

Chapter 140

ZONING

[HISTORY: Adopted by the Town Board of the Town of Conklin 11-9-1965. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 5.
Planning Board — See Ch. 33.
Cemeteries — See Ch. 65.
Flood damage prevention — See Ch. 76.
Freshwater wetlands — See Ch. 79.
Mobile homes and travel trailer parks — See Ch. 91.
Parks — See Ch. 97.
Subdivision of land — See Ch. 115.
Telecommunications facilities — See Ch. 122.
Water — See Ch. 132.
Wellhead protection — See Ch. 135.

ARTICLE I

Preamble and Title

§ 140-1. Preamble.

In order to encourage the most appropriate use of land, to protect and conserve the value of property and to promote the health, safety, morals and the general welfare of the community, this chapter has been established to regulate the location, use and occupancy of buildings and the use of land for trade, industry, residence and other uses, to regulate and limit the height and bulk of buildings and other structures, to regulate and determine the area of yards and other open spaces, to regulate the density of population and, for said purpose, to divide the Town into districts, to provide for its enforcement and administration and to prescribe penalties for the violation of its provisions.

§ 140-2. Title.

This chapter shall be known and shall be cited as the "Town of Conklin, New York, Zoning Ordinance."

ARTICLE II

Terminology

§ 140-3. Interpretation.

For the purpose of this chapter, certain terms and words shall be interpreted to have the following meanings: words used in the present tense include the future, the plural includes the singular, the word "plot" includes the word "lot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; the word "occupied" includes the words "designed, intended or arranged for occupancy"; and the word "person" may include more

than one, an association, a copartnership or a corporation.

§ 140-4. Definitions.

For the purpose of this chapter, certain terms and words are herewith defined as follows:

ACCESSORY BUILDING — A detached subordinate building, the use of which is customarily incidental to that of a principal building and located on the same lot with such principal building.

ACCESSORY STRUCTURE — Any structure designed to accommodate an accessory use but detached from the principal structure, such as a freestanding garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility. [Added 5-9-1989 by L.L. No. 1-1989]

ACCESSORY USE — A use incidental and subordinate to the principal use and located on the same lot with such principal use.

ADMINISTRATIVE OFFICER — The person duly designated by the Town Board who shall be responsible as the agent of the Town Board for the administration and enforcement of the Zoning Ordinance.

ADULT ENTERTAINMENT BUSINESS[Added 11-9-1999 by L.L. No. 2-1999] — Any or all of the following:

- A. **ADULT BOOKSTORE** — An establishment, whether retail or wholesale, having as a significant portion of its stock-in-trade books, films, magazines or other periodicals or viewing materials for sale or viewing on or off the premises, which are distinguished or characterized by an emphasis on depicting, describing or relating to sexual conduct or specified anatomical areas.
- B. **ADULT CABARET** — An establishment which features adult entertainment or has employees, either with or without a liquor license, presenting material, whether live, mechanical, electronic or by other technological means, distinguished or characterized by its emphasis on matter depicting, describing or relating to sexual activities or anatomical areas, including but not limited to cabarets that feature topless dancers, nude dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.
- C. **ADULT DANCING ESTABLISHMENT** — A commercial establishment that permits or allows dancers to display or expose specified anatomical areas. Any establishment on whose premises an employee, who need not be the same employee, displays or exposes specified anatomical areas on more than one day in a thirty-day period shall be deemed an adult dancing establishment under this chapter.
- D. **ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity of fewer than 50 persons used for presenting material distinguished or characterized by an emphasis depicting, describing or relating to sexual conduct or specified anatomical areas.
- E. **ADULT MOTEL** — A hotel, motel or similar commercial establishment which offers accommodation to the public for any form of consideration and is primarily used or promoted to be an establishment which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic

reproductions which are characterized by the depiction or description of sexual conduct or specified anatomical areas.

- F. **ADULT MOTION-PICTURE ARCADE** — Any place in which the public is permitted or invited wherein for any form of consideration still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or describing sexual conduct or specified anatomical areas.
- G. **ADULT MOTION-PICTURE THEATER** — An enclosed building or structure or portion of a building or structure or drive-in theater with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on depicting, describing or relating to sexual conduct or specified anatomical areas.
- H. **ESCORT AGENCY** — A person or business association who or which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- I. **MASSAGE ESTABLISHMENT** — A site or premises or portion thereof upon which any person who is an employee manipulates the superficial tissues of the body of another person with any portion of the hand, foot, leg, arm or elbow, but not including the following: licensed health care facilities, licensed physicians, nurses or physical therapists engaged in the practice of their professions.
- J. **SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that as one of its primary purposes offers for any form of consideration:
 - (1) Physical conduct in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, horticulture, floriculture and animal and poultry husbandry and such accessory uses incidental to the normal agricultural activities.

BUILDING — Any structure other than a boundary wall or fence.

BUILDING COVERAGE — The percentage of the plot or lot area covered or occupied by a building or buildings.

BUILDING, FRONT LINE OF — The line of that face of the building nearest the front line of the lot. This face shall include bay windows, covered porches, whether enclosed or unenclosed, or any projections thereof.

BUILDING, HEIGHT OF — The vertical distance from the mean finished grade to the highest point of the building.

BUILDING, PRINCIPAL — A building in which the principal use of the lot on which it is located is conducted.

CELLAR OR BASEMENT — A story partly underground, the walls of which are used as the foundation and/or substructure for those remaining stories of the building partially or completely above mean grade level.

DECIBEL — A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

DWELLING, MULTIPLE — Three or more complete, but separate, self-contained dwelling units, each intended for permanent habitation by one family, in a single structure having a common wall, roof or ceiling and containing separate rooms and facilities for living, including cooking, sleeping and sanitary needs. [Amended 11-9-1999 by L.L. No. 2-1999]

DWELLING, ONE-FAMILY — A complete self-contained dwelling unit for permanent habitation by one family only and containing one or more rooms and facilities for living, including cooking, sleeping and sanitary needs. [Amended 5-9-1989 by L.L. No. 1-1989; 11-9-1999 by L.L. No. 2-1999]

DWELLING, TWO-FAMILY — Two complete, but separate, self-contained dwelling units, each intended for permanent habitation by one family, in a single structure having a common wall, roof or ceiling and containing separate rooms and facilities for living, including cooking, sleeping and sanitary needs. [Amended 5-9-1989 by L.L. No. 1-1989; 11-9-1999 by L.L. No. 2-1999]

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family. The term "dwelling" or "dwelling unit" shall include a factory-manufactured home, but shall not include a mobile home, trailer or travel trailer.¹ [Amended 11-9-1999 by L.L. No. 2-1999]

FAMILY[Amended 5-9-1989 by L.L. No. 1-1989; 11-9-1999 by L.L. No. 2-1999]:

- A. A household plus one or more persons related by blood, marriage or adoption, living together in a family-life arrangement as a single not-for-profit housekeeping unit sharing kitchen facilities; or
- B. A group of persons headed by a householder caring for a reasonable number of individuals in a family-like living arrangement which is the functional and factual equivalent of a family of related persons; or
- C. A maximum of two persons not sharing a relationship as described above.

FARM — Any parcel of land which is used for the raising of agricultural products or the keeping of poultry, fowl, livestock or other domestic animals, including necessary farm structures and the storage of farm equipment.

GROSS FLOOR AREA — The total area of all floors within the exterior walls of the building.

HOME OCCUPATION[Amended 11-9-1999 by L.L. No. 2-1999] — A customary home occupation which is clearly secondary to the principal dwelling use and does not change the character thereof, provided that:

1. Editor's Note: The former definition of "factory-manufactured home," added 11-9-1999 by L.L. No. 2-1999, which immediately followed this definition, was repealed 9-11-2007 by L.L. No. 6-2007.

- A. No more than two persons in addition to the immediate family residing in the premises shall participate in the customary home occupation use.
- B. Not more than 1/2 of the gross floor area of one floor of the principal building or 1/2 of the gross floor area of one floor of an accessory building, but not both, shall be devoted to the customary home occupation use.
- C. There shall be no exterior display or storage of materials and no other external evidence of the customary home occupation, except for one nonilluminated announcement or professional sign, not exceeding four square feet in area.
- D. No offensive noise, vibration, smoke, dust, odor, heat, light glare or electrical disturbance shall be produced as a result of the customary home occupation use.

JUNKYARD — A lot, land or structure or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

LOT — A parcel of land occupied or capable of being occupied by a building or buildings and accessory buildings and/or uses, including such open spaces as are required by this chapter.

LOT, CORNER — A lot situated at the intersection of two or more streets or highways.

LOT, DEPTH — The mean horizontal distance between the front and rear lot lines. Measurement shall be from the street or highway right-of-way line to the opposite rear line.

LOT, WIDTH — The mean horizontal distance measured at right angles to its depth along the front lot line.

LOT, FRONT LINE — The lot line which abuts upon a street or way.

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

MANUFACTURED HOME — A structure transportable in one or more section that, in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or when erected on site, is 320 square feet (29.7 square meters) minimum, and that was built on or after June 15, 1976, on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal department of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974, as amended. Every manufactured home shall bear a seal signifying conformance to the design and construction requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards (24 CFR Part 3280). The term "manufactured home" shall not include any self-propelled recreational vehicle. Manufactured homes fabricated after January 1, 2006, shall require the manufacturers' warranty seal. Manufactured homes installed after January 1, 2006, either new or relocated, shall require a building permit and an installer's warranty seal. Installation shall be performed by a

New York State certified installer. All installations, alterations, additions, repairs or relocations must conform to this chapter and to Article 21-B of the Executive Law, Part 1210 of the New York Codes, Rules and Regulations, and the New York State Uniform Building and Fire Prevention Code as all may be modified from time to time. [Added 9-11-2007 by L.L. No. 6-2007]

MEAN FINISHED GRADE — The mean finished grade is the average grade level of the ground measured at the front wall of the building.

MOBILE HOME — A moveable or portable dwelling unit that was constructed in a factory prior to June 15, 1976 (with or without a label certifying compliance with NFPA, ANSI or a specific state standard), and designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living, excluding travel trailers. [Added 11-9-1999 by L.L. No. 2-1999; amended 9-11-2007 by L.L. No. 6-2007]

MODULAR HOME — A structure designed primarily for residential occupancy and constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation. These factory manufactured homes shall conform to the applicable provisions of the State of New York Uniform Fire Prevention and Building Code and shall bear an insignia of approval issued by the Secretary of State of New York State. [Added 9-11-2007 by L.L. No. 6-2007]

NEW LAND USE ACTIVITY — Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. New land use activity shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways and excavations for the purpose of extracting soil or mineral deposits or the removal of timber. [Added 5-9-1989 by L.L. No. 1-1989]

NONCONFORMING BUILDING — A building or structure or portion thereof, lawfully existing on the effective date of this chapter or subsequent amendment thereto, which does not completely conform to the regulations applicable in the district in which it is located.

NONCONFORMING USE — A use of land or of a building or portion thereof, lawfully existing on the effective date of this chapter or subsequent amendment thereto, which does not conform to the uses permitted in the district in which it is located.

PARKING SPACE, OFF-STREET — An off-street space, area or berth, with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PUBLIC UTILITY USE — A building or lot used for or in connection with the transmission, distribution or regulation of water, gas, electric, telephone or other public utility service.

QUARRY, SAND PIT, GRAVEL PIT, TOPSOIL STRIPPING — A lot, plot or portion thereof used for the purpose of extracting stone, sand, gravel and/or topsoil for sale, exclusive of the process of excavation and grading a lot preparatory to the construction of a building.

SEXUAL CONDUCT[Added 11-9-1999 by L.L. No. 2-1999] — Includes the following:

A. The fondling or other touching of covered or uncovered human genitals, pubic region,

buttocks or male or female breasts.

- B. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy.
- C. Masturbation.
- D. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof.
- E. The conduct described in Subsections A through D, inclusive, is sexual conduct, whether or not it is engaged in alone or between members of the same sex or between members of opposite sex or between humans and animals or between humans and inanimate objects.

SIGN[Amended 6-14-1988 by L.L. No. 3-1988] — Any object, device, display or structure or part thereof, illuminated or otherwise, which displays or includes any numeral, letter, word, model, symbol, banner, emblem, device, trademark, opinion, position or other representation, used as an announcement, designation, direction or display to advertise or promote any person, firm, group, organization, commodity, service, profession or enterprise when said display is situated outdoors or indoors in view of the general public.

- A. **BUSINESS SIGN** — A sign which directs attention to a business, industry, profession, commodity, service or entertainment sold or offered upon the same premises where the sign is located.
- B. **ADVERTISING SIGN** — A sign which directs attention to a business, industry, profession, commodity, service or entertainment not sold or offered upon the same premises where the sign is located. An advertising sign is commercial in nature and does not include noncommercial speech protected by the laws of the United States and New York State.
- C. **DIRECTIONAL SIGN** — A sign indicating the name or location of a town, hospital, community center, church, school building or the meeting place of a public or civic organization.
- D. **INFORMATIONAL SIGN** — A sign giving directions or information without advertising.
- E. **GROUND SIGN** — A sign erected on a freestanding frame or structure such as concrete, masonry, wood, etc., and not attached to any building.
- F. **PROJECTING SIGN** — A sign which is attached to the wall of any building or structure and which extends beyond the surface of such wall a distance greater than 12 inches. Projecting signs shall include marquees.
- G. **ROOF SIGN** — A sign constructed or supported upon the roof of any building or structure.
- H. **WALL SIGN** — A sign which is attached to the wall of any building or structure and which does not extend beyond the surface of such wall a distance greater than 12 inches.
- I. **CHANGEABLE SIGN** — An electrically activated changeable sign with the capability of content change by means of manual or remote input or electronic programming. [Added 9-26-2017 by L.L. No. 3-2017]

SPECIFIED ANATOMICAL AREAS — Include the following: human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola. [Added 11-9-1999 by L.L. No. 2-1999]

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 is no floor above it, then the space between any floor and the ceiling next above it.

