

Chapter 285

ZONING

[HISTORY: Adopted by the Town Board of the Town of Onondaga 5-16-1994 by L.L. No. 1-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. 80.

Development fee deposits — See Ch. 91.

Flood damage prevention — See Ch. 118.

Noise — See Ch. 163.

Stormwater — See Ch. 249.

Subdivision of land — See Ch. 257.

§ 285-1. Preamble; repealer.

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each and every purpose therein specified, the Town Board of the Town of Onondaga does hereby repeal the Town of Onondaga Zoning Ordinance of 1971,¹ and all amendments thereto, heretofore enacted by the Town Board of the Town of Onondaga and does hereby enact the following comprehensive local law regulating the location and use of buildings, structures and land for trade, commercial, industrial, office, residential, farming and other purposes.

§ 285-2. Purpose.

This chapter is enacted for the purpose of regulating and restricting the location, construction and use of buildings and structures and the use of land in the Town of Onondaga and for said purposes divides the Town into districts.

§ 285-3. Title.

This L.L. No. 1-1994 shall be known and may be cited as the "Town of Onondaga Zoning Law of 1994."

§ 285-3.1. Severability. [Added 12-3-2012 by L.L. No. 8-2012]

Any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this chapter that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this chapter or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid

1. Editor's Note: Said Zoning Ordinance, adopted 9-1-1971, comprised former Ch. 35, Zoning.

or unenforceable provision shall be and be deemed severed herefrom, and the Town Board hereby declares that it would have enacted this chapter, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

§ 285-4. Definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

ACCESSORY STRUCTURE — A structure detached from and subordinate to a principal building on the same lot, with less than one-half of the floor space of the principal building, and which is used for purposes subordinate and customarily incidental to those of the principal building or use, including parking, storage, and recreation. Structures used for agriculture, whether or not used for housing animals, shall not be subject to the aforesaid "one-half of the floor space of the principal building" limitation. [Added 12-3-2012 by L.L. No. 8-2012]

ACCESSORY USE — A use customarily incidental and subordinate to the principal use, located on the same lot with such principal use. A use shall not qualify for treatment as an accessory use if it dominates the "principal" use in area, extent, or purpose. [Amended 12-3-2012 by L.L. No. 8-2012]

ADULT HOME — Adult care facilities providing room, board and housekeeping in addition to case management, personal care and other nonmedical supervision. Adult homes are regulated by the New York State Department of Social Services and are designed for people who cannot function independently but do not require continuous medical or nursing care.

ADULT USE — Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motels, adult motion-picture theaters, adult novelty stores and massage establishments, as such terms are defined below. [Added 8-21-2000 by L.L. No. 7-2000²]

A. **SPECIFIED ANATOMICAL ACTIVITIES** — Includes any of the following:

- (1) Less than the completely and opaquely covered human genitals, pubic region, pubic hair or buttocks or female breast or breasts below a point immediately above the top of the areola.
- (2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

B. **SPECIFIED SEXUAL ACTIVITIES** — Includes any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.

2. Editor's Note: This local law also repealed the former definition of "adult entertainment use," added 8-21-1995 by L.L. No. 3-1995.

- (3) Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
 - (4) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (3) of this definition.
- C. **ADULT ARCADE** — An establishment where, for any form of consideration, one or more still or motion-picture projectors, slide projectors or similar machines or other, image-producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities.
- D. **ADULT BOOKSTORE or VIDEO STORE** — A business which derives 25% or more of its gross income from the sale or rental of, or utilizes 25% or more of its retail selling area for or has stock comprised of 25% or more of any of the following:
- (1) Books, magazines, periodicals, films, motion pictures, videocassettes, slides, compact discs and/or computer generation or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- E. **ADULT CABARET** — A nightclub, bar, restaurant, bottle club, juice bar, club or similar commercial establishment, whether or not alcoholic beverages are served, which features:
- (1) Persons who appear nude or in a state of nudity or seminudity; or
 - (2) Live performances which are characterized by the exposure of specified anatomical activities or by specified sexual activities; or
 - (3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical activities.
- F. **ADULT LIVE ENTERTAINMENT** — A business where an adult male or female exposes parts of their body identified in specified anatomical activities.
- G. **ADULT MOTEL** — A hotel, motel or similar business which:
- (1) Offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical activities and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;
 - (2) Offers a sleeping room for rent for a period of time less than 10 hours; or
 - (3) Allows a tenant or occupant to subrent the sleeping room for a period of time less than 10 hours.

- H. ADULT MOTION-PICTURE THEATER — An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities for observations by patrons therein.
- I. ADULT NOVELTY STORE — A business which derives 25% or more of its gross income from the sale or rental of, or utilizes 25% or more of its retail selling area for or has stock comprised of 25% or more of any of the following: instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- J. DISSEMINATION — The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a person, customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical activities.
- K. MASSAGE — A method of treating the external part of the human body by rubbing, stroking, kneading or vibrating with the hand or any instrument or any other treatment or manipulation of the human body which occurs as part of or in connection with specified sexual activities or where any person providing or receiving such treatment, manipulation or service related thereto exposes his or her specified anatomical areas.
- L. MASSAGE ESTABLISHMENT — Any business where body rubs, body shampoos, massages (as defined above) or similar services are administered. This definition shall not include persons licensed or authorized pursuant to Article 155 of the Education Law or specifically exempt from Article 155 of the Education Law. (See Education Law § 7800 et seq.).

ALTERATION OF A BUILDING — Any modification, change, rearrangement or addition to a building, other than routine repairs.

AMBIENT SOUND LEVEL — Also referred to as "ambient noise level" and "ambient sound pressure level;" means the background (exclusive of the development proposed) sound level (L90) found to be exceeded 90% of the time over which sound is measured in a noise analysis. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable. [Added 6-2-2008 by L.L. No. 10-2008]

ANTENNA — Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. [Added 3-17-1997 by L.L. No. 3-1997]

AREA OF LAND — Land with definite boundaries or which is capable of being identified by size, square footage or dimensions either as a lot or parcel or a portion thereof. [Added 8-3-2009 by L.L. No. 3-2009]

AREA VARIANCE — An authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable

zoning regulations.

ARTERIAL — A street, road or highway which is designed to move large volumes of traffic from one area to another (intercommunity traffic) and to and from freeways.

ATHLETIC CLUB — A private or public club which charges membership fees to clients to use athletic facilities on the club's premises; athletic facilities do not include recreational activities involving either motor vehicles or firearms.

BASEMENT — That space of a building which is partly below grade and which has at least 1/2 of its height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building.

BILLBOARD — Any outdoor advertising board, structure or device which advertises, directs or calls to attention any business, article, substance, service or any sign which is painted, printed, posted or affixed to any building, structure, wall, fence, pole, railing, natural object or structure of any kind on real property or upon the ground itself which advertises services, products or commodities not available on the premises on which the billboard is located. [Added 10-1-2007 by L.L. No. 8-2007]

BUILDING — Any structure wholly or partially enclosed with walls and a roof. The word "building" includes the word "structure."

BUILDING SUPPLY — A business engaged in the wholesale or retail distribution or sale of merchandise, goods, equipment, services, materials and supplies consumed, employed or expended in the construction, reconstruction, alteration, remodeling or repair of any building or structure. [Added 8-3-2009 by L.L. No. 3-2009]

BUILDING, ACCESSORY — A subordinate building, the use of which is incidental to that of the principal building.

BUILDING, FRONT LINE OF — The line of that face of the building nearest the front line of the lot, exclusive of steps and ramps for the handicapped.

BUILDING, HEIGHT OF — The vertical distance measured from the mean elevation of the finished grade line of the ground along the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is situated.

BUSINESS — Any commercial enterprise, establishment, association or arrangement for profit. [Added 8-21-2000 by L.L. No. 7-2000]

CAR WASH — An area of land and/or structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

COLLECTOR STREET — A street designed to collect or transport through automobile traffic from local, neighborhood streets and conduct it to arterials.

COMMERCIAL MOBILE SERVICE FACILITY — Any antenna or tower, including accessory equipment and devices used in the delivery of commercial mobile services. [Added 5-19-1997 by

L.L. No. 4-1997]

COMMERCIAL MOBILE SERVICES — Cellular telephone services, special mobile radio services and personal communication services as those terms are defined and regulated by the FCC. [Added 3-17-1997 by L.L. No. 3-1997]

COMMERCIAL VEHICLE — The following vehicles when used or designed to be used for commercial purposes on public highways:

- A. Motor-driven vehicles having a gross vehicle weight of more than 18,000 pounds.
- B. Semitrailers.
- C. Tractors.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM — A wind energy conversion system which generates original power on site to be transferred to a transmission system for distribution to customers. [Added 6-2-2008 by L.L. No. 10-2008]

CONDOMINIUM — A multiunit structure or grouping of structures consisting of one or more levels, either attached or detached, in which persons hold fee simple title to individual units and an undivided interest in common areas or facilities. [Added 8-3-2009 by L.L. No. 3-2009]

CONVENIENCE STORE — A smaller-sized retail business with primary emphasis placed upon providing the public with a readily available alternative location to quickly purchase from a wide array of consumable products, predominantly food (whether packaged or prepared) and household needs. Convenience stores may, but need not, include the sale of motor vehicle fuel. [Added 4-3-2017 by L.L. No. 2-2017]

DAY CARE, FAMILY — An activity providing for the care and supervision of minors in a dwelling unit away from their own homes; family day care may involve no more than five minors daily who are not related to the head of the household of the dwelling unit.

DAY-CARE FACILITY — A facility at which care and supervision of minors is provided as a daily or scheduled program; examples are day nurseries, preschool programs and day-care centers. Day-care facilities expressly exclude family day care as defined herein.

DOMESTIC HOUSEHOLD PETS — Small animals customarily permitted within a residence or yard and kept for pleasure or company. Such animals shall include dogs, cats and other common pets such as fish, birds and small animals, provided that these are not raised for commercial purposes. This term shall exclude farm animals (horses, livestock, poultry and so forth), wild or dangerous animals, pigeons and fur-bearing animals raised for their pelts.

DRIVEWAYS and/or PRIVATE ROADS — A way providing a means of vehicular egress or ingress to a lot or property.

DWELLING — A building designed or used as living quarters for one or more families. The term "dwelling" does not include mobile homes, hotels or motels.

DWELLING, MULTIPLE

- A. A building containing three or more dwelling units.

- B. A building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families.
- C. A building with one or more sleeping rooms, other than a one- or two-family dwelling, used or occupied by permanent or transient paying guests or tenants.
- D. A building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses.
- E. A building used or occupied as an adult or old-age home.
- F. A community residence.
- G. The term "multiple dwelling" does not include townhouses or nursing homes.

DWELLING UNIT — One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use by one family as a residence.

DWELLING, ONE-FAMILY — A building accommodating only a single family and having two side yards.

DWELLING, TWO-FAMILY — A building designed for or occupied exclusively by two families living independently of each other in private units where all dwelling units and amenities are owned by the same person or persons. The term "two-family dwelling" does not include townhouses.

EAF — Environmental assessment form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations. [Added 6-2-2008 by L.L. No. 10-2008]

EQUIPMENT STORAGE — A parcel, with or without a structure or structures thereon, used for the assemblage, marshaling, parking, storage, placement, maintaining or organization of equipment, machinery, vehicles, goods and/or supplies for short- or long-term duration, whether as a primary use or ancillary to other uses. [Amended 8-3-2009 by L.L. No. 3-2009]

EXPLICITLY PROHIBITED USE(S) — The explicitly prohibited uses defined and described in § 285-43.1 of this chapter. [Added 12-3-2012 by L.L. No. 8-2012]

EXTRACTIVE INDUSTRY — The removal from the ground of sand, gravel, rock or stone, soil or earth, topsoil, sod, or minerals. ("Minerals" does not include petroleum or "natural gas," as that term is defined in § 245-43.1 of this chapter.) Removal of such earth products which is incidental to and in connection with i) excavation and/or grading of a site for a building or a structure and/or its appurtenant sidewalks, walls, driveways or parking facilities for which all required building and other permits have issued; ii) excavation and/or grading of a site for a public works project (such as sewers, waterlines, roads and bridges) or for a public utility facility; iii) excavation and/or grading of a site approved for subdivision development; or iv) construction of a farm pond or other farm conservation process, are expressly excluded from the definition of "extractive industry." Furthermore, in no event shall "extractive industry" be construed to mean, be, or include natural gas and/or petroleum exploration activities, natural gas and/or petroleum extraction activities (as those terms are respectively defined at § 245-43.1 of this chapter), or any other explicitly prohibited use. [Amended 12-3-2012 by L.L. No. 8-2012]

FAA — Federal Aviation Administration. [Added 3-17-1997 by L.L. No. 3-1997]

FAMILY — One or more persons occupying the premises and living as a single not-for-profit housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel.

FARM — Any parcel, or multiple contiguous parcels of land in the same ownership, containing at least seven acres of land in the aggregate, which is used in the raising of agricultural products, horses, livestock, poultry and dairy animals, including necessary farm buildings, one one-family dwelling and the storage of equipment used for the farm. A farm may include a farm stand selling agriculturally related goods raised on the property, on a seasonal basis only. The term "farm" does not include the use of land or buildings for a public stable. [Amended 8-25-2014 by L.L. No. 3-2014]

FCC — Federal Communications Commission. [Added 3-17-1997 by L.L. No. 3-1997]

FRONT YARD SETBACK LINE — The line established at a distance specified by subdivision and/or zoning regulations beyond which no part of a building, other than parts expressly permitted, shall extend.

FUNERAL HOME — A building, which may or may not include a dwelling unit, devoted to or used in the care and preparation for burial or cremation of a body of a deceased person. Included within this term are funeral establishments and funeral parlors; excluded from this term are facilities for cremation, morgues and facilities for nonhumans.

GARAGE — A building, whether attached or detached, used or designed to be used for the storage of highway motor vehicles.

GRADE, FINISHED — Natural surface of the ground or surface of ground after completion of any change in contour.

HIGHWAY VEHICLE REPAIR SHOP — A building, or portion of a building, used or designed to be used for making repairs to highway vehicles.

HIGHWAY VEHICLE SERVICE STATION — Any area of land, including any building or buildings thereon used for the supply of gasoline, diesel oil or other product used as energy for the propulsion of vehicles. For the purposes of this chapter, any accessory use involving polishing, greasing, washing, spraying or otherwise cleaning or servicing such highway vehicles will be included in this term, but such accessory use shall be clearly secondary to the principal activity and must be contained within the building housing the principal activity.

HOME OCCUPATION — A nonresidential activity conducted entirely within a dwelling for profit or gain, in which clients or customers are allowed, expected or encouraged to visit the premises, with or without employees, with or without any external evidence of such nonresidential activity. [Amended 9-18-2000 by L.L. No. 9-2000]

HORIZONTAL AXIS ROOF-MOUNTED WIND CONVERSION SYSTEM — A roof-mounted wind conversion system which has its blades revolving around a horizontal axis perpendicular to the ground. More particularly, it has a main rotor shaft and electrical generator at the top of a tower with revolving propeller-type blades that must be pointed into the wind. [Added 8-3-2009 by L.L. No. 3-2009]

HOSPITAL, ANIMAL — An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, excluding the treatment or other care of humans.

HOTEL or MOTEL — A building used for the transient lodging of the public in single rooms or suites of rooms; such building may include dining rooms, kitchens, serving rooms, ballrooms and other facilities for accommodation of the public.

INDUSTRY, HEAVY — A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials; such a use may involve storage or manufacturing processes that potentially involve hazards or commonly recognized offensive conditions. The term "industrial" shall not include junkyards, waste disposal operations, automobile parts recycling or disassembly or bulk storage of flammable liquids (other than that necessary and incidental to the operation of the primary heavy manufacturing use). Furthermore, in no event shall "industry, heavy" be construed to mean, be, or include any explicitly prohibited uses. [Amended 12-3-2012 by L.L. No. 8-2012]

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

JUNKYARD — An area of land, with or without buildings, used for or occupied by a deposit, accumulation, collection or storage, outside a completely enclosed building, of used or discarded materials, house furnishings, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. In no event shall "junkyard" be construed to mean, be, or include any explicitly prohibited uses. [Amended 12-3-2012 by L.L. No. 8-2012]

LINE, STREET — The dividing line between the street right-of-way and the lot.

LOCAL STREET — A street designed to provide access to neighborhoods not primarily designed to carry through traffic and where moving traffic is a secondary function.

LOT — A parcel of land occupied or intended to be occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are arranged and designed to be used in connection with such building.

LOT AREA — The total area (measured in acres or square feet) within the property lines of a lot, excluding land within dedicated or proposed public streets. Other rights-of-way or easements, which prohibit improvements such as buildings and structures, shall be included in the calculation of total lot area. [Amended 3-1-2004 by L.L. No. 1-2004]

LOT COVERAGE — The aggregate percentage of the lot area covered by all principal and accessory buildings as measured by the vertical projection to the ground of their greatest outside dimensions.

LOT FRONTAGE — The side of a lot abutting on a street right-of-way; for corner lots, the narrowest side shall be considered the street frontage for purposes of measuring minimum road frontage width. For all other purposes of determining yard requirements on a corner lot, all sides of a lot abutting a street shall be considered frontage, and yards shall be provided as indicated

under "yards" in this section.

LOT LINES — The lines bounding a lot.

LOT, CORNER — A lot fronting on two streets at their intersection.

LOT, DEPTH OF — The mean horizontal distance between the front street line and the rear lot line.

LOT, WIDTH OF — The distance between the two side lot lines measured along the front yard setback line as established for each district in this chapter.

MANUFACTURED HOME — A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4-1-1993, transportable in one or more sections, which in the traveling mode is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or when erected on site is 320 square feet (29.7 m²) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle. [Added 8-3-2009 by L.L. No. 3-2009]

MEDICAL SERVICES FACILITY — A facility providing for the treatment of illness, injury and disease, providing inpatient and/or outpatient accommodations, including what are commonly termed "clinics," "diagnostic centers," "neighborhood health centers" and "hospitals," but expressly excluding group residences, nursing homes, adult homes and business offices, except where such offices are accessory to the "medical services facility."

MOBILE HOME — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which in the traveling mode is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or when erected on site is 320 square feet (29.7 m²) minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle. [Amended 8-3-2009 by L.L. No. 3-2009]

MODULAR HOME — A factory-manufactured dwelling unit, conforming to applicable provisions of this Code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation or for assembly and permanent installation. [Added 8-3-2009 by L.L. No. 3-2009]

NONCONFORMING ELEMENT — A building, structure, lot, yard, use of land or aspect related to use (such as off-street parking, signage or screening) which was lawfully existing on the effective date of this chapter or any amendment thereto and which does not conform to the regulations of the district or zone in which it is situated.

NURSERY — Land, building and storage facilities on not less than three acres in size used for the growing and/or display and sale of flowers, plants, trees and shrubs, including the storage of ancillary materials and the providing of landscape services. [Added 6-18-2011 by L.L. No. 3-2011]

NURSERY OR GREENHOUSE, COMMERCIAL — Land and buildings used for the growing of flowers and plants for retail or wholesale distribution to the public or other commercial vendors.

NURSERY OR GREENHOUSE, RESIDENTIAL — Land and buildings used for the growing of flowers and plants for private use. No sale of any products is allowed in connection with this activity.

NURSING HOME — A residential health care facility regulated and monitored by the New York State Department of Health which either provides twenty-four-hour medical supervision for patients requiring rehabilitative or custodial care or which is designed to meet the needs of patients requiring nursing supervision or care. The term "nursing home" shall not include a "medical service facility."

OFF-SITE SIGN — Any sign advertising or calling attention to any business, activity or product not located on the same continuous parcel of land as the sign or any sign advertising or calling attention to any commodity or service not sold or offered upon the same continuous parcel of land as the sign. [Added 10-1-2007 by L.L. No. 8-2007]

PARCEL — An area of land with definite boundaries, all or parts of which are owned by the same person(s) or entities. [Added 8-3-2009 by L.L. No. 3-2009]

PARKING FACILITY — A parcel with or without structure(s) thereon used for the storage or parking of motor vehicles on a short-term or long-term basis. [Amended 8-3-2009 by L.L. No. 3-2009]

PARKING SPACE — A surfaced area outside of any building, or indoors in the case of a garage, having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one licensed automobile and connected with a street by a surfaced driveway which affords satisfactory ingress and egress for automobiles. Parking spaces may be utilized in groups of two or more so long as the other qualifications of this definition are satisfied.

PERSON — Any individual, firm, partnership, corporation, association, limited liability company, business entity or legal representative, acting individually or jointly. [Added 8-21-2000 by L.L. No. 7-2000]

PLAT — A map, plan or layout of a Town, section or subdivision indicating the location and boundaries of individual lots and related uses.

PORCH — An accessory part of a building, enclosed or unenclosed, attached or abutting the outside of a principal building; the term "porch" includes what are commonly known as "decks"

and "porticoes."

POWER-GENERATING FACILITY — A facility where electricity and/or steam is created for use in powering on-site or off-site industrial, commercial, residential or other activities.

PREEXISTING TOWERS AND ANTENNAS — Any tower or antenna for which a legal building permit was issued and which was constructed and in existence as of May 6, 1996. [Added 3-17-1997 by L.L. No. 3-1997]

PRIVATE WIND ENERGY CONVERSION SYSTEM — A wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for on-site use, except that when a parcel on which a private wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical power generated by the private wind energy conversion system may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use, so long as no net profit is produced by such excess electrical power. [Added 6-2-2008 by L.L. No. 10-2008]

PUBLIC OR PRIVATE INSTITUTIONS OF HIGHER EDUCATION — An educational institution for postsecondary education that awards a bachelor's degree, graduate degree or professional degree. [Added 12-3-2012 by L.L. No. 9-2012]

RECREATION FACILITY, INDOOR — Commercially operated recreation facilities where activities are conducted within a building or enclosed structure. Examples are bowling alleys, skating rinks, swimming pools, tennis and paddle courts, video arcades and theaters; athletic clubs are excluded.

RECREATION FACILITY, OUTDOOR — Includes commercially operated recreation facilities where activities are primarily conducted outside of a building or structure; examples are outdoor driving ranges, parks and beaches, and miniature golf courses. This term expressly excludes racetracks and outdoor theaters.

RELIGIOUS USE — A land use activity devoted to public worship and related religious purposes, including but not limited to churches, synagogues, mosques, parish houses, convents and monasteries. The term does not include day-care facilities, housing for the poor or indigent, group homes or treatment centers.

RESEARCH LABORATORY — A room, structure or workplace for the purpose of conducting scientific research or experimentation, or a place for the practice, observation or testing of substances, materials or goods. [Amended 8-3-2009 by L.L. No. 3-2009]

RESTAURANT — Any building designed, intended as or used in whole or part for the retail sale of prepared food and/or beverages for on-premises consumption. The term shall not include restaurants with drive-in facilities or temporary eating facilities such as are associated with field days or charitable institutions or activities.

RETAIL BUSINESS — A commercial activity characterized by the direct on-premises sale of goods and services within a building to the ultimate consumer, generally involving stock-in-trade such as are normally associated with department stores, food markets, shops and similar establishments. This term shall also include personal service shops such as barbershops, beauty salons and dry cleaning or laundry services of less than 4,000 square feet gross floor area. This

term will not include restaurants, banks, highway vehicle service stations or other vehicular services, outdoor retail sales or offices.

ROOF-MOUNTED WIND ENERGY CONVERSION SYSTEM — A relatively small wind energy conversion system which generates original power on site for on-site use by the property owner or homeowner, mounted on the principal building's roof. [Added 6-2-2008 by L.L. No. 10-2008]

SATELLITE DISH ANTENNA — Any parabolic dish, antenna or other device or equipment of whatever nature or kind, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites. Such an antenna shall be considered a "structure" within the meaning of this chapter.

SCHOOL — An institution of learning, whether public or private, administered under the supervision of the New York State Department of Education, for the primary and/or secondary education of children.

SEMITRAILER — Any vehicle not propelled by its own power designed to be drawn on the public highways by a motor-driven vehicle so that when operated the forward end of its body or chassis rests upon the body or chassis of the towing vehicle.

