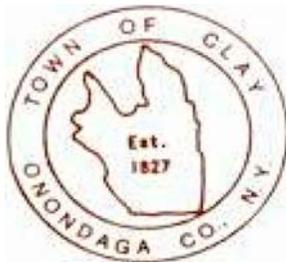


# **LOCAL WATERFRONT REVITALIZATION PROGRAM**

**for the  
TOWN OF CLAY  
Onondaga County, New York**

Prepared for:



**TOWN OF CLAY**  
4401 Route 31  
Clay, New York 13041

Prepared by:



8232 Loop Road  
Baldwinsville, New York 13027  
(315) 638-8587  
Project No. 2006225

September 2008  
Revised December 2010

This document was prepared for the New York State Department of State  
with funds provided under Title 11 of the Environmental Protection Fund.

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>EXECUTIVE SUMMARY .....</b>	<b>i</b>
<b>SECTION I - WATERFRONT REVITALIZATION AREA BOUNDARY.....</b>	<b>1</b>
A. Regional and Local Setting.....	1
B. Boundary Criteria .....	1
C. Description of Waterfront Corridor .....	2
<b>SECTION II - INVENTORY AND ANALYSIS.....</b>	<b>4</b>
A. Historic Land and Water Use.....	4
B. Existing Land and Water Use and Waterfront Access.....	7
C. Property Ownership .....	11
D. Zoning.....	11
E. Natural Resources .....	17
E.1. Site Topography.....	17
E.2. Bedrock Geology .....	17
E.3. Surficial Geology.....	18
E.4. Soils .....	18
E.5. Water Quality.....	19
E.6. Wetlands, Flooding and Erosion Control .....	21
E.7. Aquatic Species and Wildlife Habitats .....	23
E.7.a. Aquatic Habitats .....	23
E.7.b. Terrestrial Habitats .....	24
E.7.c. Aquatic and Terrestrial Ecology .....	24
E.7.d. Current Research and Monitoring.....	25
E.8. Environmentally Impacted Sites.....	26
F. Demographics .....	27
G. Public Recreational Resources.....	28
H. Transportation.....	30
I. Public Services.....	31

**TABLE OF CONTENTS**  
**(Continued)**

	<u>PAGE</u>
J. WATERFRONT ISSUES, OPPORTUNITIES AND CONSTRAINTS TO DEVELOPMENT.....	32
J.1. Waterfront Issues .....	32
J.2. Opportunities for Waterfront Enhancement and Development .....	34
J.3. Constraints to Waterfront Development .....	35
<b>SECTION III - WATERFRONT REVITALIZATION POLICIES .....</b>	<b>36</b>
A. Definitions .....	36
B. Developed Waterfront Policies .....	41
C. Natural Waterfront Policies .....	48
D. Public Waterfront Policies .....	58
E. Working Waterfront Policies .....	61
<b>SECTION IV - PROPOSED PROJECTS AND LAND USE .....</b>	<b>69</b>
A. Existing Land Use Development Plans .....	69
B. Proposed Land Use of Waterfront Corridor.....	70
C. Proposed Projects.....	72
D. Proposed Water Uses .....	76
<b>SECTION V - LOCAL IMPLEMENTATION TECHNIQUES .....</b>	<b>80</b>
A. Existing Local Laws and Regulation .....	80
B. Proposed New or Revised Local Laws and Regulations .....	82
C. Review Process for Proposed Waterfront Projects .....	83
D. Financial Resources Available for Funding Projects and Programs of the LWRP .....	84
<b>SECTION VI - STATE ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION OF THE LWRP .....</b>	<b>91</b>
A. State Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP.....	92
B. State and Federal Programs Necessary to Further the LWRP .....	106
<b>SECTION VII - LOCAL COMMITMENT AND CONSULTATION .....</b>	<b>110</b>
<b>SECTION VIII - ENVIRONMENTAL IMPACT STATEMENT.....</b>	<b>112</b>

**TABLE OF CONTENTS**  
**(Continued)**

**FIGURES**

Figure 1	–	Regional Setting
Figure 2	–	Waterfront Corridor
Figure 2A	–	Waterfront Corridor (Larger Scale)
Figure 3	–	Waterfront Corridor Land Use Classification
Figure 4	–	Zoning Plan
Figure 5	–	Bedrock Geology
Figure 6	–	Surficial Geology
Figure 7	–	Soils Map
Figure 8	–	State and Federal Wetlands
Figure 9	–	Flood Zones
Figure 10	–	Oswego River Basin
Figure 11	–	Transportation Routes
Figure 12	–	Water Service
Figure 13	–	Sewer Service
Figure 14	–	Natural Gas Distribution Service
Figure 15	–	Proposed Redevelopment Projects

**TABLES**

Table 1	–	Mammals, Reptiles and Amphibians
Table 2	–	Macroinvertebrates
Table 3	–	Birds

**TABLE OF CONTENTS**  
**(Continued)**

**APPENDICES**

- Appendix A – Planned Development District Resolution and Zoning Map
- Appendix B – Town of Clay Zoning Code
- Appendix C – Canal Regulations
- Appendix D – Standards for Docks on the Canal System
- Appendix E – Waterfront Consistency Law
- Appendix F – New York State Department of State Coastal Management Program –  
Guidelines for Notification and Review of State Agency Actions Where  
Local Waterfront Revitalization Programs are in Effect
- Appendix G – State Environmental Quality Review Full Environmental Assessment Form

## **EXECUTIVE SUMMARY**

In October 2005, the Town of Clay set out on the process of creating a Local Waterfront Revitalization Program (LWRP). This Program is a comprehensive plan for the development, redevelopment, preservation and enhancement of the Town's 26 miles of waterfront along the Seneca and Oneida Rivers. This effort was led by the Town Supervisor and the entire Town Council. To assist in development of the Program, a panel of citizens from the community was assembled. Members of this panel, referred to as the Waterfront Stakeholders Group, include private property owners, representatives of homeowners associations and business owners who live and/or work in the Waterfront Corridor. Each member of the panel has a particular interest in future development of the Town's waterfront. This panel, accompanied by the Town Supervisor James Rowley and Town Councilor Naomi Bray, met on four separate occasions to discuss interest in future waterfront development. A representative from Plumley Engineering, consultant to the Town in the writing of the LWRP, attended these meetings as well.

The Town recognizes the potential of the local waterfront and the promise that it holds for future development. Of particular interest to the Town is Three Rivers Point. Three Rivers Point, located at the confluence of the Seneca and Oneida Rivers, is steeped in history and presents a terrific opportunity for the development of water-dependent and water-enhanced uses. Other areas identified as having promise for future revitalization include former industrial sites on Maider Road, waterfront parcels owned by the New York State Department of Environmental Conservation and the Town, and a Town-owned parcel along Black Creek Road near Lock 23.

### **What is an LWRP?**

LWRPs are authorized by the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (New York State Executive Law, Article 42). An LWRP implements rules and regulations in New York Codes, Rules and Regulations (NYCRR) Title 19, Part 600. Under the approach adopted by New York State, the State government can promote waterfront development and provide for the protection of critical resources, but it is recognized that municipalities are in the best position to

determine their own waterfront objectives and to adapt statewide approaches to specific local needs. Accordingly, the New York State Department of State encourages waterfront communities to prepare their own LWRP. The Department of State provides financial and technical assistance to local communities in the preparation of an LWRP. The Town of Clay received a grant from the Department of State to support the Town's activities in completing their LWRP.

