Chapter 155

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Olive 6-16-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review — See Ch. 89.
Fire prevention and building construction — See Ch. 93.
Flood damage prevention — See Ch. 97.
Mobile homes — See Ch. 105.
Secondhand dealers — See Ch. 116.
Subdivision of land — See Ch. 133.
Telecommunications — See Ch. 146.

ARTICLE I
Purposes

§ 155-1. Purposes and enactment.

There is hereby established a comprehensive zoning plan for the Town of Olive, New York, which plan is set forth in the text, map and schedules which constitute this chapter. Said plan is adopted for the purposes set forth in Article 16, Chapter 62, of the Consolidated Laws of the State of New York, and more particularly for the protection and promotion of the public health, safety, convenience, morals, aesthetics and general welfare of the community, as follows:

A. To guide the future growth and development of the town in accordance with a comprehensive plan of land use and population density that represents and promotes beneficial and convenient relationships among residential, commercial, and public areas within the town, considering the suitability of each area for such uses, as indicated by

existing conditions, trends in population and mode of living, and having regard for the use of land, building development and economic activity, both within and adjacent to the town.

B. To provide adequate light, air, and privacy; to safeguard health of the community; to secure safety from fire, flood and other danger; and to prevent over-crowding of the land and undue congestion of population.

C. To protect and conserve the character, the environment and the social and economic stability and property value and to encourage the orderly and beneficial development of all parts of the town.

D. To bring about the gradual conformity of the uses of land and buildings throughout the town to the comprehensive zoning plan set forth in this chapter, and to minimize conflicts among the uses of land and buildings.

E. To promote a beneficial traffic circulation throughout the town, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient traffic movement.

F. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment, and other economic activity relating to uses of land and buildings throughout the town.

G. To ensure that development takes place in an amount commensurate with the availability and present and future capacity of public facilities and services.

H. To protect all bodies of water and watercourses from pollution, and to avoid hazardous conditions and excessive damage from stormwater runoff and flooding; to safeguard the water table, and to encourage the wise use and sound management of the natural resources throughout the town in order to preserve the integrity, stability, beauty and good character of the community and the value of the land.

I. To promote the preservation of the existing historic character of the town, and to encourage the development of uses which would add to or be in harmony with this character.

J. To preserve the natural beauty of the physiography of the town, to protect the town against unsightly, obtrusive, and obnoxious land uses and operations, to enhance the aesthetic aspect of the natural and man-made elements of the town, and to ensure appropriate development with regard to those elements.

K. To provide adequate and suitably located areas for recreation and resort activities.

L. To assist in the implementation and support of the Town Development Plan, or Master Plan, as it may be adopted by the Planning Board and endorsed by the Town Board, in

accordance with § 272-a of Article 16, Chapter 62, of the Consolidated Laws of the State of New York, hereinafter referred to as the "Town Law."

M. To consider the need and importance of adequate housing to the quality of life and well-being of the elderly in the community by providing procedures and criteria for the establishment of affordable senior citizen housing. **[Added 5-6-1997 by L.L. No. 1-1997]**

ARTICLE II
Establishment of Districts

§ 155-2. Classes of districts.

A. The Town of Olive is hereby divided into the following districts:

R/C-10A Residential/Conservation	-	10 acres per dwelling unit
R/R-3A Residential/Rural	-	3 acres per dwelling unit
R/E-1A Residential/Exurban	-	1 acre per dwelling unit
B/V-1/2 Business/Village and/or 1/2 acre per business use	-	1 acre per dwelling unit
B/H-1/2 Business/Highway only	-	1/2 acre per business use

B. Except where otherwise indicated in this chapter, where districts are referred to as "more restrictive" or "less restrictive," the designation shall refer to the order in which the districts are named above, the first-named being the most restrictive, and so on to the last-named, being the least restrictive.

§ 155-3. Zoning Map established.

Said zoning districts are bounded and defined as shown on a map entitled "Zoning Map of the Town of Olive, N.Y.," adopted simultaneously with the adoption of this chapter and certified by the Town Clerk, which map accompanies this text and, with all explanatory matter thereon, is hereby made a part of this chapter.[1]

§ 155-4. Interpretation of district boundaries.

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

A. District boundary lines are intended to follow lot lines or center lines of streets, rights-of-way and watercourses, or to be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map.

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1. **Editor's Note: The Zoning Map is on file in the town offices.**

B. In subdivided property, or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by the use of the map scale shown thereon.

C. Where district boundary lines are indicated as approximately following the property lines of public land, such lines shall be construed to be such boundaries as established as of the date of the adoption of this chapter.

D. Where district boundaries are shown to approximately follow the edge of lakes, reservoirs or other bodies of water, the mean high-water line thereof shall be construed to be the district boundaries, except that the regulations of the most restrictive district on the edge of such a body of water shall apply to the area within the mean high-water line and the body of water thereof.

E. All dimensions to or from roads or railroads shown on the Zoning Map shall be taken from the edge of the right-of-way of such roads or railroads, unless otherwise mentioned or described on the Zoning Map.

F. All district boundaries parallel to roads shall be considered parallel to and a distance away from the center line of these roads equal to 25 feet plus a district depth as scaled from the Zoning Map of the Town of Olive noted in § 155-3.

G. Measurements shown to the intersection of two or more roads shall be deemed to be taken from the intersection of the center lines of these roads.

H. Disputes with respect to determination of boundaries by the application of the rules of this section shall be subject to determination by the Board of Appeals.

ARTICLE III
General Regulations

§ 155-5. Application of regulations.

A. No building or structure shall be erected, moved, altered, rebuilt or enlarged, nor shall any land, building or structure be used, designed, or arranged to be used, for any purpose other than as specified in this chapter for the district in which such building, structure or land is located.

B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the reasons set forth in Article I, Purposes, of this chapter. This chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, covenants or agreements, the provisions of this chapter shall prevail. Except as hereinafter provided, the following general regulations shall apply.

§ 155-6. Provisions subject to exceptions, additions or modifications.

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations.

§ 155-7. Buildings, uses and lots.

A. Lot for every building. Every building hereafter erected shall be located on a zoning lot of certain size and dimension as herein defined and there shall be not more than one principal building on each such lot, except as specifically permitted elsewhere in this chapter. If more than one such lot is located on a piece of property, each lot must meet the requirements of this chapter.

B. Yard and open space for every building. No yard or other open space provided about any building, for the purpose of complying with the provisions of these regulations, shall be included as any part of the yard or open space for any other buildings; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. Subdivision of a lot. Where a lot is hereafter formed from the part of a lot or parcel already occupied by a building, such separation shall be effected in such manner that each lot thus created conforms to all of the requirements of this chapter.

D. Irregularly shaped lots. Where a question exists as to the proper application of any of the requirements of this chapter to a particular lot or parcel, because of the peculiar or irregular shape of the lot or parcel, the Board of Appeals shall determine how the requirements of the chapter shall be applied.

E. Lots under water or subject to flooding. No more than 30% of the minimum area requirement of a lot may be fulfilled by land which is under water or subject to periodic flooding. All minimum front, side, and rear yard requirements must be satisfied by measurement on dry land. For purposes of this paragraph, land which is covered by a stream not exceeding five feet in average width at mean water level, or land covered by a pond not exceeding 15 feet in greatest dimension or 150 square feet in area at normal high-water level, shall not be considered as being under water.

F. Lots bordering major streams. No zoning permit shall be issued for the construction or enlargement of any permitted or accessory use in any district within 75 feet of normal water edge of the Esopus, Little Beaverkill and Bushkill streams unless specifically regulated in the manner required in §§ 155-18 and 155-25A of this chapter.

G. Required street frontage. No zoning permit shall be issued for any structure unless the lot upon which that structure is to be built has a frontage of at least 25 feet on a street or highway, as defined by the Town Law in § 280-a, Article 16, Chapter 62, Consolidated Laws of New York, which street or highway shall have been suitably improved, or a bond posted therefor, to the satisfaction of the Town Board or Planning Board, as provided in said § 280-a. Access via easement or right-of-way shall be as required by Subdivision 4 of § 280-a.

H. New buildings on lots less than the minimum area. A zoning permit may be issued for the erection of a building or structure upon a lot or parcel which has an area less than that required for the district in which such lot or parcel lies, providing that said lot or parcel met the minimum area requirements of the Town of Olive Interim Zoning Ordinance if said lot or parcel was created during the effective period of said Town of Olive Interim Ordinance, further providing that all yard setbacks and other requirements which are in effect at the time of the obtaining of the zoning permit are complied with insofar as such is feasible, and further providing that the owner of such lot or parcel does not own other lots or parcels contiguous thereto. If this be the case, such other lots or parcels, or so much thereof as might be necessary, shall be combined with the original lot or parcel to make a single conforming lot or parcel, whereupon a permit may be issued, but only for such combined lots or parcels, even though their total be less in area than required by this chapter for the district in which they lie.