SEQRA — The New York State Environmental Quality Review Act, as codified in Article 8 of the New York State Environmental Conservation Law and its implementing regulations in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 617 et seq. (6 NYCRR 617). [Added 6-2-2008 by L.L. No. 10-2008]

SHADOW FLICKER — Alternating changes in light intensity caused by the moving blade casting shadows on the ground and stationary objects, such as a window at a dwelling. More particularly, it is the rotor blades of the wind turbines chopping the sunlight, causing a flickering (blinking) effect while the rotor is in motion. [Added 6-2-2008 by L.L. No. 10-2008]

SIGN — Any material, structure, device or other representation, including any part thereof, which is comprised of lettered or pictorial material or upon which lettered or pictorial matter is placed and which is used to advertise or promote the interests of any person or business.

SIGN, IDENTIFICATION — A sign which directs attention to a business, industry or profession conducted upon the property.

SIGN, OFF-PREMISES — A sign which directs attention to a business, commodity, service, industry or other activity which is sold, offered or conducted elsewhere than on the premises upon which such sign is located, and which is sold, offered or conducted on such premises only incidentally, if at all. [Added 12-6-2010 by L.L. No. 9-2010]

SIGN, PROFESSIONAL OR ANNOUNCEMENT — A sign which directs attention to a home occupation, a home professional office or public or semipublic building.

SIGN, REAL ESTATE OR CONSTRUCTION — A sign advertising land or improvements thereto, or describing construction activity or a firm doing work related to construction, on the premises on which the sign is located.

SIGN, TEMPORARY — One which directs attention to a special activity or entertainment.

SITE — The parcel(s) of land where a wind energy facility is to be placed. The site can be publicly or privately owned. [Added 6-2-2008 by L.L. No. 10-2008]

SOLID WASTE — Materials or substances discharged or rejected as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection. Such wastes shall include but are not limited to garbage, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal, abandoned vehicles, agricultural waste, industrial waste, commercial waste and construction and demolition debris. In no event shall "solid waste" be construed to mean, be, or include natural gas and/or petroleum extraction, exploration or production wastes (as that term is defined at § 245-43.1 of this chapter). [Amended 12-3-2012 by L.L. No. 8-2012]

SOLID WASTE MANAGEMENT FACILITY — Any facility employed beyond the initial solid waste collection process, including but not limited to transfer stations; baling facilities; rail-haul or barge-haul facilities; processing facilities, including resource-recovery equipment or other facilities to reduce or alter the volume or chemical or physical characteristics of solid waste; sanitary landfills; plants and facilities for composting, compacting or pyrolyzing solid wastes; incinerators; land spreading facilities; and storage areas associated with any of the foregoing. In no event shall "solid waste management facility" be construed to mean, be, or include "land application facility," "natural gas and/or petroleum extraction, exploration or production wastes disposal/storage facility," or "natural gas and/or petroleum extraction, exploration or production wastes dump" (as those terms are respectively defined at § 245-43.1 of this chapter), or any other explicitly prohibited use. [Amended 12-3-2012 by L.L. No. 8-2012]

SOUND LEVEL — Also referred to as "noise level;" means the statistical sound pressure level expressed as the sound pressure level that is exceeded for a given proportion of the time over which sound is measured. L(10) shall mean the standard abbreviation for the sound pressure level that is exceeded for 10% of the time over which the sound is measured. L(90) shall mean the standard abbreviation for the sound pressure level that is exceeded for 90% of the time over which the sound is measured. Unless indicated otherwise, frequency weighting according to the A-weighting scale is understood to be applicable. [Added 6-2-2008 by L.L. No. 10-2008]

SOUND PRESSURE LEVEL — The quantity in decibels measured by a sound level meter satisfying the requirements of the American National Standards Specification of Sound Level Meters, S1.4-1971 according to a frequency-weighted decibel scale. "Decibels" shall mean 20 times the logarithm to the base 10 of the ratio of the root mean squared pressure of a sound to a reference pressure of 20 micropascals. dB shall mean the standard abbreviation for decibels. Frequency-weighting of the sound pressure level is obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B or C; unless indicated otherwise, the A-weighting is understood to be applicable. "dBA" shall mean the standard abbreviation for the A-weighted sound pressure level in decibels. [Added 6-2-2008 by L.L. No. 10-2008]

SPECIAL PERMIT USE — A use which because of its unique characteristics requires individual consideration through a procedure of review by the Zoning Board of Appeals, in order to determine whether a use should be allowed, conditionally allowed, or denied. [Added 12-3-2012 by L.L. No. 8-2012]

STABLE, PRIVATE — Building(s) and land on which one or more horses, mules or burros belonging to the owner of the building and land or his (her) immediate family or the

resident/tenant of the building or his (her) immediate family are kept; access to the private stable is limited to the owner of the animals, his (her) immediate family and nonpaying guests.

STABLE, PUBLIC — A commercial operation consisting of building(s) and land within which one or more horses, mules or burros are kept for sale, rent, riding or boarding purposes.

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

STORY, HALF — A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than half the floor-to-ceiling height.

STREET — A public or private way which affords principal means of access to abutting properties.

STRUCTURAL ALTERATIONS — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE — An assembly of materials forming a construction framed of component structural parts for occupancy or use, including buildings, the use of which requires temporary or permanent location on or support of the soil or which is attached to anything on the soil, but shall not include private driveways or roads.

TOWER — A structure designed to support antennas. It includes, without limitation, freestanding towers, guyed towers, lattice towers and monopoles. [Added 3-17-1997 by L.L. No. 3-1997]

TOWER HEIGHT — The height measured from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point. [Added 6-2-2008 by L.L. No. 10-2008]

TOWN — The Town of Onondaga. [Added 8-21-2000 by L.L. No. 7-2000]

TOWNHOUSE — A building, other than a condominium, containing dwelling units which are individually owned, each owner having a title enabling him (her) to sell, mortgage or exchange his (her) unit independently of the owners of the other units in the building, which have a common or party wall without openings separating the units, and which each have primary ground floor access to the outside.

TRACTOR — A motor-driven vehicle designed and used as the power unit in combination with or for towing a semitrailer.

TRAILER — See "mobile home."

TRUCK TERMINAL — Land and buildings used as a relay station for the transfer of a load from one vehicle to another or from one party to another. A terminal cannot be used for permanent or long-term accessory storage. The terminal may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

USE — The purpose for which a building, structure or premises, or any part thereof, is occupied or, if unoccupied, the purpose for which it may be occupied.

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

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

VERTICAL AXIS ROOF-MOUNTED WIND CONVERSION SYSTEM — A roof-mounted wind conversion system which has its blades revolving around a vertical axis parallel to the ground. More particularly, the main rotor shaft is arranged vertically and spins vertically, similar to an egg beater. [Added 8-3-2009 by L.L. No. 3-2009]

VOCATIONAL SCHOOL — A school, especially on a secondary level, that offers instruction and practical introductory experience or job-specific skills to one or more trades or careers. Also referred to as a "trade school" or "career college." [Amended 8-3-2009 by L.L. No. 3-2009]

WAREHOUSE — A building used primarily for the storage of goods and materials.

WAREHOUSING AND DISTRIBUTION — A structure or structures used for the storage and distribution of wares, goods and merchandise; or the act of conducting an enterprise for such purposes. [Amended 8-3-2009 by L.L. No. 3-2009]

WIND ENERGY CONVERSION SYSTEM — A machine that converts the kinetic energy in the wind in a usable form (commonly known as a "wind turbine" or "windmill"). The wind energy conversion system or "WECS" includes all parts of the system. [Added 6-2-2008 by L.L. No. 10-2008]

WIND MEASUREMENT TOWER — A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. [Added 6-2-2008 by L.L. No. 10-2008]

YARD — An open unoccupied space on the same lot or parcel of land with a building or structure.

YARD, DEPTH OF — The shortest horizontal distance from the lot line, or its vertical projection, to that part of the main building that is nearest thereto, excepting eaves less than two feet in width.

YARD, FRONT — An unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front street right-of-way line of the lot and the front line of the building projected to the side lines of the lot.

YARD, REAR — An open space on the same lot with the main building unoccupied except as hereinafter otherwise permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side line of the lot.

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

§ 285-5. Establishment of districts.

- A. For the purpose of promoting the public health, safety, morals and general welfare of the community, all land in the Town of Onondaga is hereby placed, or authorized to be placed, in the following types of districts: [Amended 7-7-2008 by L.L. No. 11-2008; 5-2-2011 by L.L. No. 2-2011; 4-3-2017 by L.L. No. 2-2017]

Residential and Country District R-C
One-Family Residential District R-1
One-Family Residential District R-2
One-Family Residential District R-3
Onondaga Hill Business District OHB
Neighborhood Shopping District NS
Neighborhood Shopping District NS-N (Nedrow)
Institutional District I
Commercial District CD
Professional and Commercial Office District PCO
Light Industrial District LI
Planned Residential Community District P-RC
Planned Residential District P-R
Planned Mobile Home District P-MH
Planned Economic District P-E
Wind Energy Conversion System Overlay Zone

- B. Said districts are and shall be bounded and defined on a map or series of maps entitled "Zoning Maps of the Town of Onondaga." Said map or maps are hereby made a part of this chapter.³

§ 285-6. Interpretation of district boundaries.

When uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Maps, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot line, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center line of streets or highways, or street lines or highway right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- E. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the center line of the stream, lake or other body of water, unless otherwise indicated.

3. Editor's Note: The current Zoning Map and all amendments thereto are on file in the office of the Town Clerk, See also § 285-46 herein.

§ 285-7. Application of regulations; any use not specifically permitted is prohibited. [Amended 12-3-2012 by L.L. No. 8-2012]

Except as otherwise hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations specified for the district in which it is located.
- B. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
- C. Any use not specifically set forth as a permitted use in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.

§ 285-8. Residential and Country District, R-C.

The following regulations shall apply in R-C Districts:

- A. Permitted uses.
 - (1) One-family dwellings.
 - (2) Farms; provided, however, that no manure or odor or dust-producing substances shall be stored within 200 feet of any lot line. Farm crops shall not be considered odor- or dust-producing substances.
 - (3) Residential nurseries or greenhouses; provided, however, that no retail sales or other business shall be conducted and that no storage of manure or of odor- or dust-producing substances and no heating plant shall be permitted within 200 feet of any lot line.
 - (4) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures no use shall be conducted for profit or any commercial purpose.
 - (5) Family day care.
- B. Permitted accessory uses.
 - (1) Accessory buildings and uses.
 - (2) Off-street parking and loading space. (See § 285-33.)
 - (3) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded or installed so as to prevent said lights from shining directly upon any adjacent

property. [Amended 5-7-2001 by L.L. No. 6-2001]

(4) Signs. (See § 285-34.)

C. Special permit uses, as provided in § 285-39.

(1) Religious uses.

(2) Cemeteries.

(3) Private or public membership clubs, including but not limited to golf or country clubs, tennis clubs and swimming clubs. Athletic clubs are not allowed.

(4) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto.⁴ [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]

(5) Public stables, on not less than 20 acres of land, provided that no building housing animals shall be within 200 feet of any lot line and that no manure or within 200 feet of any lot line and that no manure or dust- or odor-producing substances shall be stored within 200 feet of any lot line. The total number of horses, mules and/or burros shall not exceed one per acre of contiguous usable grazing land.

(6) Private stables, on not less than five acres of land, provided that no building housing animals shall be within 200 feet of any lot line and that no manure or dust- or odor-producing substances shall be stored within 200 feet of any lot line. The total number of horses, mules and/or burros per acre of contiguous usable grazing land shall not exceed the following:

Number of Acres Number of Horses, Mules or Burros

5	2
6 to 20	1 for every 2 acres
Over 20	1 per acre

(7) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]

(8) Day-care facilities.

(9) Public or private elementary or secondary schools.

(10) Public or private institutions of higher education.

4. Editor's Note: Former Subsection C(5), Home occupations, was repealed 9-18-2000 by L.L. No. 9-2000. See now § 285-24.

- (11) Public libraries.
- (12) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (13) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (14) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (15) Nursery. [Added 6-18-2011 by L.L. No. 3-2011]

D. Lot and building requirements.

- (1) Minimum lot area.
 - (a) Lots with both public water supply and public sanitary sewer: 20,000 square feet.
 - (b) All other lots: two acres.
 - (c) See also § 285-31.
- (2) Minimum lot width (measured at the minimum front yard setback line).
 - (a) Lots with both public water supply and public sanitary sewer: 100 feet.
 - (b) All other lots: 200 feet.
 - (c) See also § 285-31.
- (3) Maximum building height: 35 feet, but not more than 2 1/2 stories, except as provided in § 285-30.
- (4) Minimum yard.
 - (a) Front and rear: 50 feet.
 - (b) Each side: 20 feet.
 - (c) See also §§ 285-25, 285-29 and 285-31.
- (5) Maximum lot coverage: 25%.
- (6) Minimum lot frontage.
 - (a) Lots with both public water supply and public sanitary sewer: 60 feet.
 - (b) All other lots, except culs-de-sac: 120 feet.
 - (c) Cul-de-sac: 60 feet.
 - (d) See also § 285-31.

- (e) Exemption. For lots legally existing at the time of approval of this chapter, there shall be no minimum lot frontage requirement.
- (7) Exceptions; application. For lots which meet any of the conditions in Subsection D(7)(a) below, the lot requirements will be those listed in Subsection D(7)(b) and D(7)(c) below.
 - (a) Conditions.
 - [1] Lots contained in a preliminary subdivision plat approved by the Town of Onondaga Planning Board before December 28, 1989;
 - [2] Lots in a subdivision filed with the County Clerk before December 28, 1989; or
 - [3] Legally existing lots as of December 28, 1989.
 - (b) Minimum lot area.
 - [1] Lots with a public water supply: 20,000 square feet.
 - [2] All other lots: one acre.
 - (c) Minimum lot width, all lots: 100 feet.

§ 285-9. One-Family Residential District, R-1.

The following regulations shall apply in R-1 Districts:

A. Permitted uses.

- (1) One-family dwellings.
- (2) Farms; provided, however, that no manure or dust- or odor-producing substances shall be stored within 200 feet of any lot line. Farm crops shall not be considered odor- or dust-producing substances.
- (3) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures no use shall be conducted for profit or any commercial purpose.
- (4) Family day care.

B. Permitted accessory uses.

- (1) Accessory buildings or uses.
- (2) Off-street parking and loading space. (See § 285-33.)
- (3) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded

or installed so as to prevent said lights from shining directly upon any adjacent property. [Amended 5-7-2001 by L.L. No. 6-2001]

(4) Signs. (See § 285-34.)

C. Special permit uses, as provided in § 285-39.

(1) Religious uses.

(2) Cemeteries.

(3) Private or public clubs, including but not limited to golf or country clubs, tennis clubs and swimming clubs. Athletic clubs are not allowed.

(4) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto.⁵ [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]

(5) Private stables, on not less than five acres of land, provided that no building housing animals shall be within 200 feet of any lot line and that no manure or dust- or odor-producing substances shall be stored within 200 feet of any lot line. The total number of horses, mules and/or burros per acre of contiguous usable grazing land shall not exceed the following:

Number of Acres Number of Horses, Mules or Burros

5	2
6 to 20	1 for every 2 acres
Over 20	1 per acre

(6) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]

(7) Day-care facilities.

(8) Public or private elementary or secondary schools.

(9) Public or private institutions of higher education.

(10) Public libraries.

(11) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]

(12) Facilities, other than towers, necessary for the provision of telephone service to the

5. Editor's Note: Former Subsection C(5), Home occupations, was repealed 9-18-2000 by L.L. No. 9-2000. See now § 285-24.

- local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (13) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]

D. Lot and building requirements.

- (1) Minimum lot area.
- (a) Lots with both public water supply and public sanitary sewer: 20,000 square feet.
 - (b) All other lots: two acres.
 - (c) See also § 285-31.
- (2) Minimum lot width (measured at the front yard setback line).
- (a) Lots with both public water supply and public sanitary sewer: 100 feet.
 - (b) All other lots: 200 feet.
 - (c) See also § 285-31.
- (3) Maximum building height: 35 feet, but no more than 2 1/2 stories, except as provided in § 285-30.
- (4) Minimum yard.
- (a) Front.
 - [1] Lots with public water and public sanitary sewer: 35 feet.
 - [2] All other lots: 50 feet.
 - (b) Each side: 20 feet.
 - (c) Rear: 50 feet.
 - (d) See also §§ 285-25, 285-27 and 285-31.
- (5) Maximum lot coverage: 25%.
- (6) Minimum lot frontage.
- (a) Lots with both public water supply and public sanitary sewer: 60 feet.
 - (b) All other lots except culs-de-sac: 120 feet.
 - (c) Cul-de-sac: 60 feet.
 - (d) See also § 285-31.
 - (e) Exemption. For lots legally existing at the time of approval of this chapter, there shall be no minimum lot frontage requirement.

- (7) Exceptions; application. For lots which meet any of the conditions in Subsection D(7)(a) below, the lot requirements will be those listed in Subsection D(7)(b) and D(7)(c) below.
- (a) Conditions.
 - [1] Lots contained in a preliminary subdivision plat approved by the Town of Onondaga Planning Board before December 28, 1989;
 - [2] Lots in a subdivision filed with the County Clerk before December 28, 1989; or
 - [3] Legally existing lots as of December 28, 1989.
 - (b) Minimum lot area.
 - [1] Lots with a public water supply: 20,000 square feet.
 - [2] All other lots: one acre.
 - (c) Minimum lot width, all lots: 100 feet.

§ 285-10. One-Family Residential District, R-2.

The following regulations shall apply in R-2 Districts:

- A. Permitted uses.
 - (1) One-family dwellings.
 - (2) Structures for housing domestic household pets, provided that the total gross floor area of all such structures shall not exceed 50 square feet, and provided that within such structures no use is conducted for profit or any commercial purpose.
 - (3) Family day care.
- B. Permitted accessory uses.
 - (1) Accessory buildings or uses.
 - (2) Off-street parking and loading space. (See § 285-33.)
 - (3) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded or installed so as to prevent said lights from shining directly upon any adjacent property. [Amended 5-7-2001 by L.L. No. 6-2001]
 - (4) Signs. (See § 285-34.)
- C. Special permit uses, as provided in § 285-39.
 - (1) Religious uses.

- (2) Cemeteries.
- (3) Private or public clubs, including but not limited to golf or country clubs, tennis clubs and swimming clubs. Athletic clubs are not allowed.
- (4) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto.⁶ [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]
- (5) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]
- (6) Day-care facilities.
- (7) Public or private elementary or secondary schools.
- (8) Public or private institutions of higher education.
- (9) Public libraries.
- (10) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (11) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (12) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]

D. Lot and building requirements.

- (1) Minimum lot area with public water supply and active public sewer: 12,000 square feet.
- (2) Minimum lot width.
 - (a) All lots: 80 feet.
 - (b) See also § 285-31.
- (3) Maximum building height: 35 feet or no more than 2 1/2 stories, except as provided in § 285-30.
- (4) Minimum yard.
 - (a) Front: 35 feet.
 - (b) Side (any one side): 10 feet.

⁶. Editor's Note: Former Subsection C(5), Home occupations, was repealed 9-18-2000 by L.L. No. 9-2000. See now § 285-24.

- (c) Total width of the two side yards: 25 feet.
 - (d) Rear: 50 feet.
 - (e) See also §§ 285-25, 285-29 and 285-31.
- (5) Maximum lot coverage: 25%.
- (6) Minimum lot frontage.
- (a) All lots: 60 feet.
 - (b) See also § 285-31.
 - (c) Exemption. For lots legally existing at the time of approval of this chapter, there shall be no minimum lot frontage requirement.

§ 285-11. One-Family Residential District, R-3.

The following regulations shall apply in R-3 Districts:

A. Permitted uses.

- (1) One-family dwellings.
- (2) Structures for housing domestic household pets, provided that the total floor area of all such structures shall not exceed 50 square feet, and provided that within such structures no use shall be conducted for profit or any commercial purpose.
- (3) Family day care.

B. Permitted accessory uses.

- (1) Accessory buildings or uses, provided that such are incidental to the principal use.
- (2) Off-street parking and loading space. (See § 285-33.)
- (3) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded or installed so as to prevent said lights from shining directly upon any adjacent property. [Amended 5-7-2001 by L.L. No. 6-2001]
- (4) Signs. (See § 285-34.).

C. Special permit uses, as provided in § 285-39.

- (1) Religious uses.
- (2) Cemeteries.
- (3) Private or public clubs, including but not limited to golf or country clubs, tennis clubs or and swimming clubs. Athletic clubs are not allowed.

- (4) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto.⁷ [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]
- (5) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]
- (6) Day-care facilities.
- (7) Public or private elementary or secondary schools.
- (8) Public or private institutions of higher education.
- (9) Public libraries.
- (10) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (11) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (12) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]

D. Lot and building requirements.

- (1) Minimum lot area with public water supply and active public sewer: 12,000 square feet.
- (2) Minimum lot width.
 - (a) All lots: 60 feet.
 - (b) See also § 285-31.
- (3) Maximum building height: 35 feet or no more than 2 1/2 stories, except as provided in § 285-30.
- (4) Minimum yard.
 - (a) Front: 30 feet.
 - (b) Side (any one side): 7.5 feet.
 - (c) Total width of the two side yards: 17.5 feet.
 - (d) Rear: 35 feet.

7. Editor's Note: Former Subsection C(5), Home occupations, was repealed 9-18-2000 by L.L. No. 9-2000. See now § 285-24.

(e) See also §§ 285-25, 285-29 and 285-31.

(5) Maximum lot coverage: 25%.

§ 285-11.1. Onondaga Hill Business District, OHB. [Added 4-3-2017 by L.L. No. 2-2017]

A. Permitted uses.

- (1) Single-family dwellings.
- (2) Family day care.

B. Permitted accessory uses.

- (1) Accessory buildings.
- (2) Off-street parking.
- (3) Signs, subject to § 285-34 of this chapter.

C. The following structures and uses may be permitted, subject to site plan review as provided in § 285-23 of this chapter:

- (1) Office buildings.
- (2) Banks and pharmacies without drive-through windows.
- (3) Religious uses.
- (4) Funeral homes.
- (5) Restaurants, without drive-through windows.
- (6) Medical service facilities.
- (7) Retail businesses, with any single business not to exceed 6,000 square feet of gross space. Drive-through windows or gas pumps are not permitted.
- (8) Libraries.
- (9) Day-care facilities.

D. The following structures and uses may be permitted, subject to the application for and issuance of a special permit, as provided in § 285—39 of this chapter.

- (1) Banks and pharmacies with drive-through windows.
- (2) Dwelling units, not to exceed seven units per acre and subject to site plan approval, as well.
- (3) Athletic clubs.
- (4) Facilities for the delivery of natural gas service other than containerized natural gas, to the local community, except storage of heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto.

- (5) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards.
 - (6) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards.
 - (7) Facilities, other than towers, for the provision of cable television service to the local community, except storage or heavy equipment yards.
 - (8) Convenience stores, with or without motor vehicle fuel service facilities, subject to the additional requirements and criteria set forth in § 285-26 of this chapter.
- E. Existing structures and uses may be continued, expanded or upgraded, provided that all of the following criteria are satisfied:
- (1) There is no change in the use of the structure.
 - (2) Alterations to a structure are consistent with the design of the original structure.
 - (3) No nonconforming use or structure is expanded except in accordance with § 285-27 of this chapter.
- F. Lot and building requirements.
- (1) Maximum building height: 35 feet, except as provided in § 285-30.
 - (2) Maximum building size: 6,000 square feet of gross floor area.
 - (3) Maximum lot coverage: 30%.
 - (4) Minimum front yard: 35 feet.
 - (5) Minimum rear yard: 35 feet.
 - (6) Minimum side yard: 20 feet.
 - (7) Minimum side yard at district boundaries: 50 feet.
 - (8) See also §§ 285-25, 285-28 and 285-31.

§ 285-12. Neighborhood Shopping District, NS.

NS Districts shall have a total area of not less than two acres and a frontage of not less than 400 feet. The following regulations shall apply in NS Districts:

- A. Permitted uses.
- (1) Banks without drive-in windows.
 - (2) Restaurants serving customers only within doors.
 - (3) Retail businesses.
 - (4) Offices.
 - (5) Religious uses.

- (6) Public and private elementary or secondary schools.
- (7) Public libraries.
- (8) Home occupations.
- (9) Funeral homes.

B. Permitted accessory uses.

- (1) Off-street parking and off-street loading space, pursuant to § 285-33.
- (2) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded or installed so as to prevent said lights from shining directly upon any adjacent property. [Amended 5-7-2001 by L.L. No. 6-2001]
- (3) Signs, pursuant to § 285-34.