### **What are the benefits of an approved LWRP?**

- The LWRP, through its various policies, enables local communities to establish the means to both protect and enhance local waterfront resources within the framework of Town regulations, projects and other implementation techniques.
- The LWRP protects local communities. State and Federal projects will be required by law to be consistent with the local Program's policies and purposes once the LWRP has been approved.
- The LWRP is good for business. An approved LWRP can help attract public and private investment in waterfront projects since it demonstrates a community's commitment to revitalization and resource protection. The LWRP contains conceptual plans for projects, which make the development process more predictable and efficient. These plans help to convince funding entities and private developers that the projects are realistic. Funding is more likely to go to projects that have the support of the community and are likely to be bolstered by realistic public and private investment.
- The LWRP projects will be fundable. With an approved LWRP, the Town is eligible to apply for grant funding assistance through the Environmental Protection Fund, enabled in Title 11 of the New York State Environmental Protection Act. This funding is available annually in a statewide competitive award program to assist with implementation of the LWRP.

## **What are the obligations of an approved LWRP?**

- The LWRP does not obligate the Town to implement the proposed projects identified in the LWRP.
- The LWRP obligates those using State and Federal funding to ensure that their projects are consistent with the LWRP policies.
- The LWRP does not obligate the Town to accept funding which carries conditions for any specific project. The Town retains the right to review projects and conditions on a case by case basis, or to seek other sources of funding.

While development can be a very positive force in the community, it is not inevitably so. The Town's objective in developing a LWRP is to establish goals for waterfront development that best serve the collective best interests of the Town as a whole. The LWRP provides a comprehensive plan for the Town as well as State and federal agencies to follow regarding future projects and actions along the waterfront.

## **SECTION I - WATERFRONT REVITALIZATION AREA BOUNDARY**

### **A. Regional and Local Setting**

The Town of Clay is located in northern Onondaga County, approximately 2.5 miles north of the City of Syracuse, approximately 1 mile northwest of Onondaga Lake and approximately 1 mile west of Oneida Lake. The Town is approximately 48 square miles in size, and is bordered by the Town of Lysander to the west, the Town of Salina to the south and the Town of Cicero to the east. The Towns of Schroepfel and Hastings, located in Oswego County, border the Town of Clay to the north. The Town has approximately 26 miles of shoreline along the Seneca River, the Oneida River and the Erie Canal. Refer to *Figure 1 – Regional Setting*.

### **B. Boundary Criteria**

The boundary of the Town’s waterfront area, referred to in this Program as the Waterfront Corridor, is intended to include all land and features within the Town of Clay that may have a “direct and significant impact” on the Town’s river shorelines and one or more of the following characteristics:

- Areas having direct contact with, dependent upon or makes use of the Town’s waterfront.
- Natural features that are affected by or have an affect on the Town’s waterfront.
- Lands having a direct functional, cultural or historical relationship with the Town’s shoreline.
- Lands having a direct aesthetic relationship with the Town’s waterfront. This includes land that may be clearly visible from the waterfront or may have waterfront views from a portion of the land.

## **C. Description of Waterfront Corridor**

### ***Waterside Boundary***

The waterside boundary of the Waterfront Corridor begins at the center of the Seneca River, at the Town of Clay/Town of Salina line and follows the Seneca River north, along the center of the river (Town of Clay/Town of Lysander line) until it reaches Three Rivers Point, where the Seneca and Oneida Rivers meet to form the Oswego River. The waterside boundary then continues to the northeast, along the center of the Oneida River (Town of Clay/Town of Schroepfel line), around Horseshoe Island and to the east. The boundary continues along the Oneida River north toward the northernmost portion of the Town of Clay, then follows the center of the river (Town of Clay/Town of Hastings line) to the southeast toward Oneida Lake until it reaches the northeast boundary of Town of Clay, where it meets with the Town of Cicero. This waterfront boundary area also includes the portion of the Erie Canal known as the Big Bend Cut, located south of Horseshoe Island, and a second portion of the Canal known as the Anthony Cut, just south of the Town of Clay/Town of Schroepfel/Town of Hastings line, which includes the New York State Canal System Lock 23.

### ***Inland Boundary***

The inland boundary of the waterfront redevelopment corridor begins at the center of the Seneca River, at the Town of Clay/Town of Salina line, and follows the town line to the southeast where it meets John Glenn Boulevard. The boundary then follows the centerline of John Glenn Boulevard east to County Route 57. The boundary line runs north along the centerline of County Route 57 until its intersection with Ver Plank Road, where it heads east along the centerline of Ver Plank Road to Bennett Road. The boundary follows Bennett Road north to Marder Road. The boundary continues along Marder Road to the east and continues across Interstate Route 481. The boundary continues east at the intersection of Marder Road and Bonstead Road. The boundary includes parcels of land on both the north and south sides of Marder Road, east through the intersection at Morgan Road. The

boundary continues east along Oak Orchard Road, until its intersection with Henry Clay Boulevard. The boundary then continues east along the centerline of Oak Orchard Road (including parcels to the north only), until its intersection with Caughdenoy Road. The boundary continues north along Caughdenoy Road until it meets Guy Young Road. The boundary follows the centerline of Guy Young Road east to the Town of Clay/Town of Cicero line. The boundary follows the town line north, to the center of the Oneida River, where it meets the waterside boundary. The Waterfront Corridor contains approximately 8,200 acres of land. Refer to *Figure 2 – Waterfront Corridor* and *Figure 2A – Waterfront Corridor (Larger Scale)* for the limits of the Waterfront Corridor.

## **SECTION II - INVENTORY AND ANALYSIS**

### **A. Historic Land and Water Use**

The area that is today the Town of Clay was first inhabited by European settlers in the 1790's. It is often noted that the first settler was Patrick McGee, having constructed a log cabin at the juncture of the Seneca and Oneida Rivers in 1793. However, some historians have found evidence of this location having been previously settled by Simeon Barker in 1790. Regardless of who the first Clay settler was, the Town's first European permanent residence was established at the confluence of the Oneida and Seneca Rivers where they meet to form the Oswego River, a point that has since those early days been referred to as Three Rivers or Three Rivers Point.

In reality, neither Patrick McGee, Simeon Barker nor any other European settler was the first to inhabit this region. It is well documented that Native American settlements existed along the Seneca and Oneida Rivers well before Europeans inhabited North America. Historical accounts and archeological investigations have provided evidence of such settlements. Early settlers have provided accounts of a Native American settlement near Oak Orchard Reefs on the banks of the Oneida River. Evidence of a burial ground near this location was reported as late as 1878. Archeological investigations have also indicated evidence of Native American settlements and encampments along the rivers at Three Rivers Point and in the hamlet Belgium, near the Route 31 Bridge. Three Rivers Point is considered a place of historic significance to Native Americans. This location is thought to have been a regular meeting place for members of the Iroquois Confederacy prior to the late 1790's.

The Town of Clay was originally a part of Cicero and included fifty of the original Central New York Military Tracts. The Town was established in 1827 and at the time had approximately 2,000 inhabitants. When first settled by Europeans, the area was comprised of dense forest and swampland.

The first commerce recorded in the area was the manufacture and sale of barrels. Dense forests provided the raw materials, and the growing salt trade in Syracuse and flour market in Oswego provided the demand. Streams in the area did not provide adequate flow or fall for sufficient water power for the development of mills. The first sawmill is recorded to have been erected on a small stream in the northeast corner of the Town. Insufficient water flow limited the operations of this mill to the spring and fall. The Oneida River, specifically at Caughdenoy and Oak Orchard, did provide sufficient water power for the development of small mills. In early years, a number of saw mills and flour mills are reported to have been constructed at these locations.

