

LOCAL LAW FILING

NEW YORK STATE DEPARTMENT OF STATE

One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Be it enacted by the TOWN BOARD of the TOWN of ONTARIO as follows:

Local Law #5 of 2023

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 5 of the Town of Ontario was duly passed by the Town Board on November 13, 2023, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. N/A of 20

 ,
Of the Town of Ontario was duly passed by the _____

(Name of Legislative Body)

on _____ 20 _____, and was (approved) (not approved) (repassed after disapproval)

by the _____ and was deemed duly adopted on _____ 20 _____,

(Elective Chief Executive Officer*)

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. N/A of 20 _____, of the Town of Ontario was duly passed by the Town Board on _____ 20 _____, and was (approved) (not approved) (repassed after disapproval) by the Supervisor on _____ 20 _____.

Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. N/A of 20 _____, of the Town of Ontario was duly passed by the Town Board on _____ 20 _____, and was (approved) (not approved) (repassed after disapproval) by the Supervisor on _____ 20 _____.

local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _ N/A__ of 20 _____, of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 20 ____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. N/A__ of 20 _____, of the County of _____ Sate of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)

Shelley LaRocca, RMC
Town Clerk Town of Ontario

Adopted: 11/13/2023

TOWN OF ONTARIO, WAYNE COUNTY, NEW YORK
LOCAL LAW 5, 2023

BE IT ENACTED, by the Town Board of the Town of Ontario, Wayne County, New York, a local law to make certain amendments to the Zoning Code of the Town of Ontario as set forth herein and by amending the existing Zoning Map of the Town of Ontario to bring it into conformance with the amendments and by adding a new schedule I consisting of a lot and bulk regulation table and a new schedule II consisting of a land use or activities table and adding such tables to the amended Town Code by this Local Law.

SECTION I

Chapter 150 of the Zoning Code of the Town of Ontario enacted by Local Law 1 of 2007 as is set forth in Exhibit A attached hereto is and the same is hereby Amended to read as is contained in Exhibit B attached hereto.

SECTION II

The Zoning Map of the Town of Ontario which is shown on Exhibit C attached hereto be and the same is hereby amended as shown on Exhibit D attached hereto.

SECTION III

Adding Schedule I : Lot and Bulk Requirements to the Zoning Laws and Code as a schedule of Use Regulations of the Town of Ontario. A copy of the schedule is attached hereto as Exhibit E.

SECTION IV

Adding Schedule II : Land Use or Activities Table to the Zoning Laws and Code of the Town of Ontario as a schedule of Use Regulations of the Town of Ontario. A copy of the amended tables are attached hereto as Exhibit E.

EXHIBIT A

Chapter 150. Zoning

[HISTORY: Adopted by the Town Board of the Town of Ontario 4-23-2007 by L.L. No. 1-2007.^[1]
Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 54.
Electrical standards — See Ch. 68.
Excavations and fill — See Ch. 75.
Building code compliance — See Ch. 80.
Flood damage prevention — See Ch. 84.
Adult entertainment uses — See Ch. 105.
Swimming pools — See Ch. 128.
Telecommunication towers — See Ch. 133.
Watershed management control — See Ch. 147.

ATTACHMENTS

Attachment 1 - Required Yard Illustration 

Attachment 2 - Street Intersection 

[1] *Editor's Note: This local law also superseded former Ch. 150, Zoning, adopted 6-24-1996 by L.L. No. 1-1996. as amended.*

Article I. Title, Purpose and Scope

§ 150-1. Title.

This chapter shall be known as the "Zoning Chapter of the Town of Ontario, New York."

§ 150-2. Purpose.

Pursuant to the provisions of Article 16 of the Town Law of the State of New York, this chapter is enacted in the interest and for the purpose of promoting the health, safety, morals and general welfare of the community and shall include the following purposes:

- A. To lessen congestion in the streets and secure safety from fire, flood, panic and other dangers.
- B. To promote health and general welfare and to provide adequate light and air.
- C. To prevent the overcrowding of land and avoid undue concentrations of population.
- D. To facilitate the adequate provision of public facilities for transportation, water, sewage disposal, schools, parks and other public requirements.
- E. To make provision for, so far as conditions may permit, the accommodation of alternate energy systems and equipment.
- F. To conserve the value of buildings and encourage the most appropriate use of land in accordance with a comprehensive plan.

G. To preserve the economic and commercial viability of the Town of Ontario.

H. To preserve the quality and character of life in the Town of Ontario.

§ 150-3. Scope.

In pursuance of the above purposes, this chapter shall, among other things, regulate and restrict as follows: the density of population; the location and use of buildings, structures and land for trade, industry, residence or other purposes; the height and size of buildings and other structures; the percentage of lot that may be occupied; as well as the size of yards, courts and other open spaces.

Article II. Word Usage and Definitions

§ 150-4. Word usage.

In the interpretation of this chapter, the following rules shall apply:

- A. Words used in the present tense shall include the future tense.
- B. The singular includes the plural.
- C. The word "person" includes a partnership, trust, an estate and corporation as well as an individual.
- D. The word "lot" includes the word "plot" or "parcel."
- E. The term "used" or "occupied," as applied to any land or structure, shall be construed to include the words "intended, arranged or designed to be used or occupied."

§ 150-5. Definitions.

The following shall define the words used in this chapter:

ACCESSORY BUILDING OR STRUCTURE

A subordinate building or structure, the use of which is customarily incidental to that of the principal building and which is located on the same lot with the principal building. "Accessory building" includes a garage, swimming pool, private stable, barn, toolhouse, children's playhouse, utility shed and similar uses.

[Amended 8-10-2009 by L.L. No. 2-2009]

ACCESSORY USE

A use, not otherwise contrary to the provisions of this chapter, that is incidental and subordinate to the principal use and located on the same lot therewith. In no case shall an accessory use on a residential lot be used for commercial purposes or dominate in area, extent or purpose the principal, lawful use of the lot. When a variance has been granted by the Zoning Board of Appeals, there shall be no accessory use unless such use has been specifically approved as part of the variance.

ALTERATION OF BUILDING OR STRUCTURE

Any change in supporting members of a building, any addition to a building or removal of a building from one location to another.

ALTERNATIVE ENERGY SUPPLY SYSTEMS

Any structures, equipment, devices or construction techniques used for the capture and/or production of energy, including electricity, heat, light, cooling, gas production or other forms of energy on site; either attached to, incorporated within or separate from a principal structure.

Allowable alternative energy supply systems include: wind energy collection, production, distribution and usage systems; active and passive photovoltaic (PV) solar energy collection, production, distribution and usage systems; gas collection, production, distribution and usage systems, including farm and other waste management systems; heat and cooling energy collection, production, distribution and usage systems, including steam, geothermal and combined heat and power (CHP) applications; biofuel and biomass collection, production, distribution and usage systems, including biodiesel, ethanol and other biofuel applications utilizing organic feedstocks. For the purposes of this definition and chapter, "alternative energy supply systems" may include improvements and/or services that cooperatively provide energy to one or more parcels in allowable districts that share common ownership and/or control through one or more public benefit corporations and/or local development corporations.
[Added 7-14-2008 by L.L. No. 3-2008]

APARTMENT HOUSE

A multifamily dwelling.

AUTOMOBILE SALES AREA

An area used for the display, sale or rental of new or used automobiles and where no repair work is done.

BASEMENT

A story partly below grade and which has 1/2 of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building.

BED-AND-BREAKFAST

An owner-occupied one-unit dwelling within which is provided overnight accommodations for transient guests who stay up to five nights and which includes the serving of breakfast but no other meal to such guests.

BLOCK

The length of a street between two street intersections.

BOARDER

A person, residing with a family, who is provided with sleeping facilities, with or without meals, for gain on other than a daily or transient basis.

BOARDINGHOUSE or ROOMING HOUSE

A dwelling, other than a hotel or motel, where six or more unrelated persons are sheltered, with or without meals, for gain.

BUILDING

Any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels and intended for the shelter, housing or enclosure of persons, animals or goods.

BUILDING AREA

The minimum first-floor area used for living purposes shall be the horizontal area of a building, measured at the ground level along the exterior of the foundation walls, excluding accessory buildings, open porches, terraces, steps and garages, whether attached or unattached.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade on the uphill side of the building to the highest point of the roof.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades (including glass and other facade material), semitransparent skylight systems, roofing materials, and shading over windows.

[Added 6-11-2018 by L.L. No. 2-2018]

BUILDING LINE

An imaginary line formed by the intersection of the ground and a vertical plane that coincides with the most projected exterior surface of a building, on any side.

BUILDING LINE, FRONT

The building line of that face of a principal building nearest the front lot line. In the case of a corner lot, each building line facing a street line shall be considered a front building line.

CAMP

Any area of land on which are located two or more cabins, tents, trailers, shelters, recreation vehicles or similar accommodations of a design or character suitable for short-term or seasonal use and having drinking water and sewage disposal facilities approved by the Health Department; a camping ground.

CAMPGROUND; TRAVEL-TRAILER PARK

Any lot, parcel or tract of land on which two or more camp or travel trailers are located or parked for transient or seasonal use, regardless of whether or not a charge is made for such accommodations.

CAR (AUTO-VEHICLE) WASH

Any building or premises, or portion thereof, the use of which is devoted to the business of washing cars (autos or trucks) for a fee, whether by automated cleaning devices or otherwise.

CELLAR

A space partly underground but having more than 1/2 of its floor-to-ceiling height below the average outside ground level; an uninhabited space unless designed as an earth-sheltered residence.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Code Enforcement Officer upon the completion of a construction, alteration or change in occupancy or use of a building and acknowledging compliance with all requirements of this chapter and such modifications thereto approved by the Zoning Board of Appeals, the Planning Board or Town Board and the New York State Uniform Fire Prevention and Building Code.

CHURCH or PLACE OF PUBLIC WORSHIP

A building or area of public assembly for worship.

CLINIC, HEALTH-RELATED

A building or portion thereof, the principal use of which is for offices of one or more practitioners for medical, dental or optical examination and treatment of persons on an outpatient or emergency basis.

CLUBHOUSE

A building to house a club or social organization not conducted for profit and which is not adjunct to or operated by or in connection with a public tavern, cafe or other public place.

CLUSTER DEVELOPMENT

The subdivision of an area into lots that are smaller than would customarily be permitted by this chapter, where the density of development is no greater than would be permitted in the district by conventional development and where the residual land produced by the smaller lot size is used for common recreation and open space.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer appointed pursuant to § 80-4 of this Code.

COMMUNITY RESIDENCE

Any residential facility operated by the state or which is operated by a state-certified or -licensed provider of services and which is designed to assist disabled individuals in the transition from institutional to independent living in the community, to provide a long-term supervised residence to individuals whose disability is such that independent living is improbable, to provide a temporary shelter for short periods of time in order to offer an alternative for admission to an institution, to provide a brief-stay substitute home to disabled individuals or to allow respite or vacation to such individuals' families or legal guardians. A community residence shall include, but shall not be limited to, halfway houses and hostels.

CONVENIENCE MART

A retail activity which offers for sale convenience goods, beverages and sundries, including motor fuel.

DAY-CARE FACILITY

Day care provided on a regular basis for more than three children or adults away from their own homes for more than three hours and fewer than 24 hours per day.

DEPENDENT RELATIVE

A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

DUMPSTER

A refuse receptacle capable of holding one yard or more of refuse; a dumpster will be considered an accessory structure.

DWELLING

A building or structure that meets the following criteria:

- A. Designed, used or intended to be used as complete living quarters for one family or household.
- B. Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
- C. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.

DWELLING, EARTH-SHELTERED

A one- or two-unit dwelling specifically designed and constructed to use earth as a barrier and temperature moderator. In such dwelling, the roof and exterior walls may be covered by earth if at least one exterior wall is exposed to light and air and has the outside ground level at or below the lowest habitable floor level for at least 1/2 of the length of such exposed wall.

DWELLING, MOBILE/MANUFACTURED HOME

A one-unit dwelling that has the following distinguishing characteristics:

- A. Manufactured as a moveable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation or a mobile home stand or piers, with or without a basement or cellar.
- B. Designed to be transported on its own chassis and wheels connected to utilities after placement on a stand, foundation or piers.
- C. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
- D. May be constructed in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.

- E. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.^[1]

DWELLING, MULTIPLE

A dwelling occupied by three or more families, living independently of each other, and by not more than one boarder with each family and having separate kitchen and bathroom facilities for each family.

DWELLING, SINGLE-FAMILY

A detached dwelling occupied exclusively by one family and not more than two boarders.

DWELLING, TOWNHOUSE

A dwelling containing two or more dwelling units, each of which has one or two side walls in common with side walls of abutting dwelling units and which are party or lot-line walls. It provides single-family housing for sale in an approved subdivision. Rental housing of this architectural style shall be considered multiple-family.

DWELLING, TWO-FAMILY

A detached building containing no more than two dwellings.

FAMILY

An individual or two or more persons related by blood, marriage or adoption (a household).

FAMILY-CARE FACILITY

Living space in private homes in which a family or individual cares, on a twenty-four-hour basis, for up to three mentally or physically disabled children or adults. The state site-selection law does not apply. (See also "residential-care facility, adult.")

FARM

A parcel of land of five or more acres used principally in the raising or production of agricultural products and the necessary farm structures and storage of equipment used on the premises.

FARM LABOR CAMP

A farm labor camp is defined to be the same as a "migrant labor camp," as defined by Chapter 1, Part 15, of the New York State Sanitary Code. For purposes of this chapter, a farm labor camp shall consist of facilities occupied by one or more persons. [See § 150-43F(1).]
[Amended 12-17-2018 by L.L. No. 5-2018]

FARM MARKET

An operation selling agricultural produce and plant materials which have been grown on- or off-site (edible and nonedible) and other incidental and ancillary items such as fertilizers, herbicides and pesticides, lawn and garden tools and equipment, and lawn furniture.

FENCE

Any constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials.
[Amended 7-14-2008 by L.L. No. 3-2008]

FRONTAGE

That portion of a lot abutting on a public right-of-way.

GARAGE, COMMERCIAL OR PUBLIC

A building and premises used for the storage, commercial repair, rental, and/or servicing of motor vehicles and/or for retail sale of fuel for such vehicles.

GARAGE, PRIVATE

An enclosed area for the storage of one or more motor vehicles in which no business, occupation or service is conducted for profit, other than the rental of space.

GREENHOUSE

Any building or structure in which light, temperature and humidity can be controlled for the protection and growing of flowers, vegetables and other plants that are to be sold commercially.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure, for the primary purpose of producing electricity for on-site or off-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

HAZARDOUS WASTE

Defined, for purposes of New York State Department of Environmental Conservation (DEC) regulations and for purposes of this chapter, in 6 NYCRR 371.1(d) through (d)(4). "Hazardous waste" is further defined by the Environmental Protection Agency beginning at 40 CFR 261.3, which is incorporated by reference into this section.

HAZARDOUS WASTE (HIGH)

Defined by the United States Nuclear Regulatory Commission (NRC) and for purposes of this chapter as irradiated reactor fuel, liquid waste resulting from the operation of the first-cycle solvent-extraction system or equivalent and the concentrated waste from subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, all as set forth in 10 CFR 60.2.

HAZARDOUS WASTE (LOW)

Defined, for purposes of this chapter, in accordance with the FEMA (Federal Emergency Management Agency) definition of low-level radioactive waste, i.e., radioactive waste that is neither high-level waste, nor transuranic waste, nor spent nuclear fuel, nor by-product material; as defined in Section 11.e(2) of the Atomic Energy Act of 1954, as amended, and classified by the federal government as low-level waste consistent with existing law, which definition is hereby specifically incorporated into this section.

HAZARDOUS WASTE TREATMENT, STORAGE, DISPOSAL FACILITY

For purposes of this chapter, defined per New York State DEC regulations at 6 NYCRR 370.2(b) (177). It is further defined by the Environmental Protection Agency at 40 CFR 260.10.

HIGHWAY LINE

The line which is the boundary between a lot and the right-of-way, private road, street or highway. Where the highway line is not readily determinable and has not been established by a highway survey, computation to determine the highway line shall be made from the center of the existing traveled portion of the way or pavement, which shall be deemed the center of the highway for the purposes of this chapter. A three-rod right-of-way shall be used for computing unless a wider highway right-of-way has been otherwise established.

HOME OCCUPATION

Any use customarily conducted entirely within a dwelling, provided that such use is carried on solely by the residents of the dwelling and is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and meeting the performance standards set forth in § 150-42Q of this chapter.

HOSPITAL

A building used for the diagnosis, treatment or other care of human ailments, which term includes a sanitarium, clinic, rest home, nursing home and convalescent home.

JUNKYARD

A. A lot, land or structure or building, where junk or discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use

some or all of the materials therein or the purpose of storage or disposing of the same for any other purpose. "Junkyard" includes but is not limited to the place of storage or deposit of two or more unregistered motor vehicles or parts and waste materials therefrom which, taken together, equal in bulk two or more motor vehicles and are kept outside a completely enclosed building or structure; automobile or other vehicle or machinery wrecking or dismantling yards; and places or yards for storage of construction and demolition material. The term "junkyard" shall not include a commercial establishment entirely enclosed in a building or structure, such as a shop for the purchase, sale or storage and repair of furniture, household or garden equipment and clothing, or for the processing of used, discarded or salvaged material as parts of an industrial process carried out inside an enclosed building or structure with no outside storage.

B. Exceptions:

- (1) New and/or used motor vehicles that are operable and qualify for a current New York State motor vehicle inspection and registration sticker under Article 5 of the New York Motor Vehicle and Traffic Law may be stored on a lot in accordance with the provisions of this chapter. (See § 150-47C.)
- (2) Vehicles that are operable and qualify for a current New York State motor vehicle inspection sticker, which vehicles are subject to seasonal use, such as recreation vehicles and snowmobiles, even though such vehicles may be unlicensed during the part of the year they are not in use, may be stored on a lot in accordance with the provisions of this chapter. (See § 150-47C.)
- (3) The storage of agricultural equipment, machinery and vehicles in any district when such material is part of an active farm operation.
- (4) Solid waste disposal operations that are run by or licensed by an official governmental body, if otherwise permitted by other provisions of this chapter.

KENNEL

An accessory building or structure used for the boarding, breeding or sale of more than three domestic animals. [See § 150-43F(2).]

LARGE-SCALE SOLAR ENERGY SYSTEM

A solar energy system that is ground-mounted and produces energy solely or partly for off-site sale or consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

LIGHT MANUFACTURING

The manufacture, assembly or processing of the following products: scientific, medical, dental, optical, photographic, electronic, electrical, mechanical or tool or die equipment, or instruments or components thereof; medical, dental, or pharmaceutical supplies; plastic products (but not the manufacture of plastics); business and office equipment; furniture and cabinets; food or beverage products (but not canning or freezing of fruits or vegetables, slaughtering, meat packing or fermentation or distillation of alcoholic beverages); or other similar products.

[Added 8-10-2009 by L.L. No. 2-2009]

LOT

A parcel of land, with or without buildings or structures, delineated by lot lines and having frontage on or access to a street as defined in this chapter.

LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. Any lot abutting a curved street where the interior angle formed by the intersection of lines drawn tangent to the street at the points of intersection of street and lot lines does not exceed 135° shall also be considered a corner lot. All corner lots are deemed to have two front yards and two side yards and no rear yard.

LOT COVERAGE

The aggregate area of the lot covered by principal buildings or structures, plus each accessory building or structure.

LOT DEPTH

The mean horizontal distance from the front line of a lot to its rear lot line, measured in the general direction of its side lot lines. In the case of a corner lot, the rear lot line shall be a side yard line for purposes of computing distances.

LOT, FLAG

A lot, shaped similar to a flag on a pole, where the width of the "pole" portion of the lot is significantly less than the "flag" portion of the lot. The "pole" portion of the lot must be at least 25 feet in width and must be used for a driveway or other access way, only. All structures must be located on the "flag" portion of the lot. The "pole" portion of the lot is not considered a part of the front yard of the lot.

LOT WIDTH

The mean width, measured at right angles to its depth.

MANUFACTURED HOME

See "dwelling, mobile/manufactured home."

MOBILE HOME

See "dwelling, mobile/manufactured home."

MOBILE/MANUFACTURED HOME PARK

Any plot of ground upon which two or more occupied mobile/manufactured homes are located.

MOTOR VEHICLE SERVICE STATION

A building or premises or portion thereof used primarily for the retail sale of fuel for motor vehicles and for minor repairs.

NONCONFORMING LOT

A lot of record existing at the date of adoption of this chapter which does not meet the minimum requirements for the zone in which such lot is located. (See Article **IX**.)

NONCONFORMING USE

Use of a building or of land for a purpose that does not conform to the regulations of the zone in which such building or land is located.

NURSERY SCHOOL

A school that is organized for the purpose of educating a group of six or more children less than seven years of age under supervision of certified teachers and providing a program of learning activities. (See § 150-42N.)

NURSING OR CONVALESCENT HOME

Any licensed establishment where persons are lodged and furnished with meals and nursing and/or custodial care for hire. [See § 150-43F(7).] (See also "residential care facility, adult.")

OPEN SPACE

That portion of a lot that is not used for buildings or structures or parking. Open space may include lawns, shrubbery, trees, garden areas, footpaths, play areas, ponds, watercourses, wooded areas and paved surfaces that are not used for vehicular parking of any kind.

PERSONAL SERVICE ESTABLISHMENT

A store or shop providing personal, financial, technical or repair services, assistance or advice to individual consumers, including but not limited to:

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. Arts and crafts studios or stores.
- B. Appliance repair and rental.
- C. Bicycle repair.
- D. Barbershops and beauty shops.
- E. Dressmakers and tailors.
- F. Dry-cleaning or laundry pickup stations.
- G. Laundromat.
- H. Locksmiths.
- I. Musical instrument repair.
- J. Professional photographer's studios.
- K. Shoe repair.
- L. Furniture upholstery shops.
- M. Watch repair.
- N. Copy services.

PLACE OF PUBLIC ASSEMBLY

All buildings or portions thereof or spaces used or intended to be used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes. Manufacturing establishments and similar employment centers are not places of public assembly for purposes of this chapter.

PLANNED UNIT DEVELOPMENT

A tract of land, in single ownership or controlled by a partnership, corporation or cooperative group, which is developed as a unit for residential purposes or with a combination of residential and nonresidential buildings, with all needed or required roadways, parking, accessory buildings and open spaces. A planned unit development shall involve a detailed plan review and approval in accordance with § 150-43F(6) of this chapter.

POWER GENERATION AND DISTRIBUTION FACILITY

A facility used to create and distribute electric power for public consumption.

PRINCIPAL BUILDING

A building or structure in which is conducted the main or principal use of the lot on which said building or structure is located.

RECREATIONAL EQUIPMENT

Any item used for recreational purposes that requires state registration.

RESIDENTIAL-CARE FACILITY, ADULT

Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons who, by reason of limitations associated with age or physical disabilities, are unable to live independently. There are two types of facilities:

- A. Facilities for three or fewer adults, licensed and periodically inspected by the Department of Social Services.
- B. Facilities for four or more adults, licensed and periodically inspected by the New York State Department of Social Services.

RESTAURANT

A building or structure where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

ROADSIDE STAND

A temporary structure for the sale of produce produced on site. See § 150-42B.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar panel system located on the roof of any legally permitted building or structure, for the purpose of producing electricity for on-site or off-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

SIGN

Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency or of any civic, charitable, religious, patriotic, fraternal or similar organization.

SITE PLAN

A plan or plans of a lot, subdivision or proposed development that is prepared for site plan review pursuant to the provisions of Article VI of this chapter.

SMALL-SCALE SOLAR ENERGY SYSTEM

A solar energy system that produces energy solely for on-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR ENERGY EQUIPMENT

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and photovoltaic conduit devices associated with electrical energy production.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR ENERGY SYSTEM

Any electrical generating system composed of a combination of both solar panels and solar energy equipment.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electrical energy.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLID WASTE TRANSFER STATION

A combination of buildings or structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in larger transportation units for movement to another solid waste management facility.^[2]

STABLE, COMMERCIAL

A stable on or at which horses, ponies or similar types of animals, regardless of size, breed or species, are kept or fed for remuneration, hire or sale.

[Amended 8-10-2009 by L.L. No. 2-2009]

STABLE, PRIVATE

A stable which is an accessory use for the family which resides on the premises and on or at which horses, ponies or similar types of animals, regardless of size, breed or species, are kept or fed, but not for remuneration, sale or hire.

STREET LINE

The right-of-way of the street.

STREET or ROAD

- A. A general term used to describe a right-of-way, municipally or privately owned, serving as a means of vehicular and pedestrian travel, furnishing space for sewers, public utilities and shade trees. Streets are classified by function as follows:
- (1) **PRIVATE ROADWAY**
A road serving no more than six lots, which will not be dedicated to the Town.
 - (2) **RURAL DEVELOPMENT ROAD**
A road used as a principal means of access to adjacent residential properties serving only six or fewer dwellings.
 - (3) **SUBDIVISION ROAD**
Any residential road serving six or more dwellings or a connecting road serving primarily developed neighborhoods with low volumes of through traffic. Subdivision roads are to be dedicated to the Town or owned and maintained by an acceptable legal entity.
 - (4) **TOWN COLLECTOR ROAD**
A road connecting district centers, serving large volumes of through traffic, located outside or bounding the residential neighborhoods.
- B. Refer to the Town of Ontario Land Development Regulations and Public Works Requirements.^[3]

STRUCTURE

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include but shall not be limited to buildings (including their patios, decks, porches, steps and/or stairs), signs, walls, solid fences, radio towers, telecommunications devices, swimming pools, billboards, satellite dishes and poster panels.

[Amended 3-9-2009 by L.L. No. 1-2009]

TEMPORARY USE

An activity or land use established for a specific limited period of time, which may not otherwise be permitted by the provisions of this chapter. (See also §§ 150-42H and 150-59B.)

TOURIST HOME

A dwelling occupied by one family and in which not more than six rooms are rented to the transient public on a daily or weekly basis and food is served only to residents.

TRAILER

A. CAMP or TRAVEL

A portable structure or vehicle equipped but not regularly used for sleeping and which may have bathroom facilities; a recreational vehicle or recreational equipment not designed to be put on a foundation.

B. CONSTRUCTION

A portable structure or vehicle used by a builder or contractor during the period of new construction which is removed upon issuance of a final certificate of occupancy for a structure or at the completion of one or more phases of a subdivision.

TRANSIENT RESIDENT

A person who pays for sleeping accommodations in a commercial profit-making establishment for a period of seven or fewer consecutive nights; a transient guest.

USE

The specific purposes for which land or a building or structure is designed, arranged, intended or for which it is or may be occupied or maintained.^[4]

VARIANCE

Written authority to deviate from any of the provisions, including use of land, of this chapter, said authority to be granted by the Zoning Board of Appeals in accordance with § 150-69 of this chapter.

VEHICLE BODY SHOP

Any building or structure used primarily for the repair or painting of motor vehicle bodies, whether or not such activity also includes motor service or repair and the sale of motor vehicle fuel. [See § 150-43F(14).]

VEHICLE DISMANTLING FACILITY or VEHICLE RECYCLING FACILITY

Any establishment or place of business established, maintained, conducted and operated by a "vehicle dismantler," as such person is defined in New York Environmental Conservation Law Article 27, Title 23, Vehicle Dismantling Facilities, as it may be amended from time to time. This definition includes any person or entity engaged in the business of acquiring end-of-life motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap, but shall not include a person that receives no more than 25 end-of-life vehicles per year and stores less than 50 end-of-life vehicles on site at any one time.

[Added 11-15-2021 by L.L. No. 4-2021]

VENDING MACHINE

A device or mechanism for dispensing merchandise or services to the public and designed to be operated by the purchaser.

YARD

An open space, on a lot, unoccupied and unobstructed from the ground upwards, except as otherwise permitted.

YARD, FRONT

An open, unoccupied space on the same lot with the principal building or structure, extending the full width of the lot and situated between the front highway line and the front building line, except for fences and/or other decorative or landscaping uses and exclusive of cornices, overhangs and chimneys. (See illustration included at the end of this chapter.)

YARD, REAR

The ground space on a lot between the rear line of the lot and the nearest point of the principal building or structure and extending the full width of the lot. (See illustration included at the end of this chapter.) In the case of a corner lot, there is no rear yard. A side yard line for the purposes of computing distances shall be considered the rear yard line.

YARD, SIDE

An open area on the same lot with the building or structure situated between the side yard line and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. (See illustration included at the end of this chapter.)

- [1] *Editor's Note: The former definition of "dwelling, modular," which immediately followed, was repealed 9-21-2020 by L.L. No. 5-2020.*
- [2] *Editor's Note: The former definition of "stable," which immediately followed, was repealed 8-10-2009 by L.L. No. 2-2009.*
- [3] *Editor's Note: The Land Development Regulations and Public Works Requirements are on file in the Town offices.*
- [4] *Editor's Note: The former definition of "utility shed," amended 7-14-2008 by L.L. No. 3-2008, which immediately followed this definition, was repealed 3-9-2009 by L.L. No. 1-2009.*

§ 150-6. Zoning Map.

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. The boundaries of the districts are established as shown on the map entitled the "Zoning Map of the Town of Ontario," and called the "Zoning Map" in this chapter. The Zoning Map, including all the explanatory material on it, is incorporated as a part of this chapter.
- B. The Town Clerk shall certify the Zoning Map as part of this chapter and keep it on file in the Clerk's office.
- C. Any change in the district boundaries or other matters shown on the Zoning Map shall be promptly made on the map, attested to by the Town Clerk. The chapter or law making such change shall provide for its immediate entry on the Zoning Map.

§ 150-7. Interpretation of district boundaries.

[Amended 9-21-2020 by L.L. No. 5-2020]

If there is uncertainty as to the exact boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Boundaries shown as approximately following the center lines of streets or highways shall be construed to follow such center lines.
- B. Boundaries shown as approximately following plotted lot lines shall be construed to follow such lot lines.
- C. Boundaries shown as following shorelines of streams, lakes and reservoirs shall be construed to follow such shorelines and to move with changes in the actual shorelines.
- D. Boundaries indicated as parallel to or extensions of features indicated in Subsections **A** through **C** shall be construed to be parallel to or extensions of such features.
- E. Distances not specifically set forth on the Zoning Map shall be determined by the scale of the map.

Article III. General Regulations Applicable to All Districts

[Amended 9-21-2020 by L.L. No. 5-2020]

§ 150-8. Applicability.

- A. No structure, building or parcel shall hereafter be used or occupied and no structure or building shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations for the district in which it is located, and no more than one single-family dwelling shall be erected or constructed upon a single parcel of land.
- B. No part of a yard, open space, parking space or loading space required for any structure under this regulation shall be included as part of a yard, open space, parking space or loading space similarly required for another structure or building.
- C. No yard, lot or parking space now existing shall be reduced in size below the minimum requirements of this chapter. Yards or lots created after the effective date of this chapter shall meet its minimum requirements.
- D. Within each district, the regulation established by this chapter shall be minimum regulations and shall be applied uniformly to each class or kind of structure or building or parcel.

§ 150-9. Effect on filed subdivision.

If the plat of a residential subdivision containing one or more new streets has been duly filed in the Wayne County Clerk's office prior to the adoption or any amendment of this chapter, the lots of the subdivision may be developed with the lots and yards delineated on the plat and any provision of this chapter requiring larger lots or yards shall not apply to the subdivision for a period of three years from the date of such filing. If the plat is being filed in sections, the three years shall be computed from the last date of the filing of a section prior to such adoption. If an additional section is filed after such adoption but within the three-year period and less than one year of the period remains, the three-year period shall be extended as to such section only for one year from the date of its filing.

§ 150-10. Lot in two districts.

Where a lot in one ownership exists in two or more districts, the regulations for any one district may be extended into the other district or districts for a distance of not more than 20 feet. Extensions of more than 20 feet shall be permitted only by approval of the Zoning Board of Appeals.

§ 150-11. Height exceptions.

Nothing contained in this chapter shall limit or restrict the height of a church spire, belfry, clock tower, chimney flue, elevator bulkhead, television antenna.

§ 150-12. Fire escape.

Nothing contained in this chapter shall prevent the projection of an open fireproof escape or stairway into a rear yard or side yard for a distance not to exceed eight feet.

§ 150-13. Accessory structures.

- A. In any district, any structure shall comply with all applicable setbacks, except that a single accessory structure no larger than 192 square feet in building area or no greater than 14 feet in building height may be placed no closer to a side or rear property line than five feet. This subsection shall not apply to fences.
- B. Location.
 - (1) No detached garage or other accessory building or structure, including utility sheds, shall be constructed nearer the front property line than the front of the main building or, in the case of a corner lot, nearer to the side street line than the minimum road front setbacks for the zoning district. If a garage is constructed as a structural part of an existing dwelling, it may extend into an interior side yard required under this chapter not more than three feet. This section shall not include fences.
 - (2) Where the front yard (as defined in § 150-5 and as illustrated at the end of this chapter) is more than 200 feet in depth, a garage or accessory building or structure, including utility sheds, shall be no closer than 200 feet to the front lot line.

§ 150-14. Area and width exceptions.

In any such parcel of land with an area or width less than prescribed for a lot in the district in which such lot is situated, which parcel was under one ownership on the effective date of this chapter and the owner thereof owned no adjoining land, said parcel may be used as a lot for any purpose permitted in the district, provided that there shall be compliance with all other regulations prescribed for the district by this chapter.

§ 150-15. Junkyards.

In any district, no lot may hereafter be used nor any building or structure erected, reconstructed, structurally altered or moved for use as a junkyard as defined in this chapter. (See § 150-5.)

§ 150-16. Street intersection improvements.

At the intersection of two or more streets, no hedge, fence, wall or other obstruction to vision shall be permitted within the triangle of land bounded by the street right-of-way lines and a line connecting points on such right-of-way lines which are a distance of 30 feet from their intersection.

§ 150-17. Storage of materials; temporary storage structures.

In any district, all storage of materials shall be behind the front line of the primary structure located on such premises. Any structure used for the storage of materials shall comply with all applicable setbacks. The foregoing requirements shall not apply to the placement of a temporary storage structure which remains on such premises for no more than two weeks in any 12 consecutive months.

§ 150-18. Fences.

- A. A permit issued by the Code Enforcement Officer is required prior to the erection of any fence in any district. Such permit shall be issued upon an application submission of the following:
- (1) Site plan showing the placement and dimensions of the proposed fence, all of which shall be in compliance with the requirements of this section.
 - (2) Payment of an application fee in an amount established by the Town Board.
- B. In all districts, fences shall comply with the following:
- (1) Barbed-wire, razor wire, electrical (with the exception of low-voltage, underground, pet containment fences) or other, similar types of fences are prohibited, except on farms or to enclose horse paddocks.
 - (2) Fences shall have a maximum height of six feet five inches (excluding commercially manufactured decorative caps located on top of fence posts), measured from the top of the fence to the ground.
 - (3) Commercially manufactured decorative caps located on top of fence posts shall not exceed 12 inches in height and width.
 - (4) Fencing shall follow the natural contour of the land.
 - (5) Fences shall be constructed so that the finished side faces adjoining lots and all posts and/or supports shall face the owner's side.

Article IV. Rural (R-1) District

[Added 9-21-2020 by L.L. No. 5-2020^[1]]

[1] *Editor's Note: This ordinance also renumbered former Arts. V through X as Arts. XIII through XIX, respectively.*

§ 150-19. Purpose and uses allowed.

- A. The Rural (R-1) District is established to encourage a proper environment to foster normal agricultural operations and primarily rural residential land uses; to maintain an open rural character of the community; and to protect viable agricultural soils.
- B. Any use not specifically permitted in this article is not allowed in the Rural (R-1) District.

§ 150-19.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- D. Enclosed storage as an accessory use.
- E. Family-care facility.
- F. Farm, subject to § **150-42B(1)**.
- G. Excavations or fills, subject to § **150-42B(22)**.
- H. Fences, subject to § **150-18**.
- I. Home occupation, subject to § **150-42B(15)**.
- J. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- K. Mobile/manufactured home dwelling, subject to § **150-42B(8)**.
- L. Newspaper vending machine, subject to § **150-42B(24)**.
- M. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- N. Private garage, subject to § **150-13**.
- O. Private swimming pool, subject to § **150-42B(16)**.
- P. Public utility substation.
- Q. Roadside stand, subject to § **150-42B(3)**.
- R. Signs, subject to § **150-48**.
- S. Single-family dwelling.
- T. State regulated community residences, subject to § **150-42B(11)**.

§ 150-19.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Campground, subject to § **150-42B(39)**.
- C. Cemetery.

- D. Charitable, educational or fraternal organization.
- E. Church and related uses, subject to § **150-42B(30)**.
- F. Commercial stable, subject to § **150-42B(4)**.
- G. Day-care facility or nursery school, subject to § **150-42B(12)**.
- H. Farm labor camp, subject to § **150-42B(27)**.
- I. Farm market, subject to § **150-42B(2)**.
- J. Golf course.
- K. Greenhouse or plant nursery.
- L. Hospital/Nursing home, subject to § **150-42B(31)**.
- M. Kennel, subject to § **150-42B(28)**.
- N. Large-scale ground-mounted solar energy systems, subject to § **150-42B(40)**.
- O. Pet shop or veterinary establishment, subject to § **150-42B(34)**.
- P. Private, not-for-profit park, playground or other outdoor recreation facility.
- Q. Private stable, subject to § **150-42B(4)**.
- R. Professional office.
- S. Public or parochial school, subject to § **150-42B(13)**.
- T. Riding academy, subject to § **150-42B(4)**.
- U. Satellite dish, subject to § **150-42B(37)**.
- V. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- W. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- X. Wind energy collectors and geothermal residential systems, subject to § **150-42B(38)**.
- Y. Winery.

§ 150-19.3. Lot and bulk requirements.

- A. Minimum lot area.
 - (1) From the area to be developed shall be subtracted nonbuildable areas, including streams, ponds and other watercourses; wetlands; floodplains; and steep slopes with a grade of 15% or greater, to arrive at the total buildable area.
 - (2) The density of such total buildable area shall be at the rate of one dwelling per 1.25 acres.
 - (3) Each lot shall be a minimum of 35,000 square feet.
 - (4) The remaining area of the development shall be comprised of roads, other infrastructure and/or open space.
- B. Minimum lot width.
 - (1) The minimum lot width, with or without public sewers, is 125 feet.
- C. Required setbacks:

- (1) Front setback:
 - (a) Lots fronting on Lake Road: 75 feet.
 - (b) Lots fronting on a state, county or town road: 60 feet.
 - (c) Lots fronting on a subdivision road: 50 feet.
 - (d) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
 - (2) Side setback: 20 feet on one side and a total of 40 feet for both sides.
 - (3) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Ontario shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the New York Department of Environmental Conservation, whichever is greater.
 - (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
 - (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 36 feet, except that wind energy collectors may be 100 feet in total height (including any blade in the vertical position), subject to special permit requirements.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property.
- F. Minimum primary structure size:
 - (1) Except as provided in Subsection **F(2)**, below: 1,200 square feet, plus (in the case of a residential structure) at least a one-car garage.
 - (2) Multifamily, multistory structures: 700 square feet on the first floor and a total of 1,200 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article V. Rural (R-2) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-20. Purpose and uses allowed.

- A. The Rural (R-2) District is established to designate areas of the Town for the purpose of promoting the orderly development of residential land uses and maintain an open rural character of the community.
- B. Any use not specifically permitted in this article is not allowed in the Rural (R-2) District.

§ 150-20.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. All principal and accessory uses and structures allowed in § **150-19.1** of this chapter.

§ 150-20.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. All principal and accessory uses and structures allowed in § **150-19.2** of this chapter, subject to the same requirements as contained therein.

§ 150-20.3. Lot and bulk requirements.

- A. Minimum lot area.

- (1) Each lot that is served by a septic system shall be a minimum of 35,000 square feet.
- (2) Each lot that is served by public sewers shall be a minimum of 28,000 square feet.

- B. Minimum lot width.

- (1) The minimum lot width, with or without public sewers, is 125 feet.

- C. Required setbacks:

- (1) Front setback:

- (a) Lots fronting on Lake Road: 75 feet.
- (b) Lots fronting on a state, county or town road: 60 feet.
- (c) Lots fronting on a subdivision road: 50 feet.
- (d) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.

- (2) Side setback: 20 feet on one side and a total of 40 feet for both sides.

- (3) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Ontario shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the New York Department of Environmental Conservation, whichever is greater.

- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.

- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.

- D. Height. The maximum permitted height of any structure is 36 feet, except that wind energy collectors may be 100 feet in total height (including any blade in the vertical position), subject to special permit requirements.

- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property.

- F. Minimum primary structure size:

- (1) Except as provided in Subsection **F(2)**, below: 1,200 square feet, plus (in the case of a residential structure) at least a one-car garage.
- (2) Multifamily, multistory structures: 700 square feet on the first floor and a total of 1,200 square feet.

- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article VI. Suburban Residential (SR) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-21. Purpose and uses allowed.

- A. The Suburban Residential (SR) District is established to designate areas of the Town for single-family residential use, at low density and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Suburban Residential (SR) District.

§ 150-21.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- D. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- E. Enclosed storage as an accessory use.
- F. Excavations or fills, subject to § **150-42B(22)**.
- G. Family-care facility.
- H. Farm, subject to § **150-42B(1)**.
- I. Fences, subject to § **150-18**.
- J. Home occupation, subject to § **150-42B(15)**.
- K. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- L. Mobile/manufactured home dwelling, subject to 150-42B(8).
- M. Newspaper vending machine, subject to § **150-42B(24)**.
- N. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- O. Private garage, subject to § **150-13**.
- P. Private swimming pool, subject to § **150-42B(16)**.
- Q. Public utility substation, subject.
- R. Roadside stand, subject to § **150-42B(3)**.
- S. Signs, subject to § **150-48**.
- T. Single-family dwelling.
- U. State regulated community residences, subject to § **150-42B(11)**.

§ 150-21.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § 150-43:

- A. Bed-and-breakfast facility, subject to § 150-42B(33).
- B. Cemetery.
- C. Charitable, educational or fraternal organization.
- D. Church and related uses, subject to § 150-42B(30).
- E. Day-care facility or nursery school, subject to § 150-42B(12).
- F. Farm labor camp, subject to § 150-42B(27).
- G. Farm market, subject to § 150-42B(2).
- H. Golf course.
- I. Hospital/nursing home, subject to § 150-42B(31).
- J. Large-scale ground-mounted solar energy systems, subject to § 150-42B(40).
- K. Private, not-for-profit park, playground or other outdoor recreation facility.
- L. Professional office.
- M. Public or parochial school, subject to § 150-42B(13).
- N. Satellite dish, subject to § 150-42B(37).
- O. Short-wave, ham radio, television and radio antennas, subject to § 150-42B(37).
- P. Tourist home, boardinghouse or rooming house, subject to § 150-42B(32).

§ 150-21.3. Lot and bulk requirements.

- A. Minimum lot area.
 - (1) Each lot that is served by a septic system shall be a minimum of 22,500 square feet.
 - (2) Each lot that is served by public sewers shall be a minimum of 18,000 square feet.
- B. Minimum lot width.
 - (1) The minimum lot width for single-family lots served by a septic system is 125 feet; provided, however, that when an applicant produces engineering data to demonstrate that existing soil conditions on any lot are adequate to produce acceptable percolation tests, in accordance with percolation standards of the New York State Department of Health, the minimum lot width shall be reduced to 100 feet.
 - (2) The minimum lot width for lots served by a septic system, other than single-family lots, is 125 feet.
 - (3) The minimum lot width for lots served by a public sewer is 100 feet.
- C. Required setbacks:
 - (1) Front setback:
 - (a) Lots fronting on Lake Road: 75 feet.
 - (b) Lots fronting on a state, county or town road: 60 feet.

- (c) Lots fronting on a subdivision road: 50 feet.
- (d) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
- (2) Side setback: 12 feet on one side and a total of 32 feet for both sides.
- (3) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Ontario shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the New York Department of Environmental Conservation, whichever is greater.
- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property.
- F. Minimum primary structure size:
 - (1) Except as provided in Subsection **F(2)**, below: 1,100 square feet, plus (in the case of a residential structure) at least a one-car garage.
 - (2) Multifamily, multistory structures: 700 square feet on the first floor and a total of 1,100 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article VII. Urban Residential (UR) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-22. Purpose and uses allowed.

- A. The Urban Residential (UR) District is established to designate areas of the Town for a variety of residential buildings or structures with mixed density and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Urban Residential (UR) District.

§ 150-22.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- D. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- E. Enclosed storage as an accessory use.
- F. Excavations or fills, subject to § **150-42B(22)**.

