  - 1. There is no clear intent to exclude such uses; and,
  - 2. The proposed use is appropriate within the zoning district and would have no more adverse effects on other uses within the zoning district, or on uses in adjoining districts, than would uses of the same general character permitted in the zoning district.
  - 3. The proposed use is compatible with the Comprehensive Plan.
- B. Upon the passage of such a resolution by the Planning Board, the Planning Board and Town Board shall proceed to act upon the proposed amendment as set forth in Section 910.

#### Section 409 Other Regulations and Exceptions

Additional regulations and appropriate exceptions to the regulations of this ordinance are set forth in Article V, Supplemental Regulations; Article VI, Special Permits; Article VII, Site Plan Review; and Article VIII, Non-Conforming Uses.



## **ARTICLE V. SUPPLEMENTARY REGULATIONS**

### **GENERAL**

#### Section 501 Applicability

Land uses and activities in the Town of Otego which are regulated by this ordinance shall be subject to additional requirements and to limitations and exceptions as set forth in this Article V.

### **LOT CHARACTER**

#### Section 502 Required Open Space or Yard

- A. No area necessary under this ordinance to satisfy area, yard, or other open space requirements in relation to any lot, building, or use shall be counted as part of required open space in relation to any other lot, building or use.
- B. Every part of a required open space or yard shall be open and unobstructed, except for ordinary building projections of sills, chimneys, eaves, and unroofed steps, provided that no such projections extend more than 3 feet into the required yard. Fences, stonewalls, trees, and shrubbery are also excepted.

#### Section 503 Vision Clearance at Intersections

No obstructions to vision, such as shrubbery, brush, trees, earth, or structure, shall be permitted at road intersections within the triangle formed by the intersections of road center lines and a line drawn between points along such lines 30 feet distance from their point of intersection.

#### Section 504 Landscaping Requirements

- A. Where any permitted non-residential land use, multiple-family development or mobile home park abuts an existing residential parcel or a vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in the front, side and/or rear yard which adjoin these uses.
- B. Required landscaping shall be installed and maintained in a healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover.

#### Section 505 Calculation of Lot Coverage

In determining percentage of building coverage of a lot or size of yard, all principal buildings, roofed porches, garages, carports, other accessory buildings and paved parking and driveway areas shall be included.

#### Section 506 Zero Lot Line

When multiple-family dwelling construction takes the form of townhouse units, where each unit has one or both side walls in common with an adjacent unit, the side yard requirements shall double and shall apply only to the end units in the row.

#### Section 507 Corner and Through Lots

Front yard setbacks and minimum road frontages are required on both road fronts. The two remaining yards shall be designated by the applicant as to which will be the rear yard and which will be the side yard.

#### Section 508 Flag Lots

Flag lots may be permitted by the Planning Board during the subdivision review process, where appropriate, to allow for the economical development of back land areas and only under the following conditions.

- A. The access strip of land shall be a minimum of 25 feet wide and shall not exceed a grade of 10 percent.
- B. The minimum lot area, lot width and lot depth requirements shall be met exclusive of the land contained in the access strip.
- C. Minimum front, side and rear setback requirements shall be met, excluding the narrow access strip.
- D. No more than one flag lot shall be served by a single access strip.
- E. Access strips shall be a minimum distance apart of at least the minimum lot width in the zoning district.
- F. Access strip shall not be a right-of-way, but shall be owned in fee title by the owner of the flag parcel.
- G. No more than 10 percent of the lots in a residential subdivision shall be flag lots.

#### Section 509 Lot Size Averaging On a Single Parcel

Any parcel that exists legally on the day of the effective date of this ordinance in the R-1, R-2 or R-3 Districts of the Town of Otego , which is not subject to restrictions or covenants to the contrary, may be divided without a variance under the following conditions, all of which must be met by such division:

- A. The average size of all lots created by such division shall not be less than two acres in the R-1 and R-2 District and three acres in the R-3 District.
- B. No lot shall be created with an area less than one acre; and, in any case, not more than 20 percent of the total number of parcels permitted shall be undersized.
- C. Minimum road frontages and building setbacks shall be in accordance with the respective district regulations.
- D. All lots created that are less than the minimum lot area normally required shall be required to prove suitability for on-site sewage disposal and water supply systems in accordance with Section 515 of this ordinance.
- E. All divisions occurring under this Section shall be classified and reviewed as either a minor or major subdivision under the Town of Otego Subdivision Regulations, if such regulations exist.
- F. No further division of any lot created by such division shall be allowable if such further division would result in an average size of less than two acres or three acres, respectively, for all lots created from the original parcel on record.

## USES, GENERAL

### Section 510 Principal Building Per Lot

- A. There shall be only one principal building per lot, except that, where a sufficiently large parcel exists, additional principal buildings may be established, provided each such structure has an identifiable land area which satisfies the lot area, frontage, and setback requirements of the regulations of the district in which it is located.
- B. No part of any yard or area required for one building or use shall be included as part of the yard or area similarly required for any other building or use.
- C. Applications for a building permit shall show the outline of land associated with second or subsequent principal buildings, with the proposed location of such buildings.
- D. The identified land area associated with each principal building shall be sufficient to provide for an independent water supply and sewage system in accordance with the requirements of Section 515.

### Section 511 Height Exceptions

The height limitations of these regulations shall not apply for barn and silos, private home antennae, spires, belfries, cupolas, water tanks, ventilators, chimneys, solar equipment, windmills, flag poles, skylights, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. (For cell towers see cell towers law)

### Section 512 Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to a street shown on an approved subdivision plat, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

### Section 513 Off-Street Parking Requirements

For every building hereafter erected, altered or changed in use, there shall be provided off-street parking spaces as set forth in the Site Plan Review Local Law No.2 of 1997, Article F, item 3, Off-Street Parking and Loading, section (b) (1). In addition to those requirements a dwelling unit in a one or two family use shall require two (2) parking spaces per dwelling unit on the same lot as the dwelling unit.

Except for one-family and two-family dwellings, all off-street parking spaces are to be arranged so that backing movements take place entirely within the parking area.

#### A. Dimensional Requirements

Each parking space shall have a minimum width of nine feet and a minimum length of eighteen feet (18') and shall be served by suitable aisles to permit access and automobile maneuverability into all parking spaces. Total parking area must provide a minimum of 240 square feet per parking space, including access, egress and circulation.

#### B. Location of Facility

All off-street parking facilities required under this ordinance shall be constructed on or adjacent to the site of main use or on a lot adjoining the main use or directly across the road.

### C. Off-Street Loading Requirement

All commercial and industrial structures, erected after the adoption of this ordinance, shall provide adequate off-street loading facilities. Such facilities shall be sufficient in size to eliminate the projection of vehicles into a road right-of-way.