The rifts at Caughdenoy and Oak Orchard also provided a commercial fishing industry in the early days of the Town. Eels spawning in the Oneida River from Lake Ontario congregated in these areas and were easily caught. Following the lead of Native Americans who preceded them, early settlers would catch these fish in numbers sufficient to support a successful industry.

As areas were cleared, the soil was found to be fertile and suitable for agriculture. In 1836, there were 8,700 acres of improved land in the Town. Nine years later, in 1845, this number had grown to 12,800 acres. By 1860, nearly 20,000 acres (65% of the total land of the Town) were reported to be “improved land” and over 450 members of the Town reported their occupation as “farmer”. That year, nearly 5,000 bushels of winter wheat, 150,000 bushels of spring wheat, 4,700 tons of hay, 34,000 bushels of potatoes and 27,600 bushels of apples were reported to have been grown in the Town. Following the Civil War, the Town became a flourishing agricultural community. The early pioneer industries of lumbering and barrel manufacturing had largely disappeared. Large farms producing grains, hay, corn and tobacco were common throughout the Town. A number of dairy farms were also found at this time.

In 1871, the first rail line through the Town was laid when the Syracuse Northern Rail was constructed from Syracuse to Sandy Creek. Within a few years, a second rail passed through

the Town when the Syracuse Northern installed a track from Syracuse to Oswego, crossing the Oneida River just east of Three Rivers Point.

Through much of the 19<sup>th</sup> Century, development across New York State was driven by commerce along the Erie Canal, located approximately 5 miles south of the Town. By the 1890's, the Canal was becoming outdated and undersized for the volume of commerce being transported across the State. By this time, railroads had expanded, providing a new means of transportation for raw materials, finished goods and individual travel. Consideration was given to abandoning the Erie Canal and doing away with a water transportation route crossing the State. However, in 1898, then-governor Theodore Roosevelt appointed a commission to evaluate the Erie Canal and make recommendations for its reconstruction or abandonment. The commission's recommendation was for the creation of a new canal system that would be vastly larger than the existing canal and would rely on manmade cuts between natural waterways. The new canal would bypass many of the canal-centered cities, such as Syracuse and Rochester, and run generally along the natural routes of the Mohawk River, Oneida Lake, Oneida River and Seneca River.

The Barge Canal System opened in 1918 and included a critical stretch through the Town of Clay. Cargo traveling by water from the east to the west would now cross Oneida Lake and follow the Oneida River. A cut was dug between legs of the river south of Caughdenoy. Named the Anthony Cut, this cut includes a lock (Lock 23) that would later become the busiest lock in the new canal system. Continuing west, the new route traveled along the Oneida River to Three Rivers Point, where travel could continue north along the Oswego River to Phoenix, Fulton, Oswego and out to Lake Ontario or turn south into the Seneca River to Baldwinsville and points west. The Barge Canal System was a successful commercial transportation route through the mid 1960's. As overland transportation routes gained in popularity, use of the canals declined. While commercial traffic occasionally passes along these historic routes, the canal system is currently more popular to the recreational boater traveling these scenic waterways.

Despite the passing commercial traffic along the Oneida and Seneca Rivers, the Town of Clay saw limited commercial development. The only businesses established in the Town as a result of the canal system were two petroleum product storage facilities located along Maider Road east of Three River Point (Oneida River) and a third bulk petroleum storage facility on Gaskin Road (Seneca River). These facilities, all used for the bulk storage of liquid asphalt, kerosene and other fuel products, originally transported these materials to and from their locations by barge. In later years, these facilities began using the canal less in favor of overland transportation. By the mid 1990's, all three facilities were closed.

**B. Existing Land and Water Use and Waterfront Access**

The former Barge Canal, known now as the New York State Canal System, is primarily a tourism destination used by thousands of pleasure boaters, fisherman, tour boats and those enjoying the scenic surroundings in canoes and kayaks.

Due to its geographic significance, boat traffic past Three Rivers Point is heavier than that along any other point on the Canal System. From Three Rivers Point, boaters have access to Oneida Lake to the east, Lake Ontario to the north and Cross Lake to the west. Lock 23, located 10 miles east of Three Rivers Point on the Oneida River, provides access into Oneida Lake. This lock is the busiest on the Canal System, with over 4,000 recreational boats passing through this lock in 2008. Commercial traffic, tour boats, hired boats and State/Federal boat traffic account for an estimated 2,600 additional boats having passed through this lock in 2008.

There are currently no industrial activities in the Town of Clay that rely on water as a means of transportation. There are three privately-owned public marinas in the Waterfront Corridor. On the south shore of the Oneida River, just east of the Horseshoe Island Bridge, is the Pirates Cove Marina. This is a full-service marina providing fuel, marine services, boat sales and boat launching. The marina also has a restaurant that is accessible by boat or car.

A second marina, the Caughdenoy Marina, is located on Caughdenoy Road, also on the south shore of the Oneida River. This marina provides dockage, shore-side camping and a public boat launch, and has a bait shop. The third marina in the Town is currently providing limited access to the waterfront. This marina, located on Bel Harbor Drive, provides a launch site limited to smaller boats on single-axel trailers. This marina currently is not in full commercial operation and has limited hours of operation.

There are no critical agricultural lands remaining in the Town. While many acres of land remain in agricultural use, the importance of agriculture as a viable means of commerce in the Town greatly diminished through the 1900's, particularly over the last 30 years.

The vast majority of waterfront property today is privately held and is used for residential purposes. Private residences occupy nearly all of the developable waterfront land along the Seneca River from the Town's southern border to Three Rivers Point. While not as densely developed, much of the Oneida River shoreline is also developed with single-family residences. A number of undeveloped properties remain in the Waterfront Corridor. These consist of former agricultural lands that have not been subdivided to date. There are also State and Federally regulated wetlands areas that have not been developed.

Significant undeveloped properties are located along the waterfront at Three Rivers Point and along Black Creek Road. The Town of Clay owns both tracts of land. Although the Three Rivers Point land is located directly along the water, it has no direct access to the River. It is also split by County Route 57. The land consists of vacant, undeveloped grassed areas and former industrial land. The undeveloped property along Black Creek Road consists of wooded and former agricultural land and is located south of the Erie Canal, Lock 23 and associated land. While both the Three Rivers Point and the Black Creek Road properties are currently undeveloped, their proximity to such important waterfront features provide an excellent opportunity for future development.

There are two municipal wastewater treatment plants within the Waterfront Corridor. Both of these plants are owned and operated by the Onondaga County Department of Water Environment Protection (OCDWEP). The Wetzel Road Publicly Owned Treatment Works (POTW) is located on the west end of Wetzel Road, on the east shore of the Seneca River. The Oak Orchard POTW, along the southern shore of the Oneida River, is located on Oak Orchard Road just east of the Morgan Road intersection.

The New York State Department of Environmental Conservation (DEC) owns three parcels of land in the Waterfront Corridor. Two parcels are vacant undeveloped land along Route 57, having frontage on the Seneca River. The third is a boat launch site on Bonstead Road, beneath the Interstate 481 Bridge.

Public access to the waterfront is limited to only a few locations. The DEC land along Route 57 provides public access to hiking trails that run to the shore of the Seneca River. This land also provides access for shoreline fishing. The DEC boat launch site on Bonstead Road provides access for small power boats, as well as row boats, canoes and kayaks. The Town of Clay owns a number of parcels of land on and around Three Rivers Point. At this time, there is no access to the water from any of these properties, nor are there any facilities for public use of these lands.