C. Special permit uses, as provided in § 285-39.

- (1) Indoor recreation facilities.
- (2) Highway vehicle service stations. (See § 285-26.)
- (3) One-family dwellings, in accordance with the dimensional regulations of the R-2 District. (See § 285-10.)
- (4) Vocational schools.
- (5) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]
- (6) Banks with drive-in windows.
- (7) Parking facilities.
- (8) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto. [Added 3-17-1997 by L.L. No. 3-1997; amended 12-3-2012 by L.L. No. 8-2012]
- (9) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]
- (10) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]
- (11) Facilities, other than towers, necessary for the provision of cable television service to

the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]

(12) Restaurants with drive-in windows. [Added 8-3-2009 by L.L. No. 3-2009]

D. Lot and building requirements.

- (1) Maximum building height: 35 feet, except as provided in § 285-30.
- (2) Maximum lot coverage: 30%.
- (3) Minimum front yard: 70 feet.
- (4) Minimum rear yard: 50 feet.
- (5) Minimum side yards along district boundaries: 50 feet each.
- (6) See also §§ 285-25, 285-28, 285-29 and 285-31.

§ 285-13. Neighborhood Shopping — Nedrow District, NS-N.

NS-N Districts shall have a total area of not less than two acres and a frontage of not less than 400 feet. The following regulations shall apply in NS-N Districts:

A. Permitted uses.

- (1) Banks without drive-in windows.
- (2) Restaurants serving customers only within doors.
- (3) Retail businesses.
- (4) Offices.
- (5) Religious uses.
- (6) Public and private elementary or secondary schools.
- (7) Public libraries.
- (8) Home occupations.
- (9) Funeral homes.

B. Permitted accessory uses.

- (1) Off-street parking and off-street loading space, pursuant to § 285-33.
- (2) Private swimming pool, provided that such pool is located in the rear yard and that no related pool wall, walk or equipment shall be located any closer to the rear lot line than a distance equal to 10% of the required or actual lot width (whichever is greater) nor any closer to the side lot line than the main building side yard width, and provided further that lights used to illuminate the pool or pool area shall be shielded or installed so as to prevent said lights from shining directly upon any adjacent property. [Amended 5-7-2001 by L.L. No. 6-2001]

(3) Signs, pursuant to § 285-34.

C. Special permit uses, as provided in § 285-39.

(1) Indoor recreation facilities.

(2) Highway vehicle service stations. (See § 285-26.)

(3) One-family dwellings, in accordance with the dimensional regulations of the R-3 District. (See § 285-11.)

(4) Vocational schools.

(5) Private residential noncommercial towers, including but not limited to radio transmitting and radio receiving towers, television towers and wind turbines. [See § 285-39C(1)(m).]

(6) Banks with drive-in windows.

(7) Parking facilities.

(8) Restaurants with drive-in windows.

(9) Athletic clubs.

(10) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto. [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]

(11) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]

(12) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]

(13) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Amended 3-17-1997 by L.L. No. 3-1997]

D. Lot and building requirements.

(1) Maximum building height: 35 feet, except as provided in § 285-30.

(2) Maximum lot coverage: 30%.

(3) Minimum front yard: 35 feet.

(4) Minimum rear yard: 35 feet.

(5) Minimum side yards along district boundaries: 50 feet each.

(6) See also §§ 285-25, 285-28, 285-29 and 285-31.⁸

§ 285-13.1. Institutional District, I. [Added 4-3-2017 by L.L. No. 2-2017]

A. Permitted uses.

- (1) Post-secondary educational institutions and other facilities of higher learning.
- (2) Teaching facilities, research facilities and technology transfer facilities.
- (3) Administrative offices.
- (4) Libraries.
- (5) Dormitories and apartments for on-campus living, provided that such facilities are owned, operated and maintained by the institution or an affiliated entity of said institution with which the residents are associated.
- (6) Bookstores.
- (7) Student unions.
- (8) Recreation facilities for participatory and spectator recreation, both indoor and outdoor, that are part of the institution or an affiliated entity, and are subject to the rules and regulations of the institution or the affiliated entity.
- (9) Cafeteria and food services.

B. Permitted accessory uses.

- (1) Accessory buildings.
- (2) Maintenance buildings.
- (3) Utility structures.
- (4) Off-street parking.
- (5) Signs, subject to § 285-34.

C. Special permit uses, as provided in § 285-39 of this chapter.

- (1) Day-care facilities.
- (2) Retail businesses.

D. Lot and building requirements.

- (1) Maximum building height: 35 feet, except as provided in § 285-30.
- (2) Maximum lot coverage: 25%.
- (3) Minimum front yard: 70 feet.

⁸. Editor's Note: Former § 35-14, General Business District, GB, as amended, which immediately followed this section, was repealed 8-3-2009 by L.L. No. 3-2009.

- (4) Minimum rear yard: 100 feet.
- (5) Minimum side yard: 50 feet.
- (6) Minimum side yards at district boundaries: 100 feet.
- (7) Minimum side yard for each building: 20 feet.
- (8) See also, §§ 285-25, 285-28 and 285-31 of this chapter.

§ 285-14. Commercial District, CD. [Amended 8-21-1995 by L.L. No. 3-1995]

CD Districts shall have a total land area of not less than 10 acres. The following regulations shall apply in CD Districts:

A. Permitted uses:

- (1) Offices.
- (2) Banks.
- (3) Public and private elementary or secondary schools.
- (4) Restaurants, without drive-in windows.
- (5) Motels or hotels.
- (6) Commercial nurseries or greenhouses.
- (7) Highway vehicle salesrooms and accessory service garages and sales lots.
- (8) Boat salesrooms and accessory service garages and sales lots.
- (9) Indoor recreation facilities.
- (10) Funeral homes.
- (11) Building supply.
- (12) Radio or television studios without transmitting or receiving antennas or towers.
- (13) Medical service facilities.
- (14) Religious uses.
- (15) Outdoor recreation facilities.
- (16) Nursing homes.
- (17) Adult homes.
- (18) Animal hospitals and kennels, provided that any structure or area used for such purpose, including pens and exercise yards, shall be located at least 200 feet from any residential district.
- (19) Retail businesses.

- (20) Studios or galleries.
- (21) Adult uses, provided that such adult use complies with all of the following restrictions: [Added 8-21-2000 by L.L. No. 7-2000⁹]
- (a) All adult uses shall comply with the applicable provisions of the Zoning Law, including without limitation those relating to structures and uses permitted in a Commercial District (CD) and shall also comply with all other applicable law.
 - (b) No person shall construct, establish, operate or maintain or be issued a certificate of occupancy for any adult use within the Town unless such use meets the following standards:
 - [1] No more than one adult use shall be allowed or permitted on any one lot.
 - [2] No adult use shall be allowed or permitted on a lot that is within 1,000 feet of:
 - [a] A lot on which there is another adult use.
 - [b] Any Residential Zoning District (R-C, R-1, R-2 or R-3).
 - [c] Any property that is utilized, in whole or in part, for residential purposes, including without limitation, structures devoted to both residential and commercial or business uses.
 - [d] Any church or other regular place of worship, community center, library, private or public school, nursery school, day-care use, mobile home, public park, public playground, public recreational area or hotels or motels.
 - [3] Where there is a conflict between the regulations as provided in this § 285-14A(21) and any other applicable law, rule or regulation, the most restrictive law, rule or regulation shall apply.
 - [4] All distances set forth herein shall be measured by following a straight line without regard to intervening structures or improvements from the nearest point of the lot line of the parcel on which the adult use is to be located to the nearest point of the lot line of the parcel of land from which the adult use is to be separated.
 - (c) No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening.

B. Permitted accessory uses:

- (1) Accessory buildings or uses, provided that such use is incidental to the principal use.

9. Editor's Note: This local law also repealed former Subsection A(21), regarding adult entertainment uses.

- (2) Off-street parking or loading space. (See § 285-33.)
 - (3) Signs. (See § 285-34.)
- C. Special permit uses, as provided in § 285-39:
- (1) Parking facilities.
 - (2) Highway vehicle service stations. (See § 35-26.)
 - (3) Dry cleaners or laundries of more than 4,000 square feet.
 - (4) Restaurants, with drive-in windows.
 - (5) Car washes.
 - (6) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto. [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]
 - (7) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
 - (8) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
 - (9) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- D. Lot and building requirements:
- (1) Maximum building height: 35 feet, except as provided in § 285-30.
 - (2) Maximum lot coverage: 30%.
 - (3) Minimum front yard: 70 feet.
 - (4) Minimum rear yard: 50 feet.
 - (5) Minimum side yards along district boundaries: 50 feet each.
 - (6) See also §§ 285-25, 285-28, 285-29 and 285-31.

§ 285-15. Professional and Commercial Office District, PCO.

PCO Districts shall have a minimum land area of 10 acres. The following regulations shall apply in PCO Districts.

- A. Permitted uses.
- (1) Office buildings, together with the following accessory uses:

- (a) Parking facilities intended to serve one or more principal or accessory uses located in the same zoning district.
 - (b) Restaurants when located in an office building shall not exceed 10% of the total gross building floor area, exclusive of parking garages, nor 25% of the first floor area, whichever is greater.
- (2) Banks without drive-in windows.
- (3) Religious uses.
- (4) Public or private institutions of higher education.
- B. Permitted accessory uses.
 - (1) Off-street parking. (See § 285-33.)
 - (2) Signs. (See § 285-34.)
- C. Special permit uses, as provided in § 285-39.
 - (1) Banks with drive-in windows.
 - (2) Restaurants which provide food only for indoor consumption.
 - (3) Dwelling units not to exceed seven units per acre and subject to site plan approval as set forth in § 285-21C, D and E.
 - (4) Athletic clubs.
 - (5) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities related thereto. [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]
 - (6) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
 - (7) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
 - (8) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
 - (9) Funeral homes. [Added 9-10-2012 by L.L. No. 6-2012]
- D. Yard requirements. All buildings or structures hereafter erected or structurally altered shall provide the following minimum required yard space:
 - (1) Minimum front yard: 70 feet.
 - (2) Minimum side yard for each building: 20 feet.

- (3) Minimum rear yard: 100 feet.
 - (4) Maximum height: the greater of six stories or 75 feet. (See § 285-30.)
 - (5) Minimum side yard at boundaries: 50 feet each.
 - (6) Lot coverage: 25%.
 - (7) See also § 285-25, 285-28, 285-29 and 285-31.
- E. Floor area ratio for office buildings. The total gross floor area of all principal office and accessory buildings and structures, excluding parking structures hereafter erected or structurally altered in a PCO District, shall not exceed 200% of the total land area that is occupied. In order to promote more open space, the allowable floor area ratio may be increased by 1% for each foot of each yard beyond the minimum required dimension, provided that the total increase so accrued shall not exceed 50%. Gross floor area is the sum of the areas of each floor.

§ 285-16. Light Industrial District, LI.

The following regulations shall apply in LI Districts:

A. Permitted uses.

- (1) Business uses.
 - (a) Banks with or without drive-in window.
 - (b) Offices.
 - (c) Radio or television stations or studios without transmitting or receiving antennas or towers.
 - (d) Vocational schools.
 - (e) Equipment storage.
 - (f) Building supply.
 - (g) Adult uses, provided that such use complies with all of the following restrictions: [Added 8-21-2000 by L.L. No. 7-2000]
 - [1] All adult uses shall comply with the applicable provisions of the Zoning Law, including without limitation those relating to structures and uses permitted in a Light Industrial District (LI) and shall also comply with all other applicable law.
 - [2] No person shall construct, establish, operate or maintain or be issued a certificate of occupancy for any adult use within the Town unless such use meets the following standards:
 - [a] No more than one adult use shall be allowed or permitted on any one lot.

- [b] No adult use shall be allowed or permitted on a lot that is within 1,000 feet of:
 - [i] A lot on which there is another adult use.
 - [ii] Any Residential Zoning District (R-C, R-1, R-2 or R-3).
 - [iii] Any property that is utilized, in whole or in part, for residential purposes, including without limitation, structures devoted to both residential and commercial or business uses.
 - [iv] Any church or other regular place of worship, community center, library, private or public school, nursery school, day-care use, mobile home, public park, public playground, public recreational area or hotels or motels.
- [c] Where there is a conflict between the regulations as provided in this § 285-16A(1)(g) and any other applicable law, rule or regulation, the most restrictive law, rule or regulation shall apply.
- [d] All distances set forth herein shall be measured by following a straight line without regard to intervening structure or improvements from the nearest point of the lot line of the parcel on which the adult use is to be located to the nearest point of the lot line of the parcel of land from which the adult use is to be separated.
- [3] No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening.
 - (h) Nursery. [Added 6-18-2011 by L.L. No. 3-2011]
 - (i) Public or private institutions of higher education. [Added 12-3-2012 by L.L. No. 9-2012]
- (2) Industrial uses.
 - (a) Light industry.
 - (b) Research laboratory.
 - (c) Warehousing and distribution.
 - (d) Highway vehicle repair shops.
- (3) Parking facilities.
- (4) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community, except storage or heavy equipment yards. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same

from the earth or activities related thereto. [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]

- (5) Facilities necessary for the provision of electrical service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (6) Facilities, other than towers, necessary for the provision of telephone service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]
- (7) Facilities, other than towers, necessary for the provision of cable television service to the local community, except storage or heavy equipment yards. [Added 3-17-1997 by L.L. No. 3-1997]

B. Permitted accessory uses.

- (1) Off-street parking. (See § 285-33.)
- (2) Signs. (See § 285-34.)

C. Special permit uses.

- (1) Methane gas recovery and energy generation at closed sanitary landfills, as provided in § 285-44.

D. Building and yard requirements.

- (1) Maximum building height: two stories, but not more than 35 feet, except as provided in § 285-30.
- (2) Maximum lot coverage: 40%.
- (3) Minimum side yard: 10 feet.
- (4) Minimum front yard: 35 feet.
- (5) Minimum rear yard: 50 feet.
- (6) See also §§ 285-25, 285-28, 285-29 and 285-31.
- (7) Minimum side yard along zoning district boundaries: 50 feet each.¹⁰ [Added 8-3-2009 by L.L. No. 3-2009]

§ 285-17. Planned Residential District, P-R.

The P-R Districts shall be established in accordance with the provisions set forth in § 285-21 and shall be subject to the following:

- A. A P-R District shall be allowed only in an area zoned residential (R-C, R-1, R-2 or R-3) and shall have a minimum land area of five acres.
- B. Permitted uses.

¹⁰ Editor's Note: Former § 35-18, General Industrial District, GI, as amended, which immediately followed this section, was repealed 8-3-2009 by L.L. No. 3-2009.

- (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Multiple dwellings.
 - (4) Townhouses.
 - (5) Accessory buildings and uses.
- C. Density: not to exceed seven units per acre.
- D. Maximum building coverage of the total district land area: 12%.

§ 285-18. Planned Residential Community District, P-RC.

The P-RC Districts shall be established in accordance with the provisions set forth in § 285-21 and shall be subject to the following:

- A. A P-RC District shall be allowed only in an area zoned residential (R-C, R-1, R-2 or R-3) and shall have a minimum land area of 10 acres.
- B. A P-RC District must be predominantly residential in character. Uses of a nonresidential nature must be incidental to the basic residential character of the district.
- C. Permitted uses.
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Multiple dwellings.
 - (4) Townhouses.
 - (5) Offices, businesses and commercial establishments compatible with and supportive of and not detrimental to the dominant use.
 - (6) Accessory buildings and uses.
- D. Density of the residential portion of the district: not to exceed: seven units per acre.
- E. Maximum building coverage of the total district land area: 12%.

§ 285-19. Planned Mobile Home Development District, P-MH.

P-MH Districts shall be established in accordance with the provisions set forth in § 285-21, and shall be subject to the following:

- A. A P-MH District shall have a minimum land area of 25 acres, and shall not be allowed in residential zones R-1, R-2 and R-3.
- B. A P-MH District must be predominantly residential in character. Other uses of a nonresidential nature must be incidental to the basic residential character of the plan.
- C. Permitted uses.

- (1) One-family dwellings.
- (2) Mobile homes.
- (3) Offices, businesses and commercial establishments compatible with, supportive of and not detrimental to the dominant use.

D. Maximum density.

- (1) Single-width one-story units: six units per net acre.
- (2) For larger units: four units per net acre.

E. Accessory buildings and uses.

§ 285-20. Planned Economic District, P-E.

P-E Districts shall be established in accordance with the provisions set forth in § 285-21 and shall be subject to the following:

A. A P-E District shall have a minimum land area of 25 acres and shall not be allowed in residential zones R-1, R-2 and R-3.

B. Permitted uses.

- (1) Offices.
- (2) Banks with or without drive-in windows. [Amended 8-3-2009 by L.L. No. 3-2009]
- (3) Restaurants with or without drive-in windows. [Amended 8-3-2009 by L.L. No. 3-2009]
- (4) Retail businesses.
- (5) Research laboratory.
- (6) Light industry.
- (7) Radio or television stations or studios and/or transmitting or receiving antennas.
- (8) Medical service facilities.
- (9) Nursing homes.
- (10) Adult homes.
- (11) Motels, hotels.
- (12) Commercial towers and facilities in accordance with § 285-35. [Amended 3-17-1997 by L.L. No. 3-1997]
- (13) Accessory buildings and uses.
- (14) Day-care facilities.
- (15) Facilities for the delivery of natural gas service, other than containerized natural gas, to the local community. Such facilities shall not include those designed for exploration for natural gas deposits, extraction of same from the earth or activities

- related thereto. [Amended 3-17-1997 by L.L. No. 3-1997; 12-3-2012 by L.L. No. 8-2012]
- (16) Facilities necessary for the provision of electrical service to the local community. [Added 3-17-1997 by L.L. No. 3-1997]
 - (17) Facilities, necessary for the provision of telephone service to the local community. [Added 3-17-1997 by L.L. No. 3-1997]
 - (18) Facilities, necessary for the provision of cable television service to the local community. [Added 3-17-1997 by L.L. No. 3-1997]

C. Building regulations.

- (1) Maximum building coverage of the lot: 30%. [Amended 8-3-2009 by L.L. No. 3-2009]

§ 285-21. General provisions: planned districts.

The Town Board shall establish P-R, P-RC, P-MH and P-E Districts in the following manner:

- A. The owner of the land in a proposed district shall apply to the Town Board for the establishment of a planned district. The application shall be in writing and shall include a preliminary development plan consisting of the following:
 - (1) A description of the proposed planned district and proof of the applicant's ownership of the land included in the district.
 - (2) A proposed site plan, showing proposed building locations, land use areas, contours and the intended character of use.
 - (3) Proposed traffic circulation and access plans, parking areas and pedestrian walks.
 - (4) Proposed landscape plan.
 - (5) Proposed construction sequence for buildings, landscaping and other uses.
 - (6) Proposed building elevations, materials and dimensions.
 - (7) Plans for sewer, water, drainage facilities.
 - (8) Such other information as may be required by the Town Board or Planning Board.
 - (9) The preliminary plan shall be accompanied by an explanatory text.
- B. The Town Board shall submit the plan to the Planning Board, which shall review the proposal. The Planning Board shall, after review, communicate its preliminary approval, approval subject to revision or disapproval to the applicant in writing. If the Planning Board approves, or approves subject to revision, the Planning Board shall authorize the applicant to submit to the Planning Board a development plan. The Planning Board may also permit the applicant to submit plans for any subdivision of property necessary to carry out the proposed planned development. Subdivision review can occur concurrently with the review of the development plan, although final approval of the subdivision will not occur until the Town Board has approved the zone change to the requested planned district.
- C. The development plan shall be prepared by an architect or engineer licensed by the State of

New York. It shall include the following:

- (1) A survey of the property to be included in the planned district, showing existing features of the property, including contours, buildings, trees over four inches in trunk diameter, streets, utility lines, easements, rights-of-way and existing land use.
- (2) A site plan, with final contours, showing proposed building locations and land uses.
- (3) Traffic circulation and access plan, showing parking areas and pedestrian walks. Parking areas shall conform to § 285-30 provisions, except that the Town Board may modify such provisions if modification will improve the proposed plan.
- (4) A landscaping plan. [Amended 4-15-2002 by L.L. No. 3-2002]
 - (a) Landscaping plan, including site grading, landscaping design, types of plantings and height. Said landscaping plan shall provide for a buffer zone on each property line not abutting a street, planted with at least a double row of conifer trees, at least four feet high on six-foot centers; provided, however, that the Town Board may require additional plantings and/or fencing. Plantings shall be properly bedded when planted, maintained and fertilized to assure long life and growth. All trees, fencing and plantings, together with green areas, shall thereafter be continually maintained by the record owner(s) of the premises. Dead plantings shall be replaced.
 - (b) If the property line planting requirements of Subsection C(4)(a) herein mandating a double line of conifer trees on each property line not abutting a street are inappropriate due to specific circumstances, the Planning Board may consider an alternative landscaping design in its review of the development plan. Such alternative landscaping design must provide a unity of design, afford sufficient buffering to neighboring properties and may incorporate existing vegetation where deemed appropriate and acceptable by the Planning Board. The Planning Board may revise the listed landscaping requirements when it determines that so doing will have no detrimental impact on surrounding properties, that such revision is in keeping with the purposes set forth herein and that the applicant has provided for appropriate property line buffer zones as intended by this law. Such approval shall not diminish the Town Board's discretion to require additional plantings and/or fencing, and shall not diminish the planting and maintenance obligations of the applicant as stated elsewhere in this law and not revised herein.
- (5) Drawings for proposed buildings, including floor plans, exterior elevations and sections.
- (6) Engineering plans of utilities, including street improvements, sewer and drainage systems and facilities. Adequate drainage facilities shall be installed, both during construction and after completion of same, sufficient to protect other areas from drainage due to stormwater and other surface water drainage, and said drainage shall be diverted to a suitable natural or artificial water source, and such facilities for same shall be continually maintained by the record owner(s) or dedicated to the Town of Onondaga, as the Town Board may direct.

- (7) Engineering facility studies and such other information as may be required by the Town Board.
 - (8) Construction sequence and time schedule for completion of buildings, landscaping and other uses.
- D. The Planning Board may approve the plan if it finds that:
- (1) The proposed uses will not be detrimental to present and potential uses in the area surrounding the proposed district.
 - (2) Existing and future highways are suitable and adequate to carry anticipated traffic associated with the proposed district.
 - (3) Existing and future utilities are or will be adequate for the proposed development.
 - (4) The development plan complies with the requirements of this chapter.
- E. Reservation of parkland.
- (1) Before the Planning Board may approve a plan containing residential units, such plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.
 - (2) Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular plan will contribute.
 - (3) In the event that the Planning Board makes a finding pursuant to Subsection E(2) of this section that the proposed plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such plan, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board. In making such determination of suitability, the Board shall assess the size and suitability of lands shown on the plan which could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any moneys required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.
- F. When the Planning Board has approved a development plan for a proposed district, the plan shall be filed in the office of the Town Clerk, and the Town Board may then proceed to consider amendment of the local law.
- G. When any planned district is not substantially developed in accordance with the development plan for a period of three years from the effective date of its establishment, the Town Board may amend this Zoning Local Law in the manner provided by the Town

Law so as to void the change in classification to a planned district and rezone the area of said planned district to the zoning classification that was in effect prior to the date of establishment of such planned district.

§ 285-22. Stormwater management. [Added 5-19-2008 by L.L. No. 7-2008]

A stormwater pollution prevention plan (SWPPP) consistent with the requirements of L.L. No. 6 of 2008, entitled "Stormwater Management," shall be required for all land development activities, as that term is defined in said L.L. No. 6 of 2008.¹¹ The SWPPP shall meet the performance and design criteria and standards in said L.L. No. 6 of 2008.

§ 285-23. Site plan review.

