

Chapter 150
ZONING

ARTICLE I
Title, Purpose, 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, stable, barn, toolhouse, children's playhouse, utility shed and similar uses.

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.

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 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 less 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, FACTORY-MANUFACTURED -- A one-family dwelling which is constructed by a method or system of construction whereby the basic structure or its components are wholly or in a substantial part manufactured in manufacturing facilities and designed to be transported to a lot for assembly and permanent installation on a permanent foundation. For purposes of this chapter, a mobile home is not construed to be a factory-manufactured dwelling.

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.

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 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 as defined by Chapter 1, Part 15, of the 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).]

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, erected for the enclosure of a yard or other area.

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.

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).]

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 structure, plus each accessory building or structure.

LOT DEPTH -- The mean horizontal distance from its front line 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.

MOBILE HOME -- See "dwelling, mobile home."

MOBILE HOME PARK -- Any plot of ground upon which two or more occupied mobile 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 home occupation that will conform to special conditions under § 150-42Q.

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 or 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.

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.

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.

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.

STABLE -- The premises on which horses, ponies or similar types of animals, regardless of size, breed or species, are kept or fed, including barns and corrals.

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.

STABLE, PUBLIC -- 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.

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 less 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.

STREET LINE -- The right-of-way of the street.

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 porches, steps and/or stairs), signs, walls, solid fences, radio towers, telecommunications devices, swimming pools, billboards, satellite dishes and poster panels.

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.

UTILITY SHED -- A residential accessory structure with outside dimensions not exceeding 10 feet by 12 feet and a height not exceeding 12 feet, used for storage of lawn and garden tools and equipment, snowblowers and other snow-removal equipment, bicycles,

children's play equipment, swimming pool equipment and other such tools and equipment as are solely used in maintaining the residential lot or parcel on which it is constructed, without electrical service, water supply or sewer service and at no time used for dwelling or sleeping purposes

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.

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

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).]

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.)

§ 150-6. Establishment of districts.

For the purpose of promoting the health, safety, morals and general welfare of the community, the Town of Ontario is hereby divided into the following eight classes of districts:

A. Adult Entertainment (AE) District: for uses as defined in Chapter 105 of the Code of the Town of Ontario.

B. Rural (R1) District: designates areas of the Town for the purpose of encouraging a proper environment to foster normal agricultural operations and rural residential land uses; to maintain an open rural character of the community and to protect viable agricultural soils.

C. Rural (R2) District: designates areas of the Town for the purpose of promoting the orderly development of residential property and maintaining an open rural character for the community.

D. Suburban Residential (SR) District: designates areas of the Town for single-family residential use, at low density.

E. Urban Residential (UR) District: designates areas of the Town for a variety of residential buildings or structures with mixed density.

F. Business (B) District: designates areas of the Town for general retail, service and office activities to provide goods and services and residential uses.

G. Business Transitional (BT) District: designates areas of the Town for commercial service, storage and light-industrial processing activities, as defined in the New York State Uniform Fire Prevention and Building Code, of Town-wide or regional significance and residential uses.

H. Industrial (I) District: designated areas of the Town for public utilities and light and heavy industrial uses.

I. Planned Unit Development (PUD): the unified development of a land area of at least 50 acres, with such combination of buildings and structures and uses as shall be appropriate to an integrated plan for the area.

J. Public Utility District: designates area 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.

(1) In Public Utility Districts, only the following structures, buildings and uses shall be permitted:

(a) Those uses incidental to the generation and distribution of electric power.

(b) Those structures and uses complying with the requirements of federal and state regulations.

(c) Hazardous waste produced on site may be stored on site.

(d) Those uses incidental to the providing of telephone service, natural gas service, cable service, cellular phone service and any other public utility.

(2) Should the public utility use be discontinued, the use of this district will revert to the use of the contiguous district(s).

§ 150-7. Zoning Map.

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.

§ 150-8. Interpretation of district boundaries.

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 in All Districts

§ 150-9. 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 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.