I. Exemption of lots on approved subdivision plats. Lot areas and dimensions shown on subdivision plats approved and filed by the Town of Olive Planning Board shall be exempt from the minimum area and dimension requirements of this chapter.

§ 155-8. Variations in subdivision design.

For the purposes of this chapter and for the purpose of obtaining good health and sanitary conditions, for natural resource preservation and conservation and to minimize the construction and maintenance costs of community facilities and utilities, all directed towards the objective of fostering and obtaining land development of good quality and design at reasonable economic cost, the Town Board hereby resolves that the Planning Board shall be guided by and is hereby authorized to review and act upon all subdivisions in accordance with the following paragraphs. In all cases, the Planning Board shall have full power of subdivision approval, approval with conditions, or denial, as authorized by law.

A. Average density subdivisions. Simultaneously with the approval of a subdivision plat and pursuant to § 278 of the Town Law, at the request of the applicant, the Planning Board is authorized to modify the zoning regulations with respect to lot area and dimensions, provided that the average size of all lots shown on the subdivision plat shall be equal to or greater than the permitted minimum lot area in such district, and that there shall not be a greater average density of population, or cover of the land with buildings, than is permitted in such district, and further provided that no lot shall have less than the minimum area and dimensions required for lots in the least restrictive residential district. For the purposes of this section, "average density" shall be determined by the number of single-family residences which could be built under the zoning district standards in full conformity with the town's subdivision regulations,[2] and the applicant may be required to furnish a sample layout of single-family homes to determine this number.[3]

B. Record of zoning modifications. Each approved modification of the town's subdivision and zoning regulations, as may be approved in this section, shall be noted specifically on the subdivision plat, which plat may be filed in the office of the County Clerk as

2. **Editor's Note: See Ch. 133, Subdivision of Land.**

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

required by law. Upon the filing of said plat in the office of the County Clerk, a copy of the plat shall be filed with the Town Clerk and approved modifications shall be recorded as part of this chapter.

§ 155-9. Cellars, tents and camp trailers.

The use of cellars, tents and/or camp trailers for permanent dwelling purposes shall not be permitted in any district, except that a temporary certificate of occupancy may be granted by the Zoning Inspector for a period of stay greater than 30 days, not to exceed six months, and may be renewed for three additional consecutive six-month periods upon a finding by the Zoning Inspector that reasonable construction progress is being made in order to provide convenient temporary living quarters during the initial construction of a single-family residence on the same lot. Such a temporary certificate of occupancy shall not be granted until a water supply and a sanitary sewage disposal system have been approved, constructed and are in operation.

§ 155-10. Structures of innovative design and construction.

Prefabricated, factory built, or modular structures and housing, including mobile homes, shall be subject to compliance with the regulations of the particular district within which they are permitted and the appropriate building, housing, safety and sanitary codes in existence or as they may be adopted by the Town Board. Such residential structures shall be permanently attached to a masonry or similar rigid and enclosed foundation, constructed in a manner so as to stand the rigors of winter. In addition, mobile home structures shall meet the particular requirements of Chapter 105, Mobile Homes, wherever such requirements are stricter.

§ 155-11. Yards, yard improvements, building projections, setbacks and courts.

A. Terraces and porches. A paved terrace shall not be considered in the determination of yard size or lot coverage; provided, however, that such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high. Such terraces shall not project into any yard to a point closer than 25 feet from any lot line. Any two-story or any enclosed porch, or one having a roof and capable of being enclosed, shall be considered a part of the building in the determination of the size of yard or amount of lot coverage.

B. Fire escapes and other projecting architectural features. The space in any required yard shall be open and unobstructed, except for fire escapes and the ordinary projection of architectural features such as window sills, bay windows, cornices and eaves, and other structures which may be specifically permitted in this chapter.

C. Projecting features above the roof level. The height limitations of this chapter shall not apply to church spires, belfries, cupolas, silos, and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, television antennas or similar features, and necessary mechanical appurtenances usually carried above the roof level, except as such may be specifically modified by other provisions of this chapter. Such features, however, shall be erected only to such height as is necessary to

accomplish the purpose they are intended to serve. Parapets or cornices, used for ornamentation and without windows, may extend above the roof level not more than five feet.

D. Walls and fences. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall, nor to prohibit any fence or wall, provided that in any residence district no fence or wall shall exceed six feet in height, measured above the adjoining finished grade.

E. Corner lots. On a corner lot in any residence district, there shall be provided a side yard on the side street equal in depth to the required front yard. A rear yard shall be provided on each corner lot, and the owner shall elect which yard is the rear yard.

F. Visibility at intersections. On a corner lot, no fence, wall, hedge, or other structure or planting shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are 30 feet in distance from the point of intersection, measured along said street line in any manner which would substantially block the view from one street to the other within an area three feet to eight feet above the average ground level along the street right-of-way lines.

G. Exception for existing alignment of buildings. If on one side of a street within a given block, and within 150 feet of any lot, there is a pronounced uniformity of alignment of the fronts of existing buildings and of the depth of front yards greater or less than the depths specified in the schedule of regulations,[4] a front yard shall be required, in connection with any new building, which shall conform as nearly as practicable with those yards existing on the adjacent lots, except that no such building shall be required to set back from the street a distance greater than 50 feet unless otherwise required in this chapter.

§ 155-12. General regulations for dwellings in accessory buildings.

Any accessory building on the same lot with a main residence building shall not be used for residence purposes, except for guests, or for domestic employees of the owners or tenants of the main building, and who are employed on the premises, providing such a building shall contain no kitchen or kitchen facilities and shall meet setback requirements of this chapter.

§ 155-13. Preexisting uses of land and buildings.

Uses which existed prior to this chapter, which do not conform with the standards of this chapter and which are in violation of the Interim Zoning Ordinance of the Town of Olive, shall be deemed not to be in violation of this chapter.

A. Continuing existing uses. Except as otherwise provided in this section, the lawfully permitted use of land or buildings existing at the time of the adoption of this chapter may be continued, although such use does not conform to the standards specified by this

4. **Editor's Note: The Schedule of Residence and Business and Industry District Standards is included at the end of this chapter.**

chapter for the zone in which such land or building is located. Said uses shall be deemed preexisting uses.

B. Preexisting use of land. Where no building or structure is involved, the preexisting use of land may be continued, provided, however:

(1) That no such preexisting use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter;

(2) That no such preexisting use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such preexisting use at the time of the adoption of this chapter, unless such relocation is deemed to be more appropriate by the Zoning Board of Appeals.

(3) That if such preexisting use of land, or any portion thereof, ceases for any reason for any continuous period of more than one year or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this chapter;

(4) That no preexisting use of land shall be changed to another preexisting use, unless it is a similar or less nonconforming use, as determined by the Zoning Board of Appeals.

C. Preexisting use of buildings.

(1) A building or a structure, the use of which does not conform to the use regulations for the district in which it is situated, may be enlarged or extended but not to exceed a 100% gross floor area as determined by the Board of Appeals.

(2) Such preexisting building may be structurally altered to keep a preexisting building or structure in sound condition, and provided further that any such preexisting use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of the adoption of this chapter, as determined by the Board of Appeals.

(3) A preexisting use of a building may be changed only to a use of similar or less nonconformity, as determined by the Board of Appeals.

(4) If any preexisting use of a building ceases for any reason for a continuous period of more than one year, or is changed to a conforming or less nonconforming use, or if the building in or on which such use is conducted or maintained is moved any distance whatsoever, for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which such building is located.

(5) If any building in which any preexisting use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building was located, and the subsequent use of any building thereon, shall be in conformity

with the standards specified by this chapter for the district in which such land or building is located.

D. Preexisting, other than use. A building which, at the time of adoption of this chapter, is conforming in use but which does not conform to the height, yard, land coverage, parking or loading space requirements of this chapter, shall not be considered to be nonconforming within the meaning of Subsection C. Any lot legally existing at the time of adoption of this chapter, but which does not comply with the area and dimension requirements of the district within which it lies, shall not be considered nonconforming. No permit shall be issued that will result in the increase of any of the above nonconformities, except with the approval of the Board of Appeals.

E. Restoration of damaged and/or destroyed buildings. If any building legally preexisting in use is destroyed or damaged, it may be repaired or reconstructed as permitted in Subsection C of this section. All repairs or reconstruction for such preexisting use shall be completed within two years of the date on which the destruction occurred.

