

**ARTICLE I  
GENERAL PROVISIONS**

<b>SECTION</b>	<b>Title</b>
<b>100</b>	
<b>101</b>	<b>Declaration and Purpose</b>
<b>102</b>	<b>Conflict with Other Laws</b>
<b>103</b>	<b>Validity and Severability</b>
<b>104</b>	<b>Fees</b>
<b>105</b>	<b>Violations and Penalties</b>
<b>106</b>	<b>Actions</b>

**SECTION 100 - TITLE**

This Ordinance shall be known and cited as the Zoning Ordinance of the Town of Clarendon, Orleans County, New York. All existing Zoning Ordinances are hereby repealed upon the effective date of this Ordinance.

**SECTION 101 - DECLARATION AND PURPOSE**

- A. This Zoning Ordinance is adopted pursuant to Town Law of the State of New York to promote and protect public health, safety and general welfare and in furtherance of the following specific objectives:
1. To protect the open and natural character of the land.
  2. To guide and regulate the orderly growth, development and redevelopment of the Town of Clarendon in accordance with a well-considered plan and with long range objectives, principles and standards beneficial to the interests and welfare of the people.
  3. To protect the established character of both private and public property.
  4. To encourage, in the public interest, the utilization of land for the purpose for which it is most desirable and best suited.
- B. The requirements in the Article shall be in addition to the provisions specified elsewhere in the Ordinance for Building, Special, Operating or Zoning Permits. *(Rev 08/20/2019)*

**SECTION 102 - CONFLICT WITH OTHER LAWS**

Where these regulations impose greater restrictions than are imposed by the provisions of any law, ordinance, regulation or agreement, these regulations shall control. Where greater restrictions are imposed by any law, ordinance, regulation or agreement than are imposed by these regulations, such greater restrictions shall control.

**SECTION 103 - VALIDITY AND SEVERABILITY**

Should any section, subsection, paragraph, sentence, clause or any provision of this Ordinance be declared invalid for any reason, the validity of the remaining portion of these regulations shall not be affected.

**ARTICLE I**  
**GENERAL PROVISIONS**

**SECTION 104 - FEES**

- A. Fees, charges and expenses for Special Permits, Blasting Permits, Area Variances, Use Variances, Appeals, Building Permits, Operating Permits, Zoning Permits and Zoning Amendments shall be levied and collected in accordance with the fee schedule in effect at the time of application. All application filing fees are non-refundable. In addition, any costs incurred by the Town or by a person(s) or firm(s) representing the Town in the review of any application for the above will be payable by the applicant before any permit is issued or becomes effective. *(Rev 11/16/2010; 12/19/2017)*
- B. At the discretion of the Planning Board, Town Board or Zoning Board a deposit may be required to cover application review costs. Said deposit shall be determined by the Planning Board, Town Board or Zoning Board based on the estimated review costs.
- C. An applicant wishing to withdraw any permit application, including site plan review, during the time said application is being reviewed is required to contact the Code Enforcement Officer in writing. Filing fees are non-refundable.
- D. Withdrawal will be formally accepted by the Town at the time all person(s) or firm(s) involved in the review process have been notified to cease all work pertaining to the application.

**SECTION 105 - VIOLATIONS AND PENALTIES**

- A. Any person, firm or corporation, who violates, disobeys, neglects or refuses to comply with any provision of this Zoning Ordinance and any failure to comply with a written order of the Ordinance Inspection Officer/Zoning Enforcement Officer within the time fixed for compliance, shall be guilty of a Unclassified Misdemeanor and upon conviction thereof, shall be subject to a fine and/or imprisonment as enumerated in New York State Town Law, Section 268 and New York State Executive Law 382: NY Code-Section 382.Remedies. Each week a violation continues shall be deemed a new and separate offense. *(Rev 11/20/2012)*
- B. The owner or tenant of any building, structure, property or part thereof, who commits, participates in, assists in or maintains a violation may be found guilty of a separate offense and upon conviction thereof, be subject to the penalties herein provided. *(Rev 11/16/2010)*

**SECTION 106 – ACTIONS**

- A. The Ordinance Inspection Officer/Code Enforcement Officer shall have the authority to issue an appearance ticket (NYS CPL 150) to any violator of this Ordinance. Failure to comply with an appearance ticket shall result in the court issuing a summons or a warrant of arrest. The Town may also obtain a temporary restraining order, temporary injunction, or an injunction to restrain, correct, or abate any violation of this Zoning Ordinance or any failure to comply with the provisions of this Ordinance. *(Rev 11/20/2012)*
- B. In the event that any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land used, or any land divided into lots, blocks or sites in violation of this Ordinance (or the Building Code of New York State), the Town may institute or cause to be instituted any appropriate action or proceeding to compel compliance with or restrain by injunction the violation of any provision of this Ordinance or the Building Code of New York State. *(Rev 11/16/2010)*

**ARTICLE I**  
**GENERAL PROVISIONS**

- C. In addition to the penalties provided in Section 105 and in addition to the actions set forth in Section 106-A. above, the Ordinance Inspection Officer/Code Enforcement Officer may impose a civil penalty in the amount specified in Section 105. Penalties may be recoverable against the violator in a Small Claims proceeding instituted in the Justice Court of the Town of Clarendon, pursuant to the provisions of Article 18 of the Uniform Justice Court Act, or by action instituted in any other court of competent jurisdiction. *(Rev 11/16/2010)*
- D. Any building or structure constructed without a building permit, or any use or activity conducted without a building permit, special permit, variance, special event permit, operating permit, certificate of occupancy, or certificate of compliance, where required, or not in conformity with the provisions of this Ordinance may be removed, closed or halted by the ordinance Inspection Officer/Code Enforcement Officer with the issuance of a stop work order. *(Rev 11/16/2010)*

**ARTICLE II**  
**WORD TERMS AND DEFINITIONS**

**SECTION**

**200**            **Word Terms**

**201**            **Word Definitions**

**SECTION 200 - WORD TERMS**

- A. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:
1. The word (person) includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
  2. Words used in the present tense include the future tense. The singular includes the plural.
  3. The words (shall) and (must) are mandatory, not discretionary.
  4. The words (used) or (occupied) as applied to land and/or buildings shall be construed to include the words (intended, designed, or arranged to be used or occupied).
  5. The word (lot) includes the words (plot) or (parcel).

**SECTION 201 - WORD DEFINITIONS**

- A. For the purposes of this Ordinance, the following word definitions shall apply. Definitions are listed in alphabetical order.
1. ACCESS - A way or means of approach to provide physical entrance to a property.
  2. ACCESSORY BUILDING OR STRUCTURE - A subordinate building or structure on the same lot as the principle building or structure which is operated and maintained primarily for the benefit or convenience of the occupants of the principle building or structure. *(Rev. 10/21/2014)*
  3. ACCESSORY USE - A subordinate use on the same lot as the principle use.
  4. ADULT BOOK STORE, ADULT VIDEO STORE AND ADULT NOVELTY STORE - A public or private establishment having a substantial or significant portion of its stock-in-trade books, magazines, marital aids or novelties, films for sale/rent or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals or materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specific sexual activities or specific anatomical areas; or an establishment with a segment or section devoted to the sale, rental or display of such material.
  5. ADULT ENTERTAINMENT CABARET - A public or private establishment which is licensed to serve food and/or alcoholic and/or nonalcoholic beverages, and which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

## ARTICLE II WORD TERMS AND DEFINITIONS

6. **ADULT MINI-MOTION PICTURE THEATER** - A public or private establishment in an enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas for observation by patrons therein.
7. **ADULT MOTION PICTURE THEATER** - A public or private establishment in an enclosed building with a capacity of fifty (50) or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas for observation by patrons therein.
8. **ADULT BUSINESS** - For the purposes of this Ordinance, this term shall include, but shall not be limited to, Adult Bookstore, Adult Video Store, Adult Novelty Store, Adult Entertainment Cabaret, Adult Mini-Motion Picture Theater, Adult Motion Picture Theater, and other similar sexually-oriented public or private establishments.
9. **AGRICULTURE** - The use of land for farming purposes including tilling of the soil, dairying, pasture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry, and the necessary accessory uses for packing and storing of produce, provided that the operation of such accessory uses shall be secondary to that of normal farming activities.
10. **AGRI-BUSINESS** - A business engaged in performing agriculture, animal husbandry, or horticultural services on a fee or contract basis, including corn shelling, hay baling and thrashing, sorting, grading and packing fruits and vegetables for the grower, agricultural produce, milling and processing, horticultural services, crop spraying, fruit picking, grain cleaning, land grading, harvesting and plowing.
11. **AGRICULTURAL STRUCTURE** - For the purposes of this Ordinance, this term shall mean any building or structure used or intended to be used to house customary farm animals or uses associated with customary farm operations. This term shall not include structures housing domestic pets or structures associated with riding stables, arenas or tracks.
12. **AIR SUPPORTED STRUCTURE** – A structure wherein the shape of the structure is attained by air pressure, and occupants of the structure are within the elevated pressure area. *(Rev. 6/19/2007)*
13. **AIRPORT** - Any area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.
14. **ALTERATION** - Any change, addition, rearrangement or modification in construction or occupancy of an existing building or structure.
15. **ALTERNATIVE ENERGY SYSTEM (BATTERY ENERGY STORAGE SYSTEM, BESS)**  
A type of energy storage system using batteries to capture, store and distribute energy from renewable energy sources (wind, solar, biomass, geothermal, hydro, etc.) for later use in the form of electricity. This stored energy can be drawn upon when needed to meet various demands for power across different applications helping to reduce costs and establish benefits for the user.  
*(Rev. 04/15/2025)*

## ARTICLE II WORD TERMS AND DEFINITIONS

16. ALTERNATIVE ENERGY SYSTEM (SOLAR POWERED) - PRIVATE - Structures, equipment, devices or construction techniques that use solar energy to produce electricity, heat, light, cooling, or other forms of energy primarily for use on site. Solar powered systems may be attached to or separate from the principal structure. This term shall include solar panels, solar collectors, solar heat pumps, and other similar devices. *(Rev 11/16/2010; Rev 11/20/2012)*
17. ALTERNATIVE ENERGY SYSTEM (SOLAR POWERED) - UTILITY SCALE - A commercial electricity-generating facility (PV or CSP) whose primary purpose is to produce electrical energy for off-site usage. This consists of one or more solar arrays and other accessory structures and buildings including substations, electric infrastructure, generators, transmission lines, and other additional structures and/or facilities. Also referred to as a large scale industrial Solar Energy Facility. *(New 2020)*
18. ALTERNATIVE ENERGY SYSTEM (WIND ENERGY CONVERSION SYSTEM, WECS) – Private - Structures, equipment, devices or construction techniques that use naturally-occurring wind to produce electricity, heat, light, cooling, or other forms of energy primarily for use on site. Wind powered systems shall not be attached to principal or accessory structures. This term shall include windmills, turbines, and other similar devices. *(Rev 06/19/2007; Rev 11/16/2010; Rev 11/20/2012)*
19. ANIMAL HOSPITAL - A business which provides medical services and care to sick or disabled animals and houses them on the premises overnight or for extended periods of time for treatment.
20. APPLICANT – The owner of record of the property or his legally appointed representative.
21. APPURTENANT ACTIVITIES - All on-site operations, except excavation, involved in the treatment, processing or further fabrication of soil, sand, gravel, rock, consolidated or unconsolidated materials, or natural deposits, including washing, sedimentation ponds, grading, sorting, grinding, crushing, batching plants and aggregate.
22. BED AND BREAKFAST (Typically shortened to B&B or BnB) – An accommodation located in a dwelling consisting of a room for the night and breakfast the next morning for on inclusive price. Bed and breakfasts are often private family homes and usually has the hosts living in the dwelling. *(Rev 05/16/2023)*
23. BENCHMARK - A surveyor’s mark on a fixed and enduring object (as on an outcropping of rock or a concrete post set in the ground) indicating a particular elevation and used as a point of reference from which measurements of any sort may be made.
24. BERM - Earth materials that are placed so as to create an elevated area on any parcel of land for the purpose of providing a visual or sound barrier.
25. BLAST AREA - The area in which explosives, loading and blasting operations are being conducted.
26. BLASTER - The person or persons authorized and licensed by the State of New York to use explosives for blasting purposes.
27. BLASTING OPERATIONS - Any activity or conduct carried on or conducted within the Town of

## ARTICLE II WORD TERMS AND DEFINITIONS

Clarendon in which explosives are used.

28. **BUFFER** – A physical separation established to protect one type of land use from another land use that is incompatible. A buffer shall also serve to reduce the negative effects of noise, glare, dust, unsightliness and other factors. *(Rev. 6/19/2007)*
29. **BUILDING** - Any structure or accessory structure whether permanently affixed to the land or not, with walls and a roof that is intended for the shelter, housing or enclosure of persons, property and/or animals.
30. **BUILDING CODE OF NEW YORK STATE** - For the purposes of this Ordinance, this term shall denote the International Building Code as adopted by the State of New York and the Town of Clarendon.
31. **BUILDING HEIGHT** - A vertical distance measured from the main level of the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, mechanical penthouse, towers, tanks and similar projections.
32. **BUSINESS, RETAIL** - A commercial enterprise which primarily sells products to the general public, but also provides occasional service incidental to the products sold.
33. **BUSINESS, SERVICE** - A commercial enterprise which primarily provides service(s) to the general public, rather than selling products.
34. **CAMPGROUND** - A parcel of land intended to be used, let or rented for occupancy by campers, travel trailers, tents, moveable or temporary dwellings, rooms, or sleeping quarters of any kind.
35. **CANOPY** – A structure, enclosure or shelter constructed of fabric or pliable materials supported by any manner, except by air or the contents it protects, and is open without sidewalls or drops on 75 percent or more of the perimeter. *(Rev. 6/19/2007)*
36. **CARPORT** - A roofed structure, without enclosing walls, used for the storage of one or more motor vehicles.
37. **CERTIFICATE** - A written authorization issued by the Code Enforcement Officer which certifies that construction has been completed, the building or structure is in compliance with all requirements of the International Building Code, and that no violations of the applicable code provisions have been observed during the course of construction.
38. **CERTIFICATE OF COMPLIANCE** - A written authorization that must be issued by the Code Enforcement Officer before use of a non-habitable structure can occur.
39. **CERTIFICATE OF NON-CONFORMANCE** - A written certificate or document issued by the Code Enforcement Officer detailing conditions that exist prior to adoption of any Town of Clarendon ordinance, regulation or law affecting such properties or uses.
40. **CERTIFICATE OF OCCUPANCY** - A written authorization that must be issued by the Code Enforcement Officer before use and occupancy of a habitable structure can occur.

## ARTICLE II WORD TERMS AND DEFINITIONS

41. CHURCH – SEE PLACE OF WORSHIP. (*Rev. 10/21/2014*)
42. CLUB - An organization of persons for social, educational or recreational purposes but not primarily for profit or to render a service that is primarily carried on as a business.
43. CODE ENFORCEMENT OFFICER - The administrative official charged with enforcement of this Ordinance, the International Building Code, and all other pertinent local laws and regulations.
44. COLD STORAGE FACILITY - A building or group of buildings used for the storage of food products in a refrigerated or frozen state and sold off premises.
45. COMMUNICATION STRUCTURE - Any structure, other than an amateur radio support structure, which has a primary purpose of housing or supporting any portion of a communication system.
46. CONDOMINIUM - An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.
47. CONSOLIDATED MATERIALS - This term shall include, but shall not be limited to, minerals such as limestone, dolostone, sandstone, marble, slate, flagstone, curbing, dimension stone, riprap, abrasives, gypsum, iron, talc, titanium or other metallic or non-metallic minerals.
48. CONSTRUCTION EQUIPMENT – This term shall include, but is not limited to, dozers, excavators, loaders, graders, ditchers, trenchers, compactors, rollers, skid steer loaders forklifts or backhoes. (*rev 11/16/2010*)
49. COSMETIC PRODUCTION FACILITY - A building or group of buildings used in the making of cosmetic products to be sold off premises.
50. COTTAGE INDUSTRY - Any occupation, profession, business, industry, activity or use performed in a residential dwelling unit or accessory building, which is clearly an incidental and secondary use of the dwelling unit as a residence, and whose labor force consists primarily of a family unit working at home with their own equipment.
51. DAY CARE - Care, supervision and guidance provided for children or adults/elderly persons away from their homes or places of residence for less than 24 hours per day. For the purposes of this Ordinance, day care facilities for children shall comply with all requirements of New York State Social Services Law and shall be appropriately regulated as either a Child Day Care Center or In-Home Day Care Center.
52. DAY CARE CENTER (ADULT) - Any facility where day care is provided for three or more adults/elderly persons. Adult Day Care Centers shall be subject to all applicable New York State licensing requirements and any other applicable local, state and federal rules and regulations.
53. DAY CARE CENTER (CHILD) - This term shall mean (a) Any facility, other than an In-Home Day Care Center, where day care is provided for three or more children; or (b) Any facility, including an

## ARTICLE II WORD TERMS AND DEFINITIONS

occupied residence, where day care is provided for seven or more children. Child Day Care Centers shall be subject to the licensing requirements set forth in New York State Social Services Law (Section 390) and any other applicable local, state and federal rules and regulations.

54. DAY CARE CENTER (IN-HOME) - An occupied residence in which the owner or a member of the owner's immediate family provides care for six or fewer children other than his/her own children or the children of relatives within the second degree.
  
55. DOMESTIC HOUSEHOLD PET - An animal that is customarily kept for personal use and enjoyment within a dwelling unit. This term includes, but shall not be limited to, dogs, cats, birds, fish, rodents, amphibians and reptiles.
  
56. DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, excluding normal maintenance to farm roads.
  
57. DRIVEWAY - A pathway or road intended for the passage of personal motor vehicles between a garage, house, or turn-a-round area and the street.
  
58. DWELLING - A building or any portion thereof, including a mobile/manufactured home, which is used or intended to be used as a residence or sleeping place for one or more persons.
  
59. DWELLING (MULTI-FAMILY) - A building containing three (3) or more dwelling units, with the number of families in residence not exceeding the number of dwelling units provided. This term shall also include those uses commonly referred to as apartments, condominiums and townhouses.
  
60. DWELLING (ONE FAMILY) - A building containing one (1) dwelling unit which is designed for occupancy by one (1) family.
  
61. DWELLING (TWO FAMILY) - A building containing two (2) dwelling units which is designed for occupancy by not more than two (2) families.
  
62. DWELLING UNIT - One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.
  
63. DWELLING (RENTAL UNIT) – A building where any portion of the dwelling unit is rented to any person or entity for a period less than thirty (30) consecutive nights and complies with all requirements of this regulation. **Note:** Licensed hotels, motels and Bed and Breakfast Inns are explicitly excluded from this definition. *(Rev 05/16/2023)*
  
64. DWELLING (SEASONAL) – A dwelling unit consisting of less than 850 square feet designed to be used principally for recreational use by the owner and inhabited no more than 180 days in any calendar year. *(Rev 04/15/2025)*
  
65. EXCAVATION - A parcel of land or part thereof used for the extraction of stone, sand, gravel, soil, topsoil, rock or other natural deposits on an industrial or commercial basis by stripping, grading,

## ARTICLE II WORD TERMS AND DEFINITIONS

digging or other means but not including the process of grading a lot preparatory to the construction of building for which an approved building permit has been issued.

66. EXCAVATION, ACTIVE AREA - Only that area within the permit term limits imposed by the New York State Department of Environmental Conservation that is required for mining during such term.
67. EXCAVATION OPERATION - Any excavation which is conducted for commercial or industrial purposes.
68. EXCAVATION (REGULATED) - An excavation which is subject to a permit under the New York State Mined Land Reclamation Act (Subchapter D of Title 27, Article 23 of Environmental Conservation Law) and/or under the Town of Clarendon special permit requirements.
69. EXCAVATION SITE - A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial or commercial operation.
70. EXPLOSIVES - This term shall include black powder, guncotton, giant powder, dynamite, nitroglycerin, fulminate of mercury or any other substance, compound, mixture or article having properties of such a character that alone or in combination or contiguity with other substances or compounds may decompose suddenly and generate sufficient heat, gas or pressure to produce rapid flaming, combustion or administer a destructive blow to persons or property.
71. EXTERIOR SOLID FUEL HEATING DEVICE(s) – Any contrivance, apparatus or part thereof, including a boiler, fire box, exchanger, grate fuel gun, fuel nozzle, chimney, smoke pipe, exhaust conduit and like devices used for the burning of combustible fuels for the creation of heat or energy from an exterior location into an interior location. (*Rev. 8/19/2008*)
72. FAMILY - One or more persons related to each other by blood, marriage, or adoption, and living together as a single housekeeping unit. For the purposes of this Ordinance, this term shall also include up to three (3) unrelated individuals living together as a single housekeeping unit.
73. FARM - Any parcel of land that is used on a commercial basis for the production of agricultural crops and/or the raising of livestock and poultry and their related byproducts (meat, milk, eggs, etc).
74. FARM ANIMAL - An animal that is generally kept, bred or raised on a farm. This term includes, but shall not be limited to, horses, cattle, sheep, goats, swine, mules and miniature horses.
75. FARM FOOD PRODUCT – Any agricultural, horticultural, forest, or other product of the soil or water, including but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, flowers, firewood and Christmas trees. (*New 2020*)
76. FARM & GARDEN IMPLEMENT STORE - A commercial establishment which displays and sells equipment and products primarily used in the agricultural trade (such as tractors, combines, plows), but also provides occasional service incidental to the products and equipment sold.
77. FARM/MARKET – Any building, structure or place, used by farm producers for the direct sale of a

## ARTICLE II WORD TERMS AND DEFINITIONS

diversity of farm and food products to consumers. Such markets may also include other businesses which reasonably serve the public or make the market more convenient, efficient, profitable or successful, including, but not limited to, food service, baking and non-food retailing. *(New 2020)*

78. FARM STAND – A privately owned permanent or semi-permanent structure located on or near a farm designed to sell fruits and vegetables directly produced by the farm. *(New 2020)*
79. FARM WORKER HOUSING - Dwelling units located on an active farm located in a State Certified Agricultural District which are accessory to the agricultural use and are occupied by employees of the farm or members of the farm household and their guests. Farm worker housing may consist of single- or two-family dwellings or buildings, including single or double-wide trailers and mobile homes, and/or apartments. *(Rev. 8/19/2008)*
80. FENCE - A vertical barrier of sufficient height, depth, and construction to deter the passage of humans or animals from one area to another.
81. FILL MATERIAL – Rock, Gravel, Sand, Concrete, Asphalt, Brick, Uncontaminated Soil. *(Rev. 4/19/2011)*
82. FIREWOOD – Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter. *(Rev. 8/19/2008)*
83. FLOOR AREA (GROSS) - This term shall mean the total floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for displays or sale merchandising. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting rooms, alteration rooms, general maintenance areas or enclosed pedestrian malls or corridors.
84. FLOOR AREA (HABITABLE) - The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business.
85. FOOD PROCESSING/BOTTLING FACILITY - A building or group of buildings used in the processing, bottling or packaging of liquid or solid food products to be sold off premises.
86. GARAGE (PRIVATE) B Any attached structure or unattached accessory structure used in conjunction with a principal building, primarily intended for the storage of personal motor vehicles and/or other household items.
87. GERATRIC CARE FACILITY – A building or group of buildings that is arranged, intended or designed to provide people with a transition from the home environment to a residential care setting. These facilities provide an array of care services such as adult day service, assisted living facilities, hospice care, skilled nursing facilities, home health care and specialized care services such as geriatric care management. This term shall also include those uses commonly referred to as group homes, managed care facilities, assisted living facilities, congregate housing facilities and life care facilities. *(rev 11/16/2010)*

## ARTICLE II WORD TERMS AND DEFINITIONS

88. **GROUP HOME** - A building, or group of buildings, that is arranged, intended or designed for the housing of elderly persons. This term shall also include those uses commonly referred to as elderly housing, geriatric care facilities, managed care facilities, assisted living facilities, independent living facilities, congregate housing facilities and life care facilities.
89. **HOME OCCUPATION** - An occupation, profession, activity or use performed in a residential dwelling unit or accessory building, which is clearly an incidental and secondary use of the dwelling unit as a residence, undertaken by one or more persons for supplemental income purposes and whose labor force consists primarily of a family unit working at home with their own equipment.
90. **HOTEL** - A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public. This term shall include auto courts, motor lodges, tourist courts, motels and similar terms.
91. **INCENTIVE ZONING** – New York Consolidated Laws, Municipal Home Rule Law – MHR Section 10 grants local government the power to adopt or amend zoning regulations if they feel that the end result provides a public benefit to the community as a whole. (*New 2020*)
92. **JUNK** - This term shall include all items ordinarily and generally associated with said term whether animal, vegetable or mineral, including but not limited to scrap metal and iron, whether broken down or a component part such as a discarded automobile, machine, etc.; papers of any kind and in any form; cloth material of any kind; and any other item which has ceased to be used for the purpose for which it was intended, and all discarded substances of a solid and combustible nature.
93. **KENNEL COMMERCIAL** - A facility housing dogs, cats or other household animals and where grooming, breeding, boarding, training or selling of animals is conducted as a business. (*Rev. 10/11/2005; 6/19/2007*)
94. **LIGHT INDUSTRY** - An establishment primarily engaged in the storage, assembly or fabrication of finished products or parts, including the packaging and distribution of such products.
95. **LOT** - A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.
96. **LOT (CORNER)** - A lot at the junction of and fronting on two or more intersecting streets, roads or highways. The sides of the lot that face the streets shall be considered front yards. One of the remaining sides shall be considered a rear yard, and the other a side yard.
97. **LOT (THROUGH)** - An interior lot having frontage on two parallel or approximately parallel streets, roads or highways.
98. **LOT (DEPTH)** - The mean distance from the center of the road to its opposite rear line, measured in the general direction of the side lines of the lot.
99. **LOT (FRONTAGE)** - That portion of a lot which abuts a road, street or highway. Frontage measurement shall be the distance between the side lot lines as measured at the centerline of the road. For the purposes of determining frontage requirements on corner lots and through lots, any side of a lot

## ARTICLE II WORD TERMS AND DEFINITIONS

abutting a road shall be considered frontage.

100. LOT (LINE) - A boundary line of a lot.
101. LOT (FLAG) - An approved lot having less lot frontage on the access road or private drive than otherwise normally required for the zoning district. The portion of the lot that provides access to the interior portion of the lot shall not be less than thirty (30) feet in width, shall not be built upon, and shall not be used in the calculation of the minimum lot area requirements for the zoning district. The interior portion of the lot shall meet the minimum lot area requirements for the zoning district.
102. LOT (NON-RESIDENTIAL) - Any lot that does not contain a residence.
103. LOT (RESIDENTIAL) - Any lot that contains a residence.
104. MINE - Any pits, depressions or underground workings from which any mineral is produced for sale, exchange or commercial, industrial or municipal use and all slopes or inclines leading thereto, including all equipment above, on or below the surface of the ground used in connection with such pits, depressions or workings.
105. MINED LAND USE PLAN - The applicant=s proposal for the mining and reclamation of the affected land. The mined land use plan shall consist of a mining plan and reclamation plan which shall include maps and other documents as required to describe and illustrate environmental, physiographic, cultural and surface conditions at and surrounding the mine as well as the applicant's proposed mining and reclamation methods.
106. MINING - The use of an area of land to remove minerals, metals or other items of value from the ground for a profit, including gas and oil wells.
107. MIXED USE OCCUPANCY – A building or site that contains a combination of two or more different land uses, which may include residential, office, commercial/retail, restaurant, institutional or other uses as permitted within the underlying zoning district. *(New 2020)*
108. MOBILE/MANUFACTURED HOME - A portable structure having linear steel frame construction, designed to be transported on its own wheels which is used, designed to be used and capable of being used as a detached single family residence and which is intended to be occupied as a permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment of outside systems. The definition of a mobile/manufactured home includes all additions made subsequent to the installation of the principal structure. This definition does not include modular housing placed on a steel foundation for travel.
109. MOBILE/MANUFACTURED HOME PARK - Any site, lot, field, plot, parcel or tract of land upon which two (2) or more mobile/manufactured homes are located and for which said premises and/or the mobile/manufactured homes thereon are offered to the public or any person for a fee.
110. MODULAR HOME - A housing unit constructed off site, consisting of one or more segments and designed to be permanently anchored or affixed to a foundation. A modular house shall be designed to become a fixed part of the real estate, and shall meet all applicable requirements of the

## **ARTICLE II WORD TERMS AND DEFINITIONS**

International Building Code. For the purposes of this Ordinance, Modular Homes shall be regulated as a Dwelling.

111. **MOTEL** - A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public. This term shall include auto courts, motor lodges, tourist courts, hotels and similar terms.
112. **MOTOR VEHICLE** - Any vehicle designed to be propelled or drawn by power other than muscle power. This term shall include, but shall not be limited to, automobiles, trucks, buses, motorcycles, tractor trailers, motor homes, snowmobiles and all-terrain vehicles.
113. **MOTOR VEHICLE REPAIR SHOP** - A building or portion of a building, arranged, intended, or designed to be used for repairing and/or maintaining motor vehicles. This term shall include body shops, collision shops, paint shops, customizing shops, detailing shops, restoration shops, motor vehicle inspection stations, and uses similar in nature.
114. **MOTOR VEHICLE SALES** - A lot, including related buildings, that is arranged, intended, or designed to be used for the display, sale, leasing or rental of new and/or used motor vehicles.
115. **NON-CONFORMING LOT, BUILDING OR STRUCTURE** - A lot, building or structure existing at the time of enactment of this Ordinance, or any amendment thereto, which does not conform to the area regulations of the zoning district in which it is situated. This term is commonly known as grandfathering.
116. **NON-CONFORMING USE** - A use of land existing at the time of enactment of this Ordinance, or any amendment thereto, which does not conform to the regulations of the zoning district in which it is situated. This term is commonly known as grandfathering.
117. **NURSERY/GARDEN CENTER** - A lot, and related buildings, that is arranged, intended or designed to be used for the growing, display and/or sale of trees, shrubs, plants, flowers and related gardening products and materials.
118. **OPEN STORAGE OF A MOTOR VEHICLE** - The maintaining, storage or location of a motor vehicle or vehicles other than in a completely enclosed structure.
119. **OUTDOOR STORAGE** - The keeping of goods, products, materials, equipment or merchandise in an unroofed area and in the same place for more than 14 continuous days. This does not preclude an outdoor area used for the display of merchandise or goods available for purchase from a permitted business located on the same lot or parcel of land. This outdoor display area shall be considered an accessory use to the primary use of the business. *(Rev 2020)*
120. **OVERBURDEN** - Soil and all other natural material other than vegetation and topsoil overlying the material to be excavated.
121. **PARKING SPACE** - A berth for the parking of one motor vehicle which has an area of not less than 200 square feet (10' x 20') exclusive of passageways and driveways giving access thereto.

## ARTICLE II WORD TERMS AND DEFINITIONS

122. **PEAK PARTICLE VELOCITY** - The rate of movement in inches per second on any single component of motion: longitudinal (horizontal motion along the line between the blast and the seismograph location), transverse (horizontal motion at right angles to the longitudinal) or vertical. For the purposes of this Ordinance, measurements of particle velocity shall be made on the ground adjacent to the nearest public building, school, church, residential building, commercial building or institutional building nearest the blast area and shall be measured with a three-component portable seismograph yielding a direct recording of particle velocity.
123. **PERFORMANCE STANDARDS** - Criterion established to control noise, odor, dust, dirt, vibration, noxious gases, glare, smoke, water pollution, explosive hazards, or visual pollution generated by or inherent in the use of land or buildings.
124. **PERMIT** - A written authorization issued by the Code Enforcement Officer and/or governing body sanctioning a specific use or activity.
125. **PERMIT (BUILDING)** - A permit which is required for the construction or alteration of any building or part thereof.
126. **PERMIT (BLASTING)** - A permit which is required for any activity involving the use of explosives.
127. **PERMIT (OPERATING)** – A permit which is required before conducting specific activities within certain Zoning Districts. *(Rev. 6/19/2007)*
128. **PERMIT (SPECIAL)** - A special permit which is required before specific land uses may be established within certain zoning districts.
129. **PERMIT (ZONING)** – A permit which is required for any permitted use or permitted accessory use in their respective zoning districts that is not governed by the issuance of a Building Permit, Special Permit or Operating Permit. *(New 12/19/2017)*
130. **PERMIT (STOVE/FIREPLACE)** - A permit which is required to install a wood burning stove or fireplace.
131. **PERMITTED USE** - Those particular land uses which are specifically allowed, authorized and/or permitted in a given zoning district when all of the criteria enumerated in this Ordinance are complied with in full.
132. **PLACE OF WORSHIP** – Any church, synagogue, temple, mosque or similar structure used for worship or religious instruction including social and administrative rooms accessory thereto. *(Rev. 10/21/2014)*
133. **PORTABLE STORAGE CONTAINERS** – Any portable container designed for use as a temporary storage facility for materials or household goods. *(Rev. 6/19/2007)*
134. **POSITIVE DRAINAGE** - Shall refer to the finished elevations of the unconsolidated material excavation sites and require the grading of the site to be such that it conveys all surface water,

## **ARTICLE II WORD TERMS AND DEFINITIONS**

including water falling on, entering onto and/or running through the site, to points of lower elevation which are part of existing drainage facilities beyond the excavated area. The conveyance specified above shall be by natural means without the aid or use of mechanical or siphoning equipment or machinery.

135. **POULTRY** - Birds or fowl that are generally kept, bred or raised on a farm. This term includes, but shall not be limited to, chickens, turkeys, geese, ducks, quail, hens and pheasants.
136. **PRINCIPAL BUILDING OR STRUCTURE** - The main or primary building or structure on a lot.
137. **PRINCIPAL USE** - The main or primary use on a lot.
138. **PRODUCT ASSEMBLY FACILITY** - A building or group of buildings used in the assembly of previously prepared materials into finished products to be sold off premises.
139. **PRODUCT FABRICATION FACILITY** - A building or group of buildings used in the fabrication of materials or products predominately from extracted or raw materials, and sold off premises.
140. **PROFESSIONAL OFFICE** - A building or portion of a building where services are performed primarily involving administrative, professional or clerical operations. This use shall not involve the on-site sale of goods or the keeping of stock in trade.
141. **PROGRESSIVE RECLAMATION** - Progressive Reclamation involves the development and landscaping of the site simultaneously with the extraction of the resource.
142. **PUBLIC FACILITIES** - Facilities that are open and available for use by the general public. This term shall include, but shall not be limited to, the following public uses: places of worship, cemeteries, parks, playgrounds, nursery schools, elementary schools, high schools, colleges, universities, golf courses, country clubs, libraries, museums, fire/ambulance buildings, public safety buildings, proprietary and not-for-profit hospitals, recreational facilities (whether for profit or not-for-profit) such as swimming pools, tennis courts, bowling alleys, hockey rinks, ice skating rinks, skateboard/in-line skate parks, or other indoor and outdoor sports.
143. **PUBLIC UTILITIES (ESSENTIAL SERVICES)** - Utility services such as natural gas, electricity, telephone, cable television, and similar services that are available to the community and are essential for public health, safety and general welfare. This term shall include telephone/cable equipment centers, telecommunication facilities, utility substations, telecommunication facilities, water and sewer treatment facilities, water and sewer storage facilities, pumping stations, and facilities similar in nature.
144. **RECLAMATION** - The restoration to an acceptable natural state, in accordance with the standards provided herein, of an area which has undergone physical change due to excavation and related activities.
145. **RECLAMATION LAND (Fill)** – Any act in which fill material is deposited or placed from one location to another location by a landowner for the purpose of changing the natural character of land or property. *(Rev 4/19/2011)*

## ARTICLE II WORD TERMS AND DEFINITIONS

146. RECLAMATION PLAN - The applicant=s proposal for reclaiming the affected land, including a graphic and written description of the proposed use of all affected land, the method of reclamation and a schedule for performing reclamation.
147. RECREATIONAL CENTER - Any land or structure designed to be used for recreational purposes.
148. RESIDENCE - A building or structure used for human habitation.
149. RESTAURANT - Any establishment, however designated, where food is sold for consumption to patrons at tables provided in or adjacent to a building, in a vehicle, or elsewhere.
150. RETAIL FUEL OUTLET - Any establishment that sells gasoline, diesel, kerosene, propane, natural gas or similar fuels to the public. This term shall include service stations, convenience stores, car washes and any other establishment that sells these or similar fuels.
151. RIDING STABLE, BOARDING, TRACK OR ARENA – An equestrian facility created and maintained for the purpose of accommodating, training or competing horses. May include commercial operations such as boarding, farriers, tack shops or equipment repair . *(Re 11/1/2021 )*
152. RIGHT OF WAY - A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or other special use.
153. ROADSIDE STAND - A temporary building or structure utilized for the sale of fruits, vegetables or other agricultural products grown or produced on the premises.
154. SAND AND GRAVEL EXCAVATIONS - See EXCAVATIONS.
155. SCIENTIFIC RESEARCH FACILITY - A building or group of buildings used for scientific research, investigation, testing, or experimentation of products or materials.
156. SETBACK (FRONT) - The required open unoccupied space measured from the center line of the road to the foundation wall or exterior building wall of the principle or accessory structure. Note: Corner lots shall use the front setback dimensional requirement for all sides facing a street. *(Rev 2020)*
157. SETBACK (REAR) - The required open unoccupied space measured from the rear lot line to the nearest foundation wall or exterior building wall of the principle or accessory structure. *(Rev 2020)*
158. SETBACK (SIDE) - The required open unoccupied space measured from the side lot lines to the foundation wall or exterior building wall of the principle or accessory structure. *(Rev 2020)*
159. SHORT TERM RENTAL (STR) – A dwelling unit or portion thereof that may or may not be occupied by the owner of record or their immediate family that is offered or provided to a guest by a short-term rental for a fee for no more than thirty (30) consecutive nights. They are a form of tourist or transient accommodations that may also include property offered by or booked through online accommodation marketplace platforms such as Airbnb, Vrbo, etc. Note: For the purpose of

## **ARTICLE II WORD TERMS AND DEFINITIONS**

administration and enforcement of this title, the terms “overnight rental”, “nightly rental”, and “vacation rental” are interchangeable with short-term rentals. *(Rev 05/16/2023)*

160. **SIGN** - A structure or device designed or intended to convey information to the public in written or pictorial form.
161. **SIGN AREA** - The area within the confines of all edges of a sign. Where there is no geometric frame edge of a sign, the area shall be defined by a projected, enclosed, four sided (straight sided) geometric shape which most closely resembles the said sign.
162. **SITE PLAN** - A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.
163. **SITE PLAN REVIEW** - A review and an approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing the criteria contained in this Ordinance.
164. **SPECIAL PERMIT** - A permit issued by the Planning Board to use a lot and/or building in a manner specifically outlined in Article VII of this Ordinance. All special permits require site plan review and approval, shall be of one (1) year duration, and shall be renewable by the Planning Board provided all conditions of the original permit are complied with in full.
165. **SPECIAL PERMIT USE** - A particular use which is allowed in a given zoning district only after specific conditions and criteria enumerated in this Ordinance are met in full and a special permit is issued by the Planning Board.
166. **SPECIFIC ANATOMICAL AREAS** - For the purposes of this Ordinance, this term shall include: less than completely and opaquely covered human genitals, pubic region, or female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
167. **SPECIFIC SEXUAL ACTIVITIES** - For the purposes of this Ordinance, this term shall include: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
168. **STACK or CHIMNEY** – Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device or structure, including that part of the structure extending above a roof. *(Rev. 8/19/2008)*
169. **STORAGE FACILITY** - A building or group of buildings, other than a private garage, which is operated for gain and available on a rental basis for the storage of motor vehicles, recreational vehicles, boats or other tangible personal property. This term shall also include mini-storage or self-storage type facilities.
170. **STREET** - A public or private thoroughfare which affords access to abutting properties.
171. **STRUCTURE** - A building or anything constructed or erected which requires temporary or permanent

## **ARTICLE II WORD TERMS AND DEFINITIONS**

location on, or the support of, the soil or which is attached to any structure. The word structure shall include but is not limited to pools, barns, sheds, decks, porches and garages.(Rev 10/21/2014)

172. **STRUCTURE DRAWING** - A design drawing of any structure to be erected in its entirety. Design drawings pertaining to structures for human occupation shall be affixed with certification by a person licensed as a Professional Engineer or Architect by the State of New York that the design meets the International Building Code for this area.
173. **SUBDIVISION** – The division of any parcel of land into a number of lots, blocks or sites as specified in a law, rule or regulation, with or without streets or highways, for the purpose of sale, transfer of ownership, or development. The term subdivision, may include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the County Clerk or Register of the County in which such plat is located. Subdivisions have been defined by Local Law (Subdivision Regulations) as either “major”, “minor” or “exempt” with the review procedures and criteria for each set forth in such Local Law.
174. **SURVEYORS MAP** - Defines the size and shape of a piece of property and locates it in relations to bench marks, road and other pieces of property.
175. **SWIMMING POOL** B Any structure, regardless of dimensions or construction, intended for swimming, recreational bathing or wading that contains water over twenty four (24) inches (610mm) deep and/or requires the use of electricity to power a pump, air blower, heater, lights, controls or sanitizer generators. This includes, but is not limited to, in-ground, above-ground and on-ground pools, hot tubs, spas and fixed in place wading pools.
176. **TAPE MAP** - Defines the size and shape of structures and locates it on a piece of property. The size and shape of the property is also defined.
177. **TAVERN** - An establishment that is licensed by the State of New York in which the principal business is the sale of alcoholic beverages to the public for consumption on premises.
178. **TELECOMMUNICATION FACILITY** B Any commercial equipment used in connection with the provisions of wireless communications services, including cellular telephone services, personal communication services, radio and television broadcast communications and private radio communications services and is regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other Federal Laws. A telecommunication facility shall include monopole, guyed, or latticework tower(s) as well as antenna(s), switching stations, principle and accessory telecommunication equipment and supporting masts, wires, structures and buildings.
179. **TELEVISION DISC ANTENNA** - A parabolic or hemispherical device (commonly referred to as a satellite dish) or any similar antenna or device, which is arranged, intended or designed to receive television, radio, microwave, or other electrical signals. This term shall not include conventional dipole television and radio antennae.
180. **TEMPORARY USE** - A use or activity conducted for a limited period of time, generally not exceeding six (6) months.