STRUCTURE — Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as a building, shed or tank and any fixtures, additions and alterations thereto. [Added 5-9-1989 by L.L. No. 1-1989; amended 11-9-1999 by L.L. No. 2-1999]

TRAILER — Any vehicle or structure, including but not limited to an automobile trailer and trailer coach, mounted or capable of being mounted on wheels for use on highways and streets and designed for use as a dwelling or for the conduct of a business, trade or occupation.

TRAILER PARK — Any site, lot, field or tract of ground upon which two or more trailers are placed and shall include any building, structure, tent, vehicle or enclosure used or intended to be used as a part of the equipment of such park. [Amended 11-9-1999 by L.L. No. 2-1999]

TRAVEL TRAILER — Any portable vehicle which is designed to be transported on its own wheels and which is designed and intended to be used for temporary living quarters for travel, recreation or vacation purposes. The use or intended use of travel trailers is never as a residential dwelling. [Added 11-9-1999 by L.L. No. 2-1999]

YARD — An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

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

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

YARD, SIDE — A yard between a side lot line of a lot and the nearest line of the principal building and extending from the front yard to the rear yard.

ARTICLE III Establishment of Zoning Districts

§ 140-5. Zoning districts.

For the purpose of this Zoning Ordinance, the Town of Conklin is hereby divided into the following types of zoning district classifications:

- R-12 One- and Two-Family Residence District
- R-15 One- and Two-Family Residence District
- R-M Multiple Family Residence District
- A-R Agricultural-Rural District

- C-N Neighborhood Commercial District
- C-G General Commercial District
- I-L Limited Industrial District
- I-D Industrial Development District
- IDT Industrial Development/Transportation District.
[Added 6-23-1981]
- EDDZ Economic Development District Zone
[Added 1-14-1997]

§ 140-6. Zoning Map.

- A. Said districts are shown, defined and bounded on a map entitled "Town of Conklin, New York, Zoning Map," adopted November 9, 1965, and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.²
- B. The Town Clerk shall engage a qualified person (civil engineer, licensed surveyor, etc.) to make changes on said map as directed by the Town Board. The original of said map shall be filed in the office of the Town Clerk and shall be available for public inspection.

§ 140-7. District boundaries.

Where uncertainty exist with respect to the boundary of any district as shown on the Town of Conklin Zoning Map, the following rules shall apply:

- A. District boundary lines are either the center line of streets, highways or railroads, streams, rivers or other bodies of water and shall be so construed. Where district boundaries are so indicated as to approximately follow lot lines, such lot lines shall be construed to be said district boundary.
- B. Wherever a district boundary is indicated as approximately paralleling a street or highway center line, the district boundary shall be interpreted as being parallel thereto and at such dimensions as shown on the Zoning Map. The depth of said district shall be measured at right angles from the street or highway center line. If no distance is given, such dimensions shall be determined by the use of the scale as set forth on said Zoning Map.
- C. Where uncertainly exists in determining the precise location of any district boundary line, the Zoning Board of Appeals, with advice from the Town Planning Board, shall interpret the intent and purpose of the Zoning Map.

§ 140-8. Lots in more than one district.

Where a district boundary line divides a lot, the regulations for either portion of the lot may, at

2. Editor's Note: Said map is on file in the office of the Town Clerk, where it may be examined during regular business hours.

the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.

§ 140-9. Application of regulations.

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein set forth for the district in which it is located.
- B. Any parcel of land with an area or a width less than that prescribed for a lot in the district in which such lot is located, which at the time of the adoption of this chapter was under one ownership and when the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the district after proper review by the Zoning Board of Appeals and obtaining a variance from said Board.

ARTICLE IV

R-12 One- and Two-Family Residence District

§ 140-10. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all R-12 Districts.

§ 140-11. Permitted uses.

- A. One- and two-family dwellings, to include modular homes, but not mobile homes or manufactured homes, unless said manufactured home is defined as being affixed to a permanent foundation and conforms with the identical development specification and standards, including general aesthetic and architectural standards, applicable to conventional, site-built single-family dwellings in the residential district in which the manufactured home is to be signed. [Amended 9-11-2007 by L.L. No. 6-2007; 10-9-2012 by L.L. No. 6-2012; 3-24-2015 by L.L. No. 1-2015; 11-9-2016 by L.L. No. 2-2016]
 - (1) General standards:
 - (a) (Reserved)
 - (b) (Reserved)
 - (c) (Reserved)
 - (d) (Reserved)
 - (e) All exposed areas between finished grade and the siding shall be finished concrete, parged block, stone, insulated stone board, or an approved finish material.
 - (f) (Reserved)
 - (g) (Reserved)

- (h) Installation shall meet or exceed the installation requirements and recommendations of the manufacturer and State Code. In addition, the trailer hitch connection and wheels shall be removed as part of the installation process.
 - (2) Each double-wide or triple-wide modular home proposed to be placed upon a lot within the Town of Conklin shall be inspected on the lot side, together with the lot site, by the Code Officer for compliance with the State Code and above standards prior to being installed.
 - (3) Each double-wide or triple-wide modular home shall be provided with an adequate water supply and method of sewage disposal as determined by the standards of the New York State Department of Health and Environmental Conservation.
- B. Churches and other places of worship, parish house and convents.
- C. Public elementary, public secondary, nursery and parochial schools.
- D. Public parks and recreation areas not conducted for a profit.
- E. A customary home occupation which is clearly secondary to the principal dwelling use and does not change the character thereof, provided that: [Amended 11-9-1999 by L.L. No. 2-1999]
- (1) No more than two persons in addition to the immediate family residing in the premises shall participate in the customary home occupation use.
 - (2) Not more than 1/2 of the gross floor area of one floor of the principal building or 1/2 of the gross floor area of one floor of an accessory building, but not both, shall be devoted to the customary home occupation use.
 - (3) There shall be no exterior display or storage of materials and no other external evidence of the customary home occupation, except for one nonilluminated announcement or professional sign, not exceeding four square feet in area.
 - (4) No offensive noise, vibration, smoke, dust, odor, heat, light glare or electrical disturbance shall be produced as a result of the customary home occupation use.
- F. Temporary structures incidental to the development of land or to the erection of a permanent structure.
- G. Electrical distribution substations and other public utility structures of a similar nature are permitted following the issuance of a special permit as provided in Article XVI, § 140-91, of this chapter.
- H. Customary accessory uses and buildings (i.e, private garages, garden house, tool storage house), provided that such uses are incidental to the principal use and do not include any activity conducted as a business.
- I. Signs as may be permitted in Article XVII of this chapter.
- J. Professional offices of the following: attorney, doctor, dentist, teacher, real estate broker, financial broker, provided that:

- (1) Each professional lives on the premises.
 - (2) Not more than two other persons, either professional or technical persons, may be employed.
 - (3) Off-street parking shall be provided, as outlined in Article XIV, § 140-85, of this chapter. All parking shall be provided to the rear of the lot.
 - (4) Landscape screening may be required, at the discretion of the Zoning Board of Appeals, for the parking area as a protection to adjacent properties.
- K. Residential uses shall be in the principal building only.
- L. Mining or mining activities which require a permit from the New York State Department of Environmental Conservation ("NYSDEC") are permitted upon the receipt of such permit. [Added 10-24-2017 by L.L. No. 4-2017]

§ 140-12. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 35 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. No accessory building shall be erected or reconstructed so as to exceed 18 feet in height.
- C. Principal nonresidential structures (churches, schools, etc.) may be erected to a height greater than 35 feet, provided that the front, side and rear yards shall be increased by two feet for each one foot by which such building exceeds the thirty-five-foot height limitation.

§ 140-13. Lot area requirements.

- A. The lot area for each one-family dwelling shall not be less than 12,000 square feet and the lot width not less than 70 feet.
- B. The lot area for each two-family dwelling designed as such shall not be less than 18,000 square feet and the lot width not less than 80 feet.
- C. The lot area for each two-family dwelling which is converted or structurally altered from an original design shall not be less than 24,000 square feet and the lot width not less than 80 feet.
- D. The minimum area requirements (but not lot width) may be reduced by 25% where connections are installed to a sewerage system approved by the County Department of Health or a performance bond has been filed with the Town Board guaranteeing the construction of a satisfactory approved sewerage system.

§ 140-14. Required yards.

- A. All principal buildings shall have yards not less than the following:
 - (1) Front yard: 40 feet.
 - (2) Side yard (each): 12 feet.

(3) Rear yard: 25 feet.

B. Corner lots shall have a yard of 15 feet measured on the long side of the lot abutting the street.

§ 140-15. Lot coverage.

All buildings including permitted accessory buildings shall not cover more than 30% of the area of the lot.

§ 140-16. Accessory buildings.

Accessory buildings shall meet the following regulations:

- A. Accessory buildings shall not be permitted in a front yard.
- B. Accessory buildings shall maintain a minimum distance from side or rear lot line of 10 feet.
- C. One trailer may be stored on the premises but shall in no manner be used as a dwelling unit. The trailer shall not be stored in front of the principal building or front yard as defined in this chapter.

§ 140-17. Parking of vehicles. [Added 11-9-1999 by L.L. No. 2-1999]

Parking of vehicles related to the residential use, such as personal automobiles, recreational vehicles or travel trailers, is permitted, but no more than two vehicles unrelated to the residential use shall be permitted. Vehicles unrelated to the residential use shall include, but not be limited to, business vehicles, trucks or construction equipment. Parking of tractor-trailers is expressly prohibited in this zone.

ARTICLE V

R-15 One- and Two-Family Residence District

§ 140-18. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all R-15 Districts.

§ 140-19. Permitted uses.

Permitted uses shall be all uses permitted in R-12 Districts, subject to all provisions specified therein.

§ 140-20. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 35 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. No accessory building shall be erected or reconstructed so as to exceed 18 feet in height.
- C. Principal nonresidential structures (churches, schools, etc.) may be erected to a height greater than 35 feet, provided that front, side and rear yards shall be increased by two feet

for each one foot by which such building exceeds the thirty-five-foot height limitation.

§ 140-21. Lot area requirements.

- A. The lot area for each one-family dwelling shall not be less than 15,000 square feet and the lot width not less than 70 feet.
- B. The lot area for each two-family dwelling designed as such shall not be less than 22,500 square feet and the lot width not less than 80 feet.
- C. The lot area for each two-family dwelling which is a conversion or reconstruction from a designed single-family dwelling shall not be less than 30,000 square feet and the lot width not less than 85 feet.
- D. The minimum area requirements (but not lot width) may be reduced by 25% where connections are installed to a sewerage system approved by the County Department of Health or a performance bond has been filed with the Town Board guaranteeing the construction of a satisfactory approved sewerage system.

§ 140-22. Required yards.

- A. All principal buildings shall have yards not less than the following:
 - (1) Front yard: 40 feet.
 - (2) Side yard (each): 12 feet.
 - (3) Rear yard: 25 feet.
- B. Corner lots shall have a yard of 15 feet measured on the long side of the lot abutting the street.

§ 140-23. Accessory buildings.

Accessory buildings shall meet the following regulations:

- A. Accessory buildings shall not be permitted in a front yard.
- B. Accessory buildings shall maintain a minimum distance from side or rear lot line of 10 feet.
- C. One trailer may be stored on the premises but shall in no manner be used as a dwelling unit. The trailer shall not be stored in front of the principal building or front yard as defined in this chapter.

§ 140-24. Parking of vehicles. [Added 11-9-1999 by L.L. No. 2-1999]

Parking of vehicles related to the residential use, such as personal automobiles, recreational vehicles or travel trailers, is permitted, but no more than two vehicles unrelated to the residential use shall be permitted. Vehicles unrelated to the residential use shall include, but not be limited to, business vehicles, trucks or construction equipment. Parking of tractor-trailers is expressly prohibited in this zone.

ARTICLE VI
R-M Multiple Family Residence District

§ 140-25. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all R-M Districts.

§ 140-26. Permitted uses.

- A. All uses permitted in R-12 and R-15 Districts, subject to all provisions specified therein.
- B. Multiple-family dwellings.
- C. Professional offices as specified in Article IV, § 140-11J, except that the provision which requires residence on the premises shall not be required.
- D. Hospital, sanitarium and convalescent homes, except penal institutions for the mentally ill.

§ 140-27. Building height.

- A. No principal multiple-family building shall be erected or reconstructed so as to exceed 50 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. No accessory building shall be erected or reconstructed so as to exceed 18 feet in height.
- C. Principal nonresidential structures (e.g., churches, schools, etc.) may be erected to a height greater than 50 feet, provided that front, side and rear yards shall be increased by two feet for each one foot by which such building exceeds the 50 feet in height limitation.
- D. All other residential buildings are subject to provisions in §§ 140-12 and 140-20 of this chapter.

§ 140-28. Lot area requirements.

- A. The minimum lot area for any use shall be 12,000 square feet and the minimum lot width 70 feet.
- B. For each family unit over two, a minimum of 3,500 square feet shall be added to the basic 12,000 square foot lot area requirement.

§ 140-29. Required yards.

All principal buildings shall have yards not less than the following:

- A. Front yard: 40 feet.
- B. Side yard (each): 15 feet.
- C. Rear yard: 35 feet.

§ 140-30. Lot coverage.

All buildings including permitted accessory buildings shall not cover more than 35% of the area of the lot.

§ 140-31. Accessory buildings.

Accessory buildings shall meet the following regulations:

- A. Accessory buildings shall not be permitted in a front yard.
- B. Accessory buildings shall maintain a minimum distance from side or rear lot line of 10 feet.

§ 140-32. Parking of vehicles. [Added 11-9-1999 by L.L. No. 2-1999]

Parking of vehicles related to the residential use, such as personal automobiles, recreational vehicles or travel trailers, is permitted, but no more than two vehicles unrelated to the residential use shall be permitted. Vehicles unrelated to the residential use shall include, but not be limited to, business vehicles, trucks or construction equipment. Parking of tractor-trailers is expressly prohibited in this zone.