§ 150-10. Effect on filed subdivision.

A. 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 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.

B. The provisions of § 150-10A shall also apply relative to any amendment of this chapter.

§ 150-11. 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.

§ 150-12. 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. (See § 150-26, Schedule I, Part 4.¹)

§ 150-13. 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.

§ 150-14. Minimum building area.

Unless otherwise specified elsewhere in this chapter, every building or structure used or designed to be used for residential purposes shall be built upon permanent foundation walls and shall have a minimum floor area used for living purposes as follows:

A. For a one-story dwelling: varies by district. (See Schedule II.²)

¹Editor's Note: Schedule I, Part 4, is located at the end of this chapter.

²Editor's Note: Schedule II is located at the end of this chapter.

B. For any other dwelling type: 800 square feet per unit as required in each zoning district. (See Schedule II.³)

C. For Business, Business Transitional and Industrial Districts: one-thousand-square-foot minimum on the first floor. Dwellings shall be that of Urban Residential District.

§ 150-15. Private garages and accessory buildings or structures.

A. In any district, any garage or accessory building or structure shall comply with all applicable setbacks, except that a single residential utility shed may be placed no closer to a side or rear property line than five feet. This section 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. (Reference: the Bulk Chart, Schedule II.⁴) 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.

§ 150-16. 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.

§ 150-17. Excavations and topsoil removal.

All excavations and topsoil removal shall be made in compliance with Chapter 75 of the Code of the Town of Ontario. All excavations must also adhere to all state and federal water MS4 regulations.

§ 150-18. Junkyards.

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

³ Editor's Note: Schedule II is located at the end of this chapter.

⁴Editor's Note: Schedule II is located at the end of this chapter.

§ 150-19. Street intersection improvements.⁵

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.

§ 150-20. 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.

§ 150-21. 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 residential districts (Rural R1; Rural R2; Suburban Residential; and Urban Residential), 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.
- C. In all districts, fences shall comply with the following:
- (1) Fencing shall follow the natural contour of the land.
 - (2) Fences shall be constructed so that the finished side faces adjoining lots and all posts and/or supports shall face the owner's side.

§ 150-22. (Reserved)

⁵Editor's Note: See illustration included at the end of this chapter.

§ 150-23. (Reserved)

ARTICLE IV Zone District Regulations

§ 150-24. Zoning schedules.

Regulations and controls for permitted land uses or uses or activities requiring a special permit or having special conditions applied thereto are set forth in Schedule I (§ 150-26).⁶ Regulations for lot size, yards, coverage and similar bulk requirements for each zone district are set forth in Schedule II (§ 150-27).⁷ Both of said schedules and any amendments thereto, are hereby adopted and made part of this chapter.

§ 150-25. Excluded uses or activities.

A land use or activity that is not specifically included in Schedule I is not permitted in the Town of Ontario.

§ 150-26. Schedule I: Land Uses or Activities.

See Schedule I included at the end of this chapter. Adult Entertainment District: see Chapter 105, of the Code of the Town of Ontario.

§ 150-27. Schedule II: Area and Bulk Regulations.

See Schedule II, included at the end of this chapter.

§ 150-28. (Reserved)

ARTICLE V 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;

⁶Editor's Note: Schedule I is located at the end of this chapter.

⁷Editor's Note: Schedule II is located at the end of this chapter.

- (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 I⁸ 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.

§ 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.

⁸Editor's Note: Schedule I is located at the end of this chapter.

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 material 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 were 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 visual and/or noise-deterring 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.

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 zoning 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 VI Site 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.

Any land use or activity requiring site plan review and approval by the Town Planning Board, as specified in Schedule I⁹ of this chapter, shall comply with the provisions of this Article VI. 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.

§ 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.

⁹Editor's Note: Schedule I is located at the end of this chapter.

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 if the plan has county implications prior to the meeting at which consideration of such plan is to be given. 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 II¹⁰).
- (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. (Reserved)

ARTICLE VII 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.