- G. Family-care facility.
- H. Farm, subject to § **150-42B(1)**.
- I. Fences, subject to § **150-18**.
- J. Home occupation, subject to § **150-42B(15)**.
- K. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- L. Mobile/manufactured home dwelling, subject to § **150-42B(8)**.
- M. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- N. Newspaper vending machine, subject to § **150-42B(24)**.
- O. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- P. Private garage, subject to § **150-13**.
- Q. Private swimming pool, subject to § **150-42B(16)**.
- R. Public utility substation.
- S. Roadside stand, subject to § **150-42B(3)**.
- T. Signs, subject to § **150-48**.
- U. Single-family dwelling.
- V. State regulated community residences, subject to § **150-42B(11)**.
- W. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- X. Two-family dwelling.

§ 150-22.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Cemetery.
- C. Charitable, educational or fraternal organization.
- D. Church and related uses, subject to § **150-42B(30)**.
- E. Day-care facility or nursery school, subject to § **150-42B(12)**.
- F. Farm labor camp, subject to § **150-42B(27)**.
- G. Farm market, subject to § **150-42B(2)**.
- H. Golf course.
- I. Hospital/nursing home, subject to § **150-42B(31)**.
- J. Large-scale ground-mounted solar energy systems, subject to § **150-42B(40)**.
- K. Mobile home park, subject to § **150-42B(9)**.
- L. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.

- M. Private, not-for-profit park, playground or other outdoor recreation facility.
- N. Professional office.
- O. Public or parochial school, subject to § **150-42B(13)**.
- P. Satellite dish, subject to § **150-42B(37)**.
- Q. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- R. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.

§ 150-22.3. Lot and bulk requirements.

A. Minimum lot area.

- (1) The minimum lot area for all residential lots (single-family, two-family and multiple-family) shall be 22,500 square feet, except that the minimum lot area for a single-family lot served by public sewers shall be 18,000 square feet.
- (2) The minimum lot area for all nonresidential lots shall be 18,000 square feet.

B. Minimum lot width.

- (1) The minimum lot width for single-family lots served by a septic system is 125 feet, provided, however, that when an applicant produces engineering data to demonstrate that existing soil conditions on any lot are adequate to produce acceptable percolation tests, in accordance with percolation standards of the New York State Department of Health, the minimum lot width shall be reduced to 100 feet.
- (2) The minimum lot width for single-family lot served by a public sewer is 100 feet.
- (3) The minimum lot width for two-family served by a septic system is 125 feet.
- (4) The minimum lot width for two-family lot served by a public sewer is 100 feet.
- (5) The minimum lot width for multiple-family lots served by a septic system is 250 feet.
- (6) The minimum lot width for multiple-family lots served by a public sewer is 200 feet.
- (7) The minimum lot width for nonresidential lots served by a septic system is 125 feet.
- (8) The minimum lot width for nonresidential lots served by a public sewer is 100 feet.

C. Required setbacks:

- (1) Front setback:
 - (a) Lots fronting on a state, county or town road: 60 feet.
 - (b) Lots fronting on a subdivision road: 50 feet.
 - (c) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
- (2) Side setback:
 - (a) Single-family lots: 12 feet on one side and a total of 32 feet for both sides.
 - (b) All other uses: 15 feet on one side and a total of 42 feet for both sides.
- (3) Rear setbacks: 40 feet.

- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
 - (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
 - (6) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 30% of the total area of the property.
- F. Minimum primary structure size:
- (1) One-story single-family dwellings: 1,050 square feet, plus a one-car garage.
 - (2) Two-story single-family dwellings: 700 square feet on the first floor and a total of 1,050 square feet, plus a one-car garage.
 - (3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.
 - (4) Multiple-family dwellings: 800 square feet per unit.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article VIII. Business (B) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-23. Purpose and uses allowed.

- A. The Business (B) District is established to designate areas of the Town for general retail, service and office activities to provide goods and services, residential and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Business (B) District.

§ 150-23.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Bank, subject to § **150-42B(17)**.
- D. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- E. Business office, subject to § **150-42B(17)**.
- F. Convenience store (mart), subject to § **150-42B(20)**.
- G. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- H. Dwellings, one or more, on upper floors of a commercial use.
- I. Enclosed storage as an accessory use.

- J. Excavations or fills, subject to § **150-42B(22)**.
- K. Family-care facility.
- L. Farm, subject to § **150-42B(1)**.
- M. Fences, subject to § **150-18**.
- N. Home occupation, subject to § **150-42B(15)**.
- O. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- P. Mortuary or undertaking establishment.
- Q. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- R. Multiple-family (four or more units) dwelling, subject to § **150-42B(6)**.
- S. Newspaper vending machine, subject to § **150-42B(24)**.
- T. Parking, off street lot, subject to § **150-42B(23)**.
- U. Personal service establishment.
- V. Plumbing, HVAC, electrical supply or contracting establishment.
- W. Printing/publishing facility.
- X. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- Y. Private garage, subject to § **150-13**.
- Z. Private swimming pool, subject to § **150-42B(16)**.
- AA. Professional office.
- BB. Public utility substation.
- CC. Retail store, subject to § **150-42B(17)**.
- DD. Roadside stand, subject to § **150-42B(3)**.
- EE. Signs, subject to § **150-48**.
- FF. Single-family dwelling.
- GG. State regulated community residences, subject to § **150-42B(11)**.
- HH. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- II. Two-family dwelling.

§ 150-23.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.
- C. Charitable, educational or fraternal organization.
- D. Church and related uses, subject to § **150-42B(30)**.

- E. Day-care facility or nursery school, subject to § **150-42B(12)**.
- F. Farm labor camp, subject to § **150-42B(27)**.
- G. Farm market, subject to § **150-42B(2)**.
- H. Garage, commercial, subject to § **150-42B(20)**.
- I. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.
- J. Greenhouse or plant nursery.
- K. Hospital/nursing home, subject to § **150-42B(31)**.
- L. Indoor theater or recreation, subject to § **150-42B(17)**.
- M. Industrial or research park, planned, subject to § **150-42B(35)**.
- N. Lawn and garden supply sales and service.
- O. Light manufacturing, subject to § **150-42B(35)**.
- P. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- Q. Mobile home park, subject to § **150-42B(9)**.
- R. Motor vehicle service station, subject to §§ **150-42B(20)** and 150-23B(21).
- S. Outdoor amusement or recreation.
- T. Private, not-for-profit park, playground or other outdoor recreation facility.
- U. Professional office.
- V. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- W. Pet shop or veterinary establishment, subject to § 150-43B(34).
- X. Public or parochial school, subject to § **150-42B(13)**.
- Y. Redemption facility, subject to § **150-15**.
- Z. Restaurant, subject to § **150-42B(18)**.
- AA. Satellite dish, subject to § **150-42B(37)**.
- BB. Scientific or research lab, subject to § **150-42B(35)**.
- CC. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- DD. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- EE. Vehicle washing establishment, subject to § **150-42B(20)**.

§ 150-23.3. Lot and bulk requirements.

- A. Minimum lot area.
 - (1) The minimum lot area for single-family lots served by a septic system shall be 22,500 square feet.
 - (2) The minimum lot area for single-family lots served a public sewer shall be 18,000 square feet.

- (3) The minimum lot area for two-family lots served by a public sewer or septic system shall be 22,500 square feet.
- (4) The minimum lot area for multifamily lots served by a septic system shall be 40,000 square feet plus 5,000 square feet for every dwelling unit over two.
- (5) The minimum lot area for multifamily lots served a public sewer shall be 22,500 square feet plus 5,000 square feet for every dwelling unit over two.

B. Minimum lot width.

- (1) The minimum lot width for single-family lots served by a septic system is 125 feet.
- (2) The minimum lot width for single-family lots served by a public sewer is 100 feet.
- (3) The minimum lot width for two-family served by a septic system is 150 feet.
- (4) The minimum lot width for two-family lot served by a public sewer is 125 feet.
- (5) The minimum lot width for multiple-family lots served by a septic system is 150 feet plus 20 feet for each dwelling unit over two.
- (6) The minimum lot width for multiple-family lots served by a public sewer is 125 feet plus 10 feet for each dwelling unit over two.
- (7) The minimum lot width for nonresidential lots is 150 feet.

C. Required setbacks:

(1) Front setback:

- (a) Single-family or two-family lots fronting on a state, county or town road: 60 feet.
- (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
- (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
- (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
- (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.

(2) Side setback:

- (a) Single-family lots: 12 feet on one side and a total of 32 feet for both sides.
- (b) Two-family lots: 15 feet on one side and a total of 42 feet.
- (c) Multiple-family lots: 15 feet plus one foot for each dwelling unit over two on one side and a total of 42 feet.
- (d) All other uses: 25 feet on one side and a total of 50 feet for both sides; provided, however, that where a side yard abuts a residential district, such side yard shall be the same width as that of the abutting residential district and shall be landscaped.

(3) Rear setback:

- (a) Residential lots: 40 feet.
- (b) Nonresidential lots: 20 feet.

- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
 - (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
 - (6) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 40% of the total area of the property.
- F. Minimum primary structure size:
- (1) One-story single-family dwellings: 1,050 square feet.
 - (2) Two-story single-family dwellings: 700 square feet on the first floor and a total of 1,050 square feet.
 - (3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.
 - (4) Multiple-family dwellings: 800 square feet per unit.
 - (5) Nonresidential uses: 1,000 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article IX. Business Transitional (BT) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-24. Purpose and uses allowed.

- A. The Business Transitional (BT) District is established to designate areas of the Town for commercial service, storage and light-industrial processing activities, residential and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Business Transitional (BT) District.

§ 150-24.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Bank, subject to § **150-42B(17)**.
- D. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- E. Business office, subject to § **150-42B(17)**.
- F. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- G. Dwellings, one or more, on upper floors of a commercial use.

- H. Enclosed storage as an accessory use.
- I. Excavations or fills, subject to § **150-42B(22)**.
- J. Family-care facility.
- K. Farm, subject to § **150-42B(1)**.
- L. Fences, subject to § **150-18**.
- M. Home occupation, subject to § **150-42B(15)**.
- N. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- O. Mobile/manufactured home dwelling, subject to § **150-42B(8)**.
- P. Mortuary or undertaking establishment.
- Q. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- R. Multiple-family (four or more units) dwelling, subject to § **150-42B(6)**.
- S. Municipal storage or repair yard.
- T. Newspaper vending machine, subject to § **150-42B(24)**.
- U. Parking, off street lot, subject to § **150-42B(23)**.
- V. Personal service establishment.
- W. Plumbing, HVAC, electrical supply or contracting establishment.
- X. Printing/publishing facility.
- Y. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- Z. Private garage, subject to § **150-13**.
- AA. Private swimming pool, subject to § **150-42B(16)**.
- BB. Professional office.
- CC. Public utility substation.
- DD. Retail store, subject to § **150-42B(17)**.
- EE. Roadside stand, subject to § **150-42B(3)**.
- FF. Signs, subject to § **150-48**.
- GG. Single-family dwelling.
- HH. State regulated community residences, subject to § **150-42B(11)**.
- II. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- JJ. Two-family dwelling.

§ 150-24.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a Special permit issued in accordance with the provisions of § **150-43**:

- A. Automobile sales and service, new and used, subject to § **150-42B(21)**.

- B. Bed and Breakfast facility, subject to § **150-42B(33)**.
- C. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.
- D. Charitable, educational or fraternal organization.
- E. Church and related uses, subject to § **150-42B(30)**.
- F. Convenience store (mart), subject to § **150-42B(20)**.
- G. Day-care facility or nursery school, subject to § **150-42B(12)**.
- H. Farm labor camp, subject to § **150-42B(27)**.
- I. Farm market, subject to § **150-42B(2)**.
- J. Food processing facility, subject to § **150-42B(35)**.
- K. Garage, commercial, subject to § **150-42B(20)**.
- L. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.
- M. Greenhouse or plant nursery.
- N. Hospital/nursing home, subject to § **150-42B(31)**.
- O. Indoor theater or recreation, subject to § **150-42B(17)**.
- P. Industrial or research park, planned, subject to § **150-42B(35)**.
- Q. Lawn and garden supply sales and service.
- R. Light manufacturing, subject to § **150-42B(35)**.
- S. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- T. Mobile home park, subject to § **150-42B(9)**.
- U. Motor vehicle service station, subject to § **150-42B(20)** and **150-42B(21)**.
- V. Outdoor amusement or recreation.
- W. Outdoor facility for retail sale of boats, trailers or furniture, subject to § **150-42B(21)**.
- X. Private, not-for-profit park, playground or other outdoor recreation facility.
- Y. Professional office.
- Z. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- AA. Pet shop or veterinary establishment, subject to § **150-42B(34)**.
- BB. Public or parochial school, subject to § **150-42B(13)**.
- CC. Redemption facility, subject to § **150-15**.
- DD. Restaurant, subject to § **150-42B(18)**.
- EE. Satellite dish, subject to § **150-42B(37)**.
- FF. Scientific or research lab, subject to § **150-42B(35)**.
- GG. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- HH. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.

- II. Vehicle body shop, subject to § **150-42B(36)**.
- JJ. Vehicle washing establishment, subject to § **150-42B(20)**.

§ 150-24.3. Lot and bulk requirements.

A. Minimum lot area.

- (1) The minimum lot area for single-family lots served by a septic system shall be 22,500 square feet.
- (2) The minimum lot area for single-family lots served a public sewer shall be 18,000 square feet.
- (3) The minimum lot area for multifamily lots served by a septic system shall be 40,000 square feet plus 5,000 square feet for every dwelling unit over two.
- (4) The minimum lot area for multifamily lots served a public sewer shall be 22,500 square feet plus 5,000 square feet for every dwelling unit over two.

B. Minimum lot width.

- (1) The minimum lot width for single-family lots served by a septic system is 125 feet.
- (2) The minimum lot width for single-family lots served by a public sewer is 150 feet.
- (3) The minimum lot width for two-family served by a septic system is 125 feet.
- (4) The minimum lot width for two-family lot served by a public sewer is 100 feet.
- (5) The minimum lot width for multiple-family lots served by a septic system is 150 feet plus 20 feet for each dwelling unit over two.
- (6) The minimum lot width for multiple-family lots served by a public sewer is 125 feet plus 10 feet for each dwelling unit over two.
- (7) The minimum lot width for nonresidential lots is 150 feet.

C. Required setbacks:

(1) Front setback:

- (a) Single-family or two-family lots fronting on a state, county or town road: 60 feet.
- (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
- (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
- (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
- (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.

(2) Side setback:

- (a) Single-family lots: 12 feet on one side and a total of 32 feet for both sides.
- (b) Two-family lots: 15 feet on one side and a total of 42 feet.

- (c) Multiple-family lots: 15 feet plus 1 foot for each dwelling unit over two on one side and a total of 42 feet.
 - (d) All other uses: 25 feet on one side and a total of 50 feet for both sides; provided, however, that where a side yard abuts a residential district, such side yard shall be the same width as that of the abutting residential district and shall be landscaped.
- (3) Rear setback:
- (a) Residential lots: 40 feet.
 - (b) Nonresidential lots: 20 feet.
- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- (6) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 40% of the total area of the property.
- F. Minimum primary structure size:
- (1) One-story single-family dwellings: 1,050 square feet.
 - (2) Two-story single family dwellings: 700 square feet on the first floor and a total of 1,050 square feet.
 - (3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.
 - (4) Multiple-family dwellings: 800 square feet per unit.
 - (5) Nonresidential uses: 1,000 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article X. Industrial (I) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-25. Purpose and uses allowed.

- A. The Industrial (I) District is established to designate areas of the Town for public utilities, light industrial, heavy industrial and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Industrial (I) District.

§ 150-25.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.

- B. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- C. Excavations or fills, subject to § **150-42B(22)**.
- D. Enclosed storage as an accessory use.
- E. Farm, subject to § **150-42B(1)**.
- F. Fences, subject to § **150-18**.
- G. Home occupation, subject to § **150-42B(15)**.
- H. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- I. Municipal storage or repair yard.
- J. Newspaper vending machine, subject to § **150-42B(24)**.
- K. Parking, off street lot, subject to § **150-42B(23)**.
- L. Plumbing, HVAC, electrical supply or contracting establishment.
- M. Printing/publishing facility.
- N. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- O. Professional office.
- P. Public utility substation.
- Q. Roadside stand, subject to § **150-42B(3)**.
- R. Signs, subject to § **150-48**.
- S. Vehicle body shop and vehicle dismantling facilities.
[Amended 11-15-2021 by L.L. No. 4-2021]

§ 150-25.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Alternative energy supply systems (except building integrated, roof-mounted and small-scale ground-mounted solar energy systems), subject to § **150-42B(38)**.
- B. Bank, subject to § **150-42B(17)**.
- C. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.
- D. Business office, subject to § **150-42B(17)**.
- E. Convenience store (mart), subject to § **150-42B(20)**.
- F. Fabrication or storage of metal/paper/wood products, subject to § **150-42B(35)**.
- G. Farm labor camp, subject to § **150-42B(27)**.
- H. Food processing facility, subject to § **150-42B(36)**.
- I. Garage, commercial, subject to § **150-42B(20)**.
- J. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.

- K. Greenhouse or plant nursery.
- L. Indoor theater or recreation, subject to § **150-42B(17)**.
- M. Industrial or research park, planned, subject to § **150-42B(35)**.
- N. Lawn and garden supply sales and service.
- O. Light manufacturing, subject to § **150-42B(35)**.
- P. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- Q. Motor vehicle service station, subject to § **150-42B(20)** and **150-42B(21)**.
- R. Outdoor facility for retail sale of boats, trailers or furniture, subject to § **150-42B(21)**.
- S. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- T. Redemption facility, subject to § **150-15**.
- U. Restaurant, subject to § **150-42B(18)**.
- V. Retail store, subject to § **150-42B(17)**.
- W. Satellite dish, subject to § **150-42B(37)**.
- X. Scientific or research lab, subject to § **150-42B(35)**.
- Y. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- Z. Solid waste transfer station, subject to § **150-15**.
- AA. Truck and motor freight terminal.
- BB. Vehicle washing establishment, subject to § **150-42B(20)**.
- CC. Vehicle dismantling facilities, subject to issuance of a special permit, site plan approval from the Town of Ontario Planning Board and the special conditions of § **150-42B(41)**.
[Added 11-15-2021 by L.L. No. 4-2021]

§ 150-25.3. Lot and bulk requirements.

- A. Minimum lot area: 43,560 square feet.
- B. Minimum lot width: 125 feet.
- C. Required setbacks:
 - (1) Front setback:
 - (a) Single-family or two-family lots fronting on a state, county or Town road: 60 feet.
 - (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
 - (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
 - (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
 - (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.

- (2) Side setback: 15 feet on one side and a total of 42 feet for both sides.
- (3) Rear setback: 40 feet.
- (4) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 50 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 50% of the total area of the property.
- F. Minimum primary structure size: 1,000 square feet.
- G. All lots are required to be served by a public sewer system.
- H. Off-street parking shall comply with the provisions of § 150-47 of this chapter.

Article XI. Public Utility (PU) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-26. Purpose and uses allowed.

- A. The Public Utility (PU) District is established to designate areas of the Town for use by a public utility plant and associated facilities. This District may not be used as an area for permanent hazardous waste storage and disposal.
- B. Any use not specifically permitted in this article is not allowed in the Public Utility (PU) District.

§ 150-26.1. Permitted uses.

- A. In the Public Utility District, only the following structures, buildings and uses shall be permitted:
 - (1) Those uses incidental to the generation and distribution of electric power.
 - (2) Those structures and uses complying with the requirements of federal and state regulations.
 - (3) Hazardous waste produced on-site may be stored on-site.
 - (4) Those uses incidental to the providing of telephone service, natural gas service, cable service, cellular phone service and any other public utility.
 - (5) Driveways parallel to Route 104 from adjacent properties to existing public roads.
[Added 11-15-2021 by L.L. No. 4-2021]
- B. In addition to all other required approvals, approval by the Town Board must be obtained, following recommendations from the Planning Board to the Town Board.
- C. Should the public utility use be discontinued, the use of this District will revert to the use of the contiguous district(s).

Article XII. Adult Entertainment/Industrial (AE/I) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-27. Findings and intent.

It is the purpose of this article to regulate sexually oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the Town of Ontario and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Ontario. The provisions of this article have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the purpose or the intent of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States, the State of New York or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. It is not the purpose or the intent of this article to condone or legitimize the distribution of obscene materials.

§ 150-27.1. Purpose and uses allowed.

- A. The Adult Entertainment/Industrial (AE/I) District is established to designate areas of the Town for public utilities, light industrial, heavy industrial, adult entertainment and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Adult Entertainment/Industrial (AE/I) District.

§ 150-27.2. Word usage; definitions.

- A. In the interpretation of this article, the following rules apply:
 - (1) Words used in the present tense include the future tense.
 - (2) The singular includes the plural.
 - (3) The word "person" includes a corporation as well as an individual.
 - (4) The word "lot" includes the words "plot" or "parcel."
 - (5) The term "used" or "occupied" is applied to any land or structure and shall be construed to include the words "intended," "arranged" or "designed to be used or occupied."
- B. The following definitions shall apply in this article:

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE

A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, film, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one of its principal business

purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allow a tenant or occupant of a sleeping room to sub-rent the room of a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE

See "adult bookstore."

ADULT USES

Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion-picture theaters, adult theaters, adult video stores, escort agencies and sexual encounter centers.

ESCORT

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

ESCORT AGENCY

A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT

Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business.

- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.
- (4) The relocation of any sexually oriented business.

NUDITY

The appearance of human bare buttocks, anus, genitals or full female breast.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE

A state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

SEXUALLY ORIENTED BUSINESS

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency or sexual encounter center.

SPECIFIED ANATOMICAL AREAS

The male genitals and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

- (1) The fondling or other touching of human genitals, pubic region, buttocks, anus or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1), (2) or (3) of this definition.

SUBSTANTIAL ENLARGEMENT

The increase in floor areas occupied by a sexually oriented business by more than 25% of the floor area as it exists on the effective date of this chapter.

TRANSFER OF OWNERSHIP OR CONTROL

Includes any of the following:

- (1) The sale, lease or sublease of a sexually oriented business.
- (2) The transfer of securities which constitute a controlling interest in a sexually oriented business, whether by sale, exchange or similar means.

- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of a sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 150-27.3. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. All principal and accessory uses and structures allowed in § **150-25.1** of this chapter.

§ 150-27.4. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. All principal and accessory uses and structures allowed in § **150-25.2** of this chapter, subject to the same requirements as contained therein.

§ 150-27.5. Adult uses permitted.

Adult uses are permitted in the AE/I District, provided that:

- A. An adult use may not be operated within 1,000 feet of:
 - (1) A church, synagogue or regular place of worship;
 - (2) A public or private elementary school, secondary school or licensed child day-care center;
 - (3) A boundary of any residence or residential zoning district; or
 - (4) A public park.
- B. An adult use may not be operated within 1,000 feet of another adult use or on the same lot or parcel of land.
- C. An adult use may not be operated in the same building, structure or portion thereof containing another adult use.
- D. For the purposes of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary school, secondary school or licensed child day-care center or to the nearest boundary of an affected public park, residential district or residential lot.
- E. For the purposes of this article, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- F. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this chapter shall be able to see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows that area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

§ 150-27.6. Lot and bulk requirements.

- A. The lot and bulk requirements set forth in § 150-25.3 of this chapter shall fully apply in AE/I District.

§ 150-27.7. Adult use inspection requirement.

- A. Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for an adult use business and in compliance with this chapter.
- B. All code enforcement officials, including the Code Enforcement Officer, shall complete their certification that the premises are in compliance or not in compliance within 20 days of the inspection of the premises by such officials.
- C. Any owner and/or operator, employee of the owner and/or operator or agent of the owner and/or operator shall permit representatives of the Town Building Department, the Wayne County Sheriff's Department, the New York State Police, the State Health Department, the Code Enforcement Officer or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of an adult use business for the purpose of ensuring compliance with this chapter at any time it is occupied or open for business.

§ 150-27.8. Nonconforming adult use.

- A. Any adult use business lawfully operating on the effective date of this article that is in violation of the location or structural configuration requirements of this article shall be deemed a nonconforming use. The continuation of the same use of substantially the same character and intensity shall be allowed. The nonconforming use will be permitted to continue unless terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the adult use business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.
- B. Any adult use business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the operation of the adult use business, of a church, public or private elementary school or secondary school, public park, residential zoning district or a residential lot within 1,000 feet of the adult use business.

§ 150-27.9. Adult use certificates of occupancy; fee.

A certificate of occupancy for an adult use is required and shall be valid for a one-year period only. Such certificate of occupancy must be renewed on an annual basis and must be approved by the Town Board of the Town of Ontario after initial approval has been given by the Code Enforcement Officer. Such certificate of occupancy shall only be renewed after inspection by the Code Enforcement Officer to confirm that the adult use business is in full compliance with the terms of this article. The annual fee for such certificate of occupancy shall be a sum as set forth in the Town of Ontario Fee Schedule approved by resolution of the Town Board and on file with the Town Clerk.

§ 150-27.10. Duration of building permits for adult uses.

- A. The duration of a building permit for an adult use shall be for a period of six months. If construction has not been started within the six-month period, then the permit shall lapse and shall be of no force and effect.

§ 150-27.11. Violations relating to an adult use.

It shall be deemed a violation of this article if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator of an adult use:

- A. Has violated or is not in compliance with any section of this article.
- B. Has refused to allow an inspection of the adult use business premises as authorized by this article.
- C. Has had gambling take place on the adult use business premises.
- D. Has had the possession, use or sale of a controlled substance occur on the premises.
- E. Has had prostitution occur on the premises.
- F. Has had any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct occur on the premises.

§ 150-27.12. Penalties for offenses relating to an adult use.

A violation of this article relating to an adult use shall be punishable as a violation by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both for the first offense. For the second and each subsequent offense punishment shall be by a fine not to exceed \$500 or by imprisonment for a term not to exceed 45 days, or both. Each week in which the violation continues shall constitute a separate additional violation. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this article.

Article XIIA. Incentive Zoning

- [1] *Editor's Note: This article was renumbered as Art. XIIA, Incentive Zoning, pursuant to 9-21-2020 by L.L. No. 5-2020.*

§ 150-28. Incentive zoning.

[Added 9-10-2012 by L.L. No. 3-2012]

- A. Purpose and objectives.
 - (1) It is the purpose of this section to empower the Town Board to grant incentives to the private sector engaged in the land development process to advance the Town's specific policies in accordance with the Town of Ontario's Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques.
 - (2) This authority may be used by the Town Board to assist the following objectives from the Town's Comprehensive Plan:
 - (a) To protect highly valued ecological resources and environmentally sensitive areas.
 - (b) To protect active farm operations.

- (c) To preserve greenways and important open spaces, develop the Ontario Trail System, preserve historic and archaeological resources and protect high-quality scenic resources.
 - (d) To provide a sound mix of housing types.
 - (e) To promote provision of neighborhood services in growing areas in a carefully planned manner with a design quality reflecting the values of the community, with a secondary benefit of relieving some traffic congestion in other areas of the Town.
 - (f) To secure important public works improvements which would not otherwise be provided, such as extending sidewalks, connecting residential areas with schools or providing stormwater detention and treatment basins in excess of that necessitated by immediate project demand.
- B. Authority.
- (1) In accordance with § 261-b of the Town Law of the State of New York, the Town Board is empowered to provide for a system of zoning incentives as the Town Board deems necessary and appropriate, consistent with the purposes and conditions set forth herein.

C. Applicability.

- (1) Except as specifically limited herein, this section will apply to all districts in the Town of Ontario.

D. Definitions. As used in this section, the following terms shall have the meanings indicated:

COMPREHENSIVE PLAN

The Town of Ontario Comprehensive Plan, as amended from time to time.

INCENTIVE ZONING

The system by which specific incentives are granted, pursuant to § 261-b of the Town Law and the provisions of this chapter, on condition that specific physical, social or cultural benefits or amenities would inure to the community.

REVIEW

A preliminary, nonbinding review by the Town Board of an application for use of incentive zoning to determine the merits of applying the incentive zoning concept to a particular project.

SEQRA

The State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, as amended, and the regulations promulgated thereunder.

E. Permitted incentives. The Town Board may grant the following specific incentives:

- (1) Increases in residential unit density.
- (2) Development of current residential unit density over a full parcel, as long as an equivalent amount of the open space that would have been required is provided for elsewhere.
- (3) Changes in lot area and dimensional requirements.
- (4) Changes of use.
- (5) Reduction/elimination of the recreation fee required under the Town of Ontario fee schedule.
- (6) Reduction of road construction standards.

F. Community benefits or amenities.

- (1) The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive as provided in this section. These community benefits

or amenities may be either on or off the site of the subject application, may involve one or more parcels of land, and may be situated in any district, unless otherwise specifically limited in this section:

- (a) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
 - (b) Donations of land in fee simple for conservation and other community benefit purposes.
 - (c) Construction of recreation amenities, serving a Town-wide need, accessible to the general public.
 - (d) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and this Code.
 - (e) Preservation and improvements of historical or cultural sites or structures.
 - (f) Other facilities or benefits to the residents of the community, as determined by the Town Board.
 - (g) Any combination of the above-listed community benefits or amenities.
- (2) Community benefits or amenities are in addition to any mandated requirements pursuant to other provisions of the Town of Ontario Code and any other applicable law or regulation.

G. Special condition.

- (1) The particular incentive granted shall be in relative proportion to the value and importance of the amenity provided, as determined by the Town Board at the time of application.

H. Criteria and procedure for approval.

- (1) Optional preapplication review. It is recommended that an applicant meet informally with Town Building and/or Economic Development Department staff prior to completion of an application, for the purpose of gathering information for the proposed amenity/incentive exchange. Applicants are advised to review the Comprehensive Plan and any other materials the Town may have on file regarding the incentive zoning program.
- (2) Applications for incentives in exchange for amenities shall be submitted to the Town Board in accordance with adopted procedures for requests to amend this chapter. All applications shall include the following information:
 - (a) The requested incentive.
 - (b) The proposed amenity.
 - (c) The estimated cash value of the proposed amenity.
 - (d) A narrative demonstrating the following:
 - [1] The benefits to the community from the proposed amenity.
 - [2] Consistency with the goals and objectives of the Town's Comprehensive Plan.
 - [3] The relative importance and need for the amenity.
 - [4] That there are adequate sewer, water, transportation, waste disposal and fire-protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on those facilities beyond the demand that would be placed on them if the district were developed to its fullest potential.
 - [5] That all conditions and other applicable requirements of the law are met.

- (e) Any other information or support materials as needed or requested by the Town Board.
- (3) Review by Town Board. Affected properties shall be properly posted with public notice that the parcel(s) will be reviewed at a public meeting by the Town Board. Within 45 days of submission of an application, the Town Board will prepare a brief response to the proposal, outlining in writing the Town Board's determination on whether the proposal is worthy of further consideration and the basis for that determination. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant. Suggested modifications to the proposal may also be provided by the Town Board to the applicant. With a supporting determination, the proposed application will be referred to the Planning Board for its advisory opinion.
- (4) Advisory referral to Planning Board.
- (a) The application will be submitted to the Planning Board for its nonbinding advisory opinion to the Town Board. The review at this stage is intended to obtain the input of the Planning Board for the subject land use decision. It is not intended to serve as a site or subdivision review, which would only occur after a decision by the Town Board on the incentive zoning request.
 - (b) The Planning Board will schedule a public workshop on the application, which may be conducted as part of a regularly scheduled meeting. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board later in the review process.
 - (c) Within 45 days of receipt of the application from the Town Board, the Planning Board will prepare an advisory report to the applicant and the Town Board. The Planning Board's report will describe the beneficial aspects of the proposal and make recommendations for the amelioration of any adverse aspects of the proposal. The Planning Board's report and the application will then be transferred back to the Town Board for its final decision on the application.
- (5) Compliance with SEQRA.
- (a) Every decision by the Town Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.
 - (b) The applicant will submit an Environmental Assessment Form, Part 1, to the Town Board after the referral by the Planning Board.
 - (c) The Town Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this section.
 - (d) If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this section, the applicant will pay a proportionate share of the cost of preparing such impact statement.
- (6) Public hearing by Town Board. Prior to its final decision and in conjunction with its SEQRA review, the Town Board will conduct a public hearing in accordance with the standard procedures for adoption of an amendment to the zoning ordinance or local law. At least five days' notice (14 days if a draft environmental impact statement or supplemental environmental impact statement was required) of the time and place of the hearing will be published in an official newspaper of the Town.
- (7) Findings and final decision.
- (a) Following the public hearing and completion of the SEQRA process, the Town Board will approve, approve with modifications or conditions or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board

documenting the basis of its decision. The findings will include, but not be limited to, the following:

- [1] SEQRA. That all requirements of SEQRA have been met, including the required findings under that law.
- [2] Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Ontario Code.
- [3] Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Town Board.
- [4] Project quality. That the project is in harmony with the purpose and intent of this section and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive, and that the project will add to the long-term assets of the Town of Ontario.
- [5] Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

(b) The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project (e.g., imposing a time limit duration for the incentive zoning approval).

I. Plan review. Following the receipt of a favorable decision by the Town Board, an application for approval may be submitted pursuant to the applicable provisions of this Code.

Article XIII. Planned Unit Development

§ 150-29. Purpose, objectives and permitted uses.

A. Purpose. The purpose of a planned unit development (PUD) shall be:

- (1) To encourage flexibility in the design and development of land in order to promote its most appropriate use;
- (2) To achieve economies in the construction of an adequate and efficient road and utility system;
- (3) To facilitate the provision of usable open space;
- (4) To preserve the natural and scenic qualities of the environment; and
- (5) To substitute an approved development plan for conventional zoning regulations as the basis for continuing land use and development controls for the PUD area.

B. Objectives. The objectives of a PUD are as follows:

- (1) The unified development of a substantial land area with such combination of structures and uses as shall be appropriate to an integrated plan for the area.
- (2) A maximum choice in the types of housing, occupancy tenure (e.g., individual ownership, cooperatives, condominiums or leasing), lot size and community facilities available to existing and potential Town residents at a range of economic levels.
- (3) The preservation of trees, drainageways, outstanding natural features and the minimizing of soil erosion.

- (4) A creative use of land and related physical development which allows an orderly transition of land from more-intensive to less-intensive uses.
 - (5) More usable recreation space and open areas.
 - (6) An efficient use of land resulting in smaller networks of utilities and roads, thereby lowering housing and community costs.
 - (7) A development pattern in harmony with the long-range objectives of the Town Master Plan.
 - (8) A more desirable environment than would be possible through the strict application of traditional regulations of this chapter.
- C. Permitted land uses. Any land use or activity listed in Schedule I^[1] of this chapter as being permitted by right (P), with special conditions (SC) or by special permit (SP) for either the R, SR, UR or B District shall be permitted in a PUD when approved in accordance with the provisions of this Article V.
- [1] *Editor's Note: Schedule I is located at the end of this chapter.*

§ 150-30. Basic regulations.

In a PUD area, the following design regulations and criteria shall apply:

- A. The proposed project area shall encompass a contiguous land area of 50 acres under single or corporate ownership or, if less than 50 acres, of sufficient acreage to constitute a large planning unit having special attributes for integrated development.
- B. A minimum of 15% of the gross site area of the PUD shall be devoted to common open space.
- C. The number of dwelling units in a PUD shall be no more than the maximum number of units permitted by conventional zoning regulations for the district into which the Planning Board determines the particular use would fall according to its character, extent and location. In calculating the maximum dwelling units permitted, only the gross area of the PUD actually proposed for residential development and common open space shall be used.
- D. Up to 15% of the gross land area of a proposed PUD may be used for nonresidential purposes, including the parking and service areas that may be required by any proposed nonresidential uses.

§ 150-31. Procedure.

- A. Application. An applicant wishing approval for a PUD must submit 13 copies of a preliminary proposal to the Town Planning Board. The preliminary proposal shall explain and show the following information:
 - (1) Location and extent of all proposed land use, including open space.
 - (2) All interior streets, roads, easements and their planned public or private ownership, as well as all points of ingress and egress from existing public rights-of-way.
 - (3) Specific delineation of all uses indicating the number of residential units and the number of each residential housing type, as well as the overall project density.
 - (4) The overall water and sanitary sewer system with proposed points of attachment to existing systems, the proposed stormwater drainage system and its relation to existing systems, evidence of preliminary discussion with the New York State Department of Health of the proposed sewer and water system or their recommended modifications.

- (5) Description of the manner in which any area that are not to become publicly owned are to be maintained, including open space, streets, lighting and others, according to the proposals.
 - (6) If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and number of units or activities completed per phase.
 - (7) Evidence, as required by the Planning Board, of the applicant's ability to complete the proposed PUD.
 - (8) A description of any covenants, grants of easement or other restriction proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
 - (9) A written statement by the landowner setting forth the reasons why, in his opinion, the proposal would be in the public interest and would be consistent with the Town goals and objectives for a PUD.
 - (10) A long-form environmental assessment of the proposed project.
- B. Developer's conference. Within 45 days after the date of submission of a preliminary proposal, the Planning Board will schedule one or more conferences with the applicant to review the proposed PUD. If said project appears to be generally in accordance with the objectives and guidelines of this Article V, the Planning Board and applicant shall jointly consider the conditions and specifications under which the proposal may be approved. After such conferences, if the applicant wishes to proceed with the PUD, a written statement of intent to comply with the conditions and specifications must be submitted to the Planning Board by the applicant.
- C. Action on the preliminary proposal.
- (1) The Planning Board shall review the preliminary proposal plan and its related documents and shall render either a favorable report or an unfavorable report. The report of the Planning Board shall be provided to the Town Board and to the applicant.
 - (2) A favorable report shall be based on the following findings, which shall be included as part of the report:
 - (a) The proposal conforms to the Comprehensive Plan.
 - (b) The proposal meets the intent and objectives of a planned unit development as expressed in § **150-29**.
 - (c) The proposal meets all the general requirements of § **150-30**.
 - (d) The proposal is conceptually sound in that it meets local and area-wide needs, and it conforms to accepted design principles in the proposed functional roadway and pedestrian system, land use configuration, open space system, drainage system and scale of the elements both absolutely and to one another.
 - (e) There are adequate services and utilities available or proposed to be made available in the construction of the development.
 - (3) An unfavorable report shall state clearly its reasons and, if appropriate, shall indicate to the applicant potential modifications that might result in a favorable report.
 - (4) The Chairman of the Planning Board shall certify when all necessary application materials have been presented; and the Planning Board shall submit its report within 62 days of such certification. If no report has been rendered after 62 days, the applicant may proceed as if a favorable report was given to the Town Board.
- D. Factors for consideration. The Planning Board's review of a preliminary proposal shall include but is not limited to the following considerations:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths and traffic controls.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size and design of buildings, lighting and signs.
- (5) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between adjacent uses and adjoining lands.
- (6) The adequacy of usable open space for playgrounds and informal recreation.
- (7) Adequacy of the stormwater system and required public services, existing and proposed.
- (8) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
- (9) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
- (10) A project consistent with an appropriate development of adjacent areas and not unreasonably detrimental to the existing structures and uses in such areas.
- (11) Conformance with other specific conditions of the Planning Board which may have been required in the Board's examination of the preliminary proposal and agreed to in the developer's statement of intent.

E. Application for PUD districting.

- (1) Upon receipt of a favorable report from the Planning Board, or upon receipt from the applicant of application for PUD districting notwithstanding receipt of an unfavorable report, submitted by the applicant to the Town Clerk within 10 days of receipt of an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering a PUD District for the applicant's plan. Said public hearing shall be conducted within 62 days of receipt of the favorable report or the applicant's application for PUD districting notwithstanding an unfavorable report.
- (2) The Town Board shall refer the application to the Wayne County Planning Department for its review and recommendations pursuant to the provisions of § 239-m of the General Municipal Law.
- (3) Within 45 days after the public hearing, the Town Board shall render its decision on the application, which such decision shall take into consideration the report of the Planning Board and shall be based on the factors set forth in § **150-31D**.

F. Certificate of occupancy. Upon completion of a PUD or any stage of it, a certificate of occupancy shall be obtained in accordance with § **150-66** of this chapter.

§ 150-32. Changes in final plan.

[Amended 11-23-2015 by L.L. No. 5-2015]

No changes may be made in the approved final plan during the construction of the planned development except by application under the procedures set forth below:

- A. Minor changes in the location, size and height of buildings, width and depth of lots, road alignment or stormwater drainage provisions may be approved by the Code Enforcement Officer if required by engineering or other circumstances not foreseen at the time the final plan was approved. No

change authorized by this section may increase the size or square footage of any building by more than 10%.

- B. Any changes in land use, any rearrangement of lots, blocks or buildings tracts, any changes in the provision of common open space and any other significant change in the final development plan must be approved by the Town Board in the same manner and following the same procedures as were applied to the original development plan.

§ 150-33. Subdivision in planned unit development.

If any part of the proposed PUD involves the subdivision of land into smaller parcels for sale to individual owners, including townhouse development, the site plan review and public hearing required for the PUD shall suffice for the Planning Board review and hearing required by Town subdivision regulations. In such event, the developer shall prepare a subdivision plat suitable for filing with the Wayne County Clerk. (See Town of Ontario subdivision regulations on file in the Town offices.)

§ 150-34. (Reserved)

Article XIV. Site Plan Review Uses

§ 150-35. Intent.

The intent of this article is to provide for the review of site plans for certain land use activities in the Town of Ontario for the purpose of preserving and enhancing the character of a neighborhood, achieving compatibility with adjacent development, mitigating potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improving the overall visual and aesthetic quality of the Town and increasing the capability of this zoning chapter to adapt to a variety of unique circumstances.

§ 150-36. Applicability.

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. Any land use or activity requiring site plan review and approval by the Town Planning Board shall comply with the provisions of this Article **XIV**. No building or use permit shall be issued by the Code Enforcement Officer until approval of such site plan, with or without conditions, has been given by the Planning Board.
- B. All land uses and/or activities shall require an approved site plan, except for the following:
 - (1) Accessory structures.
 - (2) Building integrated, roof-mounted and small-scale ground-mounted solar energy system.
 - (3) Enclosed storage as an accessory use.
 - (4) Farm.
 - (5) Newspaper vending machine.
 - (6) Private boat, travel or camp trailer.
 - (7) Private garage.
 - (8) Roadside stand.

- (9) Satellite dish.
- (10) Short-wave/ham radio antenna.
- (11) Sign.
- (12) Winery.

§ 150-37. Objectives of site plan review.

In reviewing an application for site plan approval, the Planning Board must find that the application meets the following criteria:

- A. A harmonious relationship between such land use activity and uses located on adjacent lots and in adjacent zoning districts.
- B. The safety of vehicular access and egress from the site to existing and proposed roads.
- C. The effectiveness of on-site circulation and parking facilities with particular attention to pedestrian and vehicular safety.
- D. The adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent property.
- E. An adequate solution to the question of surface water drainage and the provision of water and sewer services.
- F. Compliance with rules and regulations of subdivision and any special requirements unique to a particular site or land use, as those might be specified by the Planning Board or listed in Articles **VII** and **VIII** of this chapter.

§ 150-38. Procedure.

- A. Presubmission conference. Prior to the preparation of a site plan for presentation to the Planning Board in its final form, the applicant may prepare a sketch plan and meet informally with a member(s) of the Board or designee to consider the specifics of the proposed use or development, the character of the neighborhood, special features of the site and any environmental concerns. Such sketch plan should be submitted five calendar days prior to a Planning Board meeting, with sufficient information to enable a clear understanding of the proposal.
- B. Final site plan.
 - (1) A final site plan shall be submitted to the Planning Board at least 21 calendar days prior to the meeting at which consideration of such plan is to be given if the plan has county implications. The plan shall contain the following information, as applicable:
 - (a) Location, name and address of the owner; name of the plan designer and engineer (if any) working on the proposed project.
 - (b) Identification map showing the location of the site in the Town of Ontario and relationship to the existing road system.
 - (c) Scale, North arrow and date and present zoning and setback requirements.
 - (d) Identification of property owners and existing land uses for all abutting sites and showing existing property lines, rights-of-way and easements.