ARTICLE VII
A-R Agricultural-Rural District

§ 140-33. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulation prescribed in other articles and sections specifically referred to in this chapter shall apply in all A-R Districts.

§ 140-34. Permitted uses.

- A. Agriculture. Any parcel of land now held vacant or used exclusively for agriculture shall be permitted.
- B. Uses as permitted in Article IV, Article V and Article VI subject to the provisions specified therein.
- C. Cemetery and the buildings incident thereto.
- D. Plant nurseries or greenhouses.
- E. Veterinarian hospitals and kennels, provided that:
 - (1) Off-street spaces shall be as provided in § 140-85.
 - (2) Unenclosed kennels or fenced exercise yards for small animals (dogs, cats, etc.) shall be located at least 20 feet from any property line.
- F. Accessory farm buildings, customarily incidental to agricultural pursuits.
- G. Travel trailer park, manufactured home park, and mobile home park, subject to the provisions as specified in Chapter 91, Mobile Home, Manufactured Home, and Travel

Trailer Parks. [Amended 10-9-2012 by L.L. No. 6-2012³]

§ 140-35. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 35 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. No accessory building shall be erected or reconstructed so as to exceed 18 feet in height, except as provided in § 140-39C. [Amended 11-9-1999 by L.L. No. 2-1999]
- C. Principal nonresidential structures (churches, schools, etc.) may be erected to a height greater than 35 feet, provided that front, side and rear yards shall be increased by two feet for each one foot by which such building exceeds the thirty-five-foot height limitation.

§ 140-36. Lot area requirements.

- A. The lot area for each one-family dwelling shall not be less than 15,000 square feet and the lot width not less than 85 feet.
- B. The lot area for any principal nonresidential building shall not be less than 15,000 square feet and the lot width not less than 85 feet.
- C. The lot area requirement may be reduced as outlined in Article V, § 140-21D.

§ 140-37. Required yards.

All principal buildings shall have yards not less than the following:

- A. Front yard: 40 feet.
- B. Side yard (each): 15 feet.
- C. Rear yard: 35 feet.

§ 140-38. Lot coverage.

All buildings, including permitted accessory buildings, shall not cover more than 35% of the area of the lot.

§ 140-39. Accessory buildings.

Accessory buildings shall meet the following regulations:

- A. Accessory buildings shall not be permitted in a front yard.
- B. Accessory buildings shall maintain a minimum distance from side or rear lot line of 10 feet.⁴

3. Editor's Note: This local law also repealed former Subsection G, pertaining to a manufactured home for dwelling purposes, as amended, and redesignated former Subsection H as Subsection G.)

4. Editor's Note: Original Section 706, Subdivision 3, regarding trailers, which immediately followed this subsection, was repealed 11-9-1999 by L.L. No. 2-1999.

- C. Exception. Farm buildings as part of an agricultural operation may be erected to a height of 50 feet. Further, said accessory building shall not be located closer than 100 feet to any residential district boundary.

ARTICLE VIII
C-N Neighborhood Commercial District

§ 140-40. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all C-N Districts.

§ 140-41. Permitted uses.

- A. Residence uses as permitted in all residence districts, subject to all specifications and requirements for such use in Article IV of this chapter.
- B. Retail uses, including food, drug, hardware, variety, apparel, appliance, furniture, gift, shoe, liquor and similar retail uses.
- C. Service uses, including barbershop, beautician, shoe repair, tailor, appliance and similar service establishment.
- D. (Reserved)⁵
- E. Offices: business, professional, governmental, financial, banks.
- F. Restaurants and taverns.⁶
- G. Funeral homes.
- H. Public buildings (post office, village hall, fire station, library).
- I. Lodges and fraternal organizations.
- J. Processing or fabricating of goods, when incidental to the principal retail use conducted on the premises.
- K. Business services, including printing, lithographing and binding establishments, transportation services and similar uses, provided that no operation shall be conducted which will be detrimental to nearby property because of noise, odor, fumes or other objectionable conditions.
- L. Gasoline service station, provided that:
 - (1) No gasoline service station lot shall be located within 250 feet from any lot or parcel occupied by a public or private hospital, library or church. The measurement distance shall be from the closest lot line to the gasoline service station building.

⁵. Editor's Note: Original Section 801, Subdivision 4, which allowed a laundromat as a permitted use, was deleted 11-9-1999 by L.L. No. 2-1999. See now § 140-98.

⁶. Editor's Note: Original Section 801, Subdivision 7, regarding theaters, bowling alleys and other places of public amusement, which immediately followed this subsection, was deleted 7-14-1992.

- (2) Pumps and lubricating or other devices shall be located at least 20 feet from any street or highway right-of-way.
- (3) No gasoline service station shall be located on any lot of an area less than 12,000 square feet and a contiguous street frontage of not less than 100 feet.
- (4) No gasoline service station building shall be located closer than 10 feet to any side or rear lot line.⁷

§ 140-42. Permitted accessory uses.

- A. Accessory uses and structures customarily incidental to a permitted principal use, when located on the same lot.
- B. Business signs subject to the provisions specified in Article XVII.
- C. Advertising signs shall not be permitted.

§ 140-43. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 50 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. Accessory buildings shall not exceed 18 feet in height.
- C. Principal nonresidential structures (e.g., churches, schools, etc.) may be erected to a height greater than 50 feet, provided that front, side and rear yards shall be increased by two feet for each one foot by which such building exceeds the 50 feet in height limitation.

§ 140-44. Lot area requirements.

- A. No principal commercial building shall be erected on a lot of an area less than 12,000 square feet or a width of less than 60 feet.
- B. Residential requirements shall be as specified in Article IV of this chapter.

§ 140-45. Required yards.

- A. All commercial buildings shall have yards not less than the following:
 - (1) Front yard: 30 feet.
 - (2) Side yard: none required if a firewall is provided, otherwise 10 feet each side is required. If a side yard is bounded on either side by a residence or agriculture district, there shall be a ten-foot yard requirement on any such side.
 - (3) Rear yard: 25 feet.
- B. Residential units shall comply with Article IV of this chapter. [Added 11-9-1999 by L.L. No. 2-1999]

⁷. Editor's Note: Former Subsection M, pertaining to the permitting of a second principal use, added 9-8-1998 by L.L. No. 7-1998, which immediately followed this subsection, was repealed 9-25-2012 by L.L. No. 5-2012.

§ 140-46. Lot coverage.

All buildings, including permitted accessory buildings, shall not cover more than 50% of the area of the lot. Residence units shall comply with Article IV of this chapter.

ARTICLE IX
C-G General Commercial District

§ 140-47. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all C-G Districts.

§ 140-48. Permitted uses.

- A. Uses as permitted in Article VIII, subject to the provisions specified therein.
- B. Automobile repair garages, including gasoline service stations, provided that they meet the requirements of Article VIII. [Amended 11-9-1999 by L.L. No. 2-1999]
- C. Automobile, truck and trailer sales.
- D. Business schools.
- E. Clinics: medical, dental, veterinarian.
- F. Planned shopping center subject to site plan approval as set forth in Article XXVI.
- G. Drive-in theater subject to site plan approval as set forth in Article XVI and Article XXVI.
- H. Motels and hotels.
- I. Theaters, bowling alleys, health fitness centers, sports activity centers and similar recreational facilities. [Added 7-14-1992]
- J. Other places of public amusement and amusement parks, including, but not limited to, any uses with motorized rides, upon special permit of the Town of Conklin Town Board. The Town Board shall first obtain the comments and recommendations of the Conklin Planning Board for any proposed use. The Planning Board shall conduct its review of the proposed use in accordance with the provisions of its site plan review law. The Town Board's review should include, but not be limited to, a review of the findings of the Planning Board, a consideration as to whether the proposed use is consistent with the Town of Conklin master plan and whether the proposed use would be harmonious with uses in adjacent properties.⁸ [Added 7-14-1992]

§ 140-49. Permitted accessory uses.

- A. Accessory uses and structures customarily incidental to a permitted principal use, when located on the same lot.

⁸. Editor's Note: Former Subsection K, pertaining to the permitting of a second principal use, added 9-8-1998 by L.L. No. 7-1998, which immediately followed this subsection, was repealed 9-25-2012 by L.L. No. 5-2012.

B. Business signs, subject to the provisions specified in Article XVII, § 140-101.

§ 140-50. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 50 feet in height, except as provided in Subsection C of this section. [Amended 11-9-1999 by L.L. No. 2-1999]
- B. Accessory buildings shall not exceed 18 feet in height.
- C. Principal nonresidential structures (e.g., churches, schools, etc.) may be erected to a height greater than 50 feet, provided that front, side and rear yards shall be increased by two feet for each one foot by which such building exceeds the 50 feet in height limitation.

§ 140-51. Lot area requirements.

- A. No principal commercial building shall be erected on a lot of an area less than 12,000 square feet or a width of less than 60 feet.
- B. Residential requirements shall be as specified in Article IV of this chapter.

§ 140-52. Required yards.

- A. All commercial buildings shall have yards not less than the following:
 - (1) Front yard: 30 feet.
 - (2) Side yard: none required if a firewall is provided, otherwise 10 feet each side is required. If a side yard is bounded on either side by a residence or agriculture district, there shall be a ten-foot yard requirement on any such side. If a side yard abuts on a street or way, there should be a twenty-foot yard requirement.
 - (3) Rear yard: 25 feet.
- B. Required yards for a Planning Shopping Center shall be subject to requirements as set forth in Article XXVI.
- C. Residential units shall comply with the requirements of Article IV. [Added 11-9-1999 by L.L. No. 2-1999]

§ 140-53. Lot coverage.

All buildings, including permitted accessory buildings, shall not cover more than 50% of the area of the lot. Residence units shall comply with Article IV of this chapter.

ARTICLE X
I-L Limited Industrial

§ 140-54. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all I-L Districts.

§ 140-55. Permitted uses.

- A. All commercial uses as permitted in Article IX, subject to the provisions specified therein.
- B. Warehouse and wholesale establishments.
- C. Laboratories or research institutes.
- D. Blueprinting, photostating, printing, publishing establishments.
- E. Building material sales establishments.⁹
- F. Any manufacturing, processing, fabricating or repair establishments, provided that such use shall be operated in conformity with performance standards set forth in Article XVIII.
- G. Integrated industrial complex of any of the above uses.
- H. Residential dwellings shall be prohibited except for an apartment exclusively for a caretaker or watchman employed on the premises.
- I. Railroad spurs and rail traffic to the extent required by the industry requiring the service, provided that: [Added 6-23-1981]
 - (1) The spur remains singular and is totally dead-ended within the same zoning district.
 - (2) The spur is used solely for the transportation of those materials fabricated, reprocessed or repackaged by the industry requiring the rail spur, and train staging operations are limited to sectioning out or inserting only those cars directly servicing the industry.
 - (3) Spur utilization remains less than or equal to that presented at the original or any subsequent site plan review.
 - (4) Such spur utilization is operated in conformity with performance standards as set forth in Article XVIII.¹⁰

§ 140-56. Site plan review.

All permitted uses shall be subject to site plan review as specified in Article XXVI of this chapter.

§ 140-57. Permitted accessory uses.

- A. Accessory uses and structures customarily incidental to a permitted principal use, when located on the same lot.
- B. Outdoor storage of building materials or other materials or goods shall not be permitted.

9. Editor's Note: Original Subsection 6 of Section 1001, which immediately followed this subsection and listed "Laundry, dyeing or dry-cleaning plant" as a permitted use, was deleted 11-9-1999 by L.L. No. 2-1999. Subsections G, H, I, J and K which followed were renumbered F, G, H, I and J, respectively.

10. Editor's Note: Former Subsection J, pertaining to the permitting of a second principal use, added 9-8-1998 by L.L. No. 7-1998, which immediately followed this subsection, was repealed 9-25-2012 by L.L. No. 5-2012.

- C. Signs, subject to the provisions specified in Article XVII.
- D. Supporting tractor-trailer traffic in which the frequency of arrivals and departures shall not exceed 30 per twenty-four-hour period. [Added 6-23-1981]

§ 140-58. Building height.

- A. Principal buildings. [Amended 9-15-2004 by L.L. No. 2-2004]
 - (1) No principal building shall be erected or reconstructed so as to exceed 50 feet in height; provided, however, that the Town Board, after site plan review and approval by the Planning Board on all site plan issues excepting building height considerations, may issue a special permit approving a principal building height in excess of 50 feet but not exceeding 100 feet after determining the following factors and conditions have been considered:
 - (a) The proposed structure does not present a threat to the safety, health protection and welfare occupants of the building or to the residents of the Town of Conklin, including confirmation that adequate fire protection services can be delivered to the building.
 - (b) The proposed structure is harmonious with the surrounding uses and neighborhoods of the Town of Conklin.
 - (c) There is an anticipated favorable economic impact of the use requiring the proposed structure.
 - (d) Whether all design and engineering steps have been taken into account to minimize the required height of the proposed structure.
 - (2) The issuance of a special permit shall be within the discretion of the Town Board, which shall take into account the totality of the factors and considerations listed above.
- B. Accessory buildings shall not exceed 18 feet in height.

§ 140-59. Lot area requirements.

- A. All principal buildings shall be erected on a lot area of not less than 15,000 square feet.
- B. The lot width shall not be less than 100 feet.

§ 140-60. Required yards.

- A. All buildings shall have yards not less than the following:
 - (1) Front yard: 30 feet.
 - (2) Side yard: no side yard shall be required if a firewall is provided. If a side yard is bounded by an agriculture or residential district, there shall be a fifteen-foot yard requirement. Further, in the event that the side yard abuts on a street or way, there shall be a twenty-foot yard requirement.

- (3) Rear yard: 30 feet.
- B. Required yards for a planned industrial complex, subject to requirements as set forth in Article XXVI.