## **ARTICLE II WORD TERMS AND DEFINITIONS**

181. **TENT** – A structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents that it protects. *(Rev. 6/17/2007)*
182. **TOPSOIL** - The layer of surface material which is substantially free of rock and is capable of nurturing general vegetation.
183. **TOWN** - For the purposes of this Ordinance, this term shall denote the Town of Clarendon, Orleans County, New York.
184. **TOWN BOARD** - For the purposes of this Ordinance, this term shall denote the Town Board of the Town of Clarendon, Orleans County, New York.
185. **TOWN CLERK** - For the purposes of this Ordinance, this term shall denote the Town Clerk of the Town of Clarendon, Orleans County, New York.
186. **TOWN PLANNING BOARD (PB)** - For the purposes of this Ordinance, this term shall denote the Planning Board of the Town of Clarendon, Orleans County, New York.
187. **TOWN ZONING BOARD OF APPEALS (ZBA)** - For the purposes of this Ordinance, this term shall denote the Zoning Board of Appeals of the Town of Clarendon, Orleans County, New York.
188. **TRAILER, TRAVEL/CAMPER/RECREATIONAL VEHICLE** - Any portable vehicle designed to be transported on its own wheels by a towing vehicle or any motorized vehicle which is intended for temporary living quarters for travel, recreation, or vacation purposes.
189. **TRAILER, SEMI** - Any trailer having wheels only in the rear; the front is supported by a towing vehicle and is designed for the storage or transport of materials, parts or goods. This term shall include, but is not limited to, flatbeds, flatbeds designed to transport portable containers, dumps, enclosed, and refrigerated trailers.
190. **TRAILER, UTILITY** - Any portable vehicle designed to be transported on its own wheels by a towing vehicle and intended for the transport of materials, parts or goods, or for the transport of boats, snowmobiles, ATVs or similar personal vehicles.
191. **TRUCK UNIT** - A truck, trailer and piece of construction equipment carried on the trailer; a tractor trailer rig; or any large truck that requires a Commercial Driver’s License.
192. **TURNOUT AREA** – An area consisting of pens, runs, corrals and paddocks, oftentimes attached to shelters, allowing for exercise, socialization and stress relief of animals. *(Rev 11/1/2021)*
193. **UNCONSOLIDATED MATERIALS** - Shall include but not be limited to such minerals as topsoil, fill, peat, humus, sand or gravel.
194. **UNLICENSED MOTOR VEHICLE** - Any motor vehicle which does not have a valid legal license to operate in the State of New York.

## ARTICLE II WORD TERMS AND DEFINITIONS

195. UNTREATED LUMBER – Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance. *(Rev. 8/19/2008)*
196. USE - The specific purposes for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.
197. VARIANCE - Permission granted by the Zoning Board of Appeals so that property may be used in a manner not generally allowed by the Zoning Ordinance.
198. VARIANCE (AREA) - An authorization by the Zoning Board of Appeals for the use of land in a manner which is not in strict conformance with the dimensional or physical requirements of the applicable zoning regulations.
199. VARIANCE (USE) - An authorization by the Zoning Board of Appeals for the use of land in a manner which is otherwise not allowed or is prohibited by the applicable zoning regulations.
200. WAREHOUSE/DISTRIBUTION FACILITY - A building or group of buildings used for the storage and distribution of parts, products, supplies or equipment, but does not include the bulk storage of hazardous, flammable or explosive materials or chemicals.
201. WIND MEASUREMENT TOWER – Any tower used for the measurement and collection of meteorological data such as temperature, wind speed, wind direction, etc. *(Rev. 6/19/2007)*
202. YARD - An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except otherwise provided herein.
203. YARD (FRONT) - The space within and extending the full width of the lot from the front lot line to the part of the building which is nearest to such front lot line.
204. YARD (REAR) - An open space extending across the entire width of the lot between the rear wall of the building and the rear line of the lot, and unoccupied except for accessory buildings and open porches.
205. YARD (SIDE) - An open space on the same lot extending from the side wall of the building to the side line of the lot, between the front yard and the rear yard.
206. YARD SALE - The temporary displaying of household items and clothing for sale on a yard, porch or in a barn or garage. This term shall include garage sales, barn sales, porch sales and sales similar in nature.
207. ZONING DISTRICT - A fixed section of the Town which has been designated for a specific purpose or purposes.

**ARTICLE III  
PERMITS AND PROCEDURES**

**SECTION**

<b>300</b>	<b>Purpose</b>
<b>301</b>	<b>Application Procedures for Building Permits</b>
<b>302</b>	<b>Application Procedures for Special Permits</b>
<b>303</b>	<b>Application Procedures for Blasting Permits</b>
<b>304</b>	<b>Application Procedures for Operating Permits</b>
<b>305</b>	<b>Application Procedures for Seasonal Dwelling Permits</b>
<b>306</b>	<b>Application Procedures for Land Reclamation (Fill) Permits</b>
<b>307</b>	<b>Application Procedures for Zoning Permit</b>

**SECTION 300 - PURPOSE**

No use or structure shall be established or erected, nor land developed (other than for agricultural purposes) until a permit has been issued in accordance with the provisions of this Ordinance. All applications for permits shall be filed with the Code Enforcement Officer.

**SECTION 301 - APPLICATION PROCEDURES FOR BUILDING PERMITS**

- A. All buildings or structures 64 square feet or greater within the Town of Clarendon require a building permit. (Rev. 2016)
- B. No building permit shall be issued for any buildings, structures, dwellings, their customary accessory structures and common farm related structures unless a site plan has been submitted to and approved by the Planning Board. *Note: The Ordinance Inspection Officer may waive the need for a site plan review for buildings or structures provided such building or structure is single width, is a single story and is not permanently attached to the soil or to any other structure.* (Rev. 6/19/2007; 10/21/2014) (Rev. 2016)
- C. No building or structure shall be constructed, moved or structurally altered, nor shall the use of a building or structure change, without first obtaining a building permit from the Code Enforcement Officer. A building permit shall be issued by the Code Enforcement Officer if the building, structure or use is in conformity with this Ordinance and the Building Code of New York State, unless the applicant receives a written order from either the Zoning Board of Appeals or the New York State Department of State or Regional Board of Review (with respect to the Building Code of New York State) in the form of an administrative review or a variance as provided by Sections 802 and 830 of this Ordinance. (Rev. 6/19/2007) (Rev 11/1/2021)
- D. The Code Enforcement Officer is hereby empowered to issue a building permit for a permitted use for any plans regarding the construction or alteration of any building or part of any building or the change in the use of any land area or part thereof, or for a change in use of any existing building, where it is determined that such plans are not in violation of the provisions of this Ordinance or the Building Code of New York State.
- E. Applications for building permits must be filed with the Code Enforcement Officer. Amendments to any application, plan or specification may be filed at any time prior to the commencement of work. Such amendments shall likewise be subject to the approval of the Code Enforcement Officer.
- F. All information on the application form must be completed and, in addition, the following information must be submitted with the completed application:
  - 1. Four (4) copies of a sketch plan or design plan. The plans shall be drawn to scale and show dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway

**ARTICLE III  
PERMITS AND PROCEDURES**

- locations, natural water courses, ponds, surface drainage patterns and location of existing and proposed easements, and any proposed signs. Note: The Town of Clarendon is not responsible for the quantity or quality of the well water.
2. Two copies of the architectural design drawings for any structures to be erected or structurally changed. Any design drawings pertaining to human residence or to any structure subject to the requirements of the Building Code of New York State shall contain a statement that the proposed design is in compliance with the Building Code of New York State and any applicable statutes, laws, ordinances, or regulations. The design drawings shall bear the signature of the person responsible for the design, and where required by the Education Law of the State of New York, the seal of a licensed architect or a licensed professional engineer. *(Rev 11/1/2021)*
  3. Evidence of approval of the sewage disposal system plans by the Orleans County Health Department or a duly appointed agent of the Town of Clarendon.
  4. Copies of deeds, titles or purchase contracts.
  5. Any use currently licensed by Federal, State, County or Town agencies and already operating within the Town, shall present evidence of currently held licenses before any expansion permits will be issued.
  6. The appropriate non-refundable fee established by the Town Board.
- G. When all applicable requirements of this Ordinance have been complied with, the Ordinance Inspection Officer (OIO) shall issue a Building Permit and provide one (1) copy of the approved design drawings to the applicant within fifteen (15) days after approval. The Ordinance Inspection Officer shall maintain one (1) copy of the approved permit in the Ordinance Inspection Officer files. *(Rev 11/1/2021)*
- H. Building permits shall expire as follows:
1. New residential and Non-residential buildings, such as accessory buildings, barns, sheds, decks, etc. shall expire twelve (12) months from the date of issuance. Permits shall become invalid unless the work authorized is commenced within six (6) months following the date of issuance. Building permits may be renewed provided that the work has commenced in such a manner as to be ongoing and upon payment of the appropriate fee. *(Rev. 6/19/2007)*
  2. Other structures, such as swimming pools, chimneys, wood stoves, etc. shall expire six (6) months from the date of issuance. If construction has not commenced within three (3) months from the date of issuance, the permit shall expire. *(Rev. 6/19/2007)*
- I. The applicant shall notify the Code Enforcement Officer when the structure is ready for required inspection. The Code Enforcement Officer shall then perform the required inspection. If satisfied that the applicable rules, codes and regulations pertaining to the structure or use have been complied with and the structure has been completed in accordance with the approved application, the Code Enforcement Officer shall issue a Certificate of Compliance and/or Certificate of Occupancy granting final permission to occupy or use the structure.
- J. Any individual found occupying or using a structure before obtaining a Certificate of Compliance and/or Certificate of Occupancy shall be subject to the penalties noted in Section 105, in addition to any other remedies provided in this Ordinance.
- K. Application for or acceptance of any permit issued or requested pursuant to this Ordinance constitutes agreement and consent by the person making the application or accepting the permit to allow the Code Enforcement Officer to enter the premises at any time to conduct inspections as required by this Ordinance. Refusal to allow the Code Enforcement Officer to conduct said inspections of the premises

### ARTICLE III PERMITS AND PROCEDURES

and their records related to such permit or required to be maintained by this Ordinance shall constitute sufficient justification for the immediate revocation or suspension of said permit. In addition, should the Code Enforcement Officer deem it necessary, an application may be made to any court of competent jurisdiction to obtain a warrant authorizing an inspection of the premises in question.

- L. The Code Enforcement Officer shall have the authority to revoke permits that have been issued as follows:
  - 1. Where it is found that there have been false statements or representations as to a material fact in the application, plans or specifications upon which the permit was granted.
  - 2. Where it is found that the permit was issued in error and should not have been issued in accordance with the applicable laws, codes, rules, regulations or orders.
  - 3. Where the person to whom the permit has been issued fails or refuses to comply with a stop-work order issued by the Code Enforcement Officer.
  - 4. In the event of a violation of this Ordinance, the Code Enforcement Officer may, in addition to the other penalties provided for herein, suspend said permit until such time as the violation is corrected. Should the Code Enforcement Officer determine that the violation constitutes a distinct hazard to life or public safety, he may order the premises secured immediately until said violation is abated.

#### **SECTION 302 - APPLICATION PROCEDURES FOR SPECIAL PERMITS**

- A. The Planning Board is empowered to issue special permits for those uses described in Article VII of this Ordinance. Site plan review, as fully described in Article IX, shall be conducted by the Planning Board as part of the special permit process. No special permit may be issued until site plan approval has been granted. Refer to Article X of this Ordinance for the policy, administration and interpretation of special permits.
- B. Pre-application Conference - An informal discussion, at the discretion of the Planning Board, may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board.
- C. Permitted Uses - Special permit uses shall be deemed to be permitted uses in their respective zoning districts, subject to the satisfaction of the requirements and standards set forth in Article VII and Article X of this Ordinance, and all other applicable requirements of this Ordinance. All special permit uses are hereby declared to possess unique characteristics and each specific use shall be considered as an individual case.
- D. Authorization - A special permit shall authorize only one particular special use. The special permit shall expire if the use ceases for more than one (1) year for any reason. *(Rev. 8/19/2008)*
- E. Violations and Compliance - No person shall be issued a special permit for a property where there is an existing violation of this Ordinance. Before any special permit is issued, the Planning Board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provision and arrangement has been made concerning the general findings stated in Section 1004 of this Ordinance.
- F. Issuance and Renewal - Special permits shall be issued for a period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be reviewed and renewed by the Planning Board

**ARTICLE III  
PERMITS AND PROCEDURES**

annually, based on the Code Enforcement Officer's inspection report and written statement that the permittee is in complete compliance with the terms and conditions of the original special permit.

- G. Fees - Upon filing an application for a special permit, the applicant shall pay the appropriate application fee. There is a non-refundable fee for the renewal of a special permit, plus any direct costs related to verifying conformance to permit conditions. There is a non-refundable fee for Special Use Permits requested to be transferred to a new owner/applicant equal to the annual renewal fee of the special permit plus any direct costs related to verifying conformance to permit conditions. *(Rev. 8/19/2008)*
- H. Modification - Applications for modification to a Special Use Permit shall be made in writing to the Planning Board.
- I. Transfer – A Special Use Permit may be transferred to a new owner/applicant, provided a Site Plan Review is conducted by the Planning Board and they determine that the use covered on the Special Use Permit shall continue as specified on the originally issued permit under the new owner/applicant and there are no other issues identified.  
*(Rev. 8/19/2008)*

**SECTION 303 - APPLICATION PROCEDURES FOR BLASTING PERMITS**

- A. It shall be unlawful to engage in blasting operations or any other activity in which explosives are used in the Town of Clarendon without having secured a blasting permit from the Code Enforcement Officer. It is the intention of this provision that explosives not be stored in the Town of Clarendon.
- B. The permit shall be applied for and issued in the name of the owner of the work area upon which such blasting operations shall be conducted, and the application for such permit shall state the purpose, nature, and extent of the proposed blasting operations, as well as the location of the affected area.
- C. The applicant shall state upon such application the period of time for which he wishes such a permit to be issued.
- D. The permit period shall coordinate with the expiration date of any other state, federal or local permit which may be held by the applicant which are relevant to or associated with the applicant's blasting operations. Suspension or revocation of any permit issued hereunder shall not entitle the applicant to a refund of any part of the permit fee paid.
- E. Upon receipt of a complete application for a blasting permit, the Code Enforcement Officer shall refer the application to the Planning Board for review. A public hearing may be held at the discretion of the Planning Board. The Planning Board shall consider all evidence presented for its consideration and shall instruct the Code Enforcement Officer to issue or deny a permit, stating specifically its reasons for approval, disapproval, or modification of the permit.
- F. Permits shall be issued by the Code Enforcement Officer, provided all of the requirements set forth in this Section have been complied with by the applicant.
- G. The applicant shall pay, prior to the issuance of a permit, the appropriate fee as established by the Town Board.
- H. Blasting permits shall be issued for a period of seventy-two (72) hours, six (6) months, one (1) year, or three (3) years. Blasting permits may be renewed by the Code Enforcement Officer after review and approval by the Planning Board.
- I. Violation of any provision of this Section during the current permit period may be sufficient reason for denial of a permit renewal application. Any blasting conducted by the applicant within the Town of

**ARTICLE III  
PERMITS AND PROCEDURES**

Clarendon without having previously obtained a permit shall be considered during the application review process. Renewal of the permit upon its termination shall follow the same procedures as those required in this section for the issuance of the original permit.

- J. No permit to blast within the Town of Clarendon shall be issued until the applicant has posted and filed with the Town Clerk an insurance policy issued by an insurance company authorized to do business in the State of New York providing general and comprehensive liability coverage in the principal amount of at least one million (\$1,000,000) dollars, the exact amount to be approved by the Town Engineer or Consulting Engineer, to cover the specific blasting project as stated in the Blasting Permit Application. The insurance policy shall name the Town of Clarendon as additionally insured so as to provide for the payment of any damage arising from the permitted blasting. The Town may also require that the applicant execute and deliver to the Town an indemnity agreement indemnifying the Town of Clarendon from any and all claims arising out of the permitted blasting. The blasting permit shall automatically terminate should the bond or insurance policy be canceled or otherwise terminated.
- K. Prior to issuance of a blasting permit, the applicant shall provide the Code Enforcement Officer with a copy of the current license of the blaster as issued by the State of New York. Such license shall be filed in the office of the Code Enforcement Officer and shall be available for public inspection. The applicant shall also provide the Code Enforcement Officer with any amendments, changes or revisions of such license. Should the blasters license at any time expire or be revoked or suspended, no further blasting shall occur until a current license is filed with the Code Enforcement Officer.
- L. Any person, firm or corporation, whether granted a permit pursuant to the provisions of this section or not, who commits or permits any acts in violation of any of the provisions of this section, shall be deemed to have committed an offense, and shall be liable for any associated penalties. Each week a violation continues or is permitted to exist shall constitute a separate violation as stated in Section 105 of this Ordinance.

**SECTION 304 - APPLICATION PROCEDURES FOR OPERATING PERMITS**

- A. The Code Enforcement Officer is hereby empowered to issue operating permits. Parties, who propose to undertake the types of activities or operate the types of buildings listed below, shall be required to obtain an operating permit prior to commencing such operation. An application for an Operating Permit shall be provided by the Code Enforcement Officer and shall contain sufficient information to permit determination that quantity, materials, and activities conform to the requirements of the Uniform Code. No permit may be issued until a site plan has been submitted to and approved by the Planning Board. *(Rev 12 19 2017)*
  - 1. Manufacturing, storing or handling hazardous materials in quantities exceeding those listed on tables 2703.1.1(1, 2,3,4) of the Fire Code of New York State (see Title 19 NTCRR Part 1225).
  - 2. Hazardous Processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling.
  - 3. Use of pyrotechnic devices in assembly occupancies.
  - 4. Building containing one or more areas of public assembly with an occupant load of 100 persons or more.
  - 5. Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Town Board by resolution.
  - 6. Carnivals, fairs and other special events excluding one and two family occasions.
- B. Applications for Operating Permits – All applications must be filed with the Code Enforcement

**ARTICLE III  
PERMITS AND PROCEDURES**

Officer prior to commencing such operation. An application shall contain sufficient information to permit a determination that activities conform to the requirements of the Uniform Code. Pre-application Conference – An informal discussion, at the discretion of the Code Enforcement Officer may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board. An inspection shall be conducted by the Code Enforcement Officer prior to the issuance of any Operating Permit. A single operating permit may apply to more than one hazardous activity. *(Rev 12/19/2017)*

- C. Violations and Compliance – No Operating Permit shall be issued for a property where there is an existing violation of this ordinance. Where activities fail to comply with the conditions set forth on the permit, or with applicable provisions of the Uniform Code, such permit shall be revoked or suspended.
- D. Issuance and Renewal – Operating permits may be issued for a maximum period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be renewed by the Code Enforcement Officer only upon verification that the permit is in compliance with the terms and conditions of the original Operating Permit.
- E. Fees – Upon filing the application for an Operating Permit, the applicant shall pay the appropriate application fee, as determined by the Town Board. There is a non-refundable fee, as determined by the Town Board, for Operating Permit renewal, plus any direct costs related to verifying conformance to permit conditions. *(Rev. 6/19/2007)*

**SECTION 305 – APPLICATION PROCEDURE FOR SEASONAL DWELLING PERMITS**  
*(Rev 4/15/2025)*

- A. No Seasonal Dwelling Permit shall be issued unless a Site Plan has been submitted to and approved by the Planning Board.
- B. Applications for Seasonal Dwelling Permits – All applications must be filed with the Code Enforcement Officer prior to commencing such operation or activity. An application shall contain sufficient information to permit a determination that the proposed activity conforms to the requirements of this ordinance and other applicable codes as determined by the Site Plan Review.
- C. The Code Enforcement Officer is hereby empowered to issue a Seasonal Dwelling Permit where it is determined that such plans are not in violation of the provisions of this Ordinance or the Building Code of New York State.
- D. A dwelling unit consisting of less than 850 square feet, or a trailer, travel/camper/recreational vehicle located on a private lot or parcel may be permitted by special exceptions provided that;
  - 1. It shall be used principally for recreational use by the owner. This term shall include hunting cabins, vacation cottages, vacation lodges and similar seasonal dwellings.
  - 2. It shall be inhabited no more than 180 days in any calendar year.
  - 3. It shall comply with all applicable setbacks and lot size requirements.
  - 4. It shall meet all relevant safety and sanitary codes.
  - 5. No more than one (1) trailer, travel/camper/recreational vehicle used as a Seasonal Dwelling shall occupy a private lot or parcel.
  - 6. A permit shall only be issued to the owner of the lot.
- E. Violations and Compliance – No Seasonal Dwelling Permit shall be issued for a property where there is an existing violation of this ordinance. Where activities fail to comply with the conditions set forth on the permit, or with applicable provisions of the Uniform Code, such permit shall be revoked or suspended.

**ARTICLE III  
PERMITS AND PROCEDURES**

F. Issuance and Renewal – Seasonal Dwelling Permits may be issued for a maximum period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be renewed by the Code Enforcement Officer only upon verification that the permit is in compliance with the terms and conditions of the original Permit.

G. Fees – Upon filing the application for a Seasonal Dwelling Permit, the applicant shall pay the appropriate application fee, as determined by the Town Board. There is a non-refundable fee, as determined by the Town Board , for Seasonal Dwelling Permit renewal, plus any direct costs related to verifying conformance to permit conditions.

**SECTION 306 - APPLICATION PROCEDURES FOR LAND RECLAMATION (FILL) PERMITS**

- A. To provide for the proper protection of the land and the community by ensuring that any reclamation of land shall use only clean and uncontaminated materials for the purpose of filling and also to ensure that the filling does not impede the natural flow of surface water in a natural drainage course or cause the diversion of surface water into neighboring properties no Land Reclamation (Fill) Permit shall be issued unless a site plan has been submitted to and approved by the Planning Board.
- B. Items specifically exempt from the provisions of this section: Customary excavation, storage and filling associated in connection with the routine construction of buildings, structures, retaining walls, fences, private drives, parking lots, public improvements and public and private utilities approved by the Town of Clarendon; A cemetery excavating for a grave, headstone or monument and removing or storing the surplus dirt or material resulting from such excavation; Excavation and fill associated with the routine construction of single-family or two family dwellings approved by the Town of Clarendon; Customary excavation, storage and filling associated in connection with an approved farm operation provided all fill material used originates from the farm property.
- C. The Code Enforcement Officer is hereby empowered to issue a Land Reclamation (Fill) Permit provided a reclamation plan has been submitted to and approved by the Planning Board.
- D. The applicant shall file with the Building Department of the Town of Clarendon, an application, in duplicate, including the name of the landowner together with a comprehensive plan drawn to a scale detailing the location of property and the location and extent of the proposed reclamation/fill area. In addition the following information shall be included in the reclamation plan:
1. Verification that the location of the Land Reclamation (Fill) project being proposed is not a regulated activity by the U.S. Army Corps of Engineers or the New York State Department of Environmental Conservation (DEC). The Orleans County Soil and Water Conservation District can assist you in this assessment.
  2. The amount of fill material intended to be deposited to the site as well as the amount of time required to complete the fill process.
  3. Exact conditions, profiles and cross sections of property before reclamation/fill and those proposed after reclamation/fill. *Note:* The maximum level of fill above existing grade shall be eight (8) feet unless otherwise approved by the Planning Board as part of the reclamation plan review.
  4. A proposed siltation and erosion control plan designed to ensure proper surface drainage during and after completion of the proposed fill process.
  5. Grades of all creeks or drainage ditches at fifty-foot intervals for a minimum distance of five hundred

**ARTICLE III  
PERMITS AND PROCEDURES**

(500) feet beyond the parcel of land covered by the permit.

6. The location of all existing buildings on said property.
  7. Elevation contours shall be at two (2) foot intervals shot on a fifty (50) foot grid throughout proposed fill area with a one hundred (100) foot overlap to surrounding property at intervals of fifty (50) feet.
  8. All existing utilities adjacent to and on said property and the proposed protection or treatment thereof.
  9. Such plans must be prepared by an engineer or land surveyor duly licensed to practice in the State of New York.
- E. Corner posts shall be set designating the land area involved. Such posts shall have a sign affixed thereto, twenty-four (24) inches in length by twelve (12) inches in height, containing the name of the person to whom the permit has been issued, the permit number and a statement of the month of issue. The top of such corner posts shall be at least four (4) feet above ground level and placed in position by the licensed engineer or surveyor at the time of the original survey. These posts shall be maintained in their exact positions throughout the entire operation to aid in the inspection of the area to which the permit relates by all interested persons. In the event that such posts are not in place, said permit shall be subject to revocation at the discretion of the Town of Clarendon Ordinance Inspection Officer until such time as they have been replaced in exact position.
  - F. Surface texture or ground cover after excavation shall be of not less than six (6) inches of fine topsoil, which shall be stockpiled on the premises in sufficient amount to provide complete ground cover for the excavated area. Topsoil shall be reasonably free from subsoil, stumps, roots, brush, stones, clay lumps or similar objects larger than one inch at its greatest diameter and shall contain no material toxic to plant growth.
  - G. Appropriate seeding shall be applied to finished grade. Additionally, where open drainage ditches or swales are constructed, the side slopes and bottom shall be neatly graded and left in a clean condition. Side slopes shall be top soiled and seeded with a minimum of perennial rye grass.
  - H. No excavation or stockpiles arising there from shall be made within one hundred (100) feet of the right-of-way of any public road, street, highway or public area as measured from the centerline of the road or within fifty (50) feet of any property line of adjoining land unless written consent of the adjoining property owner shall be first obtained and a duplicate or original copy attached to the application. No stockpiling of such materials brought to the site from another location shall be permitted.
  - I. The surface of all reclamation/fill shall have a positive slope to existing drainage facilities, and  
the surface texture of all such areas shall be of such a nature as to prevent erosion of the surface after all excavation has been performed and completed. The proposed grading and slope and the necessary auxiliary appurtenances shall provide adequate drainage to existing town facilities.
  - J. The Town of Clarendon reserves the right to impose additional conditions and to require additional safeguards it may deem necessary to protect the public health, safety and general welfare of the area.
  - K. During the course of the reclamation (fill) review, the Planning Board may consult with additional resources ( Town Engineer, Highway Department, Code Enforcement Officer, Federal, State or County Agencies, etc) as part of the review process. Costs for consultation,

**ARTICLE III  
PERMITS AND PROCEDURES**

review of the plans, and supporting documentation incurred by the Town shall be borne by the applicant as a condition of permit approval or renewal.

- L. Before the issuance of the Land Reclamation (fill) Permit, the applicant or the owner of record of the premises or tract of land shall deliver to the Town Clerk:
1. A bond executed by a surety corporation authorized to do business in the State of New York in a sum equal to ten thousand dollars (\$10,000) for each acre or fractional part thereof covered by the permit, which bond shall be approved by the Town Board and which bond shall guarantee faithful performance of the work in accordance with this and all ordinances of the Town of Clarendon and the plans and specifications filed with the application for the permit. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Code Enforcement Officer certifying that all provisions of this chapter and the conditions of the permit issued thereunder have been fully complied with.
  2. A bond executed by a surety corporation authorized to do business in the State of New York in a sum equal to one hundred thousand dollars (\$100,000) per mile of town road traversed to reach the reclamation/fill site, which bond shall be approved by the Town Board and which bond shall guarantee repair of any damage to property of the Town during execution of this permit and in accordance with this and all ordinances of the Town of Clarendon. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Code Enforcement Officer certifying that all provisions of this chapter and the conditions of the permit issued hereunder have been fully complied with.
- M. Test sampling of fill material shall be conducted on all imported material for compliance to permit conditions by a Geotechnical Engineer retained by the applicant during the reclamation (fill) time frame of the permit. All samples shall be sent to an approved independent testing lab for testing. All test results shall be submitted to the Town of Clarendon Ordinance Inspection Officer. One initial sample shall be conducted and one sample for each 100 cu. yards of material imported.
- N. Land Reclamation (fill) Permits shall be for a period of one hundred eighty (180) days or one (1) year depending upon the location of the site, the extent of the proposed area to be reclaimed and the character of the neighborhood in which the site is located as determined by the Town of Clarendon Planning Board as part of the site plan review. Upon written application and review the Planning Board may extend said permit for an additional specified period.

*(Rev. 4/19/2011)*

**SECTION 307 - APPLICATION PROCEDURES FOR ZONING PERMITS** *(new 12/19/2017)*

- A. The Code Enforcement Officer is empowered to issue Zoning permits for any permitted use or permitted accessory use in their respective zoning districts that is not governed by the issuance of a Building permit, Special permit, or Operating permit. Site plan review, as fully described in Article IX, shall be conducted by the Planning Board as part of the Zoning permit process. No permit may be issued until a site plan has been submitted to and approved by the Planning Board.
- B. Pre-application Conference - An informal discussion, at the discretion of the Planning Board, may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board.

**ARTICLE III  
PERMITS AND PROCEDURES**

- C. Authorization - The Zoning permit shall expire if the use ceases for more than one (1) year for any reason.
- E. Violations and Compliance - No person shall be issued a Zoning permit for a property where there is an existing violation of this Ordinance. Before any Zoning permit is issued, the Planning Board shall make written findings certifying compliance with the specific rules governing individual Zoning permit uses and that satisfactory provision and arrangement has been made concerning the general findings stated in Article IX, Section 904 of this Ordinance.
- F. Issuance and Renewal - Zoning permits shall be issued for a period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be reviewed and renewed by the Planning Board annually, based on the Code Enforcement Officer's inspection report and written statement that the permittee is in complete compliance with the terms and conditions of the original Zoning permit.
- G. Fees - Upon filing an application for a Zoning permit, the applicant shall pay the appropriate application fee. There is a non-refundable fee for the renewal of a zoning permit, plus any direct costs related to verifying conformance to permit conditions. There is a non-refundable fee for Zoning Permits requested to be transferred to a new owner/applicant equal to the annual renewal fee of the Zoning permit plus any direct costs related to verifying conformance to permit conditions.
- H. Modification - Applications for modification to a Zoning Permit shall be made in writing to the Planning Board.
- I. Transfer – A Zoning Permit may be transferred to a new owner/applicant, provided a Site Plan Review is conducted by the Planning Board and they determine that the use covered on the Zoning Permit shall continue as specified on the originally issued permit under the new owner/applicant and there are no other issues identified.

**ARTICLE IV  
ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS**

**SECTION**

- 400 Establishment of Zoning Districts**
- 401 Zoning Map**
- 402 Interpretation of Zoning District Boundaries**
- 403 Determination of Locations and Boundaries**

**SECTION 400 - ESTABLISHMENT OF ZONING DISTRICTS**

The Town of Clarendon is hereby divided into the following zoning districts for the purpose of promoting public health, safety and general welfare: *(Rev. 12/19/2017; 08/20/2019)*

- A. Residential/Hamlet District (RH)
- B. Residential/Agricultural District (RA)
- C. Business/Commercial District (BC)
- D. Conservation District (C)
- E. Industrial District (I)
- F. Historic District (H)
- G. Industrial-Mining District (IM)

**SECTION 401 - ZONING MAP**

The following zoning districts are shown and delineated on a map entitled “Zoning District Boundary Map of the Town of Clarendon”. This map, and all explanatory matter, is hereby incorporated and made a part of this Ordinance. *(Rev 12/19/2017; 08/20/2019)*

- A. Residential/Hamlet District (RH)
- B. Residential/Agricultural District (RA)
- C. Business/Commercial District (BC)
- D. Conservation District (C)
- E. Industrial District (I)
- F. Historic District (H)
- G. Industrial-Mining District (IM)

**SECTION 402 - INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Unless otherwise indicated on the zoning map, the district boundary lines are generally intended to follow the center lines of streets, roads and highways, the center lines of railroad rights-of-way, existing lot lines, the mean water levels of streams and other waterways, all as more particularly shown on the zoning map.

**SECTION 403 - DETERMINATION OF LOCATIONS AND BOUNDARIES**

In the case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a final determination.

**ARTICLE V  
DISTRICT REGULATIONS**

**SECTION**

- 500-1 Purpose of the **RESIDENTIAL/HAMLET DISTRICT (RH)**  
500-2 Permitted Uses (RH)  
500-3 Permitted Accessory Uses (RH)  
500-4 Uses Allowed by Special Permit (RH)  
500-5 Minimum Specifications (RH)
- 510-1 Purpose of the **RESIDENTIAL/AGRICULTURAL DISTRICT (RA)**  
510-2 Permitted Uses (RA)  
510-3 Permitted Accessory Uses (RA)  
510-4 Uses Allowed by Special Permit (RA)  
510-5 Minimum Specifications for Residential Structures (RA)  
510-6 Minimum Specifications for Agricultural Structures (RA)
- 520 **RURAL RESIDENTIAL DISTRICT (RR)**  
Removed in its entirety with 12/19/2017 amendments.
- 530-1 Purpose of the **BUSINESS/COMMERCIAL DISTRICT (BC)**  
530-2 Permitted Uses (BC)  
530-3 Permitted Accessory Uses (BC)  
530-4 Uses Allowed by Special Permit (BC)  
530-5 Minimum Specifications (BC)
- 550-1 Purpose of the **INDUSTRIAL DISTRICT(I)**  
550-2 Permitted Uses (I)  
550-3 Permitted Accessory Uses (I)  
550-4 Uses Allowed by Special Permit (I)  
550-5 Additional Provisions and Requirements (I)  
550-6 Minimum Specifications (I)
- 560-1 Purpose of the **CONSERVATION DISTRICT (C)**  
560-2 Applicability (C)
- 570-1 Purpose of the **HISTORIC DISTRICT (H)**  
570-2 Applicability (H)  
570-3 Additional Provisions and Requirements (H)
- 580-1 Purpose of the **INDUSTRIAL MINING DISTRICT (IM)**  
580-2 Permitted Uses (IM)  
580-3 Permitted Accessory Uses (IM)  
580-4 Blasting Permits (IM)  
580-5 Additional Provisions and Requirements (IM)  
580-6 Minimum Specifications (IM)  
580-7 Setbacks for Blasting Activities (IM)

**SECTION 500-1 – PURPOSE OF THE RESIDENTIAL/HAMLET DISTRICT (RH)**

The purpose of the Residential/Hamlet District (RH) is to provide a unique area where residential and commercial uses are intermixed, and to regulate its development so it will not be detrimental to the community.