- (e) Existing and proposed buildings, including the approximate location of parking on and access to the proposed site and to abutting properties. Common drives on property lines are encouraged.
 - (f) The location of all wetlands and land located in the one-hundred-year floodplain.
 - (g) Indication of existing and proposed topography and drainage systems for the site. When this is a consideration due to topography or low land, a topographic survey and drainage plan may be required by the Planning Board before action is taken.
 - (h) Any engineering drawings or documentation that may be required for utility hookups, septic tank installations or public improvements.
 - (i) Landscaping.
 - [1] In Business Transitional (BT), Business (B), Industrial (I), Public Utility and Adult Entertainment (AE) Districts, existing major vegetation (trees and shrubs) and indication of proposed landscaping treatment, including species, sizes and approximate locations.
 - [2] In Business Transitional (BT), Business (B), Urban Residential (UR) on Route 104, Industrial (I), PUD, Public Utility and Adult Entertainment (AE) Districts, a green space shall be required that shall begin at the road right-of-way property line and run parallel to it, excluding the exit and entry only. Such green space shall be of a reasonable width so as to provide suitable screening and enhance the overall quality of the site. There shall be no displays within the green space, and it shall be maintained. One freestanding sign with menus is permitted within the green space. Behind the front setback there shall be no cutting of existing trees over six inches in diameter within 10 feet of property lines. If such cutting is necessary, such tree will be replaced.
 - (j) Drawings or sketches that illustrate the height, bulk and design characteristics of any proposed buildings in B, BT, I, PUD, Public Utility and Adult Entertainment Districts shall indicate exterior color and primary materials to be used, for information purposes only.
 - (k) Narrative description of how the proposed building, land use or site design will fit into the surrounding neighborhood.
 - (l) Sketches indicating the location, size and design of any sign or site lighting to be used on the proposed site.
 - (m) Any other information that may be reasonably required by the Planning Board to explain the proposal.
- (2) Any of the above final plat requirements may be waived or modified by the Planning Board when conditions warrant. Documentation of such waivers shall be included, in writing, in the records of the application.
- C. Planning Board review. The Planning Board shall review the application, in accordance with the procedures required by New York State Town Law provisions, to determine compliance of the plans with the requirements set forth in this § **150-38**.
- D. Standards for approval of site plans.
- (1) In reviewing applications for approval of site plans, the Planning Board will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include but not be limited to the following:
 - (a) Movement of vehicles and people.
 - (b) Public safety and the adequacy of public utilities services needed at the site.

- (c) Off-street parking and the access and egress thereto, including the adequacy of existing roads to serve the proposed project.
 - (d) Lot size, density, setbacks, building size, coverage and height. (See § 150-27, Schedule II^[1]).
[1] *Editor's Note: Schedule II is located at the end of this chapter.*
 - (e) Site drainage, landscaping, buffering, views or visual character.
 - (f) Signs and site lighting.
 - (g) Architectural features, materials and colors.
 - (h) Compatibility with the general character of the neighborhood.
 - (i) Other considerations that may reasonably be related to health, safety and general welfare.
- (2) Other performance standards may be established by the Planning Board from time to time to be used as guidelines in the site plan review process. Such standards will be applicable to all applications for site plan review.
- E. Environmental assessment. If, in the judgment of the Planning Board, approval of a proposed land use activity over which it has jurisdiction for site plan approval could have a significant environmental impact, no final approval shall be given until the environmental requirements set forth in Part 617 of the State Environmental Quality Review Act have been complied with.

§ 150-39. Duration of site plan approvals.

[Added 7-14-2008 by L.L. No. 3-2008]

A site plan approval granted pursuant to the provisions of this article shall expire three years from the date granted unless a certificate of occupancy or conditional certificate of occupancy for such site has been issued by the Code Enforcement Officer within such three-year time period.

Article XV. Supplementary Regulations Governing Special Conditions and Special Permits

§ 150-40. Intent.

This Article **VII** sets forth supplemental regulations, procedures and conditions which shall apply to certain land use activities in the Town of Ontario that are incongruous or sufficiently different in terms of their nature, location and potential effect on the surrounding environment and the quality of the environment and that warrant special evaluation of each individual case.

§ 150-41. Applicability.

No building or use permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Schedule I as having special conditions applicable (SC) or requiring a special permit (SP) until the Code Enforcement Officer is satisfied that applicable regulations, as set forth in this article, have been complied with or that a modification of such regulations has been duly made.

§ 150-42. Special conditions.

[Amended 8-10-2009 by L.L. No. 2-2009; 6-11-2018 by L.L. No. 2-2018; 5-20-2019 by L.L. No. 1-2019; 11-18-2019 by L.L. No. 8-2019; 9-21-2020 by L.L. No. 5-2020]

- A. The special conditions set forth in this section shall be met, prior to the Code Enforcement Officer issuing a building or use permit for the applicable use, unless any such special condition shall have been waived or modified by the reviewing agency, if such waiver is deemed appropriate and in the best interest of the Town and if the spirit and intent of this chapter can be maintained. Any decision to waive or modify any special condition shall be set forth in writing, with the reason for such modification or waiver being set forth by the reviewing agency.
- B. The following special conditions shall apply to the following specific uses:
- (1) Farms shall comply with the following:
 - (a) No odor- or dust-producing uses, including the storage of manure, shall take place within 150 feet from the nearest lot line, except that it is permissible to store and use, within the above limits, dust or spray material necessary to protect fruits, vegetables and farm crops from disease and insects.
 - (b) No hogs or chickens of any kind shall be kept except as an incidental part of a general farm operation.
 - (c) Fowl of any kind or livestock, including horses, shall only be kept on parcels of five acres or more in area or in a building, no part of which is closer to any property line than 150 feet.
 - (d) No garbage or refuse, other than that produced on the premises, is used for feed.
 - (e) In the Rural District only, with more than five acres, the sale of farm products produced on owner's property and related seasonal products is permitted.
 - (2) Farm markets shall comply with the following:
 - (a) Any such farm market shall be located on a single tax parcel containing not less than five acres.
 - (b) The maximum building area devoted to farm market retail sales shall not exceed 10,000 square feet. Accessory growing structures are permitted, provided that all structures maintain a fifty-foot setback from all property lines.
 - (c) Farm market operations may be conducted 12 months per year.
 - (d) Outside storage and display of produce and plant materials is permitted on all portions of the property, with the exception of areas where traffic sight distance will be impacted. No outside storage and/or display of materials is permitted within a public right-of-way.
 - (e) Outside storage and display shall be not less than 50 feet from all property lines. The total square footage of all storage and display areas shall not exceed 25% of the square footage of the principal farm market structure.
 - (3) Permanent roadside stands shall comply with the following:
 - (a) Such stand sells only those products grown on the owner's property.
 - (b) Such stand is set back from the highway right-of-way line at least 10 feet.
 - (4) Riding academies, commercial stables and private stables shall comply with the following:
 - (a) Any building or structure used for the lodging or feeding of animals must be located at least 150 feet from any side and rear property line or from any highway right-of-way line.
 - (b) A private stable, riding academy or commercial stable shall comply with the provisions of **§ 150-42B(1)** of this section.

- (5) Multiple dwellings (three units) shall have adequate off-street parking, in compliance with the provisions of § **150-47A** of this chapter.
- (6) Multiple dwellings (four or more units) shall comply with the following:
 - (a) Required off-street parking must be provided, in compliance with the provisions of § **150-47A** of this chapter.
 - (b) Where there are two or more structures containing multiple dwellings on the same lot, there shall be provided a distance between structures which shall not be less than 1 1/2 times the average height of the adjoining structures.
 - (c) All parking areas shall be landscaped and screened.
- (7) Townhouses or row houses shall comply with the following:
 - (a) No more than six such attached dwellings shall be included in any single building.
 - (b) All parking areas shall be landscaped and screened and shall be in compliance with the provisions of § **150-47A** of this chapter.
 - (c) A dumpster must be provided for residential trash generated on site, which shall be landscaped and screened from public view.
- (8) Mobile home dwellings shall comply with the following:
 - (a) Such mobile home must be located in a mobile home park, as defined and regulated in this chapter. (See § **150-51**.)
 - (b) The Code Enforcement Officer may issue a temporary permit for not more than one mobile home, not located in a mobile home park, to the owner of property who first procures a permit to build upon such property and desires to live in said mobile home during the construction period. Such temporary permit may be revoked on 10 days' notice to the owner of the property and may be revoked by the Inspector if construction of the building for which the temporary permit has been issued does not commence within three months' time or is terminated. Such mobile home shall be immediately removed from the construction site following the revocation of the temporary permit or issuance of a permanent certificate of occupancy.
- (9) Mobile home parks shall comply with the following:
 - (a) Such mobile home park shall be an extension of or an improvement to an existing mobile home park.
 - (b) Such mobile home park shall comply with the provisions of § **150-51** of this chapter.
- (10) The conversion of an existing building into not more than three dwelling units shall comply with the following:
 - (a) The area of the lot shall be at least 70% of the minimum lot area that would be required for new construction of the equivalent number of dwelling units, unless otherwise approved as part of site plan approval.
 - (b) The minimum side yard requirements for the district shall be met.
 - (c) Parking requirements shall be met, and no parking space shall be located closer than five feet to any side lot line.
 - (d) Such conversion shall meet the applicable regulations of the New York State Uniform Fire Prevention and Building Code.
- (11) State-regulated community residences shall comply with all applicable provisions of the Mental Hygiene Law.

- (12) Day-care facilities or nursery schools shall comply with all applicable state and local codes.
- (13) Public or parochial schools shall comply with the following:
- (a) A landscaped buffer area shall be provided between any playground and an abutting lot.
 - (b) No more than 50% of the lot shall be covered by buildings and pavement. Areas not so covered shall be improved with grass, ground cover, shrubs and/or trees.
- (14) Public parks, playgrounds, libraries, fire stations and other municipal buildings shall be permitted when a site plan has been approved by the Planning Board, in accordance with the regulations of the Town of Ontario. The Town Board, by majority vote, may override any condition set by the Planning Board.
- (15) Home occupations shall comply with the following:
- (a) Such use shall be located in an owner-occupied dwelling unit and on the same lot. No more than 35% of such dwelling may be so used for above occupation.
 - (b) Such use shall be conducted by persons living in the dwelling unit and not more than one additional person who does not live in such unit.
 - (c) All activity, including storage, shall be conducted entirely within the dwelling unit or accessory building, and no special construction or structural alteration is required.
 - (d) The use shall not display or create outside the building any evidence of the home occupation, except that one nonilluminated sign, not more than three square feet, may be posted.
 - (e) No offensive traffic, noise, odor, smoke, dust, heat, glare or electrical disturbance shall be produced by the home occupation.
- (16) Private swimming pools shall be permitted only when in compliance with all applicable Town regulations.
- (17) Retail stores, banks, business offices, indoor theaters and indoor recreation facilities shall comply with the following:
- (a) Access drives to parking lots shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) Common drives on property are encouraged.
- (18) Restaurants, hotels and motels shall provide that any outdoor dining or service be located so as to not obstruct sidewalks or other public property.
- (19) Storage structures (ministorage) shall comply with the following:
- (a) Access drives to parking and storage areas shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) No more than 50% of any required front yard area shall be paved. Any unpaved area on the site shall be improved with trees, shrubs, ground cover and other form of landscaping.
- (20) Convenience marts; motor vehicle service stations; commercial garages; and car-washing establishments shall comply with the following:
- (a) No access or egress driveway shall have its center line located less than 50 feet from the intersection of any two street right-of-way lines.

- (b) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (c) Any stored liquid fuel, oil or similar substance shall be stored in compliance with state and federal regulations.
 - (d) No major repair work is conducted outside of a structure and all automobile parts, dismantled vehicles and similar articles are stored inside a structure.
 - (e) Landscaping shall be provided adjacent to all public streets.
- (21) New and used automobile sales, service or repair; motor vehicle service stations; outdoor facilities for the retail sale of boats, trailers, furniture and similar goods; and indoor or outdoor sale of building material and supplies shall comply with the following:
- (a) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) Outdoor lighting shall be located and designed so as not to produce glare on adjacent streets and properties.
 - (c) Landscaping shall be provided adjacent to all public streets.
- (22) Excavations or fills are permitted only in compliance with the provisions of Chapter **75** of this Code.
- (23) Off-street parking lots shall comply with the following:
- (a) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) A landscaped buffer strip shall be provided between such use and any adjacent residential lot.
- (24) Newspaper vending machines shall comply with the following:
- (a) Such machine shall not be attached or secured in any way to any pipe, pole, tree or standard owned or controlled by the state, county or Town.
 - (b) The location of such machine shall be no less than 25 feet from the intersection of two curblines or edge-of-pavement lines.
 - (c) The location of such machine shall not reduce the unobstructed width of any sidewalk to less than 40 inches.
- (25) Private boats, recreational vehicles, travel or camp trailers shall comply with the following:
- (a) No such boat, trailer or similar recreational equipment or recreational vehicle shall be parked or stored out-of-doors on a lot upon which a principal building does not exist, unless such a vehicle is stored in excess of 200 feet from the front property line.
 - (b) All boats, boat trailers, recreational trailers and recreational vehicles shall be parked or stored in a secure manner so as to avoid being a safety hazard.
 - (c) Visiting trailers at private residences in R-1 and R-2 Districts may obtain a permit to remain for a period of six months, as long as the trailer sets behind the front line of the house, does not encroach upon the side yard setback and it does not create a detriment to the health, safety or welfare of the neighborhood or community. Visiting trailers at private residences in SR and UR Districts may obtain a permit for 90 days per year. The

Code Enforcement Officer shall check on those conditions at least once every 90 days. These trailers are to be used for sleeping purposes only.

(26) Building-integrated, roof-mounted and small scale ground-mounted solar energy systems shall comply with the following:

(a) Shall be designed and installed in conformance with current International Building Code requirements, as incorporated into the New York State Uniform Code, and manufacturer's suggestions. In case of conflict between these sources, the International Building Code shall control.

(b) Roof-mounted solar energy systems:

[1] Are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

[2] Shall not exceed the maximum height restrictions of the zoning district in which they are located, including the same height exceptions granted to building-mounted mechanical devices or equipment.

[3] Shall incorporate the following design requirements:

[a] Panels installed on a sloping roof facing the front yard must be mounted at the same angle as the roof's surface, with a maximum distance of 18 inches between the roof and the highest edge of the system.

[b] Panels installed on a flat or near-flat roof shall be screened by a parapet wall or other screening materials at the same height as the top of the panels.

[c] All flat and near-flat roof installations shall provide a perimeter area around the edges of the roof for emergency access and maintenance work. Larger buildings may be required to provide internal walkways to equipment, access hatches, stairways, ladders, and other roof penetrations or equipment.

[d] All solar panels shall have an antireflective coating.

(c) Small-scale ground-mounted solar energy systems:

[1] Shall be designed and installed in conformance with current International Building Code requirements, as incorporated into the New York State Uniform Code, and manufacturer's suggestions. In case of conflict between these sources, the International Building Code shall control.

[2] Are limited to a maximum of 20% of lot coverage. Further, the surface area covered by ground-mounted solar panels shall be included in the total lot coverage allowed in the applicable zoning district. Such area shall be based upon square feet of solar panel surfaces.

[3] Shall have a maximum height of 10 feet.

[4] Shall be installed in the side or rear yards, only, with a minimum setback of 25 feet to any adjoining property lines.

[5] All solar panels shall have an antireflective coating.

(27) Farm labor camps shall comply with the following:

(a) All structures shall be set back a minimum of 200 feet from any road or highway.

(b) A landscaped buffer strip shall be planted to screen any structures from an adjacent highway.

- (c) Such camps and structures shall comply with all applicable state, county and federal regulations.

(28) Kennels shall comply with the following:

- (a) In the R1 or R2 District, all structures, pens and exercise runways shall be located at least 300 feet from any property line. A minimum of five acres is required to operate a kennel.
- (b) In the BT or I District, the following shall apply:
 - [1] A noise and visual barrier consisting of a suitable fence or dense vegetative planting shall be provided, fully encircling all kennel areas not enclosed in a building.
 - [2] All animals shall be confined to an individual crate or cage and within a building between the hours of 8:00 p.m. and 6:30 a.m.
 - [3] No noticeable odors or offensive noise shall be emitted from the site.
 - [4] There shall be no incineration of waste and/or refuse on the site.
 - [5] There shall be no breeding of animals on the site.
 - [6] The reviewing agency shall also consider the following:
 - [a] Provisions for controlling noticeable odor and offensive noise.
 - [b] Disposal plan for animal waste.
 - [c] Supervision of animals, particularly when outside a building.
 - [d] Adequacy of outdoor areas, including size, number of areas and separation of areas with visual buffering.
 - [e] Soundproofing methods for buildings.
 - [f] Maximum number of animals to be maintained.
 - [g] Hours of operation.
 - [h] Existing or proposed natural or man-made barriers.
 - [i] Other factors which the reviewing agency reasonably determines are appropriate to prevent and/or mitigate negative effects to adjoining properties and the neighborhood.

(29) Multiple dwellings (four or more units) shall comply with the following:

- (a) A landscaping and drainage plan shall be approved by the Planning Board.
- (b) No more than 50% of any required front yard area shall be paved. All unpaved areas on the site shall be improved with trees, shrubs, ground cover and other forms of landscaping.
- (c) In the case of two or more structures or buildings on the same lot containing multiple dwellings, there shall be provided a distance between structures or buildings which shall not be less than 1 1/2 times the average height of the adjoining structures.

(30) Churches and related uses shall comply with the following:

- (a) Such project shall be sponsored by an organization legally established and registered in the State of New York.
- (b) Landscaping shall be provided around parking lots and adjacent to all public streets.

- (c) The facility must be used as a church facility for religious purposes more than 70% of the time.
- (31) Hospitals and nursing homes shall comply with the following:
- (a) No more than 50% of the gross lot area shall be covered with impermeable surfaces, including buildings and pavement.
 - (b) No more than 50% of any required front yard shall be paved.
 - (c) Landscaping shall be provided around parking lots and adjacent to all public streets.
- (32) Tourist, boarding or rooming houses shall comply with the following:
- (a) Any dwelling so used shall be occupied by its owner and shall contain no more than six rooms to rent or lease for profit.
 - (b) No more than 50% of any required front yard area shall be paved or used for parking.
 - (c) One sign advertising such use shall be permitted, six square feet in area, and, if illuminated, shall not be flashing.
- (33) Bed-and-breakfast facilities shall comply with the following:
- (a) Any dwelling so used shall be occupied by its owner and shall contain no more than six rooms to let for profit.
 - (b) One sign advertising such use shall be permitted, six square feet in area, and, if illuminated, shall not be flashing.
- (34) Pet shops and veterinary establishments shall comply with the following:
- (a) There shall be no outdoor storage of refuse, feed or other material and no on-site incineration of refuse.
 - (b) A landscaped buffer strip shall be provided along the side and rear property lines that are adjacent to any residential lot.
- (35) Food-processing facilities; planned industrial research parks; scientific or research laboratories; fabrication or storage of metal, paper or wood products; general processing, assembly or packaging of previously prepared materials; and light manufacturing shall comply with the following:
- (a) Dust, smoke, smog, observable gas, fumes, odors or other atmospheric pollutants shall be limited, and such emission shall be in conformity with all government rules and regulations.
 - (b) Noise, glare or vibration shall not be created.
 - (c) No activity shall create a physical hazard to persons or property by reason of fire, explosion or radiation.
 - (d) There shall be no discharge of any liquid or solid waste into any stream or body of water or into any disposal system that may contaminate any water supply or groundwater.
 - (e) All industrial processes shall take place within an enclosed building. Incidental storage of materials out-of-doors is permitted.
 - (f) The discharge of radioactive gases or liquid effluents shall be maintained within the limits specified by the New York State Department of Health and by the United States Atomic Energy Commission. Evidence of such compliance shall be provided to the Town Health Officer upon request.

- (g) There shall be no storage of material, either indoors or outdoors, which results in the breeding of vermin or endangers health in any way.
 - (h) All such uses shall be set back from any side or rear property line a distance adequate to enable access by firefighting equipment.
 - (i) A planted and maintained buffer strip shall be provided for a visual screen between the industrial use and abutting residential or business districts.
 - (j) All applicable requirements of the New York State Uniform Fire Prevention and Building Code shall apply and are incorporated herein.
- (36) Vehicle body shops shall provide that areas used for the temporary parking of vehicles awaiting repair be at least 15 feet from any property line and shall be screened from direct public view by landscaping or a solid fence, as approved by the reviewing agency.
- (37) Satellite dishes, short-wave antennas, ham radio towers and television and radio antennas shall comply with the following:
- (a) Receivers shall not be located in any front or side yard area unless no other location is technically or physically feasible.
 - (b) Satellite dish receivers shall not be mounted on the roof of any building or vehicle except if the receiver is 36 inches or less in diameter.
- (38) Alternative energy supply systems shall comply with the following:
- (a) Alternative energy supply systems shall be appropriately screened from adjoining properties and rights-of-way. Wind energy collectors (including windmills and wind turbines) and solar and geothermal residential systems in residential districts that are not physically a part of the principal structure (such as solar panels) shall not be located in the front yard, with the exception of solar-powered lights. The minimum lot size required for wind energy collectors in residential districts is five acres.
 - (b) Each application for a wind energy collector shall be accompanied by a complete plan, drawn to scale, showing the location of any tower on the lot; the locations of all other structures, power lines or other utility lines on the lot; dimensions and sizes of the various structural components of the tower construction; and either a certification by a professional engineer, or the manufacturer's certification, that any tower was designed to withstand wind load requirements for structures as set forth in the New York State Uniform Fire Prevention and Building Code.
 - (c) A wind energy collector shall not exceed a total height of 100 feet (including any blade in the vertical position) and shall have a fall-zone radius of 1.5 times the proposed total height (including the blades) that is wholly contained on the lot where it is located. Guy wires and anchors for the tower shall not be located closer to any lot line than five feet.
 - (d) The lowest portion of any blade for a wind energy collector may not at any time be closer than 25 feet to the ground.
 - (e) Any climbing apparatus on the outside of a tower for a wind energy collector shall be no lower than 12 feet from the ground.
 - (f) No wind energy collector shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, blades, and turbine components.
- (39) Campgrounds must be a minimum of five acres, except nudist campgrounds must be a minimum of 50 acres.
- (40) Large-scale ground-mounted solar energy systems shall comply with the following:

- (a) Shall be designed and installed in conformance with current International Building Code requirements, as incorporated into the New York State Uniform Code, and manufacturer's suggestions. In case of conflict between these sources, the International Building Code shall control.
 - (b) Are limited to a maximum of 20% of lot coverage. Further, the surface area covered by ground-mounted solar panels shall be included in the total lot coverage allowed in the applicable zoning district. Such area shall be based upon square feet of solar panel surfaces.
 - (c) Shall have a maximum height of 10 feet.
 - (d) Shall be installed in the side or rear yards, only, with a minimum setback of 25 feet to any adjoining property lines.
 - (e) All solar panels shall have an antireflective coating.
 - (f) All special permit applications for a large-scale solar energy system shall include a plan, to the satisfaction of the Planning Board, for the removal of a decommissioned or abandoned system, including site restoration, together with a cash deposit, letter of credit, bond or other, similar security for such removal and site restoration.
 - (g) All large-scale solar energy systems shall obtain site plan approval from the Planning Board.
- (41) Vehicle recycling facilities shall comply with the following:
[Added 11-15-2021 by L.L. No. 4-2021]
- (a) All vehicle dismantling facilities must comply with the provisions of New York Environmental Conservation Law Article 27, Title 23, Vehicle Dismantling Facilities, as it may be amended from time to time. Copies of all reports submitted by the operator to the New York Department of Environmental Conservation must be filed with the Town of Ontario within 10 days of submission to the Department of Environmental Conservation. Any hazardous spill or other release shall be immediately disclosed to the Town of Ontario.
 - (b) All outside storage areas shall be fully screened from view by adjoining properties and roads by a fence and/or vegetative barrier approved by the Planning Board, including the screening style, design and appearance.
 - (c) All towing and impound yards, outside storage areas, customer parking, driveways and maneuvering areas shall be hard-surfaced with concrete, asphalt, stone or approved engineered surface.
 - (d) All outside storage areas shall be located on a properly drained site that is properly graded to ensure drainage consistent with DEC standards and to ensure that the site remains free from stagnant pools of water. A site drainage, stormwater and sanitary sewer plan and grading plan, with adequate facilities to dispose of any runoff and any contaminants, shall be approved by the Planning Board.
 - (e) All vehicles stored outside shall be free of all fluids (engine coolant, oil, transmission fluid, air-conditioning refrigerant, gasoline, etc.) and hazardous materials and substances, such as mercury, sodium aride, etc. A fluid drainage, hazardous material/substance removal and disposal plan shall be provided that complies with all federal, state and local standards and shall be approved by the Planning Board.
 - (f) All removal and storage of fluids, removal and storage of any hazardous materials and substances and/or dismantling of vehicles shall be conducted in an enclosed structure in accordance with a formal, written plan approved by the Planning Board.

- (g) All arriving vehicles and parts are to be stored inside an enclosed structure or behind the visual barrier with sufficient safeguards (i.e., video surveillance, security, or theft prevention devices) to prevent theft prior to a vehicle being stored outside in the vehicle storage area.
- (h) There shall be a vehicle, inventory and sales management system to identify and locate all vehicles and parts, which shall be a nationally recognized software or system.
- (i) The construction or operation of the vehicle recycling facility shall not add to the contamination of the soil, alter groundwater flow, create additional drainage runoff or alter topography in such a way that creates hazards to the proposed site, adjoining properties, or the Town in accordance with state and federal regulations.
- (j) Vehicle recycling facilities shall construct and maintain a permanent primary building.
- (k) Adequate off-street customer and employee parking shall be provided and shall be approved by the Planning Board. Customer parking must be separate from any vehicle storage area and accessible from a public road without being restricted with fences or gates.
- (l) A vehicle parking plan that demonstrates that vehicles awaiting processing, stored vehicles and partial vehicles are stored in a unified, organized manner clear of obstructions.
- (m) A minimum of a twenty-foot-wide drive accessway with a forty-four-foot-wide outside turning radius shall be provided between every two rows of vehicles to facilitate emergency vehicles and tow vehicles.
- (n) Vehicles shall only be stacked to the height of the visual barrier on storage racking, or one vehicle height when stored on the ground.
- (o) An area may be designated for vehicles awaiting removal from the premises which are crushed (flattened) vehicles or vehicles to be crushed and may be stacked to a height no greater than the height of the adjoining screening. The Planning Board shall approve the location of such designated area for crushed vehicles, including the number of vehicles which may be stacked and the overall height of such stacked vehicles.
- (p) Vehicle recycling facilities shall not allow objectionable smoke, noise, odors, or other adverse impacts on adjoining properties or the Town. No burning of any waste materials is permitted unless it is a part of an approved contained heat system specifically for reuse of waste fluids.
- (q) All grounds and buildings shall be maintained free of insect and rodent harborage and infestation. Vehicle recycling, towing and impound facilities, and outside storage facilities shall be maintained free of organic waste or inappropriately stored flammable materials. Materials that are customary to the business shall be stored in accordance with applicable laws. Vehicle storage must be maintained free of vegetation.
- (r) Site lighting and operational lighting shall be installed so that it does not create traffic hazards or impacts on adjacent land uses. A lighting plan shall be approved by the Planning Board.

§ 150-43. Special permits.

Uses requiring a special permit (SP) must comply with the following general requirements and applicable special requirements as set forth in this § **150-43**. Such land use or activity is not permitted by right and may be permitted only after a special permit application has been duly submitted and authorized in accordance with § **150-43A** of this Article **VII**.

- A. Jurisdiction. An application for a special permit shall be reviewed by the Code Enforcement Officer and may be authorized as follows:
- (1) By the Planning Board when site plan approval is required as specified in this § **150-43**. (See subdivision regulations.)
 - (2) By the Zoning Board of Appeals for special permit uses that do not require site plan approval by the Planning Board.
 - (3) By the Town Board when so specified in this section.
- B. Expansion or change of existing uses. No expansion of a use that required a special permit or change to a different use that also requires a special permit shall be permitted without the issuance of a new special permit allowing such expansion and/or change of use. Plans for such expansion or enlargement shall be reviewed and authorized in accordance with the applicable provisions of this § **150-43**.
- C. Revocation of special permit. A special permit may be revoked if, after notice and public hearing, the board which granted it determines that any special permit requirements and/or conditions imposed upon the special permit have been violated or not fulfilled.
- D. Procedure.
- (1) Application. An application for a special permit shall be made to the Code Enforcement Officer, who shall submit such application to the agency of jurisdiction as specified in Subsection **A** above and shall issue no permit until authorized to do so in writing. The applicant for a special permit may be requested to furnish such plans, drawings and other descriptive material as may be needed for complete understanding of the proposed development or use.
 - (2) Public hearing. A special permit application may not be approved until a public hearing on such application has been held by the reviewing agency, following the public hearing procedures set forth in § **150-69** of this chapter. Such public hearing shall be held within 62 calendar days from the receipt of an application for a special permit, and notice thereof shall be given in accordance with the provisions of § 150-69F of this chapter.
 - (3) Decision.
 - (a) Within 62 calendar days from the public hearing, a decision to approve, with or without modification, or to disapprove the special permit application shall be made by the reviewing agency. Failure to act within such sixty-two-day period shall be tantamount to approval and shall be authorization for the Code Enforcement Officer to issue a permit.
 - (b) The period for making a decision may be extended by mutual consent of the applicant and the reviewing agency. Approval of any special permit shall be conditioned on the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property.
 - (4) Referral to County Planning Board. When required by law, before taking final action on certain special permit applications, such applications shall be referred to the Wayne County Planning Board in accordance with §§ 239-l and 239-m of the General Municipal Law.
 - (5) Environmental assessment. If, in the judgment of the reviewing agency, approval of a special permit application could result in a significant environmental impact, no such permit shall be approved until an environmental finding has been made pursuant to Part 617 of the regulations of the New York State Department of Environmental Conservation.
 - (6) Filing. The decision of the reviewing agency shall thereafter be filed in the office of the Town Clerk, with a copy submitted to the applicant and the Code Enforcement Officer.
 - (7) Modification. In reviewing any application for a special permit, the reviewing agency may modify or waive any special condition required by § **150-42** of this chapter if it is deemed

appropriate and in the best interest of the Town and if the spirit and intent of this chapter can be maintained. Any decision to waive or modify any such special condition requirement shall be set forth in writing, with the reason for such modification or waiver being set forth by the reviewing agency

[Amended 9-21-2020 by L.L. No. 5-2020]

- (8) Conditions. In reviewing a special permit application, the reviewing agency may impose conditions on the approval if such conditions are reasonable and in the best interest of the Town of Ontario.
- E. General requirements. Before a special permit can be approved, the reviewing agency shall determine that the following general requirements shall be complied with as well as any other applicable requirement for specific land uses or activities as may be set forth in § 150-43F of this chapter.
- (1) The land use or activity is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
 - (2) The existence of the proposed land use activity will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
 - (3) The proposed land use or activity will be reasonably compatible with adjoining development and the implied character of the zoning district where it is to be located.
 - (4) Adequate landscaping and similar screening will be provided.
 - (5) Adequate off-street parking and loading will be provided, and ingress and egress are so designed as to cause minimal interference with traffic on abutting streets.
 - (6) The proposed development will minimize erosion and will not result in increased surface water runoff on abutting properties.
 - (7) Existing roads and utilities serving the proposed development shall be adequate so that provision for needed upgrading is satisfactory.
 - (8) The proposed use or activity will conform with applicable Town, county, state and federal regulations.^[1]

[1] *Editor's Note: Former Subsection F, which immediately followed, regarding specific requirements, as amended, was repealed 9-21-2020 by L.L. No. 5-2020.*

§ 150-44. through § 150-46. (Reserved)

Article XVI. Special Provisions Applicable in All Districts

§ 150-47. Off-street parking.

- A. Off-street parking requirements. For each structure and/or use hereafter established, constructed, reconstructed or enlarged, reasonable and adequate parking shall be provided and maintained on the same lot as the structure and/or use. Parking spaces shall be a minimum of nine feet in width by 18 feet in depth.
- B. Bus parking. School or church buses shall not be parked overnight on residential property except for duly employed bus drivers unless approval to do so has been granted by the Zoning Board of Appeals.
- C. Outside storage of unregistered vehicles in R1, R2, SR and UR Districts. Except for farm vehicles, no more than one vehicle per parcel shall be stored on a single property without the current State

of New York registration tag.

§ 150-48. Signs.

[Amended 11-23-2015 by L.L. No. 5-2015; 8-20-2018 by L.L. No. 3-2018]

A. The following shall define words and phrases used in this section:

EVENT

Any happening or occurrence of a limited duration, including, but not limited to, the sale or lease of a property; a real estate development; meetings, conventions and other assemblies; an election; a referendum; a garage, estate or yard sale; the erecting or repairing of a structure on the premises; and the like.

SIGN

Any name, identification, description, display, illustration, symbol, logo, statue or device, illuminated or nonilluminated, which is visible from any public place, designed to advertise, identify or convey information, and/or used for the purpose of directing the public's attention to an object, product, service, place, activity, person, institution, organization or business. Displays of merchandise in storefront windows at regular mercantile establishments shall not be considered signs; however, a false window or window box affixed to the exterior of a structure is a sign.

SUBSTANTIAL MODIFICATION

Any change in the configuration, orientation, illumination, or purpose of the sign.

SUBSTANTIAL RECONSTRUCTION

The removal and replacement of more than 51% of the existing signage surface area or structural elements.

TEMPORARY SIGN

Any sign that is not otherwise permitted by this section.

B. General regulations.

- (1) Except as otherwise provided, no person shall erect, substantially modify, relocate or substantially reconstruct any sign, having an area of 32 square feet or more, without first obtaining a sign permit from the Code Enforcement Officer. The foregoing requirement shall not apply to a change in the content, only, of an existing sign.
- (2) All signs having an area of 32 square feet or more, and signs for two or more separate business establishments on the same lot or in the same building shall require approval of the Planning Board, either as part of site plan review or a separate sign plan review. In approving such signs, the Planning Board shall consider its location, color(s), lettering, size, overall design and its compatibility with the structures on the lot, adjoining lots and the neighborhood.
- (3) Except for signs erected by a governmental body or agency, all permitted signs shall be placed only on the property that relates to the purpose of the sign.
- (4) No sign permit shall be required for the repainting or repairing of a sign in conformance with the provisions of this section.
- (5) No sign shall interfere with a clear view of intersecting streets.
- (6) Except as otherwise required by this section, all signs shall be located at least 10 feet from any property line.
- (7) No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement.

- (8) No sign shall be flashing, revolving or mechanically animated.
- (9) The provisions of this section shall not apply to street identification numbers.
- (10) All signs, including their supports, shall be maintained in good repair and be in legible condition. The Code Enforcement Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section.
- (11) Signs that are an original part of the architectural fabric of the structure, such as a date or name of building, may remain, without reduction in the number of signs or square footage of signs otherwise allowed.
- (12) No facade sign shall be erected or maintained a distance of more than 12 inches from the farthest front or face of a building.
- (13) Advertising display upon any structure shall be regarded as a sign subject to this regulation. The foregoing shall not apply to signs placed in windows.
- (14) No sign illumination, either internal or external, shall be erected or used so that light will directly reflect toward residences on adjoining lots, toward residential districts within 1,000 feet or toward a highway so as to create a traffic hazard.
- (15) No sign shall obstruct any fire escape, window or other opening used as a means of egress for firefighting purposes or for ventilation. No sign shall be placed on any sidewalk, hydrant, lamppost, tree, utility pole, fence or on other public property except as permitted by other provisions of this section.
- (16) No structural element of any sign (conforming or nonconforming) may be changed unless the resulting sign complies with the provisions of this section.
- (17) Any sign existing on or after the effective date of this section which no longer advertises an existing business conducted or product sold on the premises shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Code Enforcement Officer, upon determining that any such sign exists, shall notify the owner of the premises, in writing, to remove said sign within 30 days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the Code Enforcement Officer is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located.

C. Regulations applicable to all zoning districts.

- (1) Signs for shopping centers.
 - (a) Shopping centers containing more than six business establishments and having over 50,000 square feet of gross floor area shall be permitted to have one shopping center identification sign, which must be placed at least 15 feet from the road property line, which must be freestanding, the area of which shall not exceed 125 square feet. Each single establishment shall be allowed one facade sign equal to 15% of the facade, not to exceed 125 square feet.
 - (b) Individual service signs of one foot by four feet each, maximum, may be attached to the above allowed freestanding sign. The lettering shall be no more than eight inches high.
- (2) Directional or identification/announcement signs of schools, churches, service organizations or other nonprofit enterprises are permitted. Such signs shall not exceed 16 square feet in area and may be freestanding or attached to the building.
- (3) Signs at an entry street not exceeding 16 square feet, not exceeding 20 feet in height and placed at least 10 feet from the road property line are permitted for identification of residential subdivisions or multifamily developments.

- (4) Industrial parks and office complexes shall be allowed a freestanding sign, not to exceed 20 feet in height, placed at least 10 feet from the road property line. The sign shall be limited to 48 square feet, and an identification sign for each tenant, limited to four square feet, may be located on the freestanding sign.

D. Allowed signs in rural and residential districts.

- (1) A single, nonilluminated sign of one face or two faces, identifying a permitted home occupation, which may not be more than two square feet in size on each face and may be six feet in height freestanding or eight feet in height attached to and parallel with a principal building facade.
- (2) Where products are grown on a premises and offered for sale, a single sign offering such products for sale, which may be illuminated by white light and may be six feet in height freestanding or eight feet in height when attached to the building and may not be more than six square feet in area on each face for the sale of products grown on the premises; except that on a corner lot, two such signs, one facing each street, are permitted.

E. Allowed signs in business, business transitional and industrial districts.

- (1) Total permitted signage on a lot shall not exceed 15% of the area of the business portion of the building facade facing the street, except that buildings with a facade on Route 104 may have total signage not exceeding 20% of the road frontage on Route 104, if greater.
- (2) No single sign attached to a façade shall exceed 48 square feet and no single freestanding sign shall exceed 60 square feet.
- (3) A freestanding sign may not exceed 20 feet above finished grade.
- (4) A sign attached to a facade may not exceed 16 feet above finished grade and may not extend above the height of the building.
- (5) Overhanging signs are permitted only upon obtaining a special permit therefor pursuant to the provisions of § **150-43E** of this chapter.
- (6) Signs may be illuminated, subject to the provisions of Subsection **B(14)** of this section.

F. Exempt signs.

- (1) The following types of signs are exempt from the provisions of this section, provided that such signs comply with the requirements of this subsection:
 - (a) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations.
 - (b) Flags and insignia of any government.
 - (c) On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits, and similar signs.
 - (d) Nonilluminated warning, private drive, posted or "no trespassing" signs, not exceeding two square feet per face.
 - (e) On-premises sign, either freestanding or attached, in connection with any residential building in any district, for permitted professional offices or home occupations. Such sign shall state the name and vocation only.
 - (f) In nonresidential districts, aerial searchlights, for a period of operation of no more than six hours per twenty-four-hour period and not more than twice annually.

- (g) Number and nameplates identifying residences, mounted on the house, apartment or mailbox, not exceeding one square foot in area.
 - (h) Lawn signs identifying residences, not exceeding one square foot per face. Such signs are to be nonilluminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.
 - (i) Integral graphics or attached price signs on gasoline pumps at automotive service stations.
 - (j) Seasonal and holiday decorations, including lighting.
 - (k) Murals or similar designs, images, or expressions on the exterior of a building, generally for the purpose of decoration or artistic expression, including, but not limited to, paintings, markings, and etchings, and does not include any on- or off-site advertisement for a commercial, industrial or other nonmunicipal entity, person or corporation.
- (2) Unless otherwise specified, all exempt signs shall conform to the following standards:
- (a) The maximum height shall be four feet above grade.
 - (b) All exempt signs shall be a minimum of 10 feet from any property line.
 - (c) Maximum sign area per face: six square feet in R-1 and R-2 Districts; 16 square feet in all other districts, for a total of 32 square feet per lot.
 - (d) The maximum number of exempt signs is four per lot.

G. Temporary signs.

- (1) Temporary signs may not be erected in any public right-of-way or on public property, including on trees, fences, utility poles, bridges, fire hydrants or traffic signs located on such public right-of-way or public property.
- (2) Temporary signs shall not be located within 10 feet of the edge of pavement, and in no way shall they interfere with or obstruct the view or free passage of pedestrian or vehicular traffic, or obstruct any fire hydrant.
- (3) The owner and/or occupant of the property on which such signs are erected and/or displayed shall consent to the erection of such signs and shall be responsible for their removal.
- (4) Temporary signs allowed by this section specifically do not include signs for the sale of goods or merchandise of any business.
- (5) Temporary signs may not be illuminated.
- (6) In residential districts, the amount of temporary signage that may be erected per lot at any time shall not exceed four signs. No one sign shall exceed eight square feet, and the total signage shall not exceed 32 square feet.
- (7) In nonresidential districts, the amount of temporary signage that may be erected per lot at any time shall not exceed four signs. One sign may be up to 12 square feet. All remaining signs shall not exceed eight square feet, each, and the total signage shall not exceed 32 square feet.
- (8) Temporary signs relating to an event shall be removed by the owner or occupant of the property no later than four days thereafter.

H. Nonconforming signs.

- (1) Upon the adoption of this section, any sign which does not conform to the provisions of this section in terms of location, area, illumination, type, or height shall be considered a nonconforming sign.

- (2) All nonconforming signs shall be subject to the provisions of Article **IX** of this chapter.

§ 150-49. Wetlands.

[Amended 11-23-2015 by L.L. No. 5-2015; 9-21-2020 by L.L. No. 5-2020]

Notwithstanding any provisions of this chapter to the contrary, the use of all wetlands in the Town of Ontario, as set forth on any wetland map that may be duly adopted by the Town Board or the Wayne County Planning Board or the New York State Department of Environmental Conservation pursuant to Article 24 of the State Environmental Conservation Law or by any agency of the United States government, shall be subject to the provisions of this § **150-49** and any other applicable regulations of Wayne County, New York State, the United States government and the United States Army Corps of Engineers.

- A. Purpose. The purpose of these wetland regulations is to preserve and protect designated wetland areas in the Town of Ontario in order to reduce siltation and pollution in downstream water resources, ensure the continuation of the natural flow pattern of watercourses, reduce the potential for flooding, to retain essential breeding, nesting and feeding grounds as well as predator-escape cover for wildlife and to protect the public health, safety and general welfare by ensuring that wetland resources will be maintained in their naturally functioning state.
- B. Permitted uses. Within a designated wetland the following uses are permitted, subject to the provisions of § **150-49D** of this regulation and federal and New York State rules and regulations as administered by the United States Army Corps of Engineers and New York State Department of Environmental Conservation.
- (1) Grazing and watering of livestock.
 - (2) Growing agricultural products.
 - (3) Harvesting natural products of the wetlands.
 - (4) Selectively cutting timber and draining the wetland for the purpose of growing agricultural products, except that any structure which is not directly related to enhancement of agricultural productivity or which involves filling the wetland shall be considered a special use. (See § **150-49C**.)
 - (5) Activities related to public health and the orders and regulations of the New York State Department of Health.
 - (6) Development in accordance with planned unit development provisions where wetlands are to be maintained as open space and where the Planning Board determines that such development will not despoil said wetland.
- C. Special uses. Within a designated wetland, the following uses are permitted by special permit, subject to any applicable provisions of § **150-43** of this regulation and federal and New York rules and regulations as administered by the United States Army Corps of Engineers and New York State Department of Environmental Conservation.
- (1) Any form of drainage, dredging or excavation of the wetland except as may be provided for in § **150-49B** above.
 - (2) Construction or reconstruction of any structures or roads that might otherwise be permitted in the zoning district in which the wetland is located.
 - (3) The driving of piles or placement of any obstructions for any purpose.
- D. Procedure. Each landowner or user who intends to conduct a permitted use on a wetland as set forth in § **150-49B** shall obtain a permit from the State Department of Environmental Conservation or appropriate governmental agency and shall notify the Code Enforcement Officer of his intention, stating the location and approximate acreage to be affected, the intended use for such land and

the methods to be employed. The Code Enforcement Officer shall be satisfied that the intended use is permitted. Any question of compliance or interpretation shall be submitted to the Zoning Board of Appeals for determination in accordance with § 150-69 of this regulation.

§ 150-50. Floodplains.

See Chapter 84 of the Code of the Town of Ontario for regulations regarding floodplains.

§ 150-51. Mobile homes and mobile home parks.

[Amended 9-21-2020 by L.L. No. 5-2020]

A. Annual license required for mobile home parks.

- (1) It shall be a violation of this chapter for any person to construct or operate a mobile home park without first securing a license from the Town Board as provided in the law of the State of New York. All mobile home parks shall comply with the regulations of this chapter.
- (2) The application for an annual license or renewal thereof shall be accompanied by a fee as set forth in the Fee Schedule of the Town of Ontario. Such application shall be filed with the Town Clerk on forms prescribed by the Town and shall include the name and address of the owner in fee title of the tract. If fee title is vested in some person other than the applicant, a duly verified statement by the person that the applicant is authorized by him/her to construct or maintain the mobile home park shall accompany the application. Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.