The New York State Canal Corporation operates a public park at the site of Lock 23 in the Anthony Cut. This park is accessible by both boat and automobile. Dockage for boaters on the east side of the lock provides an opportunity to dock and enjoy the park. Automobiles can enter the park from Black Creek Road. A walking path runs along the shoreline and provides a viewing area to watch boats going through the lock. The grounds include picnic tables for public use, public restrooms and a concession stand that is open on weekends during the summer months. Shoreline fishing is available from docks on the east side of the lock. The Town of Clay owns approximately 100 acres of land adjacent to this park. While currently undeveloped, this parcel provides an opportunity for recreational use linked to the State Canal Park.

April 2006 aerial photography was utilized to classify the corridor's land uses. *Figure 3 – Waterfront Corridor Land Use Classification*, shows the extent of various land uses along the waterfront. The imagery, coupled with field verifications, was used to determine land use categories and patterns. The largest land use category, making up approximately 45% of the Waterfront Corridor, is wooded land. Residential and undeveloped/vacant lands each account for approximately 17% of the acreage. Agricultural fields occupy approximately 7% of the corridor and commercial development makes up approximately 4%. Municipal/State lands, inactive industrial sites, educational/religious property, recreational land and industrial/manufacturing sites comprise approximately 1% of the corridor. The remaining 9% of the corridor consists of roadways and open water.

Highly concentrated development along the corridor is located primarily south of New York State (NYS) Route 31, a major east/west transportation route. Development along this area consists of residential subdivisions and waterfront housing. A significant amount of commercial development is located along Route 31 and County Route 57, the eastern corridor boundary. Land south of Route 31 not utilized for residential or commercial purposes consists primarily of regulated wetlands adjacent to the Seneca River.

Development north of Route 31 is less dense than that south of the roadway. This lower density is due to its increased distance from the City of Syracuse, fewer transportation access routes and decreased municipal services (particularly municipal sewer). At the intersection of Route 31 and Route 57, and along Route 31 west of this intersection, lies a concentrated retail and commercial area consisting of a grocery store, hardware/farm supply store, retail gasoline and convenience store, restaurant, car wash, auto dealership and other businesses. Land use between Route 57 and Henry Clay Boulevard consists of a mix of residential, agricultural, wooded and undeveloped/vacant land. Horseshoe Island consists primarily of wooded land. Residential development runs along the entire eastern and northern shores and approximately one-third of the western shoreline. The interior and much of the western shoreline have not been developed due to wetland restrictions, frequent inundation during high water events and the lack of public utilities.

The majority of the remaining portion of the corridor is made up of a mix of scattered residential and agricultural land, and wooded, undeveloped/vacant lands. The Lock 23 State Canal Park is located in this portion of the corridor, south of the canal's lock.

**C. Property Ownership**

The vast majority of land within the defined Waterfront Corridor is in private ownership. The corridor consists of approximately 8,200 acres. More than 95% of this acreage is privately held. The balance is owned by the Town of Clay either in parks or open land held by the Town, the DEC, who owns three parcels of land for public use, and Onondaga County, who owns and operates two municipal wastewater treatment plants.

The State of New York holds ownership of the Seneca River, Oswego River and Erie Canal. Their ownership includes the river bottom and the shoreline to the "blue line". The blue line is the State's property line along waterways belonging to the canal system. This line is not always defined by the shoreline, and often includes land adjacent to the waterway. Portions of the Oneida River not belonging to the canal system are also owned by the State of New York, however while these properties include the river bottom, the property line is generally defined by the shoreline or "top of bank". Portions of the Oneida River surrounding Horseshoe Island (north of Big Bend Cut), waters north of Lock 23 and Anthony Cut (Caughdenoy Road and Black Creek Road areas), and waters flowing around Glosky and Schroepel Islands (Oswego County islands), are waters in the corridor that are owned by the State but do not fall within the canal system.

Refer to Sections II.B. and II.F. for information regarding land use and demographics patterns within the corridor.

**D. Zoning**

Zoning districts within the waterfront revitalization corridor are the Residential Agricultural Districts (RA, RA-100), Limited Use for Riverfront, One-Family, Two-Family, Mobile

Home and Townhouse Residential Districts (LuR-1, R-10, R-15, R-2F, R-40, R-7.5, R-MHC, R-TH), Recreational District (REC-1), Neighborhood Office and Office Districts (O-1, O-2), Limited Use for Gasoline Services and Restaurants Districts (LuC-1, LuC-2), Highway, Neighborhood and Regional Commercial Districts (HC-1, NC-1, RC-1), Industrial District (I-2), Planned Development District (PDD) and Government Controlled Land (GOV). Refer to *Figure 4 – Zoning Plan* showing the location of these various zoning districts. It should be noted that parcels on this plan that do not have a color designation (shown white) are within the RA-100 Zone District.

The Town has recently adapted a PDD. The intention of establishing a PDD zone is to allow a variety of land uses to be incorporated on a single or adjoining parcel(s). Combinations of land uses are permitted on a single lot, a practice that is not permitted in conventional land use zoning. In addition, the PDD zoning promotes and maintains a dialogue between the applicant and the Town before and during the site development process. Such an open dialogue, coupled with increased opportunities for mixed use, provides for creative and customized land use that is not feasible in conventionally zoned districts.

The areas currently designated as PDD include all parcels of land currently owned by the Town at Three Rivers Point and along Maider Road. Refer to *Appendix A - Planned Development District Resolution and Zoning Map* for the Town resolution adopting this new zoning district and a Zoning Map presenting parcels that have been given this new designation.

The majority of the land north of Route 31 is located within the RA and RA-100 Zone Districts. These districts are intended to accommodate agricultural uses and low-density residential development. The RA and RA-100 Zone Districts also support non-residential development in areas within the Town of Clay that are not likely to be served by both public water and sewers. Several areas south of Route 31 are also zoned RA and RA-100.

Land located along the Seneca River, north of Route 31 up to the Route 57 and Three Rivers area, falls within Zone Districts R-10 and R-40. Land within the R-10 district is intended to consist of higher density, single-family housing and non-residential developed areas within the Town of Clay served by public water and sewers. Additional R-10 zoned parcels are located in the easternmost portion of the corridor and scattered throughout the corridor south of Route 31. Land within the R-40 district is intended to consist of lower density, single-family housing and non-residential developed areas within the Town of Clay not served by public water and sewers. Three other small R-40 Zone District areas are located along the Oneida River, north of Route 31.

Additional residential districts located within the corridor are R-15, R-2F, R-7.5, R-MHC, and R-TH. A single R-15 zone area is located within the corridor, south of Route 31, just west of Route 57. This zone is intended to “permit moderate-density, single-family and supportive non-residential development on sites in the Town served by both public water and sewer”. Two zone R-2F areas are located north of Route 31, near the Oak Orchard Wastewater Treatment Plant. R-2F districts are intended to “permit single- and two-family dwellings and supportive non-residential development on sites served by both public water and sewers”. Two additional R-2F zoned areas are located south of Route 31, along Gaskin Road. Two large R-7.5 zoned areas are located within the corridor, south of Route 31. The intent of this district is to “preserve existing high-density, single-family uses and supportive non-residential development in areas served by both public water and sewers”. One large R-MHC area is located within the corridor, south of Route 31, and is currently occupied by the Casual Estates Mobile Home Park. This district “accommodates an organized and managed grouping of individual mobile home units in portions of the Town served by public water and sewers”. Two R-TH zoned areas are located within the corridor south of Route 31. One of these areas is located off Route 57 and the other is located off Gaskin Road. The designated R-TH area off Gaskin Road is only partially developed at this time, as the majority of the property consists of wooded and undeveloped/vacant land. This district is intended to “permit residential and supportive non-residential development on sites in townhouse arrangements served by both public water and sewers”.