### Section 514 Performance Standards

In all districts uses are not permitted which exceed the following standards measured at the property line. The Planning Board, under its power of site plan review and approval, shall decide whether uses meet the standards. Uses shall meet State air and water pollution standards and shall not:

- A. Emit noxious gases which endanger health, comfort, safety, or welfare of any person, or have a tendency to cause injury or damage to property, business or vegetation.
- B. Create vibration detectable to normal senses on adjoining properties.
- C. Create glare by lighting or signs which could impair a driver's vision.
- D. Cause harmful or toxic waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.

### Section 515 Sewage Disposal and Water Supply

Unless connection to a municipal waste water treatment system is available and utilized, construction of one and two-family residences is allowed only on lots adequate to on-site sewage disposal and water supply systems conforming to the requirements of the New York State Department of Health publication "Water Treatment Handbook, Individual Systems", as amended. This requirement must be met independently of the minimum lot size allowed in any district and may require an increase in lot size for conformance.

- A. Subsurface sewage disposal systems of the septic tank absorption field are strongly preferred per the NYS Health Code (see Section 75\_a of the NYS Health Code). Alternative designs usually involve increased risk of ground water contamination and will be allowable only when constructed in accordance with a design prepared by a licensed professional engineer or registered architect and approved by the State Health Department prior to the issuance of any building permit.
- B. Absorption fields or alternate means for sewage disposal shall be sited to provide the specified minimum distances to existing wells on adjacent properties and to probable future well locations on adjacent properties.
- C. Residences for three or more families, commercial, industrial, and institutional structures, and mobile home parks containing five or more units shall conform with the applicable sections of the New York State Code.

### Section 516 Permit for Temporary Uses and Structures

The Planning Board may authorize the issuance of a temporary permit by the Zoning Enforcement Officer for incidental and non-conforming uses as follows:

- A. Temporary uses incidental to a construction project. Such uses and structures may include the storage of building material and equipment.

- B. Temporary real estate sales office for the sale of property on the premises.
- C. Other Similar Temporary Incidental Uses.

Permit shall be conditioned upon agreement by owner to remove use on expiration of permit. Such permit shall be authorized for a period of one year and may be extended for two similar periods when the Zoning Enforcement Officer finds such work has been diligently pursued.

Section 517 Abandonment of Construction and Excavation

- A. Within three months following a construction project or the demolition of abandonment of a building or structure, all construction materials shall be removed from the site and excavation filled to normal grade by owner.
- B. Unfenced excavation shall not be permitted.
- C. If the owner fails to cover over or fill such excavation after 30 days notice by the Building Inspector, the Town Board may order said excavation to be covered or filled and shall charge the owner of said property any costs connected therewith.

Section 518 Minimum Habitable Floor Area

- A. One-family and two-family dwellings shall have a habitable floor area of at least 1000 square feet per dwelling unit.
- B. No habitable rooms are permitted in basements of multiple-family dwellings unless a separate outside entranceway is provided to all habitable areas.

Section 519 Environmental Quality Review

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.

Section 520 Uses Not Permitted

Any use not specifically permitted as a principal, accessory or special permit use shall be deemed to be prohibited.

**USES, SPECIFIC**

Section 521 Accessory Buildings

A permitted accessory building or structure, except for farm purposes, may be located in any required side or rear yard, provided:

- A. Such building shall be set back 10 feet from any lot line in R-1 and 20 feet from any lot line in R-2 and R-3.
- B. No accessory building or structure shall project nearer to the front lot line than the principal building.

### Section 522 Bulk Storage

Petroleum bulk storage tanks with a capacity of greater than 1100 gallons shall comply with the Petroleum Bulk Storage Regulations adopted by the New York State Department of Environmental Conservation, and as may be amended. Allowed in R-4 District only.

### Section 523 Campgrounds

- A. Before a special permit for a campground can be issued, there must be evidence that all State Health Department regulations for campgrounds shall be met.

Allowed in R-2 and R-3 districts only by special permit and site plan review.

- B. A minimum of 10 acres of land will be used for the campground.

Allowed in R-2 and R-3 district only, by special permit and site plan review.

### Section 524 Dish Antennae

- A. All dish antennae shall be located in either the side or rear yards, unless the owner can prove his/her only “window of reception” is in the front yard. In the event that no “window of reception” is available on the ground, such antenna may be placed on the roof of the dwelling structure.

- B. The location and design of the dish antenna shall minimize the visual impact on adjacent property as determined by the Zoning Enforcement Officer, appealable to the Zoning Board of Appeals.

### Section 525 Exterior Lighting

In no case shall any exterior lighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot or cause excessive illumination of adjacent lots.

### Section 526 Home Occupations

Must meet the following conditions:

- A. The occupation or activity shall be carried on wholly within the principal building or within a building or other structure accessory thereto. An area equivalent to no more than 33 percent of the floor area of the dwelling shall be used for the occupation. Such area shall be within the dwelling or another structure accessory thereto. No outdoor storage is permitted.
- B. The occupation shall be carried on by the occupant of the dwelling, and not more than two persons outside the resident household shall be employed in the occupation or as assistants.
- C. There shall be no exterior display or sign except as permitted under this ordinance, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the lot of the surrounding neighborhood.
- D. The occupation shall not produce any offensive odor, noise, vibration, smoke, dust, heat, electrical interference or glare detectable to normal sensory perception outside the structure.

- E. Any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this ordinance.
- F. No more than one home occupation shall be permitted in association with a dwelling.
- G. No more than one (1) commercial-type vehicle shall be used in connection with the occupation and/or be parked on the property.

#### Section 527 Junkyards

All junkyards, wrecking yards, or places for the collection of waste materials or inoperable equipment shall conform to the following requirements:

- 1. All such yards, enclosures or areas used for such collection or storage shall be enclosed by an opaque fence, designed to obstruct view from outside, which is at least eight feet in height and entirely surrounds such yard or area.
- B. Materials shall not be collected or stored on a hillside of greater than 10 percent slope, on a flood plain, or within 100 feet of any stream bed.
- C. Materials stored and collected shall not be stacked or piled to a height greater than the closest eight-foot opaque fence.
- D. Operation of a junkyard is conditional upon the granting of an annual operating license from the Town Board in accordance with Section 136 of the General Municipal Law and this Section of this Ordinance.
- E. The outdoor storage of two or more unregistered motor vehicles no longer intended or in condition for legal use, or major portions of such vehicles and/or a comparable quantity of inoperable machines, implements, or appliances, or two or more unregistered travel trailers or camping vehicles shall require licensing as a junkyard. The outdoor storage of one or more uninhabitable mobile homes shall require licensing as a junkyard unless structures are in use for permitted nonresidential or accessory auxiliary uses.
- F. Inoperable agricultural equipment or machinery stored on an operating farm for future restoration or for use as a source of spare parts for other equipment in use on the farm shall not be subject to the above provisions of this Section.
- G. Dump, where paper, garbage, rubbish, trash, toxic chemicals and substances, and other waste materials are disposed, shall meet the requirements of Town of Otego Local Law No. 1 of 2001.