¹⁰ Editor's Note: Schedule II is located at the end of this chapter.

§ 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.

The Code Enforcement Officer shall issue a building or use permit for the following uses only when satisfied that applicable special conditions, as set forth in this § 150-42, have been complied with, in addition to all other applicable regulations of this chapter and the Code of the Town of Ontario:

A. Farm in all districts.

(1) 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.

(2) No hogs or chickens of any kind shall be kept except as an incidental part of a general farm operation.

(3) 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.

(4) No garbage or refuse, other than that produced on the premises, is used for feed.

(5) 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.

B. Farm market. Farm markets, as defined in § 150-5 of this chapter, are permitted in all Districts, except Industrial (I), provided the property and the farm market operations comply with the following requirements:

(1)

(1) Any such farm market shall be located on a single tax parcel containing not less than five acres.

(2) 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

(3) Farm market operations may be conducted 12 months per year.

(4) 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.

(5) 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.

C. Permanent roadside stand in all districts. Permanent roadside stands shall be permitted when:

(1) Such stand sells only those products grown on the owner's property.

(2) Such stand is set back from the highway right-of-way line at least 10 feet.

D. Riding academy, public and private stable in R1 or R2 District. The following conditions apply:

(1) 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.

(2) A private stable or riding academy or public stable must comply with applicable provision of § 150-42A of this chapter.

E. Multiple dwelling (three units) in BT and UR Districts. Adequate off-street parking must be provided. (See § 150-47A.)

F. Multiple dwelling (four or more units) in UR, B and BT Districts.

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) Required off-street parking must be provided. (See § 150-47A.)

(3) 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.

(4) All parking areas shall be landscaped and screened.

G. Dwelling, townhouse or rowhouse, in UR, B and BT Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) No more than six such attached dwellings shall be included in any single building.

(3) All parking areas shall be landscaped and screened. (See § 150-47A.)

(4) A dumpster must be provided for residential trash generated on site, which shall be landscaped and screened from public view.

H. Dwelling, mobile home, in R1, R2, SR and UR and BT Districts. The following conditions apply:

(1) Such mobile home must be located in a mobile home park, as defined and regulated in this chapter. (See § 150-51.)

(2) 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.

I. Mobile home park in UR, B and BT Districts. The following conditions apply:

(1) Such mobile home park is an extension of or an improvement to an existing mobile home park.

(2) Such mobile home parks comply with the provisions of § 150-51 of this chapter.

(3) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

J. Dwelling, accessory, in R1, R2, SR, UR, B and BT Districts. Accessory dwellings shall be permitted when such use is in compliance with the definition of accessory dwellings as set forth in § 150-5 of this chapter.

K. Conversion of existing building into not more than three dwelling units in SR, UR, B and BT Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) The area of the lot is 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.

(3) The minimum side yard requirements for the district can be met.

(4) Parking requirements can be met, and no parking space shall be located closer than five feet to any side lot line.

(5) Such conversion meets applicable regulations of the New York State Uniform Fire Prevention and Building Code.

L. State-regulated community residence in R1, R2, SR, B and BT and UR Districts. State-regulated community residences shall be permitted in accordance with § 41.34 of the Mental Hygiene Law with site plan and subdivision review in accordance with regulations of the Town of Ontario.

M. Adult residential-care facilities in R1, R2, SR, UR, B and BT Districts. Adult residential-care facilities shall be permitted when a site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

N. Day-care facility or nursery school in R1, R2, SR, B and BT Districts (special permit: R1, R2, SR and UR; special conditions: B and BT). Day-care facilities and nursery schools shall be permitted when applicable state and local codes have been met.

O. Public or parochial school in R1, R2, SR, UR, B and BT Districts. The following conditions shall apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) A landscaped buffer area is provided between any playground and an abutting lot.

(3) 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 trees.

P. Public park or playground in all districts; library, fire station and other municipal buildings in all districts. Parks and playgrounds and municipal buildings shall be permitted when a site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario. The Town Board, by majority vote, may override any condition set by the Planning Board.