**ARTICLE V  
DISTRICT REGULATIONS**

**SECTION 500-2 – PERMITTED USES (RH)** *(rev 11/20/2012; 10/21/2014; 12/19/2017; 08/20/2019)*

The following uses are permitted in the Residential/Hamlet (RH) District:

- A. Agriculture
- B. Mobile/Manufactured Homes – solely on lots presently occupied by a mobile/manufactured home or in an approved mobile/manufactured home park (See Section 630)
- C. One Family Dwelling
- D. Two Family Dwelling
- E. Public Utilities (Essential Services)
- F. Church

**SECTION 500-3 – PERMITTED ACCESSORY USES (RH)** *(rev 12/19/2017; 08/20/2019)*

The following are permitted accessory uses in the Residential/Hamlet (RH) District:

- A. Accessory Structure
- B. In-Home Day Care Center
- C. Private Garage
- D. Roadside Stand
- E. Swimming Pools (Above and Below Ground)
- F. Alternative Energy Systems (Solar Powered)
- G. Alternative Energy Systems (Wind Powered)

**SECTION 500-4 – USES ALLOWED BY SPECIAL PERMIT (RH)**

*(Rev 11/20/2012; 10/21/2014; 12/19/2017; 11/1/2021 )*

The following uses are allowed by Special Permit after review and approval by the Planning Board. These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Cottage Industry
- B. Home Occupation
- C. Professional Office
- D. Public Facilities
- E. Restaurant
- F. Business, Retail
- G. Business, Service
- H. Retail Fuel Outlet
- I. Tavern
- J. Riding Stable, Boarding, Track or Arena

**SECTION 500-5 – MINIMUM SPECIFICATIONS (RH)**

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all uses in the Residential/Hamlet District (RH):

- A. Minimum Lot Size – Forty Thousand (40,000) Square Feet
- B. Minimum Lot Frontage – Two Hundred (200) Feet
- C. Minimum Lot Depth – Two Hundred (200) Feet
- D. Minimum Front Setback – Seventy-Five (75) Feet
- E. Minimum Side Setback – Fifteen (15) Feet

**ARTICLE V  
DISTRICT REGULATIONS**

- F. Minimum Rear Setback – Fifteen (15) Feet

**SECTION 510-1 – PURPOSE OF THE RESIDENTIAL/AGRICULTURAL DISTRICT (RA)**

The purpose of the Residential/Agricultural District (RA) is to protect agricultural land and uses and to provide a stable environment for residential development.

**SECTION 510-2 – PERMITTED USES (RA)** *(rev 11/20/2012; 10/21/2014; 12/19/2017; 08/20/2019)*

The following uses are permitted in the Residential/Agricultural District (RA):

- A. Agriculture
- B. Agri-Business
- C. Mobile/Manufactured Homes – solely on lots presently occupied by a mobile/manufactured home or in an approved mobile/manufactured home park (See Section 630)
- D. Nursery/Garden Center
- E. One Family Dwelling
- F. Two Family Dwelling
- G. Public Utilities (Essential Services)
- H. Church

**SECTION 510-3 – PERMITTED ACCESSORY USES (RA)**

The following are permitted accessory uses in the Residential/Agricultural District (RA): *(rev 8/19/2008; 10/21/2014; 12/19/2017; 08/20/2019)*

- A. Accessory Structure
- B. Farm Worker Housing
- C. Garage, Private
- D. In-Home Day Care Center
- E. Roadside Stand
- F. Swimming Pools (Above and Below Ground)
- G. Alternative Energy Systems (Solar Powered)
- H. Alternative Energy Systems (Wind Powered)

**SECTION 510-4 – USES ALLOWED BY SPECIAL PERMIT (RA)**

*(rev 11/20/2012; 10/21/2014; 12/19/2017; 08/20/2019)*

The following uses are allowed by Special Permit after review and approval by the Planning Board. These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Cottage Industry
- B. Excavation and Mining
- C. Home Occupation
- D. Kennel
- E. Parking and Storage of Commercial Trucks and Construction Equipment
- F. Riding Stable, Track or Arena
- G. Business, Service *(2012 amendment per 10/21/14 RM2014-188)*
- H. Business, Retail

**ARTICLE V  
DISTRICT REGULATIONS**

**SECTION 510-5 – MINIMUM SPECIFICATIONS FOR RESIDENTIAL STRUCTURES (RA)**

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all residential structures in the Residential/Agricultural District (RA):

- A. Minimum Lot Size – Forty Thousand (40,000) Square Feet
- B. Minimum Lot Frontage – Two Hundred (200) Feet
- C. Minimum Lot Depth – Two Hundred (200) Feet
- D. Minimum Front Setback – Seventy-Five (75) Feet
- E. Minimum Side Setback – Twenty-Five (25) Feet
- F. Minimum Rear Setback – Twenty-Five (25) Feet
- G. First floor elevation should be at least 15 inches above the center of the road.

*(Rev. 09/18/2018)*

**SECTION 510-6 – MINIMUM SPECIFICATIONS FOR AGRICULTURAL STRUCTURES (RA)**

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all agricultural structures in all Zoning Districts. *(Rev 11/1/2021)*

- ❖ Minimum Lot Size – 120,000 square feet (may include owner residence)
- ❖ Minimum Lot Frontage – Two Hundred (200) Feet
- ❖ Minimum Front Setback – One Hundred (100) Feet
- ❖ Minimum Side Setback – Seventy-Five (75) Feet
- ❖ Minimum Rear Setback – Seventy-Five (75) Feet
- ❖

**SECTION 520 - *Removed in its entirety with 12/19/2017 amendments.***

**SECTION 530-1 – PURPOSE OF THE BUSINESS/COMMERCIAL DISTRICT (BC)**

The purpose of the Business/Commercial District is to provide for the establishment of business and commercial uses that serve the needs of area residents and to regulate its development so it will not be detrimental to the community.

**SECTION 530-2 – PERMITTED USES (BC)**

*(rev 11/20/2012;10/21/2014; 05/16/2017; 12/19/2017; 08/20/2019)*

The following uses are permitted in the Business/Commercial District (BC). These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Adult Day Care Center
- B. Agriculture
- C. Agri-Business
- D. Animal Hospital
- E. Business, Retail
- F. Business, Service
- G. Campground
- H. Child Day Care Center
- I. Geriatric Care Facility

**ARTICLE V  
DISTRICT REGULATIONS**

- J. Motel/Hotel
- K. One Family Dwelling
- L. Professional Office
- M. Public Facilities
- N. Recreational Center
- O. Restaurant
- P. Retail Fuel Outlet
- Q. Tavern
- R. Two Family Dwelling
- S. Public Utilities (Essential Services)
- T. Church

**SECTION 530-3 – PERMITTED ACCESSORY USES (BC)** *(Rev 10/21/2014; 08/20/2019)*

The following are permitted accessory uses in the Business/Commercial District (BC):

- A. Accessory Structure
- B. Garage, Private
- C. In-Home Day Care Center
- D. Public Utilities (Essential Services)
- E. Roadside Stand
- F. Swimming Pools (Above and Below Ground)
- G. Alternative Energy Systems (Solar Powered)
- H. Alternative Energy Systems (Wind Powered)

**SECTION 530-4 – USES ALLOWED BY SPECIAL PERMIT (BC)** *(Rev. 05/16/2017)*

The following uses are allowed by Special Permit after review and approval by the Planning Board. These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Motor Vehicle Repair Shop
- B. Motor Vehicle Sales
- C. Clubs
- D. Storage Facilities

**SECTION 530-5 – MINIMUM SPECIFICATIONS (BC)** *(rev 11/20/2012; rev 2020)*

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all uses in the Business/Commercial District (BC): *Note: See Article VI, Section 601 C*

- A. Minimum Lot Size Non-Dwelling – Forty Thousand (40,000) Square Feet
- B. Minimum Lot Size One or Two Family Dwelling – Forty Thousand (40,000) Square Feet
- C. Minimum Lot Frontage Non-Dwelling – Two Hundred (200) Feet
- D. Minimum Lot Frontage One or Two Family Dwelling – Two Hundred (200) Feet
- E. Minimum Front Setback Non-Dwelling – Seventy-Five (75) Feet
- F. Minimum Front Setback One or Two Family Dwelling – Seventy Five (75) Feet
- G. Minimum Side Setback Non-Dwelling – Twenty-Five (25) Feet
- H. Minimum Side Setback One or Two Family Dwelling – Twenty Five (25) Feet
- I. Minimum Rear Setback Non-Dwelling – Fifty (50) Feet
- J. Minimum Rear Setback One or Two Family Dwelling – Twenty Five (25) Feet

**ARTICLE V  
DISTRICT REGULATIONS**

**SECTION 550-1 – PURPOSE OF THE INDUSTRIAL DISTRICT (I)**

The purpose of the Industrial District (I) is to provide for the establishment of clean, environmentally sensitive industrial uses which are essential for a balanced economic base, and to regulate its development so it will not be detrimental to the community.

**SECTION 550-2 – PERMITTED USES (I)** *(Rev. 05/16/2017; 12/19/2017; 08/20/2019)*

The following uses are permitted in the Industrial District (I). These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Cold Storage Facility
- B. Cosmetic Production Facility
- C. Excavating and Mining
- D. Farm and Garden Implement Store
- E. Food Processing/Bottling Facility
- F. Nursery/Garden Center
- G. Parking and Storage of Commercial Trucks and Construction Equipment
- H. Product Assembly Facility
- I. Product Fabrication Facility
- J. Professional Office
- K. Public Utilities (Essential Services)
- L. Scientific Research Facility
- M. Storage Facility
- N. Warehouse/Distribution Facility
- O. One Family Dwelling
- P. Two Family Dwelling

**SECTION 550-3 – PERMITTED ACCESSORY USES (I)**

The following are permitted accessory uses in the Industrial District (I). These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance:

- A. Accessory Structure

**SECTION 550-4 – USES ALLOWED BY SPECIAL PERMIT (I)**

The following uses are allowed by Special Permit after review and approval by the Planning Board. These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Adult Business

**SECTION 550-5 – ADDITIONAL PROVISIONS AND REQUIREMENTS (I)**

- A. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted at the discretion of the Planning Board provided that such materials are shielded from view from public streets, adjacent off-street parking areas and adjacent non-industrial districts by fencing, landscaping or other appropriate measures.

**ARTICLE V  
DISTRICT REGULATIONS**

- B. All uses permitted in this district shall set aside not less than ten (10) percent of the lot to be devoted to seeding, planting, and retention of tree cover or other landscaping. This area shall be used for no other purpose.
- C. Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
- D. Industrial buildings or structures shall be located a minimum of one hundred (100) feet from any zoning district boundary line. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
- E. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty-five (25) feet from a property line.

**SECTION 550-6 – MINIMUM SPECIFICATIONS (I)**

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all uses in the Industrial District (I):

- A. Minimum Lot Size – Five (5) Acres
- B. Minimum Lot Frontage – One Hundred Fifty (150) Feet
- C. Minimum Front Setback – Fifty (50) Feet
- D. Minimum Side Setback – Fifty (50) Feet
- E. Minimum Rear Setback – Fifty (50) Feet

**SECTION 560-1 – PURPOSE OF THE CONSERVATION DISTRICT (C)**

The purpose of the Conservation District is to preserve the unique and irreplaceable wetlands, wildlife habitats and streams within the Town of Clarendon.

**SECTION 560-2 – APPLICABILITY (C)**

- A. The Conservation District is an overlay district designated on the Zoning Map of the Town of Clarendon. This district includes all freshwater wetlands as defined and protected by Article 24 of the New York State Environmental Conservation Law (Freshwater Wetlands Act).
- B. The provision of the Conservation District shall take precedence over the underlying zoning district regulations.
- C. The requirements of the Freshwater Wetlands Act and all applicable Freshwater Wetlands Maps, unless contrary to any Town of Clarendon ordinances, laws or regulations are hereby adopted and incorporated by reference.

**SECTION 570-1 – PURPOSE OF THE HISTORIC DISTRICT (H)**

The purpose of the Historic District is to preserve certain areas of historical or cultural significance in the Town of Clarendon. Development in these areas should be consistent with the architectural, cultural and historic character of the area.

## **ARTICLE V DISTRICT REGULATIONS**

### **SECTION 570-2 APPLICABILITY (H)**

The Historic District shall take precedence over any other zoning district (except the Conservation District) to the extent that the provisions of this district are inconsistent with such other provisions.

### **SECTION 570-3 – ADDITIONAL PROVISIONS AND REQUIREMENTS (H)**

- A. All building permits in the Historic District, including permits for residential development shall require site plan review and approval from the Planning Board as outlined in Article IX of this Ordinance.
- B. No building or structure shall be demolished or undergo substantial exterior alteration (resulting in an essential change in building appearance) without first undergoing site plan review and approval.
- C. The Planning Board in its review of a site plan, must document the following requirements in its findings:
  - 1. The building, alteration or use is consistent with the historic architecture and historic significance of the area.
  - 2. The building, alteration or use does not encroach, diminish or otherwise lessen the historical significance of the area.
  - 3. For site plans involving demolition, the applicant provided evidence of construction or structural problems that would preclude any reasonable efforts to rehabilitate restore or preserve the structure. Evidence must be in the form of a written structural assessment prepared by a licensed architect or professional engineer.
- D. The Planning Board may consult with licensed architects, landscape architects, professional engineers and/or historic experts when conducting its assessment of the requirements of Section 570-3.C above.

### **SECTION 580-1 – PURPOSE OF THE INDUSTRIAL MINING DISTRICT (IM)**

The purpose of the Industrial Mining District (IM) is to acknowledge the unique mineral resources that exist within the Town, to recognize the particular processes required for its extraction, and to regulate these processes so they will not be a detriment to the health and safety of the community.

### **SECTION 580-2 – PERMITTED USES (IM)**

The following uses are permitted in the Industrial Mining District (IM). These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance.

- A. Excavation, extraction, removal, processing, storage, stockpiling and sale of topsoil, sand, gravel and stone, consisting of both consolidated and unconsolidated material.
- B. Manufacture, storage and sale of concrete including any raw materials or ingredients thereof.
- C. Crushing (except initial or primary crushing), grading, screening, washing or processing of stone, sand or gravel within a fully enclosed building or buildings.
- D. Storage bins containing concrete and asphaltic concrete (including raw materials or ingredients such as asphalt, stone, sand, cement).

**ARTICLE V  
DISTRICT REGULATIONS**

- E. Stockpiling of finished stone shall be allowed outside an enclosed building.
- F. Storage of machinery and equipment for transporting such material shall be allowed outside an enclosed building.
- G. Public Utilities (Essential Services)
- H. All operations which are specifically governed by the mining permit issued by the New York State Department of Environmental Conservation shall be conducted only during the hours specified in such permit, although it shall be deemed the policy and recommendation of the Town of Clarendon for purposes of the mining permit process that such uses should be allowed only during the hours of 6:00 AM to 6:00 PM, Monday through Saturday, with no operations on Sundays. All other processing and/or plant operations permitted in the IM District shall be conducted within the hours of 6:00 AM to 6:00 PM, Monday through Friday and 6:00 AM to 4:00 PM on Saturdays, with no operations on Sundays, except that such hours may be extended due to specific extenuating circumstances making it necessary to complete previously commenced projects until 8:00 PM, Monday through Friday, and until 6:00 PM on Saturdays, provided that the owner/operator of the plant maintains on site a record of those projects necessitating the extended operations, which shall be made available to the Code Enforcement Officer upon request.
  - 1. The owner/operator may also obtain a temporary permit from the Code Enforcement Officer for extended hours of operation necessitated by specific contractual terms requiring the preparation and delivery of products outside of the permitted hours of operation by filing an application therefore with the Code Enforcement Officer at least seven (7) days prior to the date when the extended hours are to commence, which application shall include information as to the particular project sufficient to demonstrate the need for extended hours. Any permit issued by the Code Enforcement Officer for such extended hours shall specify the hours during which operations are permitted and the dates during which such extended hours shall be allowed.
  - 2. The foregoing limitations on hours of operation shall not apply to the normal and customary movement of vehicles to and from or within property in the IM District; or to any office functions, PROVIDED HOWEVER, that any vehicles or equipment operated on or within any property in the IM District which are required by law to maintain and utilize any form of alarm device shall be installed an alternate strobe light or other non-audible alarm device, and shall utilize such alternate non-audible device at all times that such use is permitted under applicable State or Federal regulations, including regulations of the Federal Mine Safety and Health Administration or Occupational Safety and Health Administration.
- I. Any exterior stockpiling and storage may be subject to conditions imposed by the Planning Board during site plan review.

**SECTION 580-3 – PERMITTED ACCESSORY USES (IM)**

The following are permitted accessory uses in the Industrial Mining District (IM). These uses also require a site plan to be submitted to the Planning Board for review and approval as provided in Article IX of this Ordinance:

- A. Accessory Structure.
- B. Storage, repair, servicing and maintenance of vehicles, machinery and equipment used in the processing, transportation and manufacture of mined materials or products.

**ARTICLE V  
DISTRICT REGULATIONS**

- C. Storage of gasoline, fuel oil, lubricants, tools, equipment and other supplies necessary for the repair and maintenance of industrial mining equipment. Storage of fuel, lubricants and other substances shall be in strict conformity with all Federal, State and local laws, ordinances, rules, regulations, permits and other promulgation regarding the same.

**SECTION 580-4 – BLASTING PERMITS (IM)**

- A. Applications for blasting permits shall be processed in accordance with Section 303 of this Ordinance.
- B. Blasting permits for blasting in the IM District may be issued for a maximum period of three (3) years, and shall expire at the same time as the mining permit issued by the New York State Department of Environmental Conservation.
- C. The mine operator shall design and submit with its application for a blasting permit a system to monitor seismic activity in the area of the mine. In the event any seismic event occurs in the area of the mine, all blasting activities shall cease until such time as it is determined by the U.S. Geological Survey or other governmental authority having jurisdiction that such blasting may continue without significant impact or future seismic activity.

**SECTION 580-5 – ADDITIONAL PROVISIONS AND REQUIREMENTS (IM)**

- A. The mine operator shall be required to obtain and maintain all Federal, State and local permits required for any and all aspects of the activities conducted on the premises. Any revocation of any such permits shall be deemed a violation of this Ordinance.
- B. The mine operator shall obtain and maintain a valid mining permit from the New York State Department of Environmental Conservation issued pursuant to Article 23 of the Environmental Conservation Law, Title 27.
- C. The Planning Board shall conduct site plan review in accordance with Article IX of this Ordinance. The applicant shall submit a completed SEQRA Environmental Assessment Form (6 NYCRR Part 617) to the Planning Board at the time of site plan submission. However, if the applicant has submitted such form to the New York State Department of Environmental Conservation in connection with its application for a mining permit and the Town or any of its Boards, Agencies or Departments has participated in a review of the environmental impacts of the operation as an interested party or lead agency and has received the applicable documents in connection with such review, no additional documents shall be required to be submitted and such previously received documents shall be considered in the site plan review. Nothing contained herein shall prevent the Town Board upon a rezoning of any property to the IM District, or the Planning Board on site plan review, from requiring the preparation of a Draft Environmental Impact Statement pursuant to 6 NYCRR Part 617, if the circumstances so warrant, unless a Draft Environmental Impact Statement has previously been prepared in conjunction with a coordinated review of the proposed mining operation by a State, Regional or County Agency.
- D. All mine operators shall enter into an agreement with owners of real property in the vicinity of the mine establishing a method whereby the value of such property shall be guaranteed by the mine operator. The Town Board shall determine those owners eligible to be parties to such an agreement and the form, terms and conditions thereof. The failure or refusal of any eligible owner(s) to enter into such agreement shall not adversely affect the mine operator's compliance with this subdivision, nor shall such failure or refusal impair any rights which the eligible owners might otherwise have against the mine operator.

**ARTICLE V  
DISTRICT REGULATIONS**

- E. The mine operator shall enter into an agreement with the Town of Clarendon regarding private water supplies and buildings. The agreement shall include a means for surveying or testing the wells and buildings to be covered by the agreement prior to any mining to determine the quality and quantity of the water, condition of the buildings and a method for the owners to present any claims to a tribunal authorized to determine the mine operator's responsibility for any damage if any, and to assess compensation to be paid by the operator, if any. The residents to be covered by this agreement and other terms and conditions shall be determined by the Town Board and the mine operator.
- F. Any property placed in the IM District shall revert to its immediately preceding zoning classification one year after the mine operator no longer has a valid mining permit from the New York State Department of Environmental Conservation, unless within that one year period the mine operator has the permit reinstated or otherwise obtains a new mining permit continuing substantially the same terms and conditions as the previous permit, or at such time the mine operator ceases to actively conduct mining operations on the property for a period of one year, whichever shall first occur.
- G. The mine operator shall allow the Planning Board and/or Code Enforcement Officer to inspect the premises and all mining operations on an annual basis. The Planning Board shall determine the need for and timing of such inspections, and shall provide the mine operator with a minimum of 24 hours advance notice.

**SECTION 580-6 – MINIMUM SPECIFICATIONS (IM)**

Unless otherwise specified in this Ordinance, the following dimensional specifications are applicable to all uses in the Industrial Mining District (IM):

- A. Minimum Lot Size – One Hundred (100) Acres
- B. Minimum Lot Frontage – Four Hundred (400) Feet
- C. Minimum Front Setback – Two Hundred (200) Feet
- D. Minimum Side Setback – One Hundred (100) Feet
- E. Minimum Rear Setback – Two Hundred (200) Feet

**SECTION 580-7 – SETBACKS FOR BLASING ACTIVITIES (IM)**

- A. Blasting for the purpose of extracting consolidated material shall not take place within eight hundred (800) feet of any residence, commercial building or industrial building, excluding those buildings owned by the mine operator and located within the bounds of the permitted mining area.
- B. Blasting for the purpose of establishing a site or sites for the installation of machinery or equipment shall not take place within six hundred (600) feet of any residence, commercial building or industrial building, excluding those buildings owned by the mine operator and located within the bounds of the permitted mining area.
  - 1. Blast area sites, depths and setbacks shall be clearly shown on site plans for all mines.
  - 2. Blast area sites shall be clearly marked on the land using stakes.
- C. Blasting of trenches or tunnels for the purpose of conveying or transporting material or for the purpose of controlling surface water, storm water or other water runoff may take place up to the property line of the mine operator, but only for such limited purposes and in strict conformity with all Federal, State and local laws, ordinances, rules, regulations, permits and other promulgations governing such, but not within the six hundred (600) foot distance from buildings as set forth in Section 580-7.B above.

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

<b>SECTION</b>	<i>(Rev 08/20/2019; 05/17/2022)</i>
<b>600</b>	<b>Sign Requirements</b>
<b>601</b>	<b>Permitted Uses/Accessory Uses</b>
<b>605</b>	<b>Off-Street Parking Areas and Related Driveways</b>
<b>606</b>	<b>Off-Street Loading Areas</b>
<b>607</b>	<b>Residential Driveways</b>
<b>608</b>	<b>Flag Lots</b>
<b>609</b>	<b>Buffer</b>
<b>610</b>	<b>Fences</b>
<b>611</b>	<b>Buffer Strips</b>
<b>612</b>	<b>Motor Vehicles</b>
<b>613</b>	<b>Junk. Debris.</b>
<b>614</b>	<b>Refuse and Recycling Containers</b>
<b>615</b>	<b>Landscaping</b>
<b>620</b>	<b>Improper Sewage Disposal</b>
<b>621</b>	<b>Disposal of Surplus Material</b>
<b>622</b>	<b>Emergency Housing</b>
<b>625</b>	<b>Unsafe Buildings and Collapsed Structures</b>
<b>626</b>	<b>Demolition Permits</b>
<b>630</b>	<b>Individual Mobile/Manufactured Homes</b>
<b>631</b>	<b>Farm Worker Housing</b>
<b>634</b>	<b>Code Regulations</b>
<b>635</b>	<b>State Environmental Quality Review Act (SEQRA)</b>
<b>636</b>	<b>Trailer, Travel/Camper/Recreational Vehicle</b>
<b>637</b>	<b>Trailer, Semi</b>
<b>638</b>	<b>Portable Storage Containers</b>
<b>639</b>	<b>Single Family Dwelling, Garage</b>
<b>640</b>	<b>Minimum Floor Area Requirements</b>
<b>641</b>	<b>Building Heights</b>
<b>642</b>	<b>Exterior Finishes</b>
<b>643</b>	<b>Exterior Lighting</b>
<b>644</b>	<b>Site Layout and Preservation of Natural Features</b>
<b>645</b>	<b>Performance Standards</b>
<b>650</b>	<b>Non-Conforming Uses, Lots and Structures</b>
<b>655</b>	<b>Swimming Pools, Hot Tubs, Spas and Fixed-in-place Wading Pools</b>
<b>656</b>	<b>Temporary Tents, Canopies and other Membrane Structures</b>
<b>658</b>	<b>Telecommunications Facility – Relocated to Article VII Section 731 (Rev )</b>
<b>659</b>	<b>Television Disc Antennas</b>
<b>660</b>	<b>Yard Sales</b>
<b>661</b>	<b>Standards for Blasting</b>
<b>662</b>	<b>Public Utilities (Essential Services)</b>
<b>663</b>	<b>Alternative Energy System (Solar Powered)</b>
<b>664</b>	<b>Alternative Energy System (Wind Energy Conversion System, WECS)</b>
<b>665</b>	<b>Church</b>
<b>666</b>	<b>Battery Energy Storage Systems (BESS)</b>
<b>670</b>	<b>Design Criteria &amp; Construction Specifications for Land Development</b>
<b>671</b>	<b>Keeping of Farm Animals on Residential and Non-Residential Lots</b>

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 600 - SIGN REQUIREMENTS**

- A. All signs within the Town of Clarendon shall comply with the general sign standards listed below.
  - 1. Signs may be illuminated but no sign shall consist of lights which flash or move or appear to move.
  - 2. No sign shall be higher than the principal building to which it is an accessory.
  - 3. No general advertising sign unrelated to the use of the premises is allowed.
  - 4. No sign shall be located in, project into or project over a public right-of-way.
  - 5. No more than one sign is permitted per site.
  - 6. All signs lawfully existing at the time of enactment of this Ordinance shall be allowed to remain provided they are properly maintained, their uses remain current, and they do not create a public hazard.
- B. Business/Commercial, Industrial and Agricultural uses may have a free-standing sign not to exceed 20 square feet and a sign on the building not to exceed 5 percent of the front facade of the building.
- C. Home Occupation signs shall not exceed six square feet in size.
- D. Non-Profit Organizations may advertise non-profit events using temporary signs for a period of up to forty (40) days prior to the event. Such signs shall be removed within forty-eight (48) hours after the event is complete.
- E. Temporary signs that advertise the work of contractors (such as driveway sealing, roofing, siding, painting, etc.) may be placed at a job site no sooner than the start date of work, and shall be allowed to remain at the job site for a maximum period of thirty (30) days. Such signs shall not exceed six square feet in size.

**SECTION 601 - PERMITTED USES/ACCESSORY USES (Rev.11/20/2012; 2020)**

- A. Except as expressly authorized herein, no more than one principal use and accessory uses thereto, shall be permitted on any lot. (6/19/2007)
- B. An Accessory Building or Structure may be allowed to be placed on a lot without a residence provided the following conditions are met.
  - 1. The accessory structure is for personal use by the owner. No renting or subletting shall be permitted
  - 2. All exterior areas of the property and premises shall be maintained in accordance with the latest edition of the Property Maintenance Code of New York State. (Rev. 09/18/2018)
- C. Permitted uses/Permitted Accessory uses shall comply with the setback requirements and all regulations applicable to the zoning district in which it is located. In addition, they shall comply with any other setback requirements specific to the intended use which may be otherwise specified in this Ordinance. (Rev. 09/18/2018; 2020)
- D. Mixed use occupancies may be allowed to be placed on a single lot provided the following conditions

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

are met:

1. They are located in a building or complex of buildings under one contiguous roof (strip mall).
2. They are an allowed use in the zoning district where they are proposed.
3. They conform to the minimum dimensional requirements for the use in the zoning district where they are proposed.
4. A site plan review has been conducted by the Planning Board and an appropriate Zoning Permit has been granted.

**SECTION 605 - OFF-STREET PARKING AREAS AND RELATED DRIVEWAYS**  
**(Excluding one and two family dwellings)**

- A. Off-street parking areas and related driveways constructed within the Town of Clarendon (except those associated with one and two family dwellings) shall conform to the following standards unless otherwise specified in this Ordinance.
1. No off-street parking areas shall be located less than 25 feet from any property line or within required buffer strips.
  2. All off-street parking areas shall have an asphalt and/or concrete surface unless otherwise determined by the Planning Board during the site plan review process. All surfaces shall be maintained in a smooth, uniform condition. Each individual parking space shall be identified by painted surface markings which are readily identifiable at all times. Each individual parking space shall have a minimum rectangular dimension of 10 feet by 20 feet.
  3. All off-street parking areas shall have designated fire lanes which are identified by painted surface markings which are readily identifiable at all times.
  4. All off-street parking areas shall be used exclusively for the parking of operable and legally registered passenger vehicles belonging to residents and guests. At no time shall any off-street parking area be used for the storage of materials or the repair or sale of any type of motor vehicle.
  5. All off-street parking areas shall provide a peripheral area for snow storage.
  6. All off-street parking areas shall provide for the proper drainage of surface water, and no surface water shall be allowed to drain onto adjacent properties or sidewalks. All water drainage systems shall be kept in a clean and proper working order.
- B. Driveways shall conform to the following standards, unless otherwise specified in this Ordinance:
1. All driveways shall be located so that vehicles can enter and exit the driveway without posing any substantial danger to themselves, pedestrians, or other vehicles; and do not cause substantial interference with the free flow of traffic on abutting streets.
  2. No driveway shall be located less than 200 feet from an intersection of public streets or less than 25 feet from any property line.
  3. No driveway shall be less than 25 feet in pavement width.
  4. To the extent practicable, off-street parking areas shall be served by one driveway. If more than one driveway is determined to be necessary, the minimum distance between driveways shall be 200 feet, measured in a straight line between the two closest driveway edges.
  5. All driveways shall have an asphalt and/or concrete surface unless otherwise determined by the Planning Board during the site plan review process. Driveways shall provide adequate drainage and be maintained in a smooth, uniform condition.

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

6. The layout of driveways and parking areas shall provide for the adequate ingress/egress of emergency equipment, service delivery vehicles, refuse collection vehicles and snow removal vehicles.
- C. Turn around areas shall conform to the following standards, unless otherwise specified in this Ordinance:
1. All off-street parking areas and driveways shall include sufficient turn-around areas so that no vehicles are required to back onto a public street. Turn-around areas shall have an asphalt and/or concrete surface unless otherwise determined by the Planning Board during the site plan review process. Turn around areas shall be maintained in a smooth, uniform condition.
- D. Parking spaces shall be provided as indicated below, unless otherwise specified in this Ordinance:
1. The following uses shall provide one off-street parking space for each employee on the maximum work shift, and one parking space for every 100 square feet of gross floor area: Restaurant; Tavern; Nursery/Garden Center; Farm and Garden Implement Store.
  2. The following uses shall provide one off-street parking space for each employee on the maximum work shift, and one parking space for every 200 square feet of gross floor area: Retail Business; Service Business; Professional Office; Public Facilities; Retail Fuel Outlet; Recreational Center; Agri-Business; Cold Storage Facility; Food Processing/Bottling Facility; Product Assembly Facility; Product Fabrication Facility; Storage Facility; Warehouse/Distribution Facility; Cosmetic Production Facility; Scientific Research Facility.
  3. The following uses shall provide one off-street parking space for each employee on the maximum work shift, and one parking space for every two children or adults in care: Child Day Care Center; Adult Day Care Center.
  4. The following uses shall provide one off-street parking space for each employee on the maximum work shift, and one parking space for every three storage spaces or storage units provided: Storage Facility.
  5. The following uses shall provide one off-street parking space for each employee on the maximum work shift, and one parking space for every room available for occupancy: Hotel/Motel.
- E. Miscellaneous Requirements:
1. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking shall be designed to eliminate the need to park on the pavement and/or shoulder of public highways.
  2. A violation of this provision is constituted by an observed overload of parking to off-site areas, neighboring properties or the highway right-of-way more than three times per month.
  3. A parking space shall not be less than ten (10) feet by twenty (20) feet, exclusive of access-ways and driveways. Single family residences need not exclude driveway area.
  4. Off-street parking areas shall not include any parking meters.
  5. All off-street parking areas, parking spaces, access isles, sidewalk curb ramps, sidewalks, markings, signage and other related facilities shall be in strict conformance

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

with the Americans with Disabilities Act (ADA), including the ADA document entitled Accessibility Guidelines for Buildings and Facilities.

6. Unless contrary to the requirements found in this section, any street that must be constructed to service a use shall meet the requirements of the most current ordinance, law, rule or regulation pertaining to Design Criteria and Construction Specifications for Land Development in the Town of Clarendon (i.e. - Subdivision Regulations).

**SECTION 606 - OFF-STREET LOADING AREAS**

- A. Off-street loading areas constructed within the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance:
  1. A minimum of one off-street loading area shall be provided for every three thousand (3000) square feet of gross floor area.
  2. No off-street loading areas shall be located within required buffer strips or within 50 feet of any property line.
  3. All off-street loading areas shall have an asphalt and/or concrete surface unless otherwise determined by the Planning Board during the site plan review process. Loading area surfaces shall be maintained in a smooth, uniform condition. Each individual loading space shall be identified by painted surface markings which are readily identifiable at all times. Each individual loading space shall have a minimum rectangular dimension of 25 feet by 70 feet.
  4. All off-street loading areas shall provide a peripheral area for snow storage.
  5. All off-street loading areas shall provide for the proper drainage of surface water, and no surface water shall be allowed to drain onto adjacent properties or sidewalks. All water drainage systems shall be kept in a clean and proper working order.

**SECTION 607 RESIDENTIAL DRIVEWAYS**

- A. All driveways servicing one and two family dwellings constructed within the Town of Clarendon shall conform to the following standards unless otherwise specified in this ordinance.
  1. Driveways shall be located and maintained so that vehicles can enter and exit the driveway without posing a substantial danger to themselves, pedestrians, or other vehicles; and do not cause substantial interference with the free flow of traffic on abutting streets, roads or highways.
  2. Driveways shall be a minimum of twelve (12) feet in width.
  3. Driveways shall be provided with a turn-around.
  4. Driveways (including turn-around) shall have a minimum of nine (9) inches of rolled and compacted crushed stone pavement base.
  5. Driveways shall be designed and constructed to provide proper drainage and to prevent the pooling of water on the driveway surface.
  6. Driveway grade changes shall be designed to prevent undercarriage damage.
  7. The driveway setback from any neighboring lot line shall be a minimum of five (5) feet.  
*(Rev 11/1/2021 )*
- B. All driveways in excess of one hundred fifty (150) feet from the road (as measured from the center of the road) shall, in addition, comply with the

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

following requirements;

1. Any structure, bridge, culvert etc. located within the driveway path shall be capable of bearing a minimum weight of 45,000 pounds (22.5 tons).
  2. A minimum side clearance of fifteen (15) feet (7.5 feet each side from centerline of driveway) shall be maintained over the entire length of the driveway. This clearance path shall include gates, fences, structures, vegetation or any other obstruction.
  3. A minimum vertical clearance of fifteen (15) feet shall also be maintained over the entire length of the driveway. This vertical clearance path shall include tree limbs, overhead wires, structures, or any other obstruction.
  4. All curves or turns in the driveway shall have a radius sufficient to permit the safe unobstructed passage of emergency vehicles.
- C. A private drive shall, in addition to any turnaround required in other parts of this section, provide a common turnaround, either a cul-de-sac or a “tee-type” (see Subdivision Regulations, Appendix II for details).  
*(Rev. 6/19/2007)*

**SECTION 608- FLAG LOTS** *(Rev. 09/18/2018)*

A. **PURPOSE:** Whereas, failure of compliance to the zoning regulations could create unreasonable building lot configurations, and whereas unregulated flag lots can have serious impact on land development, traffic, emergency access, fire protection and overall character of a neighborhood, the Planning Board has the discretion to approve residential flag lots within minor or major subdivisions within all zoning districts which permit residential uses.

B. All Flag lots shall be subject to Subdivision review by the Planning Board and shall conform to all standards set by the latest Zoning Ordinance and the Subdivision Regulations of the Town of Clarendon.

C. **Miscellaneous Requirements:**

1. Exclusive of the flagpole portion, the flag portion of the lot shall meet all minimum dimensional specifications for the zoning district in which it is located. Exception: There shall be no front yard frontage requirements. (See Article V-DISTRICT REGULATIONS).
2. A minimum flagpole frontage of 30 feet shall be provided; however, the Planning Board may require that the minimum flagpole width be increased on a parcel that is 10 acres in size or larger where it finds that the lot has the potential to be further subdivided.
3. No structure or accessory structure shall occupy any part of the flagpole portion of the lot.
4. Driveways for flag lots shall comply with Article VI, Section 607- RESIDENTIAL DRIVEWAYS of the Zoning Ordinance, and ARTICLE V- GENERAL REQUIREMENTS AND DESIGN STANDARDS of the Subdivision regulations.
5. The need for buffering shall be determined by the Planning Board as part of the Site Plan review.
- 6.. The minimum building setback line shall be no closer to the flagpole than 25 feet.

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 609 - BUFFER**

- A. The need for and the type of buffer, including but not limited to: fencing, buffer strip, additional setbacks, screening, sound proofing or any other means necessary to ensure compatibility and the health and welfare of adjoining properties shall be determined by The Planning Board as part of the Site Plan review process.
- B. Fences used as a buffer shall conform to the standards of Section 610 of this Article unless otherwise specified in this Ordinance.
- C. Buffer strips shall conform to the standards of Section 611 of this Article unless otherwise specified in this Ordinance.

*(Rev. 6/19/2007)*

**SECTION 610 - FENCES**

- A. Fences erected in the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance.
  - 1. Fences may be erected, altered, or reconstructed to a height not exceeding six (6) feet for residential uses and ten (10) feet for non-residential uses. Fence heights shall be measured at the highest point of ground directly below the fence.
  - 2. No fence shall cause obstruction to vision at street intersections.
  - 3. It shall be the owner's sole responsibility to ensure that any fence erected along a property line shall be erected wholly on the property of the owner and neither the fence itself nor any supporting accessory components thereof shall encroach upon adjoining properties. *(Rev 11/1/2021 )*
  - 4. The finished side (good side) of any fence shall face adjoining properties. Fence posts shall face in and away from any adjoining lots or property owned by others.
  - 5. The use of barb-wire fencing or the electrification of any fence within residential neighborhoods shall be prohibited, except when such fences are specifically designed and installed for agricultural purposes.

**SECTION 611 - BUFFER STRIPS**

- A. All buffer strips required to be constructed within the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance:
  - 1. Buffer strips shall have a minimum width of 25 feet and may be in addition to any required setback as determined by the Planning Board during the site plan review process.
  - 2. Buffer strips shall be adequately planted and maintained to provide a visual screen. Existing, mature vegetation shall be preserved and incorporated into buffer strips to the fullest extent practicable.
  - 3. At no time shall any principal or accessory building, structure, driveway, parking area or other use encroach into a buffer strip.