Remaining land located northwest of the Route 31 and Route 57 intersection consists of property in Zoning Districts GOV, I-2, LuC-1, NC-1, O-2, RC-1 and REC-1. Land

designated as GOV falls within Clay Code's Specialized Districts. The zone designation is RA-100. Specialized districts are districts that allow for greater development flexibility and increased Town oversight. The Moyer's Corner Fire Station Number 1 is located on a GOV parcel along Route 57, just north of Route 31. Additional GOV designated lands are located north of Route 31, including approximately 66 acres of Town-owned land at Three Rivers Point and parcels on Maider Road, the Oak Orchard Wastewater Treatment Plant owned by the OCDWEP and approximately 93 acres of Town-owned land just south of the Lock 23 Canal State Park. The Wetzel Road Wastewater Treatment Plant along the Seneca River is one of the three GOV designated areas south of Route 31. Two parcels just south of the wastewater treatment plant also fall within the GOV zoning designation. One parcel is owned by the Town of Clay and the other is owned by the State of New York. Both consist of wooded land.

The Atlantic Asphalt Terminal, a portion of the former Cibro Asphalt Terminal and a parcel along Route 57 north of Route 31 are classified as I-2 Districts. Land within the I-2 district is intended to *"promote and accommodate processes that primarily operate in a clean and orderly manner that may involve exterior activities sensitive to environmental features and available public services. Other uses are permitted that provide the logistical assembly, shipping, storage, servicing or similar support for retail or other business uses."* It is recommended that lands within this district are located away from residential districts. The former Sears Oil Terminal, located along the Seneca River on Gaskin Road south of Route 31, is another I-2 designated area within the Waterfront Corridor.

A gasoline filling station and an automotive collision repair facility are located at Moyers Corners, on the north side of Route 31, west of the Route 57 intersection. These properties are zoned LuC-1. Land within this zoning designation includes motor vehicle and gasoline service facilities and allows them to serve residents, employees and customers of the surrounding areas. Four additional areas within this zoning designation are located along

Route 57, south of Route 31. A single LuC-2 district area is located in the northernmost portion of the corridor, at a marina located at Caughdenoy Road on the Oneida River. The intent of this district is to “augment the uses of existing or planned general commercial districts with the enumerated limited uses. This district is to allow for restaurant land uses on sites that afford adequate parking, storage and related facilities in a manner that is compatible with the existing or planned character of surrounding commercial or industrial land uses and with minimal or no adverse effect upon public facilities and environmental features.”

Three NC-1 zoned areas, made up of eight parcels, are located in the Moyer’s Corners area along Route 57 and Route 31. NC-1 designated zone areas are intended to maintain the quality of environment of commercial use areas that are often located near residential neighborhoods. The development of these areas should be comparable with nearby residential areas. Three additional NC-1 zoned areas are located within the corridor. One is located along the south side of Route 31, east of Gaskin Road. The second is located on the south side of Gaskin Road, just before its intersection with Route 57. The third is located at the south end of the corridor along Route 57.

One RC-1 zoned area is located north of Route 31, just west of Route 57. This designation is intended for diverse, large-scale commercial development that may consist of multiple lots, structures and uses. The remaining RC-1 zoned areas within the corridor are all located south of Route 31 and throughout the span of Route 57.

Three HC-1 zoned areas, made up of five parcels, are located within the corridor along Route 57, south of Route 31. The intent of this highway commercial zone is to “maintain the quality of environment that is usually found in areas of commercial use often located near, but generally not immediately adjacent to, residential neighborhoods.” The development of these areas should be comparable to surrounding moderately concentrated business areas.

Four O-2 designated zone areas, made up of five parcels, are located in the vicinity of Moyer's Corners. These areas are located along the north and south sides of Route 31, and on the west side of Route 57, just south of Route 31. This district is intended for office uses that preserve the existing residential quality along portions of the Town's major roads. Four O-1 designated zone areas are located within the corridor along Route 57, south of Route 31. These Neighborhood Office Districts are intended to "preserve the existing residential quality of the surrounding area while permitting alternative and compatible office development on selected sites that may not be suitable for residential use."

One large area, consisting of two parcels zoned REC-1, is located along the north side of Route 31, between the Seneca River and Route 57. This area of land is currently utilized by a public golf course. This zone designation is intended to preserve and enhance the quality of existing or planned residential areas through a variety of community and recreational uses. Two additional REC-1 zoned areas are located within the corridor north of Route 31. One area, Pirates Cove Marina and Restaurant, is located just south of Horseshoe Island.

The second area is located in the northernmost portion of the corridor, between the Oneida River and Black Creek Road.

One large PDD district is located within the corridor. This area is located southwest of Moyer's Corners and has road frontage along Route 31, Route 57 and Gaskin Road. A portion of this area also has frontage along the Seneca River. The intent of the PDD district is to permit a "variety of land uses and a flexible arrangement of lots, structures and land uses in a well-planned and coordinated design." The majority of this PDD district within the corridor consists of residential land. A church, park space, and wooded and undeveloped/vacant land occupy the rest of this area.

The New York State Canal Corporation holds flowage easements along various stretches of the Oneida and Seneca Rivers. In the Town of Clay, flowage easements exist on portions of Horseshoe Island, along the southern end of North Gaskin Road and west of Route 57, north of Bel Harbor Drive.

Please refer to *Appendix B – Town of Clay Zoning Code* for additional information.

## **E. Natural Resources**

### **E.1. Site Topography**

Review of the United States Geological Survey (USGS) Baldwinsville North (1973), Brewerton (1973) and Central Square (1956) quadrangle maps illustrates that the elevation of the Waterfront Corridor ranges from approximately 360 to 420 feet above sea level. The Waterfront Corridor boundary is located primarily in the areas of the Erie-Ontario Lowlands, slightly sloping from north to south, with rolling landscape bordering the area to the south. Most of the corridor along the Oneida River is rural with a mixture of residential and commercial areas, with some portions occupied by low-lying marshes. Residential areas along the Seneca River portion of the corridor predominantly cover the landscape.

### **E.2. Bedrock Geology**

Based on the Geologic Map of New York 1970 Finger Lakes Sheet, the majority of the Town of Clay is underlain by three geological formations:

***The Vernon Shale Formation*** is located along the south boundary of the corridor. This bedrock formation is comprised of shale and dolostone, and can be found at depths of approximately 700 to 1,000 feet below the ground surface.

***The Oak Orchard and Penfield Formation*** is comprised of limestone and dolostone. This bedrock formation can be expected to be at depths of approximately 80 to 175 feet below the ground surface.

***The Herkimer Sandstone; Kirkland Hematite; Willowvale Shale; Westmoreland Hematite; Sauquoit Formation*** predominates the northern portion of the corridor north of Bonstead

Road and Oak Orchard Road. This bedrock formation can be comprised of sandstone, shale and/or Oneida Conglomerate, and can be expected at depths of approximately 150 to 325 feet below the ground surface.

Refer to *Figure 5 – Bedrock Geology* for additional information.