Q. Home occupation in all districts. The following conditions apply:

(1) Such use is 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.

(2) Such use is conducted by persons living in the dwelling unit and not more than one additional person who does not live in such unit.

(3) All activity, including storage, is conducted entirely within the dwelling unit or accessory building, and no special construction or structural alteration is required.

(4) 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.

(5) No offensive traffic, noise, odor, smoke, dust, heat, glare or electrical disturbance shall be produced by the home occupation.

R. Private swimming pool in R1, R2, SR, UR, B and BT. Private swimming pools shall be permitted only when in compliance with all applicable Town regulations.

S. Retail store, bank or business office, or indoor theater or indoor recreation facility in B and BT Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board of the Town of Ontario.

(2) 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. Common drives on property are encouraged.

T. Restaurant (except drive-in), hotel or motel in B and BT Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) Any outdoor dining or service must be located so as not to obstruct sidewalks or other public property.

U. Professional office in R1, R2, SR and UR Districts. Professional offices shall be permitted when such uses comply with the provisions of § 150-42S(1) of this chapter.

V. Pet shop, veterinary establishment or drive-in restaurants (outdoor) in R-1, R-2, B and BT Districts. Pet shops, veterinary establishments and drive-in restaurants (outdoor) shall be permitted when a site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

W. Storage structure (ministorage) in B, BT and I Districts. Storage structures shall be permitted when:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) 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.

(3) 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.

X. Outdoor facility for retail sale of boats, trailers, furniture and similar goods; or indoor or outdoor sale of building material and supplies in BT and I Districts. Sales facilities shall be permitted when the provisions of § 150-42AA are complied with.

Y. Convenience mart in B, BT and I Districts; motor vehicle service station in B, BT and I Districts; and commercial garage in B, BT and I Districts; or car washing establishment in B, BT and I Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) 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.

(3) 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.

(4) Any stored liquid fuel, oil or similar substance shall be stored in compliance with state and federal regulations.

(5) No major repair work is conducted outside of a structure and all automobile parts, dismantled vehicles and similar articles are stored inside a structure.

(6) Landscaping shall be provided adjacent to all public streets.

Z. Plant nursery or greenhouse; or lawn garden supply sales and service in B, BT and I Districts. Plant nurseries, greenhouses and lawn garden supply sales and service shall be permitted when the provisions of § 150-43(F)(11) have been met.

AA. New and used automobile sales, service or repair in BT District and Motor Vehicle Service Stations in B, BT and I Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) 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.

(3) Outdoor lighting shall be located and designed so as not to produce glare on adjacent streets and properties.

(4) Landscaping shall be provided adjacent to all public streets.

BB. Truck and motor freight terminal in I District. Truck and motor freight terminals shall be permitted when a site plan has been approved by the subdivision regulations of the Town of Ontario.

CC. Excavation or placement of sand, gravel, earth, stone, rubble and other material in all districts. Excavation and placement of materials shall be permitted when a permit for such

activity has been approved by the Town Board in compliance with Chapter 75 of the Code of the Town of Ontario.

DD. Public utility substation in all Districts. The following conditions apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

EE. Municipal storage or repair yard in BT and I Districts. Municipal storage and repair yards shall be permitted when a site plan has been approved by the subdivision regulations of the Town of Ontario.

FF. Signs in all districts. Signs shall be permitted in accordance with the provisions of § 150-48 of this chapter.

GG. Off-street parking lot in B, BT and I Districts. The following conditions shall apply:

(1) A site plan has been approved by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(2) 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.

(3) A landscaped buffer strip shall be provided between such use and any adjacent residential lot.

HH. Newspaper vending machines in all districts. The following conditions shall apply:

(1) 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.

(2) The location of such machine shall be no less than 25 feet from the intersection of two curblines or edge-of-pavement lines.

(3) The location of such machine shall not reduce the unobstructed width of any sidewalk to less than 40 inches.