ARTICLE XI
I-D Industrial Development

§ 140-61. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all I-D Districts.

§ 140-62. Permitted uses.

- A. All permitted uses are subject to site review and approval as prescribed in Article XXVI.
- B. Uses permitted in Article X, subject to the provisions specified therein.
- C. Manufacturing, processing, fabrication or repair establishments, provided that such use shall be operated in conformity with performance standards as set forth in Article XVIII.
- D. The following uses are specifically prohibited regardless of meeting performance standards:
 - (1) Manufacture of heavy chemicals, such as but not limited to acids or other corrosives, ammonia, caustic soda, explosives, soaps, detergents and fertilizers.
 - (2) Boiler making.
 - (3) Brewing or distilling liquors.
 - (4) Crematory.
 - (5) Distillation of coal or wood.
 - (6) Explosive storage.
 - (7) Manufacture of glue or gelatin. [Amended 11-9-1999 by L.L. No. 2-1999]
 - (8) Gasoline storage or refining.
 - (9) Abattoir.
 - (10) Railroad operations, except: [Added 6-23-1981]
 - (a) In performance of spur service as detailed in § 140-55; and/or
 - (b) In the utilization of rail thoroughfares currently existing within the district and for the sole purpose of passing through the Town or to/from any Industrial Development/Transportation District (IDT) within the town; and/or
 - (c) In the performance of maintenance and/or emergency operations in support of Subsection D(10)(a) and (b) immediately above.

- (11) Highway freighting operations in which the frequency of tractor-trailer arrivals and departures exceeds 50 in a twenty-four-hour period.¹¹ [Added 6-23-1981]

§ 140-63. Permitted accessory uses.

- A. Accessory uses and structures customarily incidental to a permitted principal use, when located on the same lot.
- B. Outdoor storage of building materials or other material or goods shall not be permitted.
- C. Signs, subject to the provisions specified in Article XVII.

§ 140-64. Building height.

- A. Principal buildings. [Amended 9-15-2004 by L.L. No. 2-2004]
 - (1) No principal building shall be erected or reconstructed so as to exceed 50 feet in height; provided, however, that the Town Board, after site plan review and approval by the Planning Board on all site plan issues excepting building height considerations, may issue a special permit approving a principal building height in excess of 50 feet but not exceeding 100 feet after determining the following factors and conditions have been considered:
 - (a) The proposed structure does not present a threat to the safety, health protection and welfare occupants of the building or to the residents of the Town of Conklin, including confirmation that adequate fire protection services can be delivered to the building.
 - (b) The proposed structure is harmonious with the surrounding uses and neighborhoods of the Town of Conklin.
 - (c) There is an anticipated favorable economic impact of the use requiring the proposed structure.
 - (d) Whether all design and engineering steps have been taken into account to minimize the required height of the proposed structure.
 - (2) The issuance of a special permit shall be within the discretion of the Town Board, which shall take into account the totality of the factors and considerations listed above.
- B. Accessory buildings shall not exceed 18 feet in height.

§ 140-65. Lot area requirements.

- A. All principal buildings shall be erected on a lot area of not less than 15,000 square feet.
- B. The lot width shall not be less than 100 feet.

¹¹. Editor's Note: Former Subsection E, pertaining to the permitting of a second principal use, added 9-8-1998 by L.L. No. 7-1998, which immediately followed this subsection, was repealed 9-25-2012 by L.L. No. 5-2012.

§ 140-66. Required yards.

- A. All buildings shall have yards not less than the following:
 - (1) Front yard: 30 feet.
 - (2) Side yard: no side yard shall be required if a firewall is provided. If a side yard is bounded by an agriculture or residential district, there shall be a fifteen-foot yard requirement. Further, in the event that the side yard abuts on a street or way, there shall be a twenty-foot yard requirement.
 - (3) Rear yard: 30 feet.
- B. Required yards for a planned industrial complex, subject to requirements as set forth in Article XXVI.

ARTICLE XII
IDT Industrial Development/Transportation District
[Added 6-23-1981]

§ 140-67. Applicability of regulations.

The following regulations prescribed in this article or the qualifying regulations prescribed in other articles and sections specifically referred to in this chapter shall apply in all IDT Districts.

§ 140-68. Permitted uses.

- A. All permitted uses are subject to site review and approval as prescribed in Article XXVI.
- B. Uses permitted in Article XI, subject to the provisions specified therein.
- C. Where transportation is the principal business activity and object of land use, the switching, transfer, terminus, repair and makeup or staging or disassembly areas for rail-borne material and its means of transport.
- D. Transfer, terminus, repair for over the highway freight operations in which a frequency of tractor-trailer arrivals and departures exceeds 50 in a twenty-four-hour period.
- E. All uses shall be operated in conformity with performance standards set forth in Article XVIII.
- F. Manufacturing, processing, fabricating or repair establishments, provided that such use shall be operated in conformity with performance standards as set forth in Article XVIII.
- G. The following uses are specifically prohibited regardless of meeting performance standards:
 - (1) Manufacture of heavy chemicals, such as but not limited to acids or other corrosives, ammonia, caustic soda, explosives, soaps, detergents and fertilizers.
 - (2) Boiler making.
 - (3) Brewing and distilling liquors.

- (4) Crematory.
- (5) Distillation of coal or wood.
- (6) Explosive storage.
- (7) Manufacture of glue or gelatin. [Amended 11-9-1999 by L.L. No. 2-1999]
- (8) Gasoline storage or refining.
- (9) Abattoir.¹²

§ 140-69. Permitted accessory uses.

- A. Accessory uses and structures customarily incidental to a permitted principal use, when located on the same lot.
- B. Outdoor storage of building materials or other material or goods shall not be permitted.
- C. Signs, subject to the provisions specified in Article XVII.

§ 140-70. Building height.

- A. No principal building shall be erected or reconstructed so as to exceed 50 feet in height.
- B. Accessory buildings shall not exceed 18 feet in height.

§ 140-71. Lot area requirements.

- A. All principal buildings shall be erected on a lot area of not less than 15,000 square feet.
- B. The lot width shall not be less than 100 feet.

§ 140-72. Required yards.

- A. All buildings shall have yards not less than the following:
 - (1) Front yard: 30 feet.
 - (2) Side yard: no side yard shall be required if a firewall is provided. If a side yard is bounded by an agriculture or residential district, there shall be a fifteen-foot yard requirement. Further, in the event that the side yard abuts on a street or way, there shall be a twenty-foot yard requirement.
 - (3) Rear yard: 30 feet.
- B. Required yards for a planned industrial complex, subject to requirements as set forth in Article XXVI.

ARTICLE XIII

¹². Editor's Note: Former Subsection H, pertaining to the permitting of a second principal use, added 9-8-1998 by L.L. No. 7-1998, which immediately followed this subsection, was repealed 9-25-2012 by L.L. No. 5-2012.

Economic Development District Zone
[Added 1-14-1997]

§ 140-73. Purpose.

The Town Board of the Town of Conklin recognizes that planned economic growth is a vital component for the successful future of the Town and its residents. The Town Board further recognizes that responsible economic growth is equally important to ensure that commercial and industrial development is in harmony with the other land uses within the town. The Town Board is hereby creating a separate Economic Development District Zone (EDDZ) for a specified area commonly known as the "Broome Corporate Park" to regulate development and promote economic growth within that area. The Town Board, as the legislative authority for the Town of Conklin, hereby reserves to itself the authority to permit or deny development within the Economic Development District Zone, consistent with the provisions of this article.

§ 140-74. Property description.

The property to be subject to these regulations for the Economic Development District Zone shall include all properties within the boundary limits of the land owned by the Broome County Industrial Development Agency commonly known as the "Broome Corporate Park" and as more fully described in Schedule 1102-AS, which is annexed to the original ordinance on file with the Town Clerk.¹³

§ 140-75. Suitable development.

- A. The uses proposed for the Economic Development District Zone would include but not be limited to business offices, research and development labs, distribution establishments, nonretail general services, restaurants, hotels and motels, planned shopping centers, personal service establishments, manufacturing facilities, warehouses, rail-oriented facilities, light and general industries and other similar and related uses, subject to the issuance of a special permit by the Town Board as provided below.
- B. Residential uses within the Economic Development District Zone are not permitted.

§ 140-76. Special permit procedures.

- A. Any use proposed for the Economic Development District Zone shall be subject to the issuance of a special permit by the Town Board of the Town of Conklin, as approved by a majority of its members.
- B. A developer seeking a special permit for a use within the Economic Development District Zone shall first present a detailed site plan and an Environmental Assessment Form (EAF) and any other form or document required under the New York State Environment Quality Review Act¹⁴ to the Town Board. The site plan shall contain all of the elements required under the Town of Conklin Site Plan Review Law.¹⁵ The Town Board may either accept

13. Editor's Note: Said schedule is on file in the office of the Town Clerk.

14. Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

15. Editor's Note: See Art. XXVI, Site Plan Review, of this chapter.

or reject the site plan. If a site plan or an EAF is rejected, it shall provide a developer with a statement of reasons as to why the site plan or the EAF was rejected.

- C. The Town Board shall not act favorably upon the request for the special permit until such time as the proposed development has been reviewed by the Town of Conklin Planning Board. A site plan and EAF which has been accepted by the Town Board shall be immediately referred to the Planning Board for comment. The Town Board shall concurrently submit a § 239-l and 239-m form and a review request to the Broome County Department of Planning Economic Development. The Planning Board shall have a period of up to 62 days from the date of its receipt of the site plan and any additional materials the Planning Board may request from the developer to provide its advisory recommendations to the Town Board. The Planning Board recommendations shall include, but not be limited to, the following items: [Amended 11-9-1999 by L.L. No. 2-1999]
- (1) The site plan contains all of the elements required by the Town of Conklin Site Plan Review Law or a listing of items which have not been provided in the site plan.
 - (2) Deficiencies in the site plan which require the attention of the developer and the Town Board.
 - (3) A statement as to the accuracy and completeness of the EAF and whether any additional environmental information, including the need for a full Environmental Impact Statement, is required.
 - (4) A statement as to whether the recommendations of the Broome County Planning Department have been received.
 - (5) Any other factor or concern which the Planning Board feels is appropriate for consideration by the Town Board.
- D. In the event that the Planning Board is unable to make its final recommendation to the Town Board within 60 days of its receipt of the original site plan, for reasons including but not limited to a lack of materials requested from the developer, the Town Board shall consider the Planning Board as having made an unfavorable recommendation. In that instance, the Town Board may either extend the time period for additional review by the Planning Board or commence its own review of the proposed development.
- E. If the Planning Board makes an unfavorable recommendation or is deemed to have made an unfavorable recommendation as provided in Subsection D above, the Town Board shall not approve a special permit for the proposed development except by a vote of a majority plus one of all the members of the Town Board.
- F. The Town Board shall also request a statement from the Broome County Industrial Development Agency, or any successor thereto, that the performance standards for the Broome Corporate Park have been met. In the event that a performance standard has been waived or an exception granted by the Broome County Industrial Development Agency, the Town Board shall request a detailed explanation as the reason for the waiver or the exception. The Town Board shall be guided in its review by the performance standards of the Broome County Industrial Development Agency; however, it shall not be bound by such performance standards nor shall it be bound by any waiver or exception granted by

any other entity. The performance standards to be applied shall include provisions for the following considerations:

- (1) Minimum lot requirements.
- (2) Minimum lot frontage.
- (3) Maximum lot coverage.
- (4) Maximum building heights.
- (5) Setback requirements.
- (6) Building materials.
- (7) Landscape plans.
- (8) Parking requirements.
- (9) Loading facilities.
- (10) Outside material storage.
- (11) Sign regulations.
- (12) Buffer zones.
- (13) Site preparation.
- (14) Drainage patterns.
- (15) Utility connections.
- (16) Roadways.
- (17) Lighting plans.

G. The Town Board shall also include in its deliberations for the granting of a special permit the following factors:

- (1) Environmental compliance with all local, state and federal regulations, including a review of the environmental significance of the proposed development by the Town Board, as lead agency for SEQR review.
- (2) The risk of fire or explosive hazards and the ability of the Town to adequately address those concerns, after consultation with the Town of Conklin Volunteer Fire Company.
- (3) The use of radioactive material.
- (4) Electrical or electromagnetic disturbances from the proposed activity.
- (5) Air and noise emissions.
- (6) Water use and the disposal of sewage and waste products.
- (7) The use of toxic or hazardous substances.

- (8) Traffic impacts.
- (9) Impacts on or from wetlands or other environmentally sensitive areas.
- (10) The advisory recommendations of the Town Planning Board.
- (11) The recommendation of the Broome County Planning Department if required.
- (12) The anticipated economic impact of the proposed development.
- (13) Whether the proposed use is harmonious with surrounding uses and neighborhoods with the Town of Conklin.
- (14) If the health, public safety or welfare of the residents of the Town of Conklin are threatened by the proposed development.
- (15) Any other special considerations specific to the project.

H. The issuance of a special permit shall be within the discretion of the Town Board, which shall take into account the totality of the factors and considerations listed above. A negative finding by the Town Board as to any of the items considered by it in its deliberations shall not prevent the issuance of a special permit if the Town Board determines that the negative findings are outweighed by the positive impact of the proposed development or project. The Town Board shall not be bound to apply zoning provisions or restrictions contained within the Town Code of the Town of Conklin which govern other zoning districts, but it may consider such provisions in its deliberations if relevant.

§ 140-77. Public hearing. [Amended 11-9-1999 by L.L. No. 2-1999]

Prior to its final determination as to the issuance of a special permit, the Town Board shall hold a public hearing on at least 10 days' notice to hear public comment on the proposed development. In addition to any notice which is required to be published in the official newspaper of the town, the Town Board may also direct additional newspaper publications and shall also direct that a written notice be sent by first class mail to the last known address of all property owners within 1,000 feet of the boundary lines of the area commonly known as the "Broome Corporate Park" and as more fully described in Schedule 1102-AS.¹⁶ The cost of the legal advertisement and the mailing of the written notices shall be a charge assessed to the developer of the project.