#### Section 528 Mineral Extraction

The removal of more than 1000 tons per year of soil, sand, gravel or quarried stone or the removal of seven hundred fifty cubic yards of the same, whichever is less, or the removal of one hundred cubic yards of minerals from or adjacent to any body of water not subject to the jurisdiction of article fifteen of the Environmental Conservation Laws shall require a New York State Department of Environmental Conservation (DEC) permit.

#### Section 529 Manufactured Homes

Individual manufactured homes shall be subject to all the regulations pertaining to detached, one-family dwellings, in addition to the following standards:

- A. The manufactured home shall be provided with anchors or tie-downs, at least at the corners, attached to concrete footings installed below the frost line or embedded in a concrete slab which shall be provided as the manufactured home stand.
- B. The manufactured home will be provided with skirts to screen the space between the manufactured home and the stand. Such skirts shall be made of concrete block or a permanent material providing a finished exterior appearance, and shall be installed within four months from date of issuance of permit for the manufactured home.
- C. Any construction or storage space, additional rooms, or enclosed patios or carports shall have a finished exterior appearance. No exposed building paper, wallboard or other impermanent and unfinished material will be permitted.
- D. The manufactured home bears the seal required by the State of New York or an equivalent acceptable to the State of New York.
5. No additions shall be made to a manufactured home except a canopy and/or porch open on three sides, or an addition made by the manufactured home manufacturer and/or built in conformance with New York State Uniform Fire Prevention and Building Code Regulations.

### Section 530 Manufactured Home Parks

#### A. Manufactured Home Park Permit

1. No person shall construct or operate a manufactured home park without first obtaining site plan approval and a permit.
2. Application for a Manufactured Home Park Permit shall be made to the Planning Board, and shall be accompanied by a site plan in accordance with the procedures outlined in this ordinance.
3. The Planning Board may accept, accept with recommended changes, or reject plans.

#### B. Manufactured Home Park Standards

1. The minimum lot area for a manufactured home park shall be at least ten acres and contain at least 8,000 square feet per manufactured home site, 14,000 sq. ft. for a doublewide manufactured home site and 350' of road frontage.
2. Sewage disposal and water supply systems shall have the approval of the New York State Department of Health, and shall conform to the requirements of any ordinance or local law of the Town governing such systems, whichever is more restrictive.
3. The area shall be well drained and shall have such grades and soil as to make it suitable for manufactured homes.
4. No manufactured home shall be less than 30 feet from any other manufactured home. Porches, carports, decks and additions shall not intrude into this 30 feet.
5. Each manufactured home site shall provide an approved water supply system and underground electrical service approved by New York State Electric and Gas and New York State Board of Fire Underwriters.
6. Garbage and refuse shall be collected and removed from the premises at least once a week. All refuse shall be stored in fly tight, watertight, rodent-proof containers.
7. A public telephone shall be provided for each manufactured home park, and fire extinguishers, approved by the local fire district officers, shall be furnished so that no manufactured home shall be more distant than 15 feet from such extinguisher.
8. The outside burning of garbage, trash, or rubbish is prohibited.



9. All manufactured homes and other structures shall be set back at least 100 feet from the right-of-way line of any public road or property line and 25 feet from any internal access street.
10. All access roads within a manufactured home park must be at least 30 feet wide and built to subdivision regulation road standards.
11. Off-street parking spaces shall be provided containing at least 200 square feet per space. Two such spaces shall be furnished for each manufactured home and finished to an all-weather surface, such as gravel.
12. All entrances and exits, internal access streets and public spaces shall be adequately illuminated.
13. A strip of land at least 20 feet wide shall be maintained as a landscaped area abutting manufactured home park property lines, inclusive of that portion of said property fronting a public road.
14. The operator of a manufactured home park shall keep a register in which there shall be noted the name and permanent address of every mobile home situated in the park, the registration number of same, the date it was admitted, and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into the park.
15. The Planning Board may require the reservation of a recreational area for exclusive use of the residents therein. The allowance of recreational land shall not exceed 200 square foot of recreational land per manufactured home unit.
16. Sale of manufactured homes shall be permitted at any properly licensed mobile home park.
17. Each manufactured home shall have a sign on the lot, not exceeding one square foot, identifying the manufactured home owner and lot number.
18. All manufactured homes in manufactured home parks shall be installed according to the standards in Section 529, Manufactured Homes.
19. All manufactured homes shall have a building permit prior to being installed in a park.

### Section 531 Model Homes

The Planning Board may authorize the Zoning Enforcement Officer to issue permits for model homes, either in the singular or on several parcels of land later offered for sale. Homes shall meet setback requirements. Model homes on display for the public to visit and inspect, and not intended to be sold as is, shall be required to meet all setback requirements and shall provide for adequate off-street parking spaces as prescribed by this ordinance.

### Section 532 Public Utility and Facilities

Public utility substations and similar structures, shall comply with the following:

- A. Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- B. Landscaped area at least 20 feet wide shall be maintained in front, side and rear yards.
- C. There shall be no equipment visible from surrounding property.
- D. Utility poles and attendant lines will be allowed, as necessary, in all districts.
- E. All FCC licensed cellular towers shall also comply with the provisions in the town's cellular

tower law.

### Section 533 Parking, Storage or Use of Recreational Equipment

- A. Recreational vehicles or other equipment may be parked or stored on any parcel of land provided it complies with the front, side and rear setback requirements and further that it not be parked closer to the front lot line than the principal building.
- B. No such equipment shall be used for living, sleeping, or housekeeping in excess of six (6) months per year when parked or stored on an individual parcel or in any location, except an approved campground, without a building permit. All persons shall register with the town clerk when parking vehicle for living purposes.

### Section 534 Parking and Storage of Certain Vehicles

Selling of an automobile on private property can only be allowed if a permit is obtained from the Town Clerk, at no cost. Only two permits are allowed per year per property.

No more than one automotive vehicle or trailer of any kind or type without current license plates shall be parked or stored on any lot other than in completely enclosed buildings. Farm equipment shall be exempt if located on an operating farm.

1. Limit 2 per year per property.

### Section 535 Signs

These regulations are in addition to those under the town's site plan law.