II. Private boat, recreational vehicle, travel or camp trailer in all Districts. The following conditions shall apply:

(1) 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.

(2) 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.

(3) Visiting trailers at private residences in an R-1 and R-2 Districts may obtain a permit to remain for a period of six months, as long as it 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.

§ 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.

(3) 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 §§ 239-1 and 239-m of 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 the special requirements set forth in § 150-43F of this chapter if this is deemed appropriate and in the best interest of the town and if the spirit and intent of the chapter can be maintained. Any decision to waive or modify any special requirement shall be set forth in writing with the reason for such modification or waiver being set forth by the reviewing agency.

(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 opposed 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.

F. Specific requirements. In addition to the general requirements for a special permit, as set forth above, the specific requirements for certain land uses and activities, as set forth in this § 150-43F shall be met, unless such requirements have been modified by the reviewing agency. [See § 150-43D(7) above.]

(1) Farm labor camp in R1 or R2 District.

(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.

(2) Kennel in R1 or R2 District. All pens and exercise runways that are not enclosed in a building shall be located at least 150 feet from any property line and 300 feet from any neighboring residence.

(3) Multiple dwellings (four or more units) in UR District.

(a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.

(b) A landscaping and drainage plan shall be approved by the Planning Board.

(c) 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.

(d) 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.

(4) Church and related use in R1, R2, SR, UR, B and BT Districts.

(a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.

(b) Such project shall be sponsored by an organization legally established and registered in the State of New York.

(c) Landscaping shall be provided around parking lots and adjacent to all public streets.

(d) It must be used as a church facility for religious purposes more than 70% of the time.

(5) Hospital and nursing home in R1, R2, SR, UR, B and BT Districts.

(a) Requires site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(b) No more than 50% of the gross lot area shall be covered with impermeable surfaces, including buildings and pavement.

(c) No more than 50% of any required front yard shall be paved.

(d) Landscaping shall be provided around parking lots and adjacent to all public streets.

(6) Planned unit development in all Districts. It must comply with the provisions of Article V, § 150-29C et seq., of the Code of the Town of Ontario.

(7) Tourist home, boardinghouse or rooming house in R1, R2, SR, UR, B and BT Districts.

(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.

(8) Bed-and-breakfast facility in R1, R2, SR, UR, B and BT Districts.

(a) Site plan approval by the Planning Board in accordance with subdivision regulations of the Town of Ontario shall be required.

- (b) Any dwelling so used shall be occupied by its owner and shall contain no more than six rooms to let for profit.
 - (c) One sign advertising such use shall be permitted, six square feet in area, and, if illuminated, shall not be flashing.
- (9) Veterinary establishment in R1, R2, BT and B Districts.
- (a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.
 - (b) There shall be no outdoor storage of refuse, feed or other material and no on-site incineration of refuse.
 - (c) A landscaped buffer strip shall be provided along side and rear property lines that are adjacent to any residential lot.
- (10) Car washing establishments, motor vehicle service station and commercial garage in B District.
- (a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.
 - (b) Any access driveway must have its center line located at least 50 feet from the intersection of any two street right-of-way lines.
 - (c) 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.
 - (d) Landscaping shall be provided adjacent to all public streets.
- (11) Plant nursery/greenhouse; lawn/garden supply sales and service.
- (a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.
 - (b) All greenhouses, wherever located, in whichever district, shall require a special permit.
- (12) Food-processing facility in BT and I Districts; planned industrial research park; scientific or research laboratory in BT and I Districts; fabrication or storage of metal, paper or wood products; and general processing, assembly or packaging of previously prepared materials; light manufacturing in BT and I Districts.
- (a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario shall be required.
 - (b) Compliance with the following performance standards shall be required:

[1] 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.

[2] Noise, glare or vibration shall not be created.

[3] No activity shall create a physical hazard by reason of fire, explosion or radiation to persons or property.

[4] 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.

[5] All industrial processes shall take place within an enclosed building. Incidental storage of materials out-of-doors is permitted.

[6] 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.