§ 140-78. Review.

Any person or persons aggrieved by a decision of the Town Board under this article shall have the right to have the decision reviewed in accordance with the provisions of Article 78 of the Civil Practice Law and Rules for the State of New York.

ARTICLE XIV
Supplementary Regulations

§ 140-79. Exceptions, additions or modifications.

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

The provisions of this chapter shall be subject to such exceptions, additions or modifications as herein provided.

§ 140-80. Roadside stands.

Roadside stands for the sale of agricultural products produced primarily on the premises may be erected in agricultural districts, provided that:

- A. No stand shall be nearer the front or side lot line than 15 feet.
- B. Off-street parking spaces, as defined in this chapter, shall be provided for at least three automobiles and not on any road or street right-of-way.

§ 140-81. Height exceptions.

The limitation of height shall not apply to chimneys, aerials, silos, ventilators, skylights, tanks and other necessary features usually carried above roofs, nor to towers or spires of churches or other buildings.

§ 140-82. Visibility at intersections.

On corner lots clear vision shall be maintained within their triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 20 feet distant from the point of intersection, measured along said street lines. In such area no foliage, shrubbery, fence or other obstructions shall be permitted higher than two feet, nor low foliage or branches of trees less than 12 feet from the ground.¹⁷

§ 140-83. Yard requirements for commercial and industrial lots abutting railroad property.

In commercial and industrial districts when a lot is bound on one or more sides by property owned by a railroad, no yard requirement is necessary on such side or sides.¹⁸

§ 140-84. Trailers (mobile home) and trailer parks.

Trailer (mobile home) and trailer parks shall be permitted in the Town of Conklin only in accordance with the provisions and specifications as outlined in Chapter 91, Mobile Homes and Travel Trailer Parks.

§ 140-85. Off-street parking and loading; parking spaces. [Amended 12-8-1970]

- A. The following minimum number of off-street parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building, structure or premises which shall hereafter be erected, enlarged or altered for any of the following uses or purposes:

17. Editor's Note: Original Section 1204, Waste Disposal and Storage of Materials, which immediately followed this section, was deleted 11-9-1999 by L.L. No. 2-1999.

18. Editor's Note: Original Section 1206, Floodable Areas, which immediately followed this section, was repealed 5-8-1973.

Use	Required Spaces
One-family and two-family dwellings	2 for each dwelling unit
Multiple-family dwellings	1 1/2 for each dwelling unit, plus 1/2 for each bedroom in excess of 1 bedroom per unit
Trailer parks	1 1/2 for each permanent trailer or temporary trailer station
Hotels, motels, tourist homes and boardinghouses	1 for each guest sleeping room or suite, plus 1 for each employee on the maximum work shift
Hospitals, nursing homes and convalescent homes	1 for each 2 beds, plus 1 for each professional staff member and each other employee on the maximum work shift
Funeral homes	1 for each 3 chapel seats or 1 for each 100 square feet of gross floor area, whichever yields more spaces
Theaters, auditoriums, stadiums, churches and other places of public assembly not classified elsewhere in this section	1 for each 4 permanent seats, plus 1 for each 4 temporary seats which may be provided and used concurrently with the permanent seats
Elementary schools, secondary schools, nursery schools, day schools and camps	1 for each teacher and each other employee on the maximum work shift or 1 space for each 8 seats in the main auditorium, whichever yields more spaces
Public and private colleges, business schools and technical schools	1 for each 6 permanent classroom seats, plus 1 space for each 6 temporary seats which may be provided and used concurrently with the permanent seats, plus 1 for each teacher and each other employee on the maximum work shift
Medical, dental and other professional offices and gross floor area devoted to home occupations; business, government, semipublic sales and general offices; banks and financial institutions	1 for each 150 square feet of gross floor area
Bowling alleys	4 for each lane
Membership clubs, private clubs and lodges	1 for each 100 square feet of gross floor area
Planned shopping centers, retail stores, shops and personal service establishments	1 for each 150 square feet of gross floor area
Restaurants, eating and drinking places	1 for each 4 seats or 1 for each 100 square feet of gross floor area, whichever yields more spaces, plus 1 space for each employee on the maximum work shift

Wholesale and distribution establishments, nonretail general service and repair establishments, warehouses, truck depots and storage yards	1 for each 500 square feet of gross floor area or 2 spaces for each 3 employees on the maximum work shift, whichever yields more spaces
Manufacturing establishments, research and testing laboratories	1 for each 300 square feet of gross floor area or 2 spaces for each 3 employees on the maximum work shift, whichever yields more spaces
Any use not otherwise expressly provided for herein, including drive-in establishments	To be determined by the Planning Board during site plan review

- B. For all uses, whenever any fraction of a space is required, a full space shall be provided. In the case of mixed uses on the same lot, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately.
- C. Regular loading spaces. In addition to the required number of off-street parking spaces, the following minimum number of regular off-street loading spaces shall be provided and satisfactorily maintained by the owner of the property for each commercial or industrial building, structure or premises which shall be hereafter erected, enlarged or altered.
 - (1) One space for the first 2,500 square feet of gross floor area of building or fractional part thereof, plus one space for each additional 5,000 square feet of gross floor area or fractional part thereof.
- D. Loading berths. If, in the determination of the Planning Board during its site plan review and prior to the issuance of a building permit, loading berth facilities are required to accommodate truck deliveries or shipments by a vehicle of the tractor-trailer type, the number, location and type of loading berths to be provided shall be shown on the approved site plan.
- E. Size of parking spaces, regular loading spaces, loading berths and aisles for various angles of parking. The minimum required size of each parking space shall be nine feet by 20 feet. In addition, there shall be aisles providing a minimum width for ingress, egress and maneuvering areas, as follows:
 - (1) For ninety-degree parking, the minimum width of aisle shall be 24 feet.
 - (2) For sixty-degree parking, the minimum width of aisle shall be 20 feet.
 - (3) For forty-five-degree parking, the minimum width of aisle shall be 14 feet.
 - (4) For thirty-degree parking, the minimum width of aisle shall be 12 feet.
 - (5) The minimum required size of each regular loading space shall be 12 feet by 40 feet.
 - (6) The minimum required size of each loading berth shall be 12 feet by 55 feet and shall have a vertical clearance of 14 1/2 feet.
- F. Additional requirements for off-street parking and loading facilities serving commercial

and industrial uses:

- (1) In addition to each required parking space, regular loading space, loading berth and aisles, all other interior driveways and vehicular accessways shall be adequately designed and maintained.
- (2) All off-street parking and loading areas shall have adequate and self-contained drainage and shall be constructed of an all-weather material assuring a surface resistant to erosion.
- (3) Adequate lighting facilities shall be provided and shall be arranged so as not to reflect or cause glare onto abutting properties or streets.
- (4) Each parking space, regular loading space and loading berth shall be clearly marked and pavement directional arrows or signs shall be provided to indicate entrances, exits and the proper flow of traffic.
- (5) No parking space, regular loading space or loading berth shall be located within five feet of any front, side or rear lot line except that where any parking space, regular loading space, loading berth or vehicular driveway abuts a lot in any residential district, such space, berth or driveway shall not be located within 20 feet of the residential district; the twenty-foot area to be fenced and maintained as a natural or artificially landscaped boiler area.
- (6) Bumpers, wheel guards and pedestrian islands may be required if, in the determination of the Planning Board during its site plan review, such facilities will afford greater safety for vehicles and pedestrians or protection to abutting properties and streets.
- (7) Concrete curbs and sidewalks shall be provided along all street frontages, curbed for all new housing subdivisions, and all streets in industrial parks shall be curbed.
- (8) No curb cut shall be greater than 25 feet in width or closer than 25 feet to any street intersection or 15 feet to any property line.
- (9) No curb cut, entrance driveway, exit driveway or access driveway shall be less than 15 feet in width for one-way traffic flow or less than 25 feet in width for two-way traffic flow.
- (10) All required parking and loading spaces shall be located on the same lot as the use they serve. However, if an applicant for a building permit or certificate of occupancy finds that he is unable to comply with this provision, he may be granted relief by the Board of Appeals, after public hearing, but only to the extent that the applicant can himself provide the required number of parking spaces within 500 feet of the lot; or that the applicant can demonstrate that there are available to his particular use certain private off-street parking facilities within 500 feet of the lot which are intended to serve other uses but during different hours of operation, provided that a formal, properly executed agreement to ensure the permanent and uninterrupted use of such parking lot area for such purpose is filed with the Board of Appeals; or that the applicant can demonstrate that a sufficient number of public, off-street parking spaces exist within 500 feet of the lot which can legally satisfy all or part of the stated

parking space requirements for the particular use.

- (11) If an applicant is otherwise unable to comply with the above provisions, he may be granted relief by the Town Board, after public hearing, if the applicant pays to the Town a sum of money equal to the cost of construction of the number of spaces he is required to provide. Such sum shall be determined by said Town Board based on land and construction costs in the area and other relevant factors. All moneys collected in this manner shall be deposited to a special account for the purpose of acquiring, constructing or improving public parking facilities in the particular area of concern.
- (12) If an applicant for a building permit or certificate of occupancy feels that the required number of off-street parking or loading spaces are in excess of the anticipated demand, he may take the matter to the Board of Appeals. Said Board may reduce the extent of parking or loading area to be immediately improved, but only upon finding after public hearing that any proposed modification shall be sufficient to serve the demand generation and that no hazard or traffic congestion will result. All required, but unimproved, spaces shall be improved upon a finding by the Building Inspector that such improvement is needed as a result of increased demand generation.
- (13) Maximum lot coverage and building height, as listed elsewhere in this chapter, shall be permitted only when the off-street parking and loading space requirements of this article are satisfied.

ARTICLE XV Nonconforming Uses

§ 140-86. Continuation of nonconforming uses.

Any nonconforming use or structure may continue only when such use or structure exists at the time this chapter is enacted. Such structures which are arranged, designed or properly devoted to such nonconforming use may not be enlarged or extended by more than 50% of the original cubic space.

§ 140-87. Change of existing nonconforming use.

A conforming use shall not be changed to a nonconforming use. A nonconforming use, if changed to a conforming use, may not be changed back to a nonconforming use.

§ 140-88. Lapse in nonconforming uses.

The failure to exercise a nonconforming use for a period of one year shall terminate such nonconforming use, and thereafter, such structure or land shall be used in conformity with this chapter.

§ 140-89. Reconstruction.

Any structure containing a nonconforming use which has been wholly or partially destroyed other than by design may be reconstructed or repaired only for the established nonconforming use and within one year from the date of destruction, provided that the size of such structure shall not exceed that of the original structure at the time of destruction.

ARTICLE XVI
Special Use Permits

§ 140-90. Conformance required.

Uses are permitted subject to the issuance of a special use permit by the Zoning Board of Appeals when in conformity with the following:

- A. The provisions prescribed herewith for each special permit use.
- B. All other applicable provisions for the district for which said use is permitted, unless the provisions are waived by the Board of Appeals.

§ 140-91. Electrical distribution substations and other public utility structures.

Electrical distribution substations and other public utility structures may be permitted in any district, provided that:

- A. The facility, when not housed in a completely enclosed structure, shall be enclosed with a fence set back from property lines in accordance with the yard requirements as set forth for principal structures for the district in which said facility is located.
- B. Appropriate landscaping shall be provided, in conformity with the district in which such facility is located.
- C. The facility shall not involve business offices, storage areas or structures requiring trucking or traffic movements.
- D. At no point at the boundary of said public utility site shall the sound pressure levels exceed tolerable standards as determined by local health authorities.

§ 140-92. Golf clubs and other recreational uses.

Golf clubs and other recreational uses may be permitted in residence and agricultural districts, provided that:

- A. The Board determines that these activities will not be detrimental to the neighborhood taking into consideration the physical relationship of the proposed use to the surrounding structures, the probable hours of operation and social activities to be conducted on the premises.
- B. No clubhouse or principal building shall be located closer than 200 feet to any lot line, which is not a street line, located in a residence district or agricultural district.
- C. Parking spaces shall be provided in adequate number as determined by the Zoning Board of Appeals to service persons employed on the premises as well as the visiting public.

§ 140-93. Drive-in theater and similar types of commercial amusement.

Drive-in theaters and similar types of commercial amusement may be permitted in C-G General Commercial and I-L Limited Industrial Districts, provided that:

- A. Such use shall have no direct entrance or exit on a state, county or Town highway or road,

except as approved by said Highway Department.

- B. Such use shall provide automobile storage facilities between the ticket gate and highway for not fewer than 20 automobiles.
- C. Such use shall have no structure, other than an enclosure fence, within 50 feet of any site boundary line and shall have the screen located not less than 100 feet from any street or highway or property in residence districts and not facing such highway or property unless the face of the screen is not visible therefrom because of natural or artificial barriers.
- D. Such use shall provide parking spaces in adequate number as determined by the Board of Appeals to serve persons employed as well as the visiting public.

§ 140-94. Commercial radio and television transmission or receiving tower and facilities.

Commercial radio and television transmission or receiving towers and facilities may be permitted in any district, provided that:

- A. It is demonstrated to the Zoning Board of Appeals that such installation is reasonably necessary at the proposed location and that when the proposed location is in a residence district, the use cannot reasonably serve the community from a location in a commercial, industrial or agriculture district.
- B. No portion of the installation is within 100 feet of any property boundary line.
- C. The facility shall be surrounded by an enclosure fence suitable to discourage access to said facility by nonauthorized persons or children.

§ 140-95. (Reserved)¹⁹

§ 140-96. Junkyards, auto wrecking, storage of salvage materials.