Signs shall be permitted as an accessory use only according to the standards and conditions listed below:

#### A. General Provisions

1. Signs must be visually appealing, constructed of durable material, maintained in good condition, and must not be allowed to become dilapidated, faded, peeled, blistered.
2. Every sign shall be designed and located in such a manner as to: not impair public safety; not restrict motor vehicle clear vision; not be confused with any traffic sign or signal; and not prevent free access to any door, window or fire escape.
3. Signs may be illuminated by a steady light provided the lighting does not directly illuminate nor cause excessive glare upon adjacent properties and public highways.
4. Flashing or oscillating lights or signs that move or appear to move are not permitted unless necessary for public safety and welfare.
5. No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
6. No freestanding sign shall exceed 15 feet in height above grade level, nor shall any sign be located on the roof of any building or structure.
7. No sign shall be erected within a public right-of-way. All signs shall be set back at least 10 feet from all property lines and the public road right-of-way line. No sign shall overhang across property lines or above public rights-of-way.
8. No sign shall be erected on a public utility pole or traffic control structure.
9. None of the standards in this Section shall apply to road name and traffic control signs erected by the New York State Department of Transportation, Otsego County Highway Department, or the local Town of Otego Highway Department. Other signs necessary

- for public safety and welfare shall also be exempt.
10. No off-premise advertising signs are permitted.

## B. Specific Signs

The following signs are permitted in any district:

1. Professional residence-office and home occupation signs not exceeding six (6) square feet per face.
2. Directional signs shall be permitted in all districts and shall be no larger than six (6) square feet per face.
3. Trespass or Posted Signs: Temporary signs, including, but not limited to, directional signs for meetings, conventions and other assemblies, signs advertising the sale or rental of land or buildings, signs listing the architect, engineer, or contractor and/or owner on premises where construction, renovation or repair is in progress, political posters, not-for-profit promotional signs, private sales or similar signs are permitted subject to the following requirements.
  - a) Signs advertising the sale or lease of property shall not exceed six (6) square feet in area. No more than one per realty firm “for sale” or “for rent” sign is allowed per property.
  - b) Other temporary signs shall not exceed twelve (12) square feet in area.
  - c) All temporary signs shall be removed within 14 days of the event advertised thereon or of the completion of the construction, renovation, or repair.
5. Window signs and wall signs shall not exceed 50 percent of the total display window area or total aggregate wall area.
6. Residential or farm identification name plates not exceeding one per property and four square feet in area.
7. One sign per entrance identifying a residential development and shall not exceed eight (8) square feet.
8. School, church, or other institutional identification signs shall not exceed one per public road frontage and twelve (12) square feet in area.
9. Business, retail, service and industrial identification signs shall be limited to one on-premise sign per public road frontage, not exceeding 32 square feet per face.
10. One non-flashing, illuminated mobile home park sign, containing an area of not more than thirty-two (32) square feet and not more than ten (10) feet above ground level at its highest point, may be displayed. Such sign shall be set back at least twenty (20) feet from any public road and at least fifty (50) feet from any property line.
11. All existing signs, at the time of enactment of this regulation, shall be allowed to remain as long as they are properly maintained and their use remains current, pursuant to Section 705.

## C. Permit Required

A sign permit, issued by the Zoning Enforcement Officer, is required for the erection or alteration of all signs within the Town of Otego except for residential and farm identification nameplates, temporary signs, trespass and posted signs, and window signs.

## Section 536 Swimming Pools

Swimming pools, whether permanent or portable, having a depth of at least two (2) feet, shall meet the side or rear setback requirements.

1. Accessory to Residential Developments

Swimming pools accessory to residential developments, whether clustered single-family dwellings, seasonal dwellings, bungalow colonies, camps or multi-family dwellings, shall be of permanent construction and shall be located not closer than 50 feet to any side or rear lot line and not closer than 50 feet to any dwelling unit and shall meet the side and rear setback requirements.

2. Non-Residential

Swimming pools that are part of non-residential uses, whether commercial or noncommercial, such as hotels, motels, clubs, campgrounds, day-use recreational facilities or institution, shall be of permanent construction and shall be located not closer than the side or rear setback requirements for the district in which it is located.

3. Fencing

Fencing of swimming pools shall comply with the New York State Uniform Fire Prevention and Building Construction Code requirement.

## **ARTICLE VI. SPECIAL PERMITS**

### Section 601 Purpose

It is the intent of this Section to use Special Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location.

### Section 602 Administration

The Town Planning Board will administer the review and granting of Special Permits. Any addition or alteration to uses and buildings authorized by Special Permit requires approval of the Planning Board.

### Section 603 Procedure

- A. The applicant shall submit a completed application to the Planning Board a minimum of 14 days prior to the regular monthly meeting. A completed Environmental Assessment Form shall be submitted at this time in accordance with the State Environmental Quality Review Act.
- B. The application for a Special Permit may be made by the owner of the property or other person with written approval of the owner. Such application shall include a site plan in accordance with the town's site plan law.
- C. At the regular or special meeting, when the completed application is reviewed, the

Planning Board shall schedule a public hearing. It shall be scheduled for within 62 days after the completed application is submitted to the Planning Board and with five (5) business days public notice in the official newspaper. In addition, the applicant shall give notice in writing by Certified Mail to all property owners of the land immediately adjacent to, extending five-hundred feet (500') therefrom, and directly opposite thereto, extending five-hundred feet (500') from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.

- D. The Planning Board shall render a decision, at a regular or special meeting, either approving, approving with conditions, or denying a Special Permit application within 62 days of the public hearing.
- E. A Special Permit shall be construed to be authorization for only one particular special use and shall expire if the special use shall cease for more than six months for any reason. Special uses inherently of a seasonal nature, including, but not limited to, nature centers, campgrounds, recreation areas, and roadside stands, shall have a period extended to 12 months prior to expiration of special permits.

#### Section 604 Standards Applicable to All Special Permit Uses

Before granting a Special Permit, the Planning Board shall be satisfied that all of the following conditions have been met. The Planning Board is authorized to condition Special Permits to ensure compliance with these conditions. (See Section 605, Conditions).

- A. The proposed development is compatible with nearby properties and will not discourage the appropriate development and use of adjacent properties or impair their value.
- 4. Traffic generated by the proposed development can be adequately and safely served by the existing and proposed roads.
- C. The proposed development will not adversely affect community appearance.
- D. The proposed development can be served by necessary community facilities and will not overtax such community facilities. This includes providing adequate access for emergency vehicles as required by Town Law Section 280-A.
- E. Operation of any special use shall not be more objectionable to nearby properties by reason of dust, odor, noise, fumes, vibration, excessive lighting, or water pollution than would the operation of any permitted use.
- F. Special use shall not conflict with the Comprehensive Plan.
- G. Solar access of adjacent properties is not obstructed by said use.
- H. All State Environmental Quality Review requirements have been met.
- I. No Special Permit shall be issued for an existing use on a property where there is an existing violation of this ordinance or other town law or regulation.

#### Section 605 Conditions

The Planning Board, in granting Special Permits, may impose such conditions, safeguards and restrictions upon the proposed development as may be deemed necessary in the public interest to secure compliance with the provisions of this ordinance.