B. Application for a mobile home park license. Any applicant for a mobile home park license shall state that he/she, as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed park and shall provide copies of maps, plans and documents showing:

- (1) Boundaries of the park area.
- (2) Entrances, exits and walkways.
- (3) Mobile home sites or lots.
- (4) Method and plan of sewage disposal.
- (5) Method and plan of garbage and refuse disposal.
- (6) Method and plan of water supply.
- (7) Method and plan of lighting.
- (8) Landscape plans.
- (9) Owners' and operators' names and addresses.
- (10) Park rules and regulations.
- (11) Register of park occupants.
- (12) Detailed map of each lot.

C. Park plan.

- (1) A mobile home park shall have an area of not less than 25 acres, and no mobile home lot or office or service building shall be closer to the public highway or other property line than 100 feet. The 100 feet shall constitute a buffer zone which must be maintained by the park owner and shall be in accordance with the site plan approval by the Town of Ontario Planning Board.

- (2) A mobile home park shall be located on a well-drained site suitable for the purpose, with all roads constructed and paved to a width of at least 20 feet.
- (3) Individual mobile home lots shall have an area of not less than 6,000 square feet, with a minimum width of 60 feet.
- (4) No mobile home or portion thereof shall be placed closer to any other mobile home or portion thereof than 25 feet.
- (5) The total number of mobile home lots shall not exceed five per gross acre.
- (6) In all parks accommodating or designed to accommodate five or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents.
 - (a) The size of such recreation area shall be based upon a minimum of 200 square feet for each lot. No such recreation area shall contain less than 5,000 square feet.
 - (b) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

D. Additional provisions.

- (1) Maintenance. All service buildings and the grounds of the park shall be maintained in a clean, slightly condition that will not endanger the health of any occupant or the public or constitute a nuisance.
- (2) Registration.
 - (a) The licensee shall keep a record of all occupants of the park, noting the name and address of each occupant, the license numbers of all units if licensed, and the state issuing such license.
 - (b) The licensee shall keep a copy of the register available for inspection at any time by any authorized person and shall not destroy such registry until the expiration of 12 months from the date of registration.
- (3) Revocation or suspension of license.
 - (a) The Town Board shall have the authority to enter and inspect for health, sanitary and other provisions of this chapter any facility licensed hereunder at any reasonable time.
 - (b) If, upon inspection, it is found that the licensee has violated any provisions of this chapter, the Town Board shall have the power to suspend such license and order any mobile home removed or the mobile home park closed after notice and an opportunity to be heard.
- (4) Parking spaces. Parking spaces shall be provided at the rate of at least one parking space, with a minimum width of nine feet and a minimum depth of 18 feet, for each mobile home lot, plus one additional parking space for each two lots in the mobile home park.
- (5) Roads and hydrants shall be kept free of snow and ice by the licensee.
- (6) Nonconforming mobile home parks. Mobile homes presently located in nonconforming mobile home parks shall be subject to the terms of Subsection **B** of this section, and any expansion or additions to said mobile home parks must conform to the regulations provided in this chapter.

§ 150-52. Keeping of animals.

- A. Except for chickens, as provided for in this section, no animals, birds, fowl or poultry shall be housed or kept on any nonfarm residential premises, except customary household pets. Such pets shall be housed in such a manner as not to create an annoyance to surrounding properties.
- B. Dogs housed on said premises are subject to the provisions of Chapter **62** of this Code and all applicable state laws regulating and licensing animals.
- C. The keeping of chickens is permitted on a residential property in all districts, except the Industrial (I) District, under the following conditions:
 - (1) Only female chickens (hens) may be kept. The keeping of male chickens (roosters) is prohibited.
 - (2) The maximum number of chickens allowed, per lot size, is as follows:
 - (a) Under 1/2 acre: six.
 - (b) At least 1/2 acre but less than one acre: eight.
 - (c) At least one acre, but less than three acres: 12.
 - (d) Three acres or over: 18.
 - (e) On a residential lot in a Planned Unit Development, chickens may be kept only in the number specifically allowed by approval of the Town Board.
 - (3) Chickens must be confined at all times in a building ("coop") or fenced enclosure.
 - (4) The coop and fenced enclosure may not be located in a front or side yard. Coops and fenced enclosures must be a minimum of 50 feet from any neighboring residence, building, pool, deck or patio existing at the time such coop and/or fenced enclosure is established, and shall comply with a setback of at least 15 feet from any lot line or the minimum setback of the district in which they are located, whichever is greater. Corner lots shall be excluded from the side setback restriction.
 - (5) The coop shall be covered and ventilated, and a fenced enclosure is required. The coop and fenced enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates. The coop must be easily accessible for cleaning and maintenance.
 - (6) The coop shall be constructed using durable materials designed for permanent outdoor use.
 - (7) The coop and fenced enclosure shall be kept clean, consistent with the New York State Property Maintenance Code.
 - (8) Chickens shall be kept for personal use only.
 - (9) Composting of manure shall be subject to a fifteen-foot setback from all property lines, and runoff shall not encroach on neighboring properties. Manure, composted on the premises, cannot be used off-site.
 - (10) All chicken feed must be kept inside a structure at all times to minimize the infestation of rodents or problems with predators.
 - (11) All persons who keep, possess or maintain chickens shall comply with the provisions of Chapter **35** of this Code and shall not permit chickens to make noises of such a nature as to be heard beyond the property on which such chickens are harbored between 10:00 p.m. and 6:00 a.m.
- D. Chicken welfare and cruelty prevention.
 - (1) All chickens shall, at all times, be supplied with a sufficient quantity of appropriate and wholesome food and fresh water.

- (2) All chicken enclosures shall contain adequate room for exercise, perching and ventilation.
- (3) Chickens shall not be kept in dirty, damp or disease-prone conditions. All coops shall have litter such as straw or shavings on the floor at all times, generally at least six inches in depth, and such litter shall be regularly changed to prevent unsanitary and unhealthy conditions.

§ 150-53. (Reserved)

Article XVII. Nonconforming Uses and Structures

§ 150-54. Continuance.

Every structure or use not conforming to the regulations of the district in which it is located at the time of adoption of this chapter shall be a nonconforming structure or use. Any such nonconforming structure or use may be continued subsequent to adoption of this chapter, but no structure may be enlarged or altered in a way that increases its nonconformity, and no use shall be enlarged or increased to occupy a greater area of land.

§ 150-55. Transference.

Nonconforming structure and/or use rights, subject to the provisions of this Article **IX**, remain with the land when title is transferred.

§ 150-56. Existing nonconforming mobile homes.

Any mobile home that is so situated as not to conform to the terms of this chapter shall not be replaced on its site by any other nonconforming mobile home.

§ 150-57. Changes to other nonconforming uses.

A nonconforming use may not be changed to another nonconforming use.

§ 150-58. Reconstruction and/or alteration.

A nonconforming structure or a structure associated with a nonconforming use may be reconstructed or altered during its life to an extent of an aggregate cost of 50% of the assessed value of such structure, provided that no extension or enlargement of the nonconformity results.

§ 150-59. Termination of nonconforming structure or use.

- A. A nonconforming structure or use is terminated and may not then be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:
 - (1) It has been changed to a conforming structure or use;
 - (2) A nonconforming use has been abandoned for any length of time without an intent to be resumed;

- (3) A nonconforming use has been discontinued for any reason for a consecutive period of six months or for 18 months during any three-year period; or
 - (4) A nonconforming structure or a structure associated with a nonconforming use has been destroyed by any means to the extent of 75% or more of either its value or its bulk.
- B. Subsection **A(4)** shall not apply to single-family homes in a Rural, Suburban Residential, Urban Residential, Business or Business Transitional District.

§ 150-60. Maintenance and repair.

[Amended 11-23-2015 by L.L. No. 5-2015]

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the Code Enforcement Officer unless such restoration will violate § **150-59A(4)** above.

§ 150-61. Previously prepared plans.

Nothing contained in this chapter shall require any change in plans, construction or designated use of a structure for which a building permit was issued more than 30 days prior to the adoption of this chapter and the construction of which is begun within three months after such adoption and thereafter diligently carried on.

§ 150-62. District changes.

Whenever an area is transferred from a district of one classification to a district of a different classification, the above regulations shall apply to nonconforming uses created by such transfer.

§ 150-63. (Reserved)

Article XVIII. Administration and Enforcement

§ 150-64. Enforcement.

This chapter shall be enforced by the Town of Ontario Code Enforcement Officer. In carrying out this function, it shall be the duty of the Code Enforcement Officer, prior to issuing any permits or certificates, to examine any plans and inspect any buildings or premises to determine that such plans, buildings or premises are not in violation of the provisions of this chapter or any other duly adopted regulations related to land use, building use and construction within the Town of Ontario.

§ 150-65. Building permits.

No structure shall be erected or altered unless a building permit has been issued, pursuant to Article **III** of Chapter **80** of this Code, if required by such article.

§ 150-66. Certificate of occupancy or compliance.

No structure hereafter erected shall be used and no land shall be used or changed in use until a certificate of occupancy or compliance therefor has been issued pursuant to Article **VI** of Chapter **80** of

this Code, if required by such article.

§ 150-67. (Reserved)

§ 150-68. (Reserved)

§ 150-69. Zoning Board of Appeals.

- A. Organization. The Zoning Board of Appeals shall consist of five members, all residents of the Town of Ontario, to be appointed by the Town Board for terms of five years in staggered terms. Upon the recommendation of the Zoning Board of Appeals members, one member shall be designated each year by the Town Board to serve as Chairman and one for Vice Chairman for that year. If a vacancy shall occur, the Town Board shall appoint a successor, who shall serve for the unexpired portion of the term of his predecessor.
- B. Duties and powers. The Zoning Board of Appeals shall have such powers and duties as are granted to it or imposed on it by state law. The Zoning Board of Appeals may adopt, after a public hearing, such rules, regulations and forms as it may deem necessary for the proper and efficient discharge of its duties, so long as such rules, regulations and forms do not conflict with state law. Such rules, regulations and forms are subject to the approval of the Town Board.

§ 150-70. Planning Board

- A. Creation and organization. There shall be a Planning Board which shall consist of five members who shall be appointed by the Town Board in such manner and for such terms as provided by the Town Law and any amendments thereto. Upon the recommendation of the Planning Board members, one member shall be designated each year by the Town Board to serve as Chairman and one for Vice Chairman for that year. If a vacancy shall occur, the Town Board shall appoint a successor, who shall serve for the unexpired portion of the term of his predecessor.
- B. The Planning Board shall have such powers and duties as are granted to it or imposed on it by state law. The Planning Board may adopt, after a public hearing, such rules, regulations and forms as it may deem necessary for the proper and efficient discharge of its duties, so long as such rules, regulations and forms do not conflict with state law. Such rules, regulations and forms are subject to the approval of the Town Board.
- C. The Planning Board is hereby granted the authority to employ the powers set forth in Town Law § 278 and to apply them to all undeveloped residentially-zoned land in the Town when, in the Planning Board's discretion and judgment, such use of those powers will benefit the Town.

§ 150-71. (Reserved)

Article XIX. Miscellaneous Provisions

§ 150-72. Interpretation.

- A. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other

lawfully adopted rules, regulations, statutes or ordinances, the most restrictive thereof or those imposing the highest standards shall govern.

- B. The adoption of this chapter shall not affect or impair any permit granted, any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect, under any prior zoning chapter of the Town of Ontario; but the same may be enjoyed, ascertained, enforced or prosecuted as fully and to the same extent as if this chapter had not been adopted; and all actions and proceedings commenced under or by virtue of such prior chapter and pending at the time this chapter takes effect may be prosecuted and defended to final effect in the same manner as they might have been if this chapter had not been adopted.

§ 150-73. Amendments.

- A. Authority. The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board or Zoning Board of Appeals, amend, supplement, change, modify or repeal this chapter in accordance with the applicable provisions of law.
- B. Public notices and hearings. The Town Board, by resolution adopted at a public meeting, shall fix a time and place of public hearing on the proposed amendments and cause notice to be given as follows:
 - (1) By publishing a notice at least 10 calendar days in advance of such hearing in the official Town newspaper. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents and shall name the place or places where copies of the proposed amendment may be examined.
- C. Referral to County Planning Board.
 - (1) Before taking final action on certain proposed amendments to this chapter, as set forth in § 239-m of General Municipal Law, the Town Board shall refer such amendments to the Wayne County Planning Board for report thereon.
 - (2) Within 30 days after receipt of such referred amendments, the County Planning Board shall report its recommendation thereon with a full statement of the reasons for such recommendation. If the County Board fails to report within 30 days after receipt, the Town Board may act without such report.
 - (3) If the County Planning Board disapproves the proposed amendment or recommends modification thereof, the Town Board may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members.
 - (4) Within seven days after final action on any amendment, the Town Clerk shall file a report of the final action taken with the Wayne County Planning Board.

§ 150-74. Penalties for offenses.

A violation of this chapter shall be punishable as an offense by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional offense. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this chapter.

EXHIBIT B

Chapter 150. Zoning

[HISTORY: Adopted by the Town Board of the Town of Ontario 4-23-2007 by L.L. No. 1-2007. ^[1]
Amended in its entirety 11-13-2023 by L.L. No. 5-2023. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — **See Ch. 54.**
Electrical standards — **See Ch. 68.**
Excavations and fill — **See Ch. 75.**
Building code compliance — **See Ch. 80.**
Flood damage prevention — **See Ch. 84.**
Adult entertainment uses — **See Ch. 105.**
Swimming pools — **See Ch. 128.**
Telecommunication towers — **See Ch. 133.**
Watershed management control — **See Ch. 147.**

ATTACHMENTS

Attachment 1 - Required Yard Illustration 

Attachment 2 - Street Intersection 

Attachment 3 - Schedule I: Lot and Bulk Requirements

Attachment 4 - Schedule II: Land Use or Activities

[1] *Editor's Note: This local law also superseded former Ch. 150, Zoning, adopted 6-24-1996 by L.L. No. 1-1996. as amended.*

Article I. Title, Purpose and Scope

§ 150-1. Title.

This chapter shall be known as the "Zoning Chapter of the Town of Ontario, New York."

§ 150-2. Purpose.

Pursuant to the provisions of Article 16 of the Town Law of the State of New York, this chapter is enacted in the interest and for the purpose of promoting the health, safety, morals and general welfare of the community and shall include the following purposes:

- A. To lessen congestion in the streets and secure safety from fire, flood, panic and other dangers.
- B. To promote health and general welfare and to provide adequate light and air.
- C. To prevent the overcrowding of land and avoid undue concentrations of population.
- D. To facilitate the adequate provision of public facilities for transportation, water, sewage disposal, schools, parks and other public requirements.
- E. To make provision for, so far as conditions may permit, the accommodation of alternate energy systems and equipment.
- F. To conserve the value of buildings and encourage the most appropriate use of land in accordance with a comprehensive plan.

G. To preserve the economic and commercial viability of the Town of Ontario.

H. To preserve the quality and character of life in the Town of Ontario.

§ 150-3. Scope.

In pursuance of the above purposes, this chapter shall, among other things, regulate and restrict as follows: the density of population; the location and use of buildings, structures and land for trade, industry, residence or other purposes; the height and size of buildings and other structures; the percentage of lot that may be occupied; as well as the size of yards, courts and other open spaces.

Article II. Word Usage and Definitions

§ 150-4. Word usage.

In the interpretation of this chapter, the following rules shall apply:

- A. Words used in the present tense shall include the future tense.
- B. The singular includes the plural.
- C. The word "person" includes a partnership, trust, an estate and corporation as well as an individual.
- D. The word "lot" includes the word "plot" or "parcel."
- E. The term "used" or "occupied," as applied to any land or structure, shall be construed to include the words "intended, arranged or designed to be used or occupied."

§ 150-5. Definitions.

The following shall define the words used in this chapter:

ACCESSORY BUILDING OR STRUCTURE

A subordinate building or structure, the use of which is customarily incidental to that of the principal building and which is located on the same lot with the principal building. "Accessory building" includes a garage, swimming pool, private stable, barn, toolhouse, children's playhouse, utility shed and similar uses.

[Amended 8-10-2009 by L.L. No. 2-2009]

ACCESSORY USE

A use, not otherwise contrary to the provisions of this chapter, that is incidental and subordinate to the principal use and located on the same lot therewith. In no case shall an accessory use on a residential lot be used for commercial purposes or dominate in area, extent or purpose the principal, lawful use of the lot. When a variance has been granted by the Zoning Board of Appeals, there shall be no accessory use unless such use has been specifically approved as part of the variance.

AGRICULTURAL DATA STATEMENT

A statement defined in § 301 of New York State Agriculture and Markets Law.

AGRICULTURAL USE

Cultivation of land, or raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training of and management of farm animals, including the sale of products grown on or raised directly on such land and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems, farm ponds on such lands, and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities. The term "farm"

is included in this definition.

ALTERATION OF BUILDING OR STRUCTURE

Any change in supporting members of a building, any addition to a building or removal of a building from one location to another.

ALTERNATIVE ENERGY SUPPLY SYSTEMS

Any structures, equipment, devices or construction techniques used for the capture and/or production of energy, including electricity, heat, light, cooling, gas production or other forms of energy on site; either attached to, incorporated within or separate from a principal structure. Allowable alternative energy supply systems include: wind energy collection, production, distribution and usage systems; active and passive photovoltaic (PV) solar energy collection, production, distribution and usage systems; gas collection, production, distribution and usage systems, including farm and other waste management systems; heat and cooling energy collection, production, distribution and usage systems, including steam, geothermal and combined heat and power (CHP) applications; biofuel and biomass collection, production, distribution and usage systems, including biodiesel, ethanol and other biofuel applications utilizing organic feedstocks. For the purposes of this definition and chapter, "alternative energy supply systems" may include improvements and/or services that cooperatively provide energy to one or more parcels in allowable districts that share common ownership and/or control through one or more public benefit corporations and/or local development corporations.

[Added 7-14-2008 by L.L. No. 3-2008]

APARTMENT HOUSE

A multifamily dwelling.

APPLICANT

The owner of land proposed to be subdivided or developed or his agent. Proof of agency shall be required from the legal owner of the land proposed to be subdivided or developed.

AUTOMOBILE SALES AREA

An area used for the display, sale or rental of new or used automobiles and where no repair work is done.

BASEMENT

A story partly below grade and which has 1/2 of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building.

BED-AND-BREAKFAST

An owner-occupied one-unit dwelling within which is provided overnight accommodations for transient guests who stay up to five nights and which includes the serving of breakfast but no other meal to such guests.

BLOCK

The length of a street between two street intersections.

BOARDER

A person, residing with a family, who is provided with sleeping facilities, with or without meals, for gain on other than a daily or transient basis.

BOARDINGHOUSE or ROOMING HOUSE

A dwelling, other than a hotel or motel, where six or more unrelated persons are sheltered, with or without meals, for gain.

BUFFER AREA

A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, and designed to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

BUILDING

Any structure having a roof supported by columns, piers or walls, including tents, lunch wagons, trailers, dining cars, camp cars or other structures on wheels and intended for the shelter, housing or enclosure of persons, animals or goods.

BUILDING AREA

The minimum first-floor area used for living purposes shall be the horizontal area of a building, measured at the ground level along the exterior of the foundation walls, excluding accessory buildings, open porches, terraces, steps and garages, whether attached or unattached.

BUILDING CODE

The New York State Uniform Fire Prevention and Building Code duly adopted by the Town Board of the Town of Ontario.

BUILDING FOOTPRINT

The area of a building as measured from the exterior faces of exterior walls. The area of buildings and parts of buildings, without exterior walls, shall be measured from the outer limits of the roof line. It does not include accessory structures, trellises, patio, areas of porch, deck, ramps, stairways or cantilevered covers.

BUILDING FRONTAGE

The length, in feet, of the side of a building adjacent to and most nearly parallel to a street of public parking lot.

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed finished grade on the uphill side of the building to the highest point of the roof.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM

A combination of photovoltaic building components integrated into any building envelope system, such as vertical facades (including glass and other facade material), semitransparent skylight systems, roofing materials, and shading over windows.

[Added 6-11-2018 by L.L. No. 2-2018]

BUILDING LINE

An imaginary line formed by the intersection of the ground and a vertical plane that coincides with the most projected exterior surface of a building, on any side.

BUILDING LINE, FRONT

The building line of that face of a principal building nearest the front lot line. In the case of a corner lot, each building line facing a street line shall be considered a front building line.

BUILDING PERMIT

A permit issued pursuant to the provisions of the Town Code. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provisions of the Town Code.

BUILDING, AGRICULTURAL

A detached building or structure used to support an agricultural use. Said building or structure may be used for the housing of farm animals, agricultural products, agricultural materials, agricultural equipment, or for the incidental or customary processing of farm products, and provided that such building is located on, or operated in conjunction with the operation of the farm.

CAMP

Any area of land on which are located two or more cabins, tents, trailers, shelters, recreation vehicles or similar accommodations of a design or character suitable for short-term or seasonal use and having drinking water and sewage disposal facilities approved by the Health Department; a camping ground.

CAMPGROUND; TRAVEL-TRAILER PARK

Any lot, parcel or tract of land on which two or more camp or travel trailers are located or parked for transient or seasonal use, regardless of whether or not a charge is made for such accommodations.

CANTILEVER

The free part of a horizontal member of a structure projecting beyond a support.

CARPORT

A structure designed to provide storage space for automobiles, consisting of no more than two walls and a roof. A carport is accessory to, and may be attached to or detached from, the principal residential building.

CAR (AUTO-VEHICLE) WASH

Any building or premises, or portion thereof, the use of which is devoted to the business of washing cars (autos or trucks) for a fee, whether by automated cleaning devices or otherwise.

CELLAR

A space partly underground but having more than 1/2 of its floor-to-ceiling height below the average outside ground level; an uninhabited space unless designed as an earth-sheltered residence.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Code Enforcement Officer upon the completion of a construction, alteration or change in occupancy or use of a building and acknowledging compliance with all requirements of this chapter and such modifications thereto approved by the Zoning Board of Appeals, the Planning Board or Town Board and the New York State Uniform Fire Prevention and Building Code.

CERTIFICATE OF ZONING COMPLIANCE

A certificate issued by the Code Enforcement Officer certifying that a land use, structure, non-habitable space or accessory use, or sign is in compliance with all requirements of the Town's Code and local laws in existence as of the date of the issuance of the certificate of zoning compliance.

CHURCH or PLACE OF PUBLIC WORSHIP

A building or area of public assembly for worship.

CLINIC, HEALTH-RELATED

A building or portion thereof, the principal use of which is for offices of one or more practitioners for medical, dental or optical examination and treatment of persons on an outpatient or emergency basis.

CLUBHOUSE

A building to house a club or social organization not conducted for profit and which is not adjunct to or operated by or in connection with a public tavern, cafe or other public place.

CLUSTER DEVELOPMENT

The subdivision of an area into lots that are smaller than would customarily be permitted by this chapter, where the density of development is no greater than would be permitted in the district by conventional development and where the residual land produced by the smaller lot size is used for common recreation and open space.

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer appointed pursuant to § 80-4 of this Code.

COMMUNITY RESIDENCE

Any residential facility operated by the state or which is operated by a state-certified or -licensed provider of services and which is designed to assist disabled individuals in the transition from institutional to independent living in the community, to provide a long-term supervised residence to individuals whose disability is such that independent living is improbable, to provide a temporary shelter for short periods of time in order to offer an alternative for admission to an institution, to provide a brief-stay substitute home to disabled individuals or to allow respite or vacation to such individuals' families or legal guardians. A community residence shall include, but shall not be limited to, halfway houses and hostels.

CONDOMINIUM

An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

CONVENIENCE MART

A retail activity which offers for sale convenience goods, beverages and sundries, including motor fuel.

CONSULTANT FEES

Those fees required by a consultant who has been retained by the Town to perform the duties and tasks described in any contract agreement between the consultant and the Town

CONSERVATION EASEMENT

An easement, covenant, restriction or other interest in real property, created under and subject to the provisions of Title 3, § 49-0301 et seq., of the New York State Environmental Conservation Law which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property in a manner consistent with the public policy set forth in § 49-0301 et seq. of the ECL, and the adopted Town of Ontario Comprehensive Plan.

DAY-CARE FACILITY

Day care provided on a regular basis for more than three children or adults away from their own homes for more than three hours and fewer than 24 hours per day.

DEPENDENT RELATIVE

A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.

DEVELOPMENT, MULTI-USE

A developed parcel of real property upon which more than one principal building is constructed or principal use conducted, as in the case of a shopping center, plaza or mall or industrial complex or park, or in the case of a principal building having both residential and nonresidential use as permitted by the provisions of Chapter **150** of the Town Code.

DEVELOPMENT, SINGLE-USE

A developed parcel of real property upon which no more than one principal building is constructed or principle use conducted. Construction of buildings and/or conduct of uses which are incidental or accessory to a principal building or principal use shall not cause a single-use development to be considered a multi-use development.

DISTURBANCE

The removal of vegetation, any and all excavation (including but not limited to the use of motorized machinery on soil), grading, grubbing, excavation, stockpiling, filling, removal of soil or rock, demolition of existing structures, access created for construction purposes, drilling, trenching, benching, terracing, backfilling, storm and erosion control work, embankment stabilization,

installation or construction of catch basins, culvert piping, swales, ditches, rip rap, construction entrances, driveways (including shared), retaining walls or improvements of a similar nature, utility work, placing or filling soil on top of the natural vegetative cover and the conditions resulting from any of such activities. Land disturbance does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility or agricultural use.

DRAINAGE DISTRICT

A special improvement district established or extended for the purpose of constructing and maintaining stormwater drainage facilities. Also see "special improvement district."

DRAINAGE EASEMENT

Easements required for the installation or periodic maintenance of stormwater sewers, drainage ditches or detention facilities providing for the flow of water therein to safeguard the public and the environment against danger from flood or erosion.

DRIVEWAY, CROSS-ACCESS

A driveway providing vehicular access between two or more contiguous lots.

DUMPSTER

A refuse receptacle capable of holding one yard or more of refuse; a dumpster will be considered an accessory structure.

DWELLING

A building or structure that meets the following criteria:

- A. Designed, used or intended to be used as complete living quarters for one family or household.
- B. Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
- C. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.

DWELLING, EARTH-SHELTERED

A one- or two-unit dwelling specifically designed and constructed to use earth as a barrier and temperature moderator. In such dwelling, the roof and exterior walls may be covered by earth if at least one exterior wall is exposed to light and air and has the outside ground level at or below the lowest habitable floor level for at least 1/2 of the length of such exposed wall.

DWELLING, MOBILE/MANUFACTURED HOME

A one-unit dwelling that has the following distinguishing characteristics:

- A. Manufactured as a moveable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation or a mobile home stand or piers, with or without a basement or cellar.
- B. Designed to be transported on its own chassis and wheels connected to utilities after placement on a stand, foundation or piers.
- C. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
- D. May be constructed in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.
- E. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.^[1]

DWELLING, MULTIPLE

A dwelling occupied by three or more families, living independently of each other, and by not more than one boarder with each family and having separate kitchen and bathroom facilities for each family.

DWELLING, SINGLE-FAMILY

A detached dwelling occupied exclusively by one family and not more than two boarders.

DWELLING, TOWNHOUSE

A dwelling containing two or more dwelling units, each of which has one or two side walls in common with side walls of abutting dwelling units and which are party or lot-line walls. It provides single-family housing for sale in an approved subdivision. Rental housing of this architectural style shall be considered multiple-family.

DWELLING, TWO-FAMILY

A detached building containing no more than two dwellings.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by public utilities or any government department or commission of underground or overhead gas, electrical, telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishings or adequate service by such public utilities or municipal or other governmental agencies, or to the public health, safety or general facilities or sites for the disposal of waste materials associated with the provision of such services.

EXCAVATION

The process of the removal or stockpiling of sand, gravel, soil (including topsoil) or other natural deposits by stripping or digging of a site.

EXCAVATION USE

The removal of any soil, gravel, natural gas or other earth-generated material from a property with the intent to sell or reuse. Site work performed via building permit in preparation for property improvements, where earth-generated materials are removed off site incidental to construction activities, shall not be deemed an extractive use.

FAMILY

An individual or two or more persons related by blood, marriage or adoption (a household).

FAMILY-CARE FACILITY

Living space in private homes in which a family or individual cares, on a twenty-four-hour basis, for up to three mentally or physically disabled children or adults. The state site-selection law does not apply. (See also "residential-care facility, adult.")

FARM

A parcel of land of five or more acres used principally in the raising or production of agricultural products and the necessary farm structures and storage of equipment used on the premises.

FARM LABOR CAMP

A farm labor camp is defined to be the same as a "migrant labor camp," as defined by Chapter 1, Part 15, of the New York State Sanitary Code. For purposes of this chapter, a farm labor camp shall consist of facilities occupied by one or more persons. [See § 150-43F(1).]

[Amended 12-17-2018 by L.L. No. 5-2018]

FARM MARKET

An operation selling agricultural produce and plant materials which have been grown on- or off-site (edible and nonedible) and other incidental and ancillary items such as fertilizers, herbicides and pesticides, lawn and garden tools and equipment, and lawn furniture.

FARMING PRACTICES

An activity, now permitted by law, engaged in by a farmer as defined herein in connection with and in furtherance of the business of farming, and shall include without limitation the collection, transportation, distribution, and storage of animal wastes; storage, transportation and use of equipment for tillage; planting and harvesting; transportation, storage and use of legally permitted fertilizers, lime, insecticides and pesticides all in accordance with local, state and federal laws and regulations, and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities as permitted by local and state building codes and regulations, including construction and maintenance of fences.

FARM OPERATION

An operation as defined in § 301 of New York State Agriculture and Markets Law.

FENCE

Any constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials.

[Amended 7-14-2008 by L.L. No. 3-2008]

FLEX SPACE, INDUSTRIAL

A single-story structure utilized as a multi-purpose/tenant workspace that may combine warehouse, industrial and retail uses, which may contain office space. Such structures shall contain an open floor that can be modified to accommodate individual tenants and shall not be considered habitable.

FRONTAGE

That portion of a lot abutting on a public right-of-way.

GARAGE, COMMERCIAL OR PUBLIC

A building and premises used for the storage, commercial repair, rental, and/or servicing of motor vehicles and/or for retail sale of fuel for such vehicles.

GARAGE, PRIVATE

An enclosed area for the storage of one or more motor vehicles in which no business, occupation or service is conducted for profit, other than the rental of space.

GREENHOUSE

Any building or structure in which light, temperature and humidity can be controlled for the protection and growing of flowers, vegetables and other plants that are to be sold commercially.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure, for the primary purpose of producing electricity for on-site or off-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

HAZARDOUS WASTE

Defined, for purposes of New York State Department of Environmental Conservation (DEC) regulations and for purposes of this chapter, in 6 NYCRR 371.1(d) through (d)(4). "Hazardous waste" is further defined by the Environmental Protection Agency beginning at 40 CFR 261.3, which is incorporated by reference into this section.

HAZARDOUS WASTE (HIGH)

Defined by the United States Nuclear Regulatory Commission (NRC) and for purposes of this chapter as irradiated reactor fuel, liquid waste resulting from the operation of the first-cycle solvent-extraction system or equivalent and the concentrated waste from subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, all as set forth in 10 CFR 60.2.

HAZARDOUS WASTE (LOW)

Defined, for purposes of this chapter, in accordance with the FEMA (Federal Emergency Management Agency) definition of low-level radioactive waste, i.e., radioactive waste that is neither high-level waste, nor transuranic waste, nor spent nuclear fuel, nor by-product material; as defined in Section 11.e(2) of the Atomic Energy Act of 1954, as amended, and classified by the federal government as low-level waste consistent with existing law, which definition is hereby specifically incorporated into this section.

HAZARDOUS WASTE TREATMENT, STORAGE, DISPOSAL FACILITY

For purposes of this chapter, defined per New York State DEC regulations at 6 NYCRR 370.2(b) (177). It is further defined by the Environmental Protection Agency at 40 CFR 260.10.

HIGHWAY LINE

The line which is the boundary between a lot and the right-of-way, private road, street or highway. Where the highway line is not readily determinable and has not been established by a highway survey, computation to determine the highway line shall be made from the center of the existing traveled portion of the way or pavement, which shall be deemed the center of the highway for the purposes of this chapter. A three-rod right-of-way shall be used for computing unless a wider highway right-of-way has been otherwise established.

HOME OCCUPATION

Any use customarily conducted entirely within a dwelling, provided that such use is carried on solely by the residents of the dwelling and is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and meeting the performance standards set forth in § 150-42Q of this chapter.

HOSPITAL

A building used for the diagnosis, treatment or other care of human ailments, which term includes a sanitarium, clinic, rest home, nursing home and convalescent home.

JUNKYARD

- A. A lot, land or structure or building, where junk or discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein or the purpose of storage or disposing of the same for any other purpose. "Junkyard" includes but is not limited to the place of storage or deposit of two or more unregistered motor vehicles or parts and waste materials therefrom which, taken together, equal in bulk two or more motor vehicles and are kept outside a completely enclosed building or structure; automobile or other vehicle or machinery wrecking or dismantling yards; and places or yards for storage of construction and demolition material. The term "junkyard" shall not include a commercial establishment entirely enclosed in a building or structure, such as a shop for the purchase, sale or storage and repair of furniture, household or garden equipment and clothing, or for the processing of used, discarded or salvaged material as parts of an industrial process carried out inside an enclosed building or structure with no outside storage.
- B. Exceptions:
 - (1) New and/or used motor vehicles that are operable and qualify for a current New York State motor vehicle inspection and registration sticker under Article 5 of the New York Motor Vehicle and Traffic Law may be stored on a lot in accordance with the provisions of this chapter. (See § 150-47C.)
 - (2) Vehicles that are operable and qualify for a current New York State motor vehicle inspection sticker, which vehicles are subject to seasonal use, such as recreation vehicles and snowmobiles, even though such vehicles may be unlicensed during the part of the year they are not in use, may be stored on a lot in accordance with the provisions of this chapter. (See § 150-47C.)
 - (3) The storage of agricultural equipment, machinery and vehicles in any district when such

material is part of an active farm operation.

- (4) Solid waste disposal operations that are run by or licensed by an official governmental body, if otherwise permitted by other provisions of this chapter.

KENNEL

An accessory building or structure used for the boarding, breeding or sale of more than three domestic animals. [See § 150-43F(2).]

LARGE-SCALE SOLAR ENERGY SYSTEM

A solar energy system that is ground-mounted and produces energy solely or partly for off-site sale or consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

LETTER OF CREDIT

An instrument issued by a bank which guarantees the availability of funds in a specific amount for withdrawal by the Town and is intended to guarantee the complete and satisfactory construction of improvements in accordance with approved plans.

LIGHT MANUFACTURING

The manufacture, assembly or processing of the following products: scientific, medical, dental, optical, photographic, electronic, electrical, mechanical or tool or die equipment, or instruments or components thereof; medical, dental, or pharmaceutical supplies; plastic products (but not the manufacture of plastics); business and office equipment; furniture and cabinets; food or beverage products (but not canning or freezing of fruits or vegetables, slaughtering, meat packing or fermentation or distillation of alcoholic beverages); or other similar products.

[Added 8-10-2009 by L.L. No. 2-2009]

LOT

A parcel of land, with or without buildings or structures, delineated by lot lines and having frontage on or access to a street as defined in this chapter.

LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. Any lot abutting a curved street where the interior angle formed by the intersection of lines drawn tangent to the street at the points of intersection of street and lot lines does not exceed 135° shall also be considered a corner lot. All corner lots are deemed to have two front yards and two side yards and no rear yard.

LOT COVERAGE

The aggregate area of the lot covered by principal buildings or structures, plus each accessory building or structure.

LOT DEPTH

The mean horizontal distance from the front line of a lot to its rear lot line, measured in the general direction of its side lot lines. In the case of a corner lot, the rear lot line shall be a side yard line for purposes of computing distances.

LOT, FLAG

A lot, shaped similar to a flag on a pole, where the width of the "pole" portion of the lot is significantly less than the "flag" portion of the lot. The "pole" portion of the lot must be at least 25 feet in width and must be used for a driveway or other access way, only. All structures must be located on the "flag" portion of the lot. The "pole" portion of the lot is not considered a part of the front yard of the lot.

LOT, LAKEFRONT

A parcel of land which adjoins Ontario Lake.

LOT LINE ADJUSTMENT

Alteration of existing parcel boundaries where no additional parcels are created. This includes consolidation of parcels and annexation of property to existing parcels.

LOT LINE, FRONT

The line separating the lot from the boundary of the highway or right-of-way upon which the lot abuts.

LOT LINE, REAR

The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE

The lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

LOT WIDTH

The mean width, measured at right angles to its depth.

MANUFACTURED HOME

See "dwelling, mobile/manufactured home."

MASS GRADING

Grading that is completed on a large scale over a large area prior to preliminary grading and which when completed is within two vertical feet of the sites final grade elevations. "Large scale" and "large area" are site-specific determinations and will be determined by the Town CEO in consultation with the Town Engineer and Watershed Inspector.

MEAN LOW AND HIGH-WATER LEVEL

The approximate average low water level or high-water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Office of General Services, the mean low water level for Ontario Lake is 243 feet above mean sea level (National Geodetic Vertical Datum of 1929). These heights are measured above mean sea level.

MINI-STORAGE

A building or group of buildings where secured areas are rented to individuals for storage of household items and other nonhazardous, nonperishable durable goods. The storage areas are designed to allow private access by the tenant for storing or removing personal property. For the purpose of this definition, the term "mini-storage" shall have the same meaning as "self-storage."

MIXED-USE STRUCTURE

A structure on a parcel of land within which are independently operated two or more commercial/business/industrial uses or one or more nonresidential uses operating independently of a residential use.

MOBILE HOME

See "dwelling, mobile/manufactured home."

MOBILE/MANUFACTURED HOME PARK

Any plot of ground upon which two or more occupied mobile/manufactured homes are located.

MODULAR HOME

A structure approved by the State of New York and designed primarily for residential occupancy and constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation or assembly and permanent installation.

MOTOR VEHICLE REPAIR STATION

A lot or structure available to the public and operated for commercial gain whose uses include but are not limited to the storage, lubricating, washing, equipping, servicing, repair or modification of motor vehicles, including but not limited to engine or transmission repair; body or frame straightening or repair, exhaust repair, painting, refinishing or undercoating; or installation or repair of tires, glass,

upholstery or radio or audio equipment.

MOTOR VEHICLE SERVICE STATION

A lot or structure available to the public and operated for commercial gain whose uses include, but are not limited to, dispense, sell or offer automotive fuels, oils or accessories, including lubrication, washing, polishing or cleaning and the replacement or installation of parts not defined under the definition of "motor vehicle repair station."

NONCONFORMING LOT

A lot of record existing at the date of adoption of this chapter which does not meet the minimum requirements for the zone in which such lot is located. (See Article IX.)

NONCONFORMING USE

Use of a building or of land for a purpose that does not conform to the regulations of the zone in which such building or land is located.

NURSERY SCHOOL

A school that is organized for the purpose of educating a group of six or more children less than seven years of age under supervision of certified teachers and providing a program of learning activities. (See § 150-42N.)

NURSING OR CONVALESCENT HOME

Any licensed establishment where persons are lodged and furnished with meals and nursing and/or custodial care for hire. [See § 150-43F(7).] (See also "residential care facility, adult.")

OIL AND GAS EXTRACTION

The process of exploring, drilling for or extracting natural gas, petroleum, or similar hydrocarbon-based resources from naturally occurring formations below the surface of the earth.

OIL AND GAS EXTRACTION RELATED LAND USE

Any structure, facility, process, building, machinery, accessory use and/or equipment used for or in connection with oil and gas extraction, which includes but is not limited to any drilling rig, pipeline, flowline, gathering line, sweetening plants, separators, processing facilities, compression facilities, carbon dioxide removal facilities, bulk storage plants, hydrogen sulfide removal facilities, dehydration facilities, compressor stations, metering facilities, waste pits, chemical mixing or storage tanks, flowback pits or tanks, water and chemical mixture transfer and hauling stations, parking areas, and access roads and drives.

ON-SITE WASTEWATER TREATMENT SYSTEM

Any approved units or system of units or devices designed to treat, purify, dissolve, and/or distribute excreta. The minimum standard of design and placement of every element of the on-site wastewater treatment system shall be that standard which is found to be in conformance with the provisions of Appendix 75-A of the New York State Public Health Law § 201(1)(1), titled "Wastewater Treatment Standards – Individual Household Systems."

OPEN SPACE

That portion of a lot that is not used for buildings or structures or parking. Open space may include lawns, shrubbery, trees, garden areas, footpaths, play areas, ponds, watercourses, wooded areas and paved surfaces that are not used for vehicular parking of any kind.

PARCEL

An area of land, filed in the Wayne County Clerk's Office, delineated as a contiguous unit by a Tax Map number based upon a metes and bounds description.

PARENT PARCEL

A parcel, combination of parcels, or tract from which two or more derivative parcels or lots are created by division.

PERSONAL SERVICE ESTABLISHMENT

A store or shop providing personal, financial, technical or repair services, assistance or advice to individual consumers, including but not limited to:

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. Arts and crafts studios or stores.
- B. Appliance repair and rental.
- C. Bicycle repair.
- D. Barbershops and beauty shops.
- E. Dressmakers and tailors.
- F. Dry-cleaning or laundry pickup stations.
- G. Laundromat.
- H. Locksmiths.
- I. Musical instrument repair.
- J. Professional photographer's studios.
- K. Shoe repair.
- L. Furniture upholstery shops.
- M. Watch repair.
- N. Copy services.

PLACE OF PUBLIC ASSEMBLY

All buildings or portions thereof or spaces used or intended to be used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes. Manufacturing establishments and similar employment centers are not places of public assembly for purposes of this chapter.

PLANNED UNIT DEVELOPMENT

A tract of land, in single ownership or controlled by a partnership, corporation or cooperative group, which is developed as a unit for residential purposes or with a combination of residential and nonresidential buildings, with all needed or required roadways, parking, accessory buildings and open spaces. A planned unit development shall involve a detailed plan review and approval in accordance with § 150-43F(6) of this chapter.

PLANNING BOARD, COUNTY

The Planning Board of Wayne County.

PLAN

A drawing, or set of drawings, indicating the manner or layout of a subdivision or site which is to be submitted for approval together with all required improvements and appurtenances. Types of plans include sketch, preliminary and final pursuant to the provisions of Article VI in the Land Development Regulations and Public Works Requirements. Each type of plan requires a different level of detail to be shown.

PLAN, FINAL

A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

PLAN, PRELIMINARY

A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed

streets and lot layout as a basis for consideration prior to preparation of a final plan.

PLAN APPROVAL, SITE

The approval by the Planning Board of a preliminary or final site plan set forth in a resolution. Site plan approvals may include modifications, and approvals of final site plans may be conditional. A resolution of the Planning Board approving a site plan does not constitute final approval and does not qualify a final site plan for recording in the office of the Wayne County Clerk or the Ontario Town Clerk.

PLAN, FINAL SITE

A complete and exact site plan, prepared for official recording as required by statute, to define property rights, proposed streets and other improvements.

PLAN, PRELIMINARY SITE

A tentative site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

PLAN, SKETCH

An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings and the general layout of the proposed site.

POWER GENERATION AND DISTRIBUTION FACILITY

A facility used to create and distribute electric power for public consumption.

PRINCIPAL BUILDING

A building or structure in which is conducted the main or principal use of the lot on which said building or structure is located.

PUBLIC UTILITY FACILITY

A facility other than a telecommunication tower or telecommunications antenna for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection, or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings. For purposes of the zoning law, telecommunication towers or telecommunication antenna, defined separately in this section, shall not be governed by the zoning regulations which apply to the broader definition of public utility facilities, but shall be governed by Chapter 133.

RECREATIONAL EQUIPMENT

Any item used for recreational purposes that requires state registration.

RESIDENTIAL-CARE FACILITY, ADULT

Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a twenty-four-hour basis for persons who, by reason of limitations associated with age or physical disabilities, are unable to live independently. There are two types of facilities:

- A. Facilities for three or fewer adults, licensed and periodically inspected by the Department of Social Services.
- B. Facilities for four or more adults, licensed and periodically inspected by the New York State Department of Social Services.

RESTAURANT

A building or structure where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

RESUBDIVISION

Revision of all or part of an existing filed subdivision plat, including consolidation of lots, annexation of land to lots or any other alteration of an approved lot boundary.

ROADSIDE STAND

A temporary structure for the sale of produce produced on site. See § 150-42B.