The storage of junk, rags, scrap paper, scrap metal, salvage automobile parts and used building materials may be permitted in industrial districts after the issuance of a special permit, provided that:

- A. All such uses shall be conducted inside of a building;
- B. No burning of any materials shall be conducted on the premises.

§ 140-97. (Reserved)²⁰

§ 140-98. Laundromat or dry-cleaning operation. [Amended 11-9-1999 by L.L. No. 2-1999]

A laundromat or dry-cleaning operation may be permitted, in the C-N, C-G, I-L and I-D Districts, after the issuance of a special permit by the Board of Appeals, provided that:

19. Editor's Note: Former § 140-95, Mining operations requiring permit from State of New York, amended 3-25-2003 by L.L. No. 1-2003, was repealed 10-24-2017 by L.L. No. 4-2017.

20. Editor's Note: Former § 140-97, Swimming pools, as amended, was repealed 4-12-2016 by L.L. No. 1-2016.

- A. A drainage plan is submitted which has the approval of the County Health Department.
- B. Parking space at the ratio of one space for each one machine is provided.
- C. Any other appropriate regulations by the Zoning Board of Appeals.

ARTICLE XVII

Signs

[Adopted 6-14-1988 by L.L. No. 3-1988]

§ 140-99. Purpose and intent.

The regulation of signs in the Town of Conklin by this article is intended to provide standards for the placement and installation of signs, compatible with the physical environment and aesthetic purposes, to preserve the value of property, to promote the health, safety and public welfare of the community and to reduce the distractions, obstructions and hazards caused by the indiscriminate placement and use of the signs. This article is written with the understanding that properly regulated signs perform a rightful and needed function as mediums of identification and public information. It is further determined that the regulations contained in this article are the minimum amount of regulation necessary to achieve this purpose.

§ 140-100. General sign regulations.

The following regulations shall govern all signs in the Town of Conklin:

- A. No sign shall be permitted which is animated by means of flashing, blinking, scintillating or traveling lights or any means not providing constant illumination. Public service information signs such as time/weather information and other electronic message centers classified as changeable copy signs are permitted.
- B. No sign or any portion thereof shall be permitted which rotates or moves. This section is not meant to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a vehicle.
- C. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
- D. Back-to-back signs shall be counted as one sign and measured as if there were only one face.
- E. No person shall park any vehicle or trailer or place a sign which is portable or temporary in nature on a street, public property or private property which has attached to it any sign or advertising device for the basic purpose of directing people to a business or activity located on the same or other premises. This section is not meant to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a vehicle.
- F. No sign shall be placed on any curb, sidewalk, post, pole, hydrant, tree or other surface located on public property.
- G. No sign shall bear or contain statements, words or pictures of any obscene or pornographic nature.

- H. No signs shall emit sounds or odors.
- I. No business or advertising signs shall be permitted which may be confused with a traffic control sign, signal or device or the light of an emergency or road equipment vehicle or bear the words "stop," "go slow," "caution," "danger," "warning" or other similar words or hide from view any traffic or street sign, signal or device.
- J. Banners, vertical banners, freestanding banners, pennants, and sandwich boards shall be permitted in C-N, C-G, and IL Districts. Searchlights are prohibited. [Amended 9-26-2017 by L.L. No. 3-2017]
- K. In no event shall an illuminated sign be placed or directed so as to permit the beams and illumination therefrom to be directed upon any adjacent public or private premises, so as to cause glare or reflection that may constitute a nuisance or traffic hazard. No illumination sign located on a lot adjacent to or across the street from any residential district shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m., unless the use to which the sign pertains is open for business during those hours.
- L. The construction and structural components of all signs and their support structure shall be in accordance with the standards and regulations of the New York State Uniform Fire Prevention and Building Code.
- M. Changeable electronic variable-message signs (CEVMS) are subject to the same size and location restrictions as other signs regulated by the Town of Conklin Code. In addition, changeable electronic variable-message signs are subject to the following restrictions: [Added 9-26-2017 by L.L. No. 3-2017]
 - (1) Any change of pictures or information on the changeable electronic variable-message sign shall not produce the illusion of blinking, flashing, or expanding or contracting shapes, rotation or any similar effect of animation. The scrolling of text is allowed; however, it shall not last any longer than five seconds.
 - (2) There shall be a minimum period of eight seconds between any change of pictures, information, or scrolling on the CEVMS.

§ 140-101. Permitted signs in residential districts and Agricultural-Rural Districts.

- A. The following business signs shall be permitted in residential districts and Agricultural-Rural Districts as hereinafter, provided that:
 - (1) One announcement or professional sign not to exceed two square feet in area may be erected in conjunction with a customary home occupation.
 - (2) One sign, not to exceed six square feet, to announce for sale or rent real property or any part thereof upon which said sign is located.
 - (3) One sign or announcement for each church, institutional, recreational or other public use, provided that said sign shall not exceed 16 square feet in area.
 - (4) One sign, not to exceed six square feet, for each tourist home.
 - (5) One temporary real estate development sign, not to exceed 36 square feet, directing

attention to the opening of a new subdivision. Such sign shall require a permit issued by the Code Enforcement Officer, pursuant to § 140-110 of this article. Said permit shall be issued for a period of 12 months and may be renewed only for an additional twelve-month period upon application.

- B. No advertising sign shall be permitted in any residential district or Agricultural-Rural District. Advertising signs may be allowed in Town parks or areas zoned as recreation areas, in locations and sizes specifically designated by the Town Board and subject to the issuance of a special permit by the Town Board for such signs. [Amended 11-26-1991 by L.L. No. 3-1991]
- C. Directional or information signs shall be permitted in any residential district or Agricultural-Rural District. Such signs shall not exceed two square feet in area. Said signs may be used for the purpose of stating the name or location of a town, hospital, community center, church, school or the name or place of meeting of a public service or civic organization. No advertising matter shall be contained on signs of this type.
- D. No roof signs shall be permitted.
- E. No sign or any part thereof shall be closer than eight feet to any lot line nor exceed a height of eight feet.
- F. Changeable electronic variable-message signs (CEVMS) are permitted in Agricultural-Rural Districts only. [Added 9-26-2017 by L.L. No. 3-2017]

§ 140-102. Permitted signs in commercial and industrial districts.

- A. Business ground signs.
 - (1) Lots with street frontage 60 feet or less.
 - (a) Only one ground sign support structure is permitted on the lot and the total area of ground signs on such support shall not exceed a total of 60 square feet.
 - (2) Lots with street frontage more than 60 feet.
 - (a) Only one ground sign support structure is permitted on the lot and the total permitted ground sign area may be increased one square foot for each linear foot by which said street frontage exceeds 60 feet, up to a maximum of 100 square feet.
 - (3) Lots with street frontage more than 300 feet.
 - (a) Where a lot has in excess of 300 feet of frontage, one additional ground sign support structure may be erected on the lot separate from any other ground sign or sign support structure. The total permitted ground sign area on each support structure shall not exceed 100 square feet.
 - (4) All ground signs shall set back 10 feet from any lot line as measured from the edge of the sign nearest the lot line.
 - (5) No ground sign or any part thereof shall be erected to exceed a height of 30 feet

above the level of ground upon which its support rests.

- (6) They can be changeable electronic variable-message signs (CEVMS). [Added 9-26-2017 by L.L. No. 3-2017]

B. Business roof signs.

- (1) Location. Roof signs shall be permitted on principal buildings. Roof signs shall not be permitted on accessory buildings.
- (2) Support structure. All signs shall be erected in such a manner so as to minimize the visibility of the main support structure visible from off the lot. Each roof sign shall be secured to the building by steel or other metal anchors, bolts, supports, rods or braces. Each roof sign, including the upright supports and braces, shall be constructed entirely of nonflammable materials.
- (3) No roof sign shall exceed six feet in height and in no event shall the height of a building and the roof sign exceed the building height limitation set forth for the district in which it is located.
- (4) Only one roof sign shall be erected for each principal building and the total sign area shall not exceed 60 square feet.
- (5) Sloping roof signs. Sloping roof signs shall be considered a business roof sign. Such signs can be attached flush to the sloping roof or extended upward perpendicular to the street. The sign shall not be higher than the top of the sloping roof.

C. Directional or informational signs. These shall be permitted in all districts but shall not exceed two square feet in area. Directional signs may be used for the purpose of stating the name or location of public buildings, community facilities (i.e., schools, church, hospital, civic organizations, others). Informational signs may be used to direct attention to a commercial or industrial property which may not be otherwise readily visible to the general public. An informational sign may have its own support structure, which shall not exceed 10 feet in height. There shall be no more than two support structures per lot for informational sign purposes. More than one informational sign may utilize the same support structure. The square footage of an informational sign and the existence of its support structure shall not be included in the computation of permissible signs and support structures under Subsection A, Business ground signs. Maintenance and repairs of informational signs shall remain the responsibility of the commercial or industrial entity which has been granted the permit for the informational sign. No advertising matter shall be contained on signs of this type. [Amended 4-3-1996 by L.L. No. 1-1996; 9-26-2017 by L.L. No. 3-2017]

D. Business projecting sign.

- (1) Each projecting sign shall have two surfaces. The area of advertising space shall not exceed a total of 50 square feet for each face or surface.
- (2) The distance measured between the principal faces of any projecting sign shall not exceed 18 inches.

E. Business wall signs.

- (1) Location. Wall signs shall only be permitted on two sides of a principal building. Wall signs shall not be permitted on accessory buildings.
 - (2) Number of signs. More than one sign is permitted on a building side, but the total area of the wall signs on each side of the building shall not exceed 25% of the respective wall area or 100 square feet, whichever is smaller. Unused area from one side of a building may not be added to another side of the building.
 - (3) Individual lettering. Where individual letters are to be affixed to a building, the sign area shall be determined as the sum of the area, in square feet, of the smallest geometric figures which would enclose the individual letters.
 - (4) Signs painted on walls. Signs painted directly onto a wall shall be measured as the area in square feet of the smallest geometric figure that would enclose the painted words, emblems, logos, illustration and other sign elements on the wall.
 - (5) Wall sign height. The height of the sign(s) shall not exceed 50% of the building height, as measured by the average height of the side of the building on which the sign(s) are located.
 - (6) No wall sign shall cover wholly or partially any wall openings, nor project beyond the ends or top of the wall to which it is attached.
- F. No advertising sign shall be permitted in any commercial district, Neighborhood Commercial District or industrial district.

§ 140-103. V-type signs.

All signs may be single-faced or double-faced. On double-faced and/or V-type signs, the angle at the vertex of the sign shall not exceed 5°.

§ 140-104. Freestanding letters or numerals.

Signs consisting of freestanding letters, numerals or other representation shall be considered wall or roof signs, whichever is applicable. Sign area shall be measured as the area in square feet of the smallest geometric figure that would enclose the freestanding letters, numerals or other representation and any intervening spaces.

§ 140-105. Wind pressure and load requirements.

All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot.

§ 140-106. Sign maintenance.

- A. Maintenance and repair. Every sign shall be maintained in a safe, presentable and good structural condition at all times by the replacement of defective parts, painting, repainting and other acts required for the maintenance of the sign.
- B. Abandoned signs. Any sign which is located on a property which becomes vacant for a period of three months or more shall be deemed to have been abandoned. Permanent signs

applicable to a business temporarily suspended because of a change in ownership or management of the business shall not be deemed abandoned unless the property remains vacant for a period of one year. An abandoned sign is prohibited and the sign shall be removed by the owner of the premises upon which the sign is located.

- C. Dangerous or defective sign. No person shall maintain or permit to be maintained on any premises one owns any sign which is dangerous or in defective condition. Any such sign shall be removed or repaired by the owner of the premises.

§ 140-107. Violations and removal of signs.

- A. The Code Enforcement Officer shall cause to be removed any sign that endangers the public safety, such as abandoned or dangerous signs, defective signs, signs for which no permit has been issued and is required or a sign posted on the public right-of-way or on public property. The Code Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation(s) involved and which will state that if the sign is not removed or the violation not corrected within a minimum of 10 days, the owner of the sign shall be in violation of this article and subject to the fines and penalties set forth in Article XXVII of the Zoning Ordinance of the Town of Conklin and, in addition, the sign may be removed by the Town of Conklin. All notices shall be either personally served or mailed by certified mail.
- B. Notwithstanding the above, in cases of emergency, the Code Enforcement Officer may cause the immediate removal of a dangerous sign without notice. For any sign removed by the Code Enforcement Officer, the cost of the sign removal by the Town of Conklin shall be considered a debt owed to the Town by the owner of the property and may be recovered by an assessment against the property.

§ 140-108. Nonconforming signs.

- A. Any sign, with the exception of the provisions set forth in this section, erected prior to adoption of this article which does not conform with the provisions of this article is permitted to remain as a nonconforming sign, provided that it meets the following requirements:
 - (1) The sign was erected under a sign permit or variance prior to the adoption of this chapter.
 - (2) If no sign permit was required for the sign, the sign was in all respects in compliance with the applicable law at the time of erection.
- B. Loss of nonconforming status.
 - (1) A nonconforming sign shall immediately lose its nonconforming status if:
 - (a) The sign is altered in any way which tends to make the sign less in compliance with the requirements of this article.
 - (b) The sign is replaced or relocated.
 - (c) The lot or business upon which the nonconforming sign is located is sold,

transferred or in any other way conveyed to a new owner.

- (2) On the happening of Subsection B(1)(a), (b) or (c), the sign shall be either immediately brought into compliance with this article and a new permit secured or shall be removed.
- (3) Nothing contained in this article shall relieve the owner of the premises upon which the sign is located from keeping the sign maintained. Any repainting, cleaning or other normal maintenance or repair shall not modify the sign to make it less in compliance with the requirements of this article or it shall lose its nonconforming status.