Conditions may include, but are not limited to, the following:

- A. The hours of operation
- B. Access to the subject property
- C. Protection of surface and groundwater
- D. Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners
- E. Adequate sewer and water supplies
- F. Sound limitations as needed to ensure peaceful enjoyment of neighbors
- G. The location, size, height, design of building, walls, fences, landscaping and buffer yard
- H. Covenants and/or homeowners' association for maintenance of applicable restrictions
- I. Timing or phasing of development
- J. Utilities underground
- K. Control of smoke, dust and odor
- L. Bonding as required to ensure standards are met and plans are implemented

No Special Permit shall be issued for a use on a property where there is an existing violation of this ordinance or other town law or regulation.

## **ARTICLE VII. SITE PLAN REVIEW**

See Local law #2 of 1997, Site Plan Review, adopted March 12, 1997.

## **ARTICLE VIII. NONCONFORMING USES, STRUCTURES AND LOTS**

### Section 801 Intent

It is the intent of this Article to permit nonconforming lots, structures, and uses to continue until they are removed, but not to encourage their survival. Therefore, lots, structures and uses of land and/or structures which lawfully existed at the time of enactment of these regulations and which would be prohibited or restricted under the terms of this ordinance may continue subject to the following provisions.

### Section 802 Nonconformance

#### 1. Nonconforming Lot

Any lot which legally existed at the time this ordinance was enacted and which is deficient in depth, width, frontage, area or other dimensional requirement when compared to the present requirements of the zoning district (See Sections 803 and 804).

#### 2. Nonconforming Structure

Any structure, building or sign which legally existed at the time of enactment of this ordinance and which is used for a permitted use, but does not conform to the present requirements of zoning district for size, dimensions or setbacks (See Sections 803 and 805).

#### 3. Nonconforming Use

Any use of land, premises, building or structure, legally existing at the time of enactment of this ordinance, which is not a permitted use, permitted accessory use or special permit use as specified in the regulations applicable to the zoning district in which such use is located (See Sections 803 and 806).

### Section 803 General Provisions

A. Construction Approved Prior to Enactment of This Ordinance – Nothing contained in this ordinance shall require any change in plans, construction or designation of use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit.

B. Transference – Rights granted to nonconforming lots, structures and uses pursuant to this

Article shall remain with the land when title is transferred.

- C. No unlawful use of property existing at the time of enactment of this ordinance shall be deemed a nonconforming use; no unlawful structure existing at the time of enactment of this ordinance shall be deemed a nonconforming structure; no unlawful lot existing at the time of enactment of this ordinance shall be deemed a nonconforming lot.
- D. District Changes, Ordinance Amendments – Whenever the boundaries of a zoning district are changed so as to transfer an area from one district to another district of a different classification, or whenever the text of this ordinance is changed, the provisions of this Article shall also apply to any use, structure or lot made nonconforming by district change or ordinance amendment.
- E. Existing Special Uses Deemed Conforming – Any use lawfully existing at the time of the enactment of this ordinance, in the zoning district in which such use is classified herein as a special use, shall, without further action, be deemed a conforming use; provided any extension of or addition to such use shall require a special use permit and if applicable, site plan review.

#### Section 804 Nonconforming Lots

A. On any lot nonconforming because of insufficient width, side yard requirements shall be reduced in accordance with the following standards:

<u>Width of Lot at Front Yard Setback Line (Feet)</u>	<u>Minimum Side Yard Width</u>
Less than 55	5
55 but less than 65	8
65 but less 75	10
75 but less than 85	12
85 but less than 100	15
More than 100	20

B. Depth or Area:

On any lot nonconforming because of insufficient depth or area (acreage) front setback requirements shall not apply for additions to existing buildings located on such lots; provided such additions shall not exceed the present front line of the main structure if such main structure is located closer to the front property line than would be permitted by this ordinance.

C. Subdivision:

A nonconforming lot may be subdivided if every part of such lot is purchased by the owners of adjoining properties to increase the dimensions of such adjoining properties. Otherwise, the dimensions of a nonconforming lot may not be reduced.



## Section 805 Nonconforming Structures

- A. Nonconforming structures may be enlarged or altered provided such construction will not result in the increase of any nonconformity in height, setback, land coverage or other dimensional requirement; all new construction shall conform to height, setback, size, land coverage and other applicable dimensional requirements.
- B. Nothing in this Article shall prevent normal maintenance and repair of any nonconforming building or structure.
- C. No nonconforming structure shall be moved to another location where such building or structure would also be nonconforming.
- D. Any nonconforming structure may be restored or reconstructed after being destroyed or damaged by fire, accident or other act of God provided that the restoration or reconstruction is started within twelve (12) months and completed within eighteen (18) months after such damage is incurred.

## Section 806 Nonconforming Uses

### A. Nonconforming Use of Land

Where no building is involved, the nonconforming use of land may be continued, provided however:

1. That no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that lawfully occupied by such use at the time of the enactment of this ordinance, unless specifically allowed by other provisions hereof.
2. That no such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land lawfully occupied by such nonconforming use at the time of enactment of this ordinance.
3. That, if such nonconforming use of land or any portion thereof ceases for any reason for any continuous period of more than one year, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this ordinance.
4. That no nonconforming use of land shall be changed to another nonconforming use.

### B. Nonconforming Use of Structures

No building or structure used for a nonconforming use shall be enlarged, extended or moved nor additional structures allowed be allowed. In the case of mobile (pre-1976) or manufactured housing, however, the following applies.

The Zoning Board of Appeals may grant a special use permit to allow a legally existing, non-conforming mobile or manufactured home to be replaced by a newer manufactured home or a larger manufactured home (including replacing a single-wide with a double wide). In doing so the Zoning Board of appeals shall apply the standards of paragraph D below

- C. Once changed to a conforming use, the use of any structure shall not be permitted to revert to a nonconforming use. The Board shall apply the standards of paragraph D below
- D. In granting special use permits for changes permitted in paragraphs B. , the Zoning Board of Appeals shall find the following:
  - 1. The procedural requirements of Section 529 have been met. (Note: The Zoning Board of Appeals shall act as the administrative agent responsible for holding hearings and carrying out the procedural requirements for these special use permits.)
  - 2. The applicant has shown that the proposed change will be no more objectionable in external effects than the existing nonconforming use with respect to:
    - a) Traffic generation and congestion, including truck, passenger car and pedestrian traffic
    - b) Noise, smoke, dust, noxious matter, heat, glare, vibration
    - c) Storage and waste disposal
    - d) Appearance
- E. Maintenance and repair work as is required to keep a structure housing a nonconforming use in sound condition shall be permitted.
- F. Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of enactment of this ordinance.
- G. Whenever a nonconforming use of a structure has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be conforming with the provisions of this ordinance. Discontinuance necessary, pending action by a probate court, shall not be counted as part of the one-year period.
- H. If a building or structure or part thereof containing a nonconforming use has been damaged or partially destroyed by any cause, it may not be reconstructed or restored unless reconstruction or restoration plans are submitted to the Zoning Board of Appeals for approval within twelve (12) months of said destruction damage. Such nonconforming use shall be reconstructed or restored with the same or less floor area and cubic content, and with the same or improved site layout as that of the original structure. This paragraph shall only apply if the damage exceeds 33 percent of the value of the structure at the time of damage.