F. Preexisting uses subject to additional requirements. In order to bring about the gradual conformance of various incompatible uses to the requirements of this chapter, the following requirements are established:

(1) Preexisting signs. Regardless of any other provision of this chapter, within a period of five years from the date of this chapter, every sign which may exist as a preexisting use in any district shall be discontinued and removed and/or changed to conform to the standards of said district and of the standards and requirements of any sign regulations in effect in the town at such time.

(2) Preexisting junkyards. Notwithstanding the provisions of Subsections A through E, in addition to the requirements set forth in Ch. 101, Junkyards, and any other town ordinances and regulations, every junkyard which, after the adoption of this chapter, may exist as a preexisting use in any district shall, within a period of five years from the date of this chapter, comply with said Chapter 101, ordinances, regulations and this zoning variance as they may be amended.

G. Completion of buildings under construction. Any building, the construction of which has been started before the effective date of this chapter or of an amendment thereto, and the ground story framework of which, including the second tier of beams, has been completed within one year after the adoption of this chapter or amendment thereto, may be completed in accordance with plans on file with the Zoning Inspector, provided that such construction is diligently prosecuted and the building is completed within two years of the adoption of this chapter.

H. Existing special uses deemed conforming. Any use lawfully existing at the time of the adoption of this chapter, or of any amendments thereto, in the district in which such use is classified herein as a special use, shall, without further action, be deemed to be a conforming use in such zone.

§ 155-14. Minimum dwelling unit size.

No building or structure in any district, used for year-round or permanent residence purposes, and erected or created by alteration subsequent to the adoption of this chapter, shall have a usable floor area less than 600 square feet. Such usable floor area shall include all floor area used for human occupancy within the exterior walls of the building, but shall not include open porches or breezeways, garages, basements, or uninhabitable or unfinished attic space.

§ 155-15. Home occupations. [Added 10-6-1989 by L.L. No. 2-1989]

In any district, home occupations shall conform to the following use limitations:

A. A home occupation may only be conducted within a dwelling which is a bona-fide residence of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use, but not both. For purposes of this chapter, a home occupation occurring fully within the dwelling shall be considered a permitted Class 1 home occupation; those home occupations occurring in an accessory building shall be considered Class 2 home occupations which may only be authorized by special use permit.

B. Not more than one such home occupation, whether Class 1 or Class 2, may occur on a single residential premises, with Subsections C, E and H below applying to either single home occupation.

C. The home occupation activity shall not occupy more than 25% of the total floor area; and in no event more than 500 square feet of floor area of the dwelling and shall be in accordance with Part 1241 of the New York State Fire and Building Code or as the same may be amended.

D. Except for articles produced, repaired or restored on the premises, no stock in trade shall be displayed or sold on the premises.

E. No alteration to the exterior of the principal residential building shall be made which changes the character thereof as a dwelling, except that a single sign, not exceeding two square feet in area, shall be permitted.

F. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home or which may be associated with a hobby or avocation.

G. No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted.

H. Not more than two persons other than members of the household occupying such dwelling shall be employed in the conduct of the home occupation.

I. There shall be permitted no sharing, letting or subletting of space for use by others in conduct of their profession, trade or business.

J. Sufficient off-street parking shall be provided.

ARTICLE IV
District Regulations

§ 155-16. Schedules of regulations.

The schedules of regulations following, which define the use of land and buildings, the height of buildings, the yards and other open spaces to be provided contiguous to or in connection with buildings, the area of lots, off-street parking space, loading space, and all other matters contained therein, as indicated for the various districts of this chapter, are hereby adopted and declared to be a part of this chapter and may be amended in the same manner as any other part of this chapter. The regulations listed for each district, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

§ 155-17. Schedule of residence and business district uses.

No building, structure or premises shall be used, and no building or group of buildings, or part of a building or structure, shall be erected, constructed, enlarged, altered, arranged or designed to be used, in whole or in part, except for one or more of the uses set forth below. Only those uses listed as being permitted in a specific district shall be permitted in that district. All principal uses, except single-family and two-family homes shall obtain site plan review and approval by the Planning Board before the issuance of a zoning permit. In addition, a use marked with an asterisk (*) is subject to the special permit standards and site plan review procedures set forth in § 155-18.

A. Permitted principal uses in Residential/Conservation R/C-10A Districts.

(1) Single-family dwelling, on individual lots or in accordance with § 155-8 (also see § 155-10);

(2) Timber harvesting, forestry management, saw mills, sand, gravel, shale and stone quarrying*, farm use, farm produce stands, nurseries and greenhouses, provided that no unenclosed storage of manure, odor- or dust-producing substance or use shall be permitted within 100 feet of any street or residential property line.

(3) Tourist home, or boardinghouse.

(4) Day nursery or nursery school.

(5) Kennel* and the raising, breeding, training, care and boarding of dogs for sale*.

(6) Private nonprofit membership club*.

(7) Subject to the rules and regulations of the Public Service Commission of the State of New York, utility transmission lines*, unit substations* and public utility structures*.

(8) Governmental use*.

(9) Residential uses as permitted in §§ 155-7 and 155-8*.

(10) Commercial recreation uses*, specifically oriented toward the use of mountain land, such as ski areas, ski tows, horse riding trails, including travel trailer or camping trailer parks or sites.

(11) Park*, reservation* and/or recreation facility*.

(12) Common facilities and/or systems for public and/or private water supply and sewage disposal.

(13) Commercial radio*, television* and other similar electronic transmission structures*.

(14) Commercial recreation uses including but not limited to resort hotels*, commercial camps for seasonal residence only*, resort ranch*, resort lodge*, bungalow colony*.

B. Permitted principal uses in Residential/Rural R/R-3A Districts.

(1) All uses as permitted above.

(2) Church, synagogue, cemetery*.

(3) Public school, private* and/or parochial schools*, provided such schools meet the standards as required by the State Education Department for a public school.

(4) College*, library*, museum*.

(5) Religious* and charitable institution*.

(6) Hospital*, nursing* or convalescent home*.

(7) On parcels three times the minimum lot size, having frontage on a state or county road, office*, light industrial* or manufacturing* uses as permitted and regulated in Subsection F(2)(g) and having a total floor area equal to no more than 10% of the required minimum lot size.

C. Permitted principal uses in Residential/Exurban R/E-1A Districts.

(1) All uses as permitted above.

D. Permitted accessory uses in all residential districts.

(1) Office or studio of a physician, dentist, artist, architect, engineer, surveyor, lawyer, public accountant, real estate, insurance or other broker, when conducted in a dwelling by the inhabitant thereof, with not more than two nonresident employees.

(2) Customary home occupation.

(3) Private garage for the enclosed parking or storage of motor vehicles owned by the occupant.

(4) Off-street parking areas for automobiles, and up to three commercial vehicles in use by the occupant of said property to derive a source of income. This shall be deemed to include school buses. **[Amended 2-6-1996 by L.L. No. 1-1996]**

(a) All commercial vehicles 18,000 pounds or larger, including school buses, shall meet the following conditions and setbacks:

[1] All outdoor parking and storing of vehicles shall be a minimum distance of 75 feet from adjoining property owner's residential structures. If the requirement of 75 feet cannot be met, then the minimum standards as set forth in the Schedule of Residence and Business and Industry District Standards[5] shall apply, except for front yard setbacks.

[2] Hours of operation shall be within the user's normal working hours.

[3] Operation of diesel engines shall be as set forth in New York State Environmental Conservation Law.

(5) Parish house, rectory, church school rooms or similar facility.

(6) Signs, not exceeding two square feet in area, pertaining to a use permitted in the district, including sale or lease or rent signs, but excluding off-premises advertising signs, such as billboards. Community names or title signs and signs approved in accordance with § 155-8*. In addition, signs pertaining to any permitted principal nonresidential use* on the same lot, but not exceeding two signs with a total area of nine square feet. Signs shall be nonmoving, and, if lighted, shall be nonflashing and white light. Light sources shall be shielded.

(7) A gate house*, guest house*, caretaker's cottage*, camp or travel trailer or similar accessory uses to a residential estate use.

(8) Man-made swimming pools. Any such pools having a depth at any point of three feet or more and a surface area of 150 square feet shall meet minimum yard setback requirements. Any such pool having less than three feet of height at any point above ground shall be surrounded with a substantial fence, such as a chain link fence, at least three feet in height, with a gate entrance with locking mechanism.