[7] There shall be no storage of material, either indoors or outdoors, which results in the breeding of vermin or endangers health in any way.

[8] All such uses shall be set back from any side or rear property line a distance adequate to enable access by fire-fighting equipment.

[9] A planted and maintained buffer strip shall be provided for a visual screen between the industrial use and abutting residential or business districts.

[10] All applicable requirements of the New York State Uniform Fire Prevention and Building Code shall apply and are incorporated herein.

(13) Power-distribution facility in Public Utility District. (Reference § 150-6.)

(a) Site plan approval by the Planning Board in accordance with the subdivision regulations of the Town of Ontario and approval by the Town Board shall be required. Approval by the Town Board must be obtained after Planning Board recommendation has been received.

(14) Vehicle body shop in BT District. Areas used for the temporary parking of vehicles awaiting repair shall 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.

(15) Satellite dish, short-wave antenna, ham radio tower, windmill and television and radio antenna in all districts.]

(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.

(16) Installation of alternative domestic supply and windmills in a rural district. No energy device that is not an integral part of the dwelling shall be located in any front yard area, excluding solar-powered lights.

(17) Campgrounds in R1 and R2 Districts. Campgrounds must be a minimum of five acres, except nudist campgrounds must be a minimum of 50 acres.

§§ 150-44 through 150-46. (Reserved)

ARTICLE VIII 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.

A. General regulations. The following regulations shall apply to all signs:

(1) No facade sign shall be erected or maintained a distance of more than six inches from the front or face of a building.

(2) No freestanding sign in any district shall be located nearer than 10 feet to a property line, a street line or a right-of-way.

(3) Except as set forth in § 150-48E, building permits shall be required for all signs larger than two square feet in area.

(4) Advertising display upon any structure shall be regarded as a sign subject to this regulation. This shall not apply to signs placed in windows.

(5) 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.

(6) Accessory advertising devices.

(a) All accessory advertising devices of commercial enterprises other than signs permitted by these regulations, such as but not limited to bunting, pennants, pinwheels or streamers, are prohibited on a permanent basis. For temporary use, a permit is required for such accessory advertising devices. They shall not be erected prior to 30 days before such an event and shall be removed within seven days of the end of the event. This shall include large searchlights used for advertising purposes. No sign shall be flashing, revolving, animated or otherwise in motion.

(b) New businesses may be permitted by permit for accessory advertising devices for a period not to exceed 30 days. These devices shall be compatible with the neighborhood and approved by the Code Enforcement Officer.

(7) No sign shall obstruct any fire escape, window or other opening used as a means of egress for fire-fighting 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. "Posted" signs shall be excepted.

(8) No structural element of a nonconforming sign may be changed unless the resulting sign complies with the current regulations of this regulation.

(9) Any sign existing on or after the effective date of this regulation 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 Building Inspector 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.

(10) Signs for two or more separate business establishments on the same lot or in the same building shall require site review approval by the Planning Board as provided in the subdivision regulations of the Town of Ontario and the further finding that such signs are of a design compatible in style and color with one another.

(11) 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 8% of the facade, not to exceed 125 square feet.

(b) Shopping center identification; listing of services on the freestanding sign. Individual service signs of one foot by four feet each, maximum, may be attached to the freestanding sign. The lettering shall be no more than eight inches high.

(12) Signs of duly constituted governmental bodies, including traffic or similar regulatory services, legal notices or signs otherwise appropriate to public or quasi-public buildings are not subject to this chapter.

(13) Signs, posters, flags, plaques or emblems of a temporary nature or of political, civic, philanthropic, educational or religious organizations shall be permitted. Such signs, etc., shall not be erected prior to 30 days before such event and shall be removed within seven days of the end of the event.

(14) Directional or identification/announcement signs of schools, churches, service organizations or other nonprofit enterprises shall be permitted. These signs shall not exceed 15 square feet in area and may be freestanding or attached to the building.

(15) Signs of 16 square feet may be permitted for subdivisions or multifamily developments for identification upon site review of the Planning Board in accordance with the subdivision regulations of the Town of Ontario.