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 612 - MOTOR VEHICLES**

SEE LOCAL LAW NO. 3 OF THE YEAR 1997 and LOCAL LAW NO. 3 OF THE YEAR 2007:  
Regulating the Outside Storage of Unlicensed Vehicles in the Town of Clarendon.  
(Rev. 8/19/2008; Rev.09/18/2018)

**SECTION 613 – JUNK. DEBRIS.**

SEE LOCAL LAW NO.1 OF THE YEAR 2015 as adopted by the Town Board on 3/17/2015:  
Regulating the Outside Storage of Junk Materials in the Town of Clarendon. (Rev.09/18/2018;  
08/20/2019)

**SECTION 614 - REFUSE AND RECYCLING CONTAINERS**

- A. All commercial refuse and recycling containers within the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance:
1. Commercial refuse and recycling containers (such as dumpsters) shall be placed on concrete pads and completely surrounded by an opaque enclosure with an opaque gate.
  2. The height of the gated enclosure shall be a minimum of two feet above the highest point of the container. Enclosures shall be located a minimum of 50 feet from any property line, and shall incorporate building materials and colors that match the architecture of the principal building or structure on the lot.
  3. Commercial containers shall have a top or lid which closes completely and is proper working order at all times.

**SECTION 615 - LANDSCAPING**

- A. All landscaping required to be installed within the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance:
1. The lot shall be appropriately landscaped with a mixture of trees and shrubs to enhance the visual environment of the lot.
  2. All plants shall be maintained in a healthy growing condition and controlled by pruning, trimming or other suitable methods so the plants do not interfere with utilities, pedestrian and vehicular circulation, or otherwise create a traffic hazard.
  3. Where any tree or shrub which was required as part of an approved site plan is removed, such tree or shrub shall be immediately replaced with an equivalent tree or shrub.

**SECTION 620 - IMPROPER SEWAGE DISPOSAL**

The improper disposal of sewage, including the discharge of sewage into a ditch, road, stream, lake, or onto adjacent property is prohibited.

**SECTION 621 - DISPOSAL OF SURPLUS MATERIAL**

The disposal of surplus sludge, slurries, sediments, residues, used tires or tire products, medical wastes, and microbiological products is prohibited, unless otherwise authorized by the Town Board.

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 622 - EMERGENCY HOUSING**

- A. The Code Enforcement Officer is authorized to issue a Temporary Emergency Housing Permit when a principal residential dwelling is deemed uninhabitable by local, state or federal authorities due to fuel spills, fire, or other similar environmental or natural disasters.
- B. A Temporary Emergency Housing Permit shall have a term of four (4) consecutive months, and shall be renewed up to a maximum of two times at the discretion of the CEO. Each renewal shall be four (4) consecutive months in duration. Individual mobile/manufactured homes or other types of housing units approved by the CEO shall be allowed to be used as emergency housing.
- C. The Temporary Emergency Housing Permit shall be issued by the CEO only if the following conditions are complied with in full:
  - 1. The emergency housing is connected to a Health Department approved water supply system (water line, holding tank, etc.) and a Health Department approved sewage disposal system (holding tank, leach field, etc.)
  - 2. A bond in the amount of \$5000 shall be posted by the applicant to assure the emergency condition is promptly corrected and to assure the immediate removal of the temporary housing unit from the property upon correction of the emergency condition.
  - 3. Issuance of a building permit and certificate of occupancy by the CEO and payment of all required fees.

**SECTION 625 - UNSAFE BUILDINGS AND COLLAPSED STRUCTURES**

- A. **PURPOSE** - It is recognized that buildings made unsafe as a consequence of damage by natural elements, fire, age or general deterioration and structures that have collapsed as a consequence of neglect, deterioration or damage, pose a serious threat to life and property in the Town of Clarendon. It is the purpose of this section to promote the health, safety and general welfare of persons and property in the Town of Clarendon by requiring that any such unsafe building or collapsed structure be repaired or demolished and removed.
  - 1. Any persons in violation of the provisions of this section prior to the effective date of the Ordinance shall have six (6) months from the date this Ordinance goes into effect to comply with the requirements of this section. Upon the failure of such person to do so, they shall be deemed to be in violation of this Ordinance, and shall be subject to the procedures and penalties set forth herein.

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**B. ENFORCEMENT PROCEDURE**

1. Investigation and Report - The Code Enforcement Officer shall cause or make inspection thereof and report in writing to the Town Board his/her findings and recommendations in regard to its repair or demolition and removal, when in the opinion of the Code Enforcement Officer or upon receipt of information that a building:
  - a. Is dangerous or unsafe to the general public;
  - b. Is open at the doorways or windows making it accessible and an object of attraction to minors under the age of eighteen, as well as to vagrants and other trespassers;
  - c. Is a place of rodent infestation;
  - d. Presents any other danger to the health, safety, moral and general welfare of the public; or
  - e. Is unfit for the purposes for which it may lawfully be used.
  
2. Town Board Order - The Town Board shall thereafter consider such report and by Resolution, determine if, in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons in the manner provided herein.
  
3. Content of the Notice - The Notice shall contain the following:
  - a. A description of the premises.
  - b. A statement of the particulars in which the building is unsafe or dangerous.
  - c. An order outlining the manner in which the building is to be made safe and secure, or demolished and removed.
  - d. A statement that a hearing will be held before the Town Board at a specified time and place and upon a minimum of fifteen (15) days notice, for the purpose of affording the owner or such other person who is entitled to notice, pursuant to the provisions of this Section, the opportunity to be heard in opposition of the order.
  - e. A statement that the securing or removal of such building shall commence within thirty (30) days after such hearing, or within thirty (30) days after notice of default has been served if the owner or such other person who is served with notice does not appear at the hearing, and shall be completed within sixty (60) days after notice of default has been served, unless for good cause shown, such time shall be extended.
  - f. A statement that in the event of neglect or refusal of the person so served with the notice to Comply with the same, within the time periods specified in such notice, the Town of Clarendon will repair and secure, or demolish and remove, the offending building and all charges incurred by the Town of Clarendon in connection with the same will be assessed in accordance with the provisions of this Section.
  
4. Service of the Notice - The Notice shall be served as follows:
  - a. By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

- buildings as shown by the records of the receiver of taxes or the County Clerk, or if no such person can be reasonably found;
- b. By mailing to such owner or other persons by registered mail, a copy of such notice directed to his last known address as shown by the above records; and
  - c. By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
  - d. By securely affixing a copy of such notice upon the unsafe building.
5. Filing of the Notice - A copy of such notice shall be filed in the office of the County Clerk of the county in which such building or structure is located, which notice shall be filed by such Clerk in the same manner as a Notice of Pendency pursuant to Article 65 of the Civil Practice Laws and Rules, and shall have the same effect as a Notice of Pendency as therein provided, except as otherwise hereinafter provided in this paragraph. A notice so filed shall be effective for a period of one (1) year from the date of filing, provided however, that it may be vacated upon the order of the Town Attorney. The Clerk of the County where such notice is filed shall mark such notice and any record or docket thereof as the presentation and filing of such consent or a certified copy of such order.
- C. ASSESSMENT OF EXPENSES - All expenses incurred by the Town in connection with the proceedings to repair and secure or to demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.
- D. EMERGENCY CASES - When it appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the notice required by this Section shall, in lieu of the requirements of Section 625, Subparagraph B, Sections 4 and 5 hereof, direct the owner or such other person as may be entitled to notice thereof to immediately repair and secure or demolish the unsafe building. Upon failure or refusal of such owner or other person to repair or demolish such building within seventy-two (72) hours after service of such notice, the Town Board may by resolution authorize the Code Enforcement Officer to immediately cause the unsafe building to be repaired or demolished. The expense of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 625, Subparagraph C hereof.
- E. ADDITIONAL PROVISIONS AND REQUIREMENTS - Any persons in violation of the provisions of this section prior to the effective date of this Ordinance shall have six (6) months from the date this Ordinance goes into effect, to comply with the requirements of this Section. Upon failure of such person to do so, he/she shall be deemed to be in violation of this Ordinance, and he/she shall be subject to the procedures and penalties set forth herein.

**SECTION 626 - DEMOLITION PERMITS**

All demolition permits will be issued by the Town of Clarendon Code Enforcement Officer (CEO). Demolition permits shall expire one (1) year from the date of issue.

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 630 - INDIVIDUAL MOBILE/MANUFACTURED HOMES**

- A. The following standards are applicable to all mobile/manufactured homes within the Town of Clarendon:
1. No mobile/manufactured home, except those on lots presently occupied by a mobile/manufactured home or in an approved mobile/manufactured home park, shall be allowed in the Town of Clarendon. *Exception:* Mobile/Manufactured homes used for farm worker housing on an active farm located in a State Certified Agricultural District which are accessory to the agricultural use and are occupied by employees of the farm or members of the farm household and their guests.  
(Rev. 8/19/2008)
  2. Only mobile/manufactured homes manufactured after the implementation of the Housing and Community Development Act (June 16, 1976) shall hereafter be placed in the Town of Clarendon.
  3. Mobile/manufactured homes placed in the Town of Clarendon shall not be less than twenty (20) feet in width nor less than 850 square feet by measure of its exterior dimension.
  4. A storage shed must be located on each mobile/manufactured home lot within six (6) months after the mobile/manufactured home is placed on the lot. The shed will provide necessary storage space to compensate for the units lack of an attic or basement.
  5. Every mobile/manufactured home shall be placed on a permanent slab foundation. All permanent slab foundations shall be constructed of either poured concrete or concrete blocks, constructed in accordance with the requirements of the Building Code of New York State.
  6. The area between the base of the mobile/manufactured home and the ground shall be enclosed with metal, wood or vinyl skirting, unless the mobile/manufactured home is placed on a block wall foundation, or a poured concrete foundation. This enclosure must be completed with ninety (90) days after placement of the mobile/manufactured home on the site.
  7. Mobile/manufactured homes shall comply with all applicable provisions of this Ordinance pertaining to One Family Dwellings.
  8. For the purposes of this Ordinance, double wide mobile/manufactured homes shall be considered and regulated the same as single wide mobile/manufactured homes.
  9. Any mobile/manufactured home on an individual lot that remains uninhabited for a period in excess of one (1) year shall lose its status as a mobile/manufactured home and the premises shall revert to a residential lot.
  10. Any individual mobile/manufactured home that is installed as a replacement for an existing approved individual mobile/manufactured home shall have been manufactured within 10 years of the year of replacement.

**SECTION 631 – FARM WORKER HOUSING**

- A. All Farm Worker Housing installed within the Town Of Clarendon is subject to the following

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

conditions:

1. Site Plan Review and Building Permit approval.
  2. Periodic review by the Town of Clarendon Code Enforcement Officer (CEO).
  3. Annual certification in writing by the owner of the farm to the Town of Clarendon Code Enforcement Officer (CEO) that the resident(s) of the Farm Worker Housing is either a full-time worker or works at least fifty one (51) percent of the time on the farm on which said housing is located.
  4. Compliance with Town of Clarendon Zoning Ordinance, Orleans County Health Department, and all applicable State and Federal regulations.
- B. The minimum front, side and rear setbacks for Farm Worker Housing shall comply with the dimensional requirements established for Zoning District that it is located within.
- C. The minimum lot shall be of adequate size to accommodate required separation between a well and the waste water disposal system. Adequacy of well (if used) to supply anticipated demand and the design of waste water disposal system shall be approved by the Orleans County Health Department.
- D. The minimum square foot dimensional requirements for structures used for Farm Worker Housing shall comply with requirements set forth in the New York Codes, Rules and 6 Regulations (NYCRR), Title 10, Section 15.6.
- E. Mobile/Manufactured homes used for Farm Worker Housing shall either carry a certifying label and data plate or shall provide certification that they have been inspected and are structurally sound and free of heating and electrical system hazards per Residential Code of New York State, AE 102.6.
- F. Farm Worker Housing may not be rented to persons not primarily employed on the farm on which it is located.
- G. Mobile/Manufactured homes utilized for Farm Worker Housing that have not been occupied for that use for a period of three (3) years shall be removed from the property.  
(Rev. 8/19/2008)

**SECTION 634 - CODE REGULATIONS** (rev 08/20/2019)

- A. All structures constructed in the Town of Clarendon after the effective date of this Ordinance shall conform to requirements in the latest edition of the following:
1. International Building Code
  2. International Residential Code
  3. International Existing Building Code
  4. International Fire Code
  5. International Plumbing Code
  6. International Mechanical Code
  7. International Fuel Gas Code
  8. International Property Maintenance Code
  9. Uniform Support Code

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

10. National Fire Protection Agency
  11. National Electrical Code
- B. An electrical inspection, performed by an electrical inspection agency approved by the Town of Clarendon, is required on all additions to structures, garages, barns and accessory buildings.
- B. All residential structures hereafter constructed in the Town of Clarendon shall have a properly functioning sewage disposal system.

**SECTION 635 - STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)**

- A. The State Environmental Quality Review Act (SEQRA) requires that local government examine the environmental impact of all actions they permit, fund or construct. Article 8 and Title 6 NYCRR Part 617 are hereby adopted by reference.
- B. All applications require the submission of an Environmental Assessment Form.
- C. The following municipal bodies shall be lead agency for the purposes of SEQRA, unless otherwise determined by the Town Board:
1. Zoning Text Amendments - Town Board
  2. Zoning District Amendments - Town Board
  3. Special Permits - Planning Board
  4. Site Plan Review - Planning Board
  5. Area Variance - Zoning Board of Appeals
  6. Use Variance - Zoning Board of Appeals
- D. If after review of the Environmental Assessment Form there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the Environmental Impact Statement shall be conducted according to Title 6 NYCRR Part 617.

**SECTION 636 – TRAILER, TRAVEL/CAMPER/RECREATIONAL VEHICLE  
(Rev. 11/20/2012; 09/15/2015; 05/17/2022)**

- A. Travel trailers, campers and recreational vehicles shall not be used in Lieu of permanent storage, nor shall they be used in lieu of a permanent residence.
- B. Travel trailers, campers, and recreational vehicles lawfully located within an approved campground, or where permitted as a seasonal dwelling, may be occupied for a period not to exceed 180 days per calendar year. (Rev. 6/19/2007).

**ARTICLE VI**  
**REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

- C. Travel trailers, campers, and recreational vehicles lawfully located on a private lot may be occupied on an overnight basis for a period not to exceed 30 days per calendar year.
- D. No more than two travel trailers, campers and recreational vehicles shall be parked on a private lot at the same time. Note: Additional travel trailers, campers and recreational vehicles shall be allowed for special events (weddings, graduations, family gatherings, etc.) and may be occupied on an overnight basis for a period not to exceed 14 days per calendar year. (Rev. 5/17/2022)
- E. Travel trailers, campers and recreational vehicles lawfully located on a private lot shall be positioned in the side yard or rear yard of the lot.
- F. Travel trailers, campers and recreational vehicles lawfully located on a private lot shall comply with the setbacks required for residential buildings in the respective zoning district.
- G. All Travel trailers, campers and recreational vehicles occupied on an overnight basis shall be equipped with self-contained potable water and sanitary sewage collection.
- H. No “gray water” or sewage shall be drained or dumped from any camper except into such collection vehicles or septic disposal systems approved by the Orleans County Health Department for such purpose.
- I. All Travel trailers, campers and recreational vehicles shall maintain and display a current license/registration/inspection as required by the State of New York.
- J. No skirting, permanent tie downs, attachments to permanent buildings, attachment to a permanent foundation, electrical supply, water supply, natural gas, or septic system shall be allowed for Travel trailers, campers and recreational vehicles lawfully located on a private lot.
- K. No Travel trailers, campers, and recreational vehicles shall park or remain parked on any public thoroughfare within the Town of Clarendon for a period to exceed four (4) hours.
- L. The Ordinance Inspection Officer has the authority to issue a letter of non-compliance/hardship for Sub-sections E and F of this Section 636.

**SECTION 637 - TRAILER, SEMI**

- A. Trailers shall not be used in lieu of permanent storage.
- B. Trailers intended for the temporary storage of materials, part, or goods as part of a permitted construction project shall be allowed. Such trailers shall be removed from the premises within 30 working days of the issuance of the Certificate of Occupancy.

**ARTICLE VI  
REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS**

**SECTION 638 – PORTABLE STORAGE CONTAINERS**

- A. Portable Storage Containers shall not be used in lieu of permanent storage.
- B. No more than one Portable Storage Container shall be allowed on a lot of record and for no more than a total of thirty (30) days in any Consecutive twelve (12) month period.
- C. No Portable Storage Container shall be allowed on a lot of record where there is no principal structure.
- D. Portable containers used as part of a permitted construction project shall be allowed. Such containers shall be removed from the premises within thirty (30) working days of the issuance of the Certificate of Occupancy.
- E. Unless approved in writing by the Code Enforcement Officer the location of a Portable Storage Container shall comply with the setback requirements for the zoning district in which it is located. At no time shall a Portable Storage Container be situated on any lot where it's placement would impair or obstruct visual sight line to any public thoroughfare.

*(Rev. 6/19/2007)*

**SECTION 639 - Single Family Dwelling, Garage**

- A. Each Single Family Dwelling constructed within the Town of Clarendon Shall provide sufficient space to accommodate future construction of a two car garage.
- B. Space provided for a future two car garage shall be sufficient to maintain minimum setback specifications for the land use district in which it is located.

*(Rev. 6/19/2007)*

**SECTION 640 - MINIMUM FLOOR AREA REQUIREMENTS**

- A. Dwellings hereafter erected in the Town of Clarendon shall meet the following minimum floor area requirements:
  - 1. One story dwellings shall contain a minimum of eight hundred fifty (850) square feet of habitable ground floor area.
  - 2. One and one-half story dwellings shall contain a minimum of seven hundred (700) square feet of habitable ground floor area.
  - 3. Two story dwellings shall contain a minimum of six hundred (600) square feet of habitable ground floor area.
- B. The provisions of this section shall not apply to structures used for Farm Worker Housing on an active farm located in a State Certified Agricultural District which are accessory to the agricultural use and are occupied by employees of the farm or members of the farm household and their guests. *(Rev. 8/19/2008)*

## **SECTION 641 - BUILDING HEIGHTS**

- A. Principal buildings or structures shall not exceed two stories or 35 feet in height above grade, including special architectural elements such as chimneys, cupolas or spires, unless otherwise specified in this Ordinance.
- B. Accessory buildings or structures shall not exceed 20 feet in height above grade, unless otherwise specified in this Ordinance.

## **SECTION 642 - EXTERIOR FINISHES**

- A. The architectural treatment and general appearance of all new principal and accessory buildings shall be of such quality and materials so as to be a visual asset to the area in which they are located.
- B. The Planning Board shall consider all exterior building material selections as part of the site plan review process and shall be the final arbiter.

## **SECTION 643 - EXTERIOR LIGHTING**

- A. All exterior lighting required to be erected within the Town of Clarendon shall conform to the following standards unless otherwise specified in this Ordinance:
  - 1. All driveways, parking areas, sidewalks and other common use areas or facilities shall be sufficiently illuminated to ensure the security of the property and the safety of the public.
  - 2. Lighting fixtures shall be sited so that light or glare are not directly cast upon adjacent properties or cause substantial interference with the use or enjoyment of neighboring properties.

## **SECTION 644 - SITE LAYOUT AND PRESERVATION OF NATURAL FEATURES**

- A. To the fullest extent practicable, all new buildings and parking areas constructed in the Town of Clarendon shall be oriented toward the interior rather than the periphery of the lot so that green space abuts adjacent properties.
- B. To the fullest extent practicable, all new buildings and parking areas shall be designed to minimize land grading and to preserve the natural topography and features on the site (such as trees, streams, wetlands and historic features).
- C. All blue line streams shall remain in their natural state and shall not be piped, except for necessary driveway crossings. All principal and accessory buildings, structures, driveways, parking areas, or other uses shall be set back a minimum of 30 feet from the top of any stream bank.

## **SECTION 645 - PERFORMANCE STANDARDS**

- A. All uses established in the Town of Clarendon shall comply with the following performance standards:
1. Decency - No use or operation shall produce, display, sell, transmit or broadcast lewd, indecent, immoral or illegal acts, or deviant behavior or sexual activities appealing to prurient interests. It is hereby declared that such uses and activities offend the contemporary community standards of the Town of Clarendon.
  2. Sound - No use or operation shall produce or emit sound in such volume and/or frequency as to become a public nuisance or hazard beyond the property lines.
  3. Radioactivity - No use or operation shall produce or emit radioactive radiation in violation of the U.S. Nuclear Regulatory Commission Standards for Protection Against Radiation (Title 10 CFR Part 20) and all applicable regulations of the State of New York.
  4. Odor - No use or operation shall produce or emit odorous gases or other odorous matter in such quantity as to be readily detectable at any point beyond the property lines without the use of measuring devices or instruments.
  5. Toxic or Noxious Matter - No use or operation shall produce or emit toxic or noxious matter in such quantity as to be readily detectable at any point beyond the property lines, or in such quantity as to cause injury or damage to property or become detrimental or dangerous to public health, safety, comfort or welfare.
  6. Glare - No use or operation shall direct or reflect glare in such quantity as to be readily detectable at any point beyond the property lines.
  7. Dust and Fly Ash - No use or operation shall produce or emit solid or liquid particles in such quantity as to be readily detectable at any point beyond the property lines or to become a public nuisance or hazard beyond the property lines.
  8. Smoke - No use or operation shall produce or emit smoke in such quantity as to become a public nuisance or hazard beyond the property lines.

## **SECTION 650 - NON-CONFORMING USES, LOTS AND STRUCTURES**

- A. Non-Conforming Uses - It is the intent of this Zoning Ordinance to permit Non-Conforming uses to continue until they are removed but not to encourage their survival. While a change of ownership of a Non-Conforming Use, Lot or Structure shall not affect its right to continue the use, it shall require a review, approval and re-issuance of the Certificate of Non-Conformance by the Town Board to the new owner.
1. Discontinuance – Whenever a non-conforming use has been discontinued for a period of one (1) year by the existing property owner of record of such non-conforming use, it shall not thereafter be re-established and any future use shall be in conformity with the provisions set forth in this Zoning Ordinance.
  2. Displacement – No non-conforming use shall be extended to displace a conforming use.
  3. Reconstruction – Any structure containing a non-conforming use which has been wholly or partially destroyed by means other than intent or design may be reconstructed or repaired within one (1) year thereafter for the designated non-conforming use existing prior to the event.

*(Rev 11/16/2010; 05/17/2022)*

B. Non-Conforming Lots, Structures - Any use of land or structure, which use was lawful at the time of the effective date of this Ordinance, may be continued; provided, however, that such use shall have continued in operation, does not constitute a nuisance and shall not be enlarged, altered or changed in area, activity or content during its continuance subject to the following provisions:

1. Enlargement – USE or STRUCTURE: No use or structure on a No non-conforming lot of record shall be enlarged or increased, nor extended to occupy a greater area of land, than was occupied at the effective date of this Ordinance. LOT: Nothing shall prevent a Non-Conforming Lot of record from being enlarged or increased to occupy a greater area of land than was occupied at the effective date of this Ordinance. If the lot size increases sufficiently to comply with the required land area requirements, the Non-Conforming status will be discontinued. *(Rev.09/18/2018)*
2. Alterations - A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty (50) percent of the full value of the structure, unless the structure is changed to a conforming use.
3. Structures Under Construction – Any building or structure for which construction was begun prior to the effective date of this Law, or any subsequent applicable amendment, may be completed and used in accordance with the plans and specifications submitted for the building or structure provided that their construction is completed within one (1) year after the effective date of this Ordinance.
4. Reconstruction - Any structure containing a non-conforming use which has been wholly or partially destroyed by means other than intent or design may be reconstructed or repaired within one (1) year thereafter for the designated non-conforming use existing prior to the event.
5. Changes - Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
6. Moving - Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

*(Rev 11/16/2010; 05/17/2022)*

C. Issuance of a Certificate of Non-Conformance for Existing Undersized Lots and Structures shall apply to the property of Record. Any non-conforming lot which was lawful at the time of the effective date of this Ordinance but does not comply with all the provisions of this Ordinance may be continued in use.

1. No building permit shall be issued for the construction of any structure upon any Non-Conforming lot within any zoning district, which structure cannot comply with the current dimensional setback standards and requirements of such district.

D. Issuance of a Certificate of Non-Conformance for a specific Use shall apply only to the property owner of Record. Any subsequent sale and transfer of ownership shall require a review, approval and re-issuance of the Certificate of non-Conformance by the Town Board to the new owner.

*(Rev 11/16/2010; 05/17/2022)*

## **SECTION 655 – SWIMMING POOLS, HOT TUBS, SPAS & FIXED-IN-PLACE WADING POOLS**

- A. Swimming Pools, Hot Tubs, Spas, and fixed-in-place Wading pools may only be installed as accessory structures to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests. No Swimming Pool, Hot Tub, Spa, or fixed-in-place Wading pool shall be installed or maintained unless it complies with the following;
1. A building permit shall be issued by the Town of Clarendon Code Enforcement Officer (CEO) insuring that all provisions required by Chapter 41 of the Residential Code of New York State have been met.
  2. The pool is installed in the rear or side yard of the premises.
  3. The pool complies with all setback restrictions for the Zoning District.
  4. Such pool area shall not occupy more that fifty (50) percent of the open area of the rear or side yard after compliance with all setback restrictions.
- B. Pool alarms. Each residential swimming pool installed, constructed or substantially modified after December 14, 2006 and each commercial swimming pool installed, constructed or substantially modified after December 14, 2006 shall be equipped with an approved pool alarm which:
1. Is capable of detecting a child entering the water and giving an audible alarm when it detects a child entering the water;
  2. Is audible poolside and at another location on the premises where the swimming pool is located;
  3. Is installed, used and maintained in accordance with the manufacturer’s instructions;
  4. Is classified by Underwriter’s Laboratory, Inc.

*(Rev. 6/19/2007)*

## **SECTION 656- TEMPORARY TENTS, CANOPIES AND OTHER MEMBRANE STRUCTURES**

- A. Temporary tents, canopies, air-supported, air-inflated or tensioned membrane structures shall not be used in lieu of permanent storage.
- B. Temporary tents, canopies, air-supported, air-inflated or tensioned membrane structures having an area in excess of 200 square feet shall not be erected, operated or maintained for any purpose without approval from the Code Enforcement Official (CEO).
- C. Temporary tents, canopies, air-supported, air-inflated or tensioned membrane structures shall be used for a period of not more than 180 days within a 12-month period on a single premise.
- D. Temporary tents, canopies, air-supported, air-inflated or tensioned membrane structures shall be in compliance with the setback requirements of the Zoning District in which they are located. They shall not be located within 20 feet of other buildings, tents, canopies, air-supported, air-inflated or tensioned membrane structures, parked vehicles or internal combustion engines.
- E. Buildings of this type or design used as Agricultural Structures and located within a listed Agricultural District are exempt from the requirements of this section.

## **SECTION 659 - TELEVISION DISC ANTENNAS**

- A. Television disc antenna shall be sited on the subject premises so that the value or use of surrounding properties is not diminished or adversely affected. The following regulations shall apply to the installation and maintenance of television disc antennas:
1. No more than one television disc antenna shall be placed on any lot.
  2. Television disc antennas shall be located in rear yards only and shall be considered an accessory structure requiring compliance with all dimensional setback requirements.
  3. Television disc antennas shall not be located or situated on any trailer or portable device.
  4. Television disc antennas shall not be connected to or placed upon any roof, and shall not, at any point or part of the antenna, be elevated to a height of more than fifteen (15) feet above the natural grade of the subject premises. In no event shall the natural grade be altered to increase the elevation of the antenna.
  5. This Section does not apply to Digital Satellite Systems.

## **SECTION 660 - YARD SALES**

Only three (3) yard sales, porch sales, garage sales, barn sales or similar sales shall be permitted per household during each calendar year. In no event shall any sale exceed four (4) days in duration.

## **SECTION 661 - STANDARDS FOR BLASTING**

During the actual conduct of blasting operations, signs shall be posted indicating that blasting is being conducted. Signs shall read: **BLASTING AREA, DANGER, KEEP OUT**. Signs shall be clearly visible at all times from the boundaries of the affected area.

### **A. STANDARDS FOR PERMIT**

1. A Blasting Permit shall be granted only when it is in compliance with all of the applicable regulations of this Ordinance.
2. The applicant shall present to the Planning Board satisfactory evidence of the existence of all other required state, federal and/or local permits which may be required.
3. The applicant shall submit proof to the Planning Board of current valid liability insurance, such insurance to be adequate in relation to the blasting proposed, to provide for the payment of any damages arising from the permitted blasting. Adequacy of coverage to be determined by the Town Engineer or consulting Engineer.
4. In consideration of an application for a blasting permit, the Planning Board shall find that such issuance will not endanger the stability of adjacent land or structures or constitute a detriment to public health, safety or welfare by reason of excessive noise, dust, unsafe blasting practices or any other condition that would not serve the best interests of the Town.
5. Where it is determined by the Planning Board that the issuance of a blasting permit may result in the creation of pits or holes which may be hazardous or dangerous, and eventually permanent in nature, the applicant shall provide for a plan for reclaiming the land so affected.

## B. STANDARDS FOR BLASTING

1. No blasting operations shall be conducted within the Town of Clarendon when the purpose and/or effect of such proposed blasting may be accomplished by any other feasible means available to the applicant, it being the intention hereof to limit the blasting within the Town of Clarendon to those activities or purposes which cannot be accomplished by the applicant by any other practical means other than that of actual blasting.
2. No explosives shall be detonated during blasting operations in excess of the following levels and standards:
  - a. Particle Velocity - No detonation of explosives or series of explosive charges shall produce at any time a particle velocity in excess of zero and five tenths (0.5) inch per second for walls and stone foundations.
  - b. Air Pressure - No detonation of explosives or series of explosive charges shall produce at any time a peak overpressure in excess of 110 decibels. These values are in accordance with USBM RI 8507.
  - c. For the purpose of these provisions, measurements of particle velocity and air pressure shall be made on the ground adjacent to the nearest public dwelling, school, church or residential or other commercial or institutional building or structure not on the property of the applicant.
  - d. The Town of Clarendon reserves the right to modify the above upper limiting values of particle velocity and overpressure in cases of unusually damage-prone structures, structures of significant historical value, or in cases of justifiable complaints.
  - e. The applicant shall be subject to and shall at all times be in compliance with all applicable provisions and regulations of the Occupational Safety and Health Administration (OSHA), Subpart U. of OSHA Standards 1926.900 to 1926.914 - Blasting and Use of Explosives. The applicant shall be subject to and shall at all times be in compliance with all applicable provisions and regulations of Rule No. 23 of the Industrial Code of the New York State Department of Labor, 23-61 to 23-63, Explosives. Should the applicant be found to be in violation of either of the above regulations, or any part thereof, the permit hereunder may be suspended or revoked until such time as the applicant comes into compliance.
  - f. The Planning Board may require any operation that requires blasting to monitor wells within one-half mile of the blasting site for water level and water quality prior to the blast or blasts and to continuously monitor these wells to determine any change in either water level or quality of water. The expense of repairing any damaged well shall be borne by the blasting permit applicant.
  - g. The Planning Board may require any operation that requires blasting to monitor structures within one-half mile of the blasting site for existing damage prior to issuance of a permit.
  - h. No more than two (2) blasts shall occur within the Town of Clarendon during any twenty-four (24) hour period.

## C. REQUIREMENTS

1. All detonation of explosives shall take place between the hours of 10:00am and 3:00pm and no detonation of explosives shall take place either Saturday or Sunday or on any

- legal holiday.
2. All applicants shall prominently display adequate signs warning against the use of mobile radio transmitters on all roads within one thousand feet (1,000') of the affected area.
  3. The applicant may be required to provide additional reasonable safety precautions as may be required by the Planning Board for specific field conditions or conduct of the blasting operations.

**SECTION 662 – PUBLIC UTILITIES (ESSENTIAL SERVICES) (Rev 10/21/2014)**

- A. The Planning Board shall determine the following prior to approving a site plan review for Public Utilities (Essential Services):
1. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
  2. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located. In determining whether any such proposed building conforms to the requirements of this section:
    - a. The Planning Board shall consider the proposed use of the structure, its anticipated hours of operation, the effect of the structure's location on traffic flow, and the adequacy of parking, landscaping, exterior lighting and noise control.
    - b. All other applicable requirements of the code shall be met.

**SECTION 663 – ALTERNATIVE ENERGY SYSTEM (SOLAR POWER)(PRIVATE)**  
*(Rev.11/20/2012; 10/21/2014)*

- A. Solar powered alternative energy systems are permitted in designated land use districts as an accessory use to a residential use.
- B. A building permit is required for all solar powered alternative energy systems; Article III, Section 301.
- C. Solar powered alternative energy systems shall provide power for the principal residential use and/or residential accessory use of the property on which it is located and shall not be used for the generation of power for sale to others. This provision does not prohibit the sale of excess power generated from time to time to the local utility company. Written authorization is required from the local utility company acknowledging and approving such connections.
- D. All roof mounted Solar powered alternative energy systems shall be mounted on a principal building or accessory building and may not exceed the maximum building heights allowed by Article VI, Section 641.
- E. All free standing solar collectors, and any associated components of a solar powered alternative energy system, shall be positioned on the owner's property in such a manner as to allow a

minimum distance of one and one-half times the height of the structure from the nearest property line. All power transmission lines from a ground mounted systems shall be located Underground.

F. Notwithstanding the provisions of subparagraph (A) above, the placement of any such Solar powered alternative energy system on property in the Town of Clarendon shall comply with the setback and other provisions of this Ordinance and shall also comply with all applicable Local, State and Federal codes, rules and regulations.

G. The design of the Solar powered alternative energy system shall comply to industry standards. The applicant shall submit certificates of design compliance to the New York State Uniform Fire Prevention and Building Code from the equipment manufacturers certified by a licensed engineer. All electrical equipment and wiring used in conjunction with a Solar powered alternative energy system shall comply with the applicable section of the National Electric Code (NEC) and if connected to the grid, with all requirements of the local Utility Company. All power transmission lines shall be located underground.

H. Solar panels shall be placed so that concentrated radiation or glare shall not be directed onto nearby properties or roadways.

I. Solar powered alternative energy system shall not be located within the required front yard setback.

J. If the solar powered alternative energy system is abandoned or in a state of disrepair it shall be the responsibility of the property owner to either remove or repair the system as necessary. Any earth disturbance associated with the removal of a ground mounted system shall be properly restored, graded and seeded.

K. The need for buffering, additional setbacks, fencing, screening or any other means may be necessary to ensure compatibility with the surrounding neighborhood. This shall be determined by the Planning Board as part of the site plan review process.

#### **SECTION 664 – ALTERNATIVE ENERGY SYSTEM (Wind Energy Conversion Sys (WECS) (PRIVATE) (Rev. 6/19/2007; 11/20/2012; 10/21/2014)**

A. Wind energy conversion systems are permitted in designated land use districts as an accessory use to a residential use.

B. A building permit is required for all Wind energy conversions systems; Article III, Section 301.

C. Wind energy conversion systems shall provide power for the principal residential use and/or residential accessory use of the property on which it is located and shall not be used for the generation of power for sale to others. This provision does not prohibit the sale of excess power generated from time to time to the local utility company. Written authorization is required from the local utility company acknowledging and approving such connections.

D. The design of the Wind energy conversion system shall comply to industry standards. The applicant shall submit certificates of design compliance from the equipment manufacturers to

the New York State Uniform Fire Prevention and Building Code certified by a licensed engineer. All electrical equipment and wiring used in conjunction with the Wind energy conversions system shall comply with the applicable section of the National Electric Code (NEC) and if connected to the grid, with all requirements of the local utility company. All power transmission lines shall be located underground.

- E. All Wind energy conversion systems and any associated components shall be positioned on the owner's property in such a manner as to allow a minimum distance of one and one-half times the height of the structure from the nearest residential dwelling, accessory structure or property line.
- F. All Wind energy conversion systems shall be sited in such a manner so as to minimize shadowing or flicker impacts on adjoining properties.
- G. Wind energy conversions systems shall not be located within the required front yard setback.
- H. The clearance distance between the ground and any moving rotor or blade system shall be no less than ten (10) feet.
- I. All Wind energy conversions systems shall be designed with an automatic brake to prevent over-speeding and excess pressure on the tower structure.
- J. The need for buffering, additional setbacks, fencing, screening, or any other means may be necessary to ensure compatibility with the surrounding neighborhood. This shall be determined by the Planning Board as part of the site plan review process.
- K. If the Wind energy conversion system is abandoned or in a state of disrepair it shall be the responsibility of the property owner to either remove or repair the system as necessary.

#### **SECTION 665 – CHURCH** *(Rev 10/21/2014)*

- A. The Planning Board shall determine the following prior to approving a site plan review for a church.
  - 2. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located. In determining whether any such proposed building conforms to the requirements of this section:
    - a. The Planning Board shall consider the proposed use of the structure its anticipated hours of operation, the effect of the structure's location on traffic flow, and the adequacy of parking, landscaping, exterior lighting and noise control.
    - b. All other applicable requirements of the code shall be met.
- B. Dimensional Requirements:
  - 1. Minimum Lot Size – 40,000 Square Feet.
  - 2. Minimum Lot Frontage – 200 Feet.
  - 3. Minimum Lot Depth – 200 Feet.
  - 4. Minimum Front Setback – 125 Feet.

5. Minimum Side Setback – 50 Feet.
6. Minimum Rear Setback – 50 Feet.
7. This use shall be allowed on flag lots.

C. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*

D. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every four persons based on maximum capacity. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.

E. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.

F. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health department regulations.

G. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

## **ARTICLE VI, SECTION 666, Battery Energy Storage Systems (BESS)**

### **1. AUTHORITY**

This Battery Energy Storage System Regulation is adopted pursuant to Article IX of the New York State Constitution, §2(c)(6) and (10), New York Statute of Local Governments, § 10 (1) and sections 261-263 of the Town Law and section 10 of the Municipal Home Rule Law] of the State of New York, which authorize the Town of Clarendon to adopt zoning provisions that advance and protect the health, safety and welfare of the community.

### **2. STATEMENT OF PURPOSE**

This Battery Energy Storage System Regulation is adopted to advance and protect the public health, safety, and welfare of the Town of Clarendon by creating regulations for the installation and use of battery energy storage systems, with the following objectives:

- A. To provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of battery energy storage systems;
- B. To protect the health, welfare, safety, and quality of life for the general public;
- C. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;
- D. To mitigate the impacts of battery energy storage systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources; and

E. To create synergy between battery energy storage system development and other stated goals of the community pursuant to its Comprehensive Plan.

### **3. DEFINITIONS**

ANSI: American National Standards Institute

**BATTERY:** A single Cell or a group of Cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

**BATTERY ENERGY STORAGE MANAGEMENT SYSTEM:** An electronic system that protects storage batteries from operating outside their safe operating parameters and generates an alarm and trouble signal for off normal conditions.