The following provisions are applicable to all districts and to all uses except one-family and two-family dwellings and uses accessory thereto:

- A. Recognizing that respect by man for his environment is essential to man's survival and well-being; that failure to provide for proper surface water drainage may interfere with the use and enjoyment of property by others; and that lack of consideration for the quantity and flow of motor vehicle traffic may result in unsafe and hazardous conditions, it is the policy of the Town of Onondaga to control pollution of the environment, surface water, drainage and traffic flow to the fullest extent possible, consistent with fundamental needs of the community.
- B. Before a building permit is issued, drawings shall be submitted to the Town Board relating to all proposed construction and land use. Such drawings shall include a professionally certified site plan with contours, traffic patterns, all elevations of buildings, proposed building materials, dimensions, sewer, water and drainage and landscape plans, and such related information as the Town Board may require. No building permit shall be issued until such plans have been approved by the Town Board or its authorized representative. In order to further the policy of the Town against strip development with unlimited access to existing highways, the Town Board may direct the applicant to provide drawings showing sufficient setback of proposed buildings from existing highways to allow for parallel roads and showing prospective rights-of-way for such roads.
- C. Before any building permit is issued, the proposed construction and use shall be reviewed by the Town Board or its authorized representative to determine the extent to which the proposed use will produce discharge of wastes into air, soil or water; the extent to which such proposed use will emit noise, light, radiation or any substance or factor detrimental to health, safety or the environment; and the extent to which the proposed use will affect surface water drainage and traffic flow. No building permit shall be issued until the Town Board or its designated agent shall have certified that:
 - (1) Discharge of wastes into soil, air or water is in conformity with state, county and Town laws, rules and regulations.
 - (2) Emission of noise, light, radiation or any other substance or factor is controlled and is

11. Editor's Note: See Ch. 249, Stormwater, Part 1, Stormwater Management.

within limits set by federal, state, county and Town laws, rules and regulations.

- (3) Adequate provisions have been made to control surface water drainage.
 - (4) Adequate provisions have been made to regulate the amount and direction and flow of motor vehicle traffic.
- D. Referral to Planning Board; conditions. [Amended 8-3-2009 by L.L. No. 3-2009]
- (1) The Town Board may, at its option, refer the site plan and related documents to the Town Planning Board, for its review and recommendation to the Town Board.
 - (2) The Town Board, as part of its determination and review, may attach such requirements and conditions as it deems proper to accomplish the purposes of this section. Such conditions may be limited in time or indefinite, as the Board may see fit.
- E. Construction and use shall be in accordance with plans finally approved by the Town Board. No certificate of occupancy shall be granted until such approved plans have been complied with. In addition to any other remedies, a certificate of occupancy may be revoked by the Town Board upon notice to the owner if the plans, conditions and limitations which are part of the certification are not complied with for a period of more than 10 days. Precedent to such revocation by the Board, the Town Board shall hold a hearing to determine the facts. Written notice of the hearing must be given no less than 10 days and no more than 30 days before the hearing date. Notice shall be complete when deposited in an official United States mail depository, addressed to the owner of record, with a copy addressed to the occupant at the location.
- F. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of L.L. No. 6 of 2008, entitled "Stormwater Management," of the Code of the Town of Onondaga shall be required for all site plan approvals for all land development activities, as that term is defined in said L.L. No. 6 of 2008.¹² The SWPPP shall meet the performance and design criteria and standards in said L.L. No. 6 of 2008. The approved site plan shall be consistent with the provisions of said L.L. No. 6 of 2008. [Added 5-19-2008 by L.L. No. 7-2008]

§ 285-24. Home occupations; restrictions. [Added 9-18-2000 by L.L. No. 9-2000]

The use of property in residential districts (R-C, R-1, R-2, R-3, P-RC, P-R and P-MH) for what for commonly termed "home occupations" is expressly prohibited, and home occupations shall not be considered accessory uses.

§ 285-25. Modified yard requirements.

- A. Accessory buildings and facilities. In any district wherein a rear yard is required, an accessory building or facility may be located in such rear yard no closer to the rear lot line than a distance equal to 10% of the lot width, but in no case less than five feet, and no closer to the side lot line than would be permitted for the main building side yard width. If

12. Editor's Note: See Ch. 249, Stormwater, Part 1, Stormwater Management.

the accessory building is connected to the principal building by a breezeway or other covered connecting building, the accessory building shall be considered part of the principal building.

- B. One-story structure in side yards. In any One-Family Residential District R-C, R-1, R-2 or R-3, a portion of a dwelling or principal structure may occupy and be constructed upon and within the area otherwise set apart and required to be used as a side yard, provided that such portion shall be no more than one story in height, and provided that there shall remain open and unoccupied 75% of the width otherwise set apart and required to be used as a side yard, and provided further that no part of a side yard, the width of which shall have been computed in accordance with § 285-27C(2) as less than otherwise required in the district in which it may be, shall be occupied by a portion of a dwelling or principal structure as permitted by this subsection.
- C. Corner lots. The minimum yard depth required on all sides of the main structure facing a street shall be equal to the front yard setback required within the district in which the particular corner lot is located.

§ 285-26. Special requirements for highway vehicle service stations and convenience stores with fuel service. [Amended 4-3-2017 by L.L. No. 2-2017]

- A. Special requirements for highway vehicle service stations and convenience stores with fuel service.
 - (1) The lot area shall be not less than 20,000 square feet and have a minimum frontage along the principal street of at least 150 feet.
 - (2) No proposed fuel storage or pumping facility shall be located within 500 feet of the property line of any parcel which is not served by public water.
 - (3) All fuel pumps shall be located at least 25 feet from any street line or 50 feet from any other lot line.
 - (4) Entrance or exit driveways shall be located at least 20 feet from any side or rear lot lines. Such driveways shall be laid out so as to avoid the necessity of any vehicle backing across any right-of-way.
 - (5) All fuel, oil, gasoline or similar substances shall be stored underground at least 35 feet from any lot line, and tanks shall be installed and maintained in accordance with all federal, state and local standards. Vents must be at least 25 feet from any lot line.
 - (6) No accessory buildings of any type or size are permitted at any time.
 - (7) All sign regulations of this chapter shall apply. (See § 285-34.)
 - (8) No building or accessory facility shall be closer than 50 feet to any boundary line of a residential district.
 - (9) Each site shall have a buffer zone on each lot line not abutting a street, planted with at least a double row of conifer trees, at least eight feet high, on six-foot centers. Plantings shall be properly bedded when planted and thereafter maintained and fertilized to assure long life and growth and replaced when dead.

B. Special requirements for convenience stores with fuel service located within the OHB District.

- (1) The main use must be related to the store and the sale of goods. The sale of fuel must be an ancillary convenience to customers.
- (2) The convenience store shall be limited to eight fuel dispensing points.
- (3) No sale of diesel fuel shall be allowed.
- (4) Hours of operation shall be limited to the hours of 6:00 a.m. until 11:00 p.m.
- (5) No vehicle repair work shall be allowed.
- (6) No car wash or vehicle cleaning shall be allowed.
- (7) All refuse shall be stored within opaque enclosed areas, located no closer than 50 feet from any residential property line.
- (8) No outside storage, product display or sale shall be allowed, except for such products that are required by law to be kept outside (for instance, propane tanks).
- (9) Lighting shall be dark sky compliant and all lighting shall be designed to limit the potential impacts of site lighting on neighboring lands and highways.
- (10) Sign regulations provided in § 285-34 of the Town Code for NS, NSN, Commercial and Planned Economic Districts shall apply.
- (11) Convenience store windows shall not be used for affixing additional signage that can be seen from outside the store.
- (12) Off-street parking requirements shall be determined in accordance with retail uses.
- (13) All requirements and criteria for convenience stores located in the OHB District shall be considered use restrictions.

§ 285-27. Nonconforming elements.

Any modification of a nonconforming element subsequent to the enactment of this chapter and any amendment thereto, including any addition, enlargement, alteration, structural alteration or change in use, shall only be made subject to the following provisions:

A. Nonconforming structures or buildings.

- (1) General maintenance and repair. Except as otherwise provided for in this section, nonconforming structures or buildings may continue to exist and be maintained and repaired.
- (2) Unsafe structures or buildings. Any structure or building or portion thereto declared unsafe by a proper official of the Town may be strengthened or restored to a safe condition.
- (3) Structural alterations. [Amended 8-5-2002 by L.L. No. 5-2002]

- (a) General. A nonconforming structure or building may not be structurally altered or renovated unless the owner thereof shall first apply to the Zoning Board of Appeals and receive a special permit authorizing such alteration or renovation. In granting such a permit, the Zoning Board of Appeals must find that such proposed alteration or renovation will not be detrimental to the neighborhood.
 - (b) Exceptions for certain alterations and renovations. If the projected construction cost of the alteration or renovation of a single- or two-family residential nonconforming structure does not exceed 25% of the assessed valuation of the structure as shown on the most current Town of Onondaga assessment roll and the proposed alteration or renovation does not encroach any closer to any property line that triggered such nonconformity than the existing building or structure, then the Codes Enforcement Officer may permit such alteration or renovation, provided that all other Code requirements are met and further that the proposed alteration or renovation is not considered by said Codes Enforcement Officer to be detrimental to the neighborhood. If there is any question or allegation as to any element of this exception, the application must be referred to the Zoning Board of Appeals.
- (4) Restoration. Nonconforming structures or buildings may be repaired or restored to their former condition after damage by casualty loss or deterioration due to the elements, except where damage involves more than 50% of the structure or building's market value as solely determined by the Code Enforcement Officer based upon input from the Town Assessors.

B. Nonconforming uses.

- (1) Continuance. Except as otherwise provided herein, nonconforming uses may continue to exist.
- (2) Extension. A nonconforming use may be expanded into any portion of a building that existed as of the time of enactment of this chapter; otherwise, a nonconforming use shall not be further expanded or extended.
- (3) Conversion. No nonconforming use, if changed to a conforming use, shall thereafter be changed back to a nonconforming use.
- (4) Restoration. The provisions of Subsection A(4) regarding repair and restoration of a damaged nonconforming structure or building shall apply to a conforming structure or building containing a nonconforming use.
- (5) Discontinuance. Whenever a nonconforming use of a building, structure or land has been discontinued for a period of one year, such use cannot be reestablished.

C. Nonconforming lots.

- (1) Modified yard requirements. The minimum lot width and area regulations herein set forth shall not apply to any lot having an area and/or width and/or depth less than that prescribed in this chapter, provided that such lot was designated and shown on a subdivision plat filed and recorded in the office of the Onondaga County Clerk or Town Clerk of the Town of Onondaga subsequent to September 1, 1971, and prior to

the effective date of this chapter.

- (2) Nonconforming lot sizes. Whenever there shall have been legally created, prior to September 1, 1971, or as a result of transfer prior to said date, a lot of lesser width than required by the terms of this chapter for the district in which it is located, the minimum side yard width of such lot shall be proportionate to the side yard width otherwise required within such district, as the width of such lot is proportionate to the minimum lot width otherwise permitted in such district.

D. Other nonconforming elements.

- (1) Parking. No modification of a structure which increases the floor area devoted to an otherwise conforming use shall be made if such modification introduces or increases the degree of nonconformity with respect to off-street parking requirements.

§ 285-28. Nonresidential districts adjoining residential districts and nonresidential uses within residential districts.

A. The requirements in Subsection B below apply to the following:

- (1) Buildings or structures hereafter erected or altered in any nonresidential district on a lot adjacent to or abutting a residential district.
- (2) Nonresidential use buildings or structures within a residential district, except for utility facilities related to residential use.

B. The requirements are as follows:

- (1) Side and rear yards. Along any lot line of a nonresidential use lot adjoining a residential district there shall be provided a yard of at least 50 feet, and there shall be provided and maintained along such lot line a protective screen of conifers at least eight feet high on six-foot centers and such other plantings and fencing as may be needed to separate, protect, conceal and maintain the character of the adjoining residential zone free from the persons, activities and traffic which may result from the activities permitted in such nonresidential districts. Landscaping plans must be approved by the Town Board. Plantings shall be properly bedded when planted and thereafter maintained and fertilized to assure long life and growth, and plantings required for nonresidential uses shall be replaced if they die.
- (2) Front yards. Where the frontage is partly in a residential and partly in a nonresidential use district, the setback requirement of the residential district shall apply to the nonresidential frontage.

§ 285-29. Establishment of front yards in partially occupied areas.

Notwithstanding any other requirements governing the depth of front yards, when 50% or more of the lot frontage within 300 feet on each side, and in the same zoning district as the proposed structure, is occupied by buildings, the front yard depth for a structure shall be established by the average depth of the front yards of the structures within the above-described area.

§ 285-30. Building height limit restrictions.

No building height limit regulations contained in this chapter shall restrict the height of the following buildings or structures:

- A. Barns, silos and other agricultural buildings.
- B. Church spires, cupolas, domes, belfries, clock towers or flagpoles.
- C. Chimney flues, elevator or stair bulkheads or water tanks.
- D. Commercial radio or television towers, transmission lines or towers as otherwise approved under the terms of this chapter.

§ 285-31. Arterial and collector overlay requirements.

- A. The following streets, roads and highways located within the Town shall be considered "arterials":
 - (1) Route 173.
 - (2) Route 175.
 - (3) Route 20.
 - (4) Route 80.
- B. The following streets, roads and highways located within the Town shall be considered "collectors":
 - (1) Abbey Road.
 - (2) Beef Street.
 - (3) Bussey Road.
 - (4) Cedarvale Road.
 - (5) Cleveland Road.
 - (6) Corporal Welch Road.
 - (7) Griffin Road.
 - (8) Harris Road.
 - (9) Howlett Hill Road.
 - (10) Kasson Road.
 - (11) LaFayette Road.
 - (12) Makyes Road.
 - (13) McDonald Road.
 - (14) Sentinel Heights Road.
 - (15) Split Rock Road.

- (16) Velasko Road.
- (17) Young Road.
- C. Setback requirements. The following minimum setback requirements shall apply and supersede any lesser setback requirements that would otherwise apply in any specific zoning district: (See § 285-27 for additional regulations.)
 - (1) Arterials: 140 feet from center line.
 - (2) Collectors: 110 feet from center line.
- D. Lot width. The following minimum lot width requirements, measured at the front yard setback line, shall apply and supersede any lesser lot width requirements for lots fronting on a designated arterial or collector that would otherwise apply in any specific zoning district:
 - (1) Lots with both public water and public sewer: 125 feet.
 - (2) All other lots: 225 feet.
- E. Lot frontage. The following minimum lot frontage requirements shall apply and supersede any lesser lot frontage requirements for lots fronting on a designated arterial or collector:
 - (1) Lots with both public water and public sewer: 90 feet.
 - (2) All other lots: 130 feet.
- F. Exceptions; application. For lots which meet any of the conditions listed below, the minimum lot width requirements specified in Subsection D of this section shall be 100 feet.
 - (1) Lots contained in a preliminary subdivision plat approved by the Town of Onondaga Planning Board before December 28, 1989;
 - (2) Lots in a subdivision filed with the County Clerk before December 28, 1989; or
 - (3) Legally existing lots as of December 28, 1989.
- G. Reverse fronting subdivisions. For subdivisions proposed or which may result in four or more lots fronting on a designated arterial or collector street, road or highway, the Town Planning Board shall consider and may require that such subdivision be designed and constructed with interior access roads so that there will be no direct vehicular access from any such lots onto said arterial or collector street, road or highway. [Amended 8-3-2009 by L.L. No. 3-2009]

§ 285-32. West Seneca Turnpike Corridor design overlay requirements. [Added 3-19-2001 by L.L. No. 5-2001]

- A. Purpose. The Town Board hereby makes the following statements of purpose with respect to the establishment of special West Seneca Turnpike Corridor design overlay requirements in the Town of Onondaga:
 - (1) To encourage and promote the public health, safety and general welfare of the citizens of the Town, including the development and coordination of municipal

growth and services.

- (2) To supplement land use regulation to encourage the most appropriate use of land throughout the West Seneca Turnpike Corridor, lessen traffic congestion and accidents, secure safety from fire, provide light and air, prevent the overcrowding of land, avoid undue concentration of population, promote a coordinated development of the unbuilt areas and conserve and restore natural beauty and other natural resources.
- (3) To encourage originality, flexibility, innovation in site planning and development, including the architecture, landscaping and graphic design of proposed developments in relation to surrounding areas.
- (4) To discourage monotonous, drab, unsightly, dreary and inharmonious developments, minimize discordant and unsightly surroundings and visual blight and avoid inappropriate and poor quality design.
- (5) To promote orderly growth, protect and enhance property values and other environmental and aesthetic considerations which generally enhance rather than detract from standards and values of the comfort and prosperity and the preservation of natural beauty and other natural resources, which are the proper concern of local government, and to promote and enhance construction and maintenance practices that will tend to enhance environmental and aesthetic quality.
- (6) To aid in assuring that structures, signs and other improvements are properly related to their sites and the surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping and that proper attention is given to exterior appearances of structures, signs and other improvements.
- (7) To protect and enhance the West Seneca Turnpike Corridor's pleasant environments for living and working and thus support, stimulate and promote the desirability of investment and occupancy in business and other properties.
- (8) To stabilize and improve property values and prevent blight to help provide an adequate tax base to the Town to enable it to provide required services to its citizens.
- (9) To foster civic pride and community spirit by reason of the Town's favorable environment and thus promote and protect the peace, health and welfare of the Town and its citizens.
- (10) Preserve the mixed business/residential character of this area of the Town.
- (11) To provide certain criteria and guidelines for development in the West Seneca Turnpike Corridor in order to preserve its unique character.
- (12) To preserve the aesthetic qualities of the West Seneca Turnpike Corridor and to give it a "hamlet" or "village" feel.

B. West Seneca Turnpike Corridor design overlay requirements; application.

- (1) Application; designation. [Amended 3-2-2009 by L.L. No. 1-2009]
 - (a) The requirements of this section shall apply to any property located in the

Town, on Route 175 (West Seneca Turnpike), from its border with the City of Syracuse west to its borders with the Town of Marcellus, that:

- [1] Has frontage on West Seneca Turnpike; or
- [2] Is accessed directly from West Seneca Turnpike; or
- [3] Is located within 500 feet of West Seneca Turnpike. [Amended 8-3-2009 by L.L. No. 3-2009]

(b) This area shall be known as the "West Seneca Turnpike Corridor."

(2) The provisions of this section are intended to address design criteria only and are in addition to any zoning district regulations, review criteria or approvals otherwise required.

(3) Scope.

(a) The Planning Board shall review all applications for site plan approval, special permit uses, variances and subdivisions, prior to any final action by the board of primary jurisdiction for such actions, in order to assure compliance with this section.

(b) The Planning Board shall be authorized to develop expanded and/or additional review criteria and forward their recommendation for the consideration of the Town Board.

(c) In reviewing any application pursuant to this section, the Planning Board may waive any of the criteria set forth herein when it finds that so doing will have no detrimental impact on surrounding properties or the West Seneca Turnpike Corridor or on the public health, safety and welfare and that such waiver is in keeping with the purposes set forth herein.

(d) The "board of primary jurisdiction" shall be the Board of the Town (Town Board, Zoning Board of Appeals or Planning Board) charged with consideration of the application (site plan, special permit, variances and subdivisions) under the Town's local laws, rules and regulations.

C. Approval required.

(1) Planning Board review in accordance with the provisions of this section is mandatory.

(2) No approval by any board of primary jurisdiction shall be given for projects requiring Planning Board review hereunder until the Planning Board has completed its review of such application and has offered its recommendations pursuant to this section.

(3) No permit or approval shall be issued for any development or projects requiring Planning Board approval hereunder until the Planning Board has completed its review of such application and has offered its recommendations with regard to the proposed development or project.

(4) Any approval granted by a board of primary jurisdiction absent compliance with this section shall be null and void and of no effect.

(5) The Planning Board shall render its recommendation to the board of primary jurisdiction within 45 days of its receiving a complete application.

D. Criteria. Among the criteria the Planning Board should consider in making its recommendation to the board of primary jurisdiction are the following:

(1) Site design objectives.

(a) Sites should be developed in a coordinated manner to complement adjacent structures through placement, architecture, colors and size/mass.

(b) Whenever possible, buildings on the same site should be clustered and incorporate plazas, courtyards, pocket parks and other pedestrian use areas.

(c) Sites should be designed to avoid the appearance of domination by automobiles. Positive methods to achieve this concept include:

[1] Orienting buildings to fronting streets and placing parking at the rear and/or sides.

[2] Designing the required parking area into smaller, discrete, connected lots rather than large, single-use lots.

[3] Providing well-defined pedestrian walkways through parking areas and from public sidewalks into the site. Well-defined walkways use pavers, changes in color, texture and composition of paving materials and vertical plantings such as trees and shrubs. The minimum width of walkways shall be five feet.

[4] Parking areas shall be designed to be partially screened from view from adjacent streets and building occupants. Screening can be accomplished through a number of methods, including:

[a] Orienting buildings away from parking areas.

[b] Placing buildings between streets and parking lots.

[c] Using extensive landscape screening, berms and architecturally treated walls.

[5] All measures should be designed to accomplish the intended screening while allowing adequate safety and surveillance of the parking areas.

(d) Where appropriate, site plans shall be designed to provide vehicle and pedestrian connections with adjacent sites.

(e) To the extent practical, all new utilities should be installed underground.

(2) Building design objectives.

(a) No single architectural style is required. However, reliance on or use of standardized "corporate or franchise" style is strongly discouraged. No flat roofs.

- (b) Buildings should reflect an individual design that has considered site location, conditions and surrounding development. Building design should provide a sense of permanence and timelessness. High-quality construction and materials should be used to ensure that buildings will not look dated or worn down over time. Building designs should reflect an individual style and form and not merely current trends.
- (c) A consistent visual identity shall be applied to all sides of buildings visible to the general public. In these areas, all building sides shall have an equivalent level of quality of materials, detailing and window placement. Abrupt ending of architectural details shall be avoided with no radical change in details or features or materials.
- (d) Long blank walls are to be avoided. Positive methods to achieve this objective include changes in colors and materials, placement of windows, use of awnings and canopies and architectural details and features such as corners, setbacks and offsets. Windows at ground level may be tinted; however, reflective and mirrored windows are not allowed.
- (e) Buildings facing streets shall incorporate pedestrian-scaled entrances. Pedestrian-scaled entrances are those that provide an expression of human activity or use in relation to building size. Doors, windows, entrances and other features should be designed to respond to the size of the human body and not give the appearance of anonymity or overwhelming the building's users.
- (f) Modulation (defined as a measured setback or offset in a building face) shall be incorporated to reduce overall bulk and mass of buildings. The planes of exterior walls should not run in one continuous direction more than 50 to 60 feet without an offset or setback.
- (g) Large buildings should have height variations to give the appearance of distinct elements.
- (h) Building design shall incorporate traditional building materials such as wood, masonry, stone, heavy timbers, brick and other natural-appearing materials.
- (i) Building colors should accent, blend with or complement surroundings. Bright or brilliant colors should be reserved for trim and accents.
- (j) Landscape areas or planting beds having a minimum width of five feet should be provided around perimeters to separate buildings from surrounding pavement areas.
- (k) Outdoor storage areas, mechanical equipment, utility vaults and trash receptacles must not be visible from adjacent streets and pedestrian walkways.
- (l) Outdoor mechanical equipment shall be appropriately screened from view and sound to adjoining properties. The method of screening shall be architecturally integrated with the building with respect to materials, color, shape and size.
- (m) Site services should be located on the least visible side of a building or site or

within interior building spaces.

- (n) Ground-level outdoor enclosures shall be composed of materials similar to the main structure.
 - (o) Materials used for site features such as fences, screen walls and signs should be appropriate to the zone district where the development is located and should complement building design through materials, color, shape and size.
 - (p) Developments should provide transition with adjacent uses, especially regarding building location, size and scale. No single building or development should dominate adjacent uses in terms of size, bulk, view blockage or shading.
- (3) Sign objectives.
- (a) Building signs.
 - [1] Individual letters rather than cabinet signs are preferred.
 - [2] Backlit individual letters are a preferred alternative.
 - [3] Sign colors should be coordinated with building colors.
 - [4] Signs should be compatible in scale and proportion with building design and other signs.
 - [5] A specific sign program or concept should be designed for multiple-tenant buildings or complexes. Color and letter style shall be coordinated when businesses share the same building, and consistent sign patterns (placement on buildings) shall be utilized.
 - [6] Exposed neon tubes are acceptable for nonletter sign elements, but are discouraged for letters.
 - [7] Sign size shall be consistent with the regulations contained in the "Town of Onondaga Zoning Law of 1994," as amended.
 - [8] Monument structure is preferred over pole-mounted signs; maximum total height of 10 feet.
 - [9] Wood construction is preferred.
 - (b) Freestanding signs.
 - [1] Freestanding signs should provide only name and address of the building and/or building tenants.
 - [2] Freestanding signs shall not be internally illuminated.
 - [3] Project landscaping should be designed to incorporate freestanding signs.
- (4) Landscaping objectives.
- (a) Landscaping should provide unity of design through repetition of plants and coordination with adjacent developments.