ROOF-MOUNTED SOLAR ENERGY SYSTEM

A solar panel system located on the roof of any legally permitted building or structure, for the purpose of producing electricity for on-site or off-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

SETBACK

The distance between the street line, rear or side lines of the lot, and the front, rear and side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the nearest portion of the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

SIGN

Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency or of any civic, charitable, religious, patriotic, fraternal or similar organization. See § 150-48.

SMALL-SCALE SOLAR ENERGY SYSTEM

A solar energy system that produces energy solely for on-site consumption.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR ENERGY EQUIPMENT

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and photovoltaic conduit devices associated with electrical energy production.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR ENERGY SYSTEM

Any electrical generating system composed of a combination of both solar panels and solar energy equipment.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electrical energy.

[Added 6-11-2018 by L.L. No. 2-2018]

SOLID WASTE TRANSFER STATION

A combination of buildings or structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in larger transportation units for movement to another solid waste management facility.^[2]

SPECIAL USE

A use listed as a special permitted use in a zoning district. A special use requires application be made in accordance with procedures and specifications set forth in the Town of Ontario Town Code. The term does not include use variances.

STABLE, COMMERCIAL

A stable on or at which horses, ponies or similar types of animals, regardless of size, breed or species, are kept or fed for remuneration, hire or sale.

[Amended 8-10-2009 by L.L. No. 2-2009]

STABLE, PRIVATE

A stable which is an accessory use for the family which resides on the premises and on or at which horses, ponies or similar types of animals, regardless of size, breed or species, are kept or fed, but not for remuneration, sale or hire.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

A formal review of a proposed action conducted pursuant to Part 617 of the New York Codes, Rules and Regulations which seeks to ensure a productive and enjoyable harmony between man and his environment, and promotes efforts which will prevent, eliminate or mitigate damage to the environment and enhance human and natural resources.

STREET LINE

The right-of-way of the street.

STREET or ROAD

A. A general term used to describe a right-of-way, municipally or privately owned, serving as a means of vehicular and pedestrian travel, furnishing space for sewers, public utilities and shade trees. Streets are classified by function as follows:

(1) **PRIVATE ROADWAY**

A road serving no more than six lots, which will not be dedicated to the Town.

(2) **RURAL DEVELOPMENT ROAD**

A road used as a principal means of access to adjacent residential properties serving only six or fewer dwellings.

(3) **SUBDIVISION ROAD**

Any residential road serving six or more dwellings or a connecting road serving primarily developed neighborhoods with low volumes of through traffic. Subdivision roads are to be dedicated to the Town or owned and maintained by an acceptable legal entity.

(4) **TOWN COLLECTOR ROAD**

A road connecting district centers, serving large volumes of through traffic, located outside or bounding the residential neighborhoods.

B. Refer to the Town of Ontario Land Development Regulations and Public Works Requirements.^[3]

STRUCTURE

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include but shall not be limited to buildings (including their patios, decks, porches, steps and/or stairs), signs, walls, solid fences, radio towers, telecommunications devices, swimming pools, billboards, satellite dishes and poster panels.

[Amended 3-9-2009 by L.L. No. 1-2009]

SUBDIVISION

The division of land into two or more lots.

TEMPORARY USE

An activity or land use established for a specific limited period of time, which may not otherwise be permitted by the provisions of this chapter. (See also §§ 150-42H and 150-59B.)

TOURIST HOME

A dwelling occupied by one family and in which not more than six rooms are rented to the transient public on a daily or weekly basis and food is served only to residents.

TRAILER

A. **CAMP or TRAVEL**

A portable structure or vehicle equipped but not regularly used for sleeping and which may have bathroom facilities; a recreational vehicle or recreational equipment not designed to be put on a foundation.

B. CONSTRUCTION

A portable structure or vehicle used by a builder or contractor during the period of new construction which is removed upon issuance of a final certificate of occupancy for a structure or at the completion of one or more phases of a subdivision.

TRANSIENT RESIDENT

A person who pays for sleeping accommodations in a commercial profit-making establishment for a period of seven or fewer consecutive nights; a transient guest.

USE

The specific purposes for which land or a building or structure is designed, arranged, intended or for which it is or may be occupied or maintained.^[4]

VARIANCE, AREA

The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE

The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VEHICLE BODY SHOP

Any building or structure used primarily for the repair or painting of motor vehicle bodies, whether or not such activity also includes motor service or repair and the sale of motor vehicle fuel. [See § 150-43F(14).]

VEHICLE DISMANTLING FACILITY or VEHICLE RECYCLING FACILITY

Any establishment or place of business established, maintained, conducted and operated by a "vehicle dismantler," as such person is defined in New York Environmental Conservation Law Article 27, Title 23, Vehicle Dismantling Facilities, as it may be amended from time to time. This definition includes any person or entity engaged in the business of acquiring end-of-life motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap, but shall not include a person that receives no more than 25 end-of-life vehicles per year and stores less than 50 end-of-life vehicles on site at any one time.

[Added 11-15-2021 by L.L. No. 4-2021]

VENDING MACHINE

A device or mechanism for dispensing merchandise or services to the public and designed to be operated by the purchaser.

YARD

An open space, on a lot, unoccupied and unobstructed from the ground upwards, except as otherwise permitted.

YARD, FRONT

An open, unoccupied space on the same lot with the principal building or structure, extending the full width of the lot and situated between the front highway line and the front building line, except for fences and/or other decorative or landscaping uses and exclusive of cornices, overhangs and chimneys. (See illustration included at the end of this chapter.)

YARD, REAR

The ground space on a lot between the rear line of the lot and the nearest point of the principal building or structure and extending the full width of the lot. (See illustration included at the end of this chapter.) In the case of a corner lot, there is no rear yard. A side yard line for the purposes of computing distances shall be considered the rear yard line.

YARD, SIDE

An open area on the same lot with the building or structure situated between the side yard line and the side lot line and extending from the front yard to the rear yard. Any lot line not a rear line or a

front line shall be deemed a side lot line. (See illustration included at the end of this chapter.)

ZONING, INCENTIVE

The system by which specific incentives or bonuses are granted, pursuant to this section, on condition that specific physical, social, or cultural benefits or amenities would inure to the community. Those adjustments to zoning district requirements listed in § 150-28 of Chapter 150, Zoning, of these regulations.

- [1] *Editor's Note: The former definition of "dwelling, modular," which immediately followed, was repealed 9-21-2020 by L.L. No. 5-2020.*
- [2] *Editor's Note: The former definition of "stable," which immediately followed, was repealed 8-10-2009 by L.L. No. 2-2009.*
- [3] *Editor's Note: The Land Development Regulations and Public Works Requirements are on file in the Town offices.*
- [4] *Editor's Note: The former definition of "utility shed," amended 7-14-2008 by L.L. No. 3-2008, which immediately followed this definition, was repealed 3-9-2009 by L.L. No. 1-2009.*

§ 150-6. Zoning Map.

[Amended 11-13-2023 by L.L. No. 5-2023]

- A. The boundaries of the districts are established as shown on the map entitled the "Zoning Map of the Town of Ontario," and called the "Zoning Map" in this chapter. The Zoning Map, including all the explanatory material on it, is incorporated as a part of this chapter.
- B. The Town Clerk shall certify the Zoning Map as part of this chapter and keep it on file in the Clerk's office.
- C. Any change in the district boundaries or other matters shown on the Zoning Map shall be promptly made on the map, attested to by the Town Clerk. The chapter or law making such change shall provide for its immediate entry on the Zoning Map.

§ 150-7. Interpretation of district boundaries.

[Amended 9-21-2020 by L.L. No. 5-2020]

If there is uncertainty as to the exact boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Boundaries shown as approximately following the center lines of streets or highways shall be construed to follow such center lines.
- B. Boundaries shown as approximately following plotted lot lines shall be construed to follow such lot lines.
- C. Boundaries shown as following shorelines of streams, lakes and reservoirs shall be construed to follow such shorelines and to move with changes in the actual shorelines.
- D. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through C shall be construed to be parallel to or extensions of such features.
- E. Distances not specifically set forth on the Zoning Map shall be determined by the scale of the map.

Article III. General Regulations Applicable to All Districts

[Amended 9-21-2020 by L.L. No. 5-2020]

§ 150-8. Applicability.

- A. No structure, building or parcel shall hereafter be used or occupied and no structure or building shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations for the district in which it is located, and no more than one single-family dwelling shall be erected or constructed upon a single parcel of land.
- B. No part of a yard, open space, parking space or loading space required for any structure under this regulation shall be included as part of a yard, open space, parking space or loading space similarly required for another structure or building.
- C. No yard, lot or parking space now existing shall be reduced in size below the minimum requirements of this chapter. Yards or lots created after the effective date of this chapter shall meet its minimum requirements.
- D. Within each district, the regulation established by this chapter shall be minimum regulations and shall be applied uniformly to each class or kind of structure or building or parcel.

§ 150-9. Effect on filed subdivision.

If the plat of a residential subdivision containing one or more new streets has been duly filed in the Wayne County Clerk's office prior to the adoption or any amendment of this chapter, the lots of the subdivision may be developed with the lots and yards delineated on the plat and any provision of this chapter requiring larger lots or yards shall not apply to the subdivision for a period of three years from the date of such filing. If the plat is being filed in sections, the three years shall be computed from the last date of the filing of a section prior to such adoption. If an additional section is filed after such adoption but within the three-year period and less than one year of the period remains, the three-year period shall be extended as to such section only for one year from the date of its filing.

§ 150-10. Lot in two districts.

Where a lot in one ownership exists in two or more districts, the regulations for any one district may be extended into the other district or districts for a distance of not more than 20 feet. Extensions of more than 20 feet shall be permitted only by approval of the Zoning Board of Appeals.

§ 150-11. Height exceptions.

Nothing contained in this chapter shall limit or restrict the height of a church spire, belfry, clock tower, chimney flue, elevator bulkhead, television antenna.

§ 150-12. Fire escape.

Nothing contained in this chapter shall prevent the projection of an open fireproof escape or stairway into a rear yard or side yard for a distance not to exceed eight feet.

§ 150-13. Accessory structures.

- A. In any district, any structure shall comply with all applicable setbacks, except that a single accessory structure no larger than 192 square feet in building area or no greater than 14 feet in building height may be placed no closer to a side or rear property line than five feet. This subsection shall not apply to fences.
- B. Location.
 - (1) No detached garage or other accessory building or structure, including utility sheds, shall be

constructed nearer the front property line than the front of the main building or, in the case of a corner lot, nearer to the side street line than the minimum road front setbacks for the zoning district. If a garage is constructed as a structural part of an existing dwelling, it may extend into an interior side yard required under this chapter not more than three feet. This section shall not include fences.

- (2) Where the front yard (as defined in § 150-5 and as illustrated at the end of this chapter) is more than 200 feet in depth, a garage or accessory building or structure, including utility sheds, shall be no closer than 200 feet to the front lot line.

§ 150-14. Area and width exceptions.

In any such parcel of land with an area or width less than prescribed for a lot in the district in which such lot is situated, which parcel was under one ownership on the effective date of this chapter and the owner thereof owned no adjoining land, said parcel may be used as a lot for any purpose permitted in the district, provided that there shall be compliance with all other regulations prescribed for the district by this chapter.

§ 150-15. Junkyards.

In any district, no lot may hereafter be used nor any building or structure erected, reconstructed, structurally altered or moved for use as a junkyard as defined in this chapter. (See § 150-5.)

§ 150-16. Street intersection improvements.

At the intersection of two or more streets, no hedge, fence, wall or other obstruction to vision shall be permitted within the triangle of land bounded by the street right-of-way lines and a line connecting points on such right-of-way lines which are a distance of 30 feet from their intersection.

§ 150-17. Storage of materials; temporary storage structures.

In any district, all storage of materials shall be behind the front line of the primary structure located on such premises. Any structure used for the storage of materials shall comply with all applicable setbacks. The foregoing requirements shall not apply to the placement of a temporary storage structure which remains on such premises for no more than two weeks in any 12 consecutive months.

§ 150-18. Fences.

- A. A permit issued by the Code Enforcement Officer is required prior to the erection of any fence in any district. Such permit shall be issued upon an application submission of the following:
 - (1) Site plan showing the placement and dimensions of the proposed fence, all of which shall be in compliance with the requirements of this section.
 - (2) Payment of an application fee in an amount established by the Town Board.
- B. In all districts, fences shall comply with the following:
 - (1) Barbed-wire, razor wire, electrical (with the exception of low-voltage, underground, pet containment fences) or other, similar types of fences are prohibited, except on farms or to enclose horse paddocks.
 - (2) Fences shall have a maximum height of six feet five inches (excluding commercially manufactured decorative caps located on top of fence posts), measured from the top of the fence to the ground.

- (3) Commercially manufactured decorative caps located on top of fence posts shall not exceed 12 inches in height and width.
- (4) Fencing shall follow the natural contour of the land.
- (5) Fences shall be constructed so that the finished side faces adjoining lots and all posts and/or supports shall face the owner's side.

Article IV. Rural Residential (RR) District

[Added 11-13-2023 by L.L. No. 5-2023^[1]]

[1] *Editor's Note: The RR District formerly replace the previous R-1 and R-2 District.*

§ 150-19. Purpose and uses allowed.

- A. The Rural Residential (RR) District is established to encourage a proper environment to foster normal agricultural operations and primarily rural residential land uses; to maintain an open rural character of the community; and to protect viable agricultural soils.
- B. Any use not specifically permitted in this article is not allowed in the Rural (R-1) District.

§ 150-19.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- D. Church and related uses, subject to § **150-42B (30)**.
- E. Enclosed storage as an accessory use.
- F. Family-care facility.
- G. Farm, subject to § **150-42B(1)**.
- H. Excavations or fills, subject to § **150-42B(22)**.
- I. Fences, subject to § **150-18**.
- J. Home occupation, subject to § **150-42B(15)**.
- K. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- L. Newspaper vending machine, subject to § **150-42B(24)**.
- M. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- N. Private garage, subject to § **150-13**.
- O. Private swimming pool, subject to § **150-42B(16)**.
- P. Public utility substation.
- Q. Public or parochial school, subject to § **150-42B (13)**.
- R. Roadside stand, subject to § **150-42B(3)**.

- S. Signs, subject to § **150-48**.
- T. Single-family dwelling.
- U. State regulated community residences, subject to § **150-42B(11)**.

§ 150-19.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Campground, subject to § **150-42B(39)**.
- C. Cemetery.
- D. Charitable, educational or fraternal organization.
- E. Church and related uses, subject to § **150-42B(30)**.
- F. Commercial stable, subject to § **150-42B(4)**.
- G. Day-care facility or nursery school, subject to § **150-42B(12)**.
- H. Farm labor camp, subject to § **150-42B(27)**.
- I. Farm market, subject to § **150-42B(2)**.
- J. Golf course.
- K. Greenhouse or plant nursery.
- L. Hospital/Nursing home, subject to § **150-42B(31)**.
- M. Kennel, subject to § **150-42B(28)**.
- N. Large-scale ground-mounted solar energy systems, subject to § **150-42B(40)**.
- O. Pet shop or veterinary establishment, subject to § **150-42B(34)**.
- P. Private, not-for-profit park, playground or other outdoor recreation facility.
- Q. Private stable, subject to § **150-42B(4)**.
- R. Professional office.
- S. Public or parochial school, subject to § **150-42B(13)**.
- T. Riding academy, subject to § **150-42B(4)**.
- U. Satellite dish, subject to § **150-42B(37)**.
- V. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- W. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- X. Wind energy collectors and geothermal residential systems, subject to § **150-42B(38)**.
- Y. Winery.

§ 150-19.3. Lot and bulk requirements.

- A. Minimum lot area.

- (1) From the area to be developed shall be subtracted non-buildable areas, including streams, ponds and other watercourses; wetlands; floodplains; and steep slopes with a grade of 15% or greater, to arrive at the total buildable area.
 - (2) Each lot that is served by a septic system shall be a minimum of 25,000 square feet.
 - (3) Each lot that is served by public sewers shall be a minimum of 20,000 square feet.
- B. Minimum lot width.
- (1) The minimum lot width, with public sewers shall be a minimum of 100 feet.
 - (2) The minimum lot width, with a septic system shall be a minimum of 125 feet.
- C. Required setbacks:
- (1) Front setback:
 - (a) Lots fronting on Lake Road: 75 feet.
 - (b) Lots fronting on a state, county or town road: 60 feet.
 - (c) Lots fronting on a subdivision road: 50 feet.
 - (d) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
 - (2) Side setback: Minimum side yard setbacks shall be 15 feet.
 - (3) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Ontario shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the New York Department of Environmental Conservation, whichever is greater.
 - (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
 - (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 36 feet, except that wind energy collectors may be 100 feet in total height (including any blade in the vertical position), subject to special permit requirements.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property.
- F. Minimum primary structure size:
- (1) Except as provided in Subsection **F(2)**, below: 1,200 square feet, plus (in the case of a residential structure) at least a one-car garage.
 - (2) Multifamily, multistory structures: 700 square feet on the first floor and a total of 1,200 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article V. (Reserved)

Article VI. Suburban Residential (SR) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-21. Purpose and uses allowed.

- A. The Suburban Residential (SR) District is established to designate areas of the Town for single-family residential use, at low density and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Suburban Residential (SR) District.

§ 150-21.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Townhouses
- C. Adult residential-care facility.
- D. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- E. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- F. Enclosed storage as an accessory use.
- G. Excavations or fills, subject to § **150-42B(22)**.
- H. Family-care facility.
- I. Farm, subject to § **150-42B(1)**.
- J. Fences, subject to § **150-18**.
- K. Home occupation, subject to § **150-42B(15)**.
- L. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- M. Mobile/manufactured home dwelling, subject to 150-42B(8).
- N. Newspaper vending machine, subject to § **150-42B(24)**.
- O. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- P. Private garage, subject to § **150-13**.
- Q. Private swimming pool, subject to § **150-42B(16)**.
- R. Public utility substation, subject.
- S. Roadside stand, subject to § **150-42B(3)**.
- T. Signs, subject to § **150-48**.
- U. Single-family dwelling.
- V. State regulated community residences, subject to § **150-42B(11)**.

§ 150-21.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Cemetery.
- C. Charitable, educational or fraternal organization.

- D. Church and related uses, subject to § **150-42B(30)**.
- E. Day-care facility or nursery school, subject to § **150-42B(12)**.
- F. Farm labor camp, subject to § **150-42B(27)**.
- G. Farm market, subject to § **150-42B(2)**.
- H. Golf course.
- I. Hospital/nursing home, subject to § **150-42B(31)**.
- J. Large-scale ground-mounted solar energy systems, subject to § **150-42B(40)**.
- K. Private, not-for-profit park, playground or other outdoor recreation facility.
- L. Professional office.
- M. Public or parochial school, subject to § **150-42B(13)**.
- N. Satellite dish, subject to § **150-42B(37)**.
- O. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- P. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.

§ 150-21.3. Lot and bulk requirements.

A. Minimum lot area.

- (1) Each lot that is served by a septic system shall be a minimum of 25,000 square feet.
- (2) Each lot that is served by public sewers shall be a minimum of 12,800 square feet.

B. Minimum lot width.

- (1) The minimum lot width for single-family lots served by a septic system is 125 feet; provided, however, that when an applicant produces engineering data to demonstrate that existing soil conditions on any lot are adequate to produce acceptable percolation tests, in accordance with percolation standards of the New York State Department of Health, the minimum lot width shall be reduced to 100 feet.
- (2) The minimum lot width for lots served by a septic system, other than single-family lots, is 125 feet.
- (3) The minimum lot width for lots served by a public sewer is 80 feet.

C. Required setbacks:

(1) Front setback:

- (a) Lots fronting on Lake Road: 75 feet.
- (b) Lots fronting on a state, county or town road: 60 feet.
- (c) Lots fronting on a subdivision road: 40 feet.
- (d) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.

(2) Side setback: Minimum side yard setbacks shall be 10 feet.

- (3) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Ontario shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the New York Department of Environmental Conservation, whichever is greater.

- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property.
- F. Minimum primary structure size:
 - (1) Except as provided in Subsection **F(2)**, below: 1,100 square feet, plus (in the case of a residential structure) at least a one-car garage.
 - (2) Multifamily, multistory structures: 700 square feet on the first floor and a total of 1,100 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article VII. Urban Residential (UR) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-22. Purpose and uses allowed.

- A. The Urban Residential (UR) District is established to designate areas of the Town for a variety of residential buildings or structures with mixed density and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Urban Residential (UR) District.

§ 150-22.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- D. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- E. Enclosed storage as an accessory use.
- F. Excavations or fills, subject to § **150-42B(22)**. Family-care facility.
- G. Farm, subject to § **150-42B(1)**.
- H. Fences, subject to § **150-18**.
- I. Home occupation, subject to § **150-42B(15)**.
- J. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- K. Mobile/manufactured home dwelling, subject to § **150-42B(8)**.
- L. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- M. Newspaper vending machine, subject to § **150-42B(24)**.

- N. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- O. Private garage, subject to § **150-13**.
- P. Private swimming pool, subject to § **150-42B(16)**.
- Q. Public utility substation.
- R. Roadside stand, subject to § **150-42B(3)**.
- S. Signs, subject to § **150-48**.
- T. Single-family dwelling.
- U. State regulated community residences, subject to § **150-42B(11)**.
- V. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- W. Two-family dwelling.

§ 150-22.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Cemetery.
- C. Charitable, educational or fraternal organization.
- D. Church and related uses, subject to § **150-42B(30)**.
- E. Day-care facility or nursery school, subject to § **150-42B(12)**.
- F. Farm labor camp, subject to § **150-42B(27)**.
- G. Farm market, subject to § **150-42B(2)**.
- H. Golf course.
- I. Hospital/nursing home, subject to § **150-42B(31)**.
- J. Large-scale ground-mounted solar energy systems, subject to § **150-42B(40)**.
- K. Mobile home park, subject to § **150-42B(9)**.
- L. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- M. Private, not-for-profit park, playground or other outdoor recreation facility.
- N. Professional office.
- O. Public or parochial school, subject to § **150-42B(13)**.
- P. Satellite dish, subject to § **150-42B(37)**.
- Q. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- R. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- S. Flex Space, Industrial

§ 150-22.3. Lot and bulk requirements.

- A. Minimum lot area.

(1) The minimum lot area for all residential lots (single-family, two-family and multiple-family) shall be 25,000 square feet, except that the minimum lot area for a single-family lot served by public sewers shall be 12,800 square feet.

(2) The minimum lot area for all nonresidential lots shall be 12,800 square feet.

B. Minimum lot width.

(1) The minimum lot width for single-family lots served by a septic system is 125 feet, provided, however, that when an applicant produces engineering data to demonstrate that existing soil conditions on any lot are adequate to produce acceptable percolation tests, in accordance with percolation standards of the New York State Department of Health, the minimum lot width shall be reduced to 100 feet.

(2) The minimum lot width for lots served by a septic system, other than single-family lots, is 125 feet.

(3) The minimum lot width for lots served by a public sewer is 80 feet.

C. Required setbacks:

(1) Front setback:

(a) Lots fronting on a state, county or town road: 60 feet.

(b) Lots fronting on a subdivision road: 40 feet.

(c) If a building permit for a residential structure was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.

(2) Side setback:

(a) Single-family lots: Minimum side yard setbacks shall be 12 feet.

(3) All other uses: Minimum side yard setbacks shall be 15 feet.

(4) Rear setbacks: 40 feet.

(5) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.

(6) Cantilevers may extend into front, rear and side yards by no more than two feet.

(7) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.

D. Height. The maximum permitted height of any structure is 36 feet.

E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 30% of the total area of the property.

F. Minimum primary structure size:

(1) One-story single-family dwellings: 1,100 square feet, plus a one-car garage.

(2) Two-story single-family dwellings: 700 square feet on the first floor and a total of 1,100 square feet, plus a one-car garage.

(3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.

(4) Multiple-family dwellings: 800 square feet per unit.

G. Off-street parking shall comply with the provisions of § 150-47 of this chapter.

Article VIII. Business (B) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-23. Purpose and uses allowed.

- A. The Business (B) District is established to designate areas of the Town for general retail, service and office activities to provide goods and services, residential and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Business (B) District.

§ 150-23.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Bank, subject to § **150-42B(17)**.
- D. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- E. Business office, subject to § **150-42B(17)**.
- F. Convenience store (mart), subject to § **150-42B(20)**.
- G. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- H. Dwellings, one or more, on upper floors of a commercial use.
- I. Enclosed storage as an accessory use. Excavations or fills, subject to § **150-42B(22)**.
- J. Family-care facility.
- K. Farm, subject to § **150-42B(1)**.
- L. Fences, subject to § **150-18**.
- M. Home occupation, subject to § **150-42B(15)**.
- N. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- O. Mortuary or undertaking establishment.
- P. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- Q. Multiple-family (four or more units) dwelling, subject to § **150-42B(6)**.
- R. Newspaper vending machine, subject to § **150-42B(24)**.
- S. Parking, off street lot, subject to § **150-42B(23)**.
- T. Personal service establishment.
- U. Plumbing, HVAC, electrical supply or contracting establishment.
- V. Printing/publishing facility.
- W. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- X. Private garage, subject to § **150-13**.

- Y. Private swimming pool, subject to § **150-42B(16)**.
- AA. Professional office.
- BB. Public utility substation.
- CC. Retail store, subject to § **150-42B(17)**.
- DD. Roadside stand, subject to § **150-42B(3)**.
- EE. Signs, subject to § **150-48**.
- FF. Single-family dwelling.
- GG. State regulated community residences, subject to § **150-42B(11)**.
- HH. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- II. Two-family dwelling.

§ 150-23.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Bed-and-breakfast facility, subject to § **150-42B(33)**.
- B. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.
- C. Charitable, educational or fraternal organization.
- D. Church and related uses, subject to § **150-42B(30)**. Day-care facility or nursery school, subject to § **150-42B(12)**.
- E. Farm labor camp, subject to § **150-42B(27)**.
- F. Farm market, subject to § **150-42B(2)**.
- G. Garage, commercial, subject to § **150-42B(20)**.
- H. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.
- I. Greenhouse or plant nursery.
- J. Hospital/nursing home, subject to § **150-42B(31)**.
- K. Indoor theater or recreation, subject to § **150-42B(17)**.
- L. Industrial or research park, planned, subject to § **150-42B(35)**.
- M. Lawn and garden supply sales and service.
- N. Light manufacturing, subject to § **150-42B(35)**.
- O. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- P. Mobile home park, subject to § **150-42B(9)**.
- Q. Motor vehicle service station, subject to §§ **150-42B(20)** and 150-23B(21).
- R. Outdoor amusement or recreation.
- S. Private, not-for-profit park, playground or other outdoor recreation facility.
- T. Professional office.

- U. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- V. Pet shop or veterinary establishment, subject to § 150-43B(34).
- W. Public or parochial school, subject to § **150-42B(13)**.
- X. Redemption facility, subject to § **150-15**.
- Y. Restaurant, subject to § **150-42B(18)**.
- AA. Satellite dish, subject to § **150-42B(37)**.
- BB. Scientific or research lab, subject to § **150-42B(35)**.
- CC. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- DD. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- EE. Vehicle washing establishment, subject to § **150-42B(20)**.

§ 150-23.3. Lot and bulk requirements.

A. Minimum lot area.

- (1) The minimum lot area for single-family lots served by a septic system shall be 22,500 square feet.
- (2) The minimum lot area for single-family lots served a public sewer shall be 18,000 square feet.
- (3) The minimum lot area for two-family lots served by a public sewer or septic system shall be 22,500 square feet.
- (4) The minimum lot area for multifamily lots served by a septic system shall be 40,000 square feet plus 5,000 square feet for every dwelling unit over two.
- (5) The minimum lot area for multifamily lots served a public sewer shall be 22,500 square feet plus 5,000 square feet for every dwelling unit over two.

B. Minimum lot width.

- (1) The minimum lot width for single-family lots served by a septic system is 125 feet.
- (2) The minimum lot width for single-family lots served by a public sewer is 100 feet.
- (3) The minimum lot width for two-family served by a septic system is 150 feet.
- (4) The minimum lot width for two-family lot served by a public sewer is 125 feet.
- (5) The minimum lot width for multiple-family lots served by a septic system is 150 feet plus 20 feet for each dwelling unit over two.
- (6) The minimum lot width for multiple-family lots served by a public sewer is 125 feet plus 10 feet for each dwelling unit over two.
- (7) The minimum lot width for nonresidential lots is 150 feet.

C. Required setbacks:

(1) Front setback:

- (a) Single-family or two-family lots fronting on a state, county or town road: 60 feet.
- (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
- (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.

- (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
 - (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.
- (2) Side setback:
- (a) Single-family lots: Minimum side yard setbacks shall be 12 feet.
 - (b) Two-family lots: Minimum side yard setbacks shall be 10 feet.
 - (c) Multiple-family lots: Minimum side yard setbacks shall be 10 feet.
 - (d) All other uses: Minimum side yard setbacks shall be 25 feet; provided, however, that where a side yard abuts a residential district, such side yard shall be the same width as that of the abutting residential district and shall be landscaped.
- (3) Rear setback:
- (a) Residential lots: 40 feet.
 - (b) Nonresidential lots: 20 feet.
- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- (6) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 40% of the total area of the property.
- F. Minimum primary structure size:
- (1) One-story single-family dwellings: 1,100 square feet.
 - (2) Two-story single-family dwellings: 700 square feet on the first floor and a total of 1,100 square feet.
 - (3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.
 - (4) Multiple-family dwellings: 800 square feet per unit.
 - (5) Nonresidential uses: 1,000 square feet.
- G. Off-street parking shall comply with the provisions of § **150-47** of this chapter.

Article IX. Business Transitional (BT) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-24. Purpose and uses allowed.

- A. The Business Transitional (BT) District is established to designate areas of the Town for commercial service, storage and light-industrial processing activities, residential and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Business Transitional (BT) District.

§ 150-24.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Adult residential-care facility.
- C. Bank, subject to § **150-42B(17)**.
- D. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- E. Business office, subject to § **150-42B(17)**.
- F. Conversion of existing building into not more than three dwelling units, subject to § **150-42B(10)**.
- G. Dwellings, one or more, on upper floors of a commercial use.
- H. Enclosed storage as an accessory use.
- I. Excavations or fills, subject to § **150-42B(22)**.
- J. Family-care facility.
- K. Farm, subject to § **150-42B(1)**.
- L. Fences, subject to § **150-18**.
- M. Home occupation, subject to § **150-42B(15)**.
- N. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- O. Mobile/manufactured home dwelling, subject to § **150-42B(8)**.
- P. Mortuary or undertaking establishment.
- Q. Multiple-family (three units) dwelling, subject to § **150-42B(5)**.
- R. Multiple-family (four or more units) dwelling, subject to § **150-42B(6)**.
- S. Municipal storage or repair yard.
- T. Newspaper vending machine, subject to § **150-42B(24)**.
- U. Parking, off street lot, subject to § **150-42B(23)**.
- V. Personal service establishment.
- W. Plumbing, HVAC, electrical supply or contracting establishment.
- X. Printing/publishing facility.
- Y. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- Z. Private garage, subject to § **150-13**.
- AA. Private swimming pool, subject to § **150-42B(16)**.
- BB. Professional office.
- CC. Public utility substation.
- DD. Retail store, subject to § **150-42B(17)**.

- EE. Roadside stand, subject to § **150-42B(3)**.
- FF. Signs, subject to § **150-48**.
- GG. Single-family dwelling.
- HH. State regulated community residences, subject to § **150-42B(11)**.
- II. Townhouse or row house dwelling, subject to § **150-42B(5), (6) and (7)**.
- JJ. Two-family dwelling.

§ 150-24.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a Special permit issued in accordance with the provisions of § **150-43**:

- A. Automobile sales and service, new and used, subject to § **150-42B(21)**.
- B. Bed and Breakfast facility, subject to § **150-42B(33)**.
- C. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.
- D. Charitable, educational or fraternal organization.
- E. Church and related uses, subject to § **150-42B(30)**.
- F. Convenience store (mart), subject to § **150-42B(20)**.
- G. Day-care facility or nursery school, subject to § **150-42B(12)**.
- H. Farm labor camp, subject to § **150-42B(27)**.
- I. Farm market, subject to § **150-42B(2)**.
- J. Food processing facility, subject to § **150-42B(35)**.
- K. Garage, commercial, subject to § **150-42B(20)**.
- L. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.
- M. Greenhouse or plant nursery.
- N. Hospital/nursing home, subject to § **150-42B(31)**.
- O. Indoor theater or recreation, subject to § **150-42B(17)**.
- P. Industrial or research park, planned, subject to § **150-42B(35)**.
- Q. Lawn and garden supply sales and service.
- R. Light manufacturing, subject to § **150-42B(35)**.
- S. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- T. Mobile home park, subject to § **150-42B(9)**.
- U. Motor vehicle service station, subject to § **150-42B(20) and 150-42B(21)**.
- V. Outdoor amusement or recreation.
- W. Outdoor facility for retail sale of boats, trailers or furniture, subject to § **150-42B(21)**.
- X. Private, not-for-profit park, playground or other outdoor recreation facility.

- Y. Professional office.
- Z. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- AA. Pet shop or veterinary establishment, subject to § **150-42B(34)**.
- BB. Public or parochial school, subject to § **150-42B(13)**.
- CC. Redemption facility, subject to § **150-15**.
- DD. Restaurant, subject to § **150-42B(18)**.
- EE. Satellite dish, subject to § **150-42B(37)**.
- FF. Scientific or research lab, subject to § **150-42B(35)**.
- GG. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- HH. Tourist home, boardinghouse or rooming house, subject to § **150-42B(32)**.
- JJ. Vehicle body shop, subject to § **150-42B(36)**.
- KK. Vehicle washing establishment, subject to § **150-42B(20)**.
- LL. Flex Space – Industrial

§ 150-24.3. Lot and bulk requirements.

- A. Minimum lot area.
 - (1) The minimum lot area for single-family lots served by a septic system shall be 22,500 square feet.
 - (2) The minimum lot area for single-family lots served a public sewer shall be 18,000 square feet.
 - (3) The minimum lot area for multifamily lots served by a septic system shall be 40,000 square feet plus 5,000 square feet for every dwelling unit over two.
 - (4) The minimum lot area for multifamily lots served a public sewer shall be 22,500 square feet plus 5,000 square feet for every dwelling unit over two.
- B. Minimum lot width.
 - (1) The minimum lot width for single-family lots served by a septic system is 125 feet.
 - (2) The minimum lot width for single-family lots served by a public sewer is 150 feet.
 - (3) The minimum lot width for two-family served by a septic system is 125 feet.
 - (4) The minimum lot width for two-family lot served by a public sewer is 100 feet.
 - (5) The minimum lot width for multiple-family lots served by a septic system is 150 feet plus 20 feet for each dwelling unit over two.
 - (6) The minimum lot width for multiple-family lots served by a public sewer is 125 feet plus 10 feet for each dwelling unit over two.
 - (7) The minimum lot width for nonresidential lots is 150 feet.
- C. Required setbacks:
 - (1) Front setback:

- (a) Single-family or two-family lots fronting on a state, county or town road: 60 feet.
 - (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
 - (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
 - (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
 - (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.
- (2) Side setback:
- (a) Single-family lots: Minimum side yard setbacks shall be 12 feet.
 - (b) Two-family lots: Minimum side yard setbacks shall be 10 feet
 - (c) Multiple-family lots: Minimum side yard setbacks shall be 10 feet.
 - (d) All other uses: Minimum side yard setbacks shall be 15 feet; provided, however, that where a side yard abuts a residential district, such side yard shall be the same width as that of the abutting residential district and shall be landscaped.
- (3) Rear setback:
- (a) Residential lots: 40 feet.
 - (b) Nonresidential lots: 20 feet.
- (4) Patios, decks, pools and unenclosed porches may extend into rear and side yards, but no such structure shall be located less than 10 feet from any property line.
- (5) Cantilevers may extend into front, rear and side yards by no more than two feet.
- (6) All setbacks for a townhouse or row house shall apply to each building, rather than each dwelling unit.
- D. Height. The maximum permitted height of any structure is 36 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 20% of the total area of the property, except that the maximum lot coverage for a nonresidential use shall not exceed 40% of the total area of the property.
- F. Minimum primary structure size:
- (1) One-story single-family dwellings: 1,100 square feet.
 - (2) Two-story single family dwellings: 700 square feet on the first floor and a total of 1,100 square feet.
 - (3) Two-family dwellings: 800 square feet per unit, plus one garage space per unit.
 - (4) Multiple-family dwellings: 800 square feet per unit.
 - (5) Nonresidential uses: 1,000 square feet.
- G. Off-street parking shall comply with the provisions of § 150-47 of this chapter.

Article X. Industrial (I) District

§ 150-25. Purpose and uses allowed.

- A. The Industrial (I) District is established to designate areas of the Town for public utilities, light industrial, heavy industrial and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Industrial (I) District.

§ 150-25.1. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. Accessory structures, subject to § **150-13**.
- B. Building integrated, roof-mounted and small-scale ground-mounted solar energy systems, subject to § **150-42B(26)**.
- C. Excavations or fills, subject to § **150-42B(22)**.
- D. Enclosed storage as an accessory use.
- E. Farm, subject to § **150-42B(1)**.
- F. Fences, subject to § **150-18**.
- G. Home occupation, subject to § **150-42B(15)**.
- H. Library, fire station and other municipal building, subject to § **150-42B(14)**.
- I. Municipal storage or repair yard.
- J. Newspaper vending machine, subject to § **150-42B(24)**.
- K. Parking, off street lot, subject to § **150-42B(23)**.
- L. Plumbing, HVAC, electrical supply or contracting establishment.
- M. Printing/publishing facility.
- N. Private boat, travel or camp trailer, subject to § **150-42B(25)**.
- O. Professional office.
- P. Public utility substation.
- Q. Roadside stand, subject to § **150-42B(3)**.
- R. Signs, subject to § **150-48**.
- S. Vehicle body shop and vehicle dismantling facilities.
[Amended 11-15-2021 by L.L. No. 4-2021]

§ 150-25.2. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. Alternative energy supply systems (except building integrated, roof-mounted and small-scale ground-mounted solar energy systems), subject to § **150-42B(38)**.
- B. Bank, subject to § **150-42B(17)**.
- C. Building material and/or supplies sale (indoor/outdoor), subject to § **150-42B(21)**.

- D. Business office, subject to § **150-42B(17)**.
- E. Convenience store (mart), subject to § **150-42B(20)**.
- F. Fabrication or storage of metal/paper/wood products, subject to § **150-42B(35)**.
- G. Farm labor camp, subject to § **150-42B(27)**.
- H. Food processing facility, subject to § **150-42B(36)**.
- I. Garage, commercial, subject to § **150-42B(20)**.
- J. General processing, assembly or packaging of previously prepared material, subject to § **150-42B(35)**.
- K. Greenhouse or plant nursery.
- L. Indoor theater or recreation, subject to § **150-42B(17)**.
- M. Industrial or research park, planned, subject to § **150-42B(35)**.
- N. Lawn and garden supply sales and service.
- O. Light manufacturing, subject to § **150-42B(35)**.
- P. Ministorage (commercial storage structure), subject to § **150-42B(19)**.
- Q. Motor vehicle service station, subject to § **150-42B(20)** and **150-42B(21)**.
- R. Outdoor facility for retail sale of boats, trailers or furniture, subject to § **150-42B(21)**.
- S. Multiple-family (four units or more) dwelling, subject to § **150-42B(29)**.
- T. Redemption facility, subject to § **150-15**.
- U. Restaurant, subject to § **150-42B(18)**.
- V. Retail store, subject to § **150-42B(17)**.
- W. Satellite dish, subject to § **150-42B(37)**.
- X. Scientific or research lab, subject to § **150-42B(35)**.
- Y. Short-wave, ham radio, television and radio antennas, subject to § **150-42B(37)**.
- Z. Solid waste transfer station, subject to § **150-15**.
- AA. Truck and motor freight terminal.
- BB. Vehicle washing establishment, subject to § **150-42B(20)**.
- CC. Vehicle dismantling facilities, subject to issuance of a special permit, site plan approval from the Town of Ontario Planning Board and the special conditions of § **150-42B(41)**.
[Added 11-15-2021 by L.L. No. 4-2021]
- DD. Flex Space – Industrial

§ 150-25.3. Lot and bulk requirements.

- A. Minimum lot area: 43,560 square feet.
- B. Minimum lot width: 125 feet.
- C. Required setbacks:
 - (1) Front setback:

- (a) Single-family or two-family lots fronting on a state, county or Town road: 60 feet.
 - (b) Single-family or two-family lots fronting on a subdivision road: 50 feet.
 - (c) If a building permit for a single-family or two-family lot was issued prior to July 10, 1996, with a fifty-foot front setback, such setback shall also apply to an addition to such structure.
 - (d) Multiple-family lots: 60 feet plus one foot for each dwelling unit over two.
 - (e) Nonresidential lots: 75 feet. Such front yard area may be used for off-street parking, but no such off-street parking shall be located less than 15 feet from the street line/right-of-way, resulting in a green space of at least 15 feet, running parallel to and contiguous with such street line/right-of-way.
- (2) Side setback: 15 feet on one side and a total of 42 feet for both sides.
 - (3) Rear setback: 40 feet.
 - (4) Cantilevers may extend into front, rear and side yards by no more than two feet.
- D. Height. The maximum permitted height of any structure is 50 feet.
- E. Lot coverage. The maximum lot coverage shall not exceed 50% of the total area of the property.
- F. Minimum primary structure size: 1,000 square feet.
- G. All lots are required to be served by a public sewer system.
- H. Off-street parking shall comply with the provisions of § 150-47 of this chapter.

Article XI. Public Utility (PU) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-26. Purpose and uses allowed.

- A. The Public Utility (PU) District is established to designate areas of the Town for use by a public utility plant and associated facilities. This District may not be used as an area for permanent hazardous waste storage and disposal.
- B. Any use not specifically permitted in this article is not allowed in the Public Utility (PU) District.

§ 150-26.1. Permitted uses.

- A. In the Public Utility District, only the following structures, buildings and uses shall be permitted:
 - (1) Those uses incidental to the generation and distribution of electric power.
 - (2) Those structures and uses complying with the requirements of federal and state regulations.
 - (3) Hazardous waste produced on-site may be stored on-site.
 - (4) Those uses incidental to the providing of telephone service, natural gas service, cable service, cellular phone service and any other public utility.
 - (5) Driveways parallel to Route 104 from adjacent properties to existing public roads.

[Added 11-15-2021 by L.L. No. 4-2021]

- B. In addition to all other required approvals, approval by the Town Board must be obtained, following recommendations from the Planning Board to the Town Board.
- C. Should the public utility use be discontinued, the use of this District will revert to the use of the

contiguous district(s).

Article XII. Adult Entertainment/Industrial (AE/I) District

[Added 9-21-2020 by L.L. No. 5-2020]

§ 150-27. Findings and intent.

It is the purpose of this article to regulate sexually oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the Town of Ontario and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Ontario. The provisions of this article have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the purpose or the intent of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the Constitution of the United States, the State of New York or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. It is not the purpose or the intent of this article to condone or legitimize the distribution of obscene materials.

§ 150-27.1. Purpose and uses allowed.

- A. The Adult Entertainment/Industrial (AE/I) District is established to designate areas of the Town for public utilities, light industrial, heavy industrial, adult entertainment and other uses.
- B. Any use not specifically permitted in this article is not allowed in the Adult Entertainment/Industrial (AE/I) District.

§ 150-27.2. Word usage; definitions.

- A. In the interpretation of this article, the following rules apply:
 - (1) Words used in the present tense include the future tense.
 - (2) The singular includes the plural.
 - (3) The word "person" includes a corporation as well as an individual.
 - (4) The word "lot" includes the words "plot" or "parcel."
 - (5) The term "used" or "occupied" is applied to any land or structure and shall be construed to include the words "intended," "arranged" or "designed to be used or occupied."
- B. The following definitions shall apply in this article:

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE

A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter or photographs, film, motion pictures, videocassettes or video reproductions, slides or other visual representations

which depict or describe specified sexual activities or specified anatomical areas; or

- (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

ADULT CABARET

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allow a tenant or occupant of a sleeping room to sub-rent the room of a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE

See "adult bookstore."

ADULT USES

Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion-picture theaters, adult theaters, adult video stores, escort agencies and sexual encounter centers.

ESCORT

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

ESCORT AGENCY

A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT

Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business.
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business.
- (3) The addition of any sexually oriented business to any other existing sexually oriented business.
- (4) The relocation of any sexually oriented business.

NUDITY

The appearance of human bare buttocks, anus, genitals or full female breast.

PERSON

An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE

A state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER

A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

SEXUALLY ORIENTED BUSINESS

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency or sexual encounter center.