#### Section 807 Manufactured Homes

Existing manufactured homes that, for whatever reason, are to be replaced on the same lot and/or on the same site, shall only be replaced with a manufactured home meeting the requirements of this ordinance and the construction standards of the New York State Uniform Fire Prevention and Building Code.

## **ARTICLE IX. ADMINISTRATION**

### Section 901 Enforcement

The duty of administering and enforcing the provisions of this ordinance is hereby conferred upon the Zoning Enforcement Officer. He shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

### Section 902 Duties and Procedures of the Zoning Enforcement Officer

#### A. Administer the Zoning Ordinance

The Zoning Enforcement Officer shall review all applications for building permits and, if the minimum requirements of this ordinance are met, he shall issue a Zoning Permit.

If the applicant's plans do not meet the zoning requirements, he must deny the Zoning Permit. The Zoning Enforcement Officer may not use discretionary judgment. He must enforce the "Letter of the Law."

#### B. Referral to the Zoning Board of Appeals

An applicant, after he has been denied a Zoning Permit, may appeal the Zoning Enforcement Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Zoning Enforcement Officer shall notify the Secretary of the Zoning Board of Appeals of the request and forward all necessary supporting information.

#### C. Referral to Town Planning Board

Any application for a Special Permit, change of zoning district or use that requires a Site Plan Review shall be forwarded by the Zoning Enforcement Officer to the Secretary of the Town Planning Board along with all supporting information.

#### D. Cite Zoning Violations

For any plans, construction, building, or use of premise found in violation of this ordinance, the Zoning Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to issue a stop order to constrain the continuance of violation.

#### E. Report to Town Board

A monthly report to the Town Board describing and enumerating actions taken and Zoning Permits issued shall be given.

#### F. Public Record

The Zoning Enforcement Officer shall file all permit actions with the Town Clerk.

## Section 903 Permits Required

The Building Inspector shall not issue a Building Permit unless and until the Zoning Enforcement Officer has issued a Zoning Permit or determined that a Zoning Permit is not required.

No use or structure shall be established, erected nor land developed until a Zoning Permit has been issued by the Zoning Enforcement Officer who shall issue such permits in accordance with regulations in this Code.

### Pre-application Conference with Planning Board

Pre-application conferences with the Town's Planning Board are encouraged for all applicants seeking permits for nonresidential uses or non-farm uses.

#### A. Application

All applications for Zoning Permits shall be in writing, signed by the owner, on forms furnished by the Zoning Enforcement Officer and shall be filed with the officer and briefly state:

1. Nature and definite purpose of the building or use sought.
2. Description of the property and buildings to be placed thereon.
3. Statement of any restrictions by deed or other instrument of record.
4. An agreement to comply with this ordinance and all other laws, ordinances and regulations that may be applicable.
5. Such other information as the Town Board, the Board of Appeals or Zoning Enforcement Officer may require.

#### B. Action

The Zoning Enforcement Officer shall act upon all applications for Zoning Permits within 20 working days from the day of application. Such official shall issue or refuse to issue such permits.

#### C. Refusal

Where the proposed construction, alteration or use of the building or lot is in violation of any of the provisions of this ordinance or when a Special Permit or site plan approval is needed, the permit shall not be issued. Such refusal shall be in writing, a copy of which shall be sent to the applicant. Such refusal will enable the applicant to submit an appeal to the Zoning Board of Appeals, or the Town Board or Planning Board, as specified elsewhere in this ordinance, for relief from the Zoning Enforcement Officer's decision.

#### D. Term

A Zoning Permit shall become void 12 months from the date of issuance unless substantial progress has been made since that date on the project described therein; provided, however, that the permit shall be renewed by the Zoning Enforcement Officer for an additional 12 months upon application therefore. Additional extensions shall be subject to approval by the Zoning Board of Appeals.

E. Explanation

1. Farm Structures: No Zoning Permit shall be required for any farm building or use as defined in Article II of this ordinance.
2. Maintenance and Repair: No Zoning Permit shall be required for normal maintenance and repair work, for painting, interior decoration, landscaping and the construction of a structure, such as a utility shed or animal shelter, where the total floor area is 144 square feet or less.

F. Environmental Assessment

Until authorized by the appropriate lead agency, no building permit shall be issued for any proposed building or land use which would require an environmental assessment in accordance with the State Environmental Quality Review Act of 1975 and any County or Town rules and regulations enacted pursuant thereto. Such application shall be referred to the appropriate lead agency for a determination as to whether an environmental impact assessment will be required.

G. Fees

All fees shall be paid at the office of the Town Clerk upon filing an application. Fees shall be in accordance with the Town of Otego standard fee schedule.

Section 904 Certificate of Zoning Compliance

1. Applicability

1. No land shall be occupied or used and no building, hereafter erected, altered or extended shall be used or changed in use until a Certificate of Compliance shall have been issued by the Zoning Enforcement Officer stating that the building or proposed use thereof complies with the provisions of this ordinance.
2. No nonconforming use shall be maintained, renewed, changed or extended without a Certificate of Compliance and/or Certificate of Existing Use having first been issued by the Zoning Enforcement Officer.
3. All Certificates of Compliance shall be applied for coincident with the Application for a Zoning Permit. Said Certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.
4. The Zoning Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary to tenancy interest in the building affected.
5. No permit for excavation for, or the erection or alteration of, or repair to any building shall be issued until an application has been made for a Certificate of Compliance.
6. The Building Inspector shall not issue a Certificate of Occupancy unless and until the Zoning Enforcement Officer has issued the Certificate of Compliance.

## B. Refusal

If the Zoning Enforcement Officer, after such final inspection, refuses to issue a Certificate of Compliance, he shall state such refusal in writing with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

## C. Temporary Certificate of Compliance

If use or occupancy of land, a building, or part thereof, is desired prior to completion of all details proposed in the application for which a Zoning Permit was issued, the Planning Board, upon request, may authorize the Zoning Enforcement Officer to issue a temporary Certificate of Compliance. A letter of credit, or equal security, or sufficient amount to complete all unfinished improvements may be required by the Planning Board before a Temporary Certificate is authorized..

## Section 905 Board of Appeals

### A. Creation, Appointment and Organization

A Board of Appeals shall consist of five members appointed in accordance with Section 267 of the Town Law. The Town Board shall designate a chairman, and from its membership the Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs. No person who is a member of the Town Board or Planning Board shall be eligible for membership on such Board of Appeals.