- (b) Landscape materials should be hardy species that are adaptable to local conditions, easily maintained and drought-tolerant. Use of native plants is strongly encouraged.
 - (c) The design for parking areas shall include deciduous and evergreen trees to provide shade and break up expanses of asphalt. One tree, a minimum of two- to three-inch caliper at the time of planting, shall be required for every two to four parking spaces. There should be no more than 10 spaces between landscape islands or medians.
 - (d) Landscape islands or medians shall have no dimension narrower than four to five feet.
 - (e) Interior landscaping is required for parking lots containing 10 or more spaces at a ratio of 20 square feet of landscape area for every 100 square feet of parking area. All landscaped areas should be protected by wheelstops or curbing, or be of sufficient width to prevent damage to plants by overhanging vehicles.
 - (f) Existing vegetation should be incorporated into overall site design and preserved to the maximum extent possible, especially in front yards.
 - (g) Required perimeter setback areas shall be densely landscaped with a combination of trees and shrubs, which form a 90% ground cover within three years of planting.
 - (h) For every 20 square feet of landscape area: three shrubs and either one deciduous tree, two- to three-inch caliper at time of planting, or one evergreen tree, having a minimum height of 10 feet at the time of planting. Tree spacing shall be as follows:
 - [1] Perimeter areas around parking lots: 20 to 30 feet on center;
 - [2] Other perimeter areas: 30 feet on center.
 - (i) Interior site landscaping is required to define pedestrian ways, enclose outdoor gathering and seating areas and reduce building mass.
 - (j) Architectural features such as low walls, fountains and sculptures may be used in places where planting areas are limited or restricted.
 - (k) Project entrances should be enhanced through changes in paving materials such as brick pavers, textured and colored concrete, providing entry structures and unity in planting of trees and shrubs.
 - (l) Individual trees along walkways and along sidewalks in the internal portions of projects should be planted in tree wells or planter boxes.
 - (m) Open stormwater detention facilities should be incorporated into project landscaping and open space where geographically feasible.
 - (n) Open stormwater detention facilities shall be landscaped and screened.
- (5) Lighting objectives.

- (a) Moving and flashing lights are prohibited.
- (b) Use cutoff lenses or hoods to prevent glare and light spill off project site onto adjacent properties, buildings and roadways.
- (c) Lighting standards should be designed and sized to be compatible with the character of the development.

§ 285-33. Off-street parking and garage space.

A. Method of determining off-street parking space requirements.

- (1) The requirement for a simple use (e.g., a one-family dwelling or a retail store) shall be determined directly from the schedule of such requirements which is a part of this section.
- (2) The requirements for a combination use made up of several component uses (e.g., a retail store combined with an office building) shall be determined by establishing the requirements for each component use from the schedule of such requirements, which is a part of this section, and adding them together.
- (3) A garage or carport may be used to meet the requirements of this section. A driveway may only be used to meet the requirements of this section where it serves a one-family dwelling.
- (4) Uses which require approval by the Board of Appeals may be required to provide off-street parking spaces in excess of the requirements of this section.
- (5) When a particular use is specifically set forth in this chapter as a permitted use, but such permitted use is not specified in Subsection C of this section, then the Board of Appeals shall determine the number of off-street parking spaces required for such unspecified use, in line with the overall purposes and intent of this chapter. [Amended 12-3-2012 by L.L. No. 8-2012]

B. Need for additional parking or garage facilities. Whenever in a building, either heretofore or hereafter erected, there is a change in use or an increase in floor area or in any other units of measurement specified in this section, increasing the required off-street parking or garage facilities, off-street parking and garage facilities shall be provided to the extent of the additional requirements made necessary by such change or increase.

C. Schedule of off-street parking and garage space requirements.

(1) Residential uses.

Uses	Number of Spaces
Adult home	1 per each 3 residents, plus 1 per each 2 employees on the premises at any one time
Day-care facilities	One space for each employee, plus 1 for every 5 children
Fraternity houses or sorority houses	1 per bed or 1 per 3 seats in dining facility, whichever is the greater
Multiple dwellings	2 1/4 per dwelling unit
One- and two-family dwelling units and townhouses	2 per dwelling unit
Rooming houses or dormitories	1 per bed

(2) Nonresidential uses.

Uses	Number of Spaces
Animal hospitals and dog kennels	1 per 200 square feet of gross floor area
Auditoriums, churches, gymnasiums, convention halls, theaters, dance halls or other places of public not otherwise classified	1 per 3 permanent seats or 1 per each 40 square feet of stadia, public area where fixed seating is not provided; assembly where benches or pews are provided, each 20 inches shall be counted as 1 seat
Banks	1 per 100 square feet of gross floor area
Funeral homes	1 per 40 square feet of public room floor area
Highway vehicle service stations, public garages or highway vehicle repair shops	Sufficient parking spaces for all vehicles being serviced at any one period of time, plus a minimum of 5 additional spaces
Hospitals	1 per bed plus 1 per each 2 employees on the premises at any one period of time
Hotels, motels	1 per guest bedroom, plus 1 per each 2 employees on the premises at any one period of time
Industry, manufacturing, research, laboratory, warehousing and distribution	A minimum of 2 spaces per 3 employees on the premises at any one time, but in no case less than 2 spaces
Medical offices	1 per 100 square feet of office floor area
Nursing homes	1 per each 4 beds, plus 1 per each 2 employees on the premises at any one time

Offices or office buildings	1 per 150 square feet of office floor area
Public or private institutions of higher education and public or private elementary and secondary schools; vocational schools	1 per employee, plus 1 per each 3 students in the 12th grade or above, or the parking requirements for the auditorium or gymnasium component of the use, whichever is the greater
Recreation, indoor:	
Athletic clubs or centers	1 per each 2 employees, plus 1 per each 4 persons based upon the maximum capacity of all facilities capable of simultaneous use as determined by the Code Enforcement Officer
Bowling alleys	4 per alley
Pool or billboard parlor	3 per table
Skating rinks	1 per 100 square feet of gross floor area
Other indoor recreation	1 per each employee, plus 1 per each 3 persons capable of simultaneous use as determined by the Code Enforcement Officer
Recreation, outdoor:	
Miniature golf facilities	2 per hole, plus 1 per employee
Outdoor driving ranges	1 per driving tee, plus 1 per employee
Other	1 per every 2 participants at maximum capacity as determined by the Code Enforcement Officer
Restaurants	1 per 3 seats
Retail businesses	1 per 150 square feet of gross floor area
Shopping centers:	
0 to 50,000 square feet of gross leasable floor area	1 per each 150 square feet of gross floor area
50,000 to 150,000 square feet of gross leasable floor area	333 spaces, plus 1 per each 165 square feet of gross floor area in excess of 50,000 square feet
150,000 to 400,000 square feet of gross leasable area	937 spaces, plus 1 space per each 250 square feet of gross floor area in excess of 150,000 square feet
400,000 square feet of gross leasable area or more	5 parking spaces per 1,000 square feet of gross floor area
Trucking terminals	Sufficient parking spaces for all trucks stored or being serviced at any one time, plus 1 per employee on the premises at any one time

D. General requirements.

- (1) The provisions of this subsection shall apply to off-street parking areas for all uses other than one- or two-family dwellings or townhouses and shall apply to the construction of new parking areas and the alteration of existing parking areas, including but not limited to the paving of same.
- (2) No off-street parking area shall be constructed, expanded or altered until the proposed construction and use of same has been reviewed and approved by the Town Board or its authorized representative. The Town Board may require that drawings, maps and plans relating to the proposed construction and use be submitted in order to assist the Board in its review. These may include a professionally certified site plan with contours, landscaping and screening plan, traffic circulation plan, plans for lighting, drainage and snow removal, and such other documents and information as the Town Board shall deem necessary.
- (3) In reviewing the proposed construction and use of off-street parking areas, the Town Board shall give consideration to traffic patterns and volume, the safety of pedestrians and persons residing in the vicinity of the parking area, noise and air pollution, surface water drainage and aesthetics and may impose such requirements and conditions as it deems necessary to protect and promote the health, safety and welfare of the people of the Town of Onondaga as well as their property and the general environment.
- (4) The Town Board may require that the off-street parking areas be constructed in such a manner as to include the following physical improvements: paving, curbs, sidewalks, drainage facilities, lighting and natural and artificial screening. All off-street parking areas shall be constructed in such a manner as to include the following design requirements unless modified by the Town Board:
 - (a) Accessory off-street parking areas shall be marked off into parking spaces with a minimum width of nine feet measured perpendicular to the side lines and a minimum length of 20 feet within such parking space.
 - (b) All aisles within parking areas shall have a minimum width of 24 feet when the parking spaces are at a ninety-degree angle with the driveway; 18 feet when the parking spaces are at 60°; and 12 feet when the parking spaces are at 45°.
 - (c) Aisles and turning areas shall have adequate radii to assure ease of mobility, ample clearance and convenient access and egress.
 - (d) Off-street parking areas, including parking spaces, turning areas and aisles, shall have gradients of 3% or less.

E. Access driveway requirements.

- (1) Every nonresidential entrance or exit driveway shall have a minimum unobstructed width of 20 feet.
- (2) No entrance or exit driveway serving a nonresidential use in a nonresidential zoning district shall be constructed through an adjoining residential zoning district.

(3) In cases where an entrance or exit driveway provides egress from or entry onto a county or state highway, the design and location of this driveway shall conform to the established standards of the applicable state or county Department of Transportation.

F. Parking of commercial vehicles. No commercial vehicle shall be parked on any premises or on any public street in the Town, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers or except within a garage, for any period of time between 8:00 p.m. and 8:00 a.m. For purposes of this subsection only, the term "commercial vehicles" shall exclude tractors, semitrailer and other devices used exclusively for agricultural purposes and parked on premises being actively and exclusively used as a farm, and shall further exclude the parking of "commercial vehicles" on property upon which a business is legally situated and in connection with which such commercial vehicle is owned and used. [Amended 11-2-2009 by L.L. No. 6-2009]

§ 285-34. Sign regulations. [Amended 10-1-2007 by L.L. No. 8-2007; 12-6-2010 by L.L. No. 9-2010]

A. Legislative intent. It is the purpose of this section to provide standards for the regulation of the height, size, location, appearance and maintenance of signs and other advertising devices in the Town of Onondaga for the purpose of:

- (1) Promoting the public health, welfare and safety of the inhabitants of the Town of Onondaga.
- (2) Promoting public safety.
- (3) Protecting and enhancing property values and neighborhood character.
- (4) Creating a more attractive economic and business climate.
- (5) Enhancing the scenic and natural beauty of the Town of Onondaga.
- (6) Providing a more enjoyable and pleasing community and preserving and improving the appearance of the Town of Onondaga as a place to live and work.
- (7) Reducing sign distractions and obstructions to motorists and pedestrians that may contribute to traffic accidents.
- (8) Encouraging safe signing practices.
- (9) Providing more open space.
- (10) Curb the deterioration of natural beauty and community environment while also permitting businesses and professionals to make use of signage that is important to their individual and collective successes.
- (11) Preventing excessive and confusing sign displays.

B. Schedule of permitted signs.

- (1) No sign or other device for advertising purposes, whether new or existing, shall be erected, established or altered in any district in the Town except in conformity with the provisions of this section.

- (2) The following schedule of number and type of permitted signs shall apply to all premises according to the district in which it is located on the Zoning Map.
- (a) Residential and Country (R-C); Residential R-1, R-2 and R-3; Planned Residential; and Planned Residential Community Districts.
- [1] Permitted.
- [a] One professional or announcement sign, for permitted nonresidential uses.
- [b] One temporary sign.
- [c] One tract name designation sign.
- (b) Neighborhood Shopping, Neighborhood Shopping Nedrow, Commercial and Planned Economic districts.¹³
- [1] Permitted.
- [a] One professional or announcement sign.
- [b] One wall-mounted identification sign and one ground identification sign.
- [c] One temporary sign.
- [d] One shopping center designation sign, in connection with a duly permitted shopping center.
- (c) Light Industrial Districts.
- [1] Permitted.
- [a] One wall-mounted and one ground identification sign.
- [b] Traffic directional signs; number to be determined by the Town Board.
- [c] One temporary sign.
- [d] Off-premises sign(s), to the extent hereinafter permitted.
- (d) Professional and Commercial Office district.
- [1] Permitted.
- [a] One wall-mounted or ground identification sign.

C. General provisions for all signs.

- (1) The surface area of a sign shall be determined by the total area that encompasses all of the letters or symbols which make up the content of the sign, together with any border and/or background of a different color or material. Double-sided signs will be

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

treated as single-sided signs for the purposes of sign area calculations.

- (2) In no case shall lighted signs be so located that they constitute a hazard to vehicular traffic.
- (3) The outlining by direct illumination of all or part of a building, such as a cable, roof, wall, side or dormer, shall be prohibited.
- (4) Temporary or permanent signs resting on or attached to vehicles shall not be used as a means to circumvent the provisions of this section.
- (5) No person, firm or corporation shall erect, post, or maintain any sign within the right-of-way of a street or highway; no portion of any sign shall extend into such right-of-way.
- (6) Signs prohibited in all districts:
 - (a) Flashing, oscillating or revolving signs.
 - (b) Signs which unreasonably illuminate neighboring properties. No sign shall produce illumination in excess of one footcandle at a distance of four feet. No illumination shall cause direct light rays to cross any property line. All permanent outdoor lights, such as those used for area lighting or building floodlighting, shall be steady, stationary, shielded sources directed so as to avoid causing a hazard to motorists, pedestrians, or causing direct light rays in neighboring properties. The marginal increase in light, as measured at any property line other than a street line, shall not exceed one footcandle.
 - (c) Animated signs. An animated sign is a sign or any portion thereof having movement effected by mechanical or natural means, including, by way of illustration and not limitation, rotating signs, wind signs and signs where movement is simulated by illumination devices. This term shall include the use of blinking, flashing and general intermittent light, as opposed to light of a constant intensity and value. This term shall also specifically include signs which contain electronic messages that change, flash or revolve more than once in a twelve-hour period. All time and/or temperature devices shall not be considered animated, whether or not they contain or are incorporated into a sign.
- (7) Maintenance.
 - (a) All signs shall be maintained in good condition and in accordance with all requirements of this section.
 - (b) All signs, including their illumination sources, shall be erected, placed and maintained in a state of good and safe repair at all times and shall comply with all building codes, including, if applicable, the Electrical Code.
 - (c) Signs shall not be allowed to continue in an unkempt, blistered or faded condition, and the area immediately surrounding said signs shall be kept clear of all untended vegetation and debris so as to comply with the intent of this section.

- (d) Unsightly, damaged or deteriorated signs and signs in danger of falling shall be repaired or removed.
- (8) Signs, abandoned, obsolete or in disrepair. A sign which: is not used for 12 successive months; no longer serves an on-going business; or is in a state of disrepair shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit by the Town. In addition, failure to remove an obsolete or unused sign in accordance with this section shall be a violation of this section. In addition to all other remedies available under the Zoning Code, if said abandoned sign is not dismantled and removed within three months of abandonment, the Town may dismantle and remove said sign and the cost of removing the sign shall be a lien on the property and added to the property owner's tax bill.

D. Provisions applicable to specific signs.

(1) Professional signs.

- (a) General: Signs may be double-faced and may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. Except in Residential and Country R-C, Residential R-1, R-2 and R-3, Planned Residential and Planned Residential Community Districts, signs may be interior lighted with nonglaring lights.
- (b) Surface area: two square feet maximum.
- (c) Height: six feet, maximum dimension, grade to top of sign.
- (d) Location: affixed to building wall or freestanding in front yard with setback of 15 feet, minimum dimension, from all property lines.

(2) Announcement signs.

(a) Announcement signs for churches or other places of worship.

- [1] General: Signs may be double-faced and may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. Except in Residential and Country R-C, Residential R-1, R-2 and R-3, Planned Residential and Planned Residential Community Districts, signs may be interior lighted with nonglaring lights.
- [2] Surface area: 12 square feet maximum.
- [3] Location: affixed to building wall or freestanding in front yard with setback of 15 feet, minimum dimension, from front property line and 25 feet, minimum dimension, from other property line.
- [4] Height: eight feet, maximum dimension, grade to top of sign.

- (b) Announcement signs for parish house, club, school or public or semipublic buildings.
 - [1] General: Signs may be double-faced and may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. Except in Residential and Country (R-C), Residential R-1, R-2 and R-3, Planned Residential and Planned Residential Community Districts, signs may be interior lighted with nonglaring lights.
 - [2] Surface area: six square feet maximum.
 - [3] Location: affixed to building wall.
- (3) Tract name designation signs.
 - (a) General: Signs may be double-faced and may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. Intermittent or flashing lights and moving or animated signs or their components are prohibited.
 - (b) Location: 20 feet, minimum distance, from street line.
 - (c) Surface area: 32 square feet, maximum.
- (4) Identification signs.
 - (a) General: Signs may be double-faced and may be interior-lighted with nonglaring lights or may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. Intermittent or flashing lights and moving or animated signs or their components are prohibited.
 - (b) All districts, where permitted.
 - [1] Wall-mounted identification signs.
 - [a] Location: affixed to building wall.
 - [b] Surface area: two square feet, maximum area, per horizontal lineal foot dimension of building wall surface; maximum length to be 75% of horizontal lineal dimension of building wall surface.
 - [c] Depth: one foot maximum from sign surface area to surface of building wall.
 - [d] Projection: no projection above top of building wall and no extension into space beyond building wall.
 - [2] Ground identification sign.
 - [a] Front yard: 20 feet, minimum dimension, from front property line.
 - [b] Side yard: must meet the general setback requirements in the

underlying district.

[c] Surface area: 32 square feet maximum.

[d] Height: 18 feet, maximum dimension, grade to top of sign; must not exceed the horizontal dimension as measured from sign location to any property line.

[e] Clearance: three feet, minimum open space, grade to bottom of sign.

(c) Light Industrial Districts.

[1] The proposal for signs shall be submitted to the Town Board. In the case of proposed new buildings, the proposal shall be submitted concurrently with the information and documents submitted in connection with the application for a building permit.

[2] The proposal shall include all signs on the premises, including traffic directional signs, and shall contain complete details submitted in scale drawing form with specifications.

(5) Shopping center designation signs.

(a) General: Signs may be double-faced and may be interior-lighted with nonglaring lights or may be exterior-lighted with nonglaring lights or may be exterior-lighted by shielded floodlights such that there is no glare or distraction to drivers on nearby roads or glare onto adjoining properties. The proposal shall include all signs on the premises, including traffic directional signs, and shall contain complete details submitted in scale-drawing form with specifications.

(b) Submittal: The proposal for signs shall be submitted to the Town Board. In the case of proposed new buildings, the proposal shall be submitted concurrently with the information and documents submitted in connection with the application for a building permit.

(c) Maximum height: 25 feet.

(d) Size: maximum size allowed as set forth below:

Size of Center (square feet)	Size of Sign (square feet)
Under 50,000	50
50,000 to 500,000	100
Over 500,000	120

(6) Temporary signs:

(a) General: includes real estate development or construction signs and subdivision

signs. Signs must be ground mounted; signs may be double-faced, but may not be lighted.

- (b) Surface area: 12 square feet maximum, except 32 square feet maximum on plus five-acre site.
 - (c) Termination: such real estate or construction signs, including subdivision signs, shall be removed at the termination of the selling or construction period.
 - (d) Extension of time: Temporary directional signs indicating the location of a real estate subdivision shall be permitted on approval of the Board of Appeals for periods of one year during the active selling of subdivision properties. Additional periods of one year shall be the subject of a further application to the Board of appeals.
- (7) Off-premises signs:
- (a) General: The total square footage of any off-premises sign may not exceed 450 square feet per sign side. Off-premises signs may be exterior-lighted by shielded floodlights such that there is not any glare or distraction to drivers on adjoining highways or neighboring properties and may be lit by no more than four halogen lamps. Each halogen lamp may not exceed 400 watts. If lit by any other type of lighting mechanism (i.e., LED), the equivalent lumens may not be exceeded.
 - (b) No off-premises sign or portion thereof shall have a height which exceeds 35 feet above the street or highway elevation to which they are oriented.
 - (c) Setbacks.
 - [1] All off-premises signs shall be set back from all property lines, public road rights-of-ways and power lines a distance equal to at least 110% of the height of said off-premises sign.
 - [2] No off-premises sign shall be permitted within 500 feet of any other off-premises sign.
 - [3] No off-premises sign shall be permitted within 500 feet of any school, religious institution, or park.
 - [4] Notwithstanding the foregoing, if the property upon which the off-premises sign is located is bounded by a New York State highway or highway right-of-way, the above-referenced setback requirements shall not be applicable to said property boundary. Rather, the Department of Transportation requirements for setbacks shall solely govern the setbacks from relative to said highway boundary and highway signs. As to all other boundaries, the above-referenced setback requirements shall remain applicable.
 - [5] All setback requirements required hereunder shall be measured from the base of the pole of the off-premises sign, measured from the base of the pole closest to the boundary line or other item being set back from.

[6] Additional setbacks may be required based upon specific circumstances in order to provide for the public safety, health and welfare.

(d) All applicable required county, state and federal (e.g., New York State Department of Transportation) permits or approvals, if any, shall be the responsibility of the applicant and must be obtained before construction of an off-premises sign may be commenced.

(e) Off-premises signs shall be constructed to provide one of the following means of access control, or other appropriate method of access:

[1] Climbing apparatus located no closer than 12 feet from the ground; or

[2] A locked anticlimb device installed on the off-premises sign.

(f) No off-premises sign may be placed within 500 feet of any intersection, if such off-premises sign would, by use or simulation of colors, design or placement, tend to confuse, detract from or in any manner obstruct the utilization of traffic regulatory devices. All determinations of this type shall be made by the Codes Enforcement Officer, who shall consider, but not be limited to, the following aspects of such off-premises signs:

[1] The use of words such as "stop," "go," "look," "caution," "danger," "warning," and similar nomenclature.

[2] The use of colors and lights in the spectrum of colors utilized for traffic regulatory devices.

[3] The use of blinking, intermittent, flashing or other animated forms of illumination or light and all sources of illumination which through direct or indirect means create glare.

(g) Off-premises signs shall not flash, oscillate or revolve, either physically or electronically. Time and/or temperature devices are allowed, provided that they shall not change/flash more than once every 15 seconds.

(h) All off-premises signs are subject to the general restrictions for signs as set forth in this chapter, as applicable.

E. Approval process for signs.

(1) Permit required. A permit must be obtained from the Codes Enforcement Officer for any sign which is 25 square feet or less in size.

(2) Site plan approval. In addition, no sign in excess of 25 square feet shall be erected, placed, replaced, removed, relocated, repaired, altered, modified or maintained unless and until site plan approval is granted by the Town of Onondaga Town Board, either in conjunction with general project or approval or as a separate application, in accordance with this section.

(a) Exceptions. No site plan approval shall be required for the following:

[1] Sign copy changes. Change of copy on a sign, the customary use of which

involves frequent and periodic changes of copy.

[2] Routine sign maintenance. Routine maintenance, including minor repairs, such as repainting, bulb replacement and repair of electrical or mechanical parts.

(b) Procedure. Prior to the erection or structural repair of any sign requiring a site plan, the applicant shall apply to the Town Board of the Town of Onondaga for a site plan approval and shall include the following:

[1] The name, address, and telephone number of the owner of the property and the person, firm or corporation erecting or maintaining the sign.

[2] A plot plan or survey of the parcel, showing the location of the building, structure or lot to which or upon which the sign is to be attached or erected.

[3] The type, size, location and a rendering or drawing of the sign.

[4] Two copies of the plans and construction specifications of the sign and the structure for attachment to the building or ground.

[5] Certified drawings from a New York State certified engineering certifying that the structure is designed for dead load and wind pressure in any direction in the amount required by this section and/or the New York State Uniform Fire Protection and Building Code or any other similar code for a similar-sized sign.

[6] Any electrical permit required and issued for the sign.

[7] Filing and processing fee in the amount set by the Town Board of the Town of Onondaga by resolution, from time to time.

[8] Such other and further information as the Town Board of the Town of Onondaga may deem reasonably necessary to ensure compliance with this section.

(c) Findings. As a prerequisite to the approval of any site plan approval for any off-premises sign, in addition to any other restrictions applicable thereto, the following findings shall be made:

[1] The proposed sign is not in conflict with the general prohibitions contained in this law.

[2] The proposed sign will not have any adverse impact upon the character or integrity of any land use having a unique cultural, historical, geographical, or architectural significance.