SPECIFIED ANATOMICAL AREAS

The male genitals and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES

Any of the following:

- (1) The fondling or other touching of human genitals, pubic region, buttocks, anus or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Excretory functions as part of or in connection with any of the activities set forth in Subsections **(1)**, **(2)** or **(3)** of this definition.

SUBSTANTIAL ENLARGEMENT

The increase in floor areas occupied by a sexually oriented business by more than 25% of the floor area as it exists on the effective date of this chapter.

TRANSFER OF OWNERSHIP OR CONTROL

Includes any of the following:

- (1) The sale, lease or sublease of a sexually oriented business.
- (2) The transfer of securities which constitute a controlling interest in a sexually oriented

business, whether by sale, exchange or similar means.

- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of a sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

§ 150-27.3. Permitted uses.

The following principal and accessory uses and structures are permitted:

- A. All principal and accessory uses and structures allowed in § **150-25.1** of this chapter.

§ 150-27.4. Special use permit uses.

The following principal and accessory uses and structures may be permitted pursuant to a special permit issued in accordance with the provisions of § **150-43**:

- A. All principal and accessory uses and structures allowed in § **150-25.2** of this chapter, subject to the same requirements as contained therein.

§ 150-27.5. Adult uses permitted.

Adult uses are permitted in the AE/I District, provided that:

- A. An adult use may not be operated within 1,000 feet of:
 - (1) A church, synagogue or regular place of worship;
 - (2) A public or private elementary school, secondary school or licensed child day-care center;
 - (3) A boundary of any residence or residential zoning district; or
 - (4) A public park.
- B. An adult use may not be operated within 1,000 feet of another adult use or on the same lot or parcel of land.
- C. An adult use may not be operated in the same building, structure or portion thereof containing another adult use.
- D. For the purposes of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary school, secondary school or licensed child day-care center or to the nearest boundary of an affected public park, residential district or residential lot.
- E. For the purposes of this article, the distance between any two adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- F. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this chapter shall be able to see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows that area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

§ 150-27.6. Lot and bulk requirements.

- A. The lot and bulk requirements set forth in § 150-25.3 of this chapter shall fully apply in AE/I District.

§ 150-27.7. Adult use inspection requirement.

- A. Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for an adult use business and in compliance with this chapter.
- B. All code enforcement officials, including the Code Enforcement Officer, shall complete their certification that the premises are in compliance or not in compliance within 20 days of the inspection of the premises by such officials.
- C. Any owner and/or operator, employee of the owner and/or operator or agent of the owner and/or operator shall permit representatives of the Town Building Department, the Wayne County Sheriff's Department, the New York State Police, the State Health Department, the Code Enforcement Officer or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of an adult use business for the purpose of ensuring compliance with this chapter at any time it is occupied or open for business.

§ 150-27.8. Nonconforming adult use.

- A. Any adult use business lawfully operating on the effective date of this article that is in violation of the location or structural configuration requirements of this article shall be deemed a nonconforming use. The continuation of the same use of substantially the same character and intensity shall be allowed. The nonconforming use will be permitted to continue unless terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the adult use business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.
- B. Any adult use business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the operation of the adult use business, of a church, public or private elementary school or secondary school, public park, residential zoning district or a residential lot within 1,000 feet of the adult use business.

§ 150-27.9. Adult use certificates of occupancy; fee.

A certificate of occupancy for an adult use is required and shall be valid for a one-year period only. Such certificate of occupancy must be renewed on an annual basis and must be approved by the Town Board of the Town of Ontario after initial approval has been given by the Code Enforcement Officer. Such certificate of occupancy shall only be renewed after inspection by the Code Enforcement Officer to confirm that the adult use business is in full compliance with the terms of this article. The annual fee for such certificate of occupancy shall be a sum as set forth in the Town of Ontario Fee Schedule approved by resolution of the Town Board and on file with the Town Clerk.

§ 150-27.10. Duration of building permits for adult uses.

- A. The duration of a building permit for an adult use shall be for a period of six months. If construction has not been started within the six-month period, then the permit shall lapse and shall be of no force and effect.

§ 150-27.11. Violations relating to an adult use.

It shall be deemed a violation of this article if the owner and/or operator, an employee of the owner and/or operator or an agent of the owner and/or operator of an adult use:

- A. Has violated or is not in compliance with any section of this article.
- B. Has refused to allow an inspection of the adult use business premises as authorized by this article.
- C. Has had gambling take place on the adult use business premises.
- D. Has had the possession, use or sale of a controlled substance occur on the premises.
- E. Has had prostitution occur on the premises.
- F. Has had any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct occur on the premises.

§ 150-27.12. Penalties for offenses relating to an adult use.

A violation of this article relating to an adult use shall be punishable as a violation by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both for the first offense. For the second and each subsequent offense punishment shall be by a fine not to exceed \$500 or by imprisonment for a term not to exceed 45 days, or both. Each week in which the violation continues shall constitute a separate additional violation. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this article.

Article XIIA. Incentive Zoning

[1] *Editor's Note: This article was renumbered as Art. XIIA, Incentive Zoning, pursuant to 9-21-2020 by L.L. No. 5-2020.*

§ 150-28. Incentive zoning.

[Added 9-10-2012 by L.L. No. 3-2012]

- A. Purpose and objectives.
 - (1) It is the purpose of this section to empower the Town Board to grant incentives to the private sector engaged in the land development process to advance the Town's specific policies in accordance with the Town of Ontario's Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques.
 - (2) This authority may be used by the Town Board to assist the following objectives from the Town's Comprehensive Plan:
 - (a) To protect highly valued ecological resources and environmentally sensitive areas.
 - (b) To protect active farm operations.
 - (c) To preserve greenways and important open spaces, develop the Ontario Trail System, preserve historic and archaeological resources and protect high-quality scenic resources.
 - (d) To provide a sound mix of housing types.
 - (e) To promote provision of neighborhood services in growing areas in a carefully planned manner with a design quality reflecting the values of the community, with a secondary benefit of relieving some traffic congestion in other areas of the Town.

- (f) To secure important public works improvements which would not otherwise be provided, such as extending sidewalks, connecting residential areas with schools or providing stormwater detention and treatment basins in excess of that necessitated by immediate project demand.

B. Authority.

- (1) In accordance with § 261-b of the Town Law of the State of New York, the Town Board is empowered to provide for a system of zoning incentives as the Town Board deems necessary and appropriate, consistent with the purposes and conditions set forth herein.

C. Applicability.

- (1) Except as specifically limited herein, this section will apply to all districts in the Town of Ontario.

D. Definitions. As used in this section, the following terms shall have the meanings indicated:

COMPREHENSIVE PLAN

The Town of Ontario Comprehensive Plan, as amended from time to time.

INCENTIVE ZONING

The system by which specific incentives are granted, pursuant to § 261-b of the Town Law and the provisions of this chapter, on condition that specific physical, social or cultural benefits or amenities would inure to the community.

REVIEW

A preliminary, nonbinding review by the Town Board of an application for use of incentive zoning to determine the merits of applying the incentive zoning concept to a particular project.

SEQRA

The State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, as amended, and the regulations promulgated thereunder.

E. Permitted incentives. The Town Board may grant the following specific incentives:

- (1) Increases in residential unit density.
- (2) Development of current residential unit density over a full parcel, as long as an equivalent amount of the open space that would have been required is provided for elsewhere.
- (3) Changes in lot area and dimensional requirements.
- (4) Changes of use.
- (5) Reduction/elimination of the recreation fee required under the Town of Ontario fee schedule.
- (6) Reduction of road construction standards.

F. Community benefits or amenities.

(1) The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive as provided in this section. These community benefits or amenities may be either on or off the site of the subject application, may involve one or more parcels of land, and may be situated in any district, unless otherwise specifically limited in this section:

- (a) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
- (b) Donations of land in fee simple for conservation and other community benefit purposes.
- (c) Construction of recreation amenities, serving a Town-wide need, accessible to the general public.

- (d) Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and this Code.
 - (e) Preservation and improvements of historical or cultural sites or structures.
 - (f) Other facilities or benefits to the residents of the community, as determined by the Town Board.
 - (g) Any combination of the above-listed community benefits or amenities.
- (2) Community benefits or amenities are in addition to any mandated requirements pursuant to other provisions of the Town of Ontario Code and any other applicable law or regulation.
- G. Special condition.
- (1) The particular incentive granted shall be in relative proportion to the value and importance of the amenity provided, as determined by the Town Board at the time of application.
- H. Criteria and procedure for approval.
- (1) Optional preapplication review. It is recommended that an applicant meet informally with Town Building and/or Economic Development Department staff prior to completion of an application, for the purpose of gathering information for the proposed amenity/incentive exchange. Applicants are advised to review the Comprehensive Plan and any other materials the Town may have on file regarding the incentive zoning program.
- (2) Applications for incentives in exchange for amenities shall be submitted to the Town Board in accordance with adopted procedures for requests to amend this chapter. All applications shall include the following information:
- (a) The requested incentive.
 - (b) The proposed amenity.
 - (c) The estimated cash value of the proposed amenity.
 - (d) A narrative demonstrating the following:
 - [1] The benefits to the community from the proposed amenity.
 - [2] Consistency with the goals and objectives of the Town's Comprehensive Plan.
 - [3] The relative importance and need for the amenity.
 - [4] That there are adequate sewer, water, transportation, waste disposal and fire-protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on those facilities beyond the demand that would be placed on them if the district were developed to its fullest potential.
 - [5] That all conditions and other applicable requirements of the law are met.
 - (e) Any other information or support materials as needed or requested by the Town Board.
- (3) Review by Town Board. Affected properties shall be properly posted with public notice that the parcel(s) will be reviewed at a public meeting by the Town Board. Within 45 days of submission of an application, the Town Board will prepare a brief response to the proposal, outlining in writing the Town Board's determination on whether the proposal is worthy of further consideration and the basis for that determination. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant. Suggested modifications to the proposal may also be provided by the Town Board to the applicant. With a supporting determination, the proposed application will be referred to the Planning Board for its advisory opinion.

- (4) Advisory referral to Planning Board.
 - (a) The application will be submitted to the Planning Board for its nonbinding advisory opinion to the Town Board. The review at this stage is intended to obtain the input of the Planning Board for the subject land use decision. It is not intended to serve as a site or subdivision review, which would only occur after a decision by the Town Board on the incentive zoning request.
 - (b) The Planning Board will schedule a public workshop on the application, which may be conducted as part of a regularly scheduled meeting. The intent of the workshop is to share information between the applicant, the Planning Board and interested members of the public. The workshop will not supplant the formal hearing which will be conducted by the Town Board later in the review process.
 - (c) Within 45 days of receipt of the application from the Town Board, the Planning Board will prepare an advisory report to the applicant and the Town Board. The Planning Board's report will describe the beneficial aspects of the proposal and make recommendations for the amelioration of any adverse aspects of the proposal. The Planning Board's report and the application will then be transferred back to the Town Board for its final decision on the application.
- (5) Compliance with SEQRA.
 - (a) Every decision by the Town Board concerning an application for use of incentive zoning on a particular project will fully comply with the provisions of SEQRA.
 - (b) The applicant will submit an Environmental Assessment Form, Part 1, to the Town Board after the referral by the Planning Board.
 - (c) The Town Board will establish itself as SEQRA lead agency for all applications submitted pursuant to this section.
 - (d) If a generic environmental impact statement has been prepared by the Town Board in enacting or amending this section, the applicant will pay a proportionate share of the cost of preparing such impact statement.
- (6) Public hearing by Town Board. Prior to its final decision and in conjunction with its SEQRA review, the Town Board will conduct a public hearing in accordance with the standard procedures for adoption of an amendment to the zoning ordinance or local law. At least five days' notice (14 days if a draft environmental impact statement or supplemental environmental impact statement was required) of the time and place of the hearing will be published in an official newspaper of the Town.
- (7) Findings and final decision.
 - (a) Following the public hearing and completion of the SEQRA process, the Town Board will approve, approve with modifications or conditions or deny the proposed incentive zoning application. A written statement of the findings will be prepared by the Town Board documenting the basis of its decision. The findings will include, but not be limited to, the following:
 - [1] SEQRA. That all requirements of SEQRA have been met, including the required findings under that law.
 - [2] Development capacity. That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection, without reducing the availability of such facilities for projects permitted as of right under the Town of Ontario Code.
 - [3] Public benefit. That the public benefit realized by the amenity provided by the applicant is commensurate with the incentive granted by the Town Board.

[4] Project quality. That the project is in harmony with the purpose and intent of this section and with the stated objectives and will promote the purposes herein, that the project is sufficiently advantageous to render it appropriate for grant of an incentive, and that the project will add to the long-term assets of the Town of Ontario.

[5] Comprehensive Plan. That the use of incentive zoning for the particular project is consistent with the Comprehensive Plan.

(b) The Town Board may impose conditions on a project to ensure that the above findings are ensured through the subsequent plan review and construction phases of the project (e.g., imposing a time limit duration for the incentive zoning approval).

I. Plan review. Following the receipt of a favorable decision by the Town Board, an application for approval may be submitted pursuant to the applicable provisions of this Code.

Article XIII. Planned Unit Development

§ 150-29. Purpose, objectives and permitted uses.

The Town of Ontario hereby finds and determines that:

- A. When coordinated with the Town's Comprehensive Plan, planned unit development can be an effective tool for guiding development in ways that support community goals and priorities.
- B. Planned unit development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional municipal zoning techniques, planned unit development provides flexibility in the regulation of land use development in order to encourage innovation in land use variety and design in the layout and type of new structures and in their integration with existing structures; enhances efficiency in the use of land, natural resources, energy, community services and utilities; encourages open space preservation and protection of natural resources, historic sites and structures; facilitates the provision of housing and improved residential environments; and enhances the ability of municipalities to promote businesses and employment opportunities.
- C. It is the intent of the Town of Ontario that, by allowing the creation of one or more PUD Districts in the Town of Ontario, it will be possible to provide flexible land use and design regulations through the use of performance criteria so that small-to-large-scale neighborhoods or portions thereof may be developed within the Town that incorporate a variety of development types, including mixed-use development, together with their accessory or associated uses, and contain both individual building sites and common property which are planned and developed as a unit. Where planned unit development is deemed appropriate through the rezoning of land to a PUD district by the Town Board, the set of use and dimensional specifications elsewhere in this chapter are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

§ 150-30. Location.

The PUD district shall be applicable to any zoned area of the Town of Ontario where the applicant is able to demonstrate that the characteristics of the development will satisfy the purpose and intent of this chapter. Where, upon the sole discretion of the Town Board, a PUD district is deemed appropriate, the rezoning of land to a PUD district will replace all uses and dimensional specifications contained elsewhere in this chapter. No real property within the Town of Ontario shall be subject to the PUD district requirements or privileges unless and until the property shall have been designated as a PUD district by act of the Town Board as set forth in this chapter.

§ 150-31. Area requirements.

- A. The proposed project area shall encompass a contiguous land area of a minimum 50 acres under

single or corporate ownership.

- B. Not less than 15% of the total area included within the PUD district shall be set aside for open space as is defined in § 150-5. In general, open space shall achieve the following goals:
- (1) Protect and preserve floodplains, wetlands, steep slopes (having a grade of more than 25%), watercourses, and natural drainage ways.
 - (2) Protect any historic, archaeological or cultural resources listed on the national, state, county or local historical registers.
 - (3) Protect any mature woodlands, geological features, meadows or ecologically sensitive areas for wildlife habitat.
 - (4) Provide an upland buffer area adjacent to any streams, wetlands or surface water to protect native species vegetation.
 - (5) Provide for landscaped common areas, traffic islands, and other common space, excluding streets and driveways.
- C. Open space intended for recreational or other use or uses by the owner or owners within the PUD district shall be so located so as to be accessible to pedestrians.
- D. The suitability of open space for recreational or other use or uses shall be determined by the Town and Planning Boards.
- E. Disposition requirements.
- (1) Ownership of the land and improvements included within a PUD district may be held either individually or as an entity. If ownership is held by a single individual owner or entity, such owner shall permit all residents of the land and improvements, and their invitees, to use the open space. If ownership is held by more than one individual or entity, then each such owner and his, her or its invitees shall have an interest in the open space in common with the other owners. Provision shall be made for the maintenance and upkeep of the open space, together with the means of providing for the costs of such maintenance and upkeep. The precise means of accomplishing the foregoing shall be proposed by the applicant at the time it applies for the creation of a PUD district and shall be approved by the Town and Planning Boards.
 - (2) The resubdivision and/or development of any open space approved by the Town and Planning Boards is to be discouraged but not prohibited. If permitted, such resubdivision and/or development of any open space shall be subject to all of the applicable rules and regulations of the Town of Ontario.

§ 150-32. Permitted uses.

Any use not explicitly prohibited within the Town of Ontario shall be permitted in a PUD district as well as any other use approved by the Town and Planning Boards consistent with the purpose and intent of this chapter and the adopted Comprehensive Plan for the Town. Uses outlined under the Adult/Entertainment/Industrial (AE/I) District shall be reviewed by the Planning Board to determine if proposed uses are in conformance with the standards of the Town of Ontario's Comprehensive Plan.

§ 150-33. Additional requirements and standards.

- A. The requirements and standards for development in a PUD district shall be specifically determined for each individual project. The area, setback, population and building density, and height requirements shall be proposed by the applicant and shall be subject to the approval of the Town and Planning Boards consistent with the Site Plan Review Law of the Town of Ontario.^[1] Following the approval of a PUD district, the accepted requirements and standards shall regulate the PUD district. At a minimum, the application for the creation of a PUD district shall include:

- (1) A statement of purpose statement that includes how the proposed development meets the legislative purpose and intent of this chapter as well as the Town's Comprehensive Plan;
- (2) Proposed use or uses;
- (3) Lot, area and yard dimensions;
- (4) Population and building densities, together with floor area ratios;
- (5) Building and architectural characteristics;
- (6) Maximization of open space and recreational areas;
- (7) Parking;
- (8) Internal traffic circulation and external traffic impact;
- (9) Effect of the proposed development within the PUD district on adjacent properties, including property values;
- (10) Effect of the proposed development on local taxation;
- (11) Conceptual stormwater management;
- (12) All additional requirements and data that may be required by the Planning Board.

[1] *Editor's Note: See Art. XIV, Site Plan Review.*

- B. PUD districts shall be served adequately by and shall not impose an unreasonable burden upon essential public facilities and services, such as but not limited to highways, streets, traffic control signals and devices, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer and schools. Where any such facility or service is not available or adequate to service the PUD district, the applicant shall be responsible for establishing its ability, willingness and binding commitment satisfactory to the Town Board and Planning Board to provide such facilities and services.
- C. All covenants, easements, and restrictions with respect to the PUD district may be recorded in the office of the Wayne County Clerk. They may not be modified, removed, or released without the express consent of the Town Board. When created, such covenants, easements and restrictions shall make provision for their enforcement by the Town of Ontario.

§ 150-34. Required documents.

- A. For a conceptual site plan, reference shall be made to the existing land use ordinances and regulations of the Town of Ontario. Each such plan shall be referred to the Wayne County Planning Department, Ontario Town Water and Sewer Department, Town Engineer, local fire districts, local school district, and other agencies deemed necessary or advisable under §§ 239-l and 239-m of the General Municipal Law.
- B. For a final development plan, reference shall be made to the existing land use ordinances and regulations of the Town of Ontario.

§ 150-34.1. Procedure.

- A. The Zoning Map of the Town of Ontario may be amended from time to time by ordinance duly enacted by the Town Board to provide for PUD districts; provided, however, that no such amendment shall be enacted except in accordance with procedures herein established and applicable standards and regulations established by the Ontario Town Code.
 - (1) General overview of procedure. The following outlines the procedure required to obtain approval for a PUD district in the Town of Ontario: Upon the receipt of an application and preliminary plan for the establishment of a PUD district, the Town Board shall review the application and preliminary plan in consultation with the Planning Board.
 - (2) Within 90 days of receiving the application, and prior to acting on a zoning amendment to create

a PUD district, the Town Board shall hold one or more public hearings on such proposed preliminary plan and amendment. Notice of the public hearing shall be published in a newspaper of general circulation at least 10 calendar days in advance of the hearing. The proposed zoning amendment and preliminary plan shall be made available for public review at the office of the Town Clerk and may be made available at any other public place.

- (3) At least 30 days before the public hearing on the application and proposed amendment to the Zoning Ordinance to create a PUD district, the Town Board shall mail notices thereof to the applicant and to the Wayne County Planning Board as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in § 239-m, Subdivision 1, of the General Municipal Law.
- (4) Within 120 days of receiving the application and after holding public hearings, the Town Board shall act to approve, approve with modifications and/or conditions, or deny the application and, if approved, amend the Zoning Ordinance to establish and map a PUD district. Upon taking such action, the Town Board shall advise the applicant, the Planning Board, and the Wayne County Planning Board in writing of its determination within five business days after such action is taken and place a copy of such letter on file in the office of the Town Clerk.
- (5) A final planned unit development plan shall be submitted by the applicant to the Planning Board for review and approval, or approval with modifications and/or conditions. Review of the final planned unit development plan by the Planning Board shall take into consideration the preceding action of the Town Board on the preliminary planned unit development plan.
- (6) The Town Board's determination on the final planned unit development plan shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

§ 150-34.2. Revision; revocation.

- A. During the development of an approved PUD, the Planning Board may authorize minor adjustments to the final development plan when such adjustments appear necessary or proper in light of technical or engineering considerations first discovered during actual development. Examples of such minor adjustments are altering:
 - (1) The location of a structure or group of structures;
 - (2) The vehicular circulation plan;
 - (3) The location of a boundary within the PUD district;
 - (4) The boundary of an open space;
 - (5) The yard area; and
 - (6) The final grade.
- B. In addition to the adjustments authorized by the Planning Board, an approved final development plan may be amended or varied by submitting a new site plan to the Planning Board. The process for final development plan approval shall be followed for all amendments. If the amendments exceed the thresholds established by the Planning Board, the preliminary development plan approval process shall be followed.
- C. Changes to an approved PUD district which are considered to be significant shall be grounds for the revocation of the PUD district by the Town Board. Examples of significant changes are:
 - (1) Any change which will require additional roads or utilities or will cause a significant increase in the required number of parking spaces;
 - (2) Any reduction of the amount of open space to less than 15% of the total area included within the PUD District;
 - (3) Any other significant reduction in open space included within the PUD District;

- (4) Any change in use included in the PUD District; and
- (5) Any significant increase in residential density or in change in housing type.

§ 150-34.3. Limitations on approvals.

- A. Within three years after the approval of a final development plan, or at such other time as may be established by the Town Board, construction of the improvements within the PUD district shall commence.
- B. The failure to commence construction within the required period of time shall, unless an extension shall have been granted by the Town Board, automatically render void the final development plan approval and all permits based on such approvals.

§ 150-34.4. Payment in lieu of taxes.

If the real property located within a PUD district is, at the time the planned unit development is approved, or later becomes exempt from the payment of real property taxes, then the owner or owners thereof shall be required to enter into a payment in lieu of taxes agreement (PILOT agreement) upon such terms and conditions as the Town Board may determine. The PILOT agreement shall take into account all real property taxes that would be paid if there were no exemption from such payment.

§ 150-34.5. Enforcement.

If the Town's Code Enforcement Officer finds that development of the improvements in a PUD district is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the final development plan as finally approved, he/she shall immediately notify the Town Board of such fact and issue an order stopping any or all work within the district until such time as any noncompliance is cured.

Article XIV. Site Plan Review Uses

§ 150-35. Intent.

The intent of this article is to provide for the review of site plans for certain land use activities in the Town of Ontario for the purpose of preserving and enhancing the character of a neighborhood, achieving compatibility with adjacent development, mitigating potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improving the overall visual and aesthetic quality of the Town and increasing the capability of this zoning chapter to adapt to a variety of unique circumstances.

§ 150-36. Applicability.

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. Any land use or activity requiring site plan review and approval by the Town Planning Board shall comply with the provisions of this Article **XIV**. No building or use permit shall be issued by the Code Enforcement Officer until approval of such site plan, with or without conditions, has been given by the Planning Board.
- B. All land uses and/or activities shall require an approved site plan, except for the following:
 - (1) Accessory structures.
 - (2) Building integrated, roof-mounted and small-scale ground-mounted solar energy system.

- (3) Enclosed storage as an accessory use.
- (4) Farm.
- (5) Newspaper vending machine.
- (6) Private boat, travel or camp trailer.
- (7) Private garage.
- (8) Roadside stand.
- (9) Satellite dish.
- (10) Short-wave/ham radio antenna.
- (11) Sign.
- (12) Winery.

§ 150-37. Objectives of site plan review.

In reviewing an application for site plan approval, the Planning Board must find that the application meets the following criteria:

- A. A harmonious relationship between such land use activity and uses located on adjacent lots and in adjacent zoning districts.
- B. The safety of vehicular access and egress from the site to existing and proposed roads.
- C. The effectiveness of on-site circulation and parking facilities with particular attention to pedestrian and vehicular safety.
- D. The adequacy of landscaping and setbacks as a way of mitigating adverse environmental impacts and achieving compatibility with adjacent property.
- E. An adequate solution to the question of surface water drainage and the provision of water and sewer services.
- F. Compliance with rules and regulations of subdivision and any special requirements unique to a particular site or land use, as those might be specified by the Planning Board or listed in Articles **VII** and **VIII** of this chapter.

§ 150-38. Procedure.

- A. Presubmission conference. Prior to the preparation of a site plan for presentation to the Planning Board in its final form, the applicant may prepare a sketch plan and meet informally with a member(s) of the Board or designee to consider the specifics of the proposed use or development, the character of the neighborhood, special features of the site and any environmental concerns. Such sketch plan should be submitted five calendar days prior to a Planning Board meeting, with sufficient information to enable a clear understanding of the proposal.
- B. Final site plan.
 - (1) A final site plan shall be submitted to the Planning Board at least 21 calendar days prior to the meeting at which consideration of such plan is to be given if the plan has county implications. The plan shall contain the following information, as applicable:
 - (a) Location, name and address of the owner; name of the plan designer and engineer (if any) working on the proposed project.
 - (b) Identification map showing the location of the site in the Town of Ontario and relationship to the existing road system.

- (c) Scale, North arrow and date and present zoning and setback requirements.
 - (d) Identification of property owners and existing land uses for all abutting sites and showing existing property lines, rights-of-way and easements.
 - (e) Existing and proposed buildings, including the approximate location of parking on and access to the proposed site and to abutting properties. Common drives on property lines are encouraged.
 - (f) The location of all wetlands and land located in the one-hundred-year floodplain.
 - (g) Indication of existing and proposed topography and drainage systems for the site. When this is a consideration due to topography or low land, a topographic survey and drainage plan may be required by the Planning Board before action is taken.
 - (h) Any engineering drawings or documentation that may be required for utility hookups, septic tank installations or public improvements.
 - (i) Landscaping.
 - [1] In Business Transitional (BT), Business (B), Industrial (I), Public Utility and Adult Entertainment (AE) Districts, existing major vegetation (trees and shrubs) and indication of proposed landscaping treatment, including species, sizes and approximate locations.
 - [2] In Business Transitional (BT), Business (B), Urban Residential (UR) on Route 104, Industrial (I), PUD, Public Utility and Adult Entertainment (AE) Districts, a green space shall be required that shall begin at the road right-of-way property line and run parallel to it, excluding the exit and entry only. Such green space shall be of a reasonable width so as to provide suitable screening and enhance the overall quality of the site. There shall be no displays within the green space, and it shall be maintained. One freestanding sign with menus is permitted within the green space. Behind the front setback there shall be no cutting of existing trees over six inches in diameter within 10 feet of property lines. If such cutting is necessary, such tree will be replaced.
 - (j) Drawings or sketches that illustrate the height, bulk and design characteristics of any proposed buildings in B, BT, I, PUD, Public Utility and Adult Entertainment Districts shall indicate exterior color and primary materials to be used, for information purposes only.
 - (k) Narrative description of how the proposed building, land use or site design will fit into the surrounding neighborhood.
 - (l) Sketches indicating the location, size and design of any sign or site lighting to be used on the proposed site.
 - (m) Any other information that may be reasonably required by the Planning Board to explain the proposal.
- (2) Any of the above final plat requirements may be waived or modified by the Planning Board when conditions warrant. Documentation of such waivers shall be included, in writing, in the records of the application.
- C. Planning Board review. The Planning Board shall review the application, in accordance with the procedures required by New York State Town Law provisions, to determine compliance of the plans with the requirements set forth in this § **150-38**.
- D. Standards for approval of site plans.
- (1) In reviewing applications for approval of site plans, the Planning Board will be guided by the existing characteristics and conditions of the site and its surroundings and the particular requirements of the applicant. Elements of concern will include but not be limited to the following:

- (a) Movement of vehicles and people.
 - (b) Public safety and the adequacy of public utilities services needed at the site.
 - (c) Off-street parking and the access and egress thereto, including the adequacy of existing roads to serve the proposed project.
 - (d) Lot size, density, setbacks, building size, coverage and height. (See § **150-27**, Schedule II^[1]).
[1] *Editor's Note: Schedule II is located at the end of this chapter.*
 - (e) Site drainage, landscaping, buffering, views or visual character.
 - (f) Signs and site lighting.
 - (g) Architectural features, materials and colors.
 - (h) Compatibility with the general character of the neighborhood
 - (i) Other considerations that may reasonably be related to health, safety and general welfare.
- (2) Other performance standards may be established by the Planning Board from time to time to be used as guidelines in the site plan review process. Such standards will be applicable to all applications for site plan review.

E. Environmental assessment. If, in the judgment of the Planning Board, approval of a proposed land use activity over which it has jurisdiction for site plan approval could have a significant environmental impact, no final approval shall be given until the environmental requirements set forth in Part 617 of the State Environmental Quality Review Act have been complied with.

§ 150-39. Duration of site plan approvals.

[Amended 11-13-2023 by L.L. No. 5-2023]

A site plan approval granted pursuant to the provisions of this article shall expire three years from the date granted unless a building permit or conditional certificate of occupancy for such site has been issued by the Code Enforcement Officer within such three-year time period.

Article XV. Supplementary Regulations Governing Special Conditions and Special Permit Uses

§ 150-40. Intent.

This Article **VII** sets forth supplemental regulations, procedures and conditions which shall apply to certain land use activities in the Town of Ontario that are incongruous or sufficiently different in terms of their nature, location and potential effect on the surrounding environment and the quality of the environment and that warrant special evaluation of each individual case.

§ 150-41. Applicability.

No building or use permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Schedule I as having special conditions applicable (SC) or requiring a special permit (SP) until the Code Enforcement Officer is satisfied that applicable regulations, as set forth in this article, have been complied with or that a modification of such regulations has been duly made.

§ 150-42. Special conditions.

[Amended 8-10-2009 by L.L. No. 2-2009; 6-11-2018 by L.L. No. 2-2018; 5-20-2019 by L.L. No. 1-2019; 11-18-2019 by L.L. No. 8-2019; 9-21-2020 by L.L. No. 5-2020]

- A. The special conditions set forth in this section shall be met, prior to the Code Enforcement Officer issuing a building or use permit for the applicable use, unless any such special condition shall have been waived or modified by the reviewing agency, if such waiver is deemed appropriate and in the best interest of the Town and if the spirit and intent of this chapter can be maintained. Any decision to waive or modify any special condition shall be set forth in writing, with the reason for such modification or waiver being set forth by the reviewing agency.
- B. The following special conditions shall apply to the following specific uses:
- (1) Farms shall comply with the following:
 - (a) No odor- or dust-producing uses, including the storage of manure, shall take place within 150 feet from the nearest lot line, except that it is permissible to store and use, within the above limits, dust or spray material necessary to protect fruits, vegetables and farm crops from disease and insects.
 - (b) No hogs or chickens of any kind shall be kept except as an incidental part of a general farm operation.
 - (c) Fowl of any kind or livestock, including horses, shall only be kept on parcels of five acres or more in area or in a building, no part of which is closer to any property line than 150 feet.
 - (d) No garbage or refuse, other than that produced on the premises, is used for feed.
 - (e) In the Rural District only, with more than five acres, the sale of farm products produced on owner's property and related seasonal products is permitted.
 - (2) Farm markets shall comply with the following:
 - (a) Any such farm market shall be located on a single tax parcel containing not less than five acres.
 - (b) The maximum building area devoted to farm market retail sales shall not exceed 10,000 square feet. Accessory growing structures are permitted, provided that all structures maintain a fifty-foot setback from all property lines.
 - (c) Farm market operations may be conducted 12 months per year.
 - (d) Outside storage and display of produce and plant materials is permitted on all portions of the property, with the exception of areas where traffic sight distance will be impacted. No outside storage and/or display of materials is permitted within a public right-of-way.
 - (e) Outside storage and display shall be not less than 50 feet from all property lines. The total square footage of all storage and display areas shall not exceed 25% of the square footage of the principal farm market structure.
 - (3) Permanent roadside stands shall comply with the following:
 - (a) Such stand sells only those products grown on the owner's property.
 - (b) Such stand is set back from the highway right-of-way line at least 10 feet.
 - (4) Riding academies, commercial stables and private stables shall comply with the following:
 - (a) Any building or structure used for the lodging or feeding of animals must be located at least 150 feet from any side and rear property line or from any highway right-of-way line.
 - (b) A private stable, riding academy or commercial stable shall comply with the provisions of § 150-42B(1) of this section.

- (5) Multiple dwellings (three units) shall have adequate off-street parking, in compliance with the provisions of § **150-47A** of this chapter.
- (6) Multiple dwellings (four or more units) shall comply with the following:
 - (a) Required off-street parking must be provided, in compliance with the provisions of § **150-47A** of this chapter.
 - (b) Where there are two or more structures containing multiple dwellings on the same lot, there shall be provided a distance between structures which shall not be less than 1 1/2 times the average height of the adjoining structures.
 - (c) All parking areas shall be landscaped and screened.
- (7) Townhouses or row houses shall comply with the following:
 - (a) No more than six such attached dwellings shall be included in any single building.
 - (b) All parking areas shall be landscaped and screened and shall be in compliance with the provisions of § **150-47A** of this chapter.
 - (c) A dumpster must be provided for residential trash generated on site, which shall be landscaped and screened from public view.
- (8) Mobile home dwellings shall comply with the following:
 - (a) Such mobile home must be located in a mobile home park, as defined and regulated in this chapter. (See § **150-51**.)
 - (b) The Code Enforcement Officer may issue a temporary permit for not more than one mobile home, not located in a mobile home park, to the owner of property who first procures a permit to build upon such property and desires to live in said mobile home during the construction period. Such temporary permit may be revoked on 10 days' notice to the owner of the property and may be revoked by the Inspector if construction of the building for which the temporary permit has been issued does not commence within three months' time or is terminated. Such mobile home shall be immediately removed from the construction site following the revocation of the temporary permit or issuance of a permanent certificate of occupancy.
- (9) Mobile home parks shall comply with the following:
 - (a) Such mobile home park shall be an extension of or an improvement to an existing mobile home park.
 - (b) Such mobile home park shall comply with the provisions of § **150-51** of this chapter.
- (10) The conversion of an existing building into not more than two dwelling units shall comply with the following:
 - (a) The area of the lot shall be at least 70% of the minimum lot area that would be required for new construction of the equivalent number of dwelling units, unless otherwise approved as part of site plan approval.
 - (b) The minimum side yard requirements for the district shall be met.
 - (c) Parking requirements shall be met, and no parking space shall be located closer than five feet to any side lot line.
 - (d) Such conversion shall meet the applicable regulations of the New York State Uniform Fire Prevention and Building Code.
- (11) State-regulated community residences shall comply with all applicable provisions of the Mental Hygiene Law.
- (12) Day-care facilities or nursery schools shall comply with all applicable state and local codes.

- (13) Public or parochial schools shall comply with the following:
- (a) A landscaped buffer area shall be provided between any playground and an abutting lot.
 - (b) No more than 50% of the lot shall be covered by buildings and pavement. Areas not so covered shall be improved with grass, ground cover, shrubs and/or trees.
- (14) Public parks, playgrounds, libraries, fire stations and other municipal buildings shall be permitted when a site plan has been approved by the Planning Board, in accordance with the regulations of the Town of Ontario. The Town Board, by majority vote, may override any condition set by the Planning Board.
- (15) Home occupations shall comply with the following:
- (a) Such use shall be located in an owner-occupied dwelling unit and on the same lot. No more than 35% of such dwelling may be so used for above occupation.
 - (b) Such use shall be conducted by persons living in the dwelling unit and not more than one additional person who does not live in such unit.
 - (c) All activity, including storage, shall be conducted entirely within the dwelling unit or accessory building, and no special construction or structural alteration is required.
 - (d) The use shall not display or create outside the building any evidence of the home occupation, except that one nonilluminated sign, not more than three square feet, may be posted.
 - (e) No offensive traffic, noise, odor, smoke, dust, heat, glare or electrical disturbance shall be produced by the home occupation.
- (16) Private swimming pools shall be permitted only when in compliance with all applicable Town regulations.
- (17) Retail stores, banks, business offices, indoor theaters and indoor recreation facilities shall comply with the following:
- (a) Access drives to parking lots shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) Common drives on property are encouraged.
- (18) Restaurants, hotels and motels shall provide that any outdoor dining or service be located so as to not obstruct sidewalks or other public property.
- (19) Storage structures (ministorage) shall comply with the following:
- (a) Access drives to parking and storage areas shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) No more than 50% of any required front yard area shall be paved. Any unpaved area on the site shall be improved with trees, shrubs, ground cover and other form of landscaping.
- (20) Convenience marts; motor vehicle service stations; commercial garages; and car-washing establishments shall comply with the following:
- (a) No access or egress driveway shall have its center line located less than 50 feet from the intersection of any two street right-of-way lines.
 - (b) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (c) Any stored liquid fuel, oil or similar substance shall be stored in compliance with state and

federal regulations.

- (d) No major repair work is conducted outside of a structure and all automobile parts, dismantled vehicles and similar articles are stored inside a structure.
 - (e) Landscaping shall be provided adjacent to all public streets.
- (21) New and used automobile sales, service or repair; motor vehicle service stations; outdoor facilities for the retail sale of boats, trailers, furniture and similar goods; and indoor or outdoor sale of building material and supplies shall comply with the following:
- (a) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) Outdoor lighting shall be located and designed so as not to produce glare on adjacent streets and properties.
 - (c) Landscaping shall be provided adjacent to all public streets.
- (22) Excavations or fills are permitted only in compliance with the provisions of Chapter **75** of this Code.
- (23) Off-street parking lots shall comply with the following:
- (a) Access drives shall be a minimum of 18 feet in width for one-way traffic, a minimum of 24 feet in width for two-way traffic and a maximum of 30 feet in width and must be well defined by curbs or landscaping.
 - (b) A landscaped buffer strip shall be provided between such use and any adjacent residential lot.
- (24) Newspaper vending machines shall comply with the following:
- (a) Such machine shall not be attached or secured in any way to any pipe, pole, tree or standard owned or controlled by the state, county or Town.
 - (b) The location of such machine shall be no less than 25 feet from the intersection of two curblines or edge-of-pavement lines.
 - (c) The location of such machine shall not reduce the unobstructed width of any sidewalk to less than 40 inches.
- (25) Private boats, recreational vehicles, travel or camp trailers shall comply with the following:
- (a) No such boat, trailer or similar recreational equipment or recreational vehicle shall be parked or stored out-of-doors on a lot upon which a principal building does not exist, unless such a vehicle is stored in excess of 200 feet from the front property line.
 - (b) All boats, boat trailers, recreational trailers and recreational vehicles shall be parked or stored in a secure manner so as to avoid being a safety hazard.
 - (c) Visiting trailers at private residences in R-1 and R-2 Districts may obtain a permit to remain for a period of six months, as long as the trailer sets behind the front line of the house, does not encroach upon the side yard setback and it does not create a detriment to the health, safety or welfare of the neighborhood or community. Visiting trailers at private residences in SR and UR Districts may obtain a permit for 90 days per year. The Code Enforcement Officer shall check on those conditions at least once every 90 days. These trailers are to be used for sleeping purposes only.
- (26) Building-integrated, roof-mounted and small scale ground-mounted solar energy systems shall comply with the following:
- (a) Shall be designed and installed in conformance with current International Building Code

requirements, as incorporated into the New York State Uniform Code, and manufacturer's suggestions. In case of conflict between these sources, the International Building Code shall control.

(b) Roof-mounted solar energy systems:

- [1] Are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
- [2] Shall not exceed the maximum height restrictions of the zoning district in which they are located, including the same height exceptions granted to building-mounted mechanical devices or equipment.
- [3] Shall incorporate the following design requirements:
 - [a] Panels installed on a sloping roof facing the front yard must be mounted at the same angle as the roof's surface, with a maximum distance of 18 inches between the roof and the highest edge of the system.
 - [b] Panels installed on a flat or near-flat roof shall be screened by a parapet wall or other screening materials at the same height as the top of the panels.
 - [c] All flat and near-flat roof installations shall provide a perimeter area around the edges of the roof for emergency access and maintenance work. Larger buildings may be required to provide internal walkways to equipment, access hatches, stairways, ladders, and other roof penetrations or equipment.
 - [d] All solar panels shall have an antireflective coating.

(c) Small-scale ground-mounted solar energy systems:

- [1] Shall be designed and installed in conformance with current International Building Code requirements, as incorporated into the New York State Uniform Code, and manufacturer's suggestions. In case of conflict between these sources, the International Building Code shall control.
- [2] Are limited to a maximum of 20% of lot coverage. Further, the surface area covered by ground-mounted solar panels shall be included in the total lot coverage allowed in the applicable zoning district. Such area shall be based upon square feet of solar panel surfaces.
- [3] Shall have a maximum height of 10 feet.
- [4] Shall be installed in the side or rear yards, only, with a minimum setback of 25 feet to any adjoining property lines.
- [5] All solar panels shall have an antireflective coating.

(27) Farm labor camps shall comply with the following:

- (a) All structures shall be set back a minimum of 200 feet from any road or highway.
- (b) A landscaped buffer strip shall be planted to screen any structures from an adjacent highway.
- (c) Such camps and structures shall comply with all applicable state, county and federal regulations.

(28) Kennels shall comply with the following:

- (a) In the R1 or R2 District, all structures, pens and exercise runways shall be located at least 300 feet from any property line. A minimum of five acres is required to operate a kennel.
- (b) In the BT or I District, the following shall apply:
 - [1] A noise and visual barrier consisting of a suitable fence or dense vegetative planting

shall be provided, fully encircling all kennel areas not enclosed in a building.

- [2] All animals shall be confined to an individual crate or cage and within a building between the hours of 8:00 p.m. and 6:30 a.m.
- [3] No noticeable odors or offensive noise shall be emitted from the site.
- [4] There shall be no incineration of waste and/or refuse on the site.
- [5] There shall be no breeding of animals on the site.
- [6] The reviewing agency shall also consider the following:
 - [a] Provisions for controlling noticeable odor and offensive noise.
 - [b] Disposal plan for animal waste.
 - [c] Supervision of animals, particularly when outside a building.
 - [d] Adequacy of outdoor areas, including size, number of areas and separation of areas with visual buffering.
 - [a][e] Soundproofing methods for buildings.
- [b] [f] Maximum number of animals to be maintained.
- [c][g] Hours of operation.
- [d][h] Existing or proposed natural or man-made barriers.
- [e] [i] Other factors which the reviewing agency reasonably determines are appropriate to prevent and/or mitigate negative effects to adjoining properties and the neighborhood.

- (29) Multiple dwellings (four or more units) shall comply with the following:
- (a) A landscaping and drainage plan shall be approved by the Planning Board.
 - (b) No more than 50% of any required front yard area shall be paved. All unpaved areas on the site shall be improved with trees, shrubs, ground cover and other forms of landscaping.
 - (c) In the case of two or more structures or buildings on the same lot containing multiple dwellings, there shall be provided a distance between structures or buildings which shall not be less than 1 1/2 times the average height of the adjoining structures.
- (30) Churches and related uses shall comply with the following:
- (a) Such project shall be sponsored by an organization legally established and registered in the State of New York.
 - (b) Landscaping shall be provided around parking lots and adjacent to all public streets.
 - (c) The facility must be used as a church facility for religious purposes more than 70% of the time.
- (31) Hospitals and nursing homes shall comply with the following:
- (a) No more than 50% of the gross lot area shall be covered with impermeable surfaces, including buildings and pavement.
 - (b) No more than 50% of any required front yard shall be paved.
 - (c) Landscaping shall be provided around parking lots and adjacent to all public streets.
- (32) Tourist, boarding or rooming houses shall comply with the following:
- (a) Any dwelling so used shall be occupied by its owner and shall contain no more than six rooms to rent or lease for profit.
 - (b) No more than 50% of any required front yard area shall be paved or used for parking.
 - (c) One sign advertising such use shall be permitted, six square feet in area, and, if illuminated, shall not be flashing.
- (33) Bed-and-breakfast facilities shall comply with the following:
- (a) Any dwelling so used shall be occupied by its owner and shall contain no more than six rooms to let for profit.
 - (b) One sign advertising such use shall be permitted, six square feet in area, and, if illuminated, shall not be flashing.
- (34) Pet shops and veterinary establishments shall comply with the following:
- (a) There shall be no outdoor storage of refuse, feed or other material and no on-site incineration of refuse.
 - (b) A landscaped buffer strip shall be provided along the side and rear property lines that are adjacent to any residential lot.
- (35) Food-processing facilities; planned industrial research parks; scientific or research laboratories; fabrication or storage of metal, paper or wood products; general processing, assembly or packaging of previously prepared materials; and light manufacturing shall comply with the following:
- (a) Dust, smoke, smog, observable gas, fumes, odors or other atmospheric pollutants shall be limited, and such emission shall be in conformity with all government rules and regulations.
 - (b) Noise, glare or vibration shall not be created.