### E.3. Surficial Geology

The Town is located in an area where three surficial soil deposits have been mapped by the USGS and are depicted on the *Surficial Geologic Map of New York, Finger Lakes Sheet, 1986*. These three surficial soil deposits consist of “Lacustrine Silt and Clay”, “Lacustrine Sand” and “Swamp Deposits”. The Lacustrine Silt and Clay, along with the Lacustrine Sand, were deposited in a glacial lake environment. The Lacustrine Silt and Clay deposit is generally laminated, with layers alternating between silt and clay and/or a combination of these soil materials. This deposit can form fairly impermeable, potentially unstable lands, that can range in thickness up to approximately 165 feet. The Lacustrine Sand deposit consists of well-sorted stratified quartz sand that was deposited in near-shore environments. This deposit is fairly permeable and can vary in thickness from approximately 6 to 70 feet. Swamp Deposits are soils made up of peat-muck, organic silt and sand located in poorly drained areas. This deposit can be commonly found overlying marl and lake silt deposits. Swamp Deposits can potentially cause land instability issues. The thickness of this deposit can range in from approximately 6 to 65 feet. Refer to *Figure 6 – Surficial Geology* for additional information.

### E.4. Soils

Based on the United States Department of Agricultural, Soil Conservation Service (SCS), 1977 Soil Survey of Onondaga County, New York, a loam soil with varying percentages of silt, sand and gravel content is found throughout the area. A majority of the soils were formed from landscapes of lake-plain and valley areas dominated by deep soils that formed

in silty or clayey glacio-lacustrine sediment. The soils associated with this group are moderately well drained to very poorly drained, and are medium to moderately fine textured with lime content from medium to high.

These soils are well suited for farming. Although limiting factors such as erodability, seasonal wetness and the slow rate of permeability into the substrata can make it difficult for urban use. Refer to *Figure 7 – Soils Map* for additional information.

#### E.5. Water Quality

Water quality in the Seneca and Oneida Rivers from Cross Lake to Oneida Lake is monitored by an ongoing study being completed by the OCDWEP. This study has seven sampling locations in the two rivers within the Town of Clay. Data collected from these locations includes water temperature, dissolved oxygen, specific conductivity, salinity, pH and oxygen reduction potential (ORP).

Onondaga County has performed water quality monitoring at selected stations along the Seneca-Oneida-Oswego River system since 1993. The water quality survey study area spans the Seneca River from Cross Lake to Three Rivers junction, as well as portions of the Oneida and Oswego Rivers. The most recent report, dated November 2007, covers the 2006 monitoring period. The wet summer of 2006 kept stream flow high in the Seneca River throughout most of the summer and prevented violations of ambient water quality standards for ammonia-nitrogen and nitrite-nitrogen. Frequent measurements detected brief periods where dissolved oxygen concentrations dropped below the standards. Overall, water quality data collected from the Seneca River during 2006 was comparable to the data collected in previous surveys. The introduction of zebra mussels in the early 1990's resulted in dramatic changes in water quality in the river. The river's water quality conditions continue to be strongly influenced by zebra mussels.

There are two municipal wastewater treatment plants within the Town of Clay. Both of these plants are owned and operated by the OCDWEP. The Wetzel Road treatment plant is

located on the west end of Wetzel Road, on the east shore of the Seneca River, and is a trickling filter secondary treatment plant with post-chlorination. Typical daily flow through this plant is approximately 2.5 million gallons. The Oak Orchard treatment plant is located on Oak Orchard Road, on the south shore of the Oneida River. Typical daily flow through this plant is 5.7 million gallons. This plant employs the pure oxygen aeration activated sludge process.

While not documented, there are other point source discharges of stormwater to both rivers from highway and private drainage culverts.

There are also point source discharges to the Seneca and Oneida Rivers upstream of the Town of Clay from other municipal and industrial wastewater treatment plants. While outside the Town, these discharges contribute to the water quality in the Waterfront Corridor.

For more information on the water quality monitoring and studies being conducted by the OCDWEP, refer to their *2006 Annual Report* and their *Three Rivers Water Quality Model*, both of which are available on their web site (<http://www.ongov.net/WEP/>).

Non-point discharge sources to the Rivers include overland runoff, roadway runoff and stormwater runoff from agricultural fields.

Both the Seneca and Oneida Rivers are classified by the DEC as Class B waters. Class B waters are suitable for primary and secondary contact recreation and fishing. Class B waters are also considered suitable for fish propagation and survival. Tributaries to the Rivers along the Waterfront Corridor are primarily Class C waters. Suitable usage for Class C waters is fishing.

## E.6. Wetlands, Flooding and Erosion Control

Wetlands are defined by the United States Army Corps of Engineers (ACOE) and the United States Environmental Protection Agency (EPA) as “areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and, that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marches, bogs and similar areas.” Wetlands are protected under the 1977 Clean Water Act and Article 24 of the Environmental Conservation Law (Freshwater Wetlands Act). Due to their high level of nutrients, wetlands are very productive ecosystems. They sustain a vast array of plant life, that in turn supports a wide variety of wildlife. In addition to their habitat value, wetlands serve to mitigate flood damage and filter excess nutrients from surface runoff.

Wetlands in New York State are regulated by both the DEC and the ACOE. The DEC regulates wetlands that are 12.4 acres in size or larger and smaller wetlands of unusual significance. The ACOE regulates areas meeting the definition of a wetland regardless of size. A permit is required to perform any work resulting in the disturbance of a DEC-regulated wetland or the disturbance to any area within 100 feet of a designated wetland. The ACOE does not require a permit (notification only) for disturbances of less than 0.1 acres. A permit is required by the ACOE for projects that disturb more than 0.1 acre. (A nationwide permit is used for disturbances less than 0.5 acres. An individual permit specific to the project being undertaken is required for disturbances over 0.5 acres).

All development within the Waterfront Corridor must take into consideration its proximity and potential impact to designated wetlands.

There are 125 individual State and Federal designated wetlands comprising approximately 1,650 acres within the Waterfront Corridor (20% of the total corridor acreage). These wetlands include 21 different classifications, as designated by the United States Fish and Wildlife Service (FWS) and 15 different wetland areas as identified by the DEC. All of these wetlands are shown on *Figure 8 – State and Federal Wetlands*.

Wetlands assist in the mitigation of flooding by providing a reservoir for flood waters and reducing flow velocity during periods of high water. As low areas and wetlands are filled in, high water events influence larger portions of the river basin. The concern for flooding along much of the Waterfront Corridor is limited to areas directly adjacent to the Seneca and Oneida Rivers. However, there are five locations where the potential for flooding extends well beyond the natural course of the rivers and presents a threat to widespread areas of development. These five areas are:

- West of Route 57, from the northern boundary of the Bayberry Community to Gaskin Road.
- Horseshoe Island.
- Along Oak Orchard Road.
- West of Caughdenoy Road, north of the Erie Canal.
- The south shore of the Oneida River, at the east end of the Erie Canal.

*Figure 9 – Flood Zones* shows limits of the 100-year and 500-year floods, as based on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps.

Flooding has not been a significant threat to real property in the Town of Clay over the past 50 years. Since 1970, there have been just four declared Presidential Disasters in Onondaga County resulting from rain and storm events. Real property damage Countywide from these four events is reported to have been \$683,000 (in dollars at the time of each event). Of this property damage, 85% was attributed to a single event occurring in September of 1998. It is unknown what fraction of this property damage was suffered in the Town of Clay. If it is assumed that 50% of these damages were suffered in the Town, that amounts to an average real property damage of less than \$10,000 per year for this time period.