[3] The proposed sign will not adversely affect the character of a district in close proximity within which such signs would be prohibited.

[4] The proposed sign will not hide, obstruct or in any way shield other signs from view.

- [5] The proposed sign is otherwise compatible within the context of its visual and physical environment within the district in which the sign is proposed; in making this determination, consideration shall be given to existing and allowable land use activities within the subject district and also to the scale of structures located within close proximity.
 - [6] The proposed sign is compliant with all applicable New York State rules and regulations regarding the control of outdoor advertising.
 - (d) Criteria. In making a determination as to compliance with any one or more the findings prescribed above, consideration shall be given but need not be limited to the following criteria:
 - [1] Size, bulk and mass.
 - [2] Texture and materials.
 - [3] Colors.
 - [4] Lighting and illumination.
 - [5] Orientation and elevation.
 - [6] General and specific location.
 - [7] Proximity to streets and highways.
 - [8] Design, including size and character of lettering, logos and related content.
 - [9] Background or field, including the skyline.
 - [10] Character of structural members.
 - [11] Animation.
 - [12] Frequency and nature of all general and business signs and official regulatory signs and devices which are in the immediate field of vision.
 - [13] Land use and zoning.
 - (e) Power to impose conditions. In granting any site plan approval, the Town Board may impose conditions to the extent that such reviewing authority concludes that such conditions are necessary to minimize any adverse effect of the proposed sign on neighboring properties.
 - (f) Technical consultants. The Town Board may retain technical consultants as it deems necessary to provide assistance to the review of the site plan application for an off-premises sign. The applicant shall bear all reasonable costs associated with such consultation which shall be assessed as an additional application fee.
- F. Enforcement. In addition to any other relief available to the Town, including any penalties or fines applicable pursuant to § 285-41 of this chapter, the Codes Enforcement Officer is authorized to remove any sign erected in violation of this chapter. All costs and expenses incurred by the Town for such removal shall be initially paid out of Town funds and shall

be charged to and reimbursed by the person, firm or corporation erecting the sign, or, if such reimbursement cannot be obtained by the Town, shall be charged to and reimbursed by the owner of the property on which the sign is erected and collected in the manner provided by law or shall be assessed against the land on which said sign is or was located.

§ 285-35. Commercial, television and radio towers, commercial mobile services and satellite dish antennas. [Amended 3-17-1997 by L.L. No. 3-1997]

- A. Commercial television and radio towers or facilities. Towers or facilities for transmitting or receiving any signal, broadcast or communication as part of a business (other than commercial mobile services) or as part of a commercial television, AM radio or FM radio enterprise may be erected, altered or used only in a Planned Economic District and may be so erected, altered or used only upon findings by the Town Board that such structure or use, together with such conditions and safeguards it may impose, is necessary for the public convenience; that such structure or use is not detrimental to the public health, safety or welfare; and that the location proposed therefor is appropriate. Towers or facilities used exclusively for the broadcast or communication of official law enforcement, fire control or medical emergency matters are exempt from this provision.
- B. Commercial mobile service facilities. No commercial mobile service facility shall hereafter be located, constructed, erected, changed, altered, used or added to except in conformity with the following provisions.
 - (1) Findings.
 - (a) While the federal government has regulated the commercial mobile service industry, it has reserved to local governments the power to regulate such uses with regard to placement, construction and other related issues.
 - (b) Local governments may not exclude such uses or unreasonably discriminate among providers of functionally equivalent services.
 - (c) According to federal law, local governments may not regulate such uses on the basis of radio frequency radiation (RFR).
 - (d) The technology underlying commercial mobile service requires that transmitting facilities be located in proximity to one another, as low frequency signals are passed from one service cell to another, in relay fashion.
 - (e) The Town has an interest in minimizing the number of towers that are located within its borders.
 - (f) The installation of tower structures can have an aesthetically detrimental impact upon surrounding properties, especially in residential areas.
 - (g) In many cases, antennas mounted on existing structures can provide the same level of commercial mobile service with minimal or no aesthetic impacts upon neighboring uses.
 - (h) Where the construction of new towers is necessary in order to provide commercial mobile services, often it is possible to house more than one such

provider on a given structure, thus reducing the proliferation of new tower construction.

(2) Purpose. [Amended 12-2-2013 by L.L. No. 2-2013]

(a) The Town acknowledges the need, demand and national policy supporting the availability of commercial mobile services to the public. At the same time, the Town recognizes the valid concerns and interests its residents have in the aesthetic enjoyment of their homes and properties. The purpose of these provisions relating to commercial mobile services is to provide for the health, safety and welfare of the residents of the Town, to encourage the location of commercial mobile service towers, to the extent they are needed, in nonresidential areas of the Town, to encourage the shared use of existing and new towers as a means of reducing the overall need for towers in the Town, to minimize the adverse impacts of commercial mobile service facilities located in the Town and to balance the sometimes competing needs of such uses and their neighbors while at the same time accommodating the public interest in and demand for such services.

(b) The Middle Class Tax Relief and Job Creation Act of 2012 (hereinafter referred to as the "Tax Relief Act") in effect mandates that notwithstanding Section 704 of the Telecommunications Act of 1996 or any provision of law, a state or local government may not deny, and shall approve, any request relating to an eligible facility for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. A request relating to an eligible facility, in accordance with the Tax Relief Act, means any request for modification of an existing wireless tower or base station that involves:

[1] Collocation of new transmission equipment;

[2] Removal of transmission equipment; or

[3] Replacement of transmission equipment.

(c) A request relating to an eligible facility for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall only be the subject of an administrative review by the Town's Code Enforcement Officer, notwithstanding the requirements of § 285-23 of this Code. Such administrative review shall not require a public hearing, but the applicant shall be subject to all other provisions and application fees of this chapter, except where otherwise indicated. All of the following sections of this chapter shall remain in full force and effect when the request is being handled by such administrative review.

(3) Approvals required for commercial mobile service facilities.

(a) Antennas and accessory equipment related thereto, other than towers, are permitted in all use districts in the Town, provided that they are placed on existing structures 30 feet or more in height, other than one-family and

two-family dwellings, subject to the following:

- [1] Located in nonresidential zoning districts and 20 feet in antenna height or less: site plan approval.
 - [2] Located in nonresidential districts and in excess of 20 feet in antenna height: special use permit.
 - [3] Located in residential districts: special use permit.
 - [4] A request relating to an eligible facility for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall only be the subject of an administrative review by the Town's Code Enforcement Officer, notwithstanding the requirements of § 285-23 of this Code. [Added 12-2-2013 by L.L. No. 2-2013]
- (b) Towers and accessory equipment related thereto are permitted only in Planned Economic (P-E) and Light Industrial (LI) districts, subject to the following: [Amended 5-2-2011 by L.L. No. 2-2011]
- [1] Towers, 150 feet in height or less: site plan approval.
 - [2] Towers, over 150 feet in height, but not greater than 200 feet in height: special use permit.
 - [3] A request relating to an eligible facility for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall only be the subject of an administrative review by the Town's Code Enforcement Officer, notwithstanding the requirements of § 285-23 of this Code. [Added 12-2-2013 by L.L. No. 2-2013]
- (c) Commercial mobile service antennas or towers, other than those specifically allowed under this Subsection B(3), are not permitted in the Town of Onondaga.
- (4) General guidelines and requirements.
- (a) Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements and other such lot and building requirements, the dimensions of the entire lot shall control, even though such antenna or tower may be located on leased parcels within such lots.
 - (b) Nonconforming uses. Towers that are constructed and antennas that are installed in accordance with these provisions shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - (c) Proof of compliance with other laws. [Amended 5-19-1997 by L.L. No. 4-1997]

- [1] All commercial mobile service facilities must meet or exceed all applicable federal, state and local laws, rules and regulations, including but not limited to any rules, standards or regulations of the FCC and the FAA. If such standards, rules, laws or regulations are changed or amended, at any time in the future, then the owners of such facilities shall bring those facilities into compliance with such revised regulations within six months of the effective date of such changes or amendments, unless a more restrictive compliance schedule is mandated by the controlling agency, in which case, the more restrictive compliance schedule will apply.
 - [2] The operator of any commercial mobile service facility sited within the Town of Onondaga shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation (RFR) emission standards. Such annual certification shall be delivered to the Town Codes Enforcement Officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special permit and/or use variance granted for such facilities.
- (d) Compliance with building codes. The owner of any commercial mobile service facility shall locate, construct, erect, use and maintain such facility in accordance with all applicable building codes.
 - (e) Height restrictions. The building height restrictions otherwise applicable in the zoning use district in which a commercial mobile service facility is located shall not apply to facilities approved in accordance with these regulations. When measuring structure height in connection with antennas on existing structures, height shall be measured from the mean elevation at finished grade to the highest point of the existing structure. When measuring antenna height in connection with antennas mounted on existing structures, such height shall be measured from the point of such existing structure at which the antenna is mounted to the highest point of the antenna.
 - (f) Maximum tower height. In no event shall any tower exceed a height of 200 feet. Tower height shall be measured from the average elevation at grade level to the highest point of the tower structure, including all antennas and accessory equipment attached thereto.
 - (g) Tower inspections. Towers shall be inspected annually on behalf of the tower owner by a licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Codes Enforcement Officer no later than December 31 of each calendar year.
 - (h) Tower design preference. Whenever feasible, tower construction shall be of a "monopole" design.

- (i) Maintenance and repair; hours. All commercial mobile service facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time with prior notice to the Town Codes Enforcement Officer. [Amended 5-19-1997 by L.L. No. 4-1997]
 - (j) Existing structures. By way of illustration, existing structures, as referred to in these regulations governing the siting of commercial mobile service facilities, shall include but not be limited to signs, church spires, belfries, cupolas, domes, monuments, water towers, preexisting tower structures, windmills, chimneys, smokestacks, buildings, utility towers, clock towers, silos, barns or other agricultural buildings, steeples, radio or television towers and commercial parking lot light poles.
 - (k) Restriction, multiple towers. No more than one tower may be permitted on any parcel of land.
 - (l) Tower separation. A minimum radius of 2,000 feet must be maintained between any proposed tower and any existing tower, whether located in the Town of Onondaga or in any adjacent municipality.
- (5) Aesthetics and design standards.
- (a) Fencing. The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures used in connection therewith.
 - (b) Landscaping. All commercial mobile service facilities located, installed or constructed at ground level, including towers, tower anchors, accessory structures to towers or antennas or fencing surrounding such uses, shall be visually screened from adjoining residential properties and public rights-of-way by one row of native evergreen shrubs or trees capable of forming a continuous hedge of at least six feet in height within two years of planting. Additional vegetative screening may be required as needed in order to minimize adverse visual impacts on neighboring properties. Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to the appropriate site plan or special permit review and approval. Such landscaping shall be preserved, maintained and replaced as needed.
 - (c) Signs. Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.
 - (d) Lighting. Commercial mobile service facilities shall not be artificially lighted unless so required by the FAA. If lighting is so required, the lighting

alternatives and design used shall be the minimum mandated by the FAA.

- (e) Utility connections. All utility connections to commercial mobile service facilities shall be installed beneath the ground surface.
- (f) Color.
 - [1] Towers. Towers shall either be maintained with a galvanized finish, painted gray or, subject to any FAA restrictions, be painted a neutral color, so as to reduce visual obtrusiveness.
 - [2] Antennas. Antennas and accessory equipment installed on existing structures shall be painted a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - [3] Accessory structures located at ground level. Accessory equipment and structures (other than towers) located at ground level shall be painted neutral colors that will blend with their natural surroundings to the maximum extent possible.
- (g) Tower access and parking. A road and parking for one vehicle shall be provided in order to assure adequate emergency and service access. Maximum use of existing roads and drives shall be made and at all times ground and vegetation disturbance shall be minimized.
- (h) Antennas affixed to the face of existing structures. Antennas affixed to the face of existing structures may not protrude in excess of five feet horizontally between the antenna and the existing structure face.
- (i) Commercial mobile service towers shall be designed to provide for co-location (use) by at least three providers, or designed so that they can be retrofitted to accommodate at least three providers unless such co-location is not feasible as demonstrated by competent engineering or technical proof. [Amended 5-19-1997 by L.L. No. 4-1997]
- (j) Accessory equipment located on building roofs. Any accessory equipment located on building roofs shall be located so as not to be seen or minimize visibility from ground level.
- (k) System connections. Where technologically feasible, connections between commercial mobile service facilities and the system of which they are a part shall be made by use of land line cable rather than by parabolic or dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six feet.
- (l) Tower setbacks. Towers shall not be located closer than 200 feet to the nearest residential property line. In all other cases, towers shall be set back from adjoining properties a distance equal to at least the height of such tower.
- (m) Visibility. All commercial mobile service facilities shall be sited, located and

designed so as to have the least possible practical visual impact on the environment and surroundings.

- (6) Factors and considerations in granting special use permits for commercial mobile service facilities. The following factors and considerations shall be considered by the Zoning Board of Appeals in reviewing applications for special use permits related to commercial mobile service facilities in addition to the standards and findings required in § 285-39:
 - (a) The applicant must demonstrate that location of the commercial mobile service facility, as proposed, is necessary to meet the frequency reuse and spacing needs of the applicant's system and to provide adequate service and coverage to the intended area.
 - (b) The applicant must demonstrate that all reasonable measures have been taken to minimize the visual impacts of the proposed facilities.
 - (c) Additional standards and factors to be considered in reviewing special use permits relating to towers.
 - [1] Height of the proposed tower.
 - [2] Proximity of the proposed tower to residential structures and residential district boundaries.
 - [3] Nature of uses on adjacent and nearby properties.
 - [4] Surrounding topography.
 - [5] Surrounding existing tree coverage and foliage.
 - [6] Design of the proposed tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - [7] Proposed ingress and egress to site.
 - [8] Alternatives analysis. The applicant must demonstrate that no existing structure, tower or alternative technology that does not require the construction of a new tower can accommodate the applicants coverage and service needs. Evidence submitted to demonstrate that no such alternative is reasonably available may consist of the following:
 - [a] No existing towers or structures are located within the geographic area (search ring) which meet the applicant's engineering requirements.
 - [b] Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - [c] Existing towers or structures do not have sufficient structural strength or space to support applicant's proposed needs.

- [d] The applicant's proposed antenna would cause electromagnetic interference with the existing or planned antennas on the existing towers or structures or that such existing or planned antennas would cause such interference with the applicant's antenna.
- [e] The existing tower or structure owner is unwilling to provide access or the fees, costs or contractual provisions required by the owner of the existing tower or structure in order for the applicant to co-locate on such tower or structure are unreasonable. Costs exceeding new tower construction are presumed to be unreasonable.
- [f] The applicant demonstrates that there are other limiting factors that render existing towers or structures unsuitable.
- [g] There is no governmental (federal, state or local) property available to the applicant within the geographic area (search ring) which will meet the applicant's engineering requirements. [Added 5-19-1997 by L.L. No. 4-1997]

(7) Application materials and supporting documentation.

- (a) The following information shall be submitted in support of any application (site plan, special permit, variance) for a commercial mobile service facility. This information is required in addition to any other information or documents required under sections of the Town's Zoning Law pertaining to site plan review (§ 285-23), special use permits (§ 285-39) or variances (§ 285-39):
 - [1] Full application on forms provided by the Town.
 - [2] Environmental assessment form (EAF), including a visual environmental assessment form (VEAF).
 - [3] The make and model of the planned facility.
 - [4] The manufacturer's design data pertaining to installation.
 - [5] The applicant's maintenance and inspection schedule.
 - [6] Identification of the effects such facility will have on other existing communication facilities in the vicinity.
 - [7] A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.
 - [8] Proof of the site owner's consent, if the applicant is not the owner of the site on which the applicant seeks to locate a commercial mobile service facility.
 - [9] Inventory of existing sites. Each applicant shall provide an inventory of its existing tower sites within the Town or within one mile of the border thereof, including specific information regarding the height, location and

design of each tower facility. The Town may share this information with other applicants without representing or warranting that such sites are available or suitable.

- [10] A site plan. An applicant seeking approval for siting a commercial mobile service facility shall submit a site plan in conformance with § 285-23 of the Town's Zoning Law which, in addition to the items required to be shown thereunder, shall include the following items.
 - [a] The exact location of the proposed facility, including any mounting devises, appendages, support structures and accessory equipment, storage cabinets or other materials used in connection therewith.
 - [b] The location of all structures on the site.
 - [c] The maximum height, each, of the proposed facility and any structure on which it is proposed to be affixed.
 - [d] The location, type and intensity of any lighting.
 - [e] Property boundaries, adjacent uses and zoning classifications.
 - [f] Names and addresses of adjacent property owners, as contained in public records.
 - [g] Landscaping and screening plan including existing vegetation.
 - [h] Location and nature of utility services and connecting land line.
 - [i] Location and nature of access.
 - [j] Details showing compliance with these regulations.
- (b) Additional submission requirements for towers.
 - [1] Identification and description of any anticlimb device.
 - [2] A report from a licensed professional engineer which describes the tower, including its height and design, demonstrates the tower's compliance with applicable structural standards and describes the tower's capacity, including the number and types of antennas it can accommodate.
 - [3] A legal description (metes and bounds) of the site on which the tower is proposed to be located.
 - [4] The site plan shall also show distances between the proposed tower structure and structures on adjoining properties within 500 feet, together with the names and addresses of all property owners within 500 feet of the boundary of the property on which the tower is proposed, as contained in public records.
 - [5] A drawing of the proposed tower, including any proposed attachments, accessory equipment, cabinets or other items used in connection therewith.

- [6] Identification and location of any commercial mobile towers located within the Town or within one mile of the Town, regardless of ownership.
 - [7] As-built drawings, within 30 days after completion of tower construction.
- (8) Removal of unused towers, demolition bond. An applicant for a special use permit to construct a commercial mobile service tower shall agree to remove such tower and related facilities if it becomes obsolete or ceases to be used for its intended purpose for a period of 12 consecutive months. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Board of Appeals shall require the applicant to provide a demolition bond or other security acceptable to the Town for the purpose of removing such facilities in case the applicant fails to do so as required above.
- (9) Fees. [Amended 5-19-1997 by L.L. No. 4-1997; 12-2-2013 by L.L. No. 2-2013]
- (a) An applicant for site plan approval, for a special permit or for administrative review of an eligible facility pertaining to a commercial mobile service facility shall submit a nonrefundable fee, as established from time to time by resolution of the Town Board, to reimburse the Town for the costs of reviewing such application.
 - (b) During the Code Enforcement Officer's administrative review as well as review by any board, the Code Enforcement Officer or board may retain an expert to help determine questions that arise, including but not limited to whether a facility is eligible or whether there is substantial change. No initial deposit for a consultant or expert is necessary until and after such time that the Code Enforcement Officer or Board determines that consultants and/or experts are necessary. At such time, the Code Enforcement Officer or Board will set the initial deposit at an amount not to exceed \$7,500. The initial deposit will be maintained as a separate escrow amount. Depleted escrow accounts shall be replenished when necessary. The applicant shall pay the difference to the Town of any cost of the consultant/expert services not covered by the escrow monies. Any monies remaining in the escrow account after conclusion of the review process shall be refunded to the applicant.
- (10) Exemptions. The following are exempt from the provisions of this chapter:
- (a) Commercial mobile service facilities located on Town of Onondaga property.
 - (b) Private, noncommercial television and radio antennas.
 - (c) Routine repairs and maintenance of commercial mobile services facilities may be undertaken without restriction, provided that such routine repairs and maintenance activity is conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday. [Amended 5-19-1997 by L.L. No. 4-1997]
 - (d) Law enforcement, fire control, E911 and medical emergency facilities.
 - (e) Emergency repairs to commercial mobile service facilities at any time, provided that prior notice is given to the Town Codes Enforcement Officer. [Added

5-19-1997 by L.L. No. 4-1997]

- (11) Waivers. In approving a site plan or special use permit, the Board of Appeals or the Town Board, as the case may be, may waive any of the provisions of these regulations when it finds that doing so will have no detrimental impact on surrounding properties or on the public health, safety and welfare and that such waiver is in keeping with the purposes herein set forth.
- (12) Power to impose conditions. In granting any site plan approval or special use permit for a commercial service facility, the Board of Appeals or the Town Board, as the case may be, may impose conditions to the extent that such Board concludes that such conditions are necessary to minimize any adverse effect of the proposed tower on neighboring properties.
- (13) The applicants agree, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, officials of the Town, its officers, agents, servants, and employees, from any and all penalties, damage, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by the construction, erection, modification, location, products, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of a telecommunications facility within the Town. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Town. [Added 12-2-2013 by L.L. No. 2-2013]

C. Satellite dish antennas.

- (1) Findings.
 - (a) Satellite antennas can be visually bulky and unsightly due to their shape, opacity and size, particularly in residential areas. Satellite antennas, because of their mass, are often more noticeable than other antennas.
 - (b) The desire to obtain maximum signals with as little interference as possible may, without regulation, lead satellite antenna owners to place antennas in inappropriate locations aesthetically and/or in unsafe locations.
 - (c) The size, construction and mounting specifications of some larger satellite antennas can render them subject to falling over and to severe wind loadings, necessitating attention to installation to avoid injury to persons and property.
 - (d) Satellite antennas, when ground mounted, can be an attractive site for children to climb.
 - (e) The visual impact of larger satellite antennas in residential areas is more significant than in commercial or business areas because building size is smaller and land use is less dense in residential areas than in commercial/business areas.
- (2) Purpose. The purposes of this subsection are as follows:

- (a) To permit reception of satellite transmissions while minimizing the potential for adverse safety and aesthetic impacts of such uses.
 - (b) To diminish the visual impact of satellite antennas.
 - (c) To encourage safety in the placement of satellite antennas so as to avoid injury to persons and/or property in the area.
 - (d) To facilitate aesthetic integration of satellite antennas and radio antennas into overall building and/or lot design.
- (3) No satellite dish antenna shall be erected, constructed, installed or permitted unless a building permit is issued by the Town of Onondaga Codes Enforcement Officer.
- (a) The application for a building permit shall, in addition to all other requirements, contain a plot plan sketch showing the proposed location of the dish on the applicable lot. The sketch plan shall show the dimensions, height, color and design of the dish. In addition, the sketch shall show all natural and proposed screening of the dish.
 - (b) Dimensions. Any satellite dish antenna located with the Town of Onondaga shall not exceed 12 feet in any dimension, height, width or depth. All measurements of height shall be taken from the base at ground level to such satellite dish's full vertical position. Measurements shall include all attachments, supports, guy wires and other equipment attached to or being a part of the antenna.
 - (c) Location. No more than one satellite dish antenna shall be located on any lot. All satellite dish antennas shall be installed at ground level. No rooftop siting or mounting is permitted. All such antennas shall be located in the rear yard of the owner's property at least 10 feet from the side and rear lot lines or at a distance equal to the height of the antenna plus six feet, whichever is greater. When measuring side and rear setbacks, all cables, guy wires or other supports shall constitute a part of the antenna. The natural grade of the land may not be altered in any manner so as to provide a greater elevation for the satellite dish antenna.
 - (d) Screening. The owner of any satellite dish antenna shall install screening to prevent the dish from being visible from roadways or neighboring residences, insofar as is reasonably practical, without materially impairing or interfering with reception. Screening may include natural and existing screening such as trees or residences.
 - (e) Standards.
 - [1] All installations shall be in compliance with the manufacturer's instructions and erected in a good and workmanlike manner.
 - [2] All satellite antennas and the construction and installation thereof shall conform to applicable electrical, fire prevention and building codes.
 - [3] All satellite antennas shall meet manufacturer's specifications, be of noncombustible and corrosive-resistant material and be erected in a

secure, wind-resistant manner.