- (c) No activity shall create a physical hazard to persons or property by reason of fire, explosion or radiation.
 - (d) There shall be no discharge of any liquid or solid waste into any stream or body of water or into any disposal system that may contaminate any water supply or groundwater.
 - (e) All industrial processes shall take place within an enclosed building. Incidental storage of materials out-of-doors is permitted.
 - (f) The discharge of radioactive gases or liquid effluents shall be maintained within the limits specified by the New York State Department of Health and by the United States Atomic Energy Commission. Evidence of such compliance shall be provided to the Town Health Officer upon request.
 - (g) There shall be no storage of material, either indoors or outdoors, which results in the breeding of vermin or endangers health in any way.
 - (h) All such uses shall be set back from any side or rear property line a distance adequate to enable access by firefighting equipment.
 - (i) A planted and maintained buffer strip shall be provided for a visual screen between the industrial use and abutting residential or business districts.
 - (j) All applicable requirements of the New York State Uniform Fire Prevention and Building Code shall apply and are incorporated herein.
- (36) Vehicle body shops shall provide that areas used for the temporary parking of vehicles awaiting repair be at least 15 feet from any property line and shall be screened from direct public view by landscaping or a solid fence, as approved by the reviewing agency.
- (37) Satellite dishes, short-wave antennas, ham radio towers and television and radio antennas shall comply with the following:
- (a) Receivers shall not be located in any front or side yard area unless no other location is technically or physically feasible.
 - (b) Satellite dish receivers shall not be mounted on the roof of any building or vehicle except if the receiver is 36 inches or less in diameter.
- (38) Alternative energy supply systems shall comply with the following:
- (a) Alternative energy supply systems shall be appropriately screened from adjoining properties and rights-of-way. Wind energy collectors (including windmills and wind turbines) and solar and geothermal residential systems in residential districts that are not physically a part of the principal structure (such as solar panels) shall not be located in the front yard, with the exception of solar-powered lights. The minimum lot size required for wind energy collectors in residential districts is five acres.
 - (b) Each application for a wind energy collector shall be accompanied by a complete plan, drawn to scale, showing the location of any tower on the lot; the locations of all other structures, power lines or other utility lines on the lot; dimensions and sizes of the various structural components of the tower construction; and either a certification by a professional engineer, or the manufacturer's certification, that any tower was designed to withstand wind load requirements for structures as set forth in the New York State Uniform Fire Prevention and Building Code.
 - (c) A wind energy collector shall not exceed a total height of 100 feet (including any blade in the vertical position) and shall have a fall-zone radius of 1.5 times the proposed total height (including the blades) that is wholly contained on the lot where it is located. Guy wires and anchors for the tower shall not be located closer to any lot line than five feet.
 - (d) The lowest portion of any blade for a wind energy collector may not at any time be closer than 25 feet to the ground.

- (e) Any climbing apparatus on the outside of a tower for a wind energy collector shall be no lower than 12 feet from the ground.
 - (f) No wind energy collector shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, blades, and turbine components.
- (39) Campgrounds must be a minimum of five acres, except nudist campgrounds must be a minimum of 50 acres.
- (40) Vehicle recycling facilities shall comply with the following:
[Added 11-15-2021 by L.L. No. 4-2021]
- (a) All vehicle dismantling facilities must comply with the provisions of New York Environmental Conservation Law Article 27, Title 23, Vehicle Dismantling Facilities, as it may be amended from time to time. Copies of all reports submitted by the operator to the New York Department of Environmental Conservation must be filed with the Town of Ontario within 10 days of submission to the Department of Environmental Conservation. Any hazardous spill or other release shall be immediately disclosed to the Town of Ontario.
 - (b) All outside storage areas shall be fully screened from view by adjoining properties and roads by a fence and/or vegetative barrier approved by the Planning Board, including the screening style, design and appearance.
 - (c) All towing and impound yards, outside storage areas, customer parking, driveways and maneuvering areas shall be hard-surfaced with concrete, asphalt, stone or approved engineered surface.
 - (d) All outside storage areas shall be located on a properly drained site that is properly graded to ensure drainage consistent with DEC standards and to ensure that the site remains free from stagnant pools of water. A site drainage, stormwater and sanitary sewer plan and grading plan, with adequate facilities to dispose of any runoff and any contaminants, shall be approved by the Planning Board.
 - (e) All vehicles stored outside shall be free of all fluids (engine coolant, oil, transmission fluid, air-conditioning refrigerant, gasoline, etc.) and hazardous materials and substances, such as mercury, sodium aride, etc. A fluid drainage, hazardous material/substance removal and disposal plan shall be provided that complies with all federal, state and local standards and shall be approved by the Planning Board.
 - (f) All removal and storage of fluids, removal and storage of any hazardous materials and substances and/or dismantling of vehicles shall be conducted in an enclosed structure in accordance with a formal, written plan approved by the Planning Board.
 - (g) All arriving vehicles and parts are to be stored inside an enclosed structure or behind the visual barrier with sufficient safeguards (i.e., video surveillance, security, or theft prevention devices) to prevent theft prior to a vehicle being stored outside in the vehicle storage area.
 - (h) There shall be a vehicle, inventory and sales management system to identify and locate all vehicles and parts, which shall be a nationally recognized software or system.
 - (i) The construction or operation of the vehicle recycling facility shall not add to the contamination of the soil, alter groundwater flow, create additional drainage runoff or alter topography in such a way that creates hazards to the proposed site, adjoining properties, or the Town in accordance with state and federal regulations.
 - (j) Vehicle recycling facilities shall construct and maintain a permanent primary building.
 - (k) Adequate off-street customer and employee parking shall be provided and shall be approved by the Planning Board. Customer parking must be separate from any vehicle storage area and accessible from a public road without being restricted with fences or

gates.

- (l) A vehicle parking plan that demonstrates that vehicles awaiting processing, stored vehicles and partial vehicles are stored in a unified, organized manner clear of obstructions.
- (m) A minimum of a twenty-foot-wide drive accessway with a forty-four-foot-wide outside turning radius shall be provided between every two rows of vehicles to facilitate emergency vehicles and tow vehicles.
- (n) Vehicles shall only be stacked to the height of the visual barrier on storage racking, or one vehicle height when stored on the ground.
- (o) An area may be designated for vehicles awaiting removal from the premises which are crushed (flattened) vehicles or vehicles to be crushed and may be stacked to a height no greater than the height of the adjoining screening. The Planning Board shall approve the location of such designated area for crushed vehicles, including the number of vehicles which may be stacked and the overall height of such stacked vehicles.
- (p) Vehicle recycling facilities shall not allow objectionable smoke, noise, odors, or other adverse impacts on adjoining properties or the Town. No burning of any waste materials is permitted unless it is a part of an approved contained heat system specifically for reuse of waste fluids.
- (q) All grounds and buildings shall be maintained free of insect and rodent harborage and infestation. Vehicle recycling, towing and impound facilities, and outside storage facilities shall be maintained free of organic waste or inappropriately stored flammable materials. Materials that are customary to the business shall be stored in accordance with applicable laws. Vehicle storage must be maintained free of vegetation.
- (r) Site lighting and operational lighting shall be installed so that it does not create traffic hazards or impacts on adjacent land uses. A lighting plan shall be approved by the Planning Board.

§ 150-43. Special permit uses.

Uses requiring a special use permit (SUP) must comply with the following general requirements and applicable special requirements as set forth in this § **150-43**. Such land use or activity is not permitted by right and may be permitted only after a special permit application has been duly submitted and authorized in accordance with § **150-43A** of this Article **VII**.

- A. Jurisdiction. An application for a special permit shall be reviewed by the Code Enforcement Officer and may be authorized as follows:
 - (1) By the Planning Board when site plan approval is required as specified in this § **150-43**. (See subdivision regulations.)
 - (2) By the Zoning Board of Appeals for special permit uses that do not require site plan approval by the Planning Board.
 - (3) By the Town Board when so specified in this section.
- B. Expansion or change of existing uses. No expansion of a use that required a special use permit or change to a different use that also requires a special permit shall be permitted without the issuance of a new special use permit allowing such expansion and/or change of use. Plans for such expansion or enlargement shall be reviewed and authorized in accordance with the applicable provisions of this § **150-43**.

- C. Revocation of special use permit. A special permit may be revoked if, after notice and public hearing, the board which granted it determines that any special use permit requirements and/or conditions imposed upon the special permit have been violated or not fulfilled.
- D. Procedure.
- (1) Application. An application for a special use permit shall be made to the Code Enforcement Officer, who shall submit such application to the agency of jurisdiction as specified in Subsection **A** above and shall issue no permit until authorized to do so in writing. The applicant for a special use permit may be requested to furnish such plans, drawings and other descriptive material as may be needed for complete understanding of the proposed development or use.
 - (2) Public hearing. A special use permit application may not be approved until a public hearing on such application has been held by the reviewing agency, following the public hearing procedures set forth in § **150-69** of this chapter. Such public hearing shall be held within 62 calendar days from the receipt of an application for a special use permit, and notice thereof shall be given in accordance with the provisions of § 150-69F of this chapter.
 - (3) Decision.
 - (a) Within 62 calendar days from the public hearing, a decision to approve, with or without modification, or to disapprove the special use permit application shall be made by the reviewing agency. Failure to act within such sixty-two-day period shall be tantamount to approval and shall be authorization for the Code Enforcement Officer to issue a permit.
 - (b) The period for making a decision may be extended by mutual consent of the applicant and the reviewing agency. Approval of any special permit shall be conditioned on the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property.
 - (4) Referral to County Planning Board. When required by law, before taking final action on certain special permit applications, such applications shall be referred to the Wayne County Planning Board in accordance with §§ 239-l and 239-m of the General Municipal Law.
 - (5) Environmental assessment. If, in the judgment of the reviewing agency, approval of a special use permit application could result in a significant environmental impact, no such permit shall be approved until an environmental finding has been made pursuant to Part 617 of the regulations of the New York State Department of Environmental Conservation.
 - (6) Filing. The decision of the reviewing agency shall thereafter be filed in the office of the Town Clerk, with a copy submitted to the applicant and the Code Enforcement Officer.
 - (7) Modification. In reviewing any application for a special use permit, the reviewing agency may modify or waive any special condition required by § **150-42** of this chapter if it is deemed appropriate and in the best interest of the Town and if the spirit and intent of this chapter can be maintained. Any decision to waive or modify any such special condition requirement shall be set forth in writing, with the reason for such modification or waiver being set forth by the reviewing agency
[Amended 9-21-2020 by L.L. No. 5-2020]
 - (8) Conditions. In reviewing a special use permit application, the reviewing agency may impose conditions on the approval if such conditions are reasonable and in the best interest of the Town of Ontario.
- E. General requirements. Before a special use permit can be approved, the reviewing agency shall determine that the following general requirements shall be complied with as well as any other applicable requirement for specific land uses or activities as may be set forth in § 150-43F of this chapter.
- (1) The land use or activity is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.
 - (2) The existence of the proposed land use activity will not cause substantial injury to the value of

other property in the neighborhood where it is to be located.

- (3) The proposed land use or activity will be reasonably compatible with adjoining development and the implied character of the zoning district where it is to be located.
- (4) Adequate landscaping and similar screening will be provided.
- (5) Adequate off-street parking and loading will be provided, and ingress and egress are so designed as to cause minimal interference with traffic on abutting streets.
- (6) The proposed development will minimize erosion and will not result in increased surface water runoff on abutting properties.
- (7) Existing roads and utilities serving the proposed development shall be adequate so that provision for needed upgrading is satisfactory.
- (8) The proposed use or activity will conform with applicable Town, county, state and federal regulations.^[1]

[1] *Editor's Note: Former Subsection F, which immediately followed, regarding specific requirements, as amended, was repealed 9-21-2020 by L.L. No. 5-2020*

§ 150.44. Solar Energy Systems

The Town Board of the Town of Ontario states the following as its findings and legislative intent:

- A. This Local Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of Ontario to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
- B. The Town Board of the Town of Ontario recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Ontario intends to accommodate the use of solar energy systems.
- C. However, the Town Board finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of Ontario to protect residential uses, Prime Farmland, Farmland of Statewide Importance, business areas and other land uses, to preserve the natural resources, overall beauty, nature and character of the Town of Ontario, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Ontario.

Definitions

The following definitions shall apply to this Article:

Applicant - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term "applicant" or "owner" or "operator" are used in this Article, said term shall include any person acting as an applicant, owner or operator of such Solar Energy System.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other Structure either directly or by means of support structures or other mounting devices,

intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm, but not including those mounted to the roof or top surface of a Building.

Commercial Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other Structure either directly or by means of support structures or other mounting devices, intended to produce energy for offsite sale to and consumption by one or more customers.

Commercial Roof-Mounted Solar Energy System - Any Solar Energy System mounted on the roof of any legally permitted Building or Structure and wholly contained within the limits of the roof surface, intended to produce energy for offsite sale to and consumption by one or more customers.

Decommissioning - The removal and disposal of all Solar Panels, Solar Energy Equipment, Structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring, cabling, or debris, that were installed in connection with a Solar Energy System and the restoration of the parcel of land to the original state prior to construction on which the Solar Energy System is built to either of the following, at the landowner's (either the Initial Landowner or it's heirs, successors or assigns) sole option: (i) the condition such lands were in prior to the development, construction and operation of the Solar Energy System, including but not limited to restoration, regrading, and reseeding, or (ii) the condition designed by landowner (either the Initial Landowner or it's heirs, successors or assigns) and the Town. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement as may be required pursuant to this Article.

Decommissioning Agreement - A written Agreement between Applicant, Initial Landowner and Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable.

Glare – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System - Any Solar Energy System that is affixed to the ground either directly or by support Structures or other mounting devices where such Structure and mounting exists solely to support the Solar Energy System.

Initial Landowner – The record title owner to the real property upon which a Solar Energy Systems is constructed, at the time such Solar Energy System is originally constructed.

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted Building or Structure and wholly contained within the limits of the roof surface, intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm.

Site Plan – The application materials, procedures and processes required by this Article XIV of the Zoning Ordinance of the Town of Ontario.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit, not to include any type of battery energy storage system or similar device, that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Special Use Permit – The procedures and processes required by the Town of Ontario Town Code.

Tilt – The vertical angle, where 0° minimum tilt means the panel is laying flat, and 90° maximum tilt means that it is vertical.

Town – The Town of Ontario, Wayne County, New York.

Town Board – The Town of Ontario Board.

Type 1 Solar Energy System – A Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm. Said system shall be considered an Accessory Use (as defined in §300-6) and an accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

Type 2 Solar Energy System – A Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers. Type 2 Ground Mounted Systems are required to be located on parcels with a minimum lot size of 25 acres and must not exceed 25 acres of coverage on parcels that are 40 acres or more in size. Front, side and rear setbacks of 250 feet are required for all Type 2 Ground Mounted Systems.

Type 1 Solar Energy Systems

Subject to the provisions of this Article, Solar Energy Systems shall be allowed as follows:

- A. Type 1 Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
- B. Type 1 Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department. All Solar Panels shall have anti-reflective coating(s).
- C. Type 1 Rooftop-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - (1) The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of a building permit (pursuant to Article X) based on special application materials supplied by the Town Building and Code Department.
 - (2) Height. Roof-Mounted Solar Energy Systems shall be subject to the applicable height restrictions for the respective zoning district.
 - (3) Roof-Mounted Solar Energy System Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design criteria:
 - (a) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but shall not exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
 - (b) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (c) Glare. All Solar Panels shall have anti-reflective coatings(s).
 - (4) Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the Zoning Ordinance of the Town of Seneca Falls, but shall not be constructed without a building permit first being issued pursuant to Article X and this Article.
- D. Type 1 Ground Mounted Solar Energy Systems are allowed as accessory uses and/or structures in all zoning districts except Planned Unit Development Districts. Type 1 Ground Mounted Solar Energy

Systems which are to be located in a Planned Unit Development must comply with the requirements of §300-72, before the same are permitted.

- (1) The placement, construction and major modification of Type 1 Ground Mounted Solar Energy Systems shall only be permitted upon issuance of building permit (pursuant to Article X.) based on special application materials supplied by the Town Building and Code Department.
- (2) Height. Ground Mounted Type 1 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment to the ground directly beneath it.
- (3) Setbacks. Ground Mounted Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings or Structures within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
- (4) Coverage. Ground Mounted Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings or Structures within the zoning district in which it is located and in no event shall the combination of all Accessory Buildings and Structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum Tilt.
- (5) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (6) All Ground Mounted Type 1 Solar Energy Systems must be installed in the side or rear of the property.
- (7) All applications for Ground Mounted Type 1 Solar Energy Systems for businesses (including Multi-Family Dwellings) or farms, to the extent permitted by law, shall be subject to Site Plan review pursuant to §300-128. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
- (8) Pursuant to 6 NYCRR 617.5, All Type 1 Solar Energy Systems shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617).

Type 2 Commercial Building and Roof-Mounted Solar Energy Systems

Type 2 Commercial Building and Roof-Mounted Solar Energy Systems are allowed in the following zoning districts: Urban Residential (UR), Business District (B), Business Transitional (BT) and Industrial (I). Commercial Building and Roof-Mounted Solar Energy Systems are subject to the requirements set forth in this Article, including Site Plan approval pursuant to Article XIV and are allowed only after the issuance of a Special Use Permit pursuant to Article XV. Applications for the installation of a Commercial Building and Roof-Mounted Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Ontario Planning Board (for Site Plan) and the Town of Ontario Zoning Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.

- (1) Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Zoning Board of Appeals the Site Plan application provided to the Planning Board, any information required by Article XV and the following documents and information:
 - (a) If the location of the proposed project is to be leased (either building facade or surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including any signed lease agreement, easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in § D. (1) (i) (i) below.

- (b) Plans and drawings for the Type 2 Commercial Building and Roof-Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, any non-building mounted improvements or infrastructure, any proposed clearing and grading of the lot(s) on which the structure housing a Commercial Building and Roof-Mounted Solar Energy System is situated, any anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Commercial Building and Roof-Mounted Solar Energy System, and utility lines (both above and below ground) on the site and adjacent to the site. The applicant shall also provide a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building upon which a Commercial Building and Roof-Mounted Solar Energy System is to be placed to support such system in a safe fashion.
- (c) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or Structures and uses on any parcel within 500 feet of the outer perimeter of the Commercial Building and Roof-Mounted Solar Energy System.
- (d) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters or other Solar Energy Equipment that are to be installed.
- (e) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and upkeep of the property that houses such Type 2 Commercial Building and Roof-Mounted Solar Energy System. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of Seneca Falls, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment.
- (f) Clearing, grading, storm water and erosion control plan. If deemed desirable by the Planning Board, Zoning Board of Appeals or the Town's professional engineer or consultant, Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Ontario Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Commercial Building and Roof-Mounted Solar Energy System on the site.
- (g) Parking and Truck Traffic. Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Commercial Building and Roof-Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (h) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Ontario Planning Board, Town of Ontario Zoning Board of Appeals, Town Attorney or Code Enforcement Officer.
- (i) Decommissioning Plan. To ensure the proper removal of a Type 2 Commercial Building and Roof-Mounted Solar Energy System after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan shall contain a written and visual record of the original site condition (prior to installation of any Solar Energy Equipment) to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the

Commercial Building and Roof-Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure of the Type 2 Commercial Building and Roof-Mounted Solar Energy System and all Solar Energy Equipment shall be conducted to return the structure (s) and parcel housing such system to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- (j) Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §300-136 of this Article. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Ontario at its discretion) for the removal of the Type 2 Commercial Building and Roof-Mounted Solar Energy System, with Ontario as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Commercial Building and Roof-Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Ontario with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Seneca County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

(2) Special Use Permit and Site Plan Approval Standards.

- (a) Height. Type 2 Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of such system is higher than the highest point of the wall upon which it is attached. Commercial Roof-Mounted Solar Energy Systems shall be constructed such that Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but no portion of the Solar Energy System shall exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.
- (b) Distance from Building. Type 2 Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of the Solar Panels project more than 18 inches from the surface of the wall upon which it is attached.
- (c) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes. Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.
- (d) Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property so as to prevent unauthorized access. Warning signs with the owner's contact

information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access.

- (e) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (f) Number of Type 2 Commercial Building and Roof-Mounted Solar Energy Systems allowed per Lot. No more than one Commercial Building and Roof-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.
- (g) Any Type 2 Commercial Building and Roof-Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Seneca County Office of Emergency Management Services and local fire chief.
- (h) After completion of a Type 2 Commercial Building Roof-Mounted Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State stating that the Solar Energy System complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (i) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Commercial Building and Roof-Mounted Solar Energy System.
- (j) Any application under this Section shall meet substantive Site Plan requirements in §300-128. that, in the judgment of the Ontario Town Planning Board, are applicable to the Solar Energy System being proposed.
- (k) Prior to determination or issuance of any permit, all Type 2 Commercial Building and Roof-Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617). The Ontario Planning Board and the Ontario Zoning Board of Appeals shall conduct a coordinated review.
- (l) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Commercial Building and Roof-Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Commercial Building and Roof-Mounted Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (m) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Commercial Building and Roof-Mounted Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (n) Inspections. Upon reasonable notice, the Town of Ontario Code Enforcement Officer, or his or her designee, may enter a Lot on which a Type 2 Commercial Building and Roof-Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Commercial Building and Roof-Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Ontario at any time upon a determination by the Town' s Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of Ontario within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town

of Ontario reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Commercial Building and Roof-Mounted Solar Energy System is located.

Type 2 Ground Mounted Solar Energy Systems.

Type 2 Ground Mounted Solar Energy Systems are permitted only in the Rural Residential (RR), Suburban Residential (SR) and Industrial District (I) and are subject to the requirements set forth in this Section, including Site Plan approval pursuant to Article XIV, and are allowed only after the issuance of a Special Use Permit pursuant to Article XV. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Ontario Planning Board (for Site Plan) and the Town of Ontario Zoning Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.

- (1) Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Zoning Board of Appeals the Site Plan application provided to the Planning Board, any information required by §300-46 and the following documents and information:
 - (a) If the property of the proposed Solar Energy System is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §A.(12)(13) below. Applicant shall be required to provide, as part of the application, any Lease Agreement, easements and other agreements between itself and Initial Landowner or any owner of property contiguous to the land upon which the Solar Energy System (or any component thereof, including access ways or utility lines) shall be constructed.
 - (b) Plans and drawings for the Type 2 Ground Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
 - (c) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or Structures and uses on any parcel within 750 feet of the outer perimeter fence line of the Type 2 Ground Mounted Solar Energy System.
 - (d) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters and other Solar Energy Equipment that are to be installed.
 - (e) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Type 2 Ground Mounted Solar Energy System and property upkeep, such as mowing and trimming, which shall also include details of anticipated use of pesticides, herbicides and other chemicals for vegetative abatement and/or maintenance. The Plan shall demonstrate that the use of any pesticide, herbicide or other chemical will be in compliance with all local, state and federal regulations and shall further demonstrate that alternatives to chemical treatments have been prioritized to the extent reasonably possible. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said Plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of Seneca Falls, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment. Said Plan shall also obligate the Applicant (or the successor owner of the Solar Energy System) to provide the Town, not less than every other year (commencing the second year after the Solar Energy System is commercially operable), with test results from soil sampling collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for

Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of sampling, to demonstrate that the soils upon which the Solar Energy System is constructed have not been contaminated in any fashion as a result of the Solar Energy System placed on the property. Such test results shall be compared to the pre-construction soil sample analysis referenced in paragraph (i) (Pre-Development Site Conditions) below.

- (f) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Ontario Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (g) Parking and Truck Traffic. Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Type 2 Ground Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (h) Noise Study. Applicant shall provide a noise study of the impacts of construction and operation of the proposed Solar Energy System. Said study shall reference any of the existing regulations or suggested industry or development standards put out by the NYS Office of Renewable Energy Siting. Such study shall analyze the projected noise levels for both daytime and nighttime periods generated by the Solar Energy System and all collector substation equipment relative to all surrounding Dwellings.
- (i) Viewshed/Line of Site Analysis. Applicant shall provide a viewshed/line-of-site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening at the completion of construction of the Solar Energy System, and similar visual renderings of the projected maturation of the buffering/screening at five (5) years and ten (10) years after completion of the Solar Energy System. The Planning and/or Zoning Board of Appeals may require the above viewshed/line-of-site analysis and scaled color visual renderings from multiple angles or perspectives as it/they deem appropriate.
- (j) Pre-Development Site Condition – Applicant shall provide a written and visual record of the pre-development site condition (which shall include the site condition prior to any logging/timber harvest or clearing of land in anticipation of the development of a Solar Energy Systems), which must be verified as to being complete by the Building and Zoning Department, to facilitate full and proper remediation of the site upon Decommissioning. As part of this record, Applicant shall provide an analysis of pre-construction soil samples, with such samples collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of sampling. Such samples shall be taken from various locations on the property on which the Solar Energy System is to be located and are specifically intended to demonstrate the pre-development condition and properties of the soils to ensure that full and proper remediation of the site occurs upon Decommissioning.
- (k) Any such additional information as may be required by the Town' s professional engineer or consultant, Town of Ontario Planning Board, Town of Ontario Zoning Board of Appeals, Town Attorney or Code Enforcement Officer.
- (l) Decommissioning Plan. To ensure the proper removal of Type 2 Ground Mounted Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Ground Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the Type 2 Ground Mounted Solar Energy System is placed. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution

and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system. The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan. The financial security shall be updated every fifth year thereafter specifying changes to estimated cost of implementing the decommissioning plan.

- (m) Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to section 300-35 of this Article. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety such as, but not limited to, letters of credit, etc. that are acceptable to the Town of Ontario at its discretion) for the removal of the Type 2 Solar Energy System, with Ontario as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 150% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Ground Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such Solar Energy System, the then owner/permit holder for the system shall provide the Town of Ontario with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Seneca County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.
- (n) At its sole discretion, the Town of Ontario Planning Board and/or the Town of Ontario Zoning Board of Appeals may refer an application for a Type 2 Ground Mounted Solar Energy System to one or more private consultants for review to assist such Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town (through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Board requiring the deposit shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest-bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval, either Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New

York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (o) If a Type 2 Ground Mounted Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Construction Mitigation for Agricultural Lands.
- (p) The Applicant shall be required to facilitate one or more site visits as deemed necessary or desirable by the Planning Board and/or Zoning Board of Appeals.

(2) Special Use Permit and Site Plan Approval Standards.

- (a) Height. Type 2 Ground Mounted Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
- (b) Setbacks. Type 2 Ground Mounted Solar Energy Systems shall be sited to create a front setback of no less than 500 feet (measured from the fence-line of the Solar Energy System) from the right-of-way line of any public or private roadways and setbacks of 500 feet (measured from the fence-line of the Solar Energy System) from all side and rear property lines.

The above stated side and rear property setback shall be waived on any contiguous parcel (to that parcel upon which the Solar Energy System is being developed) owned by a participating landowner that owns the parcel upon which the subject Solar Energy System is being parcel. The above waiver shall not apply to any contiguous parcels that are not owned by the same landowner that owns the land upon which the Solar Energy System is placed.

- (c) Lot/Parcel Size. Type 2 Ground Mounted Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.
- (d) Lot/Parcel Coverage. Type 2 Ground Mounted Solar Energy Systems shall not exceed 25 acres of coverage on parcels that are 40 acres or more in size. On parcels that are less than 40 acres in size, Type 2 Solar Energy Systems coverage shall not exceed 60% of the total parcel size. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt and shall not include required fencing or access roads.
- (e) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (f) Fencing and Screening. All Type 2 Ground Mounted Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the Solar Energy System may be required to be further screened by landscaping to avoid adverse aesthetic impacts. All buffering/landscaping materials shall be designed to promote sustainability, diversity and visual variety, which shall include a mixture of plant species, sizes/heights, deciduous and evergreen trees and/or shrubs and shall be noted in detail on a landscaping plan that shall be approved by the Planning Board and/or the Zoning Board of Appeals. The Planning Board and/or the Zoning Board of Appeals shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residential zoning districts, areas containing residential parcels or abut a public road.
- (g) Number of Type 2 Ground Mounted Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per Lot or parcel, regardless of Lot size.
- (h) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the Lot or parcel to be the largest configuration of the physical area where the Type 2 Ground Mounted Solar Energy System is being proposed that has existed as a separate Lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of Ontario within the ten (10) years immediately preceding the application seeking approval for such Type 2 Ground Mounted Solar Energy System. This provision is specifically intended to prevent the owner of land from subdividing such land into smaller parcels that would permit siting of multiple

Type 2 Ground Mounted Solar Energy Systems on what would have otherwise been a lot or parcel that was restricted to one Type 2 Ground Mounted Solar Energy System that would not exceed 25 acres of coverage.

- (i) Vegetation and Habitat. Type 2 Ground Mounted Solar Energy System owners/developers shall develop and provide a written vegetation management plan (which shall be approved by the Planning Board and/or the Zoning Board of Appeals) to implement and maintain native, non-invasive plants and vegetation under and around the Solar Panels, such plantings to provide foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native, non-invasive plant species and seed mixes.
- (j) Any Type 2 Ground Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Seneca County Office of Emergency Management Services Director and local fire department Chief.
- (k) After completion of a Type 2 Ground Mounted Solar Energy System, the Applicant shall provide a post-construction certificate from a Professional Engineer registered in New York State, certifying that the Type 2 Solar Energy System complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (l) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Ground Mounted Solar Energy System.
- (m) Any application under this Section shall meet substantive Site Plan requirements in §300-128. that, in the judgment of the Ontario Town Planning Board, are applicable to the system being proposed.
- (n) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Ground Mounted Solar Energy System.
- (o) Prior to determination or issuance of any permit, all Type 2 Ground Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Ground Mounted Solar Energy System shall be deemed to be Type 1 Actions for purposes of compliance with the New York State Environmental Quality Review Act. The Town Planning Board and/or Zoning Board of Appeals has the authority, pursuant to 6 NYCRR 617.4 (a) (1) and (2), to classify such actions in addition to the list established by such statute. The Planning Board and the Zoning Board of Appeals shall conduct a coordinated review. Such review shall not be completed or closed out, and a final determination of significance made, until after the review of the application has been completed.
- (p) The development and operation of a Type 2 Ground Mounted Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Ontario or other federal or state regulatory agencies. The Ontario Town Planning Board and the Ontario Zoning Board of Appeals may impose conditions on the approval of any Site Plan or Special Use Permit under this Article to enforce the standards referred to in this Article or to discharge its obligations under the State Environmental Quality Review Act.
- (q) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Ground Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. The above time period may be extended by each of the approving Boards, at their sole discretion, upon a showing of good cause by Applicant. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Ground Mounted Solar Energy System within twenty (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law. The above time period may be extended by each of the approving Boards, at their sole discretion, upon a showing of good cause by Applicant.

- (r) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Ground Mounted Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (s) Inspections. During construction and upon reasonable notice, the Town of Ontario Code Enforcement Officer, or his or her designee, may enter a Lot on which a Type 2 Ground Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. After construction is completed and the Solar energy System is operational, upon reasonable cause at the discretion of the Town of Ontario Code Enforcement Officer, or his or her designee, said Code Enforcement Officer (or his or her designee) may upon reasonable notice may enter a Lot on which a Type 2 Ground Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Furthermore, a Type 2 Ground Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Ontario at any time upon a reasonable determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of Ontario within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of Ontario reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.
- (t) Construction hours. During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be in accordance with the Performance Standards outlined in Article XVII of the Town of Ontario Zoning Ordinance.

General regulations.

The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Ontario shall be permitted only as follows:

- A. Any inconsistent provisions of the Code of the Town of Ontario which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
- B. All Solar Energy Systems that have received a Special Use Permit or Building Permit as of the effective date of this Article shall be "grand fathered" and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Article.
- C. All new Solar Energy Systems and all additions and modifications to any pre-existing Solar Energy System shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of Seneca Falls.
- D. For all Type 2 Solar Energy Systems, Applicant and/or the successor owner or operator shall provide a written training plan that provides for proper training of the Town Code Enforcement Office, Fire Department, Emergency Responders, Seneca County Emergency Management Services and Police agencies relative to health and safety concerns associated with larger scale commercial Solar Energy Systems. Such training plan shall be implemented before the Solar Energy System is made commercially operational. Additional training may be required on behalf of the New York Office of Fire Prevention and Control (OFPC) and the National Fire Protection Association (NFPA). All costs and expenses related to such training shall be borne by the Applicant or the successor owner or operator of the Solar Energy System.
- E. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.

- F. This Article shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Code of the Town of Seneca Falls.
- G. No Solar Panels or other Solar Energy Equipment used in any Solar Energy System shall utilize or contain any amount of GenX chemicals or polyfluoroalkyl substances (PFAS).
- H. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information.
- I. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- J. Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which any Type 2 Solar Energy Systems are to be developed shall be required, at the discretion of the Town Board, to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct any Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
- (1) In no event shall such payment in lieu of tax agreement operates for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.
 - (2) In no event shall such payment in lieu of tax agreement requires annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
 - (3) The payment in lieu of tax agreement shall run to the benefit of the Town of Ontario and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Seneca County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Seneca County Clerk as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of Ontario to enforce such agreement as against the owner of the real property and the real property.
 - (4) At its sole discretion, the Ontario Town Board may refer an application for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest-bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.

- (5) No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.
- K. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy System is to be developed shall be required, at the discretion of the Town Board, to enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Type 2 Solar Energy System.
- (1) At its sole discretion, the Ontario Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest-bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.
- (2) No building permit may be issued for any approved Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.
- L. Road Use Agreement. Prior to issuance of any building permit for any Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and, in a format, acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant (or its General Contractor) shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Ontario at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions set forth in the applicable Road Use Agreement.
- (1) In the event that any damage is done to any Town road as a result of the development of an Applicant's Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.
- (2) Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor or such longer timeframe as determined by the Town Board at its sole discretion upon a showing of good cause by Applicant. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Town Board, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
- (3) The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
- (4) No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a Road Use Agreement as required hereby has been executed by all parties.

- M. Traffic Routes. Construction and delivery vehicles for Type 2 Solar Energy Systems shall use traffic routes established as part of the applications review process. Factors in establishing such corridors shall include:
- (1) Minimizing traffic impacts from construction and delivery vehicles.
 - (2) Minimizing Solar Energy System related traffic during times of school bus activity.
 - (3) Minimizing wear and tear on local roads.
 - (4) Minimizing impacts on local businesses.
 - (5) Special Use Permit approval may contain conditions that limit Solar Energy System related traffic to specified routes and include a plan for disseminating traffic route information to the public.

Abandonment and Decommissioning.

- A. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 180 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or 180 days without production of energy and offsite sale to and consumption by one or more customers for any Type 2 Solar Energy System. Each of the above time frames may be extended by the Town Board, at its sole discretion, upon a showing of good cause by the then owner or operator of the Solar Energy System.
- B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
- C. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Ontario Zoning Board of Appeals or the Town Planning Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 180 days (unless the time frame is extended by the Town Board pursuant to the provisions of paragraph A. above) and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the sole responsibility of the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located. If the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located does not dismantle and remove said Solar Energy System as required by the Decommissioning Agreement, the Town Board may complete removal and decommissioning as set forth in the Decommissioning Agreement and levy all related expenses (not covered by any removal bond or other form of surety provided pursuant to such Decommissioning Agreement) associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is/was. Any costs or expenses related to removal (by the Town or completed on behalf of the Town's authority pursuant to this section) that are to be levied onto the real property tax bill for the property on which the Solar Energy System was located, shall not be off-set, reduced or diminished for any recycling or salvage credits or value relating to the removed Solar Panels or Solar Energy Equipment, except and unless the Town has actually received such credits or value prior to the levy of such costs and then, such reduction shall be limited to the actual dollar value received by the Town. Nothing in this Article shall be interpreted to require or obligate the Town to undertake to obtain salvage or recycling credits, value or proceeds with regard to any Solar Panels or Solar Energy Equipment to be removed pursuant to this section.
- D. Removal of any Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Agreement required by §300-132.E(i) above.

Revocation.

If the Applicant or its successor in title/ownership of any Type 2 Solar Energy System violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Ontario Zoning Board of Appeals and Planning Board holds a joint hearing on the alleged violations, at which the Applicant or its successor in title/ownership shall have an opportunity to be heard and present evidence in defense of the allegations of such violations.

Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

Severability.

If any section, subsection, phrase, sentence or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

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

§150-45. through § 150-46. (Reserved)

Article XVI. Special Provisions Applicable in All Districts

§ 150-47. Off-street parking.

- A. Off-street parking requirements. For each structure and/or use hereafter established, constructed, reconstructed or enlarged, reasonable and adequate parking shall be provided and maintained on the same lot as the structure and/or use. Parking spaces shall be a minimum of nine feet in width by 18 feet in depth.
- B. Bus parking. School or church buses shall not be parked overnight on residential property except for duly employed bus drivers unless approval to do so has been granted by the Zoning Board of Appeals.
- C. Outside storage of unregistered vehicles in R1, R2, SR and UR Districts. Except for farm vehicles, no more than one vehicle per parcel shall be stored on a single property without the current State of New York registration tag.

§ 150-48. Signs.

[Amended 11-23-2015 by L.L. No. 5-2015; 8-20-2018 by L.L. No. 3-2018]

- A. The following shall define words and phrases used in this section:

EVENT

Any happening or occurrence of a limited duration, including, but not limited to, the sale or lease of a property; a real estate development; meetings, conventions and other assemblies; an election; a referendum; a garage, estate or yard sale; the erecting or repairing of a structure on the premises; and the like.

SIGN

Any name, identification, description, display, illustration, symbol, logo, statue or device, illuminated or nonilluminated, which is visible from any public place, designed to advertise, identify or convey information, and/or used for the purpose of directing the public's attention to an object, product, service, place, activity, person, institution, organization or business. Displays of merchandise in storefront windows at regular mercantile establishments shall not be considered signs; however, a false window or window box affixed to the exterior of a structure is a sign.

SUBSTANTIAL MODIFICATION

Any change in the configuration, orientation, illumination, or purpose of the sign.

SUBSTANTIAL RECONSTRUCTION

The removal and replacement of more than 51% of the existing signage surface area or structural elements.

TEMPORARY SIGN

Any sign that is not otherwise permitted by this section.

B. General regulations.

- (1) Except as otherwise provided, no person shall erect, substantially modify, relocate or substantially reconstruct any sign, having an area of 32 square feet or more, without first obtaining a sign permit from the Code Enforcement Officer. The foregoing requirement shall not apply to a change in the content, only, of an existing sign.
- (2) All signs having an area of 32 square feet or more, and signs for two or more separate business establishments on the same lot or in the same building shall require approval of the Planning Board, either as part of site plan review or a separate sign plan review. In approving such signs, the Planning Board shall consider its location, color(s), lettering, size, overall design and its compatibility with the structures on the lot, adjoining lots and the neighborhood.
- (3) Except for signs erected by a governmental body or agency, all permitted signs shall be placed only on the property that relates to the purpose of the sign.
- (4) No sign permit shall be required for the repainting or repairing of a sign in conformance with the provisions of this section.
- (5) No sign shall interfere with a clear view of intersecting streets.
- (6) Except as otherwise required by this section, all signs shall be located at least 10 feet from any property line.
- (7) No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement.
- (8) No sign shall be flashing, revolving or mechanically animated.
- (9) The provisions of this section shall not apply to street identification numbers.
- (10) All signs, including their supports, shall be maintained in good repair and be in legible condition. The Code Enforcement Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section.
- (11) Signs that are an original part of the architectural fabric of the structure, such as a date or name of building, may remain, without reduction in the number of signs or square footage of signs otherwise allowed.
- (12) No facade sign shall be erected or maintained a distance of more than 12 inches from the farthest front or face of a building.
- (13) Advertising display upon any structure shall be regarded as a sign subject to this regulation. The foregoing shall not apply to signs placed in windows.
- (14) No sign illumination, either internal or external, shall be erected or used so that light will directly reflect toward residences on adjoining lots, toward residential districts within 1,000 feet or toward a highway so as to create a traffic hazard.
- (15) No sign shall obstruct any fire escape, window or other opening used as a means of egress for firefighting purposes or for ventilation. No sign shall be placed on any sidewalk, hydrant, lamppost, tree, utility pole, fence or on other public property except as permitted by other provisions of this section.

(16) No structural element of any sign (conforming or nonconforming) may be changed unless the resulting sign complies with the provisions of this section.

(17) Any sign existing on or after the effective date of this section which no longer advertises an existing business conducted or product sold on the premises shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Code Enforcement Officer, upon determining that any such sign exists, shall notify the owner of the premises, in writing, to remove said sign within 30 days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the Code Enforcement Officer is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located.

C. Regulations applicable to all zoning districts.

(1) Signs for shopping centers.

(a) Shopping centers containing more than six business establishments and having over 50,000 square feet of gross floor area shall be permitted to have one shopping center identification sign, which must be placed at least 15 feet from the road property line, which must be freestanding, the area of which shall not exceed 125 square feet. Each single establishment shall be allowed one facade sign equal to 15% of the facade, not to exceed 125 square feet.

(b) Individual service signs of one foot by four feet each, maximum, may be attached to the above allowed freestanding sign. The lettering shall be no more than eight inches high.

(2) Directional or identification/announcement signs of schools, churches, service organizations or other nonprofit enterprises are permitted. Such signs shall not exceed 16 square feet in area and may be freestanding or attached to the building.

(3) Signs at an entry street not exceeding 16 square feet, not exceeding 20 feet in height and placed at least 10 feet from the road property line are permitted for identification of residential subdivisions or multifamily developments.

(4) Industrial parks and office complexes shall be allowed a freestanding sign, not to exceed 20 feet in height, placed at least 10 feet from the road property line. The sign shall be limited to 48 square feet, and an identification sign for each tenant, limited to four square feet, may be located on the freestanding sign.

D. Allowed signs in rural and residential districts.

(1) A single, nonilluminated sign of one face or two faces, identifying a permitted home occupation, which may not be more than two square feet in size on each face and may be six feet in height freestanding or eight feet in height attached to and parallel with a principal building facade.

(2) Where products are grown on a premises and offered for sale, a single sign offering such products for sale, which may be illuminated by white light and may be six feet in height freestanding or eight feet in height when attached to the building and may not be more than six square feet in area on each face for the sale of products grown on the premises; except that on a corner lot, two such signs, one facing each street, are permitted.

E. Allowed signs in business, business transitional and industrial districts.

(1) Total permitted signage on a lot shall not exceed 15% of the area of the business portion of the building facade facing the street, except that buildings with a facade on Route 104 may have total signage not exceeding 20% of the road frontage on Route 104, if greater.

(2) No single sign attached to a façade shall exceed 48 square feet and no single freestanding sign shall exceed 60 square feet.

(3) A freestanding sign may not exceed 20 feet above finished grade.

(4) A sign attached to a facade may not exceed 16 feet above finished grade and may not extend above the height of the building.

- (5) Overhanging signs are permitted only upon obtaining a special permit therefor pursuant to the provisions of § **150-43E** of this chapter.
- (6) Signs may be illuminated, subject to the provisions of Subsection **B(14)** of this section.