(9) Any other accessory building or use considered by the Zoning Board of Appeals to be customarily incidental to any of the related principal uses herein and to be located on the same lot, or on a separate lot.

E. Permitted principal uses in Business/Village B/V-1/2 Districts.

(1) Single-family residences on lots of one acre per dwelling in size.

(2) All uses as permitted and regulated in the R/E-1A District above.

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5. **Editor's Note: Said Schedule is included at the end of this chapter.**

(3) In addition to Subsection E(1) and (2) above, on 1/2 acre lots, retail and personal service businesses* designed to meet the day-to-day and convenience type needs of the townspeople primarily such as food, clothing, soft goods, hardware and other merchandise stores, business and professional offices, cultural, social and artistic enterprises and facilities, and other uses deemed similar and appropriate by the Board of Appeals. Such uses may be provided individually or in combined groups as convenience or community shopping centers*.

F. Permitted principal uses in Business/Highway B/H-1/2 Districts.

(1) All uses as permitted and regulated in Subsection E(3) above, except that a special permit shall not be required.

(2) On additional or separate lots of 1/2 acre or more:

(a) Stores and shops for the conduct of retail business, banks, restaurants and other places serving food and beverages, professional and business offices, buildings and establishments for the performance of various personal services.

(b) Motels, resorts and associated amusements and recreation activities.

(c) Preparation, processing or manufacture of goods or products primarily for retail sale on the premises, such as baking, laundry and dry cleaning.

(d) Wholesale and storage business, building material storage and supply, and building, plumbing, electrical and similar contractor's establishment*.

(e) Motor vehicle sales, repair and service, not including unenclosed storage of junked cars or car parts.

(f) Commercial uses designed to serve the transient public and recreation- or resort-oriented travelers, such as restaurants; gas stations, auto sales and services; motels, seasonal cottages, hotels and ski lodges; commercial recreation facilities; and other uses deemed similar and appropriate by the Board of Appeals.

(g) Light industrial or manufacturing use*, including fabrication, converting, processing, altering, assembly or other handling of products (which uses normally will not cause or result in any dissemination of noise, vibration, excessive light, dust, smoke, gas, fumes, odor, or other measurable atmospheric pollutant beyond the boundaries of the site on which the use is located; menace by reason of fire, explosion, atomic or induced radiation or other physical hazard; harmful discharge of waste materials; or unusual traffic hazards or congestion due to the type and number of vehicles associated with such use).

G. Permitted accessory uses in all commercial districts. **[Amended 6-17-1980]**

(1) Signs affixed to a building pertaining to a permitted use conducted on the lot where such signs are displayed, provided such signs do not face any lot line of any

adjoining lot in a residential zone if within 50 feet of said lot. Total on-building sign area shall not exceed 1.5 square feet for each linear foot of building frontage and shall not project into any street. Freestanding signs shall not exceed 45 square feet per side in area, and shall not exceed two sides. All freestanding signs shall be set back from all property lines a distance at least equal to their maximum height or 10 feet, whichever is greater. Only one freestanding sign shall be allowed per business or combination of businesses on one commercial parcel, regardless of size.

(2) Nonflashing exterior spot lighting or other illumination of buildings, signs or grounds, except that all light sources shall be shaded so that they shall not be visible from the street or adjacent residential lots. Exposed neon light sources shall not be permitted.

(3) Parking area and loading space for motor vehicles pertaining to the permitted uses.

(4) Any other use considered by the Zoning Board of Appeals to be customarily incidental to a permitted principal use.

H. Permitted affordable senior citizen housing use in all districts. Application may be made to the Planning Board for site plan and/or special permit approval of a residential cluster development which provides affordable senior citizen housing whose residential units contain one bedroom or less and are served by private water supply and sewer systems approved by all government agencies as may be required. **[Added 5-6-1997 by L.L. No. 1-1997]**

(1) Lot, yard, frontage and density regulations.

(a) The minimum project area shall be five acres.

(b) Frontage for access to a state, county or town road shall be required.

(c) Residential units may be attached or detached with designs to be approved by the Planning Board and consistent with density requirements.

(d) Residential structures shall be consistent with lot, yard and height requirements as provided for under the Schedule of Residence and Business and Industry District Standards[6] for R/E-1A Residential/Exurban - 1 acre per dwelling unit.

(e) Density bonus of up to 100% as provided for under § 155-2, Classes of districts, for R/E-1A Residential/Exurban - 1 acre per dwelling unit, shall be available.

(f) Area available for calculation of allowable density shall only include 50% of area of lands designated as state or federal wetlands or within the one-hundred-year floodplain as shown on the most recent FIRM map and/or land having slopes greater than 25%.

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6. **Editor's Note: Said Schedule is included at the end of this chapter.**

(2) Planning Board review. Required information and Planning Board review shall be as set forth in § 155-19, Application for site plan and/or special permit approval.

(3) Proof of affordability. Compliance with affordability, as defined herein, shall be furnished by the applicant.

(4) Proximity to community services and businesses. Proximity to community services and business shall be reasonable taking into consideration available community and/or public transportation services.

(5) Traffic and parking.

(a) Off-street parking shall be provided on the same lot in accordance with § 155-29 of this chapter.

(b) Off-street parking shall not be located in a front yard or any other yard abutting a street, except in a driveway, and shall be screened from adjacent properties by a fence, wall or vegetative buffer at least six feet in height.

(c) Vehicular entrances and exits shall be clearly visible from the street and at least 75 feet from any street intersection.

(d) Traffic generated shall not add undue traffic volumes onto town roads serving single-family residential areas.

(e) Access roads shall provide for suitable provision of public transportation including adequate turnaround and dropoff areas.

(f) All pedestrian access facilities shall be stable, firm and slip-resistant.

ARTICLE V
Site Plans and Special Permits

§ 155-18. Uses requiring special permit and/or site plan approval.

A. All uses requiring special permit and/or site plan approval shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in this chapter. Such proposed uses may be approved, approved with conditions or denied in accordance with the procedures, regulations and requirements of this section. Such uses are noted in § 155-17, Schedule of residence and business district uses, and are marked by an asterisk (*).

B. All special permit uses are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and shall conform, but not be limited to, the following general requirements which may be established by this chapter.

C. All principal uses except single-family homes shall require site plan approval before the issuance of a zoning permit and no building development or site work of any sort shall be conducted prior to or shall be carried out except in conformity with such approval and its conditions.

D. The Planning Board may, on its own initiative, propose a general or specific site plan for a particular area where a site plan approval may be required in the future, using the requirements of the schedules of regulations and other pertinent sections of this chapter and the Town Development Plan, if any, as a guide.

§ 155-19. Application for site plan and/or special permit approval.

Any application for site plan and/or special permit approval shall be made, in writing, to the Zoning Inspector two weeks before the regularly scheduled Planning Board meeting at which the application is to be referred to the Planning Board, and shall be accompanied by, but not limited to, the following information in six complete copies:

A. An area sketch map, prepared at a convenient scale, showing, in general, all properties and owners of record, subdivisions, streets and easements within 500 feet of the boundaries of the proposed site.

B. An existing conditions sketch map showing existing natural and man-made features and characteristics of the site or lot. The Planning Board may require specific information such as a metes and bounds description to clarify the site plan.

C. A detailed plan for the proposed development, drawn to a convenient readable scale, showing the location, proposed use and height of all buildings; the location of all parking and truck loading areas; all traffic ingress, egress, and circulation drives; location of outdoor storage, if any; location of all pedestrian facilities, such as sidewalks; a detailed landscaping, grading, and drainage plan showing those above elements which are pertinent and including all existing or proposed site improvements such as drains, culverts, retaining walls and fences; description of method of water supply, refuse and sewage disposal and the location of such facilities; the location and size of all signs; the location and proposed development of buffer areas; the location and design of external lighting facilities; and a table of information listing pertinent facts about the proposed development and the zoning requirements of this chapter, such as those listed in this section and the Schedule of Residence and Business and Industry District Standards.[7]

§ 155-20. Referral of application to Planning Board. [Amended 6-2-1987 by L.L. No. 1-1987]

Each special permit application, together with the required map and plan and certified as to the degree of completeness of information required in § 155-19, shall be referred to the Planning Board by the Zoning Inspector at the following regularly scheduled Planning Board meeting for a decision thereon, which decision shall be rendered to the Zoning Inspector within 60 days of said referral date.