- (4) Special permit. In the event that an owner can demonstrate that the regulations set forth herein pertaining to the location and screening of satellite dish antennas materially prevents or impairs reception of satellite services, that owner may apply to the Town of Onondaga Zoning Board of Appeals for a special permit in accordance with § 285-39C of this chapter. In such an event, the standards set forth in § 285-39C(1) do not apply and the applicant must demonstrate the following:
 - (a) The satellite dish antenna cannot be located in any location on the owner's lot in compliance with this chapter so that reception of signal is possible.
 - (b) The location applied for in the special permit request is the minimum deviation from this chapter needed in order to obtain reception of a signal.
 - (c) The applicant cannot receive a suitable signal with an exempt satellite dish antenna in a more visible or unscreened location.
 - (d) Alternative measures taken to minimize the visual impact to neighbors and the public of the proposed satellite dish antenna. In addition to other relevant factors, the Zoning Board of Appeals shall consider the color, height, geographic restrictions, size of the lot and density of the neighborhood in each instance.
- (5) Exemptions. The following satellite dish antennas shall be exempt from the operation of this section:
 - (a) Satellite dish antennas erected prior to the enactment of this section.
 - (b) Satellite dish antennas measuring a maximum of six feet in diameter, located in the following use districts: [Amended 8-3-2009 by L.L. No. 3-2009¹⁴]
 - [1] Neighborhood Shopping District, NS.
 - [2] Neighborhood Shopping District, NS-N (Nedrow).
 - [3] Commercial District, CD.
 - [4] Professional and Commercial Office District, PCO.
 - [5] Light Industrial District, LI.
 - [6] Planned Economic District, P-E.
 - (c) Satellite dish antennas measuring three feet or less in diameter, so long as such antenna structure, regardless of the zoning district within which it is located if mounted on a building, shall not extend to a height of more than six feet above the surface of the roof directly beneath the antenna, nor shall such antenna structure be installed on a portable or movable structure, such as a trailer. [Amended 8-3-2009 by L.L. No. 3-2009]

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 285-36. Private and commercial wind energy conversion systems and wind measurement towers.
[Added 6-2-2008 by L.L. No. 10-2008]

A. Findings.

- (1) The Town finds that wind energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the state's energy supply portfolio.
- (2) The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or energy consumption at that location can be reduced.
- (3) Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
- (4) Wind energy facilities represent significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects, if not properly sited.
- (5) If not properly regulated, installation of wind energy facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
- (6) Wind energy facilities may present a risk to bird and bat populations if not properly sited.
- (7) If not properly sited, wind energy facilities may present risks to the property values of adjoining property owners.
- (8) Wind energy facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
- (9) Without proper planning, construction of wind energy facilities can create traffic problems and damage local roads.
- (10) If improperly sited, wind energy facilities can have interference issues with various types of communications.

B. Purpose. The Town recognizes the increased demand for alternative energy-generating facilities. At the same time, the Town recognizes the valid concerns and interests its residents have in the aesthetic enjoyment of their homes and properties. The purpose of these regulations is to protect the community's interest in properly siting wind energy conversion systems in a manner consistent with sound land use planning, while also allowing private and commercial providers to meet their power generating objectives. Moreover, the further purpose of these regulations is to provide for the health, safety and welfare of the residents of the Town and to balance the sometimes competing needs of such uses and their neighbors while at the same time accommodating the public interest in and

demand for such facilities. In addition, the purpose of these regulations is to provide standards for private wind energy conversion systems designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of these regulations is to regulate the development of wind energy conversion systems and to protect the public health, safety, and community welfare.

C. Approvals required for private and commercial wind energy conversion systems and wind measurement towers.

(1) Roof-mounted wind conversion systems. [Amended 8-3-2009 by L.L. No. 3-2009]

(a) Horizontal axis roof-mounted wind conversion systems are permitted uses in all use districts in the Town, provided that they are placed on existing structures 30 feet or more in height, other than one-family and two-family dwellings, subject to the following:

[1] Located in nonresidential zoning districts and 10 feet in height or less: site plan approval.

[2] Located in nonresidential zoning districts and in excess of 10 feet in height: special use permit.

[3] Located in residential districts: special use permit.

[4] Provided that in all instances, the total height of the structure and the wind conversion system shall not exceed the overall height allowed in the zoning district involved.

(b) Vertical axis roof-mounted wind conversion systems are permitted uses in all use districts in the Town, provided that if they are in excess of 10 feet in height, a special use permit shall be required, and provided further that no such system, together with the underlying structure, shall exceed the overall height allowed in the zoning district involved.

(2) Private wind energy conversion systems are permitted uses within any zoning district upon the granting of a special use permit pursuant to the provisions of Subsection D hereinafter.

(3) Commercial wind energy conversion systems and facilities are only permitted within the Wind Energy Conversion System Overlay Zone upon the granting of a wind energy permit by the Town Board pursuant to the provisions of Subsection E hereinafter.

(4) Wind measurement towers are permitted uses within any zoning district upon the granting of a special use permit pursuant to the provisions of Subsection F hereinafter.

D. Private wind energy conversion systems.

(1) Applications. Applications for private wind energy conversion systems shall include:

- (a) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - (b) Name, address, telephone number of the property owner. If the property owner is not the applicant (as in the case of a tenant), the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
 - (c) Address of each proposed tower location, including Tax Map section, block and lot number.
 - (d) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - (e) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
 - (f) Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
 - (g) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
 - (h) Manufacturer information for the proposed private wind energy conversion system, including, but not limited to, the system specifications and any available photographs of the proposed system.
 - (i) Short environmental assessment form.
 - (j) Any other information requested by the Zoning Board of Appeals.
- (2) Standards. All private wind energy conversion systems shall comply with the following standards. Additionally, such private wind energy conversion systems shall also comply with all the requirements established by other sections of the Town's Zoning Law that are not in conflict with the requirements contained in this section.
- (a) A private wind energy conversion system shall be located on a lot a minimum of two acres in size.
 - (b) Number of systems.
 - [1] Only one private wind energy conversion system per legal lot shall be allowed. In addition, such legal lot must include a structure and may not be vacant land.

[2] Notwithstanding the foregoing, up to three private wind energy conversion systems shall be allowed on any farm actively used for agricultural purposes upon a showing that such additional systems are needed to generate electricity to operate such farm.

- (c) All private wind energy conversion systems shall be located and placed in rear yards.
- (d) Setback requirements. A private wind energy conversion system shall comply with all setbacks within the affected zone. In addition, private wind energy conversion systems shall be set back a distance equal to 110% of the tower height from all property lines, public road rights-of-way and power lines. Additional setbacks may be required by the reviewing board based upon specific circumstances in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.
- (e) Private wind energy conversion systems shall be used primarily to reduce the on-site consumption of electricity.
- (f) The tower height of any private wind energy conversion system may not exceed 125 feet. The allowed tower height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports. Private wind energy conversion systems shall not be subject to height restrictions that would otherwise apply in the zoning district in which such facility is sited.
- (g) The maximum private wind energy conversion system power output is limited to 20 KW.
- (h) The private wind energy conversion system and blades shall be painted a nonreflective, unobtrusive color that blends the tower and its components into the surrounding landscape to the greatest extent possible and shall incorporate nonreflective surfaces to minimize any visual disruption.
- (i) The system shall be designed and located in a manner that minimizes adverse visual impacts from public viewing areas. It shall not be installed in any location that would create an intermittent visual impact, substantially detract from or block the views of all or portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Onondaga or that extends beyond the border of the Town of Onondaga.
- (j) Exterior lighting on any structure associated with the tower shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- (k) Private wind energy conversion systems may be designed as either a monopole or lattice structure.
- (l) Noise. The level of noise produced during operation of the private wind energy

conversion system shall not exceed 50 dBA, as measured at the boundaries of the closest neighboring parcels that are owned by anyone other than the site owner, as those boundaries exist at the time of the special permit application. The applicant will be required to submit technical data proving such performance standard to the satisfaction of the Zoning Board of Appeals as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.

- (m) All power lines from the private wind energy conversion system to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- (n) Private wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link's operation.
- (o) Private wind energy conversion systems shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antennas for radio, television or wireless phone.
- (p) The tower shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- (q) Emergency shutdown/safety. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any system need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside the fall zone of the system. Location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.
- (r) All private wind energy conversion systems shall have lightning protection.
- (s) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- (t) Towers shall be constructed to provide one of the following means of access

control, or other appropriate method of access:

- [1] Tower-climbing apparatus located no closer than 12 feet from the ground.
 - [2] A locked anticlimb device installed on the tower.
 - [3] A locked, protective fence at least six feet in height that encloses the tower.
- (u) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires to the anchor points shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
 - (v) Construction of on-site access roadways shall be minimized. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. Temporary access roads utilized for initial installation shall be regraded and revegetated to the preexisting natural condition after completion of installation.
 - (w) The minimum distance between the ground and any part of the rotor blade must be 30 feet.
 - (x) All private wind energy conversion system structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.
 - (y) All private wind energy conversion systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 - (z) No television, radio or other communication antennas may be affixed or otherwise made part of any private wind energy system.
- (3) Abandonment of use. A private wind energy conversion system which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit by the Town. In addition, failure to remove an obsolete or unused tower in accordance with this section shall be a violation of this article. If said abandoned private wind energy system is not dismantled and removed within three months of abandonment, the Town may dismantle and remove said private wind-energy conversion system and the cost of removing the private wind-energy conversion system shall be a lien on the property and added to the property owner's tax bill.
 - (4) Maintenance. All private wind energy conversion systems shall be maintained in good condition and in accordance with all requirements of this section.
 - (5) Inspection. The Codes Enforcement Officer and/or Town Engineer shall have the

right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a private wind energy conversion system is being constructed, to inspect all parts of said private wind energy conversion system installation and require that repairs or alterations be made if in his judgment there exists a deficiency in the operation or the structural stability of the system. If necessary, the Codes Enforcement Officer or Town Engineer may order that the system be secured or otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property for the Codes Enforcement Officer or his designee to enter the premises for purposes of inspecting such system.

- (6) In granting the special use permit for a private wind energy conversion system, the Zoning Board of Appeals may impose reasonable conditions to the extent that such Board concludes that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties.

E. Commercial wind energy conversion systems (WECS).

- (1) Applications. Applications for commercial wind energy conversion systems shall include:
 - (a) Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - (b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed application and authorizing the submission of the application.
 - (c) Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number.
 - (d) A description of the project, including the number and maximum rated capacity of each WECS.
 - (e) A plot plan prepared by a New York State licensed surveyor or New York State licensed engineer drawn in sufficient detail to clearly describe the following:
 - [1] Property lines and physical dimensions of the site;
 - [2] Location, approximate dimensions and types of major existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of the proposed WECS site.
 - [3] Location and elevation of each proposed WECS.
 - [4] Location of all aboveground utility lines on the site or within one radius of the total height of the WECS, including transformers, power lines, interconnection point with transmission lines, and other ancillary facilities

or structures.

- [5] Location and size of structures above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
 - [6] The zoning designation of the subject and adjacent properties as set forth in this chapter.
 - [7] The boundaries of the Wind Overlay Zone, to demonstrate that such proposed WECS is located within said Wind Overlay Zone.
 - [8] To demonstrate compliance with the setback requirements of this article, circles drawn around each proposed tower location equal to:
 - [a] One and a half times the tower height.
 - [b] Five-hundred-foot perimeter.
 - [c] One-thousand-foot perimeter.
 - [d] One-thousand-five-hundred-foot perimeter.
 - [e] Two-thousand-foot perimeter.
 - [9] Location of each residential structure, both on the site and off the site, that is located within 2,500 feet from the nearest individual wind energy facility, as well as the specific distance from the nearest individual wind energy facility to each residential structure.
 - [10] All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
- (f) Vertical drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and total height.
 - (g) Landscaping plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
 - (h) Lighting plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each structure that is part of the facility, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
 - (i) List of property owners, with their mailing address, within 500 feet of the boundaries of the proposed site.

- (j) Decommissioning plan. The applicant shall submit a decommissioning plan, which shall include the following information at a minimum:
 - [1] The anticipated life of the WECS;
 - [2] The estimated decommissioning costs in current dollars;
 - [3] How said estimate was determined;
 - [4] The method of ensuring that funds will be available for decommissioning and restoration;
 - [5] The method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and
 - [6] The manner in which the WECS will be decommissioned and the site restored, which shall include at a minimum, the removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
- (k) Complaint resolution. The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit, of no more than 180 days, for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
- (l) An application shall include at a minimum, the following information relating to the construction/installation of the wind energy conversion facility:
 - [1] A construction schedule describing commencement and completion dates; and
 - [2] A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.
- (m) Completed Part 1 of the Full EAF, including visual addendum.
- (n) Applications for wind energy permits for wind measurement towers subject to this chapter may be jointly submitted with the WECS application.
- (o) For each proposed WECS, include make, model, picture and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment, including but not limited to all lubricants and coolants.
- (p) If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment and submits a draft environmental impact statement (DEIS), the Town Board shall issue a positive declaration of environmental significance.
- (q) The following information must be submitted by the applicant, either with the

application, or, in the event of a positive declaration under SEQRA, as part of any DEIS submitted by the applicant with respect to the application for a wind energy facility:

- [1] Shadow flicker. The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and/or commercial businesses and must describe measures that shall be taken to eliminate or mitigate the impacts of shadow flicker on such residences, including but not limited to operational measures to stop rotation at such times when modeling predicts that shadow flicker will impact neighboring residences.
- [2] Visual impact. Applications shall include a visual impact study of the WECS as proposed, which should include, at a minimum, a computerized photographic simulation demonstrating any visual impacts from strategic vantage points, including visual impacts associated with both the facility itself, as well as any proposed aboveground collection or transmission components. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence. In addition, such visual impact study must address, among others, the visual impact of any proposed facility upon United States Route 20, which has been approved for designation in the State of New York's Scenic Byway Program. Such visual impact analysis should conform to DEC guidelines where relevant.
- [3] Fire protection and emergency response. Applications shall include a fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed site.
- [4] Noise assessment. Applications shall include a noise impact assessment conducted by a reputable acoustical consultant documenting the noise levels associated with the proposed WECS and its impact on humans. Such noise impact assessment should be conducted in accordance with the criteria recommended by the New York State Department of Environmental Conservation's Program Policy guidance document entitled "Assessing and Mitigating Noise Impacts;" utilizing adjacent property lines as receptor locations. Such noise assessment must also describe measures that shall be taken to eliminate or mitigate the impacts of noise on nearby receptors.
- [5] Avian analysis. Applications shall include an avian analysis assessing the reasonably anticipated impacts of the WECS upon bird and bat species. The scope of such analysis should be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service, and must at a minimum consist of

a literature survey for threatened and endangered species and provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to avoid or mitigate such impacts to the extent practicable. The applicant should also identify plans for postconstruction monitoring or studies to assess actual operational impacts of the WECS upon birds and bats.

- [6] Property values. Applications shall include a property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of values of properties neighboring WECS sites. The applicant shall provide documentation that the licensed appraiser is knowledgeable and skilled to provide a competent impact of values of properties analysis that accurately measures the effect on property values from the proposed WECS. Such analysis should include actual data concerning the impacts of previously constructed facilities in the State of New York on property values. This analysis shall be presented to the Town Board for its consideration.
 - [7] Electromagnetic interference. Applications shall include an assessment of potential electromagnetic interference from the proposed facility with microwave, radio, television, personal communication systems and other wireless communication.
 - [8] Transportation plan. Applications shall include a transportation plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during construction. Such plan should also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as the measures which will be taken to restore damaged or disturbed access routes following construction.
 - [9] Groundwater impact study. Applications shall include a study relating to the potential impacts to groundwater related specifically to excavation and/or blasting during the construction phase of the project.
 - [10] Cultural resource study. Applications shall include a study describing the potential impacts of the project upon cultural resources as identified by the Town Board and NYSOPRHP. Such study should be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP). Such study should include any follow-up study or assessment recommended in the initial study itself, or by NYSOPRHP.
- (r) The applicant shall, prior to the receipt of a building permit, provide proof that it has executed an interconnection agreement with the New York Independent System Operator and the applicable transmission owner.
 - (s) A statement, signed under penalty of perjury, that the information contained in

the application is true and accurate.

- (t) In addition to the materials required in accordance with this section, complete applications should include any additional study or assessment determined to be required by the lead agency during review of the project pursuant to SEQRA. No application shall be determined to be complete until the SEQRA review with respect to such application is concluded.
- (2) Application review process.
- (a) Applicants may request a preapplication meeting with the Town Board, or with any consultants retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law.
 - (b) Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
 - (c) Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this section is included in the application. Unless the Town Board waives any application requirement, no application shall be considered until deemed complete.
 - (d) If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WECSs proposed is increased.
 - (e) Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board.
 - (f) The Town Board shall hold at least one public hearing on the application. Notice shall be given by first-class mail to property owners within 1,000 feet of each proposed WECS and published in the Town's official newspaper, no less than 10 nor more than 20 days before any hearing, but, where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Town Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
 - (g) The public hearing may be combined with public hearings on any environmental impact statement or requested variances.
 - (h) Notice of the project shall also be given, when applicable, to:

[1] The Onondaga County Planning Board, if required by General Municipal Law §§ 239-1 and 239-m; and

[2] To adjoining Towns under Town Law § 264.

- (i) SEQRA review. Applications for WECS are deemed Type I projects under SEQRA. The Town Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Town Board's proceedings. The applicant shall defray any costs incurred by the Town for review and consideration of the application including, but not limited to, engineering and legal expenses.
 - (j) Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this section.
- (3) Standards for WECS. The following standards shall apply to all WECS, unless specifically waived by the Town Board:
- (a) All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
 - (b) No television, radio or other communication antennas may be affixed or otherwise made part of any WECS. Applications may be jointly submitted for WECS and telecommunications facilities.
 - (c) In order to minimize any visual impacts associated with wind energy facilities, no advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
 - (d) Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting for ground-level facilities shall be allowed as approved on the wind energy facility development plan.
 - (e) All applicants shall use measures to reduce the visual impact of WECSs to the extent possible. WECSs shall use tubular towers. All structures in a project shall be finished in a single, nonreflective matte finished color or a camouflage scheme. WECSs within a multiple WECS project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
 - (f) The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
 - (g) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems can be reasonably

expected to produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the wind energy permit for the specific WECS or WECSs causing the interference.

- (h) All solid waste and hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all appropriate rules and regulations.
 - (i) WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
 - (j) WECSs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
 - (k) Wind energy conversion facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations.
 - (l) Stormwater runoff and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.
 - (m) The maximum total height of any WECS shall be 410 feet.
 - (n) Any substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and/or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Town Board shall assess such siting in accordance with the requirements of this section and the Town's Site Plan Law.
 - (o) Construction of the WECS shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, unless the prior written approval of the Town Board is received to allow deviation from such hours.
 - (p) In processing any application for a WECS or in reviewing such project under SEQRA, the Town Board shall consider any applicable policy or guideline issued by the New York State DEC (i.e., visual impacts, noise impacts).
 - (q) Turbine blades shall pass no closer than 30 feet to the ground during operation of the facility.
- (4) Required safety measures.
- (a) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of

the rotor.

- (b) Each WECS shall be surrounded by a locked, protective fence at least six feet in height that encloses the tower.
 - (c) Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information. The Town Board may require additional signs based on safety needs.
 - (d) No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single pole or guyed towers. A locked anticlimb device shall also be installed on the tower.
 - (e) The minimum distance between the ground and any part of the rotor or blade system shall be in compliance with all state standards but in no case less than 30 feet.
 - (f) WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.
- (5) Traffic routes.
- (a) Construction of WECSs pose potential risks because of the large-size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs and for associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas; minimizing WECS-related traffic during times of school bus activity; minimizing wear and tear on local roads; and minimizing impacts on local business operations. Wind energy permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.
 - (b) The applicant is responsible for repair of all damages to Town roads occurring during the construction or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.
- (6) Setbacks and noise standards for wind energy conversion systems.
- (a) Due to the nonindustrial character of the Town of Onondaga, the sound level statistical sound pressure level (L(90)) shall not exceed the ambient sound level by more than six dBA at the nearest property line to any proposed WECS. Sites can include more than one property and the requirement shall apply to the combined properties. In the event the ambient sound level exceeds 50 dBA, the

standard shall be the ambient sound level plus a maximum of five dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.

- (b) In the event audible noise due to wind energy facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in Subsection C(6)(a) of this section shall be reduced by five dBA. A pure tone is defined to exist if the 1/3 octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five dBA for center frequencies of 500 Hz and above, by eight dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to one 125 Hz. These standards may be varied by the Town Board but never to a standard less than the DEC-recommended standards in effect at the time of review.
- (c) The ambient sound level shall be expressed in terms of the highest whole number sound level in dBA. Ambient sound levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries when considering specific receptors. Ambient sound level measurements shall employ all practical means of reducing or compensating for the effect of wind-generated noise artifacts at the microphone so as to measure the actual sound level most accurately. Ambient sound level measurements should be performed when wind velocities aloft are sufficient to allow wind turbine operation and should report ambient sound levels for wind speeds aloft corresponding to turbine cut-in as well as the wind speed aloft corresponding to production of the greatest noise.
- (d) Any noise level falling between two whole decibels shall be the lower of the two.
- (e) The following minimum standards shall apply to any tower, turbine, windmill, building housing mechanical components or electrical substation that is part of any wind energy conversion system or facility, unless specifically waived or varied by the Town Board as part of a permit. The following minimum standards do not apply to the transmission or collection system components of such WECS or facility, except for electrical substations. Each WECS shall be set back from site boundaries, measured from the center of the applicable component part of the WECS:
 - [1] One thousand two hundred feet from the nearest site boundary property line.
 - [2] One thousand two hundred feet from the right-of-way of United States Route 20.
 - [3] Five hundred feet from the right-of-way of all other public roads.
 - [4] Two thousand feet from the nearest off-site residence, school or church, measured from the exterior of such residence, whether or not said

residence is located in the Town of Onondaga.

[5] One and a half times the total height of the WECS from any nonresidential structure (other than a school or church) or any aboveground utilities, unless waived by the utility companies.

(7) Issuance of wind energy permits.

- (a) Upon completion of the review process, the Town of Onondaga Town Board shall, upon consideration of the standards in this chapter and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- (b) If approved, the Codes Enforcement Officer shall issue a wind energy permit upon satisfaction of all pertinent conditions for said permit, and the Codes Enforcement Officer shall issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other preconstruction conditions of this chapter.
- (c) The decision of the Town Board shall be filed within 10 days in the office of the Town Clerk and a copy mailed to the applicant by first-class mail.
- (d) If any approved wind energy facility is not substantially commenced within one year of issuance of the wind energy permit, the wind energy permit shall expire.

(8) Abatement.

- (a) If any WECS remains nonfunctional or inoperative for a continuous period of one year, the applicant agrees that, without any further action by the Town Board, the applicant shall decommission and remove said system at its own expense. Removal of the system shall include, at a minimum, the removal of the entire aboveground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town Board that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- (b) Non-function or lack of operation may be proven or inferred by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a nondisclosure agreement) to the Town Board and Town Board all reports to and from the purchaser of energy from individual wind energy conversion systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.
- (c) Decommissioning bond or fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town of Onondaga, in a form approved by the Town Attorney, for the removal of nonfunctional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial

security shall be borne by the applicant. All decommissioning bond requirements shall be fully funded before a building permit is issued. The amount of the bond or security fund shall be no less than 125% of the cost of removal of the facilities and the restoration of the site.

(9) Limitations on approvals; easements on Town property.

- (a) Nothing in this chapter shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this chapter shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- (b) Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

(10) Permit revocation.

- (a) Testing fund. A wind energy permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the wind energy permit and this chapter and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board to cure any deficiency. An extension of the ninety-day period may be considered by the Town, but the total period may not exceed 180 days.
- (b) Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice considered by the issuer of the notice to cure any deficiency. An extension of the ninety-day period may be considered by the Town Board, but the total period may not exceed 180 days.
- (c) Notwithstanding any other abatement provision under this chapter, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town Board may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, order either remedial action within a particular

time frame, or order revocation of the wind energy permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the decommission plan to remove the WECS. Any additional costs not covered by security shall be a lien upon the property and applied to the site owner's next property tax bill.

F. Wind measurement towers.

- (1) Wind site assessment. As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular sites, installation of wind measurement towers, also known as anemometer ("Met") towers, shall be permitted in accordance with this section.
- (2) Applications for wind measurement towers. An application for a wind measurement tower shall include:
 - (a) Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - (b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
 - (c) Address of each proposed tower location, including Tax Map section, block and lot number.
 - (d) Proposed development plan and map.
 - (e) Decommissioning plan, including a security bond for removal.
- (3) Standards for wind measurement towers.
 - (a) The distance between a wind measurement tower and the property line shall be at least 1 1/2 times the total height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
 - (b) Wind energy permits for wind measurement towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board.

G. Variance. Any proposed private or commercial wind energy conversion system or wind measurement tower which does not meet any requirement of this chapter shall be required to obtain a use variance.