F. Exempt signs.

- (1) The following types of signs are exempt from the provisions of this section, provided that such signs comply with the requirements of this subsection:
 - (a) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations.
 - (b) Flags and insignia of any government.
 - (c) On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits, and similar signs.
 - (d) Nonilluminated warning, private drive, posted or "no trespassing" signs, not exceeding two square feet per face.
 - (e) On-premises sign, either freestanding or attached, in connection with any residential building in any district, for permitted professional offices or home occupations. Such sign shall state the name and vocation only.
 - (f) In nonresidential districts, aerial searchlights, for a period of operation of no more than six hours per twenty-four-hour period and not more than twice annually.
 - (g) Number and nameplates identifying residences, mounted on the house, apartment or mailbox, not exceeding one square foot in area.
 - (h) Lawn signs identifying residences, not exceeding one square foot per face. Such signs are to be nonilluminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.
 - (i) Integral graphics or attached price signs on gasoline pumps at automotive service stations.
 - (j) Seasonal and holiday decorations, including lighting.
 - (k) Murals or similar designs, images, or expressions on the exterior of a building, generally for the purpose of decoration or artistic expression, including, but not limited to, paintings, markings, and etchings, and does not include any on- or off-site advertisement for a commercial, industrial or other nonmunicipal entity, person or corporation.
- (2) Unless otherwise specified, all exempt signs shall conform to the following standards:
 - (a) The maximum height shall be four feet above grade.
 - (b) All exempt signs shall be a minimum of 10 feet from any property line.
 - (c) Maximum sign area per face: six square feet in R-1 and R-2 Districts; 16 square feet in all other districts, for a total of 32 square feet per lot.
 - (d) The maximum number of exempt signs is four per lot.

G. Temporary signs.

- (1) Temporary signs may not be erected in any public right-of-way or on public property, including on trees, fences, utility poles, bridges, fire hydrants or traffic signs located on such public right-of-way or public property.

- (2) Temporary signs shall not be located within 10 feet of the edge of pavement, and in no way shall they interfere with or obstruct the view or free passage of pedestrian or vehicular traffic, or obstruct any fire hydrant.
- (3) The owner and/or occupant of the property on which such signs are erected and/or displayed shall consent to the erection of such signs and shall be responsible for their removal.
- (4) Temporary signs allowed by this section specifically do not include signs for the sale of goods or merchandise of any business.
- (5) Temporary signs may not be illuminated.
- (6) In residential districts, the amount of temporary signage that may be erected per lot at any time shall not exceed four signs. No one sign shall exceed eight square feet, and the total signage shall not exceed 32 square feet.
- (7) In nonresidential districts, the amount of temporary signage that may be erected per lot at any time shall not exceed four signs. One sign may be up to 12 square feet. All remaining signs shall not exceed eight square feet, each, and the total signage shall not exceed 32 square feet.
- (8) Temporary signs relating to an event shall be removed by the owner or occupant of the property no later than four days thereafter.

H. Nonconforming signs.

- (1) Upon the adoption of this section, any sign which does not conform to the provisions of this section in terms of location, area, illumination, type, or height shall be considered a nonconforming sign.
- (2) All nonconforming signs shall be subject to the provisions of Article **IX** of this chapter.

§ 150-49. Wetlands.

[Amended 11-23-2015 by L.L. No. 5-2015; 9-21-2020 by L.L. No. 5-2020]

Notwithstanding any provisions of this chapter to the contrary, the use of all wetlands in the Town of Ontario, as set forth on any wetland map that may be duly adopted by the Town Board or the Wayne County Planning Board or the New York State Department of Environmental Conservation pursuant to Article 24 of the State Environmental Conservation Law or by any agency of the United States government, shall be subject to the provisions of this § **150-49** and any other applicable regulations of Wayne County, New York State, the United States government and the United States Army Corps of Engineers.

- A. Purpose. The purpose of these wetland regulations is to preserve and protect designated wetland areas in the Town of Ontario in order to reduce siltation and pollution in downstream water resources, ensure the continuation of the natural flow pattern of watercourses, reduce the potential for flooding, to retain essential breeding, nesting and feeding grounds as well as predator-escape cover for wildlife and to protect the public health, safety and general welfare by ensuring that wetland resources will be maintained in their naturally functioning state.
- B. Permitted uses. Within a designated wetland the following uses are permitted, subject to the provisions of § **150-49D** of this regulation and federal and New York State rules and regulations as administered by the United States Army Corps of Engineers and New York State Department of Environmental Conservation.
 - (1) Grazing and watering of livestock.
 - (2) Growing agricultural products.
 - (3) Harvesting natural products of the wetlands.
 - (4) Selectively cutting timber and draining the wetland for the purpose of growing agricultural products, except that any structure which is not directly related to enhancement of agricultural

productivity or which involves filling the wetland shall be considered a special use. (See § 150-49C.)

- (5) Activities related to public health and the orders and regulations of the New York State Department of Health.
 - (6) Development in accordance with planned unit development provisions where wetlands are to be maintained as open space and where the Planning Board determines that such development will not despoil said wetland.
- C. Special uses. Within a designated wetland, the following uses are permitted by special permit, subject to any applicable provisions of § 150-43 of this regulation and federal and New York rules and regulations as administered by the United States Army Corps of Engineers and New York State Department of Environmental Conservation.
- (1) Any form of drainage, dredging or excavation of the wetland except as may be provided for in § 150-49B above.
 - (2) Construction or reconstruction of any structures or roads that might otherwise be permitted in the zoning district in which the wetland is located.
 - (3) The driving of piles or placement of any obstructions for any purpose.
- D. Procedure. Each landowner or user who intends to conduct a permitted use on a wetland as set forth in § 150-49B shall obtain a permit from the State Department of Environmental Conservation or appropriate governmental agency and shall notify the Code Enforcement Officer of his intention, stating the location and approximate acreage to be affected, the intended use for such land and the methods to be employed. The Code Enforcement Officer shall be satisfied that the intended use is permitted. Any question of compliance or interpretation shall be submitted to the Zoning Board of Appeals for determination in accordance with § 150-69 of this regulation.

§ 150-50. Floodplains.

See Chapter 84 of the Code of the Town of Ontario for regulations regarding floodplains.

§ 150-51. Mobile homes and mobile home parks.

[Amended 9-21-2020 by L.L. No. 5-2020]

- A. Annual license required for mobile home parks.
- (1) It shall be a violation of this chapter for any person to construct or operate a mobile home park without first securing a license from the Town Board as provided in the law of the State of New York. All mobile home parks shall comply with the regulations of this chapter.
 - (2) The application for an annual license or renewal thereof shall be accompanied by a fee as set forth in the Fee Schedule of the Town of Ontario. Such application shall be filed with the Town Clerk on forms prescribed by the Town and shall include the name and address of the owner in fee title of the tract. If fee title is vested in some person other than the applicant, a duly verified statement by the person that the applicant is authorized by him/her to construct or maintain the mobile home park shall accompany the application. Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.
- B. Application for a mobile home park license. Any applicant for a mobile home park license shall state that he/she, as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed park and shall provide copies of maps, plans and documents showing:
- (1) Boundaries of the park area.
 - (2) Entrances, exits and walkways.

- (3) Mobile home sites or lots.
- (4) Method and plan of sewage disposal.
- (5) Method and plan of garbage and refuse disposal.
- (6) Method and plan of water supply.
- (7) Method and plan of lighting.
- (8) Landscape plans.
- (9) Owners' and operators' names and addresses.
- (10) Park rules and regulations.
- (11) Register of park occupants.
- (12) Detailed map of each lot.

C. Park plan.

- (1) A mobile home park shall have an area of not less than 25 acres, and no mobile home lot or office or service building shall be closer to the public highway or other property line than 100 feet. The 100 feet shall constitute a buffer zone which must be maintained by the park owner and shall be in accordance with the site plan approval by the Town of Ontario Planning Board.
- (2) A mobile home park shall be located on a well-drained site suitable for the purpose, with all roads constructed and paved to a width of at least 20 feet.
- (3) Individual mobile home lots shall have an area of not less than 6,000 square feet, with a minimum width of 60 feet.
- (4) No mobile home or portion thereof shall be placed closer to any other mobile home or portion thereof than 25 feet.
- (5) The total number of mobile home lots shall not exceed five per gross acre.
- (6) In all parks accommodating or designed to accommodate five or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents.
 - (a) The size of such recreation area shall be based upon a minimum of 200 square feet for each lot. No such recreation area shall contain less than 5,000 square feet.
 - (b) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

D. Additional provisions.

- (1) Maintenance. All service buildings and the grounds of the park shall be maintained in a clean, slightly condition that will not endanger the health of any occupant or the public or constitute a nuisance.
- (2) Registration.
 - (a) The licensee shall keep a record of all occupants of the park, noting the name and address of each occupant, the license numbers of all units if licensed, and the state issuing such license.
 - (b) The licensee shall keep a copy of the register available for inspection at any time by any authorized person and shall not destroy such registry until the expiration of 12 months from the date of registration.
- (3) Revocation or suspension of license.
 - (a) The Town Board shall have the authority to enter and inspect for health, sanitary and other

provisions of this chapter any facility licensed hereunder at any reasonable time.

- (b) If, upon inspection, it is found that the licensee has violated any provisions of this chapter, the Town Board shall have the power to suspend such license and order any mobile home removed or the mobile home park closed after notice and an opportunity to be heard.
- (4) Parking spaces. Parking spaces shall be provided at the rate of at least one parking space, with a minimum width of nine feet and a minimum depth of 18 feet, for each mobile home lot, plus one additional parking space for each two lots in the mobile home park.
- (5) Roads and hydrants shall be kept free of snow and ice by the licensee.
- (6) Nonconforming mobile home parks. Mobile homes presently located in nonconforming mobile home parks shall be subject to the terms of Subsection **B** of this section, and any expansion or additions to said mobile home parks must conform to the regulations provided in this chapter.

§ 150-52. Keeping of animals.

[Added 11-18-2019 by L.L. No. 8-2019]

- A. Except for chickens, as provided for in this section, no animals, birds, fowl or poultry shall be housed or kept on any nonfarm residential premises, except customary household pets. Such pets shall be housed in such a manner as not to create an annoyance to surrounding properties.
- B. Dogs housed on said premises are subject to the provisions of Chapter **62** of this Code and all applicable state laws regulating and licensing animals.
- C. The keeping of chickens is permitted on a residential property in all districts, except the Industrial (I) District, under the following conditions:
 - (1) Only female chickens (hens) may be kept. The keeping of male chickens (roosters) is prohibited.
 - (2) The maximum number of chickens allowed, per lot size, is as follows:
 - (a) Under 1/2 acre: six.
 - (b) At least 1/2 acre but less than one acre: eight.
 - (c) At least one acre, but less than three acres: 12.
 - (d) Three acres or over: 18.
 - (e) On a residential lot in a Planned Unit Development, chickens may be kept only in the number specifically allowed by approval of the Town Board.
 - (3) Chickens must be confined at all times in a building (“coop”) or fenced enclosure.
 - (4) The coop and fenced enclosure may not be located in a front or side yard. Coops and fenced enclosures must be a minimum of 50 feet from any neighboring residence, building, pool, deck or patio existing at the time such coop and/or fenced enclosure is established, and shall comply with a setback of at least 15 feet from any lot line or the minimum setback of the district in which they are located, whichever is greater. Corner lots shall be excluded from the side setback restriction.
 - (5) The coop shall be covered and ventilated, and a fenced enclosure is required. The coop and fenced enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates. The coop must be easily accessible for cleaning and maintenance.
 - (6) The coop shall be constructed using durable materials designed for permanent outdoor use.
 - (7) The coop and fenced enclosure shall be kept clean, consistent with the New York State

Property Maintenance Code.

- (8) Chickens shall be kept for personal use only.
- (9) Composting of manure shall be subject to a fifteen-foot setback from all property lines, and runoff shall not encroach on neighboring properties. Manure, composted on the premises, cannot be used off-site.
- (10) All chicken feed must be kept inside a structure at all times to minimize the infestation of rodents or problems with predators.
- (11) All persons who keep, possess or maintain chickens shall comply with the provisions of Chapter **35** of this Code and shall not permit chickens to make noises of such a nature as to be heard beyond the property on which such chickens are harbored between 10:00 p.m. and 6:00 a.m.

D. Chicken welfare and cruelty prevention.

- (1) All chickens shall, at all times, be supplied with a sufficient quantity of appropriate and wholesome food and fresh water.
- (2) All chicken enclosures shall contain adequate room for exercise, perching and ventilation.
- (3) Chickens shall not be kept in dirty, damp or disease-prone conditions. All coops shall have litter such as straw or shavings on the floor at all times, generally at least six inches in depth, and such litter shall be regularly changed to prevent unsanitary and unhealthy conditions.

§ 150-53. (Reserved)

Article XVII. Nonconforming Uses and Structures

§ 150-54. Continuance.

Every structure or use not conforming to the regulations of the district in which it is located at the time of adoption of this chapter shall be a nonconforming structure or use. Any such nonconforming structure or use may be continued subsequent to adoption of this chapter, but no structure may be enlarged or altered in a way that increases its nonconformity, and no use shall be enlarged or increased to occupy a greater area of land.

§ 150-55. Transference.

Nonconforming structure and/or use rights, subject to the provisions of this Article **IX**, remain with the land when title is transferred.

§ 150-56. Existing nonconforming mobile homes.

Any mobile home that is so situated as not to conform to the terms of this chapter shall not be replaced on its site by any other nonconforming mobile home.

§ 150-57. Changes to other nonconforming uses.

A nonconforming use may not be changed to another nonconforming use.

§ 150-58. Reconstruction and/or alteration.

A nonconforming structure or a structure associated with a nonconforming use may be reconstructed or altered during its life to an extent of an aggregate cost of 50% of the assessed value of such structure, provided that no extension or enlargement of the nonconformity results.

§ 150-59. Termination of nonconforming structure or use.

- A. A nonconforming structure or use is terminated and may not then be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located if:
- (1) It has been changed to a conforming structure or use;
 - (2) A nonconforming use has been abandoned for any length of time without an intent to be resumed;
 - (3) A nonconforming use has been discontinued for any reason for a consecutive period of six months or for 18 months during any three-year period; or
 - (4) A nonconforming structure or a structure associated with a nonconforming use has been destroyed by any means to the extent of 75% or more of either its value or its bulk.
- B. Subsection **A(4)** shall not apply to single-family homes in a Rural, Suburban Residential, Urban Residential, Business or Business Transitional District.

§ 150-60. Maintenance and repair.

[Amended 11-23-2015 by L.L. No. 5-2015]

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the Code Enforcement Officer unless such restoration will violate § **150-59A(4)** above.

§ 150-61. Previously prepared plans.

Nothing contained in this chapter shall require any change in plans, construction or designated use of a structure for which a building permit was issued more than 30 days prior to the adoption of this chapter and the construction of which is begun within three months after such adoption and thereafter diligently carried on.

§ 150-62. District changes.

Whenever an area is transferred from a district of one classification to a district of a different classification, the above regulations shall apply to nonconforming uses created by such transfer.

§ 150-63. (Reserved)

Article XVIII. Administration and Enforcement

§ 150-64. Enforcement.

This chapter shall be enforced by the Town of Ontario Code Enforcement Officer. In carrying out this function, it shall be the duty of the Code Enforcement Officer, prior to issuing any permits or certificates, to examine any plans and inspect any buildings or premises to determine that such plans, buildings or premises are not in violation of the provisions of this chapter or any other duly adopted regulations related to land use, building use and construction within the Town of Ontario.

§ 150-65. Building permits.

No structure shall be erected or altered unless a building permit has been issued, pursuant to Article III of Chapter 80 of this Code, if required by such article.

§ 150-66. Certificate of occupancy or compliance.

No structure hereafter erected shall be used and no land shall be used or changed in use until a certificate of occupancy or compliance therefor has been issued pursuant to Article VI of Chapter 80 of this Code, if required by such article.

§ 150-67. (Reserved)

§ 150-68. (Reserved)

§ 150-69. Zoning Board of Appeals.

- A. Organization. The Zoning Board of Appeals shall consist of five members, all residents of the Town of Ontario, to be appointed by the Town Board for terms of five years in staggered terms. Upon the recommendation of the Zoning Board of Appeals members, one member shall be designated each year by the Town Board to serve as Chairman and one for Vice Chairman for that year. If a vacancy shall occur, the Town Board shall appoint a successor, who shall serve for the unexpired portion of the term of his predecessor.
- B. Duties and powers. The Zoning Board of Appeals shall have such powers and duties as are granted to it or imposed on it by state law. The Zoning Board of Appeals may adopt, after a public hearing, such rules, regulations and forms as it may deem necessary for the proper and efficient discharge of its duties, so long as such rules, regulations and forms do not conflict with state law. Such rules, regulations and forms are subject to the approval of the Town Board.

§ 150-70. Planning Board

- A. Creation and organization. There shall be a Planning Board which shall consist of five members who shall be appointed by the Town Board in such manner and for such terms as provided by the Town Law and any amendments thereto. Upon the recommendation of the Planning Board members, one member shall be designated each year by the Town Board to serve as Chairman and one for Vice Chairman for that year. If a vacancy shall occur, the Town Board shall appoint a successor, who shall serve for the unexpired portion of the term of his predecessor.
- B. The Planning Board shall have such powers and duties as are granted to it or imposed on it by state law. The Planning Board may adopt, after a public hearing, such rules, regulations and forms as it may deem necessary for the proper and efficient discharge of its duties, so long as such rules, regulations and forms do not conflict with state law. Such rules, regulations and forms are subject to the approval of the Town Board.
- C. The Planning Board is hereby granted the authority to employ the powers set forth in Town Law

§ 278 and to apply them to all undeveloped residentially-zoned land in the Town when, in the Planning Board's discretion and judgment, such use of those powers will benefit the Town.

§ 150-71. (Reserved)

Article XIX. Miscellaneous Provisions

§ 150-72. Interpretation.

- A. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, statutes or ordinances, the most restrictive thereof or those imposing the highest standards shall govern.
- B. The adoption of this chapter shall not affect or impair any permit granted, any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect, under any prior zoning chapter of the Town of Ontario; but the same may be enjoyed, ascertained, enforced or prosecuted as fully and to the same extent as if this chapter had not been adopted; and all actions and proceedings commenced under or by virtue of such prior chapter and pending at the time this chapter takes effect may be prosecuted and defended to final effect in the same manner as they might have been if this chapter had not been adopted.

§ 150-73. Amendments.

- A. Authority. The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Planning Board or Zoning Board of Appeals, amend, supplement, change, modify or repeal this chapter in accordance with the applicable provisions of law.
- B. Public notices and hearings. The Town Board, by resolution adopted at a public meeting, shall fix a time and place of public hearing on the proposed amendments and cause notice to be given as follows:
 - (1) By publishing a notice at least 10 calendar days in advance of such hearing in the official Town newspaper. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents and shall name the place or places where copies of the proposed amendment may be examined.
- C. Referral to County Planning Board.
 - (1) Before taking final action on certain proposed amendments to this chapter, as set forth in § 239-m of General Municipal Law, the Town Board shall refer such amendments to the Wayne County Planning Board for report thereon.
 - (2) Within 30 days after receipt of such referred amendments, the County Planning Board shall report its recommendation thereon with a full statement of the reasons for such recommendation. If the County Board fails to report within 30 days after receipt, the Town Board may act without such report.
 - (3) If the County Planning Board disapproves the proposed amendment or recommends modification thereof, the Town Board may act contrary to such disapproval or recommendation only by a vote of a majority plus one of all the members.
 - (4) Within seven days after final action on any amendment, the Town Clerk shall file a report of the final action taken with the Wayne County Planning Board.

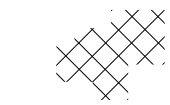











§ 150-74. Penalties for offenses.

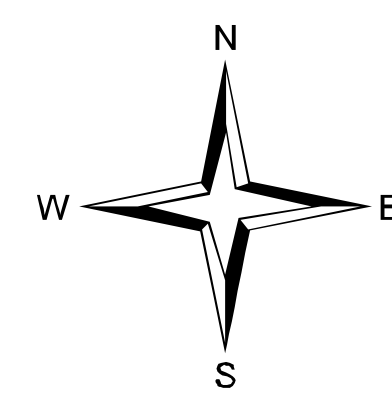
A violation of this chapter shall be punishable as an offense by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional offense. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this chapter.

EXHIBIT C

OFFICIAL ZONING MAP
ADOPTED 04-09-2012

Legend

-  Community / Open Space
-  AG
-  AE-I
-  B
-  BT
-  I
-  PD
-  PL
-  R-1
-  R-2
-  SR
-  UR



SCALE 1" = 1000' @ 34"x44"
SCALE 1" = 4000' @ 8.5"x11"

CERTIFICATION

I, DEBRA DEMINCK, TOWN CLERK OF THE TOWN OF ONTARIO HERBY CERTIFY THAT THIS MAP IS THE "ZONING MAP OF ONTARIO" REFERRED TO IN CHAPTER 150 OF THE OFFICIAL CODE OF THE TOWN OF ONTARIO OF THE YEAR 2007 AND WHICH IS HERBY MADE A PART OF SAID TOWN CODE.

DEBRA DEMINCK TOWN CLERK DATE

DEBRA DEMINCK, BEING DULY SWORN, DEPOSES AND SAYS: THAT SHE IS THE TOWN CLERK OF THE TOWN OF ONTARIO, HAVING BEEN ELECTED AND HAVING SERVED SINCE JANUARY 1, 2008, AND THAT HER TERM EXPIRES ON DECEMBER 31, 2015.

SWORN TO BEFORE ME THIS DATE

Mapping Prepared By:

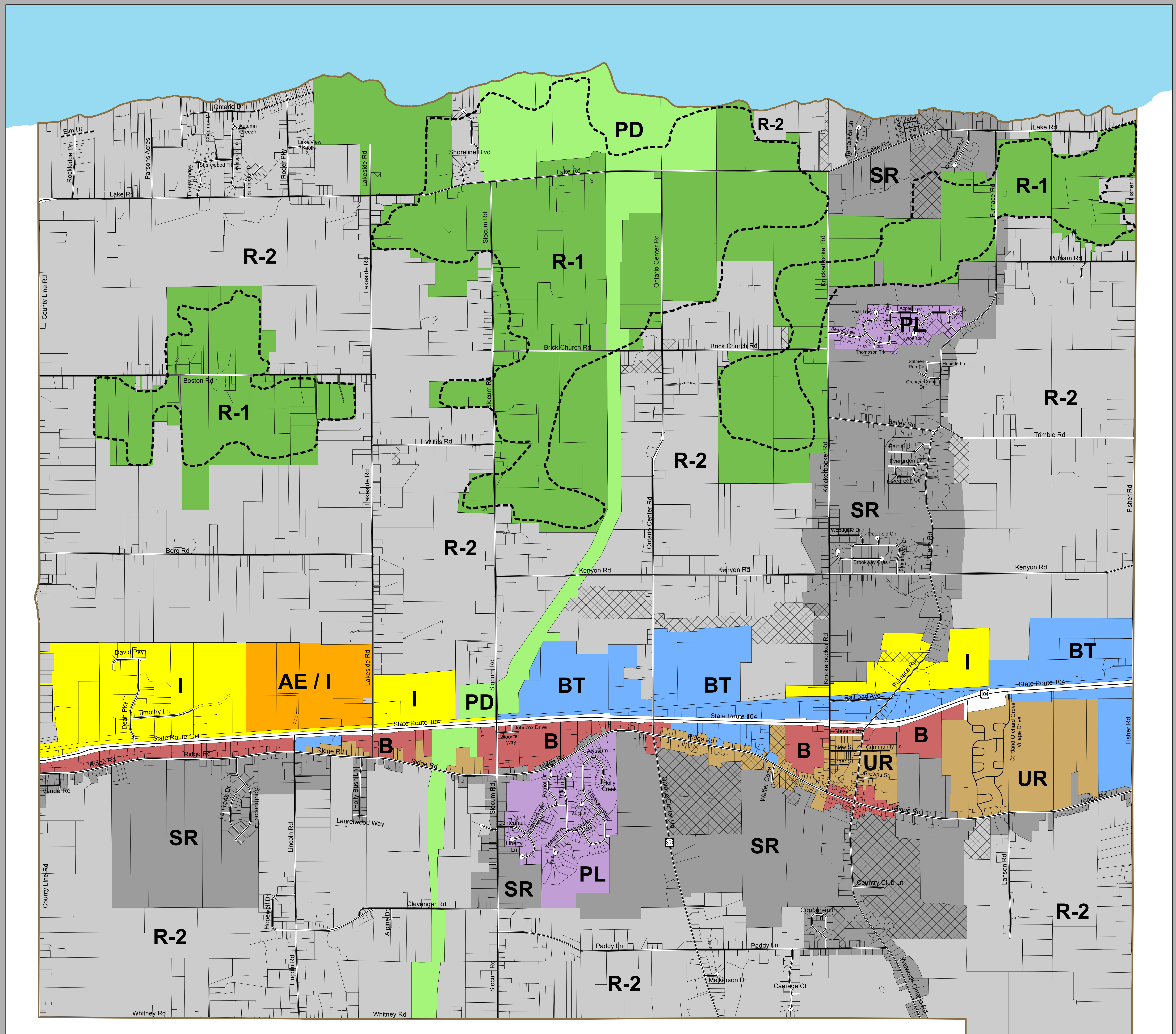














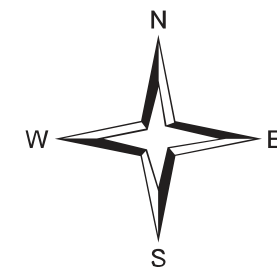
EXHIBIT D

OFFICIAL ZONING MAP

Adopted by L.L. No. 5-2023
11/13/2023

Legend - Zoning

-  Community / Open Space
-  Incentive Zoning Overlay
-  AE/I - Adult Entertainment District
-  B - Business District
-  BT - Business Transitional District
-  I - Industrial District
-  PU - Public Utility District
-  PUD - Planned Unit Development
-  RR - Rural Residential District
-  SR - Suburban Residential District
-  UR - Urban Residential District
-  Parcel Boundary



SCALE 1" = 1000' @ 34"x44"
SCALE 1" = 4000' @ 8.5"x11"

Notes:
1) RR code combines former R-1 and R-2 codes.

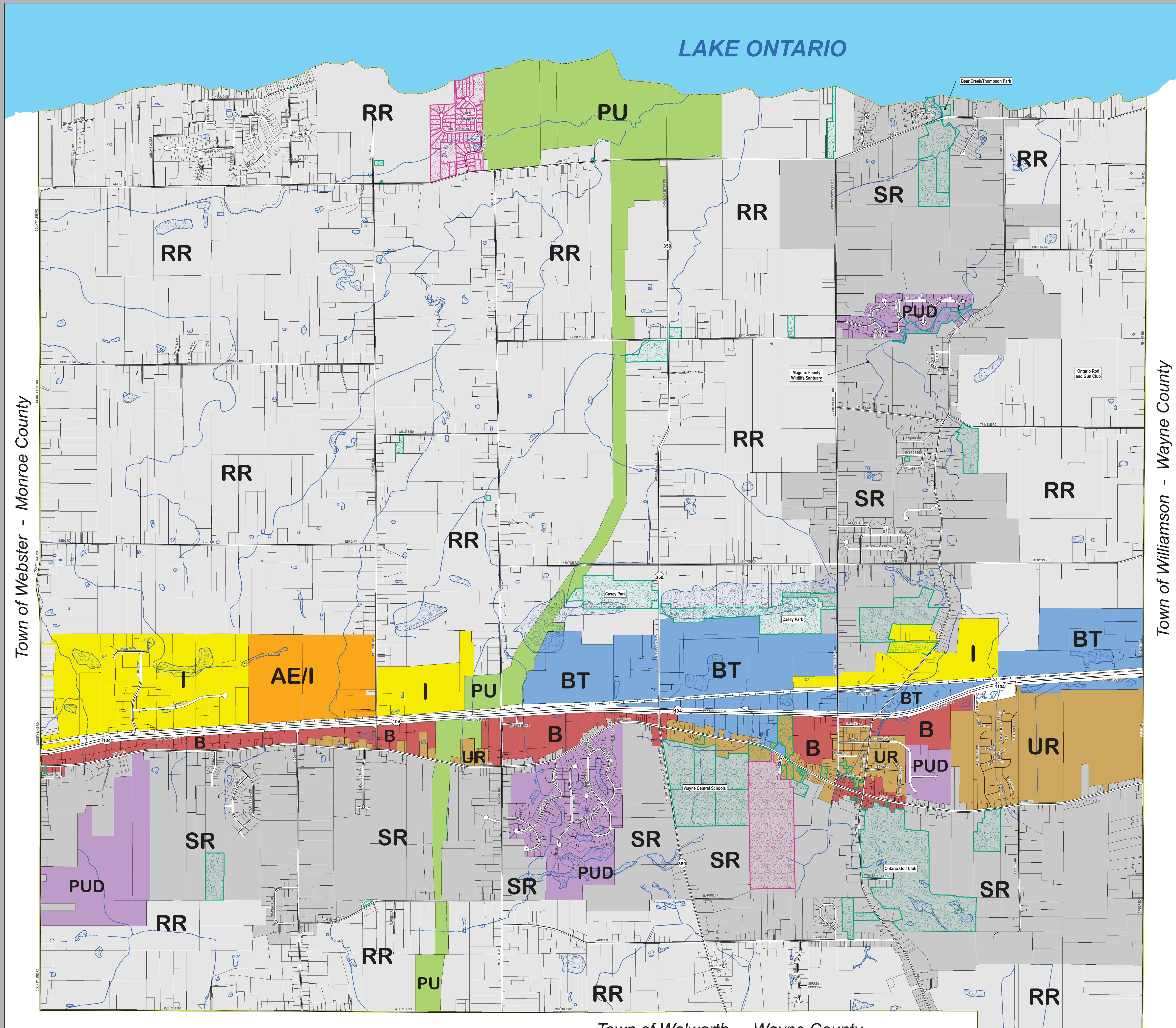
CERTIFICATION

I, SHELLEY LAROCCA, TOWN CLERK OF THE TOWN OF ONTARIO HERBY CERTIFY THAT THIS MAP IS THE "ZONING MAP OF ONTARIO" REFERRED TO IN CHAPTER 150 OF THE OFFICIAL CODE OF THE TOWN OF ONTARIO OF THE YEAR 2023 AND WHICH IS HERBY MADE A PART OF SAID TOWN CODE.

SHELLEY LAROCCA TOWN CLERK DATE

MRB | group

Engineering, Architecture & Surveying, D.P.C.
145 Culver Road, Suite 160, Rochester, New York 14620
585-381-9250 Phone
www.mrbgroup.com



Town of Webster - Monroe County

Town of Williamson - Wayne County

Town of Walworth - Wayne County

EXHIBIT E

ZONING

150 Attachment 3

Town of Ontario Schedule I: Lot and Bulk Requirements

[Adopted 11-13-2023 by L.L. No 5-2023]

District	Minimum Lot Area (Sq. Ft./Acres)		Minimum Lot Width (Sq. Ft.)		Minimum Setback Requirements (feet)					Maximum Building Height (feet)	Maximum Building Lot Coverage
	Septic System	Public Sewer	Septic System	Public Sewer	Principal Building			Minimum Primary Structure Size (Sq. Ft.)			
					Front	Side	Rear	Primary	Multi-family Multi-story structures		
Rural Residential (RR) ¹³	25,000 sf	20,000 sf	125	100	75 ¹	15	40 ⁴	1,200 sf ⁵	700 sf ⁶	36	20%
					60 ²						
					50 ³						
Suburban Residential District (SR) ¹³	25,000 sf	12,800 sf	125	80	75 ¹	10	40 ⁴	1,100 sf ⁷	700 sf ⁸	36	20%
					60 ²						
					40 ³						
Urban Residential District (UR) ¹³	25,000 sf ⁹	12,800 sf ⁹	125	80	60 ²	10	40	1,100 sf (Single-family)	800 sf (Two-family)	36	20% (Residential) 30% (Non-residential)
					40 ³			700/1,100 sf ⁹ (Multi-family)	800 sf (Multiple-family)		
Business District (B) ^{A, 13}	22,500 sf (Single-family)	18,000 sf (Single-family)	125 (Single-family) 150 (Two-family) 150 (Multiple-family)	100 (Single-family)	60 ² 50 ³	Single-Family 12 (one side)	40 Residential 20 Nonresidential	1,100 sf (Single-family)	800 sf (Two-family)	36	20% (Residential) 40% (Non-residential)
	22,500 sf (Two-family)	22,500 sf (Two-family)		125 (Two-family)		Two-Family Multiple-Family		700/1,100 sf ⁸ (Two-Story) (Multi-family)	800 sf (Multiple-family)		
	40,000 sf ¹⁰ (Multiple-family)	22,500 sf ¹⁰ (Multiple-family)		150 (Non-residential)		10 (one side) All Other Uses		1,000 sf (Non-residential)			
						25 (one side)					
Business Transitional District (BT) ¹³	22,500 sf (Single-family)	18,000 sf (Single-family)	125 (Single-family) 125 (Two-family) 150 (Multiple-family) 150 (Non-residential)	150 (Single-family)	60 ² 50 ³	Same as B District	Same as B District	Same as B District	Same as B District	36	20% (Residential) 40% (Non-residential)
	40,000 sf ¹⁰ (Multiple-family)	22,500 sf ¹⁰ (Multiple-family)		100 (Two-family) 125 (Multiple-family) 150 (Non-residential)							
Industrial District (I)	--	43,560 sf	--	125	60 ² 50 ³	15 ¹²	40	1,000 sf	--	50	50%
Adult Entertainment/Industrial District (AE/I)	Lot and bulk requirements for the AE/I District shall full comply with the I District requirements										

ZONING

150 Attachment 3

NOTES:

- A. There is no Minimum Lot Area for nonresidential uses.

FOOTNOTES:

- 1) Lots fronting Lake Road
- 2) Lots fronting a state, county or town road
- 3) Lots fronting on a subdivision road
- 4) Rear setbacks: 40 feet, except that the lake side of lots located on Lake Road shall be considered to be the rear yard and the rear setback shall be 50 feet or 20 times the average annual erosion rate, as determined by the NYSDEC, whichever is greater.
- 5) 1,200 square feet, plus (in case of a residential structure) at least a one-car garage.
- 6) Multi-family, multi-story structures: 700 feet on the first floor and a total of 1,200 square feet.
- 7) 1,100 square feet, plus (in case of a residential structure) at least a one-car garage.
- 8) Multi-family, multi-story structures: 700 feet on the first floor and a total of 1,100 square feet.
- 9) The minimum lot area for all residential lots (single-family, two-family and multiple-family) shall be 25,000 square feet, except that the minimum lot area for a single-family lot served by public sewers shall be 12,800 square feet.
- 10) Plus 5,000 square feet for every dwelling unit over two.
- 11) All other uses: 25 feet on one side and a total of 50 feet for both sides; provided, however, that where a side yard abuts a residential district, such side yard shall be the same width as that of the abutting residential district and landscaping shall be approved by the Planning Board.
- 12) When buffering a residential zoning district, side setback shall be increased to 30 feet.
- 13) Single-family residential structures require a minimum of a one car garage.

EXHIBIT F

ZONING
150 Attachment 4

Town of Ontario
Schedule II: Land Uses or Activities

[Adopted 11-13-2023 by L.L. No 5-2023]

KEY:

P = Permitted

SUP = Permitted by special use permit

NP = Not permitted

Land Use Category	Rural Residential	Suburban Residential	Urban Residential	Business	Business Transitional	Industrial	Public Utility	Adult Ent./Ind.
	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Residential Uses								
Conversion of existing building into not more than two (2) dwelling units, subject to §150-42B(10)	P	P	P	P	P	NP	NP	NP
Dwellings, one or more, on upper floors of a commercial use	NP	NP	NP	P	P	NP	NP	NP
Mobile home park, subject to §150-42B(9)	NP	NP	SUP	SUP	SUP	NP	NP	NP
Mobile/manufactured home dwelling	P	P	P	NP	P	NP	NP	NP
Multiple-family (four or more units), subject to §150-42B(6)	NP	NP	P	P	P	NP	NP	NP
Multiple-family (four or more) dwelling, subject to §150-42B(29)	NP	NP	P	SUP	SUP	SUP	NP	SUP
Multiple-family (three units) dwelling, subject to §150-42B(5)	NP	NP	P	P	P	NP	NP	NP
Single family dwelling	P	P	P	P	P	NP	NP	NP
State regulated community residences, subject to §150-42B(11)	P	P	P	P	P	NP	NP	NP
Townhouse or row house dwelling, subject to §150-42B(5), (6), and (7).	NP	P	P	P	P	NP	NP	NP
Two-family dwelling	NP	P	P	P	P	NP	NP	NP
Commercial Uses								
Adult Residential Care Facility	P	P	P	P	P	NP	NP	NP
Automobile sales and service, new and used, subject to §150-42B(21)	NP	NP	NP	NP	SUP	NP	NP	NP
Bank, subject to §150-42B(17)	NP	NP	NP	P	P	NP	NP	NP
Bed & Breakfast Facility, subject to §150-42B(33)	SUP	SUP	SUP	SUP	SUP	NP	NP	NP
Building material and/or supplies sale (indoor/outdoor), subject to §150-42B(21)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Business office, subject to §150-42B(17)	NP	NP	NP	P	P	SUP	NP	NP

ZONING
150 Attachment 4

Town of Ontario
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[Adopted 11-13-2023 by L.L. No 5-2023]

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	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Campground	SUP	NP	NP	NP	NP	NP	NP	NP
Convenience store (mart), subject to §150-42B(20)	NP	NP	NP	P	NP	SUP	NP	NP
Day-care facility or nursery school, subject to §150-42B(12)	SUP	SUP	SUP	SUP	SUP	NP	NP	NP
Family-care facility	P	P	P	P	P	NP	NP	NP
Farm labor camp, subject to §150-42B(27)	SUP	SUP	SUP	SUP	SUP	SUP	NP	SUP
Farm market, subject to §150-42B(2)	SUP	SUP	SUP	P	SUP	SUP	NP	NP
Farm, subject to §150-42B(1)	P	P	P	P	P	P	NP	P
Garage, commercial, subject to §150-42B(20)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
General processing, assembly or packaging of previously prepared material, subject to §150-42B(35)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Golf course	SUP	SUP	SUP	NP	NP	NP	NP	NP
Greenhouse or plant nursery	SUP	NP	NP	SUP	SUP	SUP	NP	SUP
Home occupation subject to §150-42B(15)	P	P	P	P	P	P	NP	P
Indoor theater or recreation, subject to §150-42B(17)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Industrial or research park, planned, subject to §150-42B(35)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Kennel	SUP	NP	NP	NP	NP	NP	NP	NP
Lawn and garden supply sales and service	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Light manufacturing, subject to §150-42B(35)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Ministorage, (commercial storage structure), subject to §150-42B (19)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Mortuary or undertaking establishment	NP	NP	NP	P	P	NP	NP	NP
Motor vehicle service station, subject to §150-42B(20) and §150-23B(21)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Outdoor amusement or recreation	NP	NP	NP	SUP	SUP	NP	NP	NP

ZONING
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Town of Ontario
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	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Outdoor facility for retail sale of boats, trailers or furniture, subject to §150-42B(21)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Parking, off street lot, subject to §150-42B(23)	NP	NP	NP	P	P	P	NP	P
Personal service establishment	NP	NP	NP	P	P	NP	NP	NP
Pet shop	SUP	NP	NP	SUP	SUP	NP	NP	NP
Plumbing, HVAC, electrical supply or contracting establishment	NP	NP	NP	P	P	P	NP	P
Printing/Publishing facility	NP	NP	NP	P	P	P	NP	P
Professional office	SUP	SUP	SUP	P	P	NP	NP	NP
Redemption facility, subject to §150-15	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Restaurant, subject to §150-42B(18)	NP	NP	NP	SUP	SUP	SUP	NP	NP
Retail store, subject to §150-42B(17)	NP	NP	NP	P	P	SUP	NP	SUP
Riding academy	SUP	NP	NP	NP	SUP	NP	NP	NP
Roadside stand, subject to §150-42B(3)	P	P	P	P	P	P	NP	P
Scientific or research lab, subject to §150-42B(35)	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Tourist home, boarding house, or rooming house, subject to §150-42B(32)	SUP	SUP	SUP	SUP	SUP	NP	NP	NP
Vehicle body shop and vehicle dismantling facilities	NP	NP	NP	NP	NP	P	NP	P
Vehicle body shop, subject to §150-42B(36)	NP	NP	NP	NP	SUP	NP	NP	NP
Vehicle washing establishment, subject to subject to §150-42B(20)	NP	NP	NP	SUP	SUP	NP	NP	NP
Veterinary establishment or hospital	SUP	NP	NP	SUP	SUP	NP	NP	NP
Winery	SUP	NP	NP	NP	NP	NP	NP	NP

ZONING
150 Attachment 4

Town of Ontario
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	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Industrial Uses								
Alternative energy supply systems (except building integrated, roof-mounted and small-scale ground mounted solar energy systems, subject to §150-42B(38))	NP	NP	NP	NP	NP	SUP	NP	SUP
Fabrication or storage of metal/paper/wood products, subject to §150-42B(35)	NP	NP	NP	NP	NP	SUP	NP	NP
Flex Space, Industrial	NP	NP	SUP	NP	SUP	SUP	NP	NP
Food processing facility, subject to §150-42B(36)	NP	NP	NP	NP	NP	SUP	NP	SUP
Solid waste transfer station, subject to §150-15	NP	NP	NP	NP	NP	SUP	NP	SUP
Truck and motor freight terminal	NP	NP	NP	SUP	SUP	SUP	NP	SUP
Vehicle dismantling facilities, subject to issuance of a special permit, site plan approval from the Town of Ontario Planning Board and the special conditions of §150-42B(41)	NP	NP	NP	NP	NP	SUP	NP	SUP
Public Utility Uses								
Essential Services, public utility, communication installations	P	P	P	P	P	P	P	P
Driveways parallel to Route 104 from adjacent properties to existing public roads	NP	NP	NP	NP	NP	NP	P	NP
Public utility substation	P	P	P	P	P	P	NP	P
Structures and uses complying with the requirements of federal and state regulations	NP	NP	NP	NP	NP	NP	P	NP
Structures, buildings, and uses incidental to the generation and distribution of electric power	NP	NP	NP	NP	NP	NP	P	NP
Structures, buildings, and uses where hazardous waste produced on-site may be stored on site	NP	NP	NP	NP	NP	NP	P	NP
Structures, buildings, and uses where those uses are incidental to the providing of telephone service, natural gas service, cable service, cellular phone service and any other public utility	NP	NP	NP	NP	NP	NP	P	NP
Community Services Uses								
Library, fire station and other municipal building, subject to §150-42B(14)	P	P	P	P	P	P	P	P
Charitable, educational or fraternal organization	SUP	SUP	SUP	SUP	SUP	NP	NP	NP

ZONING
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Town of Ontario
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	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Church and related uses, subject to §150-42B(30)	P	P	P	P	P	P	P	P
Municipal storage or repair yard	NP	NP	NP	NP	P	P	NP	P
Private not-for-profit park, playground or other outdoor recreation facility	SUP	SUP	SUP	SUP	SUP	NP	NP	NP
Public or parochial school, subject to §150-42B(13)	P	P	P	P	P	NP	NP	P
Hospital/nursing home, subject to §150-42B(31)	SUP	SUP	SUP	SUP	SUP	NP	NP	NP
Miscellaneous Uses								
Building integrated, roof-mounted and small-scale ground-mounted solar energy systems subject to §150-42B(25)	P	P	P	P	P	P	NP	P
Accessory structures, subject to §150-13	P	P	P	P	P	P	NP	P
Enclosed storage as an accessory use	P	P	P	P	P	NP	NP	P
Excavations or fills, subject to §150-42B(22)	P	P	P	P	P	P	NP	P
Fences subject to §150-18	P	P	P	P	P	P	NP	P
Large-scale ground-mounted solar energy systems	SUP	SUP	SUP	NP	NP	NP	NP	NP
Newspaper vending machine, subject to §150-42B(24)	P	P	P	P	P	P	NP	P
Private boat, travel or camp trailer, subject to §150-42B(25)	P	P	P	P	P	P	NP	P
Private garage, subject to §150-13	P	P	P	P	P	NP	NP	NP
Private Stable	SUP	NP	NP	NP	NP	NP	NP	NP
Private swimming pool, subject to §150-42B(16)	P	P	P	P	P	NP	NP	NP
Satellite dish, subject to §150-42B(37)	SUP	SUP	SUP	SUP	SUP	SUP	NP	SUP
Short-wave, ham radio, television and radio antennas, subject to §150-42B(37)	SUP	SUP	SUP	SUP	SUP	SUP	NP	SUP
Signs, subject to §150-48	P	P	P	P	P	P	NP	P

ZONING
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Town of Ontario
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	RR	S-R	U-R	B	B-T	I	P-U	AE/I
Wind energy collectors	SUP	NP	NP	NP	NP	NP	NP	NP

NOTES:

- Article XIII - Planned Unit Development:** Permitted land uses. Any land use or activity listed in Schedule II[1] of this chapter as being permitted by right (P), with special conditions (SC) or by special permit (SP) for either the RR, SR, UR or B District shall be permitted in a PUD when approved in accordance with the provisions of this Article V.