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7. **Editor's Note: Said Schedule is included at the end of this chapter.**

§ 155-21. Planning Board report; considerations and scope. [Amended 6-2-1987 by L.L. No. 1-1987]

A. In acting on any proposed site plan and/or special permit, the Planning Board shall take into consideration the requirements of the Town Development Plan and the Official Map as they may exist. The Planning Board shall also consider the comments and recommendations of all agencies to which referral is mandated by law. In addition, the Planning Board shall determine that:

(1) The proposed location of main and accessory buildings on the site and their relation to one another, traffic circulation within the site, height and bulk of buildings, provision of off-street parking space, provision of buffer areas and other open spaces on the site, and display of signs and external lighting is such that any development will adequately handle pedestrian and vehicular traffic within the site and in relation to the street system adjoining, and will harmoniously and satisfactorily fit in with contiguous land and buildings and adjacent neighborhoods. In addition, the Planning Board shall consider the factors of drainage, road alignment and other engineering aspects of such site plan, and may require the review of such factors by engineering authorities appointed by the town.

(2) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

(3) The location, nature and height of buildings, walls and fences, and the nature and extent of the landscaping on the site, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(4) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

B. The Planning Board shall recommend additional conditions and safeguards to the site plan or special permit as are necessary to assure minimum adverse impact and continual conformance to all applicable standards and requirements such that operation in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, electromagnetic radiation, flashing of lights and similar nuisance conditions, than would be the operations of any permitted use not requiring a special permit.

C. The Planning Board shall review all uses requiring special permits and/or site plan approval. Based upon a consideration of the requirements and conditions of §§ 155-18, 155-19, 155-20 and 155-21, and all subsections thereof, the Planning Board shall approve, approve with conditions, or disapprove site plans and/or uses requiring special permit.

D. The Planning Board, within 62 days of the referral of an application pursuant to § 155-20 of this chapter, shall hold a public hearing on said application if requested by the

applicant or a resident of the Town of Olive and shall give public notice thereof by publication in the official newspaper of such hearing at least five days prior to the date thereof, and shall decide the same within 62 days after such hearing, or within 62 days after referral of the application if no hearing has been held, provided that the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed with the Town Clerk within five business days and a copy thereof mailed to the Zoning Enforcement Officer and the applicant.[8]

E. Appeal of decision of the Planning Board. Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the Town Clerk. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court at a special term shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.

§ 155-22. Action by code enforcement officer.

A. Notice to abutting property owners. At the time of application referral to the Planning Board, the Zoning Inspector shall notify all abutting landowners noted on the drawings with respect to the application for a site plan and/or special permit.

B. Issuance of permit. If the decision of the Planning Board is approval, the Zoning Enforcement Officer shall issue such permit. If the decision of the Planning Board is approval with conditions, the Zoning Enforcement Officer shall issue such permit with the conditions attached to such permit. If the decision of the Planning Board is disapproval, the Zoning Enforcement Officer shall deny the issuance of said permit. If the Zoning Enforcement Officer receives no decision by the Planning Board within the time a decision must be made as provided in the chapter, then the Zoning Enforcement Officer shall issue the permit for which the application was submitted. **[Amended 6-2-1987 by L.L. No. 1-1987[9]]**

§ 155-23. Expiration of special permits and site plan approval.

A special permit and/or site plan approval by the Planning Board shall be deemed to authorize only the particular use or uses specified in the approval, and shall expire if a zoning permit is not requested within 12 months from the date of approval; if a certificate of occupancy is not requested within 24 months from the date of approval; or if said uses shall cease for more than 12 months for any reason, including, but not limited to, lack of operation or maintenance in accordance with the conditions and safeguards established at the time of approval.

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

9. **Editor's Note: This local law also repealed former Section 335, Appeal of Decision of Zoning Inspector, which immediately followed this section.**

§ 155-24. Existing violations.

No permit shall be issued for a special permit use or site plan approval for a property upon which there is an existing violation of this chapter. This does not prohibit a special permit on a legal preexisting use.

§ 155-25. Individual standards for certain special permit use.

A special permit use shall conform in all respects to all the regulations of this chapter and, particularly, to those regulations in the schedules of regulations for the zoning district in which the special permit use is located, except that the regulations in the following paragraphs shall apply when they are more restrictive:

A. Additional requirements for permitted uses in floodplain areas.

(1) Where a site is subject to flooding, the Planning Board shall require an area sketch map, showing the location and elevation of the site and its relation to the stream or creek which causes the flooding. The Board may also require data on the quantity of flow to be handled by the stream or creek based on a fifty-year storm, the existing slope of the stream channel, and the existing, minimum cross-sectional area of the stream adjacent to the site.

(2) Where a site is subject to flooding, buildings shall be located only in accordance with a site plan approved by the Planning Board. Where protective works or other improvements are proposed or required, an improvements plan shall be submitted showing such improvements.

(3) As an aid in reaching its decision, the Planning Board shall require proof that the land in question does not presently flood, or, if such land does flood, that it can and will be reasonably prevented from flooding.

ARTICLE VI
Off-Street Parking and Loading

§ 155-26. General provisions.

It is the intention of this chapter that all buildings, structures and land uses be provided with a sufficient amount of off-street motor vehicle parking to meet the present and future needs of persons employed at or making use of such facilities, and sufficient off-street loading and unloading facilities to meet the needs of such structures or land uses.

§ 155-27. Required space to be shown on plan.

The plans for any new building or any expansion of an existing building, when submitted for a zoning permit, shall show specifically the location, size, and type of improvements of the off-street parking or loading space required to comply with this chapter, and the means of access to such space from the public streets or highways. Except for one- and two-family residences, no zoning permit shall be issued until such plan for parking and loading space and access to it and required improvement is approved by the Planning Board as part of the site

plan or special permit review procedure. The Planning Board shall determine that traffic access, traffic circulation, and general layout of the parking facility are adequately planned with regard to safety on the public street, and safety, convenience and adequacy of access for cars and pedestrians using the parking facility. No certificate of occupancy shall be issued for any building or land use until the required off-street parking space has been established.

§ 155-28. Existing structures and uses.

A. Structures and land uses in existence, or for which zoning permits have been approved, at the time of the adoption of this chapter shall not be subject to the parking or loading space requirements of this chapter, except that any parking and loading facilities then existing to serve such structures or uses shall not, in the future, be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements. Required parking and loading facilities shall, however, be provided as a condition for the issuance of any zoning permit for any enlargement of such structures or uses in the future.

B. In case of exceptional difficulty or unusual hardship to such properties, arising out of the requirement of Subsection A, the Planning Board may reduce the parking requirements, but shall require such degree of compliance as it may deem reasonable.

C. Required off-street parking facilities which, after development, are later dedicated to and accepted by the town shall be deemed to continue to serve the uses or structures for which they were originally provided.

§ 155-29. Off-street parking requirements.

A. Off-street parking spaces shall be provided as follows, except as may be modified in the provisions of this article, or where additional parking requirements may be made as a condition of the issuance of a special permit under § 155-18, in which case, provisions of that section shall apply.

Use	Number of Spaces
Bowling alley or other center of public amusement, the capacity of which cannot be measured in terms of seats	5 spaces for each bowling lane; all others, one space for each 200 square feet of floor space devoted to patron use
Church or other place of worship, theater, auditorium, athletic field, or other place of public assembly	1 space for each 3 seats
Garage or automobile repair shop	At least 10 spaces, plus 1 space for each person working in such establishment
Hospital, clinic, sanitarium or convalescent home	1 space for each two patient beds, excluding bassinets

Use	Number of Spaces
Motel	1 space for each motel unit, plus 1 space for each 2 persons working in such establishment, plus 2 spaces for each permanent residence
Multifamily dwelling for three or more families	2 spaces for each dwelling unit
Office for business or professional use	2 spaces for each separate office or suite of offices of any given tenancy, plus 1 space for each 300 square feet of gross floor area
One- and two-family dwellings	2 spaces for each dwelling unit
Professional or medical office building; professional office or home occupation permitted in a residential zone as an accessory use	6 spaces for each professional or practitioner, in addition to spaces required for residential units
Restaurant or place dispensing food or drink	1 space for each 100 square feet of gross floor area
Retail or commercial service business	1 space for each 200 square feet of customer or retail floor area or one space for each 250 square feet of gross floor area, whichever is greater
Senior citizen housing **[Added 5-6-1997 by L.L. No. 1-1997]**	1 space minimum per dwelling unit
Tourist or rooming house	1 space for each guest sleeping room, plus two spaces for each residential unit
Wholesale, storage, utility or other similar use	1 space for each person for which the building or use is designed plus 1 space for each 1,000 square feet of gross floor area

B. Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each such use.

C. Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Planning Board may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and provided such approval of such joint use

shall be automatically terminated upon the termination of the operation of any of such establishments.

§ 155-30. Layout and location of off-street parking facilities.