### B. Powers and Duties

The Board of Appeals shall have all the powers and duties prescribed as statute and by this ordinance, which are more particularly specified as follows:

1. Interpretation: Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. Appeals for Variances: Upon denial of a zoning permit by the Zoning Enforcement Officer, the Zoning Board of Appeals shall hear requests for variances.
3. Area Variances: Area variances may be granted where setback, frontage, lot size, density or yard requirements of this ordinance cannot be reasonably met. In making decisions, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Zoning Board of Appeals shall also consider:
  - a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance;
  - b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - c) Whether the requested area variance is substantial;
  - d) Whether the proposed variance will have an adverse effect or impact on the

physical or environmental conditions in the neighborhood or district; and  
e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health safety and welfare of the community.

4. Use Variances: Use variances may be granted by the ZBA for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

No such variance shall be granted by a Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:

- a) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
- b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d) That the alleged hardship has not been self-created.

5. Procedure:

- A) all applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Zoning Enforcement Officer;
- 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 Zoning Board of Appeals shall:
  - i) schedule a public hearing within 62 days
  - ii) arrange publication of notice of public hearing in the Town's official newspaper
  - iii) The applicant shall give notice in writing by Certified Mail to all property owners of the land immediately adjacent to, extending five hundred feet (500') therefrom, and directly opposite thereto, extending five hundred feet (500') from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Zoning Board with post office receipts as proof of notification.
  - iv) all use variances submitted to the Board of Appeals shall be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue its report within 30 days, the Board of Appeals shall assume that a favorable report has been issued.
  - v) refer application to the County Planning Board as required by General Municipal Law Section 239, if required

- vi) determine whether a Draft Environmental Impact Statement should be required
- D) within 62 days of the public hearing, the Zoning Board of Appeals shall render a decision. If matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals' findings and decision must be sent to the County Planning Board.
- E) If a use variance is issued, the applicant must complete the project within three (3) years from the filing date of the original approval with the Town Clerk. If the project is not completed within the time period, the use variance shall be deemed abandoned. If the project is more that seventy five percent (75%) complete within this time period, the applicant may petition for an extension of time.

### Section 906 Planning Board

#### A. Creation, Appointment and Organization

A Planning Board shall consist of five members appointed in accordance with Section 271 of the Town Law. The Town Board shall designate a chairman, and the Planning Board shall, from amongst its members choose a secretary and vice-chairman. The Planning Board shall prescribe rules for the conduct of its affairs. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.

#### B. General

In all cases where this ordinance requires authorization and approval of plans by the Planning Board, no Zoning Permit shall be issued by the Zoning Enforcement Officer except upon authorization of and in conformity with the plans approved by the Planning Board.

#### C. Site Plan

The Town of Otego hereby authorizes the Planning Board to review and approve, to approve with modification, or to disapprove site plans.

#### D. Special Permits

The Planning Board is further authorized to issue Special Permits upon determination that the public health, safety and welfare shall be served and neighboring properties will not be injured.

### Section 907 County Planning Board

The Zoning Enabling Laws require that any of the following local zoning actions 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 (re-zoning, amending the zoning law) which would affect the real property lying within a distance of 500 feet from the boundary of:

- A. Any county



- B. Any town
- C. Any village
- D. Any existing or proposed county or state park
- E. Any right-of-way of any county or state road or parkway
- F. Any stream or canal owned by the county
- G. Any existing or proposed county or state owned land on which a public building or institution is situated must be referred to the County Planning Board who shall have 30 days from date of County receipt to take action on the matter.

Section 908 Violations

A. Complaint of Violations

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed, and shall be filed with the Zoning Enforcement Officer who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

B. Notice of Violation

Whenever, in the opinion of the Zoning Enforcement Officer, after examination and inspection, there appears to exist a violation of any provision of this ordinance, or of any rule or regulation adopted pursuant thereto, he/she shall serve a written notice of violation. Such notice of violation shall inform the recipient of:

1. The nature and details of such violation.
2. Recommended remedial action which, if taken, will effect compliance with the provisions of this ordinance and with rules and regulations adopted pursuant thereto.
3. The date of compliance by which the violation must be remedied or removed.

C. Stop Work Order

In case of noncompliance with this order within allotted time, the Zoning Enforcement Officer, by reason of the defective or illegal work in violation of the provision or requirement of this ordinance the continuance of a building operation is contrary to public welfare, shall order in written form all further work to be stopped, and may require suspension of work until the conditions in violation have been remedied.

D. Abatement of Violation

Appropriate action proceedings may be taken at law, or in equity to prevent unlawful construction or to restrain, correct or abate the violation, or to prevent the illegal occupancy of a building, structure or premises; or to prevent illegal act, conduct a business in or about any premises, shall be written in addition to penalties otherwise prescribed by law.

## E. Penalties

Violators of this ordinance will be notified by the Zoning Enforcement Officer via Certified Mail. If the violations have not been removed within 20 days of the date of receipt of letter, a summons will be issued subjecting the violator to fines of not more than \$100.00 per day, commencing at the termination on the ten-day grace period.

## Section 909 Amendments

### Procedure for Amendments

1. Official notice must be given and a public hearing held by the Town Board as required by law prior to approval of amendments or other such modifications as mentioned herein.
2. Each petition requesting a change of zoning, regulations or district boundaries shall be typewritten, signed by the owner, filed in triplicate, and accompanied by the required fee.
3. Every such proposed amendment shall be referred to the County Planning Board, when applicable, and to the Planning Board for a report to the public hearing. The Planning Board may require a plan of proposed development for which a zoning district change is sought to assist said board in the understanding of the case.
4. In case, however, of a protest against such change signed by the owners' of 20 percent or more of the area of land included in such proposed change, or of that immediately adjacent extending 100 feet therefrom, or of that directly opposite thereto and extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board as set forth by Section 265 of the Town Law of the State of New York.
5. Before adopting any proposed amendment to this ordinance, the Town Board shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review Act and may determine that an environmental impact statement on such amendment shall be prepared.
6. In approving subdivision plats which involve modifications of the zoning regulations, the Planning Board may make such zoning changes only after these have been disclosed at the public hearing required by the Land Subdivision Rules and Regulations for the Town. Changes made pursuant to this section are at the discretion of the Planning Board and must be made in accordance with the provisions of Section 281 of Article 16 of Town Law of the State of New York and Section 107 B) of the Town of Otego Subdivision Regulations.