**BATTERY ENERGY STORAGE SYSTEM:** A rechargeable energy storage system consisting of electrochemical storage batteries, battery chargers, controls, power conditioning systems, and associated electrical equipment designed to provide electrical power to a building. The system is typically used to provide standby or emergency power, an uninterruptible power supply, load shedding, load sharing, or similar capabilities. A battery energy storage system is classified as a Tier 1, or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage have an aggregate energy capacity that is less than or equal to 600 Kwh and in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 KWh or are comprised of more than one storage battery technology in a room or enclosed area.

**CELL:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy

**COMMISSIONING:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**DEDICATED-USE BUILDING:** A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code. It is constructed in accordance with the Uniform Code, and it complies with the following:

- 1) The building's only permitted primary use is for battery energy storage, energy generation, and other electrical grid-related operations.
- 2) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 3) No other occupancy types are permitted in the building.

4) Administrative and support personnel are permitted in incidental-use areas within the buildings that do not contain battery energy storage system, provided the following:

- a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
- b. A means of egress is provided from the incidental-use areas to a public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy systems.

**ENERGY CODE:** The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**FIRE CODE:** The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NEC:** National Electric Code.

**NFPA:** National Fire Protection Association.

**NON-DEDICATED-USE BUILDING:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements, including all other occupancy types such as, but not limited to, commercial, industrial, offices, and multifamily housing.

**NON-PARTICIPATING PROPERTY:** Any property that is not a Participating property.

**OCCUPIED COMMUNITY BUILDING:** Any building in Occupancy Group A, B, E, I, R, as defined in the International Building Code, including but not limited to schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels, and houses of worship.

**ONE-TO-TWO-FAMILY DWELLING:** A building that contains not more than two dwelling units with independent cooking and bathroom facilities.

**PARTICIPATING PROPERTY:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**UNIFORM CODE:** the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

#### **4. APPLICABILITY**

- A. The requirements of this Regulation shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Clarendon after the effective date of this Regulation, excluding general maintenance and repair.
- B. Battery energy storage systems constructed or installed prior to the effective date of this Regulation shall not be required to meet the requirements of this Regulation.
- C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

#### **5. GENERAL REQUIREMENTS**

- A. A Building permit, and an electrical permit shall be required for installation of all battery energy storage systems.
- B. Issuance of permits by the Town of Clarendon Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].
- C. All battery energy storage systems, all dedicated use buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Clarendon Zoning Regulations.

#### **6. PERMITTING REQUIREMENTS FOR TIER 1 BATTERY ENERGY STORAGE SYSTEMS**

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts. A building permit is required for all Tier 1 energy storage systems per Article III, Section 301.

#### **7. PERMITTING REQUIREMENTS FOR TIER 2 BATTERY ENERGY STORAGE SYSTEMS**

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a Special Use Permit within the Residential/Agricultural District (RA), Business/Commercial District (BC) and the Industrial District (I) zoning districts, and subject to the Uniform Code and site plan application requirements set forth in Article III, Section 302 and any requirements specified in this Section.

##### **A. Applications for the installation of Tier 2 Battery Energy Storage System shall be:**

- 1) Reviewed by the Planning Board for completeness. An application shall be complete when it addresses all matters listed in these Regulations including, but not necessarily limited to, (i)

compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, Permit Time Frame and Abandonment. Applicants shall be advised within 30 business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review;

2) Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town of Clarendon shall have a notice printed in a newspaper of general circulation in the Town at least [5] days in advance of such hearing. Applicants shall have delivered the notice of said public hearing by first class mail to adjoining landowners or landowners within [200] feet of the property at least [10] days prior to such a hearing. Proof of mailing shall be provided to the Planning Board at the public hearing;

3) Referred to the County Planning Department pursuant to General Municipal Law § 239-m as required;

4) Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and Applicant.

#### **B. Utility Lines and Electrical Circuitry.**

All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

#### **C. Signage.**

1) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

2) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

#### **D. Lighting.**

Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

#### **E. Vegetation and tree-cutting.**

Areas within [10] feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

#### **F. Noise.**

The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of [60] dB as measured at the outside wall of any Non-participating Residence and Occupied Community Building. Applicants may submit equipment and component manufacturer's noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

#### **G. Decommissioning.**

Decommissioning Plan. The applicant shall submit a decommissioning plan, developed in accordance with the Uniform Code, containing:

- (a) a narrative description of the activities to be accomplished for removing the energy storage system from service, and from the facility in which it is located. The decommissioning plan shall also include: (i) the anticipated life of the battery energy storage system;
- (b) the estimated decommissioning costs;
- (c) how said estimate was determined;
- (d) the method of ensuring that funds will be available for decommissioning and restoration;
- (e) the method that the decommissioning cost will be kept current;
- (f) the manner in which the battery energy storage system will be decommissioned, and the site restored; and
- (g) a listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

2) Decommissioning Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town of Clarendon, in a form approved by the Town of Clarendon for the removal of the battery energy storage system, in an amount to be determined by the Town of Clarendon, for the period of the life of the facility. This fund shall be adjusted for inflation on an annual basis based on the consumer price index. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

#### **H. Site plan application.**

For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

- 1) Property lines and physical features, including roads, for the project site.
- 2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
- 3) A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
- 4) A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- 5) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- 6) Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
- 7) Zoning district designation for the parcel(s) of land comprising the project site.
- 8) Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code . Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Planning Board prior to final inspection and approval and maintained at an approved on-site location.
- 9) Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code .
- 10) System and Property Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in the Uniform Code .
- 11) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

12) Prior to the issuance of a building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer or NYS Registered Architect.

13) Emergency Operation Plan: A copy of the approved Emergency Operations plan shall be given to the system owner, the local fire department, and local fire code officials, and emergency responders. The emergency operations plan shall include the following information;

- (a) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injury, and safe start-up following cessation of emergency conditions;
- (b) Procedures for inspection and testing of associated alarms, interlocks, and controls;
- (c) Procedures to be followed in response to notifications from the battery energy storage management system, when provided, that could signify potential dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of failure;
- (d) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment and controlling and extinguishing the fire;
- (e) Response considerations similar to a safety data sheet (SDS) that will address response safety concern and extinguishment when an SDS is not required;
- (f) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged equipment from the facility;
- (g) Other procedures determined to be necessary by the Planning Board to provide for the safety of occupants, neighboring properties, and emergency responders;
- (h) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

#### **I. Special Use Permit Standards.**

1) Setbacks. Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.

2) Height. Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.

3) Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by an [8-foot-high] fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

4) Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, plantings or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports. Screening and Visibility plan shall be determined by the Planning Board as

part of the site plan review. Vegetative screening shall be maintained and replaced as necessary for the life of the facility.

(5) Utility lines and electrical circuitry. All on-site utility lines shall be placed underground to the extent possible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles with new easements and right-of-way.

(6) Signage shall comply with ANSI Z535 and NFPA 70 (NEC).

(7) Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

(8) The maximum one (1) hour average noise generated shall not exceed 60 dB as measured at the outside wall of any non-participating residence or occupied community building.

### **J. Ownership Changes.**

If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Ordinance Inspection Officer (OIO) of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the OIO in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the OIO in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

## **8. SAFETY**

### **A. System Certification.**

Battery energy storage systems and Equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 or CAN 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards that are applicable based on the storage type (electrochemical, thermal, mechanical):

- 1) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
- 2) UL 1642 (Standard for Lithium Batteries),
- 3) UL 1741 or UL 62109 (inverters and power converters),
- 4) Certified under the applicable electrical, building, and fire prevention codes as required.
- 5) Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification Requirements.

### **B. Site access.**

Battery energy storage systems shall be maintained in good working order and in accordance with industry standards, Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 2 battery energy storage system is located in an ambulance district the local ambulance corps as well.

### **C. Miscellaneous.**

Battery energy storage systems, components, and associated ancillary equipment shall have required workspace clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type enclosure in compliance with NFPA 70.

## **10. PERMIT TIME FRAME AND ABANDONMENT**

The Special Use Permit and site plan approval for a battery energy storage system shall be valid for a period of 12 months, provided that a building permit is issued for construction and/or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the Planning Board, within 12 months after approval, the Applicant may request the Planning Board to extend the time to complete construction for 180 days. If the owner and/or operator fail to perform substantial construction after 6 months, the approvals shall expire.

If the owner and/or operator fail to comply with decommissioning upon any abandonment, the Town of Clarendon may, at its discretion, utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

## **11. ENFORCEMENT**

Any violation of this Battery Energy Storage System Regulation shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Clarendon.

## **12. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

## **SECTION 670 - DESIGN CRITERIA & CONSTRUCTION SPECIFICATIONS FOR LAND DEVELOPMENT**

Refer to the most current ordinance, law, rule or regulation pertaining to Design Criteria and Construction Specifications for Land Development in the Town of Clarendon (i.e. - Subdivision Regulations).

**SECTION 671 - KEEPING OF FARM ANIMALS ON RESIDENTIAL AND NON-RESIDENTIAL LOTS** *(Rev 11/20/2012; 11/1/2021)*

- A. These regulations are intended to protect residents from the potentially adverse effects of keeping farm animals in residential areas, and will ensure that the affected farm animals are provided with a healthy living environment and sufficient area to roam within the boundaries of a property. These regulations shall not apply to commercial agriculture, farm animals harbored on a farm, or domestic household pets (such as cats and dogs).
- B. Farm animals shall be allowed on residential and non-residential lots in the Residential/Agricultural District, Business/Commercial District, Industrial district, Conservation District, and Residential/Hamlet District. Farm animals shall not be allowed on any lot in the Industrial-Mining District and Historic District. *(Rev 11/1/2021)*
- C. The number of customary farm animals allowed on a single residential or non-residential lot shall be as follows:
1. Poultry (fowl) and rabbits
    - a. For residential and non-residential lots a minimum lot size of (40,000) square feet is required for the noncommercial keeping of any poultry (fowl) or rabbits.
    - b. No more than six (6) poultry (fowl) and six (6) rabbits shall be permanently housed onsite. *(Rev 11/1/2021 )*
    - c. Poultry (fowl) and rabbits shall be housed, kept or penned a minimum of fifty (50) feet from the residence on the lot where the animals are kept and from any residence on any adjoining lot or parcel.
    - d. Six (6) additional poultry and six (6) rabbits may be housed onsite for each additional 40,000 square feet. *(Rev 11/1/2021 )*
  2. Equine, Bovine, Porcine, Camelids and Ovine Species
    - a. For residential and non-residential lots a minimum lot size of 120,000 square feet is required for the noncommercial keeping of any equine, bovine, porcine, camelid or ovine species.
    - b. No more than two (2) Equine, Bovine, Porcine, Camelids or Ovine shall be permanently housed onsite. *(Rev 11/1/2021 )*
    - c. One (1) additional animal may be housed onsite for each additional 20,000 square feet. *(Rev 11/1/2021 )*
  3. For residential and non-residential lots greater than ten acres in size, or those located in a County Legislature approved agricultural district or those that have entered into an individual commitment pursuant to Article 25AA of the New York State Agricultural and Markets Law, all customary farm practices involving the keeping of farm animals are permitted, provided that such practices are not injurious to the public health and do not violate standards set forth in the Orleans County Sanitary Code.
- D. Permanent shelter shall be provided for all farm animals. The shelter shall be of sufficient size and equipped with adequate food and water for the number and type(s) of animals harbored on the premises. At no time shall a dwelling unit or basement of a dwelling unit be used to shelter farm animals.

- E. A shelter shall only be allowed in the rear yard, and shall be located a minimum of 75 feet from any property line.
- F. All excrement produced by farm animals shall be collected and disposed of on a regular basis for health purposes and to control flies, rodents and odor. If excrement must be temporarily stored on site, it shall be located a minimum of 75 feet from any property line and a minimum of 200 feet from any blue line stream, wetland, pond and drinking water well.
- G. Stored excrement shall be either composted and reused on the premises, or entirely removed from the lot. Excrement which is removed from the premises shall be loaded and transported in a manner to prevent the loss, discharge or spillage of excrement onto the highway or neighboring properties.
- H. Fences shall comply with Article VI, Section 610 – FENCES. *(Rev 1/11/2021)*
- I. Materials used for any fence or enclosure shall be of sufficient sturdiness and properly designed, installed and maintained so as to prevent straying. *(Rev 11/1/2021)*
- J. All farm animals, shelters, grounds and operations associated with this section shall be subject to periodic visual inspections by the Ordinance Inspection Officer. The Ordinance Inspection Officer shall determine the need for and timing of such inspections and shall provide the property owner with advanced notice.
- K. A person shall be considered in violation of this Ordinance if one or more of the following occurs: failure to provide proper food and water; failure to provide permanent shelter; failure to provide adequate pasture land; failure to properly clean and maintain the shelter and grounds; failure to properly collect, store, compost, reuse or dispose of excrement; failure to provide adequate fencing or enclosures; straying of farm animals off the property; and failure to allow visual inspection of the premises. Any person deemed in violation of this Ordinance shall be subject to the procedures and penalties set forth herein.
- L. If the owner of the farm animals fails to correct any identified violation(s), the Town shall have the authority to issue a violation notice and/or appearance ticket.
- M. Offspring of permitted animals shall not be counted in determining the permitted number of animals if such offspring do not exceed the following age limits:
  - 3. Bovine – 6 months
  - 4. Camelids – 6 months
  - 5. Equine – 12 months
  - 6. Ovine – 6 months
  - 7. Porcine – 4 months
  - 8. Poultry, fowl, rabbits – 4 months

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**SECTION** *(Rev 08/20/2019)*

- 701**    **Camp Ground**
- 703**    **Excavation and Mining**
- 704**    **Home Occupation**
- 705**    **Cottage Industry**
- 706**    **Kennel, Commercial/Animal Hospital**
- 707**    **Farm Labor Camp**
- 708**    **Mobile/Manufactured Home Park**
- 709**    **Multi-Family Dwelling**
- 710**    **Geriatric Care Facility**
- 711**    **Motor Vehicle Repair Shop**
- 712**    **Motor Vehicle Sales**
- 713**    **Professional office**
- 714**    **Public Facilities**
- 715**    **Retail Fuel Outlet**
- 716**    **Storage Facility**
- 717**    **Child Day Care Center/Adult Day Care Center**
- 718**    **Restaurant**
- 719**    **Short-Term Rental (STR)**
- 721**    **Parking and Storage of Commercial Trucks and Construction Equipment**
- 722**    **Adult Business**
- 724**    **Clubs**
- 725**    **Retail Business/Service Business**
- 726**    **Tavern**
- 727**    **Recreational Center**
- 728**    **Riding Stable, Track or Arena**
- 729**    **Exterior Solid Fuel Heating Device(s)**
- 730**    **Alternative Energy System (Solar Powered) Utility Scale**
- 731**    **Telecommunication Facility**
- 732**    **Farm Market**

**GENERAL STATEMENT** –The purpose of this section is to regulate those uses that have some particular impact or unique characteristics which require a case-by-case review of their location design, configuration and impacts on the surrounding area. By requiring the individual review of special use permit applications, the Planning Board helps to determine the level of compatibility and desirability of a use in its proposed location. The requirements contained in this Article shall be in addition to the provisions specified elsewhere in this Ordinance. *(Rev 04/15/2025)*

**SECTION 700 - AIRPORT** *Removed with 2012 amendments*

**SECTION 701 – CAMP GROUND**

- A.    Camp Grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation or recreational purposes. The removal of wheels and placement of the unit on a foundation in a camping ground is prohibited.
  
- B.    Minimum site area: Fifteen (15) Acres.
  
- C.    Not more than ten (10) travel trailers, campers, tents, recreational vehicles, or motor homes shall be permitted per acre of gross site area.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- D. A camp ground shall be located so that no entrance or exit from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camp ground shall have a minimum of two hundred (200) feet of frontage on a public street, road, or thoroughfare.
- E. Condition of soil, ground water level, drainage, and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences and no portion of the camp grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons on the property to hazards.
- F. Management, headquarters, toilets, dumping stations, showers, coin operated laundries and other uses and structures customarily incidental to the operation of the camp ground are permitted as accessory uses in camp grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:
1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camp ground. Such establishments shall be restricted in their use to occupants of the camp ground.
  2. Such establishments shall present no visible evidence from any street outside the camp ground of their commercial character which would attract customers other than occupants of the camp grounds.
  3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public road, street or thoroughfare and shall not be directly accessible from any public road, but shall be accessible only from a street within the camp ground.
- G. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or New York State Department of Environmental Conservation, and shall receive approval from said agencies.
- H. Streets within camp grounds shall be private, but shall be constructed with a stabilized travel-way and shall meet the following minimum stabilized travel-way width requirements.
1. One Way With No Parking – 12 Feet
  2. One Way With Parking on One Side – 18 Feet
  3. Two Way With No Parking – 18 Feet
  4. Two Way With Parking on One Side – 27 Feet
  5. Two Way With Parking on Both Sides – 34 Feet
- I. Each travel trailer site shall be at least two-thousand five-hundred (2500) square feet in area and have a minimum width of forty (40) feet.
- J. A minimum of eight percent (8%) of the gross site area of the camp ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.
- K. Entrances and exits to camp grounds shall be designated for safe and convenient movement of traffic on adjacent streets. All traffic into or out of the camp grounds shall be through such entrances and exists. An adequate lighting system shall be provided for the camp grounds.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- L. All utilities shall be underground.
- M. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- N. All applicable sanitation standards promulgated by the State of New York shall be met.
- O. Setbacks – Each building or structure within a camp ground shall comply with the setback regulations applicable to the zoning district in which such camp ground is located, except that travel trailers, campers, tents, motor homes, and other motor vehicles propelling or carrying the same may be located not closer than fifteen (15) feet to any side or rear lot line nor closer than one hundred (100) feet to any front lot line.

**SECTION 703 – EXCAVATION AND MINING**

- A. **PURPOSE** – It is the purpose of these supplementary regulations to provide for the proper uses of the land and to require an orderly continuing reclamation of all land permitted to be excavated for its resources. The objectives shall be: (1) to protect the land proposed for excavation; (2) to protect the surrounding land uses, natural environment and people from the result of excavating and appurtenant activities; (3) to provide for a plan to restore the excavated land for its ultimate reuse at the termination of excavation; and (4) to allow only those excavation uses which are in accordance with the Town Comprehensive Plan and development objectives.
- B. **THE CLARENDON LINDEN FAULT** – The Clarendon Linden Fault has an on-shore trace that extends north-south for more than eighty (80) kilometers across Western New York. It is the only large mapped fault system in Western New York. Significant earthquake activity, both historic and recent, is associated with the fault system. The Hamlet of Clarendon is located along a presumed major fault line. Should there be seismic activity associated with the activation of any part of the fault system reported by the United States Department of the Interior Geological Survey and/or New York State Earthquake Centers, all blasting associated with mining activity shall cease immediately. Activity shall not resume until such time that the Town of Clarendon is notified by the above authorities that it is prudent to allow mining and excavation to resume. (Refer to Clarendon-Linden Fault System of Western New York: A Viroseis-Seismic Study – Paul W. Pomeroy; Thaddeus A. Nowak, Jr.; Robert H. Fakundiny)
- C. **PROVISIONS, REQUIREMENTS AND EXCEPTIONS**
  - 1. No person, including a lessee, renter, contractor or subcontractor or any representative of a Federal, State, County or Local Government shall strip, excavate or otherwise remove topsoil, sand, gravel, rock or other natural deposits for sale in the Town of Clarendon without a special permit issued by the Planning Board.
  - 2. The Code Enforcement Officer or any other person designated by the Town Board shall make an inspection of all sand, gravel, rock or other natural deposit excavations in the spring and the fall of each year and at any other time deemed appropriate and necessary by Code Enforcement Officer.
  - 3. The following operations and uses are excepted from the application of this Section:
    - a. **General Construction Exception** – Nothing contained herein shall prohibit excavation incidental to construction of a driveway, private road, walkway, wall or building or part thereto, or accessory thereto, for which any required building permits have been issued, where the excavation

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

occurs on the same or contiguous parcel as the construction. In cases of real estate subdivision, the cut and fill of on-site soils shall be in balance and not hauled off the building site. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered with fill within the first growing season following the start of such operation.

- b. General Farming Exception – Nothing contained herein shall prohibit excavation for the purpose of moving topsoil, soil or earth from one location to another location on the same or contiguous parcel for grading, improving or draining said land, provided that such excavation is necessary for, or accessory to, farming operations.
- c. Sewage Disposal and Underground Storage Tank Exception – Nothing contained herein shall prohibit excavation for sewage disposal systems or underground storage tanks.
- d. Fire and Farm Pond Exception – Nothing contained herein shall prohibit construction of private farm ponds, farm ditches and fire ponds. However, construction must meet all criteria required by the New York State Department of Environmental Conservation (NYSDEC) concerning classified waterways.

**D. APPLICATION PROCEDURE**

- 1. Five (5) copies of the special permit application shall be submitted to the Planning Board.
- 2. Upon filing an application for a special permit, the applicant shall pay a non-refundable filing fee as established by the Town Board which shall be deemed a reasonable sum to cover the cost of administration and which in no part shall be returnable to the applicant.
- 3. A pre-application conference will be arranged by the Planning Board at their next regularly scheduled meeting to determine the necessary documents and data required for the sketch plan.
- 4. After the applicant has provided all of the data requested, the Planning Board shall be permitted a reasonable time to review the sketch plan, but in no instance longer than forty-five (45) days provided, however, that this time period may be extended to sixty (60) days upon concurrence of both parties.
- 5. Following the Planning Board review of the sketch plan, application for site plan approval shall be made in writing by the applicant on a form provided by the Planning Board in accordance with the information required in Article IX and this Section of the Ordinance. A filing fee will be required which is non-refundable.
- 6. Five (5) copies of the site plan approval application shall be required. Each copy shall included a copy of site plan, maps, overlays, reclamation plan and overlay map.
- 7. Applicant shall submit a completed SEQRA Environmental Assessment Form (6 NYCRR Part 617) to the Planning Board at the time of site plan approval submission.
- 8. Special permits for mining and excavation shall be issued for a period of one (1) year and shall be subject to periodic site inspection and review by the Code Enforcement Officer or a duly authorized representative, the Town Clerk, member of the Planning Board, Town Board or Zoning Board of Appeals, or their duly authorized representative who shall be granted access to any mining or excavation site permitted hereunder to inspect or monitor compliance with permit conditions. The cost for inspection or monitoring services, plus any administrative costs incurred by the Town, shall be borne by the applicant as a condition of permit approval or renewal. If all operations undertaken pursuant to any permit issued

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

hereunder have been conducted in full compliance with the term of such permit and all provisions of this Ordinance, the special permit may be renewed by the Planning Board for a period of one (1) year.

9. A renewal of a special permit for mining and excavation may be issued without a public hearing when the area covered by the renewal does not extend beyond the area of operations originally authorized; however, the Planning Board may, in its discretion, direct a public hearing if it determines said hearing shall be necessary.
10. At least ten (10) days before taking any such renewal action, the Planning Board shall cause a notice to be published in the official town newspaper and posted on the Official Sign Board a notice of the proposed renewal and a statement indicating clearly both the property affected and the nature of the operation. All ordinances and regulations in effect at the time a renewal is granted shall apply to the renewal permit in the same manner as when a new or original permit is issued.
11. Renewal of a special permit may be withheld if penalties levied by the appropriate authority against the applicant due to infractions of this Ordinance have not been satisfied and if violations have not been corrected.
12. After the approval of the application and before the issuance of a special permit, the Planning Board shall require evidence that the applicant has posted a Performance Bond with the NYSDEC.
13. A performance bond shall be required by the Town of Clarendon to assure that the conditions stipulated in the approval of the special use permit are carried out. After all other permit conditions have been established, the applicant and each owner of record of the premises other than the applicant, shall jointly make, execute and file with the Town Clerk, a performance bond in the amount approved by the Town Engineer of Consulting Engineer to cover each acre of land within the area to be used for excavation and appurtenant activities. The above parties guarantee that upon termination of the excavation, the ground surface will be restored in conformity with the established permit conditions and with any conditions required by the State of New York.
14. The applicant shall furnish evidence of a valid permit from the NYSDEC pursuant to Title 27, Article 23 of the Environmental Conservation Law, when applicable.
15. Before any excavation or appurtenant activities are commenced, five (5) copies of the application for special permit, together with all requirements stated in this Section, Article IX and Article X of this Ordinance, shall be filed with the Planning Board and the special permit application shall have been approved by the Planning Board and a special permit shall have been granted by the Planning Board.
16. Before any excavation or appurtenant activities are commenced, any person, business or corporation issued a special permit by the Planning Board for the purpose of mining and excavation shall have placed in position, by a licensed engineer or surveyor, permanent metal markers that shall designate both the maximum and final limits of mining as well as designating the three year permit term limits granted by the NYSDEC. The markers shall be maintained in place during the life of the mine. The markers shall be color coded a minimum of four (4) feet above the ground level.
17. Additional temporary metal markers shall be placed surrounding the area required for one (current) season's mining. Reference points denoting these markers shall be placed on both the operational and reclamation maps and filed in the Zoning Office. Temporary markers shall be color coded.
18. Before any blasting is carried out at the excavation site, a blasting permit shall be obtained from the Code Enforcement Officer according to provisions of Section 303.

E. SITE PLAN REVIEW – In addition to the special permit required and

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

in addition to the requirements set forth in Article IX of this Ordinance with respect to site plan review, the following supplemental information shall be supplied, if applicable, although the Planning Board may at its discretion, waive any particular requirements of this subsection.

1. A site plan of the property, showing the location and size of the excavation and all land and structures within one thousand (1000) feet of the excavation site indicating contours of adequate scope and detail to show the site topography. Site Plan shall include name and address of applicant and authorization of owner, if different from applicant. Name and address of person or firm preparing the plan and maps.
2. A site plan map shall be prepared by a qualified professional such as a civil engineer, architect, or any other professional as deemed necessary by the Planning Board
3. A duly acknowledged notarized consent in writing by the owner or lessee of the premises and mortgagee, if any, including addresses.
4. Ownership intention such as purchase options shall be stated at time of application.
5. A certified survey map, executed by a licensed surveyor, showing all boundary lines shall be submitted with site plan map.
6. Current zoning classification of property, including exact zoning boundary if in more than one district.
7. Property boundary lines to be plotted to scale. Distances, angles and area to be shown. North arrow, engineer's stamp and date shall be shown as well as names of owners of adjoining property.
8. Vertical aerial photographs at a negative scale no smaller than one inch (1") equal to one thousand feet (1000') which are certified as flown not earlier than one (1) year prior to date of application. The area covered by the aerial photographs shall include all land within a distance of at least three thousand feet (3000') from the limits of the tract proposed for permit.
9. Location maps in the forms of overlays to the aerial photographs giving the boundaries of the area proposed for permit, including NYSDEC permit, if applicable, and the area which has been excavated and identifying all existing utilities adjacent to and on the said premises, and the proposed protection or treatment thereof.
10. A natural features map prepared by a licensed engineer or surveyor at a scale no smaller than one inch (1") equal to two hundred feet (200'). The map shall show the following both within the tract proposed for permit and within two hundred feet (200') of the tract:
  - a. Present and proposed contour lines.
  - b. The location of three bench marks.
  - c. The contour intervals shall be five feet (5') or as specified by the Town Engineer or Town Consulting Engineer.
  - d. Contour lines shall extend two hundred feet (200') beyond the property lines to indicate the nature of the adjacent property.
  - e. Any other information which may be required for proper review.
  - f. Spot elevations and/or cross sections as determined by Town Engineer or Consulting Engineer.
  - g. Areas of trees and forest.
  - h. Average thickness and height of overburden.
  - i. Surface drainage pattern including any drainage system to be installed during and after completion of work.
  - j. Grades of all creeks or drainage ditches at fifty foot (50') intervals for a minimum distance of five hundred feet (500') beyond the parcel of land covered by the permit and remaining lands.
  - k. If the application covers only a part of the applicant's tract, an aerial photograph of the entire tract, at a minimum scale of one inch equal to

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

four hundred feet (1"=400') shall be provided. The part of the applicant's tract submitted for approval shall be considered in light of the entire tract.

11. Each copy of the application shall include an operations map, presented as an overlay to the natural features map. The following features, including the area devoted to each, shall be shown:
  - a. Existing and proposed excavation areas.
  - b. Existing and proposed appurtenant activities, identified by type, including location of proposed structure, either temporary or permanent, including all existing and proposed access to and from proposed excavation site, including maintenance roads.
  - c. Existing and proposed access roads, identified by width and type of surface material, including origin or material brought onto site.
  - d. Existing and proposed parking and loading facilities, identified by type of surface material, including origin of material brought onto site.
  - e. Location of other existing development and uses.
  - f. Location and dimensions of existing and proposed buildings and structures to be used in said operations and appurtenant activities.
  - g. Location, size and flow direction of septic systems, sewers, if applicable, wells or water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown.
  - h. Existing and proposed fencing, berms and buffers, identified by height and type of materials.
  - i. Areas where topsoil will be temporarily stored for use in reclamation and other material stockpiled.
  - j. All route(s) to be used to and from excavation site including Town, County or State Roads, including primary, alternate and maintenance roads.
12. A general narrative description which describes the method of operation including plans to reduce noise, dust and other nuisances.
13. The reclamation plan and overlay map to natural features map shall be prepared and certified by a New York State licensed engineer or surveyor, including date of preparation.
14. At the time the applicant submits a proposed Reclamation Plan to the NYSDEC, a copy shall also be submitted to the Town of Clarendon for the purpose of reviewing the proposed reclamation plan for proposed site reuses and to expedite the Special Permit process.
15. No special permit shall be issued unless the Planning Board shall have approved a Reclamation Plan, which shall fully comply with the provisions of Paragraph E-Subdivision 11.13 and Paragraph E-Subdivision 11.14 of this section.
16. The reclamation plan shall be approved by the Planning Board before issuance of a special permit.
17. A copy of all plans and permits required by the NYSDEC if applicable, shall be delivered to the Planning Board for review.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- F. **FACTORS FOR CONSIDERATION** – The Planning Board’s review of the site plan shall include but is not limited to the following general considerations:
1. Location, arrangement, size, design and general site compatibility of buildings, structures and equipment both primary and appurtenant. Special attention to location of equipment that generates noise and dust.
  2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic control both on site and off site within the general vicinity of site.
  3. Adequacy and arrangement of pedestrian traffic and circulations, walkway structures, control of intersections where access to site is through residential and general business areas.
  4. Whether access routes to site is through residential and/or general business areas.
  5. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  6. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants. Special attention to the design and dimensions of buildings and structures for the accessibility of community fire equipment.
  7. Adequacy, type and arrangement of trees, shrubs, berms and other landscaping constituting a visual and/or noise buffer between the applicant’s and adjoining lands, including the maximum retention of existing vegetation.
  8. Adequacy of storm water and draining facilities.
  9. Adequacy and impact of structures, roadways and landscaping in areas susceptible to ponding, flooding and/or erosion.
  10. Adequacy of water supply and sewage disposal facilities. Special attention to adequacy of water supplies to adjacent lands.
  11. Overall impact on the neighborhood with special consideration to the impacts of noise, dust and blasting levels in residential and subdivision areas, including compatibility of design considerations.
  12. Adequacy of open space between excavation and mining sites and other uses.
- G. **ISSUANCE OF SPECIAL PERMITS FOR MINING AND EXCAVATION OPERATIONS**
1. **Standards** – The following standards shall apply to all special permits for mining and excavation operations for which a NYSDEC permit is not required. For all operations for which a NYSDEC permit is required, these standards shall constitute the recommendations of the Town and its Supervisor to the NYSDEC for permit limitations and conditions, and shall be transmitted to the NYSDEC whenever the Town is notified of a pending application for a NYSDEC permit.
  2. **Setbacks**
    - a. No excavation shall be conducted closer than six hundred feet (600’) from an adjoining property line, or one thousand feet (1000’) from an existing residence.
    - b. All buildings and excavation operations shall be located or shall occur not less than one thousand feet (1000’) from any public right-of-way. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one (1) public notice sign, identifying the use of the property, fencing, berms, buffers, access roads and parking.
  3. **Access Roads and Parking**
    - a. Each tract of land to be granted a permit for mining and excavation shall use only direct access to major highways and demonstrate proof of legal right to that access.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- b. All access roads shall be designed to take advantage of buffers and other features to screen as much as feasible, excavation and appurtenant activities from public view. The junction of access roads and public roads shall be at an angle of not more than ten (10) degrees deviation from the right angle (90 degrees). The angle should be maintained approximately two hundred feet (200') from the public highway.
  - c. All major access roads shall be sufficiently free of dust and mud to prevent such material from being spread or blown from the premises. All precautions, such as oiling or watering periodically and when necessary, shall be taken to prevent dust and sand from being blown from the premises. The first two hundred feet (200') of access from a public road shall be improved with an asphalt or Portland Cement surface approved by the Town Engineer or Consulting Engineer as being capable of carrying heavy traffic. Adequate sight distance shall be required as determined by the Town Engineer or Consulting Engineer.
  - d. Sufficient off-street parking shall be provided for company employees and visiting vehicles. Off-street parking shall be provided as prescribed in Section 605. The parking of any such vehicle on a public right-of-way or the impeding of traffic or creation of traffic hazards by the parking of any such vehicle shall be prima facie evidence of failure to provide adequate parking.
  - e. Truck loading and unloading areas shall be in an amount sufficient to permit the transfer of materials in other than a public street or off-street parking area.
4. Preservation of Natural Features (Conservation Measures)
- a. Topsoil. All topsoil shall be stripped from the active excavation area and shall be stockpiled for use in accordance with the Reclamation Plan. Such stockpiles shall be seeded, covered, or otherwise treated to minimize the effects of erosion by wind or water upon public roads, streams or other water bodies, or adjacent property. This provision applies to all excavations except those for topsoil removal, in which case the provision applies for only that topsoil which has been stripped for use in the reclamation plan.
  - b. Landscape. Excavations shall be buffered by appropriate landscaping sufficient to shield the operation from public view. Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained and supplemented by selective cutting, transplanting and addition of new trees, shrubs and other ground cover for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back overburden around the perimeter of the excavation site to create a berm for the purpose of screening and noise reduction. Berms shall be constructed to such dimension as required by the Town Engineer for reason stated above.
  - c. All stumps, boulders and other debris resulting from excavation or appurtenant activities shall be disposed of by approved methods as mining progresses. If disposed of on the site, such debris shall be covered with a minimum of two (2) feet of soil. Other unsightly evidence of the operation such as dilapidated buildings, abandoned machinery, tires, drums and containers shall be disposed of off site as they accumulate.
  - d. Drainage. An adequate and comprehensive drainage system shall be provided to convey the storm water runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

watershed area. Soil erosion, sedimentation and ground water seepage shall be controlled so as to prevent any negative effects on bodies of water, public roads, and neighboring properties. Sediment control measures shall be installed to keep sediment damage, if any, totally within the applicant's property. No excavation shall be allowed closer than two hundred feet (200') from a stream or other natural water body. The proposed grading and slope and the necessary auxiliary appurtenances shall provide adequate drainage to existing drainage facilities as shall be approved by the Town Engineer or Consulting Engineer before removal operations are commenced.

- e. Fencing. Fencing shall be required on all property lines of an excavation. The fencing shall be at least six feet (6') in height and of a type approved by the Planning Board. In areas where there are steep slopes, bodies of water, and any other hazards deemed such by the Planning Board, fencing shall be required to have three (3) strands of barbed wire along the top of the fence. All fences shall be maintained free of weeds, vines and vegetation. Areas between fence line and berm shall be maintained in an aesthetic manner.
  - f. Lateral Support. Lateral support shall be sufficient to prevent the hazard of damage to persons, adjacent properties, and public roads by reason of slides, sinking or collapse.
  - g. Hours of Operation. All operations shall be conducted between 7:00 am and 6:00 pm with no Sunday operations. An exemption will be allowed for emergencies, which must be declared by the Town of Clarendon Code Enforcement Officer or any other person designated by the Town Board of the Town of Clarendon.
  - h. Noise. Operational noise levels shall be limited to a maximum of sixty-five (65) dB(A) detectable at the outside property line of the parcel or contiguous parcels owned or controlled by the operator.
  - i. Dust and Dirt Control. Dust and dirt particle levels in the air shall not exceed the Federal Air Quality standards administered and enforced by the Federal Environmental Protection Agency (EPA) through the monitoring of Air Quality by New York State as stated in Chapter III Air Resources Part 257, 200, 201 of the New York State Environmental Conservation Law.
5. Standards for Reclamation
- a. Reclamation shall be a continuous operation, subject to the review and approval of not less than an annual inspection and at the termination of the permit period.
  - b. The active excavation area which has not been restored shall at all times be limited to the minimal acreage necessary to conduct the excavation operation such minimal acreage to be determined by the authorized activity stated in the current NYSDEC mining permit which is stated in areas, and the stated acreage as granted in the Special Permit issued by the Town of Clarendon (whichever acreage is the lesser shall be considered as the minimum).
  - c. A progressive Reclamation Plan shall be implemented in the active excavation area, defined as that area which is required for three (3) consecutive season's mining, before a renewal of the Town of Clarendon's special Permit is granted. In the event that reclamation has not taken place, a special review shall be undertaken which is to include the Town of Clarendon Planning Board, the applicant, and the NYSDEC. The review shall become part of the general review by the Planning board in considering renewal of special permit.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- d. Topsoil shall be re-spread over the excavated area to a minimum depth of four inches (4") and sufficient topsoil shall be stockpiled on the premises to provide complete ground cover for the exposed area.
  - e. The reclamation area shall be planted with trees, shrubs, grass or other vegetation so as to provide for screening, natural beauty and soil stability. The planting shall follow acceptable conservation practices.
  - f. Reclamation shall be undertaken in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the minimal degree necessary to carry out excavation and appurtenant activities. Any alterations of natural and storm drainage shall not adversely affect public roads or neighboring property owners.
  - g. Within one (1) year after termination of the excavation operation all equipment, buildings, structures and other unsightly evidence of the operation shall have been removed from the premises or disposed by approved methods and all reclamation shall have been completed.
6. Additional Requirements for Blasting Operations – Before any excavation requiring blasting is commenced, a blasting permit shall be obtained from the Zoning Office as required in Section 303. In addition to all of the requirements of Section 303 and Section 661, any applicant for a special permit hereunder shall be subject to the following additional requirements:
- a. Pre-Blast Procedures. Prior to the granting of any permit or license to conduct a blasting operation in the Town of Clarendon, the following is required:
    - 1. An inspection of all structures within one-half mile of the quarry property lines in all directions. Existing damages are to be recorded and photographed. Inspection reports are to be signed by the property owner. Copies of these are to be filed with the Town Clerk with a report sent to the property owner.
    - 2. Each well that serves a structure within one-half mile of the quarry property lines in all directions shall be examined for water level and water quality prior to the issuance of a license or permit.
    - 3. During any blasting operation, regardless of the length of said blasting, these wells should be continuously monitored to determine any change in either water level or quality of water experienced.
    - 4. Any well that suffers adverse effects that cannot be explained by climatic or natural occurring conditions shall be rectified by measures that will insure any adequate quality and quantity of water to the property owner. The expense of repairing any damaged well shall be borne by the applicant.
    - 5. The pre-blast survey of structures and wells shall be conducted by an independent party agreed upon by applicant and the Town of Clarendon. The expense of said survey shall be borne by the applicant.
  - b. Trial Blasting Procedures. Any operation which requires blasting operations to remove or extract minerals from the ground or includes the breaking of surface soil in order to accomplish the extraction or removal of minerals shall be required to conduct trial blasts in a test program which shall be monitored by experienced personnel with carefully calibrated instrumentation.
    - 1. All pertinent data from the test blasts are required to include depth of holes, diameter of holes, weight of explosive per hole, number of pounds of explosive per delay, and total weight of explosives as well as weather conditions, overpressure, the three components of

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- particle velocity, and the distance from blast center to the instrumentation shall be recorded. These blasts shall be monitored at the location of a minimum of three (3) residences at varying distances from the blast site.
2. Data from the testing program should be carefully analyzed to be used as a basis for calculation. An ever-increasing data base shall be generated to allow for the continual refinement of predictions made from the test program. A trained individual in the employ of the Town of Clarendon shall oversee the monitoring of the blasts. Said employee shall be allowed to verify the various variables such as charge weight, hole depth, etc. as listed in number one above.
  3. A permanent installation of a ‘state of the art’ seismograph should be made to monitor the test blasts and any and all future blasts at a blasting site. A minimum of three portable seismographs shall be placed at the location of structures at varying distances from the blast site to monitor the test blasts and any and all future blasts at a blasting site.
  4. Before mining begins, thirty (30) days of seismograph monitoring shall be recorded. A copy of these records shall be filed with the Town of Clarendon Zoning Office. In the event of increased seismic activity after mining commences, the activity shall be reported to the Code Enforcement Officer immediately and all mining activity shall cease, pending an investigation which shall include the following participants: Town of Clarendon Blasting Consultant, Zoning Office, Planning Board, Mine Operator and the NYSDEC.
  5. At the completion of the trial blasting program or in the absence of a required trial blasting program, the Town of Clarendon shall, during the permit or license period, monitor the blasting operations of the applicant in accordance with the standards herein set forth, and should it be found and determined by the Town of Clarendon that the applicant shall have exceed any of the standards hereunder, the Town of Clarendon may suspend and/or revoke the license issued hereunder until it is satisfied that compliance with the standards set forth herein is assured.
  6. For the purposes of these provisions, measurements of particle velocity and air pressure shall be made on the ground adjacent to the nearest public dwelling, school, church or residential, or other commercial or institutional building or structure not on the property of the applicant.
  7. No more than two (2) blasts shall occur within the town of Clarendon during any twenty-four (24) hour period.
- c. Monitoring Procedures.
1. If public water supply is not available test wells shall be established by applicant and monitored by the applicant and the Town of Clarendon. Number of test wells and their location to be approved by the Town Engineer or Consulting Engineer, engaged by the Town of Clarendon. Blasting operations shall conform to procedures recommended by a qualified consultant recommended by a qualified consultant, engaged for that purpose.
  2. Any peace officer, zoning enforcement officer or duly authorized representative of the town of Clarendon shall be granted access to

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

any mining or excavation site permitted hereunder to inspect or monitor compliance with permit conditions.