Required off-street parking facilities may be enclosed in a structure, or may be open, provided that all required parking facilities shall be graded, surfaced, and drained to the satisfaction of the Planning Board to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. In nonresidential development, the plan shall show suitable marking to indicate individual parking spaces, maneuvering area, entrances and exits.

§ 155-31. Operation and maintenance of off-street parking facilities.

Required off-street parking facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times to those persons who are employed at or make use of such structures and land uses, except when dedicated to and accepted by the town as public parking areas. The Planning Board may permit the maintenance, as additional open space and/or landscaping, or up to 50% of the parking area and spaces required by this chapter provided suitable guaranties are provided to the Planning Board that such parking area and spaces will be provided upon a determination of need by the Planning Board at any time.

§ 155-32. Off-street loading requirements.

A. Off-street loading and unloading facilities, as defined in this chapter, and located on the same site with the use to be served, shall be provided as follows:

   (1) For retail and service business establishments, restaurants and other places serving food and beverages: one space for the first 4,000 square feet of floor area, or major portion thereof, used for business purposes, and one additional space for each 40,000 square feet, or major portion thereof, in excess of 4,000 square feet.

   (2) For wholesale business, storage warehouses, and other similar commercial establishments: one space for the first 10,000 square feet, or major portion thereof, used for such purposes, and one additional space for each 40,000 square feet, or major portion thereof, in excess of 10,000 square feet.

B. Reasonable and appropriate off-street loading requirements for structures and land uses other than those stated in Subsection A(1) and (2) shall be determined, in each case, by the Planning Board, which shall consider all factors entering into the loading and unloading needs of such uses.

ARTICLE VII
Administration and Enforcement

§ 155-33. Enforcement.

A. No board, agency, officer, or employee of the town shall issue, grant, or approve any permit, license, certificate, or other authorization, including adjustments by the Board of Appeals, for any construction, reconstruction, alteration, enlargement, or moving of any building, or for any use of land or building that would not be in full compliance with the provisions of this chapter. Any such permit, license, certificate, or other authorization issued, granted or approved in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity of any proceedings or revocation or nullification thereof, and any work undertaken or use established pursuant to any permit, license, or certificate or authorization, shall be unlawful, and no action shall be taken by any board, agency, officer or employee of the town purporting to validate any such violation.

B. This chapter shall be enforced by the Zoning Inspector, in accordance with the provisions of this chapter.

§ 155-34. Zoning permits and licenses.

No structure or use which requires site plan or special permit approval shall be erected, constructed, enlarged, or moved until a permit therefor has been issued by the Zoning Inspector. All other structures or uses shall require notification to the Zoning Inspector prior to construction in order to assure compliance. Except upon a written authorization of the Board of Appeals, no zoning permit or certificate of occupancy shall be issued for any building where said erection, construction, enlargement, addition, alteration, or moving thereof would be in violation of any of the provisions of this chapter.

§ 155-35. Certificates of compliance.

A. It shall be unlawful for an owner to use or permit the use of any building or premises for which a zoning permit is required in accordance with § 155-34 until a certificate of compliance shall have been issued by the Zoning Inspector. Such certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in complete conformity with the provisions of this chapter. It shall be the duty of the Zoning Inspector to issue a certificate of compliance upon request of the applicant for any use and premises provided that the building and the proposed use of the building or premises conforms with all the requirements of this chapter.

B. A temporary certificate of compliance may be issued by the Zoning Inspector under such conditions as approved by the Zoning Board of Appeals.

C. No preexisting use shall be changed or extended without a certificate of compliance having first been issued by the Zoning Inspector therefor.

D. A certificate of compliance shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall

continue in effect as long as such building and the use thereof, or of such land, is in full conformity with the provisions of this chapter and any requirements made pursuant thereto. On the serving of notice by the Zoning Inspector of any violation of any of the said provisions or requirements in respect to any building or the use thereof, or of land, the certificate of compliance for such use shall thereupon become null and void, and a new certificate of compliance shall be required for any further use of such building or land.

E. The Zoning Inspector shall maintain a record of all certificates, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected. Upon written request from the owner, and by payment by him to the town of a fee as set from time to time by resolution of the Town Board, the Zoning Inspector shall issue a certificate of compliance for any building or premises existing at the time of the enactment of this chapter, certifying, after inspection, that the extent and kind of use and disposition conforms with the provisions of this chapter.[10]

§ 155-36. Penalties for offenses.

A. Any owner, lessee, tenant, occupant, architect or builder, or the agent of any of them, who violates or is accessory to the violation of any provisions of this chapter, or who fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, or moves, uses any building, or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of this chapter, shall be guilty of an offense, and shall be liable to the penalties provided in § 268 of the Town Law. Each 60 days' violation shall constitute a separate offense. Violations shall be prosecuted and penalties collected in the manner prescribed by law or ordinance effective in the town.

B. Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this chapter, and any use of any land or any building which is conducted, operated or maintained contrary to any of the provisions of this chapter, shall be and the same is hereby declared to be unlawful. The Zoning Inspector may institute an injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove such erection, construction, alteration, enlargement, conversion, or use in violation of any of the provisions of this chapter. Such action may also be instituted by any property owner who may be particularly damaged by any violation of this chapter. The Zoning Inspector shall serve notice personally, or by certified mail, on the person or corporation committing or permitting the same and, if such violation does not cease within such time as the Zoning Inspector may specify, and a new certificate of compliance is not obtained, he shall institute such of the foregoing actions as may be necessary to terminate the violation. Such notice may also be served by posting on the premises.

C. The remedies provided for herein are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

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

§ 155-37. Board of Appeals.

A. Creation, appointment and organization. A Board of Appeals is hereby created as provided by law. Said Board shall consist of five members. The Town Board shall designate one member of the Board as Chairman. The Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

B. Powers and duties, general. The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following sections shall be deemed to limit any of the power of the Board of Appeals that is conferred by general law.

C. Interpretation. On appeals from an order, requirement, decision or determination made by an administrative official, or on request from any official or agency of the town, the Board of Appeals shall have the power to decide any question involving the interpretation of any provision of this chapter, including determination of the exact reference to the rules specified in § 155-4.

D. Variance or adjustment.

(1) Where the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow, or steep lot, or other exceptional physical conditions, as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case, the Board of Appeals shall have the power, upon appeal, to vary or adjust the strict application of the regulations or provisions of this chapter.

(2) Variances.[11]

(a) Use variances.

[1] The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

[2] No such use variance shall be granted by a 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 demonstrated by competent financial evidence.

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

[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.

(b) Area variances.

[1] The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, 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:

[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; and

[e] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

[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.

(c) Imposition of conditions. 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 chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 155-38. Conditions and safeguards.

In all cases where the Board of Appeals authorizes the issuance of a zoning permit or compliance permit under any of the above powers, it shall be the duty of said Board to attach such conditions and safeguards as may be required to protect the public health, safety, morals and general welfare.

§ 155-39. Appeals procedure.

A. All appeals and applications to the Board of Appeals shall be taken in the manner prescribed in § 267 of the Town Law and within such time as shall be prescribed by the Board of Appeals by general rule. All such appeals and applications shall be in writing, on forms prescribed by the Board, and each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the chapter involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds for which it is claimed that the same should be granted. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and the findings on which the decision was based.

B. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals, or any officer, department, board or bureau of the town, may apply to the Supreme Court of the State of New York for relief by a proceeding under Article 78 of the Civil Practice Law and Rules, as stated in § 267 of the Town Law.

ARTICLE VIII
Amendments

§ 155-40. Adoption of amendments.

A. The Town Board may, from time to time, on its own motion, on petition, or on recommendation of the Planning Board or Zoning Board of Appeals, amend, supplement, or repeal the regulations and provisions of this chapter in the manner provided by Town Law.

B. Every such proposed amendment or change, except those initiated by the Planning Board, shall be referred to the Planning Board for report thereon before the public hearing provided by the Town Law. In recommending the adoption of any such proposed

amendment, the Planning Board shall state its reasons for such recommendation, describing any condition that it believes makes the amendment advisable, and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the comprehensive plan of land use for the town, and would be in furtherance of the purposes set forth in § 155-1 of this chapter. In recommending the rejection or revision of any proposed amendment, the Planning Board shall similarly state its reasons.

C. No amendment of this chapter, of whatever nature, that has not been approved by the Planning Board, shall be adopted, except by at least a "majority plus one" vote of the Town Board, provided that failure on the part of the Planning Board to report to the Town Board its recommendations on any proposed amendment initiated by proposed resolution or amendment of the Town Board within 45 days after initiation of proceedings therefor shall be deemed to be approval thereof, unless such proceedings have theretofore been terminated.