(16) A single sign, not more than 16 square feet in area, may be erected on a construction site during construction, provided that such sign is removed within seven calendar days after completion of such construction or provided for in a final certificate of occupancy. Issuance of a certificate of occupancy shall be evidence of completion.

(17) 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 32 square feet, and an identification sign for each tenant, limited to four square feet, may be located on the freestanding sign upon approval of the Planning Board.

B. Rural and Residential Districts.

(1) In Rural and Residential Districts, no sign shall be erected or used except:

(a) A single, nonilluminated professional sign of one face or two faces, 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.

(b) A nonilluminated temporary sign which may be not more than four square feet in size on each face and may be six feet in height freestanding or eight feet in height attached to the building for the sale or rental of the property on which it is located; and on a corner lot, two such signs, one facing each street, provided that such signs are removed within seven days of sale or rental.

(c) An advertising sign 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; and on a corner lot, two such signs, one facing each street.

(2) Exceptions are listed in § 150-43F(7)(c) and (8)(c).

C. Business Districts.

(1) In Business Districts, no sign shall be erected or used except:

(a) Facade signs. A single facade sign which shall not exceed 8% of the area of the business portion of the building facade facing the street, with a maximum area of 48 square feet. A sign attached to the facade may not exceed 16 feet above finished grade and may not extend above the building facade. Overhanging signs shall be permitted upon obtaining a special permit therefor under § 150-43E of this regulation. These signs shall be limited to advertising a use conducted on the premises.

(b) Freestanding sign. A freestanding sign is permitted (same as in BT Districts). (Reference § 150-48D.) (c) A nonilluminated temporary sign not more than 16 square feet in area, which may be freestanding or attached to the building for the sale or rental of the property on which it is located; and on a corner lot, two such signs, one facing each street, provided that such signs are removed within seven days of the sale or rental. A freestanding sign may not exceed six feet above finished grade. A sign attached to the building may not extend above the building facade or exceed 16 feet above the finished grade.

(2) Exceptions are listed in § 150-43F(7)(c) and (8)(c).

D. Business Transitional and Industrial Districts.

(1) In Business Transitional and Industrial Districts, no sign shall be erected or used except:

(a) Not more than two signs, including one freestanding sign, which may be illuminated on one face or two faces, having a total area of not more than 12% of the area of the business portion of the building facade facing the street, with a maximum area of 125 square feet. A freestanding sign may have a maximum of 48 square feet of area not to exceed 20 feet above the finished grade. A sign attached to the facade shall not extend above the facade or exceed 24 feet above finished grade. These signs shall be limited to advertising a business use or product sold on the premises.

(b) A nonilluminated temporary sign not more than 24 square feet in area, which may be freestanding or attached to the building for the sale or rental of the property on which it is located; and on a corner lot, two such signs, one facing each street, provided that such signs are removed within seven days of sale or rental. A freestanding sign may not exceed six feet above finished grade. A sign attached to the building may not extend above the building facade or exceed 16 feet above the finished grade.

(2) Exceptions are listed in § 150-43F(7)(c) and (8)(c).

E. Signs for which a building permit is not required:

(1) Real estate sale or rental signs as specified in § 150-48B(2), C(1)(c) and D(2) of this chapter.

§ 150-49. Wetlands.

Notwithstanding any provisions of this chapter and particularly Schedule I 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 Zoning 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 Zoning 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.

See § 150-42H.

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 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, 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)

- (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, sightly 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 through 150-53. (Reserved)

ARTICLE IX
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 non-conforming mobile home.

§ 156-57. 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 intend 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 Rural, Suburban Residential, Urban Residential, Business or Business Transitional Districts.

§ 150-60. Maintenance and repair.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the Zoning 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 X **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.

A. 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. One member shall be designated each year by the Town Board to serve as 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.

§ 156-70. Planning Board

A. Creation and appointment. 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.

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 XI 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 Board 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.