3. The cost for inspection or monitoring services, plus any administrative costs incurred by the Town, shall be borne by the applicant as a condition of permit approval or renewal.

- H. **FACTORS FOR CONSIDERATION.** The Planning Board's review of the special permit shall include but is not limited to the following considerations:
1. Whether the excavations and appurtenant activities and proposed Reclamation Plan are in accord with the intent of the comprehensive land development plan for the Town.
  2. Whether they will result in the creation of pits or holes which may be hazardous or dangerous and eventually permanent in nature.
  3. Whether they will cause soil erosion or the depletion of vegetation.
  4. Whether they will render the land unproductive or unsuitable for agricultural or development purposes, or unsuitable for recreation, wildlife habitat or other purposes.
  5. Whether they will affect the control of nuisances, such as noise, dust, excess traffic.
  6. Whether the areas excavated can be effectively restored and re-vegetated.
  7. Whether the proposed operation will adversely impact surrounding water quality and/or quantity.
  8. Whether the resultant drainage will be adversely affected.
  9. Whether any potential blasting on the project site may be in such proximity to existing residences or structures as to cause damage to such structures.
- I. **PENALTIES.** Violation of any provisions of this Section or failure to comply with any of its requirements shall constitute an offense. See Section 105 – Violations and Penalties.

**SECTION 704 – HOME OCCUPATION**

- A. No more than two (2) persons other than a member of the immediate family or resident(s) occupying the dwelling shall be employed in connection with a home occupation.
- B. The home occupation must be conducted entirely within the confines of the dwelling on the premises or entirely within the confines of an accessory structure thereto.
- C. The character of the dwelling or structure within which the home occupation is conducted may not be altered or modified in such a manner as would cause the premise to differ in character from other dwellings or structures in the zoning district.
- D. There shall be no outside storage of any kind related to the home occupation, nor will the outside display of goods, products or merchandise produced or generated by the home occupation be permitted.
- E. Home occupations shall not generate pedestrian or vehicular traffic beyond the normal volume in the neighborhood.
- F. No home occupation shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- G. No more than thirty percent (30%) of the gross floor area of the residential dwelling shall be devoted to a home occupation.
- H. Exception: A home occupation may be exempt from the requirement of a Special Permit if, as part of the site plan review process, the Planning Board determines that the proposed home occupation would not:
  - 1. Create additional vehicular traffic;
  - 2. Create additional pedestrian traffic;
  - 3. Employ other than immediate family members on-site;
  - 4. Require a sign;
  - 5. Conduct any on-site sales of goods or products.

**SECTION 705 – COTTAGE INDUSTRY**

- A. No more than three (3) persons other than members of the immediate family or resident(s) occupying the dwelling shall be employed in connection with a cottage industry.
- B. The cottage industry must be conducted entirely within the confines of a dwelling on the premises or entirely within the confines of an accessory structure thereto.
- C. The character of the dwelling or accessory structure within which the cottage industry is conducted may not be altered or modified in such a manner as would cause the premises to differ in character from other dwellings or structures in the district.
- D. New construction of accessory structures for cottage industry is permitted provided it follows all specifications of Article V and would not cause the premises to differ in character from other dwellings or structures in the district.
- E. There shall be no outside storage of any kind related to the cottage industry. Outside display of goods, products, or merchandise produced or generated by the cottage industry shall be contained to an area not to exceed 25% of the road frontage of premises, up to a maximum of 50 feet, will not be in the “Right-of-Way” and shall not be a nuisance.
- F. The cottage industry shall not generate pedestrian or vehicular traffic beyond the normal volume in the neighborhood.
- G. No cottage industry shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no cottage industries exists.
- H. Exception: A cottage industry may be exempt from the requirement of a Special Permit if, as part of the site plan review process, the Planning Board determines that the proposed cottage industry would not:
  - 1. Create additional vehicular traffic;
  - 2. Create additional pedestrian traffic;
  - 3. Employ other than immediate family members on-site;
  - 4. Require a sign;
  - 5. Conduct any on-site sales of goods or products.

**SECTION 706 - KENNEL, COMMERCIAL/ANIMAL HOSPITAL** *(Rev 10/11/2005; 6/19/2007)*

- A. Dimensional Requirements:

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

1. Minimum lot size – 120,000 square Feet.
  2. Minimum lot frontage – 300 Feet.
  3. Minimum lot depth – 300 Feet.
  4. Minimum front setback – 125 Feet.
  5. Minimum side setback – 100 Feet.
  6. Minimum rear setback – 100 Feet.
  7. This use shall not be allowed on flag lots.
- B. Any combination of buffering, additional setbacks, fencing, screening, sound proofing or any other means may be required to ensure compatibility of the kennel, commercial/animal hospital with the surrounding neighborhood and to ensure the health and welfare of adjoining properties. The need for these requirements shall be determined by the Planning Board as part of the Special Use Permit approval process. *(Rev. 10/11/2005; 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift, one parking space provided for every kennel run provided, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Article VI, Section 605 of this Ordinance.
- D. A sanitary sewage system shall be installed of sufficient size to collect, dispose of and/or treat all sewage generated from the use, including any outdoor facilities, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- E. All animals shall be kept inside an enclosed building between 8:00 pm and 6:30 am.
- F. All animal structures shall be maintained in a clean and sanitary manner to control disease, obnoxious odors and unsightly appearance.
- G. Outdoor facilities shall provide adequate shelter areas to prevent harm to animals from adverse weather conditions.
- H. Outdoor facilities shall be constructed to provide sufficient space for the movement and comfort of each animal.
- I. Sick animals shall be sufficiently separated from those appearing healthy and normal to prevent the contamination of healthy animals.
- J. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.
- K. Signs shall be in accordance with Article VI, Section 600.

**SECTION 707 – FARM LABOR CAMP – PRIVATE**

- A. Dimensional Requirements:
1. Minimum Front Setback – 125 Feet.
  2. Minimum Side Setback – 100 Feet.
  3. Minimum Rear Setback – 100 Feet.
  4. These uses shall be allowed on flag lots.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- B. The Code Enforcement Officer may inspect the farm labor camp at any time on one (1) day's notice to the owner to assure compliance with the provision of this Ordinance.
- C. Laborers housed at a farm camp may only be used in the owner's personal farming operations. No commercial farm labor camps shall be allowed in the Town of Clarendon.
- D. The farm labor camp and camp buildings must continually comply with all the applicable Local, State and Federal codes, rules and regulations.
- E. The Planning Board, during site plan review, may take into consideration the general suitability of establishment of a farm labor camp in the particular location requested.
- F. The Planning Board must hold a public hearing on such application for a farm labor camp. If substantial opposition to establishment of a farm labor camp in the location requested is received at the public hearing, the Planning Board may consider such opposition as one factor in making their determination of site plan approval or denial.

**SECTION 708 – MOBILE/MANUFACTURED HOME PARK** *(Rev 11/20/2012;11/1/2021;05/16/2023)*

GENERAL – Special permits for the establishment and operation of Mobile/Manufactured Home Parks shall be allowed provided the sum total number of units in all Mobile/Manufactured Home Parks within the Town of Clarendon does not exceed ten (10) percent of the total residential units of the Town.

- A. Each mobile/manufactured home on a lot within a park shall have a minimum front setback of twenty (20) feet from the near edge of the park roadway.
- B. Each mobile/manufactured home on a lot within a park shall have a minimum side setback of ten (10) feet on each side.
- C. Each mobile/manufactured home on a lot within a park shall have a minimum rear setback of ten (10) feet.
- D. The minimum site area of proposed mobile/manufactured home parks shall have no more than five (5) lots per acre, exclusive of roadways.
- E. Mobile/manufactured home lots shall have an area of not less than ten-thousand (10,000) square feet. Each mobile/manufactured home lot shall front on an interior park roadway and have a minimum width of one hundred feet by one hundred feet in depth (100' X 100').
- F. The minimum setbacks of every mobile/manufactured home, building, or other structure in a mobile/manufactured home park, from the nearest public street, road, or highway line, shall be on hundred (100) feet.
- G. Not more than one (1) mobile/manufactured home shall be located on any one (1) mobile/manufactured home lot. Every mobile/manufactured home within a mobile/manufactured home park shall be located on a mobile/manufactured home lot or in a designated storage area shown on the approved site plan for said park.
- H. At least one (1) service building shall be constructed in each mobile/manufactured home park which shall be adequate to provide for storage of all equipment, tools, and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- I. Each mobile/manufactured home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile/manufactured home by a permanent sidewalk having a minimum width of twenty-four (24) inches.
- J. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile/manufactured home park except in areas designated and approved for such storage as part of the site development plan approval.
- K. Every roadway within a mobile/manufactured home park shall have a minimum pavement width of twenty-two (22) feet and a minimum width of fifty (50) feet. The one hundred (100) foot lot depth is not to include the right-of-way. If cul-de-sacs exist, they shall have a minimum diameter of seventy (70) feet.
- L. A complete water distribution system approved by the Health Department including a water service pipe for each mobile/manufactured home lot or other appropriate water sources approved by the Health Department and evaluated during site plan approval.
- M. Appropriately spaced fire hydrants or access to water sufficient for firefighting as determined during the site plan approval.
- N. A sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each mobile/manufactured home lot or other adequate sewer disposal system approved by the Health Department and determined during site plan approval.
- O. All public utility, electric, cable television and telephone lines shall be installed underground.
- P. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways with each other or with abutting public roads, and at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.
- Q. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- R. No mobile/manufactured home shall be located on a mobile/manufactured home lot until the roadways, sanitary sewage disposal system, water supply systems, and storm drainage system serving said mobile/manufactured home lot have been installed in accordance with the approved site development plan for the mobile/manufactured home park.
- S. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile/manufactured home lot shall be assigned a permanent number which shall be noted on the mobile/manufactured home lot in a location clearly visible from the roadway.
- T. All fuel tanks used for heating within a mobile/manufactured home park, including all fuel tanks used for heating within mobile/manufactured homes, shall either be installed underground in accordance with National Fire Protection Agency standards, or shall consist of a maximum of two (2) 120 Gallon above ground vertical tanks.
- U. Every mobile/manufactured home park shall have a recreational area or open space area for use by the occupants of the mobile/manufactured home park. Such areas shall be centrally

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

located as the topography and design of the park permit. Such areas shall be not less than two thousand (2,000) square feet per mobile/manufactured home lot in the park.

- V. The park owner shall provide for the regular collecting and disposal of garbage, trash and rubbish.
- W. Not more than one (1) accessory building shall be permitted on any mobile/manufactured home lot.
- X. The area between the base of the mobile/manufactured home and the ground or permanent slab foundation shall be enclosed with metal, wood or vinyl skirting within 30 days after placement of the unit on the lot.
- Y. No enclosure of addition, with the exception of patios, door porches not to exceed eight (8) feet in width, carports, shall be constructed, added on or attached to the exterior of any mobile/manufactured home.
- Z. Every roadway within a mobile/manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and all accessory snow removal. The provisions of this subsection shall apply to mobile/manufactured home parks hereafter established with the Town of Clarendon.
- AA. The owner of every mobile/manufactured home park shall keep a record of the occupants and the mobile/manufactured homes located within the park. A copy of such register shall be made available to the Code Enforcement Officer upon his/her demand. Such register shall contain the following:
  - 1. The name and last address of each occupant.
  - 2. The make, model, year and serial number of each mobile/manufactured home, and the mobile/manufactured home space within the park on which the same is located.
  - 3. The dates of arrival and departure of each mobile/manufactured home.
- BB. The sale of individual lots within a mobile/manufactured home park shall not be allowed.

**SECTION 709 – MULTI-FAMILY DWELLING**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 200,000 Square Feet.
  - 2. Minimum Lot Frontage – 400 Feet.
  - 3. Minimum Lot Depth – 500 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall not be allowed on flag lots.
- B. The overall land density shall not exceed four dwelling units per 40,000 square feet of lot area. No principal building shall contain more than eight (8) dwelling units.
- C. Each one bedroom unit shall provide a minimum of 800 square feet of habitable floor area. Each two bedroom unit shall provide a minimum of 1000 square feet of habitable floor area. Each three bedroom unit shall provide a minimum of 1200 square feet of habitable floor area. No dwelling unit shall have more than three bedrooms.
- D. In addition to any closets/storage areas routinely provided within individual dwelling units, a

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- minimum of 100 square feet of dedicated storage area shall be provided for each dwelling unit. Storage areas shall be located in a convenient, centrally located area within the building or elsewhere on the site, where personal belongings may be stored under lock and key and separated from the belongings of other residents. Storage floor area requirements shall be exclusive of and in addition to the habitable floor area requirements noted above.
- E. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
  - F. Each one bedroom unit shall require two off-street parking spaces. Each two bedroom unit shall require three off-street parking spaces. Each three bedroom unit shall require four off-street parking spaces. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
  - G. Multi-family dwelling developments with 12 or fewer individual dwelling units may utilize engineered septic systems for the disposal of sanitary sewage unless a public sanitary sewer system is present.
  - H. Multi-family dwelling developments with more than 12 individual dwelling units shall be connected to a public sanitary sewer system or shall provide an on-site sanitary sewage treatment facility (package plant).
  - I. The septic system, public sanitary sewer system and/or sanitary sewage treatment facility (package plant) servicing the development shall be of sufficient size and design to collect, dispose of and/or treat all sewage generated from the development.
  - J. All septic systems, public sanitary sewer systems and/or sanitary sewage treatment facilities (package plants) shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
  - K. Multi-family dwellings shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water, and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
  - L. Multi-family dwellings shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
  - M. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
  - N. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
  - O. All natural gas or propane fuel tanks and service lines used in the heating/powering of multi-family dwellings shall be placed underground in accordance with the requirements and specification of the fuel service provider.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- P. Multi-family dwellings shall provide facilities (such as detention /retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
- Q. Multi-family dwelling developments shall provide open space area for use by its residents. The open space area shall be a minimum of 20 percent of the total gross area of the lot and may include buffer strip area. Open space areas shall be sited on land that is relatively flat, dry and capable of serving the intended purpose. If a portion of the open space area is wooded, such areas may be left in a natural condition except that suitable walking trails may be provided.
- R. Multi-family dwelling developments may be required to provide playground facilities/recreational areas for use by its residents. This requirement shall be determined by the Planning Board as part of the site plan review process.
- S. No business requiring issuance of a special permit shall be permitted to operate from any dwelling unit or accessory structure within a multi-family dwelling development.
- T. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 710 – GERIATRIC CARE FACILITY (rev 2012)**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 200,000 Square Feet.
  - 2. Minimum Lot Frontage – 400 Feet.
  - 3. Minimum Lot Depth – 500 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. Minimum floor area requirement shall comply with all applicable governing regulations for the intended occupancy.
- C. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. (Rev. 6/19/2007)
- D. Adequate parking shall be provided to accommodate the needs of all occupants, employees, visitors and deliveries as determined by the Planning Board during the site plan review process. No off-street parking areas shall be located within required buffer strips or within 50 feet of any property line.
- E. The septic system, public sanitary sewer system and/or sanitary sewage treatment facility (package plant) servicing the geriatric care facility shall be designed, approved, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Geriatric care facilities shall be connected to public water supply system. The water service shall be of sufficient size to provide adequate potable water, and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- G. Geriatric care facilities shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of a geriatric care facility shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Geriatric care facilities shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
- L. Geriatric care facilities shall provide open space area for use by its residents. The open space area shall be a minimum of 20 percent of the total gross area of the lot and may include buffer strip area. Open space areas shall be sited on land that is relatively flat, dry and capable of serving the intended purpose. If a portion of the open space area is wooded, such areas may be left in a natural condition except that suitable walking trails may be provided.
- M. Geriatric care facilities may be required to provide recreational areas for use by its residents. This requirement shall be determined by the Planning Board as part of the site plan review process.
- N. No business requiring issuance of a special permit shall be permitted to operate from any dwelling unit or accessory structure within a geriatric care facility.
- O. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 711 – MOTOR VEHICLE REPAIR SHOP**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall not be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

shift, one parking space provided for each motor vehicle to be repaired on the premises, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirement specified in Section 605 of this Ordinance.

- D. No more than five (5) licensed motor vehicles awaiting service or repair shall be parked on the premises at any one time. No individual motor vehicle shall be parked for a period of more than five (5) working days.
- E. All servicing or repairs of motor vehicles shall be performed in a fully enclosed building.
- F. No motor vehicles shall be offered for sale on the premises at any time.
- G. All motor vehicles awaiting repair shall bear a New York State Department of Motor Vehicles' registration.
- H. No Motor Vehicle Repair Shop shall be located within a distance of two hundred (200) feet of a neighboring residence, cemetery, school, church, hospital, nursing home, senior housing facility or other space of public assembly designed for an occupancy of fifty (50) persons or more, or within five hundred (500) feet of any other motor vehicle repair shop or gasoline station located on the same side of the street. Distance shall be measured in a straight line between the nearest points of each lot or premise. *(rev 05/16/2017)*
- I. No motor vehicles shall be stored within twenty-five (25) feet of any property line or within the highway right-of-way.
- J. No retail sale of fuels shall occur on the site at any time.
- K. All supplies, equipment, apparatus or materials associated with the conduct of business (except vehicles) must be kept inside an enclosed building.
- L. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations. This requirement shall be determined as part of the site plan review.
- M. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 712 – MOTOR VEHICLE SALES**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

*(Rev. 6/19/2007)*

- C. One off-street parking space shall be provided for each employee on the maximum work shift, one parking space provided for each motor vehicle offered for sale, lease or rent on the premises, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. No motor vehicles shall be displayed for sale, lease or rent within twenty-five (25) feet of any property line or within the highway right-of-way.
- F. All motor vehicles offered for sale, lease or rent shall be displayed in a neat and orderly manner.
- G. All motor vehicles offered for sale, lease or rent shall be in proper working order at all times and shall bear a New York State Department of Motor Vehicles' registration.
- H. Repair of motor vehicles on the site shall be completed within an enclosed structure.
- I. No retail sale of fuels shall occur on the site at any time.
- J. All supplies, equipment, apparatus or materials associated with the conduct of business (except vehicles) must be kept inside an enclosed building.
- K. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- L. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 713 – PROFESSIONAL OFFICE**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 40,000 Square Feet.
  - 2. Minimum Lot Frontage – 200 Feet.
  - 3. Minimum Lot Depth – 200 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 50 Feet.
  - 6. Minimum Rear Setback – 50 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance.  
*(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

605 of this Ordinance.

- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Professional offices shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
- G. Professional offices shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of professional offices shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Professional offices shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces, as determined by the Planning Board as part of the site plan review process.
- L. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 714 – PUBLIC FACILITIES**

- A. Dimensional Requirement:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- C. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Public facilities shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water Department \ standards and State and County Health department regulations.
- G. Public facilities shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of public facilities shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Public facilities shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces, as determined by the Planning Board as part of the site plan review process.
- L. Any public facility equipped with a restaurant open to the general public shall also comply with the provisions of Section 718 of this Ordinance.
- M. Any public facility equipped with a tavern open to the general public shall also comply with the provisions of Section 726 of this Ordinance.
- N. Public facilities may be required to provide playground facilities/recreational areas for use by the public. This requirement shall be determined by the Planning Board as part of the site plan review process.
- O. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**SECTION 715 – RETAIL FUEL OUTLET**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 40,000 Square Feet.
  - 2. Minimum Lot Frontage – 200 Feet.
  - 3. Minimum Lot Depth – 200 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 50 Feet.
  - 6. Minimum Rear Setback – 50 Feet.
  - 7. This use shall not be allowed on flag lots.
  
- B. Gasoline pump islands shall be located on a minimum of 100 feet from the street centerline and a minimum of 50 feet from all other property lines.
  
- C. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
  
- D. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
  
- E. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
  
- F. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
  
- G. Retail fuel outlets shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces, as determined by the Planning Board as part of the site plan review process.
  
- H. Repair of motor vehicles on the site is prohibited unless the provisions of Section 711 of this Ordinance are complied with in full.
  
- I. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 716 – STORAGE FACILITY**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 40,000 Square Feet.
  - 2. Minimum Lot Frontage – 200 Feet.
  - 3. Minimum Lot Depth – 200 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 50 Feet.
  - 6. Minimum Rear Setback – 50 Feet.
  - 7. This use shall be allowed on flag lots.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One Off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every three storage spaces or storage units provided. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- E. Outdoor storage of materials or property shall be prohibited.
- F. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 717 – CHILD DAY CARE CENTER/ADULT DAY CARE CENTER**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 40,000 Square Feet.
  - 2. Minimum Lot Frontage – 200 Feet.
  - 3. Minimum Lot Depth – 200 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 50 Feet.
  - 6. Minimum Rear Setback – 50 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer strip shall be provided along any property line shared with a residential dwelling. Buffer strips shall comply with requirements specified in Section 611 of this Ordinance.
- C. One off-street parking space shall be provided for each employee on the maximum work shift and one parking space provided for every two children or adults in care. Off-street parking areas and driveway shall comply with the requirements specified in Section 605 of this Ordinance.
- D. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and is accordance with the typical driveway/roadway section.
- E. Child Day Care Centers and Adult Day Care Centers shall provide open space area for use by those in care. The open space area provided shall be a minimum of one hundred (100) square feet per child or adult. All outdoor play areas shall be appropriately fenced or protected from roads and nearby properties.
- F. Outdoor recreational equipment, if provided, shall not be placed within fifteen (15) feet of any property line, fence or structure.
- G. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be signed, constructed and maintained in

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

accordance with all applicable State and County Health department regulations.

- H. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 718 – RESTAURANT**

- A. Dimensional Requirements:
1. Minimum Lot size 40,000 Square Feet.
  2. Minimum Lot Frontage – 200 Feet.
  3. Minimum Lot Depth – 200 Feet.
  4. Minimum Front Setback – 125 Feet.
  5. Minimum Side Setback – 50 Feet.
  6. Minimum Rear Setback – 50 Feet.
  7. This use shall not be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 100 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Restaurants shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
- G. Restaurants shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of a restaurant shall be placed underground in accordance with the requirements and specifications of the fuel service provider.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- K. Restaurants shall provide facilities (such as detention/retention basins) for the storage and/or treatment of stormwater runoff generated by impervious surfaces as determined by the Planning Board as part of the site plan review process.
- L. Any restaurant equipped with a tavern open to the general public shall also comply with the provisions of Section 726 of this Ordinance.
- M. Restaurants located adjacent to or integrated into a shopping center or cluster of commercial facilities shall share a common access driveway with the other businesses to the fullest extent practicable.
- N. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 719 - SHORT TERM RENTAL (STR) (05/16/2023)**

**A. PURPOSE**

The Town Board of the Town of Clarendon, New York has determined that Short Term Rental (STR) units are a benefit to the Town of Clarendon, its residents, and the general public. These supplementary regulations are designed to Protect the health, safety and welfare of its citizens and visitors and to minimize adverse impacts to the Town of Clarendon.

**B. DIMENSIONAL REQUIREMENTS**

The minimum lot size, frontage and setback requirements shall conform to the specifications set forth in the specific Zoning district in which the SRT is located.

**C. GENERAL**

1. Short-Term Rental (STR) establishments shall be allowed in the Residential/Hamlet District (RH), Residential/Agricultural District (RA) and the Business/Commercial (BC) District.
2. Short-Term Rental (STR) establishments shall require a special use permit and are subject to all requirements of this section. See Article III, Section 302, Application Procedures for Special Permits.
3. The Short-Term Rental (STR) shall be either owner occupied or owner supervised.
4. The building proposed for occupancy as a Short-Term Rental establishment shall contain no more than four lodging rooms for hire.
5. No more than two (2) persons are allowed to occupy each lodging room.
6. No paying guest shall stay on one visit for more than 30 consecutive days.
7. The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character.
8. No Short-Term Rental establishment shall be permitted where access is provided by a shared driveway unless clearly specified in a joint use driveway agreement.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

9. Off-street parking shall be provided as follows: at least two spaces shall be provided by the family residing on the premises, plus not less than one additional space for each lodging room. No such parking space shall be located in the front yard area, outside of an approved driveway, and each space shall be not less than 10 feet by 20 feet in size. No recreational vehicles, campers, trailers or motor vehicles larger than a one-ton pickup truck, other than trailers for boats or jet skis to be launched at nearby ramps, may be parked on the premises during any transient accommodation. Automobiles, light duty (pick-up) trucks and/or boat and jet ski trailers in association with any transient accommodation may be parked on site in designated off-street parking areas. No vehicles shall be parked on lawns or in other areas not specifically approved as parking areas under the provisions of this ordinance.

10. The dwelling may display a sign not to exceed six (6) square feet in size and shall be set back from the street right-of-way line a minimum of 10 feet.

11. No meals shall be provided. (Breakfast is allowed for B&B)

12. The Planning Board shall specify the minimum amount and location of landscaping and buffer screening to ensure that the use does not create a nuisance for adjoining property owners.

13. Subleasing or subletting of units for short-term rental is prohibited.

**D. OPERATIONAL REQUIREMENTS**

1. The structure proposed for use as a Short-Term Rental establishment shall meet the requirements of the NYS uniform Fire Prevention and Building Code.

2. Each rental unit in a Short-Term rental establishment shall maintain a working smoke detector and a working carbon monoxide monitor, which shall meet the requirements of the NYS Uniform Fire Prevention and Building Code.

3. Each rental unit in a Short-Term Rental establishment shall have clearly defined exit routes posted.

4. During the short-term rental the owner, his agent, or a local contact person designated by the owner shall be available at all times to respond to complaints regarding the condition, operation, or conduct of the occupants of the rental unit.

5. The owner of the rental unit shall conspicuously post contact information for the owner, agent or contact person as well as any specific rules pertaining to the occupancy.

**E. SPECIAL USE PERMIT**

1. Any special use permit application for a Short-Term Rental establishment shall require site plan review by the Planning Board (Article IX).

2. The Ordinance Inspection Officer (OIO) shall be authorized after inspecting a Short-Term Rental establishment for compliance with the requirements of the NYS Uniform Fire Prevention and Building Code and payment of the appropriate fees, to issue a Special Use Permit to the owner(s) of the short-Term Rental establishment.

3. Duration of permit: A Special Use Permit for the Short-Term Rental establishment shall be valid for one (1) year.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

4. Expiration of existing Special Use Permit: Within 30 days of the expiration of an existing permit, the owner of a Short-Term Rental establishment desiring to renew said Special Use Permit, shall file an application for renewal with the Ordinance Inspection Officer (OIO).

5. Any Short-Term Rental establishment which has not operated as such for a period of 12 months or longer must reapply for a new special use permit.

**F. VIOLATIONS AND PENALTIES**

1. Refer to Article I, GENERAL PROVISIONS, Section 105.

**G. ACTIONS**

1. Refer to Article I, GENERAL PROVISIONS, Section 106

**SECTION 721 – PARKING & STORAGE OF COMMERCIAL TRUCKS & CONSTRUCTION EQUIPMENT**

A. PERMITTED USE. One truck unit is permitted on a residential lot where the owner/operator lives.

B. PROVISIONS AND REQUIREMENTS – STORAGE/PARKING OF COMMERCIAL TRUCKS AND CONSTRUCTION EQUIPMENT NOT USED PRIMARILY FOR AGRICULTURE. Equipment used more than fifty (50) percent in agricultural uses are exempt from this section. For the purposes of this Ordinance, one *truck unit* may be defined as a truck, trailer and piece of construction equipment carried on the trailer; a tractor trailer rig; or any large truck that requires a Commercial Driver’s License (CDL). For the purpose of this Ordinance, each additional individual piece of construction equipment in excess of the one allowable truck unit shall be considered to be an additional truck unit. (Rev. 11/16/2010)

C. Storage/parking of commercial trucks and construction equipment not used primarily for agriculture may be allowed by special permit after the Planning Board has completed a site plan review. Up to five (5) truck units with the following restrictions (more than five vehicles should go to the industrial district):

1. On a residential lot – where the resident owns both the land and all the vehicles, the following restrictions apply:
  - a. 2-3 truck units – minimum lot size, 5 (5) acres with minimum of 300’ frontage.
  - b. 4-5 truck units – minimum lot size ten (10) acres with minimum of 300’ frontage.
  - c. Must have a garage type maintenance building capable of housing the largest maintenance work.
2. On a non-residential lot – Commercial trucks and equipment storage are not allowed. They must be in an industrial zoning district.

D. Driveways and parking areas must be to private drive standards with nine (9) inches crushed stone or better. Driveways may not be closer than fifty (50) feet to lot line and parking area may not be within set back areas, one hundred (100) feet front, fifty (50) feet sides and back. Driveway width must be adequate for egress and ingress turns and driveway cut and culvert must be approved by the highway department.

E. No outside storage of construction materials or truck maintenance or operating supplies permitted on site.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- F. Screening and fencing as required by the Planning Board.
- G. Hours of operation will be limited by the Planning Board.
- H. Fuel, oil, anti-freeze, handling and disposition must conform to State and Federal regulations.
- I. Shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually expected in an average residential occupancy in the district in question under normal circumstances.

**SECTION 722 – ADULT BUSINESS**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 200,000 Square Feet.
  - 2. Minimum Lot Frontage – 400 Feet.
  - 3. Minimum Lot Depth – 500 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall not be allowed on flag lots.
- B. No adult business shall be allowed to occur within 500 feet of the property boundary of another existing adult business, school or place of worship (church).
- C. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- D. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 100 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- E. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- F. Adult businesses shall be connected to a public sanitary sewer system or shall provide an on-site sanitary sewage treatment facility (package plant). The sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health department regulations.
- G. Adult businesses shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
- H. Adult businesses shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- I. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

accordance with the typical driveway/roadway section.

- J. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
  
- K. All natural gas or propane fuel tanks and service lines used in the heating/powering of an adult business shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
  
- L. Adult businesses shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
  
- M. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.
  
- N. Conduct of Business:
  - 1. No adult business shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specific sexual activities or specific anatomical areas from any public right-of-way or from any property not registered as an adult business. This requirement shall apply to any display, decoration, sign, show window or other opening.
  - 2. No person under twenty-one (21) years of age shall be permitted on or within the premises of an adult business.
  
- O. Special Permit Application Requirements:

Each special permit application for an adult business shall contain the information described below:

  - 1. The applicant's name and residential street address (and mailing address if different).
  - 2. The location or street address (and mailing address if different) of the proposed adult business.
  - 3. All other residences of the applicant for the three year period immediately preceding the date of application.
  - 4. The business, occupation or employment of the applicant for the three year period immediately preceding the date of application.
  - 5. Written proof that the applicant is twenty-one (21) years of age or older.
  - 6. A complete set of the applicant's fingerprints.
  - 7. A description of the facilities and services to be available on the premises of the proposed adult business.
  - 8. The history of the applicant in the operation of similar establishments or businesses, including, but not limited to whether or not the person, is previously operating in this state or another state under license, has had such permit revoked or suspended and the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
  - 9. The criminal record if any, of the applicant (other than misdemeanor traffic violations). If the applicant is an association or partnership, the criminal record of each associate or partner shall be provided. If the applicant is a corporation, the criminal record of each officer or director of the corporation and each of the stockholders owning more than ten percent (10%) of the stock of the corporation shall be provided. If the applicant is a limited liability company, the criminal record of each of the members and managers of the limited

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

liability company shall be provided.

10. A scaled site plan showing: north arrow, drawing scale, tax map number, property boundaries and dimensions, existing and proposed buildings and dimensions, proposed grading and drainage, vegetation, parking, driveways, lighting, signs, refuse containers, fences, water source, sewage system and any other pertinent information.
- P. Approval, Denial, Suspension or Revocation of Adult Business Special Permits; the following shall apply:
1. Upon receipt of a complete application, the Planning Board shall make or cause to be made a thorough investigation of the applicant's criminal record, and shall review the site plan for compliance with the provisions of this Ordinance.
  2. Special Permit Approval. A special permit application may be approved by the Planning Board where it appears that the applicant has not be convicted of any offense which Would be cause for denial of a special permit upon an original application, has not made false statements on an application for a special permit, has not previously owned or operated an adult business which resulted in suspension or revocation of permits or licenses, and has not committed an act in violation of this Ordinance.
  3. Special Permit Denial. A special permit application may be denied by the Planning Board where it appears that the applicant has been convicted of any offense which would be cause for denial of a special permit upon an original application , or has made a false statement on an application for a special permit, or has previously owned or operated an adult business which resulted in suspension or revocation of permits or licenses, or has committed an act of violation of this Ordinance. The Planning Board shall give the applicant written notice specifying the grounds for special permit denial.
  4. Special Permit Suspension. A special permit may be suspended and a fine levied against the permit holder by the Code Enforcement Officer where it appears that the permit holder has committed an act in violation of this Ordinance. The Code Enforcement Officer shall give the special permit holder written notice which shall: direct the permit holder to immediately cease operation of the business; specify the grounds for suspension; specify the action that the permit holder must undertake to correct the violation; designate a ten-day time period from the date of said notice for all violations to be corrected to the satisfaction of the Code Enforcement Officer; specify that if the violations are not adequately corrected within the ten-day time period, the special permit shall be immediately revoked; and specify the fine to be levied against the special permit holder. The special permit holder may, upon payment of all fines and within ten days from the date of such suspension, file a written request with the Planning Board for a public hearing. The hearing shall be conducted by the Planning Board and held within thirty days after filing the request for the hearing, and at which time the permit holder may present evidence bearing upon the question. The Planning Board shall then issue a written finding within five days after the date of the public hearing as to whether the permit was properly suspended. If the Planning Board determines the permit was unduly suspended, the permit shall be immediately reinstated, monies collected for fines shall be returned and the adult business shall be allowed to resume operation. If the Planning Board determines the permit was property suspended, the adult business shall continue not to operate and the permit holder shall have ten days from the date of receipt of the written finding to correct the violation(s) to the satisfaction of the Code Enforcement Officer. If the violation(s) are adequately corrected, the Code Enforcement Officer shall immediately reinstate the permit and the adult business shall be allowed to resume operation. If the violation(s) are not adequately corrected, the Code Enforcement Officer shall immediately revoke the permit following the procedures described below.
  5. Special Permit Revocation. A special permit may be revoked and a fine levied against the permit holder by the Code Enforcement Officer where it appears that the permit holder has not corrected violations pertaining to a previously issued suspension notice,

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

or has committed an act in violation of this Ordinance. A special permit shall be automatically revoked if the special permit holder receives more than three separate suspensions. The Code Enforcement Officer shall give the permit holder a written notice directing the permit holder to immediately terminate operation of the business and shall specify the grounds for revocation. The permit holder may, within ten days from the date of such revocation, file a written request with the Planning Board for a public hearing. The hearing shall be conducted by the Planning Board and held within thirty days after the filing of the request for the hearing, and at which time the permit holder may present evidence bearing upon the question. The Planning Board shall then issue a written finding within five days after the public hearing as to whether the permit was properly revoked. If the Planning Board determines the permit was unduly revoked, the permit shall be reinstated and the adult business use shall be allowed to resume operation. If the Planning board determines the permit was properly revoked, the adult business shall immediately and permanently cease to operate.