C. Amortization of nonconforming advertising signs.

- (1) Any advertising sign lawfully existing and erected before the adoption of this article which becomes nonconforming by virtue of the prohibitions against advertising signs contained herein must be removed within five years from the effective date of this article.
- (2) Extension of amortization period. The owner of any advertising sign subject to the provisions of Subsection C(1) above may, upon the running of the five-year period, petition the Zoning Board of Appeals for an extension of time in order to allow substantial recoupment of his investment. The petition must be received by the Zoning Board of Appeals within 10 days from receipt of notification by the owner to remove the sign(s). The petitioner must demonstrate by credible evidence to the satisfaction of the Board that the five-year period is unreasonable as applied to his situation. The petition must contain information showing initial capital investment, amount realized to date, life expectancy of investment, amount depreciated and other pertinent information requested by the Board. Upon good cause shown, the Board may grant an extension of time necessary to allow petitioner to substantially recoup his investment.

§ 140-109. Computation of permissible sign area.

- A. When determining total permissible sign area for any lot, the area of any existing sign and/or signs shall be included in the computation. The total area of existing and/or new signs shall not exceed the requirement as set forth in this article.
- B. When determining the total permissible display area for double-faced or V-type signs, only the dimension of one face or surface shall be used in computing area. The dimension of the larger surface shall be used for said purpose.

§ 140-110. Issuance of a sign permit.

No sign, except as set forth in §§ 140-101A(1), (2) and (3) and 140-111 of this article, in any district shall be erected or altered in physical structure until a sign permit has been approved and issued by the Code Enforcement Officer. All applicants for sign permits shall submit the following:

- A. Name, address and telephone number of applicant.

- B. Location of building, structure or lot to which or upon which the sign is to be attached or erected.
- C. The type, size and location of the proposed sign and the type, size and location of existing signs on the subject lot.
- D. Two blueprints of the plans and specifications and method of construction and attachment to the building or in the ground.
- E. Copy of stress sheets and calculations showing the structure is designed for live and dead load and wind pressure in any direction in the amount required by this article or any ordinance of the Town for signs as requested by the Code Enforcement Officer and for all signs 100 square feet or more.
- F. Name of person, firm, corporation or association erecting structure.
- G. Any electrical permit required and issued for said sign.
- H. Such other information as the Code Enforcement Officer shall require to show full compliance with this article or any other local law of the town.

§ 140-111. Permit exceptions.

- A. The following operations shall not be considered as creating a sign insofar as requiring the issuance of a permit, but the signs shall be in conformance with all other local laws and regulations of the town:
 - (1) Changing the advertising copy or message of an existing approved painted or printed sign, changeable-copy sign or similar approved sign, whether electrical, illuminated, electronic changing-message center or non-illuminated painted message, which are all specifically designed for the use of replaceable copy.
 - (2) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of the plastic face will be included as an exempt operation, provided that it is due to a change caused by breakage and/or deterioration of the face, but not for the substitution of a new different advertiser.
- B. Signs permitted in any district without sign permit. The following signs are allowed in any district but cannot be changeable electronic-variable message signs (CEVMS): [Amended 9-26-2017 by L.L. No. 3-2017]
 - (1) Flags and emblems. Flags and emblems of a governmental, civic, philanthropic, educational or religious organization.
 - (2) Governmental signs. Signs erected by a governmental agency or which contain public service announcements of a noncommercial nature.
 - (3) Historical or architectural designation signs. Limited to not more than one wall or ground sign per structure, building or site. Such sign may not be more than two square feet in area.
 - (4) Political signs, provided that such signs are not more than 32 square feet in area if

located on advertising signs in a commercial or industrial district or eight square feet in area in any district; are limited to not more than one per lot; are located entirely on private property pursuant to the owner's consent; are clearly marked with the name, address and telephone number of the person responsible for the removal of such sign; are erected not more than 60 days prior to any general, special or primary election and are removed within 10 days following such election; and are erected only in the district in which the candidate is running for office.

- (5) Private event signs. Temporary signs advertising private events, such as bingo games, fairs and the like, provided that such signs are no more than 15 square feet in area.
- (6) Private sale signs, provided that such signs are no more than five square feet in area; are located entirely on the premises where such sale is to be conducted or on other private property pursuant to the owner's consent; are clearly marked with the name, address and telephone number of the person responsible for the removal of such sign; are erected not more than 24 hours in advance of such sale; and are removed on the day following the conclusion of such sale.
- (7) Real estate signs. One real estate sign per lot. The sign shall not exceed eight square feet in area per residential lot, 32 square feet in area per commercial lot or 50 square feet in area per industrial lot. Real estate signs shall be removed within two weeks following the sale or rental of the property.

§ 140-112. Fees for permits. [Amended 11-9-1999 by L.L. No. 2-1999]

There shall be a fee charged as provided by resolution of the Town Board for a permit for the erection of a sign.

§ 140-113. Variance procedure.

Where a sign permit is denied by the Code Enforcement Officer, the applicant is entitled to petition the Zoning Board of Appeals for a variance.

**ARTICLE XVIII
Performance Standards**

§ 140-114. Noise.

- A. At no point where the boundary of any industrial district adjoins any residential or commercial district shall the sound pressure level of any individual operation or plant located within any industrial district exceed the decibel levels in the designated octave bands shown below:

Octave Band Cycles Per Second	Along Residential District Boundary: Maximum Permitted Sound Level in Decibels	Along Commercial Boundary: Maximum Permitted Sound Level in Decibels
0.75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	16	53
1,200 to 2,400	40	47
2,400 to 4,800	34	31
Above 4,800	32	39

- B. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association.
- C. Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

§ 140-115. Smoke.

- A. The emission of smoke from any source whatever to a density greater than that density described as No. 2 on the Ringelmann Chart in industrial districts and that density described as No. 1 in all other districts of the Town shall be prohibited, provided that the following exception shall be permitted: Smoke the shade or appearance of which is equal to but not darker than No. 3 of the Ringelmann Chart in industrial districts and No. 2 in all other districts shall be permitted for a period or periods aggregating four minutes in any 30 minutes for the purpose of blowing soot or cleaning fires.
- B. The Ringelmann Chart published and used by the United States Bureau of Mines shall be employed for the purpose of grading the density of smoke.

§ 140-116. Toxic or noxious matter. [Amended 11-9-1999 by L.L. No. 2-1999]

No use shall for any period of time discharge, across the boundaries of the lot wherein it is located, toxic or noxious matter.

§ 140-117. Glare.

No use shall carry on any operation that will produce heat or glare beyond the property line of the lot on which the operation is located.

§ 140-118. Vibration.

No use or portion thereof creating intense earth shaking vibrations shall be located closer than 500 feet of any lot line. In no case shall any such vibration be perceptible, without the aid of instruments along the boundary line of any residential district.

**ARTICLE XIX
Administration**

§ 140-119. Enforcement.

This chapter shall be enforced by the Administrative Officer who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued by him except in compliance with the provisions of this chapter.

§ 140-120. Building permit.

- A. No building shall be erected, altered or moved in any district until a building permit has been issued by the Administrative Officer. All applications for building permits shall be on forms furnished by the Town which shall require the following information:
- (1) The nature of the permit sought and the intended use of the building or proposed building.
 - (2) A layout or plot plan showing the exact size and location on the lot of the building and/or accessory buildings, with dimensions given.
 - (3) The number and location of off-street parking and/or loading spaces and access thereto as set forth in this chapter for the use intended.
 - (4) Such additional information as the Administrative Officer, Zoning Board of Appeals, Planning Board or Town Board shall require.
- B. No building permit shall be issued for any building where said construction, alteration or use thereof would be in violation of any provision of this chapter, except upon written order of the Zoning Board of Appeals. No building permit shall be issued for any building located on a lot which does not adjoin a street or roadway which has not been accepted by the Town of Conklin, New York.

§ 140-121. Expiration of building permit.

A building permit shall be void at the expiration of 90 days after the date of issuance, unless footing forms and foundation stakes are placed ready for inspection and within such ninety-day period, or, if none are to be placed in connection with the proposed building or addition, construction is actually commenced within such ninety-day period.

§ 140-122. Fees for permits.

A fee may be charged for every permit issued. The amount of such fee shall be determined by the Town Board.

§ 140-123. Certificate of Occupancy (C of O). [Amended 2-14-1984; 1-28-1986 by L.L. No. 2-1986]

- A. A Certificate of Occupancy shall be applied for coincident with the application for a building permit. Said Certificate of Occupancy shall be issued by the Administrative Officer upon his final inspection of the construction designated in the building permit, provided that the completed structure and its intended use comply with all the provisions of this chapter and the New York State Uniform Fire Prevention and Building Code dated January 1, 1984. Said Certificate of Occupancy shall be issued within 10 days from the date such erection or alteration is inspected and certified as complying with all the provisions of this chapter and the State Codes, by the Administrative Officer.
- B. A record of all Certificates of Occupancy shall be maintained by the Administrative Officer. Copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
- C. Occupancy Classification Use Permit (OCUP).
 - (1) An Occupancy Classification Use Permit shall be issued by the Administrative Officer, certifying that the occupant or change of use of the premises is lawful under the provisions of this chapter and the New York State codes.
 - (2) A record shall be on file for each tenant in a building and inspected annually to update the OCUP card.²¹
 - (3) Said OCUP will become invalid in the case of any building's use changing from that specified in the most recently approved OCUP. The Administrative Officer will issue a new OCUP upon reinspection of the building.
 - (4) It is a violation of this chapter to conduct business in a building for which a valid OCUP is not in effect. Buildings constructed or altered prior to the enactment of this chapter are exempt until there is a change of use. [Amended 11-9-1999 by L.L. No. 2-1999]
 - (5) A valid OCUP shall be maintained on the premises of all commercial and industrial buildings within the town. Maintaining a valid OCUP in public view for said building will be the responsibility of the buildings tenant and owner jointly. A record of all OCUP's shall be maintained by the Administrative Officer.
 - (6) A fee as provided by resolution of the Town Board shall be required to obtain an OCUP or upon change of occupant or business. [Amended 11-9-1999 by L.L. No. 2-1999]

§ 140-124. Certificate of Zoning Compliance. [Amended 10-9-1984; 11-9-1999 by L.L. No. 2-1999]

A Certificate of Zoning Compliance shall be issued by the Administrative Office upon request of the owner, certifying that the present use of the premises is lawful under the provisions of this

21. Editor's Note: Said records are on file in the office of the Town Clerk, where they may be examined during regular business hours.

chapter, if such is the case.²²

ARTICLE XX
Unregistered Vehicle Storage
[Added 4-22-1986 by L.L. No. 4-1986]

§ 140-125. Unregistered vehicle storage.

- A. In all zoned districts of the Town of Conklin, except the Agricultural-Rural District:
- (1) Single-family dwellings. The number of unregistered vehicles for single-family dwellings is limited to not more than two, to be stored at least 60 feet behind the highway right-of-way and at least six feet from any side or rear lot line. Vehicles on corner lots must be stored at least 60 feet from the highway right-of-way measured on the short side of the lot abutting the street and at least 12 feet from the property line measured on the long side of the lot abutting the street. All vehicles must be in an upright position.
 - (2) Multiple-family dwellings. The number of unregistered vehicles for multiple-family dwellings is limited to not more than three, to be stored at least 60 feet behind the highway right-of-way and at least six feet from any side or rear lot line. Vehicles on corner lots must be stored at least 60 feet from the highway right-of-way measured on the short side of the lot abutting the street and at least 12 feet from the property line measured on the long side of the lot abutting the street. All vehicles must be in an upright position.
- B. Agricultural-Rural District. The number of unregistered vehicles in an agricultural zone is limited to not more than two to be stored at least 60 feet behind the highway right-of-way and at least six feet from any side or rear lot line. Vehicles on corner lots must be stored at least 60 feet from the highway right-of-way measured on the short side of the lot abutting the street and at least 12 feet from the property line measured on the long side of the lot abutting the street. All vehicles must be in an upright position. This provision does not apply to vehicles customarily incidental to agricultural use in the agricultural zone.

ARTICLE XXI
Adult Entertainment Businesses
[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 140-126. Purpose and intent.

It is the purpose of this chapter to promote the health, safety and general welfare of the residents of the Town of Conklin and to establish reasonable and uniform regulations regarding the location and concentration of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors

22. Editor's Note: The form for a certificate of zoning compliance is on file in the office of the Town Clerk, where it may be examined during regular business hours.

of sexually oriented entertainment to their intended market. It is, however, necessary to regulate the establishment of adult entertainment businesses within close proximity to residential and agricultural zoned areas, schools, churches, parks and playgrounds to protect and preserve those areas.

§ 140-127. Prohibitions.

- A. No person shall cause or permit the establishment of any adult entertainment businesses within 1,000 feet of any building containing residential dwelling or rooming units or the boundary of any residential or agricultural zoning district or within 1,000 feet of any church (place of worship), school, park or playground.
- B. The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business location to any of the uses described in § 140-126 hereof.
- C. No adult entertainment business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not approved as an adult entertainment business. This provision shall apply to any display, decoration, sign, show window, screen or other opening.
- D. No adult entertainment business shall be located in any zoning district except those districts zoned under the Economic Development District Zone.

§ 140-128. Measurement of distances.

For the purposes of this article, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for an adult entertainment business to the nearest property lines of a building containing a residential dwelling or rooming unit, a church or school or to the nearest boundary of a part of playground or to the nearest boundary of a residential or agricultural zone district.

ARTICLE XXII
Zoning Board of Appeals

§ 140-129. Creation, appointment and organization. [Amended 1-23-2018 by L.L. No. 1-2018]

The Town Board shall appoint a Zoning Board of Appeals pursuant to § 267 of the Town Law. Said Board shall consist of five members. Vacancies shall be filled in the manner provided in the Town Law; however, an unexpired term shall be filled for such unexpired term only.

§ 140-130. Powers and duties. [Amended 11-9-1999 by L.L. No. 2-1999]

The Board of Appeals shall exercise all the powers and duties in the manner now and hereafter prescribed by law and by this chapter, which are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, pursuant to § 267-b

of the Town Law.