§ 155-41. Changes by Planning Board. [12]

The Planning Board, in accordance with Town Law § 278, may, simultaneously with the approval of any plat, make any reasonable change to the regulations established under this chapter with respect to the land so platted, such as that set forth in § 155-8 herein. Before the Planning Board shall make any such change, there shall be a public hearing preceded by the same notice as in the case of the approval of the plat itself. Once the plat is filed in the office of the County Clerk, such changes shall be and become part of the regulations of this chapter, shall take the place of any regulations established herein by the Town Board, shall be enforced in the same manner, and shall be similarly subject to amendment.

§ 155-42. Referrals to County Planning Board and other agencies. [13]

At least 30 days before the date of the public hearing required by law, the Town Board shall comply with the provisions of Article 12-B, §§ 239-l and 239-m of the General Municipal Law, as amended, and refer to the County Planning Board certain proposed amendments or changes to this chapter. Referrals to other agencies as may be required by law, such as the New York State Department of Environmental Conservation, the New York City Department of Environmental Protection and abutting municipalities shall also be carried out in accordance with the Town and General Municipal Laws.

ARTICLE IX
Definitions

§ 155-43. Definitions and word usage.

For the purposes of this chapter only, certain words and terms used herein are defined as follows:

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

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

A. General construction of language. All words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. Unless otherwise specified, all distances shall be measured horizontally. The word "town" means the Town of Olive; the term "Town Board" means the Board of Councilmen, and the Supervisor of said town; the term "Board of Appeals" means the Zoning Board of Appeals of said town; the term "Planning Board" means the Town Planning Board of said town; the term "Town Plan" means the Comprehensive Master Plan as it may be adopted by the Town Planning Board pursuant to § 272-a of the Town Law. The word "shall" is mandatory and not directory.[14]

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING — Residential units available for a sales price or rental fee within the means of a low- or moderate-income household as defined by state or federal legislation. **[Added 5-6-1997 by L.L. No. 1-1997]**

AFFORDABLE SENIOR CITIZEN HOUSING — A residential cluster development of 10 or more residential units which meets specific conditions and the definitions of "affordable housing" and "senior citizen housing" as set forth in this section. **[Added 5-6-1997 by L.L. No. 1-1997]**

ALTER — To change or rearrange the structural parts of the existing facilities of a structure, or to move a building from one location or position to another. [15]

AREA, BUILDING — Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps, and terraces.

BASEMENT — That portion of a building wholly or partly underground, which extends no more than five feet above the adjoining finished grade.

BOARDINGHOUSE — A dwelling occupied by one family with three or more boarders, roomers or lodgers in the same household, who are lodged with or without meals, in which there are provided such services as are incidental to its use as a temporary residence for part of the occupants and for which compensation is paid, either directly or indirectly. The term "boardinghouse" shall include "rooming house" and "lodging house," but not "foster home," for the purposes of this chapter.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY — A subordinate building, the use of which is customarily incidental to that of a main building on the same lot.

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

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

BUILDING LENGTH — The least horizontal distance between the furthermost walls of a building, measured along or parallel to the axis of its greatest dimension.

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

CAMP — Any area of land, or land and water, including any buildings, tents, shelters, or other accommodations suitable for temporary or seasonal living purposes, and any dwelling units occupied by the owner, caretaker, or superintendent.

CAMP, DAY — Any camp, as defined in this chapter, offering day care or instruction for adults or children.

CLUB, MEMBERSHIP — An organization catering exclusively to members and their guests for recreational, athletic, or social purposes, which are not conducted primarily for gain, providing that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club.

CONVALESCENT HOME or NURSING HOME — Any establishment where three or more persons suffering from or afflicted with, or convalescing from, any infirmity, disease or ailment, are habitually kept or boarded or housed for remuneration, other than municipal or incorporated hospitals and establishments, licensed by the State Commissioner of Mental Hygiene, and maternity homes licensed by the State Commissioner of Health.

COVERAGE — That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

DUMP — A lot or land, or part thereof, used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING — A detached building, designed or used exclusively as living quarters for one or more families; the term shall include "mobile home" but shall not be deemed to include automobile court, motel, boarding or rooming house, camp trailer, tourist home, cellar, or tent.

DWELLING, MULTIFAMILY — A dwelling containing three or more dwelling units.

DWELLING, ONE-FAMILY — A dwelling containing one dwelling unit only.

DWELLING, TWO-FAMILY — A dwelling containing two dwelling units only.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

EDUCATIONAL INSTITUTION, PRIVATE — Any nonpublic school or other organization or institution conducting a regularly scheduled curriculum of study similar to that of the public schools and operated by nonstock corporations under the Education Law of New York State.

FAMILY — One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic or legal bonds.

FARM USE — The use of a parcel of land either as a principal or accessory use for the purpose of producing agricultural, horticultural, floricultural, vegetable and fruit products of the soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides. A customary farm occupation shall be the conducting of usual farm activities, and shall include the processing and retail sale, in a farm produce stand, or otherwise on the premises, of the products of only the farm on which such activities and processing are conducted.

FILED MAP — Any map or plat filed in the County Clerk's office of Ulster County.

FLOOR AREA, USABLE — When applied to dwellings, shall include all floor area used for human occupancy within the exterior walls of the building, but shall not include open porches or breezeways, basements, garages, or uninhabitable or unfinished attic space.

FRONTAGE — The extent of a building or of land along a street.

GARAGE, PRIVATE — An accessory building, or part of a main building, used only for the permitted storage of motor vehicles as permitted in this chapter.

GARAGE, PUBLIC — A building, or part thereof, used for the storage, care and repair of motor vehicles for remuneration, and the sale of motor fuels dispensed from pumps located within the garage building, including any sale of motor vehicle accessories, or where motor vehicles are kept for hire or sale.

GASOLINE FILLING STATION — Any area of land, including structures thereon, or any building or part thereof that is used for the sale of motor vehicle accessories, and which may include facilities for lubricating, washing, or other minor servicing of motor vehicles, but not including body work, major repair or painting thereof by any means.

GRADE, FINISHED — The finished grade at any point along the wall of a building shall be the elevation of the completed surfaces of lawns, walks, and roads, adjoining the wall at that point.

HEIGHT OF BUILDING — The vertical distance to the level of the highest point of the roof, if the roof is flat, or to the mean level between the eaves and the highest point of the roof, if the roof is of any other type, measured as follows: —

(1) If the building adjoins the front property line or is not more than 10 feet distant therefrom: measured at the center of the front wall of the building from the established grade of the curb; or, if no grade has been officially established and no curb exists: measured from the average level of the finished ground surface across the front of the building.

(2) If the building is more than 10 feet from the front property line: measured from the average level of the finished grade adjacent to the exterior walls of the building. Where the finished grade surface is made by filling, the level of such finished

grade, for the purpose of this definition, shall not be deemed to be more than three feet above the established grade of the curb.

(3) When a lot fronts on two or more streets of different levels, the lower street or the average elevation of the lot with regard to the abutting streets may be taken as the base for measuring the height of the building.

HOME OCCUPATION — An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate, and in connection therewith, there is not involved the keeping of a stock in trade. The office of a physician, surgeon, dentist or other professional person, including an instructor of an individual musical instrument limited to a single pupil at a time, who offers skilled services to clients, and who is not professionally engaged in the purchase or sale of economic goods, and the occupations of dressmaker, milliner, or seamstress, dancing instruction, band instrument instruction in groups, tea rooms, beauty parlors, barbers, convalescent homes, and stores, trades or business of any kind, each with not more than one paid assistant, or exceeding more than 25% of the gross floor area of the principal residential use, shall be deemed to be home occupations.

HOSPITAL — Unless otherwise specified, shall be deemed to include sanitarium, and any other place for the diagnosis, treatment, or other case of human ailments.

HOTEL — A building containing rooms intended or designed to be used, or which are used, rented or hired out to be occupied for sleeping purposes by guests, and where only a general or community kitchen and dining room are provided within the building or in an accessory building.

JUNKYARD — An area of land, with or without buildings, used for the storage, outside of a completely enclosed building, of used and discarded materials, including, but not limited to, waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more wrecked or broken vehicles, or the major parts of more than two such vehicles, shall be deemed to make the lot a junkyard.

LOADING SPACE — Any off-street space available for the loading or unloading of goods, not less than 15 feet wide, 40 feet long, and 14 feet high (if covered in any manner), and having direct usable access to a street, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space need not be wider than 12 feet.