**SECTION 724 – CLUBS (LODGE, FRATERNAL ORGANIZATION)**

- A. Dimensional Requirements:
1. Minimum Lot Size – 75,000 Square Feet.
  2. Minimum Lot Frontage – 250 Feet.
  3. Minimum Lot Depth – 300 Feet.
  4. Minimum Front Setback – 125 Feet.
  5. Minimum Side Setback – 100 Feet.
  6. Minimum Rear Setback – 100 Feet.
  7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift and one parking space provided for every two members of the club. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Clubs shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water, and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
- G. Clubs shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specification of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of a club shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Clubs shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
- L. Any club equipped with a restaurant open to both club members and the general public shall also comply with the provisions of Section 718 of this Ordinance.
- M. Any club equipped with a tavern open to both club members and the general public shall also comply with the provisions of Section 726 of this Ordinance.
- N. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 725 – RETAIL BUSINESS/SERVICE BUSINESS**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- F. Retail Businesses/Service Businesses shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

Department standards and State and County Health Department regulations.

- G. Retail Businesses/Service Businesses shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of a retail business/service business shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Retail Businesses/Service Businesses shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
- L. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 726 – TAVERN**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 100 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. A minimum of one off-street loading area shall be required. Off-street loading areas shall comply with the requirements specified in Section 606 of this Ordinance.
- E. The sanitary sewage system shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- F. Taverns shall be connected to a public water supply system. The water service line shall be of sufficient size to provide adequate potable water and shall be designed, constructed and maintained in accordance with all applicable Town Water Department standards and State and County Health Department regulations.
- G. Taverns shall comply with the landscaping requirements specified in Section 615 of this Ordinance.
- H. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in accordance with the typical driveway/roadway section.
- I. All electric lines (not including transformers or pad-mounted enclosures containing electrical equipment), telephone lines, natural gas distribution lines, cable television lines, and other public utility lines shall be placed underground in accordance with the requirements and specifications of the respective utility service providers.
- J. All natural gas or propane fuel tanks and service lines used in the heating/powering of a tavern shall be placed underground in accordance with the requirements and specifications of the fuel service provider.
- K. Taverns shall provide facilities (such as detention/retention basins) for the storage and/or treatment of storm water runoff generated by impervious surfaces.
- L. Any tavern equipped with a restaurant open to the general public shall also comply with the provisions of Section 718 of this Ordinance.
- M. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 727 – RECREATIONAL CENTER**

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 75,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 300 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 100 Feet.
  - 6. Minimum Rear Setback – 100 Feet.
  - 7. This use shall be allowed on flag lots.
- B. A buffer shall be required along any property line shared with a residential dwelling. Buffers shall comply with the requirements specified in Article VI, Section 609 of this Ordinance. *(Rev. 6/19/2007)*
- C. One off-street parking space shall be provided for each employee on the maximum work shift, and one parking space provided for every 200 square feet of gross floor area. Off-street parking areas and driveways shall comply with the requirements specified in Section 605 of this Ordinance.
- D. Concrete or asphalt sidewalks shall be provided in locations where they are deemed by the Planning Board to be appropriate in the interest of worker and public safety and in

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

accordance with the typical driveway/roadway section.

- E. Recreational centers may be required to provide playground facilities/athletic courts and fields for use by the public. This requirement shall be determined by the Planning Board as part of the site plan review process.
- F. For land containing no buildings or structures intended for public occupancy, the necessity for providing a water supply service and/or sanitary sewage system shall be determined by the Planning Board as part of the site plan review process. If a sanitary sewage system is determined to be necessary, it shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use, and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.
- G. The property owner shall be wholly responsible for the proper upkeep and routine maintenance of all buildings, structures, facilities, parking areas, driveways, landscaping and grounds.

**SECTION 728 – RIDING STABLE, BOARDING, TRACK OR ARENA** *(Rev 11/1/2021 )*

- A. Dimensional Requirements:
  - 1. Minimum Lot Size – 200,000 Square Feet.
  - 2. Minimum Lot Frontage – 250 Feet.
  - 3. Minimum Lot Depth – 400 Feet.
  - 4. Minimum Front Setback – 125 Feet.
  - 5. Minimum Side Setback – 75 Feet.
  - 6. Minimum Rear Setback – 75 Feet.
  - 7. This use shall be allowed on flag lots.
- B. Two (2) horses shall be allowed to be permanently housed onsite for the first 120,000 square feet. One (1) additional animal may be housed onsite for each additional 20,000 square feet.
- C. Permanent shelter shall be provided for all horses. The shelter shall be of sufficient size and equipped with adequate food and water for the number and type(s) of horses harbored on the premises.
- D. All shelters shall be located a minimum of 150 feet from any property line.
- E. Any supplies, equipment, apparatus or materials necessary for the keeping of horses must be kept inside an enclosed accessory structure located on the lot. The accessory structure shall be located a minimum of 50 feet from any property line. If the accessory structure will also be used to shelter horses, the structure shall be located a minimum of 75 feet from any property line.
- F. All excrement produced by the horses shall be collected and disposed of on a regular basis for health purposes and to control flies, rodents and odor. If excrement must be temporarily stored on site, it shall be located a minimum of 75 feet from any property line and a minimum of 200 feet from any blue line stream, wetland, pond and drinking water well. Stored excrement shall either be placed in covered containers or placed in a covered and confined stockpile/compost pile. Waste lagoons shall be prohibited.
- G. Stored excrement shall be either composted and reused on the premises, or entirely removed from the lot. Excrement removed from the premises shall be loaded and transported in a

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- manner to prevent the loss, discharge or spillage of excrement onto the highway or neighboring properties.
- H. A fenced area or enclosed area shall be provided on the lot which is capable of containing the horses harbored on site.
  - I. Fences and enclosures shall not exceed six feet in height, as measured at the highest point of round directly below the fence or enclosure.
  - J. Fences shall comply with requirements of Article VI, Section 610 FENCES.
  - K. Materials used for any fence or enclosure shall be of sufficient sturdiness and properly designed, installed and maintained so as to prevent straying.
  - L. The quantity and location of off-street parking spaces shall be determined by the Planning Board during the site plan review process. Parking spaces shall be sized to accommodate both motor vehicles and associated horse trailers.
  - M. All horses, shelters, grounds and operations associated with this section shall be subject to periodic visual inspections by the Ordinance Inspection Officer. The Ordinance Inspection Officer shall determine the need for and timing of such inspections, and shall provide the property owner with advance notice.
  - N. A person shall be considered in violation of this Ordinance if one or more of the following occurs: harboring more horses than allowed; failure to provide proper food and water; failure to provide permanent shelter; failure to provide adequate pasture land; failure to properly clean and maintain the shelter and grounds; failure to properly collect, store, compost, reuse or dispose of excrement; failure to provide adequate fencing or enclosures; straying of horses off the property; and failure to allow visual inspection of the premises. Any person deemed in violations of this Ordinance shall be subject to the procedures and penalties set forth herein.
  - O. If the landowner fails to correct any identified violation(s), the own shall have the authority to seize the animals and to dispose of them in a manner deemed proper.
  - P. Stables, tracks and arenas lawfully operating prior to adoption of this Ordinance shall be allowed to remain, but no horses shall be added to the site unless the property owner complies with all of the provisions of this section.
  - Q. For land containing no buildings or structures intended for public occupancy, the necessity for providing a water supply service and/or sanitary sewage system shall be determined by the Planning Board as part of the site plan review process. If a sanitary sewage system is determined to be necessary, it shall be of sufficient size to collect, dispose of and/or treat all sewage generated from the use and shall be designed, constructed and maintained in accordance with all applicable State and County Health Department regulations.

**SECTION 729 – EXTERIOR SOLID FUEL HEATING DEVICE(s)**

GENERAL – Although Exterior Solid Fuel Heating Devices may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Section is intended to ensure that these devices are utilized in a manner that

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town of Clarendon.

- A. No Exterior Solid Fuel Heating Device(s) shall be installed within the Town of Clarendon without first obtaining a building permit from the Code Enforcement Officer (CEO).
- B. No Exterior Solid Fuel Heating Device(s) shall be installed within the Residential/Hamlet District.
- C. Emission standards currently required by the EPA are hereby adopted by referenced together with any amendments or modifications made to them in the future.
- D. Exterior Solid Fuel Heating Device(s) may only be used from September 15 to May 15 each year.
- E. All Exterior Solid Fuel Heating Device(s) shall comply with the minimum setbacks of the zoning district within which it is installed.
- F. Installation of any electrical or plumbing apparatus or device used in connection with the operation of an Exterior Solid Fuel Heating Device(s) shall be in conformity with all applicable electrical and plumbing codes and, in the absence of such code, in conformity with the manufacturer's installation specifications.
- G. The use of Exterior Solid Fuel Heating Devices must follow all operating instructions supplied by the manufacturer.
- H. The only fuels allowed shall be those listed fuels recommended by the manufacturer.
- I. All Exterior Solid Fuel Heating Device(s) shall be equipped with properly functioning spark arrestors.
- J. The following are prohibited: trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties and pressure-treated wood), leaves, paper products and cardboard.
- K. Users must follow the manufacturer's written instructions for recommended loading times and amounts.
- L. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.
- M. The unit must be located with due consideration to the prevailing wind direction.
- N. Stack location shall be a minimum of two hundred (200) feet from the nearest residence not served by the furnace.
- O. All Exterior Solid Fuel Heating Devices shall comply with any other County, State or Federal guidelines for the same. *(Rev. 8/19/2008)*

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**SECTION 730 – ALTERNATIVE ENERGY SYSTEM (SOLAR POWERED) UTILITY SCALE**

**A. PURPOSE**

The Town Board of the Town of Clarendon, New York has determined that solar energy, properly regulated, is clean, readily available and is a renewable energy source beneficial to the Town of Clarendon, its residents, and the general public. These supplementary regulations are designed to control the placement of Commercial Solar Energy Facilities (SEFs) to protect the public health, safety and welfare of its citizens and visitors; to minimize the adverse impacts on the Town of Clarendon character and economy; to minimize negative impacts on the unique scenic resources including but not limited to, adjacent lands and waterways; to minimize the adverse impacts on property values of nearby citizens; to minimize the adverse impacts on the town’s farming communities; and to minimize the adverse impacts on the town’s environment and ecosystems.

These regulations do not address private residential solar use or a small solar array that is on a farm or other business whose primary purpose is for onsite energy usage. These regulations are not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or laws. The provisions contained herein shall not be deemed to nullify any provisions of any state or federal law.

**B. AUTHORITY AND REFERENCES**

The Clarendon Town Board enacts these regulations establishing comprehensive regulations for Commercial Solar Energy Facilities for the Town of Clarendon, New York providing for the administration, enforcement and amendment thereof, in accordance with the provisions of law.

**C. INTENT**

The New York General Statute (e.g. 272-a) and repeated in the foundation of the Clarendon Comprehensive Plan, gives our local legislators the power to write zoning and regulation laws for the purpose of promoting the health, safety or general welfare of their community. It states “While municipalities are given the power to regulate land uses in the community, it is understood that these decisions should be based on sound planning principles and are not to be arbitrary or capricious.”

**D. PERMIT REQUIRED**

Utility scale solar energy facilities shall be allowed by Special Use Permit within the Town of Clarendon only in the Residential/Agricultural (RA) Zoning District or the Industrial (I) Zoning District. Such facilities shall be subject to the requirements and permitting process of these regulations in addition to other applicable local, state and federal laws.

These regulations shall apply to all areas of the Town of Clarendon, New York.

**E. DEFINITIONS**

As used in this law, the following terms shall have the meanings indicated. Words not defined in these regulations shall be given their ordinary and common meaning:

**ACCESSORY BUILDING:** A building that is located on the Solar Energy Facility (SEF) property.

**ACCESSORY EQUIPMENT:** Any equipment serving or being used in conjunction with a SEF. The Term includes utility or transmission equipment, power supplies, generators, batteries, equipment sheds and storage sheds, shelters or similar structures.

## ARTICLE VII SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES

**BROWNFIELD:** With certain legal exclusions and additions, the term “brownfield site” means real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

**COMPLETED APPLICATION:** An application that contains all information and/or data required and requested to enable an informed decision to be made with respect to that application.

**CONSERVATION AREA:** Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec. 1251 et seq.; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species or habitat for such species; archaeological sites, cemeteries and burial grounds; important historic sites; other significant natural features and scenic view sheds; and existing trails or corridors that connect the tract to neighboring areas.

**ESCROW ACCOUNT:** An account in which funds are accumulated and maintained for specific disbursements.

**MAINTENANCE:** The cleaning, painting, repair or replacement of defective parts (including plumbing, electrical or mechanical work that might require a building permit) in a manner that does not alter the basic design or composition of a structure, such as a solar array.

**MODIFICATION OR MODIFY:** Any change, addition, removal, swap-out, exchange and the like that does not qualify as “repairs and/or maintenance” as defined herein is a modification. Also included is any change, addition, swap-out, exchange and the like that requires or results in changes and/or upgrades to the structural integrity of a solar array.

**PERSON:** An individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, club, etc. acting as an entity.

**REPAIR:** The replacement of existing work with the same kind of material used in the existing work, not including additional work that would:

- Change the structural safety of the structure
- That would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations that would be in violation of a provision of law or this regulation.
- The term “Repair” or “Repairs” shall not apply to any change in construction.

**SOLAR ARRAY:** An active solar energy system that converts sunlight into electricity using either Thermal or Photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries and other additional structures and/or facilities.

**SOLAR COLLECTOR:** A device that converts sunlight into electricity using either Thermal or Photovoltaic methods.

**SOLAR ENERGY:** There are two general ways sunlight is converted into useful energy; Passive and Active. Passive refers to such actions as opening a window shade to let sunlight in to heat a room. Active uses mechanical devices to collect, convert, store and distribute solar energy. The two most common Active conversions of sunlight into electricity are Thermal and Photovoltaic.

**SOLAR ENERGY FACILITY (SEF):** A commercial electricity-generating facility (PV or CSP), whose primary purpose is to produce electrical energy for offsite usage. This consists of one or more solar arrays and other accessory structures and buildings, including substations, electrical infrastructure, generators, transmission lines, and other additional structures and/or facilities. Also referred to as a large scale Industrial Solar Energy Facility.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

SOLAR FARM: A marketing term for a SEF.

STATE: State of New York.

UTILITY POLE: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables or wires for telephone, cable television or electricity, or to provide lighting.

**F. PERMIT REQUIREMENTS**

**1. General:** Before a building permit may be submitted for a SEF, a building Permit Application must first be approved by the Town Planning Board.

**2. Permit Application:** Throughout the permit process, the Applicant/Owner/Operator shall promptly notify the Town Planning Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted. The application for a SEF shall consist of five paper copies and electronic (digital) filing that contain at least the following:

**3. Summary:** A narrative overview of the SEF, including its generating capacity.

**4. Inventory:** A tabulation describing the:

- a) Number and type of each proposed solar array, including their generating capacity;
- b) Dimensions and respective manufacturers;
- c) Additional structures and/or facilities.

**5. Vicinity Map:** Identification of the property on which the proposed SEF will be located.

**6. Site Plan:** A plan showing the:

- a) Planned location of each solar array;
- b) All property lines within 100 feet of the property lines of the proposed site;
- c) Each array's setback distance from the closest SEF boundary;
- d) Access road and turnout locations;
- e) Substation(s) and ancillary equipment, buildings and structures;
- f) Electrical cabling from the SEF to the substation(s) and from the substation(s) to where the electricity will leave the site, and associated transmission lines;
- g) Conservation Areas, including natural areas protected by law such as wetlands, that meet the definition in the Clean Water Act; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species (federal or state), or habitat for such species; flyways; archaeological sites, cemeteries and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing health trees that are at least 100 years old; other significant natural features and scenic view sheds; existing trails or corridors that connect the tract to neighboring areas;
- h) A landscaping plan that shows proposed screening and buffering of all arrays, buildings and other non-array structures on the site or sites.

**7. Miscellaneous:** The Applicant/Owner/Operator shall provide the following information to the Town Planning Board:

- a) Documentation that the Project will meet all the requirements of the nationally recognized electrical code;
- b) A Stand-down Plan for high wind conditions;
- c) Signed copies of all original leases/easements and agreements for this SEF.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**8. Economic Impact Study:** The Town of Clarendon will hire independent experts (paid for from the Escrow Account) who will do a thorough, realistic assessment of the SEF's net economic impact on the community. This will include possible tourism impact, property values, cost to community, health effects, higher cost of electricity, etc. This will be compared to any guaranteed incomes from the SEF. The Town of Clarendon shall pay from the Escrow Account for at least ten (10) representative soil sample tests prior to construction of a SEF for comparison of soil sample tests taken during the decommissioning process.

**9. Maintenance Plan:** The Applicant/Owner/Operator shall detail storm and other severe weather event follow-up and other actions that shall be taken to keep the SEF operating quietly, efficiently and not polluting land, water, air. Steps shall be taken to insure proper operation of inverters, inverter filters and associated electrical equipment. This should include checks for electrical pollution. The Applicant/Owner/Operator shall conduct preventive maintenance inspections at least every six months and after any wind event defined as severe wind, which would be wind over 40 miles per hour for one hour or wind gust 58 miles per hour or greater. Each inspection shall look for such things as metal fatigue, nut loosening, leakage and other potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town of Clarendon Zoning or Code Enforcement Officer within thirty (30) days of the inspection. Once a year, the Clarendon Building Inspector or designee will inspect for safety of the SEF.

**10. Decommissioning Plan:** A description of how the structural and array materials will be disposed of, how the site will be restored, as well as:

- a) Anticipated life of the SEF;
- b) Estimated decommissioning costs including contingency costs of at least 20% (in current dollars), as provided by an appropriately experienced licensed engineer;
- c) A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use if electricity is not received from any array within the SEF for any thirty (30) consecutive days;
- d) The Applicant/Owner/Operator's plan to dispose of all hazardous waste contained in the SEF;
- e) Method for ensuring that funds will be available for decommissioning and restoration as set forth in a decommission bond.

**11. Ancillary Materials:** Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Town of Clarendon to ensure compliance with these Regulations or to protect the health, safety and well-being of the town's citizens or local ecosystems. The inputs of local citizens will be solicited in at least one (1) public hearing on this application.

**12. Town Planning Board Decision:** The approval by the Town Planning Board shall be via Special Use Permit and shall include but is not limited to, a review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

**13. Special Permit Criteria and Restrictions:** To provide for at least minimal operational safety for persons and property located outside of a SEF, all SEFs shall comply with the following:

- a) Minimum lot size: Shall be fifteen (15) acres.
- b) Number of systems per lot: There shall be only one (1) SEF allowed per lot.
- c) Maximum overall height: The height of the system shall not exceed fifteen (15) feet when oriented at maximum tilt. Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as a lightning protection device).
- d) Minimum front setback: As measured from center of the road shall be two hundred fifty (250) feet.
- e) Minimum side and rear setback: Measured from lot lines shall be two hundred fifty (250) feet.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- f) Minimum setback: Measured from any residence shall be three hundred (300) feet.
- g) Minimum setback: From any zoning district boundary shall be three hundred (300) feet. Such minimum setback for a SEF shall be measured from its outermost extension that is nearest the SEF property line, public or private right-of-way and access easement.
- h) A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of Clarendon laws, regulations, building, plumbing, electrical, and fire codes, and the applicant shall provide any requested documentation of such correspondence.
- i) Development and operation of a utility-scale solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Clarendon or other federal or state regulatory agencies.
- j) The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
- k) All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
- l) All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the International Electric Code and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
- m) All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
- n) Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- o) Prior to issuance of a Certificate of Occupancy, the applicant shall provide a post- construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.
- p) Compliance with regulatory agencies: The applicant is required to obtain and maintain all necessary regulatory approval and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of a utility-scale solar energy system.

**14. Power Collection:** The electrical connection system from the solar arrays to a substation shall, to the maximum extent possible, be placed underground. The power from that substation may use overhead transmission lines, if approved by the Town Planning Board.

**15. The SEF shall:**

- a) Not contain any signage or other advertising (including flags, streamers or decorative items or any identification of the array manufacturer Applicant/Owner/Operator). This does not include any identification plaques that might be required by the electric utility or a governmental agency;
- b) Have a minimum landscape buffer on sides where neighboring homes can see into the SEF. The type of buffer including to but not limited to: plantings, berm, additional screening, or any other means necessary to ensure compatibility and the health and welfare of adjoining properties shall be determined by the Planning Board as part of the site plan process. Plantings at a minimum shall consist of a double row of ten (10) foot evergreens planted in a staggered configuration. Vegetative screening shall be maintained and replaced as necessary for the life of the facility.

**16. Security:** The Applicant/Owner/Operator shall submit design plans to verify that the SEF is:

- a) Located, fenced or otherwise secured so as to prevent unauthorized access inside the planted buffer. The minimum security fence shall be eight (8) feet in height.
- b) Installed in such a manner that they are accessible only to persons authorized to operate or service them, and inaccessible to non-authorized individuals.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

c) Provisions have been made for emergency responders to gain access to the site as necessary.

**17. SEF Escrow Account:** The Applicant/Owner/Operator shall pay to the Town of Clarendon a non-refundable Application Fee. The Town Planning Board is required to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted SEF application. These costs (and other expenses incurred by the Town of Clarendon) are reimbursable only from the Escrow Account, not the Application Fee. The amount of the escrow account will be determined by consulting with the appropriate professional organizations. There will be a minimum amount of \$150,000 in the account at all times.

**18. Reimbursement:** The Applicant/Owner/Operator shall reimburse the Town of Clarendon for all oversight expenses incurred relating to the SEF, from application through decommissioning.

**19. These SEF related oversight expenses include** but are not limited to: amounts required for Building Permits, Licensing, Re-Licensing and Decommissioning – e.g. administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. “Legal” includes reasonable attorney fees for the Town of Clarendon in the event that an action is commenced by the Town to enforce provisions of these Regulations.

**20. Any Escrow Interest:** Shall stay with the account and be considered new principal.

**21. Escrow Account Setup** will be by the Applicant/Owner/Operator at the time of the SEF permit application. This Escrow Account will be at a financial institution approved by the Town of Clarendon, solely in the name of the Town of Clarendon, to be managed by the Town of Clarendon, or designee appointed by the Clarendon Town Board.

The Applicant/Owner/Operator will make an initial deposit in an amount to be determined by the Town of Clarendon. A SEF Permit Application will not be processed until the applicant/Owner/Operator has provided proof of deposit. A SEF Permit Application determination will not be made until all costs incurred to date have been reimbursed by the Applicant/Owner/Operator.

**22. SEF Application Denial** If the SEF Application is denied, all Escrow Account funds will be returned to the applicant/Owner/Operator, less related expenses incurred by the Town of Clarendon. The money will be returned along with a statement as to these costs within thirty (30) days of the Application being formally denied or receipt of a Letter of Withdrawal. Permit Fees are non-refundable.

**23. Escrow Account Funding:** This Escrow Account will be funded during the life of the SEF by the applicant/Owner/Operator. The applicant/Owner/Operator will replenish any Escrow funds used by the Town of Clarendon within thirty (30) calendar days of being sent written report and accounting of said withdrawals. Failure to maintain the Escrow Account at a minimum balance set by the Clarendon Town Planning Board within thirty (30) days of being given notice, shall be cause for revocation or denial of renewal of the SEF Permit.

**24. Decommissioning Verification:** Once the SEF Applicant/Owner/Operator believes that they have satisfactorily complied with the decommissioning conditions specified herein, they will send the Clarendon Town Planning Board written notification. The Town of Clarendon then has ninety (90) days to verify to their satisfaction that all decommissioning conditions have been complied with. If there is material non-compliance, the Clarendon Town Planning Board will so notify the SEF Applicant/Owner/Operator and the process starts over. Otherwise, the Town of Clarendon will return all Escrow Account funds to the SEF Applicant/Owner/Operator less related expenses incurred by the Town of Clarendon, along with an explanatory statement.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**25. SEF Surety for Removal when Decommissioned:** The Applicant/Owner/Operator shall place with the Town of Clarendon an acceptable letter of credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each SEF array's useful life as detailed in the decommissioning plan. Such surety shall be determined based on best practices and research for each acre of a solar array. The Town of Clarendon may approve a reduced surety amount that is not less than 150% of a cost estimate that is certified by an Engineer, Salvage Company or other expert acceptable to the Town of Clarendon. This calculation will not take into account any estimated salvage values.

The Town of Clarendon shall use this surety to assure the faithful performance of the decommissioning terms and conditions of the Applicant/Owner/Operator's plan and these Regulations. The full amount of the bond or security shall remain in full force and effect until all necessary site restoration is completed to return the site to a condition comparable to what it was prior to the SEF, as determined by the Town Planning Board. The Applicant/Owner/Operator will be responsible for assuring that any subsequent Assigns of the SEF will provide acceptable surety to the Town of Clarendon prior to any transfer of ownership.

**26. SEF Indemnification:** Any application for a SEF within the Town of Clarendon shall contain an indemnification provision. The provision shall require the Applicant/Owner/Operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town of Clarendon and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award of damages whether compensatory or punitive, or expenses arising therefrom either at law or in equity which might arise out of or are caused by the placement, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said SEF, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town of Clarendon or its employees or agents. With respect to the penalties, damages, or changes referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the Town of Clarendon.

**27. SEF Permit Fees:** The non-refundable Permit Application Fee shall be set by the Clarendon Town Board and amended from time to time as needed.

**28. Permit Decision Standards:** The Clarendon Town Planning Board may disapprove a SEF Permit application for a variety of legal reasons, including but not limited to:

- a) Conflict with safety and safety related codes and requirements;
- b) The use or construction of a SEF that is contrary to an already stated purpose of a specific zoning or land use designation;
- c) The operation of a SEF would be a net economic liability to the community;
- d) The operation of a SEF would create unacceptable health risks to the public;
- e) The replacement and operation of a SEF that would create unacceptable risks to wildlife and/or regional ecosystems;
- f) The placement and location of a SEF would result in a conflict with or compromise or change in the nature or character of the surrounding area;
- g) The operation of a SEF would create unacceptable interference with any type of military or aviation operations;
- h) Conflicts with any provisions of this Local Law.

**G. SEF POST-PERMIT APPROVAL REQUIREMENTS**

**1. SEF Construction Related Damage:** The owner of any permitted SEF shall to the extent practicable repair or replace all real or personal property, public or private, damaged during the

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

SEF construction.

**a)** Any road damage during construction that is caused by the Applicant/Owner/Operator or one or more of its subcontractors that is identified by the New York State Department of Transportation (NYSDOT), Orleans County Highway Department and Town of Clarendon Highway Department (as appropriate) shall be repaired or reconstructed to the satisfaction of the appropriate Agency at the Applicant/Owner/Operator's expense prior to the final inspection. In addition, the Applicant/Owner/Operator shall pay for all costs related to the NYSDOT, Orleans County Highway Department and Town of Clarendon Highway Department (as appropriate) pre-inspection work prior to receipt of the final inspection;

**b)** The surety for removal of a decommissioned SEF shall not be released until the Town of Clarendon or designee is satisfied that any road damage identified during and after decommissioning that is done by the Applicant/Owner/Operator and/or one or more of its contractors or subcontractors, has been repaired or reconstructed to the satisfaction of the appropriate Agency at the applicant/Owner/Operator's expense. In addition, the applicant/Owner/Operator shall pay for all costs related to work of the NYSDOT, Orleans County Highway Department and the Town of Clarendon Highway Department (as appropriate) for inspection prior to receipt of the release of the surety.

**2. SEF Environmental Monitoring:** The Applicant/Owner/Operator will permit post-construction environmental studies deemed appropriate by the Clarendon Town Planning Board/Building Inspector or designee, which will be funded by the Escrow Account. The Applicant/Owner/Operator is responsible to see that the Town of Clarendon has current Material Safety Data Sheets (MSDS) for all chemicals used for maintenance, etc. of the SEF (e.g. pesticides, herbicides, cleaners). This list shall include quantity and frequency of application of each of these chemicals. At any time if this information is out of date, the Applicant/Owner/Operator will be subject to a fine of \$250 per incident.

Post-construction field studies will include scientific assessments of regional nesting failures and territory abandonment of special status species within one (1) mile of the SEF. When these assessments are being done, only researchers involved with these studies will be legally allowed to touch carcasses. SEF personnel who move carcasses without written Town of Clarendon approval will be subject to a fine per law as solar arrays have been known to kill endangered and other highly protected species. During the life of the project, carcasses found anywhere within the SEF must be reported to the Town of Clarendon Building Inspector by the Applicant/Owner/Operator within seven (7) days. The fine for violation of Section 9.2 is \$250 per carcass per incident.

**3. SEF Decommissioning:** The Town of Clarendon will review the projected Decommissioning costs every five (5) years. The SEF owner will adjust their security to any changes from the original calculation. If the Town of Clarendon Building Codes Official condemns any portion of a SEF, or if no electricity is generated from any solar array for three (3) consecutive months, the Applicant/Owner/Operator and/or property owner shall have three (3) months to remedy the safety issues or complete the decommissioning of the SEF, according to the approved plan.

**4. Time Extensions:** The Town of Clarendon may, through the Code Enforcement Officer, grant reasonable extensions of time for repair and/or maintenance for good cause, such as the need to back-order parts that are not currently available from the supplier or the need to repair a SEF damaged by a storm.

**5. Removal:** Decommissioning shall Include the complete removal of solar arrays, building, electrical components, cabling, roads and any other associated facilities and/or structures, buffered fencing, including below-ground items (e.g. foundations) to a depth of four (4) feet below grade.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

**6. Grading:** Disturbed or compacted earth shall be de-compacted, graded and re-seeded, unless the landowner requests in writing to the Applicant/Owner/Operator and the Town Planning Board that the access roads or other land surface areas not to be restored.

**7. Soil Samples:** The Town of Clarendon shall pay from the Escrow Account for at least ten (10) representative soil sample tests prior to construction on the site and as part of the site decommissioning process to assure that no new contaminants are left behind. If evidence of new contaminants is found, the Applicant/Owner/Operator is obligated to remedy the situation to the Town of Clarendon Planning Board's satisfaction.

**8. SEF Complaints:** The Town of Clarendon shall set up a procedure for filing and handling SEF complaints. The Applicant/Owner/Operator shall initially be given a reasonable opportunity to resolve all complaints. The cost of such resolution shall be borne by the Applicant/Owner/Operator. If resolution is not made in a reasonable time or sixty (60) days (reasonable as determined by the Clarendon Town Planning Board), the Town of Clarendon may utilize its Escrow Account to attempt to resolve any SEF issues. The Town of Clarendon Planning Board shall monitor and oversee resolution of complaints regarding SEFs.

**H. SEF LIABILITY INSURANCE**

**1. The Holder of a Permit for a SEF Shall Agree** to secure and maintain for the duration of the permit, public liability insurance as follows:

- a) Commercial general liability covering personal injuries, death and property damage:\$5,000,000 per occurrence (\$10,000,000 aggregate) which shall specifically include the Town of Clarendon and its officers, councils, employees, attorneys, agents and consultants as additional named insured;
- b) Umbrella coverage: \$10,000,000.

**2. Insurance Company:** The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best's rating of "A".

**3. Insurance Policy Cancellation:** The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town of Clarendon with at least thirty (30) days prior written notice in advance of cancellation.

**4. Insurance Policy Renewal:** Renewal or replacement policies shall be delivered to the town of Clarendon at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

**5. Copies of Insurance Policy:** No more than fifteen (15) days after the grant of the permit before construction is initiated, the permit holder shall deliver to the Town of Clarendon a copy of each of the policies or certificates representing the insurance in the required amounts.

**6. Certificate of Insurance:** A certificate of insurance states that it is for informational purposes only and does not confer sufficient rights upon the Town of Clarendon shall not be deemed to comply with this Law.

**I. MISCELLANEOUS - Fiscal Responsibility**

**1. Audited Report:** The Clarendon Town Board may at its discretion, request the most recent annual audited financial report of the permittee prepared by a duly licensed Certified Public Accountant during the review process. If such report does not exist, the Clarendon Town Board may in its sole discretion, require a suitable alternative to demonstrate the financial responsibility

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

of the applicant/Owner/Operator and its ability to comply with the requirements of these Regulations.

**2. No Transfer or Sale** of any SEF, including the sale of more than 30% of the stock of such entity (not counting sale of shares on a public exchange) shall occur without advanced written acceptance by such entity of the obligations of the permittee under these Regulations. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as permittee.

**3.** The requirements of these Regulations shall apply to all SEFs proposed, operated, modified or constructed after the effective date of these Regulations.

**J. APPLICABILITY**

The requirements of these regulations shall apply to all SEF's proposed, operated, modified, or constructed after the effective date of the regulation.

**K. SEVERABILITY**

Should any provision of these regulations be declared by any court, administrative body or board or any other government body or board to be unconstitutional, invalid, preempted, void or otherwise inapplicable for any reason, such decision shall not affect the validity of these Regulations as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void or otherwise inapplicable.

**SECTION 731 - TELECOMMUNICATION FACILITY (Rev )**

**A. GENERAL CRITERIA** - No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunications Facility shall be authorized by the Planning Board unless it finds that such Telecommunications Facility:

1. Is necessary to meet current or expected demands for service.
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.
3. Is considered a public utility in the State of New York.
4. Is designed and constructed in a manner which minimizes visual impact to the extent practical.
5. Complies with all other requirements of this ordinance, unless expressly superseded herein.
6. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility.
7. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

**B. CO-LOCATION** - The shared use of existing Telecommunications Facilities or other structures shall be preferred to the construction of new Facilities. Any Special Permit

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure.

1. The application shall include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five per cent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
2. The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facility sites in the inventory due to one (1) or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities.
  - b. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
  - c. Existing or approved Telecommunications Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
  - d. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
  - e. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.

**C. DIMENSIONAL STANDARDS**

1. A fall zone around any tower constructed as part of a Telecommunications Facility must have a radius at least equal to the height of the tower and any antennae(s) attached upon it zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the Telecommunications Facility. If the Facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
2. All Telecommunications Facilities shall be located on a single parcel.
3. All Telecommunications Facilities shall comply with the setback standards of the underlying Zoning District. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot owned for the purpose of construction of a tower as part of a Telecommunications Facility, shall not result in the creation of a non-conforming lot.
4. The frontage requirement of the underlying zoning district shall not apply, provided the Telecommunications Facility is not proposed on a parcel to be partitioned specifically for the Facility and/or is designed for occupancy by staff. In the absence

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

of required frontage, an access way for service vehicles either through easement, lease or ownership - shall be in accord with this Section.

5. The applicant shall demonstrate that the proposed height of the tower is the minimum necessary to achieve the desired coverage objectives for the facility, although the Planning Board may require that the Telecommunications Facility be designed for possible future height extensions in order to accommodate future co-location by other users. In no event shall any Telecommunications Facility exceed 250 feet in height.

**D. LIGHTING AND MARKING**

1. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.

**E. APPEARANCE AND BUFFERING**

1. The use of any portion of a Telecommunications Facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, shall otherwise:
  - a. Have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board, or;
  - b. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
3. Accessory structures shall maximize the use of building materials, colors and textures designed to blend in with the natural surroundings.
4. The Planning Board may require a State Environmental Quality Review (SEQR) Full Environmental Assessment Form (EAF) for proposed Facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF), may be required as an addendum to either the Full or Short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
5. The Planning Board shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.

6. Equipment or vehicles not used in direct support, renovations, additions or repair of any Telecommunications Facility site shall not be stored or parked on the facility site.

**F. ACCESS AND PARKING**

1. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for Telecommunications Facilities must be at least twenty (20), but no more than thirty (30), feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within access ways and shall not comprise more than 60% of the width of the access way.
3. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

**G. SECURITY**

1. Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) feet in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.
2. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
3. There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

**H. ENGINEERING AND MAINTENANCE**

1. Site plans for all Telecommunications Facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including but not limited to

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

- the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the municipal zoning office.
  3. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
  4. The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

**I. REMOVAL**

1. At the time of submittal *of* the application *of* a special use permit for a Telecommunications Facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower( s) dedicated solely for use within a Telecommunications Facility if such Facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land shall be restored to its previous condition, including *but not limited to* the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal *of* the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than one hundred thousand dollars (\$100,000.00).
3. At times of renewal or modification of the Special Use Permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in cost of removal of the Telecommunications Facility or any necessary property restoration that may be required.

**SECTION 732 –FARM MARKET** (Rev 4/15/2025)

A. Dimensional requirements:

- Front Setback- 75 feet
- Side Setback- 30 feet
- Rear Setback- 30 feet
- Lot Frontage- 150 feet
- Lot Size- 30,000 square feet

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

B. Farm Markets shall comply with all applicable State and local laws and regulations, including but not limited to, New York State Uniform Fire Prevention and Building Code, New York State Health Department requirements, NYS Department of Agriculture and Markets Laws.

C. A majority of the products sold at a Farm Market shall be grown by the market owner on land owned, leased or rented as part of their farm operation. The market owner shall be responsible for tracking the origin of all products available for sale and, upon written or verbal request, be capable of providing satisfactory evidence to the Ordinance Inspection Officer (OIO).

D. Farm Markets shall be permitted to sell farm produced foods such as the following:

1. Fresh whole fruits.
2. Fresh whole vegetables.
3. Grains and Legumes.
4. Honey and Maple Syrup.
5. Eggs (only if clean and properly refrigerated at 45F or less).

E. Farm Markets shall be permitted to sell packaged food products provided the products are labeled in accordance with New York State food labeling requirements. Misrepresenting Store-bought baked goods as “homemade” or “home baked” and market bought fresh produce as “homegrown” is prohibited.

F. Farm Markets shall be permitted to sell perishable products, such as meat and dairy products, if the products are processed at a licensed food processing facility, prepackaged and properly labeled, and kept at required cold temperatures to prevent spoilage or contamination.

G. Farm Markets shall not sell the following food products:

1. Home-canned or jarred fruits and vegetables, pickled products, sauces, relishes and other low-acid foods (unless manufactured under a NYS Department of Agriculture & Markets-approved processing method at an inspected facility).
  1. Cream, custard, pumpkin, meat or other single-crust pies, cream or cheese filled baked goods (unless prepared in an approved, inspected baking facility, packaged and properly refrigerated).
  2. Any other prepared foods made with highly-perishable ingredients for immediate consumption or reheating (unless manufactured and vended under proper food processing and vending licenses).

H. The entire area of the site traveled by motor vehicles shall be hard surfaced.

I. All driveways shall have an unrestricted width of not less than 25 feet and shall be located not less than 25 feet from any property line, and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.

J. One parking space shall be provided for every 100 square feet of gross floor area, plus one parking space for each employee on the largest work shift. A parking space shall not be less than 10 x 20 feet in size.

K. One off-street loading area shall be provided for each 4000 square feet of gross floor area. An off-street loading area shall not be less than 20 x 50 feet in size.