- B. Variance. To vary or adopt the strict application of any of the requirements of this chapter, pursuant to § 267-b of the Town Law.
- C. Special use permits.
 - (1) To issue special use permits, unless otherwise provided in this chapter, for any use as provided in Article XVI, after public notice and hearing, provided that such special permit use complies with the general standards and rules set forth as follows:
 - (a) Such special use shall comply with all applicable regulations of this chapter for the district within which it is to be located.
 - (b) Such special use shall comply with the standards as set forth for that special use.
 - (c) Such special use shall comply with any conditions deemed necessary by the Zoning Board of Appeals (e.g., access roads, fences, landscaping) in order to protect the value of adjacent properties and to promote the orderly development of the surrounding area.
 - (2) The Board shall deny application for a special use permit when, in its judgment, said special use is not in accordance with the standards set forth in this chapter or when said use would prove detrimental to adjacent properties.

§ 140-131. Procedure.

- A. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of this chapter involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance shall be granted, as the case may be.
- B. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution together with all documents pertaining thereto shall be filed in the office of the Town Clerk, by case number under one of the following headings: "Interpretations," "Special Permit" or "Variance." The Zoning Board of Appeals shall notify the Town Board, Administrative Officer and the Planning Board of each special permit and each variance granted under the provisions of this chapter.

ARTICLE XXIII

Special Use Permits by Planning Board
[Added 9-8-1998 by L.L. No. 7-1998]

§ 140-132. Authorization of Planning Board to review special permits.

The Planning Board is hereby authorized to review and approve or disapprove special use permits for land uses within the Town as designated in the Town of Conklin Zoning Ordinance

pursuant to and in accordance with the standards and procedures set forth herein. The Town Board of the Town of Conklin hereby specifically delegates the authority to review special use permits to the Planning Board where specifically set forth in the Town of Conklin Zoning Ordinance.

§ 140-133. Applicability.

- A. Special use permits required to be issued by the Planning Board may be issued only after the Planning Board has found that all of the following standards and conditions have been satisfied:
- (1) Such special use shall comply with all applicable regulations of all laws and rules, including all such zoning laws and rules for the district within which it is located.
 - (2) Such special use possesses characteristics of unique and special form to warrant its consideration as an individual case.
 - (3) The location, size of the use and structure, nature and intensity of the operation involved, size of the site in relation to it and the location of the site with respect to the streets giving access to it are such that it will be in harmony with the orderly development of the district.
 - (4) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings.
 - (5) Such special use shall not conflict with any Master Plan or any part thereof.
 - (6) Operations of such special use shall not be more objectionable to nearby properties than would be the operations of any permitted use.
- B. The Planning Board may recommend that additional standards be imposed on the special use to provide adequate safeguards to protect the health, safety, morals or the general welfare of the public and for preservation of the general character of the neighborhood in which such proposed special use is to be placed to minimize possible detrimental effects of the use on adjacent property.
- C. The Planning Board shall deny application for a special use permit when, in its judgment, such special use is not in accordance with the standards set forth in this section or this article or when such use would prove detrimental to adjacent properties.

§ 140-134. Public hearing required.

In every case where a special use permit is required, a public notice and hearing must be held prior to any granting of such permit by the Planning Board. Notice of such public hearing shall be published in the official newspaper at least five days before the public hearing.

§ 140-135. Existing violations.

No special use permit shall be issued for a special use for a property where there is an existing violation of the Town of Conklin Zoning Ordinance.

§ 140-136. Transferability and expiration of special use permits.

A special use permit is not transferable and shall authorize only one special use in addition to the permitted principal use. The special use permit shall expire if the special use changes or if the special use ceases for more than three months for any reason.

ARTICLE XXIV
SEQRA Review
[Added 11-9-1999 by L.L. No. 2-1999]

§ 140-137. Environmental quality review.

All review and approval procedures shall be coordinated with the required State Environmental Quality Review Act (SEQRA) as provided by law.²³

ARTICLE XXV
Amendments

§ 140-138. Authority.

The Town Board may, from time to time on its own motion or on petition, amend, supplement, change or repeal the regulations and provisions of this chapter. No such regulation or provision shall become effective until after a public hearing is held.

§ 140-139. Public hearing; notice.

The Town Board shall fix the time and place of public hearing on such amendment and cause notice to be given by publishing the time and place of such hearing in a newspaper of general circulation in such Town at least 10 days prior to the date of such public hearing.

§ 140-140. Referral to Planning Board. [Amended 11-9-1999 by L.L. No. 2-1999]

Every such proposed amendment or change shall be referred to the Town Planning Board for report and recommendation thereon prior to any action thereon by the Town Board. The Planning Board shall submit its report within 30 days after the referral is presented to the Planning Board at a regular or special meeting. If the Town Planning Board recommends against the enactment of any proposed amendment, it shall become effective only by a favorable vote of 3/4 of the members of the Town Board.

ARTICLE XXVI
Site Plan Review
[Amended 5-9-1989 by L.L. No. 1-1989]

§ 140-141. Enactment.

The Town Board of the Town of Conklin, Broome County, New York, does hereby ordain and enact the Town of Conklin Site Plan Review Law pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law and § 274-a of the Town Law.

23. Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

§ 140-142. Short title.

This article shall be known as the "Town of Conklin Site Plan Review Law." The Town of Conklin is hereinafter referred to as "the town."

§ 140-143. Intent and purpose.

- A. Through site plan review, it is the intent of this article to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.
- B. It is further the intent of this article to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town by regulating land use activity within the Town through review and approval of site plans. It is not the intent of this article to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in this article.

§ 140-144. Authorization of Planning Board to review site plans.

The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this article.

§ 140-145. Applicability of review requirements.

- A. All new land use activities within the Town, including each additional permitted use, shall require site plan review and approval before being undertaken, except the following: [Amended 9-25-2012 by L.L. No. 5-2012]
 - (1) Construction of one-family or two-family dwellings and ordinary accessory structures and related land use activities.
 - (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this article.
 - (3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - (4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25% and having a cost value of less than \$10,000 or as may be referred by the Code Enforcement Officer.
 - (5) The sale of agricultural produce and temporary structures related to sale of agricultural produce.
 - (6) Garage, lawn and porch sales not exceeding three days. If such sales take place more often than six times in any calendar year, site plan approval will be required.
- B. Any person uncertain of the applicability of this article to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.

§ 140-146. Effect on existing uses.

This article does not apply to uses and structures which are lawfully in existence as of the date this article becomes effective. Any use which would otherwise be subject to this article, that has been discontinued for a period of two years or more, shall be subject to review pursuant to the terms of this article before such use is resumed. Any use or structure shall be considered to be in existence, provided that the same has been substantially commenced as of the effective date of this article and fully constructed and completed within one year from the effective date of this article.

§ 140-147. Relationship of this article to other laws and regulations.

This article in no way affects the provisions or requirements of any other federal, state or local law or regulations. Where this article is in conflict with any other such law or regulation, the more restrictive shall apply.

§ 140-148. Word usage.

Any term used in this article which is not defined hereinabove²⁴ shall carry its customary meaning unless the context otherwise dictates.

§ 140-149. Procedures. [Amended 8-13-2003 by L.L. No. 2-2003]

Prior to undertaking any new land use activity except for a one-family or two-family dwelling and other uses specifically excepted in § 140-145 of this article, a site plan approval by the Planning Board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this article. No site plan shall be undertaken by the Planning Board without verification from the Town's Code Enforcement Officer that the property, as currently utilized, is in complete compliance with the Code of the Town of Conklin, unless such requirement is waived by a majority vote of the Planning Board members.

§ 140-150. Sketch plan.

A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, to advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

- A. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features to comply with flood hazard and flood insurance regulations; and such other information as may be recommended by the Code Enforcement Officer.

24. Editor's Note: See § 140-4.

- B. An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, right-of-way easements and other pertinent features within 1,000 feet of the boundaries of the parcel.
- C. An informational topographical map or contour sketch to show site topography.

§ 140-151. Application requirements.

- A. An application for site plan approval shall be made in writing to the Chairman of the Planning Board and filed with the Code Enforcement Officer and shall be accompanied by information contained on the following checklist and such other information as determined necessary by the Planning Board at the sketch plan conference.
- B. Site plan checklist.
 - (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, scale and date.
 - (3) Boundaries of the property plotted to an acceptable scale, including listing of land uses within 1,000 feet of each boundary.
 - (4) Existing buildings.
 - (5) Grading drainage plan, pertinent soil characteristics and watercourses, or, if applicable, a stormwater pollution prevention plan consistent with the requirements of Articles I and II of the Town of Conklin Stormwater Management and Erosion and Sediment Control Local Law (Local Law No. 4 of 2007).²⁵ The approved site plan shall be consistent with the requirements of Articles I and II of the Town of Conklin Stormwater Management and Erosion and Sediment Control Local Law (Local Law No. 4 of 2007). [Amended 6-26-2007 by L.L. No. 5-2007]
 - (6) Location, design, type of construction, proposed use and exterior dimensions of all buildings existing and proposed.
 - (7) Location, design and type of construction of all existing and proposed parking and truck loading areas, showing access and egress.
 - (8) Provision for pedestrian access.
 - (9) Location of outdoor storage, when permitted.
 - (10) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - (11) Description of the method of sewage disposal and location, including approval of the final design by the Town of Conklin Sewer Superintendent.
 - (12) Description of the method of securing water and location, including approval of final

25. Editor's Note: See Ch. 111, Stormwater Management and Erosion and Sediment Control.

design by the Town of Conklin Water Superintendent.

- (13) Location of fire and other emergency zones, including the location of fire hydrants.
- (14) Location of all energy distribution facilities, including electrical, gas and solar energy.
- (15) Location and size of all proposed signs.
- (16) Location and proposed development of all buffer areas, including existing vegetative cover.
- (17) Location of outdoor lighting facilities.
- (18) Identification of the location and amount of building area for each proposed activity.
- (19) General landscaping plan and planting schedule.
- (20) An estimated project construction schedule.
- (21) Record of application for and status of all necessary permits from other governmental bodies.
- (22) Identification of any permits from other governmental bodies required for the project's execution.
- (23) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

§ 140-152. Required fees. [Amended 11-9-1999 by L.L. No. 2-1999]

An application for site plan review shall be accompanied by a fee as provided by resolution of the Town Board. In the event that the site plan contains provisions for a new structure with a square footage of 7,500 feet or more, the fee shall be as provided by resolution of the Town Board.

§ 140-153. Reimbursable costs.

Costs incurred by the Planning Board for consultation fees or extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

§ 140-154. Review standards.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to the following general considerations:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading.

- D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of stormwater and drainage facilities.
- F. Adequacy of water supply and sewage disposal facilities.
- G. Impact of the proposed land use activity on local water sources and supplies.
- H. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- I. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- J. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- K. Overall impact on the neighborhood, including compatibility of design considerations.

§ 140-155. Public hearing. [Amended 11-9-1999 by L.L. No. 2-1999]

The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of application for site plan review and shall be advertised in the town's official newspaper.

§ 140-156. Planning Board decision. [Amended 11-9-1999 by L.L. No. 2-1999]

Within 62 days of receipt of the application for site plan approval or if a public hearing is held, within 62 days of public hearing, the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by the Planning Board, if it determines that additional pertinent information or reports have not yet been received by the Board.

- A. Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it, and a written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall also be required to countersign the site plan as approved.
- B. Approval with modification. The Planning Board may conditionally approve the final site plan. A copy of a written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met and payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall also be required to countersign the site plan as approved.

- C. In the event that the new land use activity has not been completed within two years after approval of the final site plan, the Planning Board may request that the applicant appear before the Planning Board for a review of the site plan in accordance with § 140-154.

§ 140-157. Enforcement officer.

The Town Board may appoint an enforcement officer to carry out the duties assigned by this article or by any additional regulations adopted pursuant to § 140-158 hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

§ 140-158. Further regulations by Planning Board.

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this article.²⁶

§ 140-159. Integration of procedures.

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the town, the Planning Board shall attempt to integrate, as appropriate site plan review as required by this article, with the procedural and submission requirements for such other compliance.²⁷

ARTICLE XXVII
Violations and Penalties

§ 140-160. Complaints of violation.

- A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Administrative Officer, who shall properly record such complaint and immediately investigate and report thereon.
- B. The Administrative Officer, upon completion of his investigation, shall file a report with the Town Board.

§ 140-161. Penalties for offenses. [Amended 11-9-1999 by L.L. No. 2-1999]

For any violation of the provisions of this chapter, the owner of a building, structure or premises where such violation has been committed or shall exist and who refuses to abate such violation within 15 days after written notice has been served upon him personally by the Administrative Officer shall be punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than

²⁶. Editor's Note: Original Section 6.030, Amendments, which immediately followed this section, was deleted 11-9-1999 by L.L. No. 2-1999. See Article XXV, Amendments.

²⁷. Editor's Note: Original Section 6.050, Enforcement, which immediately followed this section, was deleted 11-9-1999 by L.L. No. 2-1999. See § 140-161.

\$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.²⁸

ARTICLE XXVIII
Conflict With Other Laws

§ 140-162. Conflict with other laws.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon heights of buildings or requires larger open spaces than are required by other ordinances, rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.²⁹

ARTICLE XXIX
Fees
[Added 5-26-2015 by L.L. No. 2-2015]

§ 140-163. Fees.

Except as otherwise stated, administrative fees for this chapter shall be assessed as provided by resolution of the Town Board.

28. Editor's Note: Original Section 2202A, regarding appearance tickets, which was added 10-22-1985 by L.L. No. 3-1985 and which immediately followed this section, was deleted 11-9-1999 by L.L. No. 2-1999. See now Ch. 5, Appearance Tickets.

29. Editor's Note: Original Article XXV, Flood Hazard District, which followed this section, was deleted 11-9-1999 by L.L. No. 2-1999. See now Ch. 76, Flood Damage Prevention.