The Town of Clay participates in the National Flood Insurance Program (NFIP). As a requirement of this program, the Town has adopted a floodplain management ordinance. This ordinance is intended to minimize public and private losses due to flood conditions. In response to the requirements of the Disaster Mitigation Act of 2000, the Town has also developed a Hazard Mitigation Plan. This plan is designed to improve planning for response to and recovery from disasters, including flood events. The Town of Clay Hazard Mitigation Plan was completed by Tetra Tech EM, Inc. in December 2005. The Plan ranks flooding as a moderately high hazard for several locations within the Town of Clay. Flooding within the Town of Clay typically occurs along the central west side of the Seneca River (Foster Road and Wetzel Road areas), the northwest branch of the Oneida River (Horseshoe Island area) and along the west side of the northeast branch of the Oneida River (Riverview Road, Black Creek Road and Riviera Drive areas). When these areas of the rivers rise, Mud Creek and Willow Stream are also prone to flooding. Areas west of Route 57 are also susceptible to flooding because of increased runoff and drainage, which is most likely a result of increased development and impermeable surfaces.

Erosion has not been identified as a major concern by the Town. No areas of critical erosion have been located within the Waterfront Corridor.

## E.7. Aquatic Species and Wildlife Habitats

### E.7.a. Aquatic Habitats

The Seneca and Oneida Rivers meet at the northwest corner of the Town of Clay at Three Rivers Point. This is a union of three interconnected freshwater ecosystems referred to as the Oswego River Basin. Refer to *Figure 10 – Oswego River Basin*.

To the north of Three Rivers Point, the Oswego River flows into Lake Ontario. To the east, the Oneida River flows from Oneida Lake, draining a watershed that extends east to the southeast corner of the Tug Hill Plateau. To the west, the Seneca

River receives water from a majority of the Finger Lakes and several other water bodies. The total Oswego River watershed is approximately 5,122 square miles. Approximately 96% of the total flow from that watershed flows by Three Rivers Point (Kappel, 2002).

#### E.7.b. Terrestrial Habitats

The terrestrial area bordering the rivers is diverse and consists of both uplands and wetlands. Included in these areas are deciduous forests, open fields and varieties of wetlands. Elm, black ash, beech and red maple are prevalent tree species found throughout the Waterfront Corridor. Thick stands of various conifers are found along the Oneida River. Grasses, sedges and a variety of rushes make up the areas of unfarmed open field. Dogwood, ash and thorn-apple stands are common scrubs found throughout the corridor.

#### E.7.c. Aquatic and Terrestrial Ecology

This ecosystem supports a large and diverse population of animals. Through several separate surveys that have been conducted over the last 25 years, it is estimated that there are 123 bird species (New, 2005), 24 species of amphibians, 23 species of reptiles, 58 mammal species (Chambers, 1983) and well over 130 species of macro invertebrates, including insects and worms (Onondaga, 2003). The dominant mollusk species of the area is the invasive Zebra Muscle, whose long-term effects on the environment are still unknown. Tables 1, 2 and 3 list the individual species from the separate surveys conducted. It is reasonable to assume that most of these species could be located in the waterfront corridor. There have been several accounts of aquatic life, including zebra muscles (Lake Ontario), tiger musky (Otisco Lake), brown trout (Nine Mile Creek) and lake sturgeon (Oneida Lake), that have all migrated through the river systems to be caught or located in different waterways (Onondaga, 2003).

Individual projects should be sensitive to the habitat and breeding grounds of the many species that live and migrate through this region. New development should contact the New York State Natural Heritage Program and the FWS to locate endangered or protected wildlife that may be on or near a particular project site. When contacting these agencies regarding a new project, the following information should be provided:

- Why the information is needed.
- Description of the project.
- Description of current land use.
- Name of town and county.
- USGS topographical map of the area, with the boundary of the proposed project clearly marked.

Letters can be addressed to:

- New York State Department of Environmental Conservation  
Natural Heritage Program  
625 Broadway, 5<sup>th</sup> Floor  
Albany, New York 12233-4757
- United States Fish and Wildlife Service  
3817 Luker Road  
Cortland, New York 13045

#### E.7.d. Current Research and Monitoring

Many projects monitoring water quality and its impact on aquatic species in Onondaga Lake have also included studies of the Seneca and Oneida Rivers.

Agencies involved in these studies include the OCDWEP, DEC, New York State Attorney Generals Office, Atlantic States Legal Foundation, EPA, ACOE and USGS. Many of these studies attempt to present a correlation between aquatic ecology and water quality.

#### E.8. Environmentally Impacted Sites

Three parcels within the Waterfront Corridor are known to have been environmentally impacted from past site uses.

The former Cibro asphalt plant is a 66-acre site located on the west end of Maider Road. From the 1920's to the 1990's, this site was a bulk storage facility for fuel oil and asphalt. This facility included waterfront docks on the Oneida River for unloading petroleum products from barges. A number of underground and aboveground storage tanks have been removed from the site. The Town of Clay was approved for funding with the DEC's Environmental Restoration Program. Investigations for water and soil contamination are currently underway.

Also located on Maider Road, across the road from the former Cibro facility, is a former Atlantic Refining Company Asphalt Terminal. This site is known to have been a storage facility for naphtha, kerosene and asphalt. Fuel oil may also have been stored at this location. Contamination investigations are currently underway on this site.

The former Town of Clay landfill is located in the Waterfront Corridor on the north side of Oak Orchard Road. This site has been closed since the mid-1980's. The landfill is on the DEC's list of inactive hazardous waste sites for disposal of hazardous materials including polychlorinated biphenyls (PCBs), benzene, arsenic, phenols, chlorobenzene and xylene. The landfill area covers approximately 22 acres, rises about 50 feet from the surrounding topography, and the sides are gently to moderately sloped. Remediation completed included the installation of an impermeable cap. The site has an ongoing groundwater monitoring

program. Monitoring indicates the contaminant levels in groundwater have decreased since the landfill was capped and the occurrence of leachate has subsided. The site is not deemed a significant threat to the environment. There is documented groundwater contamination in monitoring wells at the site, however public water was extended to the area.

## **F. Demographics**

The Town of Clay has a total population of approximately 59,000. Approximately 90% of the population was reported as “White” in the 2000 Census, with the remaining population reporting to be African American, American Indian, Asian, Pacific Islander or other race. This population is housed in approximately 24,000 housing units, with 73% of these units owner-occupied. Approximately 27% of the units are renter-occupied. Less than 5% of housing units in the Town are vacant. Owner-occupied residences in the Town have a median value of approximately \$85,500. The median monthly cost to owners of these homes is approximately \$1,050 (including mortgage payment).

Approximately 64% of the Town’s population is reported to be 25 years or older. Of this portion of the population, 90% hold a high school diploma and approximately 28% have a college bachelor’s degree or higher. Approximately 69% of individuals over 25 years of age are reported to be married.

Of the total Town population, 5% is reported to have been born outside the United States. Seven percent of the population speaks a language other than English in their home.

The Town is home to approximately 6,000 military veterans.

Within the Town’s population, approximately 33,000 individuals over the age of 16 are in the labor force. The median household income is reported to be approximately \$50,500 (1999 dollars). Approximately 4% of families and 6% of individuals living in the Town are reported to be living below the poverty level.

There are approximately 2,800 tax parcels within the Waterfront Corridor. Approximately 2,700 of these are residential lots, with one property consisting of an 804-lot mobile home park that is generally 50% occupied. A number of parcels are occupied by multi-family housing units. There is estimated to be 4,200 housing units in the Waterfront Corridor. Approximately 70% of these units are owner-occupied and 21% are renter-occupied. Less than 10% of housing units in the Waterfront Corridor are vacant.

Based on 2000 Census data, total population in the Waterfront Corridor is estimated to be approximately 9,500. The median age is 38 years.