L. Roadside stands operating at or near road intersections shall be located so that sight distance is not impaired.

M. A minimum of one commercial refuse container shall be provided. The container shall be placed on a concrete slab, screened from view, and located as to permit safe and easy removal of refuse by hand or truck. Suitable trash disposal receptacles shall also be provided.

N. No exterior light source shall be erected in excess of 25 feet above the ground and shall be placed as to eliminate the casting of direct light or glare upon adjacent properties.

O. Fences, if erected on the site, shall comply with the fence standards found in Section 610 of this Ordinance.

P. Signs shall comply with the sign standards found in Section 600 of this Ordinance.

Q. Farm Markets shall be located so as to minimize visual conflicts with adjacent properties, and be constructed of materials that compliment, rather than compromise, the character of the community.

R. Water supply and sewage disposal systems shall be reviewed and approved by the Orleans County Health Department, Town of Clarendon Water Department, and all other applicable agencies.

**ARTICLE VII**  
**SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL PERMIT USES**

S. Any Farm Market that sells or offers food products for on-site consumption shall also comply with the Restaurant provisions found in Section 718 of this Ordinance.

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

**SECTION**

<b>800</b>	<b>Enforcement</b>
<b>801</b>	<b>Duties and Procedures of The Code Enforcement Officer</b>
<b>802</b>	<b>Review of Code Enforcement Officer Actions</b>
<b>810</b>	<b>Duties and Procedures of the Planning Board</b>
<b>820</b>	<b>Duties and Procedures of the Zoning Board of Appeals</b>
<b>830</b>	<b>Variances</b>
<b>837</b>	<b>Required Referrals to The County Planning Board</b>
<b>838</b>	<b>Effect of County Planning Board Review</b>
<b>839</b>	<b>Report on Final Local Action</b>
<b>840</b>	<b>Consultation</b>
<b>841</b>	<b>Agricultural Data Statement</b>

**SECTION 800 - ENFORCEMENT**

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Code Enforcement Officer. The Code Enforcement Officer shall be appointed by the Town Board and receive compensation as determined by the Town Board.

**SECTION 801 - DUTIES AND PROCEDURES OF THE CODE ENFORCEMENT OFFICER**

- A. Administer the Zoning Ordinance, Local Laws and the Building Code of New York State - The Code Enforcement Officer shall review all applications for building permits to determine compliance with all applicable requirements of this Ordinance, all local laws of the Town of Clarendon, and the Building Code of New York State and all subsequent amendments thereto. If and when an applicant has demonstrated that all of the foregoing requirements are met, the Code Enforcement Officer shall issue a building permit in accordance with Section 301 of this Ordinance. Otherwise, the Code Enforcement Officer shall deny the application for a building permit in writing.
- B. Referral to the Zoning Board of Appeals - In any case where an applicant has appealed any action of the Code Enforcement Officer to the Zoning Board of Appeals (ZBA) pursuant to Section 802, the Code Enforcement Officer shall notify the Chairperson of the ZBA of the appeal and forward all necessary supporting information.
- C. Zoning, Local Law and Building Code Violations
  - 1. Stop-Work Orders –  
Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a permit or is otherwise in violation of the provisions of any applicable law, code, ordinance, rule or regulation, or is not in conformity with any provisions of the application, plans or specifications on the basis of which a permit was issued, or is being conducted in an unsafe or dangerous manner, the Code Enforcement Officer shall notify either the owner of the property or the owner’s agent or the person, firm or corporation performing the work to immediately suspend all work. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reason for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer, or that of any deputy or assistant, and shall be prominently posted at the work site. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

2. Notices and Appearance Tickets
  - a. Whenever it is found that there has been a violation of this Ordinance, any local law, the Building Code of New York State or any other applicable law, code, ordinance, rule or regulation enforcement of which is the responsibility of the Code Enforcement Officer, the Code Enforcement Officer may issue a violation notice and/or appearance ticket to the person, individual, partnership or corporation owning, operating or maintaining the premises in which such violation has been noted.
  - b. Violation notices shall be in writing; shall identify the property or premises; shall specify the violation or remedial action to be taken; and shall specify that the violation must be corrected within ten (10) days from the receipt of the violation notice, unless the ten (10) day period is modified by the Code Enforcement Officer or unless a shorter period of time has been prescribed for by law.
  - c. Violation notices and other orders or notices referred to in this Ordinance shall be served on the owner or on one of the owner's executors, legal representatives, agents, lessees, any tenant or other person occupying the premises or other persons have a vested or contingent interest in the premises, either personally or by certified mail, addressed to the last known address, if any, of the owner or one of the owner's executors, legal representatives, agents, lessees or other persons having a vested or contingent interest in the same, as shown by the last preceding completed record of the Receiver of Taxes, or in the office of the County Clerk.
  - d. The Code Enforcement Officer shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket subscribed by him or her, directing a designated person to appear in court at a designated time in connection with the commission of a violation of this Ordinance, any local law, the Building Code of New York State, or any other applicable law, code, ordinance, rule or regulation, the enforcement of which is the responsibility of the Code Enforcement Officer, or any order made thereunder.
  - e. The Code Enforcement Officer shall also have the authority to commence proceedings or impose penalties against any person violating any of the foregoing pursuant to the provisions of Section 105 and Section 106 of this Ordinance.
- D. Report to the Town Board - A monthly report to the Town Board describing the enumerating actions taken and permits issued shall be given by the Code Enforcement Officer.
- E. Public Record - The Code Enforcement Officer shall file all permit actions with the Town Clerk.

**SECTION 802 - REVIEW OF CODE ENFORCEMENT OFFICER ACTIONS**

- A. Interpretations and Variances from the Zoning Ordinance - Whenever it is claimed that the Code Enforcement Officer misinterpreted or misconstrued this Zoning Ordinance in approving or disapproving any application or granting or refusing to grant any permit under this Ordinance, or where the Code Enforcement Officer has denied a permit or application and the applicant seeks a variance from the provisions of this Ordinance, all such appeals shall be heard and determined by the Zoning Board of Appeals in accordance with Section 820 of this Ordinance.
- B. Appeals Related to Application of the Building Code of New York State -
  1. Whenever it is claimed that the Code Enforcement Officer misconstrued the Building Code of New York State in approving or disapproving any application or granting or refusing to grant any permit or certificate of occupancy, the person affected may appeal from the decision of the Code Enforcement Officer to the Zoning Board of Appeals pursuant to Section 820 of this Ordinance.

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

2. Where strict compliance with any provision or requirement of the Building Code of New York State would entail practical difficulties or unnecessary hardship or otherwise be unwarranted, petitions for variances from or modifications to the application of the Building Code of New York State in particular instances may be made to the Regional Board of Review in accordance with the Part 450 of Title 19 of the New York Code, Rules and Regulations, entitled Uniform Code: Board of Review as promulgated by the New York Department of State (hereinafter Part 450).
3. In routine cases, as defined in Part 450, the New York State Department of State may grant variances from or modifications to the application of the Building Code of New York State in particular instances in accordance with Part 450 in lieu of transmitting a petition to the Regional Board of Review.
4. The Code Enforcement Officer shall maintain a copy of Part 450 for public inspection and a copy of all decisions rendered by the Regional Board of Review and Department of State pertaining to matters affecting the Town of Clarendon.

**SECTION 810 - DUTIES AND PROCEDURES OF THE PLANNING BOARD**

- A. Pursuant to Section 271 of Town Law, there shall be a Planning Board consisting of five(5)members, with members appointed by the Town Board. At least one member should be a person engaged in agricultural pursuits as defined in Section 271 of Town Law. Terms of all Planning Board members shall be staggered as the law requires. *(Rev. 11/15/2011)*
- B. In accordance with Local Law #2 of 1996 (See Appendix #6: Authorizing the Appointment of Alternate Members to the Planning Board and Zoning Board of Appeals of the Town of Clarendon) two alternate members of the Planning Board may be appointed by the Town Board.
- C. Officers, rules and expenses of the Planning Board:
  1. The Town Board may select a Chairperson of the Planning Board, or on failure to do so, the Planning Board shall elect a chairperson from its own members.
  2. The Planning Board may adopt rules or by-laws for its operation.
  3. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including a means for the Planning Board to maintain a written record of its meetings and public hearings.
  4. All decisions shall be by a majority vote of the membership(three votes)except in those cases contrary to a County Planning Board disapproval referral recommendation. In such cases, a super majority vote (majority plus one vote) shall be required. *(Rev.11/15/2011)*
- D. Functions of the Planning Board:
  1. Approval of Special Permits as authorized by Town Law, Section 271 and as prescribed in Article X of this Ordinance.
  2. Conduct site plan review as authorized by Town Law, Section 274-A and as prescribed in Article IX of this Ordinance.
  3. Prepare a Town comprehensive land development plan or amendments thereto if authorized by the Town Board under Town Law, Section 272-a.
  4. Review and comment on all proposed zoning amendments.
  5. Conduct subdivision reviews; approval of plans; development of filed plans as authorized by Town Law, Section 276 and as prescribed by Local Law #1 of 1996 (See Appendix #4: Design

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

Criteria and Construction Specifications for Land Development in the Town of Clarendon).

6. Render assistance to the Zoning Board of Appeals on its request.
7. Research and report on any matter referred to it by the Town Board.
8. Make investigations, maps, reports, and recommendations in any matter related to planning and development as it deems desirable, providing the expenditures of the board do not exceed its appropriations (Town Law, Section 275).

**SECTION 820 - DUTIES AND PROCEDURES OF THE ZONING BOARD OF APPEALS**

- A. Pursuant to Section 267 of Town Law and in accordance with Local Law #4 of 2007, decreasing the membership of the Zoning Board of Appeals, there shall be a Zoning Board of Appeals consisting of five (5) members, with members appointed by the Town Board. Terms of all Zoning Board of Appeals members shall be five (5) years in duration and shall be staggered as the law requires. The Town Board shall appoint a chairperson of the Zoning Board of Appeals. *(Rev. 11/20/07)*
- B. In accordance with Local Law # 2 of 1996, Authorizing the Appointment of Alternate Members to the Planning Board and Zoning Board of Appeals of the Town of Clarendon, two alternate members of the Zoning Board of Appeals may be appointed by the Town Board.
- C. Officers, rules and expenses of the Zoning Board of Appeals:
  1. The ZBA may adopt rules or by-laws for its operation.
  2. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses, including a means for the ZBA to maintain a written record of its meetings and public hearings.
  3. All decisions shall be by a majority vote of the membership (four votes) except in those cases contrary to a County Planning Board disapproval referral recommendation. In such cases, a super-majority vote (majority plus one vote) shall be required.
- D. Functions of the Zoning Board of Appeals
  1. Interpretation - Upon appeal of a decision by the Code Enforcement Officer, or a request for interpretation from the Town Board or Planning Board, the ZBA shall decide any question involving interpretation of any provisions of this Ordinance.
  2. Appeals for Variances - Upon denial of a building permit by the Code Enforcement Officer, or a referral from the Town Board or Planning Board, the ZBA shall hear requests for variances.

**SECTION 830 - VARIANCES**

- A. General Policy. The granting of variances shall be principally for those seeking area variances. Use variances seek to allow activities otherwise prohibited in the zoning district, and such requests will be carefully reviewed.
- B. Granting Area Variances:
  1. Pursuant to Section 267-b of Town Law, when making its determination to grant or deny an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.
  2. In determining whether to grant or deny an area variance, the ZBA shall also consider:
    - a. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance;
    - b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - c. Whether the requested area variance is substantial;

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

- d. Whether the proposed area variance will have an adverse effect or impact on the physical or environment conditions in the neighborhood or district;
  - e. Whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.
- C. Granting Use Variances:
- 1. Pursuant to Section 267-b of Town Law, no use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.
  - 2. In order to prove such unnecessary hardship the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:
    - a. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - b. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
    - c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - d. That the alleged hardship has not been self-created.
- D. Procedures for Granting a Variance:
- 1. All applications for variances shall be on forms established by the ZBA. Forms shall be available from the Code Enforcement Officer.
  - 2. Every application shall refer to the specific provisions of the Ordinance or local law involved and establish the details of why the variance should be granted.
  - 3. Upon receipt of the completed application, the ZBA shall:
    - a. Refer the application to the County Planning Board, if required by General Municipal Law, Section 239. Refer to Section 837 of this Ordinance for additional information.
    - b. Schedule a public hearing and arrange for the publication of a notice of the public hearing as described in Paragraph E. of this Section.
    - c. Prepare the appropriate SEQRA environmental assessment form short form or full form) and determine whether a Draft Environmental Impact Statement should be prepared.
    - d. Within sixty-two (62) days after the close of the public hearing, the ZBA shall render a decision. If the matter was referred to the County Planning Board, a copy of the ZBA\*s finding and decision must be sent to the County Planning Board.
- E. Notice of Public Hearing:
- 1. The board shall fix a reasonable time for hearing of appeals, not to exceed sixty-two (62) days where cases are referred to the County Planning Board, and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by publication of a notice in the official newspaper of the Town, and shall briefly describe the nature of the appeal and the time and place of the hearing.
  - 2. The notice of the public hearing shall be published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

- F. Meetings of the Zoning Board of Appeals:
1. The ZBA shall hold meetings at the call of the chairperson, or at the request of four (4) or more members.
  2. The presence of four (4) members shall constitute a quorum for the conduct of business before the ZBA.
  3. A concurring vote of four (4) members of the ZBA shall be necessary to decide in favor of the applicant for any variance or to decide upon any other matter brought before the ZBA, unless otherwise stipulated in this Ordinance.
  4. All votes of the ZBA shall be taken by roll call.
  5. In accordance with General Municipal Law, any member of the ZBA having a conflicting interest in a matter before the board shall abstain from any discussion or voting on that matter.
  6. The ZBA may request and obtain advice and opinions on the law relating to any matter before the board from the Town Attorney, and request the Town Attorney to attend its meetings.
  7. The ZBA may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the board.
  8. The ZBA shall keep minutes of all its meetings. The Town Board shall provide a secretary for the ZBA.
  9. The ZBA shall make factual records of all its proceedings including the reasons of the case, public hearing, deliberation, voting, and decisions of the board. These factual records shall be taken by a stenographic and/or tape recorder means and shall be accurate, but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the secretary of the board.

**SECTION 837 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD**

- A. General Municipal Law requires that any of the following local zoning actions be referred to the County Planning Board prior to action by any local board. Any application for a special permit, variance, site plan approval, zoning text or map revision, or rezoning which would affect real property lying within a distance of five hundred (500) feet from the boundary of:
1. Any county
  2. Any town
  3. Any village
  4. Any existing or proposed county or state park
  5. Any right-of-way of any county or state road or parkway
  6. Any stream or canal owned by the county
  7. Any land on which a public building or institution is situated must be referred to the County Planning Board who shall have thirty (30) days from the date of county receipt to take action on the matter. By mutual agreement of the county and the municipality, the thirty (30) day period may be extended in special cases.

**SECTION 838 - EFFECT OF COUNTY PLANNING BOARD REVIEW**

- A. If the County recommends approval of a referral, then the local board decision is governed by a majority vote.
- B. If the County recommends disapproval of a referral, or approval of a referral subject to stated conditions or modifications, the local board may override the County opinion only by a super-majority vote (majority plus one vote).

**ARTICLE VIII  
ADMINISTRATON AND ENFORCEMENT**

**SECTION 839 - REPORT ON FINAL LOCAL ACTION**

The local board must send a copy of its final decision and reasons for such decision on a County referral case to the County Planning Board within thirty (30) days after the local decision is reached.

**SECTION 840 - CONSULTATION**

Costs for consultant review of plans and supporting documentation incurred by the Town shall be borne by the applicant as a condition of permit approval, permit renewal or variance approval.

**SECTION 841 - AGRICULTURAL DATA STATEMENT**

- A. In accordance with Section 283-a of Town Law, any application for a special permit, site plan approval, use variance or subdivision approval requiring municipal review and approval by the Planning Board or Zoning Board, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district, shall include an agricultural data statement. The Planning Board or Zoning Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.
- B. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of the farm operations identified in the agricultural data statement.
- C. Upon receipt of such application by the Planning Board or Zoning Board, the board shall mail written notice of the application to the owners of land as identified by the applicant in the agricultural data statement. The notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or federal law, ordinance, rule or regulation for the project. The cost of mailing the notices shall be borne by the applicant.
- D. If the project location meets any of the criteria set forth in Section 837 of this Ordinance, the Planning or Zoning Board shall refer all applications and the agricultural data statement to the County Planning Board as required under Sections 239m and 239n of General Municipal Law.

**ARTICLE IX  
SITE PLAN REVIEW**

**SECTION**

<b>900</b>	<b>Site Plan Review Policy</b>
<b>902</b>	<b>Pre-Application Sketch</b>
<b>903</b>	<b>Application for Preliminary Site Plan Approval</b>
<b>904</b>	<b>Factors for Consideration</b>
<b>905</b>	<b>Consultation</b>
<b>906</b>	<b>Modification</b>
<b>907</b>	<b>Action on Preliminary Application</b>
<b>908</b>	<b>Application for Final Detailed Site Plan Approval</b>
<b>909</b>	<b>Action of the Final Detailed Site Plan Application</b>
<b>910</b>	<b>Engineering Standards</b>
<b>911</b>	<b>Fees</b>

**SECTION 900 - SITE PLAN REVIEW POLICY**

- A. The intent of this Article is to set forth additional standards applying to certain land uses and activities. The nature of these uses and activities requires special consideration of their impacts upon surrounding properties, the environment, community character, and the ability of the Town to accommodate development, consistent with the objectives of this Ordinance.
  
- B. No building permit shall be issued for any buildings, structures, dwellings, their customary accessory structures, and common farm related structures (such as barns, sheds and silos) unless a site plan has been submitted to and approved by the Planning Board. Site plan review and approval shall also be required prior to the issuance of any special permit, operating permit or zoning permit.  
*(Rev. 12/19/2017)*

**SECTION 902 - PRE-APPLICATION SKETCH** *(Rev 10/21/2014)*

- A. The applicant should request an informal discussion with the Planning Board prior to submission of a pre-application sketch to determine any or all of the data to be included in the site plan sketch.
  
- B. The Planning Board shall schedule the informal discussion for the next Planning Board meeting or otherwise at the convenience of the Board.
  
- C. The pre-application sketch shall include:
  - 1. Title of drawing;
  - 2. Location of site with respect to existing and proposed right-of-ways and intersections;
  - 3. Internal street pattern, if any, of the proposed development;
  - 4. Location of all existing structures on the site and the future use of the same;
  - 5. Existing zoning classification(s) of the property, and all properties within one-fourth (1/4) mile, and any restrictions on land use of the site;
  - 6. Existing natural features on the site and the future use of the same;

**ARTICLE IX  
SITE PLAN REVIEW**

7. Contour intervals at five (5) feet or less as determined by the Town Engineer or Planning Board, including two hundred (200) feet of adjacent property;
  8. Names of owner and owners of adjacent properties.
- D. The Planning Board may suggest changes in the pre-application sketch involving the street layout, traffic patterns, lot size or shape, preservation of natural features or other matters which, in its opinion, will improve the layout in keeping with the best interests of the Town.
- E. The Planning Board shall be permitted a reasonable time to review the sketch plan, not to exceed forty-five (45) days. However, this time period may be extended to sixty (60) days if approved by both parties.

**SECTION 903 - APPLICATION FOR PRELIMINARY SITE PLAN APPROVAL** *(Rev.10/21/2014)*

- A. An application for preliminary site plan approval and a SEQRA Environmental Assessment Form shall be completed by the applicant and shall be accompanied by all of the following information, as required by the Planning Board. Information may be required to be prepared by a licensed engineer, architect, landscape architect or surveyor and certified by the seal and signature of such engineer, architect, landscape architect or surveyor. Note: Need to be determined by the Planning Board.
- B. An area map showing the applicant's entire adjacent holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within five hundred (500) feet of the applicant's property.
- C. A tracing overlay showing existing contours (with contours shown at five (5) foot intervals or less as determined by the Town Engineer or Planning Board) shall be provided. Contours shall extend two hundred (200) feet onto adjacent property. Existing contours shall be illustrated as dashed lines.
- D. A tracing overlay showing proposed contours (with contours shown at five (5) foot intervals or less as determined by the Town Engineer or Planning Board) and the direction of drainage with arrows. This information may be shown on the same tracing as required in Subsection C above, provided the proposed contours are illustrated by solid lines.
- E. A preliminary site plan, including the following information:
1. Title of drawing, including name and address of applicant.
  2. North arrow, scale, and date.
  3. Boundaries of the property plotted to scale.
  4. Existing watercourses.
  5. A site plan showing size, location, proposed use and height of all buildings; location and size of all off-street parking and off-street loading facilities; access and egress drives thereto; location and size of outdoor storage areas, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; a description of the method of sewage disposal and the location of such facilities; details of any proposed changes to existing stream channels; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; the amount of building area to be used for retail sales, if any; any existing and proposed assessments; and the location of waste storage, if any.

## **ARTICLE IX SITE PLAN REVIEW**

- F. A tracing overlay showing all soil types, soil classifications, areas with moderate to high susceptibility to flooding, and areas with moderate to high susceptibility to erosion. The overlay shall also include a detailed description of the vegetation that exists in those areas with moderate to high susceptibility to erosion. Note: Need to be determined by the Planning Board.
- G. Architectural drawings depicting the exterior of all proposed buildings or structures, showing enough detail so that the Planning Board can ascertain the style and visual impact of said structure or structures. Note: Need to be determined by the Planning Board.

### **SECTION 904 - FACTORS FOR CONSIDERATION** *(Rev.10/21/2014)*

- A. The Planning Board's review of a preliminary site plan shall include, but shall not be limited to, the following considerations:
  - 1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
  - 2. Adequacy and arrangement of pedestrian traffic access and circulation, including the separation of pedestrian from vehicular traffic, walkway structures, controls at intersections with vehicular traffic, and pedestrian convenience.
  - 3. Location, arrangement, appearance and sufficiency of off-street parking and off-street loading facilities.
  - 4. Location, arrangement, size and design of buildings, lighting and signs.
  - 5. Adequacy, type and arrangement of trees, shrubs and other landscaping, including landscaped buffers between adjoining lands.
  - 6. In the case of a multi-family dwelling, the adequacy of usable open space for playgrounds and recreation. Note: Need to be determined by the Planning Board.
  - 7. Adequacy of stormwater and sanitary waste disposal facilities.
  - 8. Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and/or erosion.
  - 9. Protection of adjacent properties against noise, glare and unsightliness, or other objectionable features.
  - 10. Sufficient harmony and consistency of the proposed construction with the existing neighborhood, both in style and quality, such that any structure will conform reasonably to those existing structures in the area immediately surrounding the parcel in question.

### **SECTION 905 - CONSULTATION**

During the course of site plan review, the Planning Board may consult with the Code Enforcement Officer, Fire Department, Highway Department, Town engineers, Town consultants, and/or appropriate Federal, State and County agencies. Costs for consultant review of plans and supporting documentation incurred by the Town shall be borne by the applicant as a condition of permit approval or renewal.

### **SECTION 906 - MODIFICATION**

The Planning Board may require the applicant to provide additional information or to satisfy additional

## **ARTICLE IX SITE PLAN REVIEW**

conditions (which may not be specifically included in this Ordinance) in the interest of public health, safety and general welfare.

### **SECTION 907 - ACTION ON PRELIMINARY APPLICATION**

Within sixty-two (62) days of the receipt of the application for preliminary site plan approval, the Planning Board may conduct a public hearing. If no hearing is held, a decision must be rendered within sixty-two (62) days of the receipt of the application. If a public hearing is held, a decision must be rendered within sixty-two (62) days of the close of the public hearing date. These times may be extended by mutual consent of the applicant and the Planning Board pursuant to Town Law. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the minutes of the Planning Board meeting shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated into the final site plan, of which conformance with, shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such finding. In such a case, the Planning Board may recommend further study of the site plan and re-submission of the preliminary site plan to the Planning Board after it has been revised or redesigned. No modification of existing stream channels, filling of lands with moderate to high susceptibility to flooding, grading or removal of vegetation in areas with a moderate to high susceptibility to erosion or excavation for and construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a violation of this Zoning Ordinance and, where necessary, final site plan approval may require the modification or removal of unapproved site improvements.

### **SECTION 908 - APPLICATION FOR FINAL DETAILED SITE PLAN APPROVAL**

After receiving a conditional preliminary site plan approval from the Planning Board, and after receiving approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare a final detailed site plan and submit it to the Planning Board for approval, except that if more than six (6) months have elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a re-submission of the preliminary site plan for further review and possible revision. The final detailed site plan shall conform substantially to the preliminary site plan that received preliminary approval and shall incorporate any revisions or other features that may have been recommended by the Planning Board during the preliminary review. All such revisions/features shall be clearly indicated by the applicant on the final detailed site plan.

### **SECTION 909 - ACTION ON THE FINAL DETAILED SITE PLAN APPLICATION**

- A. Within sixty-two (62) days of receipt of an application for final site plan approval, the Planning Board shall render a decision. If no decision is made within the sixty-two (62) day period, the final site plan shall be considered approved.
  1. Upon approving an application, the Planning Board shall endorse its approval on two (2) copies of the final site plan. One copy shall be forwarded to the Code Enforcement Officer for issuance of a building permit, and the second copy will be retained in the Planning Board files. Upon approving a site plan in conjunction with a special permit, the Planning Board shall retain one (1) copy of the plan for its file and shall submit one copy to the Town Clerk. The Planning Board copy shall be considered the legally approved plan with which all development on the respective site must conform.
  2. No building permit shall be issued to the applicant until the site plan is approved by the Planning Board. The Planning Board shall also notify the applicant in writing of its decision and its

**ARTICLE IX  
SITE PLAN REVIEW**

reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

**SECTION 910 - ENGINEERING STANDARDS**

- A. All maps, tracings and drawings, except the pre-application sketch, shall be on sheets measuring no smaller than 8 1/2 x 11 inches and no larger than 34 x 44 inches in outside dimension. All drawings shall utilize conventional drafting symbols and standards.
- B. Any additional engineering requirements requested by the Town of Clarendon or its engineer or consultants shall be made known to the applicant during the pre-application sketch review period.

**SECTION 911 - FEES**

A fee shall be charged for site plan review applications in accordance with the fee schedule on file in the Town Clerk's Office.

## **ARTICLE X SPECIAL PERMITS**

### **SECTION**

- 1000 Policy**
- 1001 Administration**
- 1002 Procedure**
- 1003 Interpretation**
- 1004 General Findings**
- 1005 Special Findings**
- 1006 Renewal of Special Permits**
- 1007 Modification of Special Permits**

### **SECTION 1000 - POLICY**

It is the intent of this Ordinance to use special permits to control the impact of certain land uses designated in Article VII of this Ordinance upon areas where they would be incompatible, unless conditioned in a manner suitable to a particular location. Special permits provide flexibility and individuality to the otherwise rigid controls of the zoning regulations.

### **SECTION 1001 - ADMINISTRATION**

- A. Pursuant to Town Law, the Town Planning Board will administer the review and granting of special permits. Site plan review and approval will be conducted as part of the special permit review process, pursuant to Article IX of this Ordinance.
- B. Performance bonds, reclamation bonds, letters of credit, or some other financial guarantee may be required to assure that the conditions stipulated in the approval of all special permits are carried out.

### **SECTION 1002 - PROCEDURE**

- A. After the Planning Board receives a special permit application, the applicant and the Planning Board shall meet for an informal discussion of site plan review and approval procedures.
- B. No special permit may be issued until site plan approval, as set forth in Article IX of this Ordinance, has been granted and attached to the special permit application.
- C. The Town Planning Board shall designate a date for a public hearing on the special permit, within a period of time not to exceed sixty-two (62) days. A notice of the public hearing shall be published in a newspaper of general circulation in the town.
- D. The notice of the public hearing shall be sent and published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.
- E. The Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The minutes of the Planning Board shall contain the reasons for its decision.

## **ARTICLE X SPECIAL PERMITS**

- F. The Planning Board shall render its decision, approving the special permit, approving the special permit with modifications or conditions, or denying the special permit, within sixty-two (62) days after the close of the public hearing. This time period may be extended by mutual consent of applicant and the Planning Board. The Planning Board shall inform the applicant in writing of its decision. A copy of the appropriate written minutes may suffice for this notice.

### **SECTION 1003 - INTERPRETATION**

General findings are a prerequisite prior to the issuance of any special permit in this Ordinance. Special findings are separate from, but in addition to, the general findings.

### **SECTION 1004 - GENERAL FINDINGS**

- A. Before granting a special permit, the following general findings shall be made:
1. The proposed use is in compliance with all other applicable regulations of this Ordinance inclusive of specific district controls and controls applicable to all districts, and all other applicable Local, State and Federal regulations.
  2. The proposed use is physically and visually compatible with, and will not discourage the appropriate development of, the general area or adversely affect the character of existing land uses within close proximity of the subject site.
  3. The proposed use will be provided with adequate supporting services such as fire and police protection, public and private utilities, and all other supporting public services necessary and appropriate to the proposed use.
  4. Access facilities are adequate for the estimated traffic volumes on the fronting streets or highways, and are designed to ensure public safety and to avoid traffic congestion and hazards. Furthermore, that vehicular entrances and exits are clearly visible from the street and situated away from street or highway intersections, except under unusual circumstances.
  5. There are an adequate number of off street parking and loading spaces provided for the anticipated number of occupants, employees, attendants, and patrons or visitors, and that the layout of the spaces and driveways is convenient and conducive to safe operation.
  6. Adequate buffer areas and screening are provided where necessary to protect adjacent properties and land uses.
  7. Controls for pedestrian movement are designed to ensure the safety of the general public and the employees, occupants, attendants, patrons, and visitors for whom the proposed use is intended.
  8. Adequate provisions are made for the collection and disposal of storm water runoff from the site, sanitary sewage, refuse or other waste, whether liquid, solid, gaseous, or of other character.

## **ARTICLE X SPECIAL PERMITS**

9. That the lot area is appropriate and adequate for the proposed use, and the reasonable anticipated operation and expansion thereof.

### **SECTION 1005 - SPECIAL FINDINGS**

The Planning Board may grant a special permit for those special permit uses specified in Article VII of this Ordinance, provided that the requirements and conditions set forth in that Article are complied with in full.

### **SECTION 1006 - RENEWAL OF SPECIAL PERMITS**

- A. Any Special Use Permit granted by the Planning Board shall be effective for a one (1) year period. Special Use Permits shall be renewable on an annual basis provided the use is continuously operated in a manner consistent with the terms and conditions of the original permit.
- B. Renewal of a Special Use Permit is the sole responsibility of the permit holder. Failure to renew in a timely manner will result in the revocation of the Special Use Permit.
- C. Not less than sixty (60) days before the expiration date of a Special Use Permit, the Code Enforcement Officer shall inspect the premises to determine if the use is being operated in a manner consistent with the terms and conditions of the original permit. The Code Enforcement Officer shall notify the Planning Board as to whether the use is being operated in compliance or in non-compliance with the terms and conditions of the permit.
- D. If the use is operating in non-compliance, the Code Enforcement Officer shall notify the Special Use Permit holder in writing specifying the issues of non-compliance, and shall set forth those procedures necessary to bring the use into compliance and shall notify the Planning Board. All use of the Special Use Permit shall be suspended unless corrective action has been completed within the permit expiration timeframe and the CEO has been notified by the permit holder requesting a re-inspection. The permit use shall remain suspended until compliance verification is received by the Planning Board. The permit holder is responsible for all corrective action necessary to bring the permit into compliance and for scheduling a re-inspection with the Code Enforcement Officer. Failure to take corrective action within the permit expiration timeframe will result in revocation of the permit.
- E. A Special Use Permit shall terminate and become ineffective upon the occurrence of any of the following:
1. Failure to renew the Special Use Permit within the permit expiration timeframe.
  2. The sale or transfer of the premises for which the Special Use Permit was granted.  
*Exception:* Special permits that have been reviewed, approved and re-issued under the name of the new owner/applicant by the Planning Board.
  3. The transfer, or attempted transfer, of the Special Use Permit to anyone other than the original permit holder without Planning Board approval.
  4. The failure of the permit holder to strictly comply with all conditions imposed by the Planning Board at the time the special permit was granted.

**ARTICLE X  
SPECIAL PERMITS**

5. Any enlargement, modification, or alteration in the use for which the Special Use Permit was initially granted.

**SECTION 1007 - MODIFICATION OF SPECIAL PERMITS**

- A. Once issued, no modifications shall be permitted to any Special Use Permit unless approved by the Planning Board.
- B. Applications for modifications to a Special Use Permit shall be made in writing to the Planning Board.
- C. The Planning Board shall follow the procedures outlined in Article X, Section 1002 when reviewing any request for modification to a Special Use Permit.

# ARTICLE XI INCENTIVE ZONING

## SECTION

- 1100 Purpose**
- 1101 Zoning Districts Eligible for Incentives**
- 1102 Amenities for Which Incentives May Be Offered**
- 1103 Incentives Permitted**
- 1104 Criteria and Procedure for Approval**
- 1105 Cash Payment in Lieu of Amenity**

### SECTION 1100 - PURPOSE

The purpose of these provisions is to offer incentives to applicants who provide amenities that assist the Town in implementing the specific physical, environmental, economic, cultural and social policies outlined in the Town of Clarendon Comprehensive Plan, as supplemented by the local laws and ordinances adopted by the Town Board.

### SECTION 1101 - ZONING DISTRICTS ELIGIBLE FOR INCENTIVES

All zoning districts are eligible for zoning incentives. Incentives may be extended to those applicants who offer acceptable amenities to the Town in exchange for the incentive.

### SECTION 1102 - AMENITIES FOR WHICH INCENTIVES MAY BE OFFERED

- A. The following amenities may be offered by an applicant. These amenities may be provided either on or off the site of the subject application:
  - 1. Affordable housing.
  - 2. Passive and active open space and related improvements.
  - 3. Parks.
  - 4. Child care or elderly-care facilities.
  - 5. Utilities.
  - 6. Road improvements.
  - 7. Health or other human-service facilities.
  - 8. Cultural or historical facilities.
  - 9. Other facilities or benefits to the residents of the community.
  - 10. Any combination of amenities and/or cash in lieu of any amenity (ies).
- B. These amenities shall be in addition to any amenities that may be mandated elsewhere in this Ordinance.

### SECTION 1103 - INCENTIVES PERMITTED

- A. The following incentives may be granted by the Town Board. These incentives would apply to the site of the subject application:
  - 1. Reduction in lot size requirements.
  - 2. Reduction in setback or height requirements.
  - 3. Reduction in open space requirements.
  - 4. Changes in use or zoning classifications.

## ARTICLE XI INCENTIVE ZONING

5. Changes to any other provisions of this Ordinance.

### SECTION 1104 - CRITERIA AND PROCEDURE FOR APPROVAL

- A. Applications for incentives in exchange for amenities shall be submitted to the Town Board. The following information shall be provided by the applicant so that the Town Board can evaluate the adequacy of amenities to be provided in exchange for incentives:
  1. The requested incentive.
  2. The proposed amenity.
  3. The cash value of the proposed amenity.
  4. A description of the benefits to be provided to the community by the proposed amenity.
  5. A description of the existing sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located, and the adequacy of these facilities to handle the additional demands the incentive and amenity may place on these facilities (beyond the demand that would be placed on them as if the district were developed to its fullest potential).
  6. An explanation as to how the amenity will assist in implementing the specific physical, environmental, economic, cultural and social policies outlined in the Town of Clarendon Comprehensive Plan, as supplemented by the local laws and ordinances adopted by the Town Board.
  
- B. The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration. If it is deemed worthy of further consideration, the applicant may then submit two (2) sketch plans to the Planning Board:
  1. First Sketch Plan:
    - a. The first sketch plan shall show how the site will be developed with the amenity (if it is on-site) and the incentive. In addition to meeting the requirements of Section 902 of this Ordinance, the plan shall also show existing development, property owner names and tax account numbers for all property within two hundred (200) feet of the property lines of the proposed project site or such other distance as specified by the Town Board.
    - b. If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structures on-site and on adjacent properties, as well as property line locations.
  
  2. Second Sketch Plan:
    - a. The second sketch plan shall show how the site would be developed exclusive of any amenity or incentive. In addition to meeting the requirements of Section 902 of this Ordinance, the plan shall show existing development, property owner names and tax account numbers for all property within two hundred (200) feet of the property lines of the project site or such other distance as specified by the Town Board.
    - b. The applicant shall also provide any additional information or plans which the Planning Board deems necessary (including any information required under Section 903 of this Ordinance) to perform a thorough evaluation of the proposal.
  
- C. The Planning Board will review the proposal and report to the Town Board with its evaluation of the

## ARTICLE XI INCENTIVE ZONING

adequacy with which the amenity(ies)/incentive(s) fit the site and how they relate to adjacent uses and structures. The Planning Board=s review shall be limited to the planning, design and layout considerations involved with the project or such other issues as may be specifically referred by the Town Board. The Planning Board=s report shall be submitted to the Town Board within seventy (70) days from the date of the Planning Board meeting at which the proposal is first placed on the agenda. This time period may be extended/suspended with the consent of the applicant or for good cause by the Town Board.

- D. The Town Board will review the Planning Board=s report. The Town Board will notify the applicant as to whether it is willing to further consider the proposal. If the Town Board decides to further consider the proposal, it shall conduct a public hearing thereon. For Town Board public hearings involving incentive zoning requests, the Town Clerk shall give notice of the hearing in the official newspaper of the Town at least five (5) days prior to the date of the hearing.
- E. All applicable requirements of the State Environmental Quality Review Act (SEQRA) shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal and fire protection facilities to:
  - 1. First, serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal; and
  - 2. Then, serve the on-site amenity and incentive, given the development scenario in Subsection E.1.above.
- F. Following the hearing and in addition to compliance with the SEQRA requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other town boards and officials for review and comment.
- G. In order to approve an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. In no circumstance, however, shall the Town Board be compelled to approve any amenity/incentive proposal and it may deny any such proposal in its sole and absolute discretion. The Town Board may also impose conditions upon its approval as it may deem appropriate to promote the health, safety and welfare of the community.
- H. Following approval by the Town Board, the applicant shall apply for any additional permits or approvals that are required under this Ordinance or any other law or regulation, including where appropriate, site plan approval under Article IX of this Ordinance. No such additional permit or approval by any board or agency of the Town shall materially alter any condition imposed by the Town Board under Paragraph G hereof, and in the event that any permit or approval by any agency outside the Town materially alters any such condition, then the project may not proceed until and unless the Town Board approves of the modification.

**ARTICLE XI  
INCENTIVE ZONING**

**SECTION 1105 - CASH PAYMENT IN LIEU OF AMENITY**

If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified prior to acceptance of the funds. Cash payments shall be made prior to the issuance of a building permit. Cash payments in lieu of amenities are not to be used to pay general and ordinary town expenses.