## Section 910 Penalties

### A. Penalty for Offense

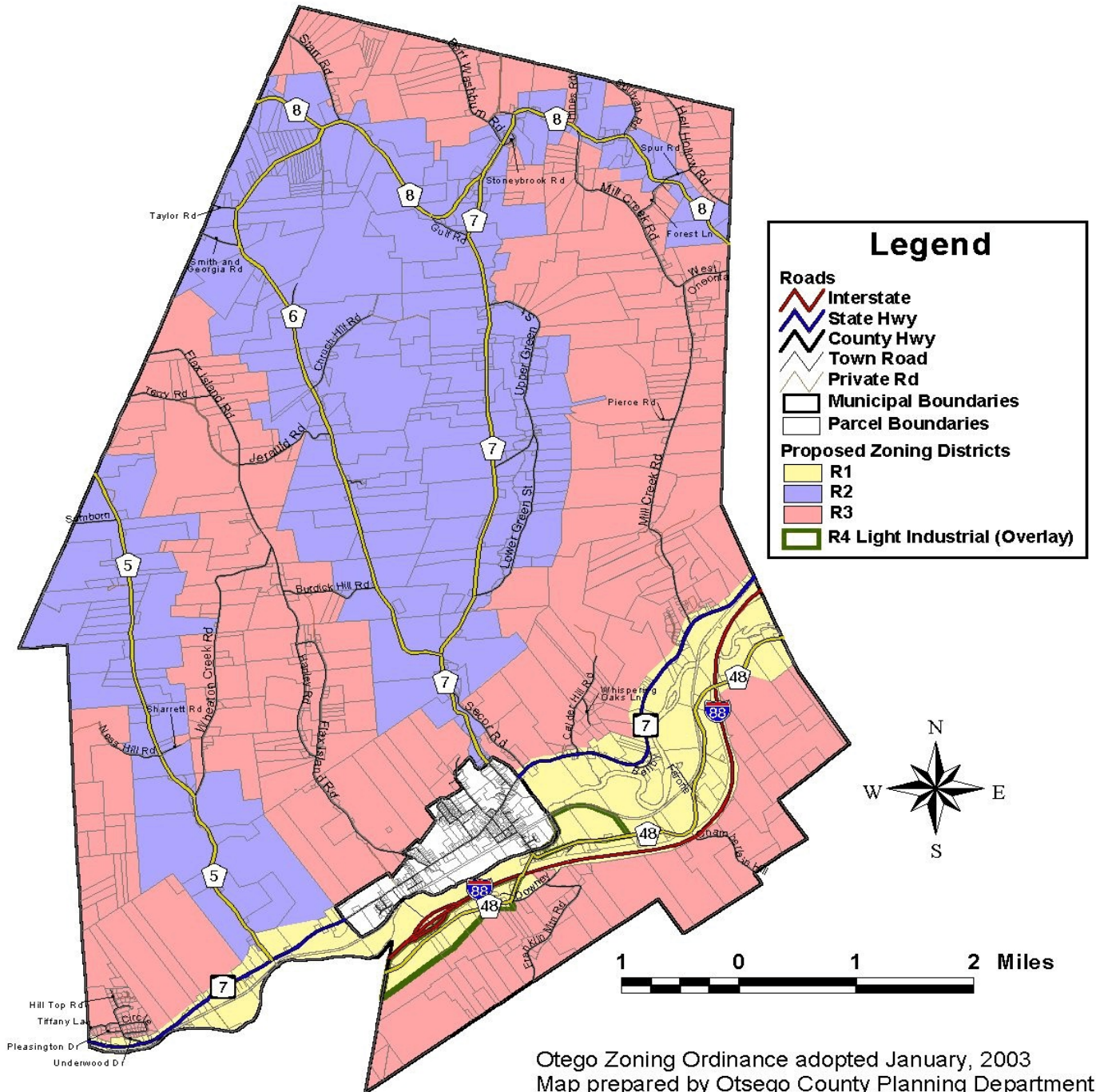
Penalties for violations are found in Section 268 of the Town Law

### B. Justice Court

The Justice Court of the Town of Otego shall have original and trial jurisdiction over the summons and information filed charging a violation of this ordinance.

# Town of Otego

## Zoning Map



Otego Zoning Ordinance adopted January, 2003  
 Map prepared by Otego County Planning Department  
 September 24, 2001; MRH

**TOWN OF OTEGO ZONING ORDINANCE  
SCHEDULE I  
TYPES OF USES AND DISTRICTS**

**P - Permitted**

**SP - Special Permit**

**X - Not Permitted**

<b>Residential Uses</b>	<b>Districts</b>			<b>Site Plan Required</b>
	<b><u>R-1</u></b>	<b><u>R-2</u></b>	<b><u>R-3</u></b>	
One-Family Stick Built Or Modular Unit	P	P	P	
Two-Family Stick Built Or Modular Unit	X	P	P	
Manufactured Home	SP	P	X	yes
Mobile Home	X	P	X	
Manufactured Home Park	SP	X	X	yes
Townhouse Dwellings	X	SP	X	yes
Apartment Buildings	X	SP	X	yes

**Agricultural, Natural Resource**

Agriculture	P	P	P
Farms	X	P	P
Hobby Farms	X	P	P
Forest Management	P	P	P
Wildlife Management	P	P	P
Commercial Gardening	X	P	X

## Public Use

Educational Institution	SP	SP	SP	yes
Health Care Facility	SP	SP	X	yes
Public Facilities/Utilities	SP	SP	SP	yes
Religious Institution	SP	SP	SP	yes
Recreational Activates	SP	SP	SP	yes

## Commercial Uses

Animal Hospital	SP	SP	X	yes
Bed and Breakfast	P	P	P	
Building and Farm Supply	SP	SP	X	yes
Business and Offices	SP	SP	X	yes
Campground/Summer Camp	X	SP	SP	yes
Car Wash	SP	X	X	yes
Club	SP	X	X	yes
Commercial Storage	SP	X	X	yes
Convenience Store	SP	X	X	yes
Drive-In Use	SP	X	X	yes
Eating and Drinking Establishment	SP	X	X	yes
Hotel/Motel	SP	X	X	yes
Kennel	SP	X	X	yes
Motor Vehicle Sales and Repair Shop	SP	X	X	yes
Recreational Activities	SP	SP	SP	yes
Research Laboratory	SP	SP	X	yes
Retail Trade	SP	X	X	yes
Sawmill, Lumberyard	SP	SP	X	yes
Service Establishment	SP	SP	X	yes
Shopping Center	SP	X	X	yes
Service Station	SP	X	X	yes
Wholesaling	SP	SP	X	yes

## Industrial Uses

Bulk Storage	SP	X	X	yes
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Enclosed Manufacturing	<b>ALLOWED IN LIGHT</b>			
Light Industry	<b>INDUSTRY OVERLAY</b>			
Mineral Extraction	<b>DISTRICT ONLY</b>			
Warehouse and Storage	SP	X	X	yes
Gas and Fuel Distribution	SP	X	X	