LOT — A parcel of land, not divided by streets, devoted or to be devoted to a particular use, or occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, and having its principal frontage on a street, or on such other means of access as may be deemed in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building or buildings on such land.

LOT AREA — The total horizontal area included within lot boundaries.

LOT, CORNER — A lot of which at least two adjacent sides each abut for a total distance of 50 feet or more on streets or public places. Any other lot is an interior lot.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT LINE, FRONT — In the case of a lot abutting upon only one street, the line separating the lot from the street; in the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line as the front lot line.

LOT LINE, REAR — The lot line which is generally opposite the front lot line; if the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINES — The property lines bounding a lot as defined herein.

LOT WIDTH — The mean width of a lot measured at right angles to the lot depth, measured at the main building line.

LOW-INCOME HOUSING — Housing affordable according to the Federal Department of Housing and Urban Development and/or New York State standards for home ownership and rental costs, occupied or reserved for occupancy by households with a gross household income equal to 50% or less of the median gross household income for households of the same size within the housing region in which the house is located. **[Added 5-6-1997 by L.L. No. 1-1997[16]]**

MOBILE HOME — Any vehicle or similar portable structure with or without a foundation or wheels, jacks, skirtings, wood or masonry block supports, designed or constructed to be towed, driven or otherwise transported to its resting site and which is further designed to permit occupancy for dwelling or sleeping purposes. The term "mobile home" shall also include the terms "house trailer," "modular house," and "prefabricated house," but not "camp trailer."

MOBILE HOME PARK — Any plot of ground upon which five or more mobile homes occupied for dwelling or sleeping purposes are or can be located, regardless of whether or not a charge is made for such accommodation.

MODERATE-INCOME HOUSING — Housing affordable according to the Federal Department of Housing and Urban Development and/or New York State standards for home ownership and rental costs, occupied or reserved for occupancy by households with a gross income in excess of 50% but less than 80% of the median gross income for households of the same size within the housing region in which the housing is located. **[Added 5-6-1997 by L.L. No. 1-1997[17]]**

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

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

MOTEL — A series of attached, semidetached, or detached dormitory units, having a private outside entrance for each unit, provided with an automobile parking space convenient to each unit, and providing lodging with or without meals and other incidental services for a transient clientele. "Automobile court," "motor court" and "tourist court" shall be deemed to be a motel.

NONCONFORMING USE — A use of a building or of land that does not conform to the regulations as to use in the district in which it is situated, which use was lawful at the time this chapter or amendments thereto became effective.

NURSERY, DAY OR SCHOOL — A place, building or structure, specifically designed to provide care or instruction for two or more children under six years of age.

NURSING HOME — See "convalescent home."

OFFICIAL MAP — A map, adopted by the Town Board, showing streets, highways and parks already laid out, adopted and established in accordance with § 270 of the Town Law.

PARKING AREA — An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of about 350 square feet of parking area per parking space.

PARKING SPACE — An off-street space available for the parking of one motor vehicle on a transient basis and having a width of nine feet, and an area of not less than 180 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street.

ROOMING HOUSE — See definition of "boardinghouse."

SENIOR CITIZEN HOUSING — Dwelling units within which residency shall be restricted to a permanent resident aged 62 years or more of age and one other person. **[Added 5-6-1997 by L.L. No. 1-1997]**

SIGN — Any movable or permanently fixed device for visual communication, which is used for the purpose of bringing the subject thereof to the attention of the public, including devices on vehicles, wheels or other transportable structures, and shall be subject to all regulations applicable to structures.

SIGN, ADVERTISING — Any sign advertising the sale of goods, the performance of service, or the name and location of a proprietor not located on the lot upon which the sign is displayed. Billboards, signs on wheels, skids, vehicles, or in other ways movable, and similar signs shall be included in the term "advertising sign."

SIGN SIZE — The area which results by multiplying the outside dimensions of a sign, not including the vertical, horizontal or diagonal supports which may affix the sign to the ground or to a structure or building. Where the sign consists of individual letters or symbols attached to, or painted on, a building, the area shall be considered to be that of the smallest rectangle which encompasses all of the letters or symbols.

STABLE, PRIVATE — An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

STABLE, PUBLIC — A building in which any horses are kept for remuneration, hire or sale.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if the ceiling is more than five feet above the level from which the height of the building is measured, or if it is used for business purposes or for dwelling purposes by other than a janitor or watchman.

STORY, HALF — A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

STREET — A way which is an existing state, county or town highway, or a way shown upon a subdivision plat approved by the Planning Board, as provided by law, or on a plat duly filed and recorded in the office of the County Clerk.

STRUCTURE — Anything constructed or erected, the use of which requires location on or under the ground, or attachment to something having location on the ground.

STRUCTURE ALTERATIONS — Any change in the supporting members of a structure, including but not limited to bearing walls, retaining walls, columns, beams or girders.

SUBDIVISION — The division of any parcel of land into two or more lots, plots, sites, or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Such division shall include resubdivision of plats already filed in the office of the County Clerk if such plats are entirely or partially undeveloped.

TOURIST HOME — A dwelling, other than a hotel, boarding or rooming house or motel, as defined elsewhere in this chapter, in which not more than four rooms or similar overnight accommodations are provided or offered for transient guests for compensation and which offer no dining facilities.

TRAILER, CAMP OR TRAVEL — A portable structure designed to be towed or transported by a motorized vehicle capable of being licensed for such transportation on public thoroughfares and used as a temporary dwelling for travel, recreational and vacation use.

USABLE OPEN SPACE — A portion of the ground area of a lot which is available and accessible to all occupants of a dwelling unit, or dwelling units, on said lot for outdoor recreation use, which area is not devoted to driveways or parking spaces, is at least 25 feet in minimum dimension, and has no more than 10% of its area with a grade of more than 5%.

USE — The specific purpose for which land, water, or a building or structure is designed, arranged, intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY — A use which is customarily incidental and subordinate to the principal use of a lot, water area or a building, and located on the same lot or water area therewith.

UTILITY, PRIVATE — A pump or well house and other buildings accessory to use of main building on premises, not including a guest house or accessory building as otherwise provided in said chapter.

UTILITY, PUBLIC — An electric unit substation, municipal pump station or water tower, municipal garage, firehouse, telephone substation.

YARD — An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically authorized in this chapter. In measuring a yard, as hereinafter provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line, drawn from a point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the line of the building, as defined herein, to the nearest lot line.

YARD, FRONT — A yard extending across the full width of the lot and lying between the front lot line and the nearest line of the building.

YARD, REAR — A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE — A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front and rear lot line, as the case may be.

ZONING INSPECTOR — The town officer authorized to administer this chapter. The term shall include but not be limited to such terms as "zoning officer," "zoning enforcement officer," "building inspector" and/or "code enforcement officer." [18]

ZONING PERMIT — The written permission, issued by the Town of Olive Zoning Inspector or his authorized agent, indicating proof of compliance with this chapter and authorizing development or use of land and/or structures in accordance with this chapter.

ARTICLE X
Title

§ 155-44. Short title.

This chapter shall be known as and may be cited as the "Town of Olive Zoning Ordinance."

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

Town of Olive
Schedule of Residence and Business and Industry District Standards

(Standards shown are minimum requirements, unless otherwise indicated)
(Dimensions in feet, unless otherwise indicated)

Standards[2]	R/C-10A	R/R-3A	R/E-1A	B/V-1/2 and B/H-1/2
1. Lot area[3] per dwelling unit	10 (acre)	3 (acre)	1 (acre)	½ (acre)[4]
2. Lot width at main building line	500	300	125	75
3. Lot depth	800	400	150	150
4. Front yard[1]	50	50	50	50
5. Side yard (each)	100	50	25	20
6. Rear yards	100	75	50	50
7. Maximum height:				
Stories	2½	2½	2½	2½
Feet	35	35	35	35
8. Maximum building coverage (all buildings)	3%	5%	15%	30%
9. Required off-street parking spaces	(As required by Article VI)			

NOTES:

[1] On streets with less than a fifty-foot right-of-way, the front yard setback shall be measured from the center line of the right-of-way if known, and 25 feet shall be added to the required front yard setback. On streets of unknown right-of-way, the same procedure shall be followed except that measurements shall be taken from the center line of the existing roadway.

[2] In special permit and site plan review and approval, the Planning Board shall have the authority to modify these standards, in the interest of the public welfare, up to 10%.

[3] See § 155-8 for permitting smaller lot size.

[4] Minimum lot size for certain commercial uses is ½ acre; residential and certain other uses in these districts require larger lot sizes as per § 155-16.