§ 285-37. Mobile homes and manufactured homes. [Amended 10-4-2010 by L.L. No. 8-2010]

The location of a single mobile home or manufactured home may be permitted as temporary residential quarters in the Residential and Country District on a lot on which a permanent conventional-type dwelling is being constructed upon the issuance of a mobile home or manufactured home permit by the Board of Appeals, after a public hearing, subject to such terms and conditions as may be appropriate in the particular case, and in conformity with the following general provisions and standards:

- A. Each permit shall expire six months from its date of issuance.
- B. A permit may be renewed by the Board of Appeals without a further public hearing for two additional periods of six months each if, in the opinion of the Board of Appeals, substantial progress is being made on the construction of the permanent dwelling.
- C. No such mobile home or manufactured home shall be permanently affixed to the ground.
- D. Occupancy of such mobile home or manufactured home shall be limited solely to the lot owner and his or her family.

§ 285-38. Zoning certificate of use.

- A. New buildings and vacant land. Construction of any building to be erected hereafter shall not be commenced, nor shall vacant land be occupied or used in whole or in part, until a zoning certificate of use is issued by the Code Enforcement Officer or his deputy; this certificate of use shall certify that such use, or such building and the location and use, conform to the provisions of this chapter. However, this section shall not apply to construction on a farm or to the usual buildings appurtenant or necessary to a farm operation; this section shall apply to buildings on a farm used for dwelling purposes.
- B. Approved lots. No zoning certificate of use shall be granted for the use of a lot for any purpose unless such lot shall be designated on a plat approved by the Planning Board of the Town of Onondaga and filed in the office of the Town Clerk and/or the County Clerk of the County of Onondaga; or a legally existing lot at the time of enactment of this chapter; or otherwise permitted by the subdivision regulations of the Town of Onondaga.¹⁵
- C. Buildings hereafter enlarged or structurally altered. No building shall be hereafter enlarged or structurally altered until a zoning certificate of use shall have been issued, covering such enlargement or structural alterations.
- D. Changes of use of existing buildings.
 - (1) No change in use in a building shall hereafter be made unless the official designated by the Town Board certifies that such change conforms substantially to the provisions of this chapter and issues a zoning certificate of use.
 - (2) The use of a building or premises shall not be deemed to have changed because of a temporary vacancy or change of ownership.

15. Editor's Note: See Ch. 257, Subdivision of Land.

- E. A certificate of occupancy heretofore issued pursuant to the Zoning Local Law of the Town of Onondaga shall be deemed to mean and be equivalent to a zoning certificate of use.

§ 285-39. Board of Appeals.

A. Establishment, membership and rules.

- (1) A Board of Appeals is hereby established and shall have all of the powers and duties in accordance with the provisions of the Town Law applicable thereto.
- (2) The Board of Appeals shall consist of five members appointed and removed by the Town Board in accordance with § 267 of the Town Law.
- (3) Such Board of Appeals shall, consistent with the Town Law, determine its own rules of procedure, and all its deliberations, regulations and orders shall be in accordance therewith.
- (4) The Town Board may appoint an alternate member to the Board of Appeals. Such member, if appointed, would serve when a regular member of the Board of Appeals is absent or unable to participate on an application or matter before the Board of Appeals. An alternate member of the Board of Appeals shall be appointed for a term of one year. [Added 3-18-2002 by L.L. No. 1-2002]
 - (a) The Chairperson of the Board of Appeals may designate an alternate member to substitute for a regular member of the Board, when such regular member is unable to participate on an application or matter before the Board. When so designated, the alternate member shall possess all of the powers and responsibilities of a regular member of the Board. Such designation shall be entered into the minutes of the Board of Appeals meeting at which the substitution is made.
 - (b) All provisions of state law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of a local law, rule, regulation or policy relating to training, continuing education, compensation and attendance, shall apply to any alternate member of the Board of Appeals appointed pursuant to this section.

B. Powers and duties.

- (1) The Board of Appeals shall have the power to review any order or decision of the duly designated enforcing official.
- (2) The Board of Appeals may, with the exception of a subdivision under review by the Town of Onondaga Planning Board in a specific case, after due notice and public hearing as herein provided, and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this chapter in harmony with their general purpose and intent, as follows:
 - (a) Grant a permit wherever it is provided in this law that the approval of the Board of Appeals is required.

(b) Permit occupancy of a basement for residential use for not more than one year.

(c) Grant use variances.

[1] The Board of Appeals, on appeal from the decision or determination of the Codes Officer, shall have the power to grant use variances, as defined herein.

[2] No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:

[a] The applicant cannot realize a reasonable return, provided that lack of return is substantial as determined by competent financial evidence.

[b] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

[c] The requested use variance, if granted, will not alter the essential character of the neighborhood.

[d] The alleged hardship has not been self-created.

[3] The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(d) Grant area variances.

[1] The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Codes Officer or in accordance with § 274-a, 274-b or 277 of the Town Law, to grant area variances as defined herein.

[2] In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following, which considerations shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance:

[a] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

- [b] Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
 - [c] Whether the requested area variance is substantial.
 - [d] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - [e] Whether the alleged difficulty was self-created.
- [3] The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (e) Impose conditions.
- [1] The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
 - [2] The Board of Appeals is expressly authorized to condition any variance so granted to expire within a specified period of time unless the subject property is used for the purpose for which the variance was granted or unless substantial construction is completed, as the case may be.

C. Special permit uses.

- (1) The Board of Appeals after public hearing may grant permits for special uses if it finds that:
 - (a) The use will not create a hazard to health, safety, morals or public welfare.
 - (b) The use will not depreciate or tend to depreciate the value of surrounding property.
 - (c) The use will not be detrimental to the neighborhood and will not alter the essential character of the area.
 - (d) The use possesses characteristics that will blend desirably with the neighboring property and will secure the objectives of this chapter.
 - (e) The location, size of the use and structure, nature and intensity of the operation involved, size of the site in relation to it, and the location of the site with respect to the streets giving access to it are such that it will be in harmony with the orderly development of the district.

- (f) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings.
- (g) The use shall not conflict with the Town's land use plan or any part thereof.
- (h) The proposal will provide proper controls for vehicular and pedestrian movement so that public safety is maintained, undue traffic congestion is avoided and the efficient functioning of highways is promoted.
- (i) The proposal will not significantly increase the possibility of nuisance, odors, dust or noise from the site.
- (j) The proposal provides for adequate parking in accordance with the provisions of § 285-33.
- (k) The proposal will not adversely impact on any unique cultural, historical, architectural or other special characteristics of the site or neighboring sites.
- (l) The use will be provided with adequate supporting services such as fire and police protection, public and private utilities and other supporting governmental services.
- (m) Any private residential noncommercial tower shall be no higher than the distance from its base to the lot line. The Zoning Board of Appeals may grant such a permit subject to such terms and conditions as it may deem necessary and proper.
- (n) With respect to nurseries, that: [Added 6-18-2011 by L.L. No. 3-2011]
 - [1] Access driveways and roads will be located at least 50 feet from the nearest residential property line.
 - [2] Proper buffering, consisting of fencing and vegetative screening, is provided between the nursery and all neighboring residential properties.
 - [3] No equipment or vehicles will be parked within 100 feet of the nearest residential property line.
 - [4] No products other than trees, flowers and shrubs may be stored within 50 feet of the nearest residential property line.
 - [5] No manure, dust or odor-producing substance may be located or stored within 200 feet of the nearest property line.
- (2) Prior to the hearing, and after a determination of environmental significance has been made under the provisions of the State Environmental Quality Review Act, the Zoning Board of Appeals shall transmit to the Planning Board of the Town of Onondaga the application for the special permit and all related documents. No decision on the application shall be rendered until the Zoning Board of Appeals has received and considered an opinion from the Planning Board. If no opinion is received within 30 days from the day of transmittal to the Planning Board, the Planning Board shall be deemed to have approved the application.

- (3) Any permit granted in accordance with the provisions of this subsection shall automatically lapse unless substantial construction or use of the property, as the case may be, is accomplished in accordance with the plans for which such permit was granted within one year from the date of granting such variance by the Board, or, if judicial proceedings to review the Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

D. Public hearings.

- (1) Whenever, in this chapter, relief is requested from the Board of Appeals, such relief may be granted by the Board of Appeals only after the Board of Appeals has held a public hearing thereon.
- (2) Notice of the time and place of such public hearing shall be given by the Board of Appeals as follows:
 - (a) By publishing a notice of the time and place of said public hearing in a newspaper of general circulation in the Town of Onondaga at least once, the time of such hearing to be chosen and designated by said Board of Appeals, but not less than five days nor more than 30 days from the date of such published notice.
 - (b) Provided that where an application has been made to the Board of Appeals for approval to erect or maintain in any district premises for the sale of beer or liquor for consumption on the premises, notices of said public hearing shall be given by mail as follows:
 - [1] To the owners and residents of all the property which is situated on the same street or road as the property for which the approval is sought, and situated within 500 yards in either direction from the proposed building or use for which approval is sought.
 - [2] If a road or street intersects the road or street on which the proposed building or use for which such an approval is sought, and if the intersection is within 200 yards of the proposed building or use in question, then mailed notice shall also be sent to the owners and residents for a distance of 200 yards in either direction along said intersecting road from the point of intersection.
 - [3] If the application sought is for the use of a building or land where the 500 yards or 200 yards specified in Subsection D(2)(b)[1] and [2] above penetrate an adjoining district, the distance to which mailed notices shall be sent to residents and owners therein shall, for that part of the distance which penetrates the said adjoining district, be measured in feet rather than in yards.
 - [4] All notices required under this Subsection D(2)(b), whether by mail, by publication or by posting, shall be given at least 15 days prior to the date of the required public hearing.
 - [5] Failure of any property owner or resident to receive any mailed notice

shall not void any approval granted under this Subsection D(2)(b). An affidavit of the Town Clerk or other person mailing such notice shall be prima facie evidence that such mailing was made and the notice required hereunder has been given.

§ 285-40. Fees.

The Town Board may from time to time establish a schedule of fees to defray all or part of the expense of any notices, hearings, permits and approvals under this chapter, which fee or fees shall be paid by the applicant at the time of application.¹⁶

§ 285-41. Penalties for offenses. [Amended 5-15-1995 by L.L. No. 2-1995]

- A. Violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period of not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or regulation shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- B. In case any building or street is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks or sites in violation of this chapter, the Town Board of the Town of Onondaga, New York, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

§ 285-42. Administration.

The Town Board of the Town of Onondaga may, from time to time, designate, appoint and pay compensation to a person or persons to administer, supervise and enforce the rules and regulations of this chapter.

§ 285-43. (Reserved)¹⁷

§ 285-43.1. Explicitly prohibited uses; prohibition against natural gas and/or petroleum

¹⁶. Editor's Note: The current fee schedule is on file in the office of the Town Clerk.

¹⁷. Editor's Note: Former § 285-43, Natural gas and oil drilling, as amended, was repealed 12-3-2012 by L.L. No. 8-2012. See now § 285-43.1.

extraction, exploration or production wastes. [Added 12-3-2012 by L.L. No. 8-2012]

A. Explicitly prohibited uses.

(1) The following uses and activities (being respectively defined in Subsection D below of this § 285-43.1) are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

- (a) Land application facility;
- (b) Natural gas and/or petroleum exploration activities;
- (c) Natural gas and/or petroleum extraction activities;
- (d) Natural gas and/or petroleum extraction, exploration or production wastes disposal/storage facility;
- (e) Natural gas and/or petroleum extraction, exploration or production wastes dump;
- (f) Natural gas compression facility;
- (g) Natural gas processing facility;
- (h) Nonregulated pipelines;
- (i) Underground injection; and
- (j) Underground natural gas storage.

(2) Any condition caused or permitted to exist in violation of this section is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this chapter as "explicitly prohibited uses," any one of the above expressly prohibited uses may be referred to in this chapter as an "explicitly prohibited use," and any combination of more than one such use may also be referred to as "explicitly prohibited uses."

B. Prohibition against natural gas and/or petroleum extraction, exploration or production wastes. The Town of Onondaga hereby exercises its authority and right under NY ECL § 27-0711 to adopt local legislation that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this section complies "with at least the minimum applicable requirements" set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27. It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Town, any natural gas and/or petroleum extraction, exploration or production wastes.

C. No application to customary local distribution lines, etc. The prohibitions set forth above in this section are not intended, and shall not be construed, to: a) prevent or prohibit the right to use roadways in commerce or otherwise for travel; b) Prevent or prohibit transmission

lines or the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or c) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal agriculture, residential, business, commercial, and other uses within the Town.

- D. Defined terms. For purposes hereof, and in addition to the terms defined in § 285-4 of this chapter, the following terms shall have the meanings respectively set forth below:

BELOW-REGULATORY CONCERN — Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR 20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Town.

GATHERING LINE or PRODUCTION LINE — Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump station, measuring and regulating equipment, yard and station piping, and cathodic protection equipment) used to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission's jurisdiction under Section 1(b) of the Natural Gas Act, and which does not meet the definition of a "major utility transmission facility" under the Public Service Law of New York, Article 7, § 120(2)(b).

INJECTION WELL — A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semisolids) are injected into the subsurface and less than 90% of such fluids return to the surface within a period of 90 days.

LAND APPLICATION FACILITY — A site where any natural gas and/or petroleum extraction, exploration or production wastes are applied to the soil surface or injected into the upper layer of the soil.

NATURAL GAS — Methane and any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES — Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, but only to the extent that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES — The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES — Any of the following in any form, and whether or not such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and whether or not such substances are generally characterized as waste: a) below-regulatory concern radioactive material, or any radioactive material which is not below-regulatory concern, but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Town, whether naturally occurring or otherwise, in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; b) natural gas or petroleum drilling fluids; c) natural gas or petroleum exploration, drilling, production or processing wastes; d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; f) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; g) drill cuttings from natural gas or petroleum wells; or h) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 CFR 261.4(b). The definition of "natural gas and/or petroleum extraction, exploration or production wastes does not include i) recognizable and nonrecognizable food wastes; or ii) waste generated by agriculture use.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY — Any of the following: a) tanks of any construction (metal, fiberglass, concrete, etc.); b) impoundments; c) pits; d) evaporation ponds; or e) other facilities, in any case used for the storage or treatment of natural gas and/or petroleum extraction, exploration or production wastes that: (i) are being held for initial use; ii) have been used and are being held for subsequent reuse or recycling; iii) are being held for treatment; or iv) are being held for storage.

NATURAL GAS AND/OR PETROLEUM EXTRACTION, EXPLORATION OR PRODUCTION WASTES DUMP — Land upon which natural gas and/or petroleum extraction, exploration or production wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

NATURAL GAS COMPRESSION FACILITY — Those facilities or combination of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

NATURAL GAS PROCESSING FACILITY — Those facilities that separate and recover natural gas liquids (NGLs) and/or other nonmethane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of

CO2 separated from natural gas streams.

NONREGULATED PIPELINES — Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

PIPELINE — All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move in transportation (including pipes, valves and other equipment and appurtenances attached to pipes and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), whether or not laid in public or private easement or private right-of-way within the Town. This includes, without limitation, gathering lines, production lines, and transmission lines.

RADIATION — The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

RADIOACTIVE MATERIAL — Material in any form that emits radiation, but only if such material has been moved from its naturally occurring location through an industrial process. Such material is "radioactive material" for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the U.S. Nuclear Regulatory Commission, the U.S. Environmental Protection Agency, the U.S. Department of Energy, the U.S. Department of Transportation, or any other regulatory agency.

SUBSURFACE — Below the surface of the earth, or of a body of water, as the context may require.

TRANSMISSION LINE — A pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by the Federal Energy Regulatory Commission's jurisdiction under Section 1(b) of the Natural Gas Act, or as a "major utility transmission facility" under the Public Service Law of New York, Article 7, § 120(2)(b).

UNDERGROUND INJECTION — Subsurface emplacement of natural gas and/or petroleum extraction, exploration or production wastes by or into an injection well.

UNDERGROUND NATURAL GAS STORAGE — Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities, and pipelines.

E. Preexisting, legal nonconforming natural gas and/or petroleum extraction activities. Notwithstanding any provision of this chapter to the contrary, any natural gas and/or petroleum extraction activities that are being conducted in the Town as of the effective date of this local law¹⁸ shall be subject to the following:

(1) Applicable requirements.

(a) If, as of the effective date of this local law,¹⁹ substantive natural gas and/or

18. Editor's Note: "This local law" refers to L.L. No. 8-2012, adopted 12-3-2012.

19. Editor's Note: "This local law" refers to L.L. No. 8-2012, adopted 12-3-2012.

petroleum extraction activities are occurring in the Town, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation all valid permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other regulating agencies for such activities, then and only then such activity shall be considered a preexisting, nonconforming use and shall be allowed to continue, subject, however, to the provisions of Subsection E(2) and (3).

- (b) Natural gas and/or petroleum extraction activities that are being conducted in the Town as of the effective date of this local law²⁰ and which do not qualify for treatment under the preceding Subsection E(1)(a) shall not be grandfathered, and shall in all respects be prohibited as contemplated by Subsection A of this § 285-43.1.
- (2) Upon the depletion of any well which is allowed to remain in operation after the effective date of this local law²¹ by virtue of Subsection E(1)(a), or upon any other substantive cessation of natural gas and/or petroleum extraction activities [otherwise grandfathered by virtue of Subsection E(1)(a)] for a period of more than 12 months, then and in such event the nonconforming use status of such activity shall terminate, and thereafter such natural gas and/or petroleum extraction activities shall in all respects be prohibited as contemplated by Subsection A of this § 285-43.1.
- (3) Notwithstanding any provision hereof to the contrary, the preexisting, nonconforming status conferred and recognized by Subsection E(1)(a) is not intended, and shall not be construed, to authorize or grandfather any natural gas and/or petroleum extraction activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this local law.²² Any expansion or attempted or purported expansion shall not be grandfathered under Subsection E(1)(a), and instead shall in all respects be prohibited as contemplated by Subsection A of this § 285-43.1.

§ 285-44. Methane gas recovery and energy generation at closed sanitary landfills.

- A. Special permit application. Any owner or lessee of property in the Town of Onondaga desiring to recover, produce or process methane gas at sanitary landfills, for the purpose of energy generation or otherwise, shall obtain a special permit therefor from the Town Board. In order to obtain such permit, the applicant shall file with the Town Clerk of the Town of Onondaga an application for such permit which shall set forth and include the following items, unless specifically waived for good cause by the Town Board:
 - (1) A detailed statement of proposed operations.
 - (2) Drawings and plans prepared and certified by a licensed professional engineer relating to the proposed construction and use of the premises, including the location,

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21. Editor's Note: "This local law" refers to L.L. No. 8-2012, adopted 12-3-2012.

22. Editor's Note: "This local law" refers to L.L. No. 8-2012, adopted 12-3-2012.

construction and dimensions of proposed buildings, the gas collection and energy generation systems and such related information as the Town Board may require.

- (3) An attorney's opinion of title or title policy, in a form satisfactory to the Town's legal counsel, certifying the names of the record owners and mortgagees, if any.
 - (4) Copies of any permits which may be required from the New York State Department of Environmental Conservation authorizing such operations upon the premises, together with all supporting papers submitted in support of such application to the Department of Environmental Conservation.
- B. Permit fee; period of validity; nontransferability. [Amended 5-2-2011 by L.L. No. 2-2011]
- (1) The applicant shall pay to the Town Clerk such sum as shall be set from time to time by resolution of the Town Board for each permit proposed to be issued by the Town Board.
 - (2) The Town Board may issue a permit for a period of one year from the date said permit is granted. Said permit shall not be transferable without the express written permission of the Town Board, but may be renewed thereafter for successive periods of one year, upon payment of a renewal fee as shall be set from time to time by resolution of the Town Board.
- C. Standards for issuance of permit. The Town Board, as a condition for issuance of such permit, may require compliance with all applicable state and federal laws, rules and regulations, including but not limited to the New York State Environmental Conservation Law and rules and regulations heretofore or hereafter put into effect by the New York State Department of Environmental Conservation. The Town Board may also request compliance with such reasonable conditions as it may impose relating to the following:
- (1) Prevention of air and water pollution.
 - (2) Noise reduction and control.
 - (3) Safety regulations for the protection of life, health or property.
 - (4) Construction and installation of natural and man-made buffers and screening materials.
 - (5) The termination of operations, including but not limited to the venting and burning of gases, the removal of equipment and restoration of the site.
 - (6) The keeping of records and recording procedures.
 - (7) The deposit of security and insurance policies related to methane gas recovery and energy generation operations, in the amounts prescribed by the Town Board.
 - (8) Periodic inspection and maintenance.
 - (9) Certifications by licensed professional engineers and other consultants.
- D. Revocation or suspension of permit; penalties for offenses.
- (1) If the Town Board of the Town of Onondaga shall find that any operation permitted

hereunder is not being conducted in accordance with the conditions hereinbefore set forth and as established by the Town Board, a notice, in writing, shall be served upon the holder of the permit directing that the conditions be remedied within 10 days after the service of such notice. If such conditions are not corrected after the expiration of said ten-day period, the Town Board may cause a notice to be made, in writing, to the holder of said permit requiring the holder of the permit to appear before the Town Board at a time to be specified in such notice and show cause why such permit should not be revoked or suspended. The Town Board may, after hearing the testimony of witnesses and the holder of such permit, revoke or suspend such permit if the Town Board shall find that said operation is not being conducted in accordance with the provisions of this chapter.

- (2) In the event that such operation does not cease and desist within three days of such revocation or suspension, a penalty shall be assessed against the owner of the permit in the amount of \$1,000 per day for each day such operation continues, without any waiver to the Town to enforce such suspension in the Supreme Court of the State of New York.

E. Security for property management and monitoring of landfill.

- (1) Recognizing that sanitary landfills are the depositories for solid waste and as such present actual and potential hazards to the environment, including but not limited to exposed waste material, noxious odors and contamination of surface waters and groundwaters, and that such landfills, when closed, must continue to be operated and monitored in a manner which assures that such environmental hazards are controlled and prevented to the maximum extent possible, no permit shall be issued hereunder unless the owner of the sanitary landfill upon which the methane gas recovery system is to be constructed deposits with the Town of Onondaga security as hereinafter described.
- (2) Such security shall be in the form of cash, bank letter of credit, surety bond executed by one or more sureties satisfactory to the Town Board, or such other form of security as may be approved by the Town Board. The terms and provisions under which such security is held by the Town shall be subject to the approval of the Town Board and shall require that such security remain in full force and effect for as long as the permit issued hereunder, and any renewals thereof, is in effect.
- (3) The Town Board shall determine the amount of such security based upon the size of the closed sanitary landfill, the method by which such landfill was closed, the nature and extent of the methods by which such landfill is to be managed and monitored, including the degree of anticipated testing, repair and maintenance of the landfill cover, and history of environmental problems experienced at the landfill.
- (4) Such security shall be held by the Town of Onondaga upon the condition that the sanitary landfill be managed and monitored in accordance with all applicable federal, New York State, County of Onondaga and Town of Onondaga laws, ordinances, rules and regulations, including but not limited to the rules and regulations promulgated pursuant to New York State Environmental Conservation Law. The terms and provisions under which such security is held shall provide that such security shall be

forfeited in the event that the owner of the landfill fails to comply with such laws, ordinances, rules and regulations.

- (5) The security required hereunder shall be in addition to the security which may be required pursuant to Subsection C(7) of this section, but may be waived or the amount thereof reduced by the Town Board in the event that the owner of the landfill has already deposited security with the Town of Onondaga pursuant to any other local law or ordinance of the Town regulating sanitary landfills.

§ 285-45. Amendments.

This chapter may be amended from time to time by local law in accordance with the procedures set forth in the New York State Municipal Home Rule Law.

§ 285-46. Zoning Map. [Amended 4-3-2017 by L.L. No. 2-2017]

The Zoning Map for the Town of Onondaga titled "Town of Onondaga Zoning Districts, 2016 Master Plan," prepared by C&S Companies, dated April 19, 2016, showing the locations of various zoning district classifications applying to land within the Town limits, is hereby adopted as the official Zoning Map of the Town of Onondaga and shall supersede and replace any and all other zoning maps of the Town of Onondaga.²³

§ 285-47. When effective.

This chapter shall take effect immediately upon filing in the office of the Secretary of State of the State of New York. The prior zoning ordinance known as the "Town of Onondaga Zoning Ordinance of 1971" will remain in effect until the effective date of this chapter, at which time the prior ordinance will be deemed repealed and will cease to be in effect.

23. Editor's Note: Said Zoning Map and amendments thereto are on file in the office of the Town Clerk.