#### **G. Public Recreational Resources**

The Town of Clay owns and operates 31 parks located throughout the Town. Twenty-seven of these facilities are neighborhood parks located in subdivisions. Four sites are larger town-wide parks. Town park lands total approximately 300 acres. Neighborhood parks account for approximately 124 acres and town-wide parks account for approximately 180 acres. The Town also has a historic park, which is a 2-acre facility consisting of a welcome center, historic train station, log cabin and barn.

Town-wide parks are all over 10 acres in size and generally consist of a pavilion, ball fields, tennis courts, basketball courts and playground equipment. Neighborhood parks are generally less than 10 acres and include a combination of open green space, picnic tables, playground equipment and basketball courts.

Three town parks are located in the Waterfront Corridor. Bel Harbor Park, Anchor Park and Kimbrook Park are all neighborhood parks that lie within the designated waterfront revitalization area. These parks total approximately 5 acres and each is intended to provide open space and children-related recreational opportunity to their surrounding neighborhood. These three parks are not directly adjacent to the waterfront, although Bel Harbor Park and Anchor Park are in neighborhoods that do include waterfront property. None of these parks provide access to the water, nor do they currently have water-related recreational activities.

The Town of Clay also owns two tracts of land that, while not designated as parklands, provide opportunity for future public recreational access. A 93-acre tract of land located on Black Creek Road is former agricultural land that is owned by the Town. This parcel is currently undeveloped and consists of overgrown fields and woodlands. A power transmission line right-of-way crosses the parcel. This land is adjacent to the Erie Canal and borders the New York State Canal Corporation's Lock 23 Canal Park. This property's proximity to the waterfront and Canal Park provides an excellent opportunity for future development as a recreational facility linked to water-related activities.

The Town also owns a number of adjoining parcels located on Gaskin Road, Route 57 and Marder Road that total approximately 65 acres. These parcels consist of former commercial, residential and industrial land that is currently vacant. Located in the immediate vicinity of Three Rivers Point, this land has potential for future waterfront recreational development that could be linked to any development that may take place at Three Rivers Point.

The DEC operates and maintains one boat launch facility within the Town of Clay. This facility, located on Bonstead Road beneath the Interstate 481 overpass, includes a boat launch ramp and vehicle parking. This site is open to the public and there is no charge for its use. Three marinas are also located within the Corridor. Aside from the DEC boat launch and the two public marinas, boat access and public shoreline access are very limited.

Input from the Stakeholders Group and comments received during public forums indicate the need for additional waterfront access and boat launch sites. The DEC launch site and two marinas located west of Three Rivers Point provide sufficient boat launch sites on the Oneida River. Boat launch facilities in the Town of Clay along the Seneca River are, however, quite limited.

Since much of the river frontage in the Town of Clay is privately held, public access to the waterfront is limited along the entire waterfront corridor. Input from the Stakeholders Group and comments received during public forums indicate a wish by the general public for increased access to the waterfront shoreline for recreational use.

As a result, increased river access will be a top priority when determining future waterfront development opportunities.

## **H. Transportation**

Due its location between the Syracuse metropolitan area and lower density village and city centers to the north, a number of north-south transportation routes cross through the Town of Clay. Major north-south routes include County Route 57, New York State Route 481, Morgan Road, Henry Clay Boulevard and Caughdenoy Road. East-west transportation routes include Taft Road, Buckley Road, NYS Route 31, John Glenn Boulevard and VerPlank Road. *Figure 11 – Transportation Routes* shows all major routes through the Waterfront Corridor.

Major access routes to the Waterfront Corridor are NYS Route 31, County Route 57, Morgan Road and Caughdenoy Road. While Interstate 481 crosses the Oneida River, it is a limited access highway with only one interchange in the Town, that being both north and southbound exits at Route 31. Because of this limited access, the Interstate does not provide direct access to the waterfront areas.

While not main thoroughfares, a number of roads intersecting the major access routes provide direct access to the waterfront. Numerous side streets off Route 57, particularly in the Bayberry Development on the west side of Route 57 in the southern portion of the Town, provide access directly to the Seneca River and a number of riverfront residences. Gaskin Road runs directly along the Seneca River, connecting to Route 57 north and south of Route 31. Gaskin Road provides direct access to waterfront property and residences. Gaskin Road North also provides direct access to property and residences along the Seneca River.

Maiden Road, Bonstead Road and Oak Orchard Road provide access to low density development along the Oneida River and Erie Canal. Horseshoe Island Road provides access onto and along the east shore of Horseshoe Island.

Three Rivers Point is accessible from Gaskin Road North and Route 57. Three Rivers Point is a key waterfront area in the Town and is proposed to be a site for waterfront revitalization.

Rail access is also available through the Town by means of two CSX rail lines. One of these lines, a north-south route linking rail yards in Syracuse with Phoenix, Fulton and Oswego, runs parallel to Route 57 and cuts through the Waterfront Corridor. At the present time, there is no passenger service along this rail line. There is a rail siding on this line near the Route 57/Maider Road intersection.

Commercial truck traffic within the Waterfront Corridor is available on Route 31, Route 57 and Route 481. Commercial truck traffic on all other Town streets and roads is limited to local delivery.

Routes 31 and 481 are state highways, owned and maintained by the New York State Department of Transportation (DOT). Gaskin Road, Horseshoe Island Road, side roads off Route 57 and a portion of Maider Road are Town roads, owned by the Town and maintained by the Town of Clay Highway Department. All of the other roads mentioned in this section, including Route 57, are County roadways, owned and operated by Onondaga County. The Town of Clay Highway Department and Onondaga County Department of Transportation (OCDOT) have reported that none of these roadways, nor the Horseshoe Island Road or Caughdenoy Road bridges over the Erie Canal, are slated for any major capital improvement projects.

## **I. Public Services**

The Town of Clay provides water and sanitary sewer services to various locations in the Town. Portions of the Waterfront Corridor are included in these service areas. *Figure 12 – Water Service* and *Figure 13 – Sewer Service* show the locations of water and sanitary sewer services in the Waterfront Corridor.

Public water service is provided by the Town throughout the entire portion of the Waterfront Corridor south of Route 31. Water service north of Route 31 is limited to the areas shown on Figure 12.

Sanitary sewer service is provided throughout the majority of the Waterfront Corridor south of Route 31, with the exception of a small group of parcels along Gaskin Road just south of Route 31 and a small group of parcels along the Seneca River just north and south of Wetzel Road, including the parcels along Foster Road. Horseshoe Island Road is the only area within the corridor that has sanitary sewer service north of Route 31. The Horseshoe Island sewer is a pressure sewer system that was installed in 2003 and discharges to the Oak Orchard Wastewater Treatment Plant.

National Grid provides electrical service throughout the entire Waterfront Corridor and natural gas services in portions of the Corridor. *Figure 14 – Natural Gas Distribution Service* shows the extent of the service area.

## **J. Waterfront Issues, Opportunities and Constraints to Development**

### **J.1. Waterfront Issues**

In order to identify issues pertaining to the Town of Clay waterfront, a panel of citizens from the community was assembled. Members of this panel, referred to as the Waterfront Stakeholders Group, include private property owners, representatives of homeowners associations and business owners who live and/or work in the Waterfront Corridor. Each member of the panel has a particular interest in future development of the Town's waterfront. Members of the Stakeholder Group are:

James Rowley, Town Supervisor

Naomi Bray, Town Councilor

Robert Carter, life-time resident of Gaskin Road

Thomas Kraft, resident of Bonstead Road

Richard Lobevero, resident of Horseshoe Island

James Palumbo, resident of the Bayberry Community

Christine Rahrle, resident of Oneida River Park Drive

Howard Snow, resident of Jackson Road

Paul White, resident of Bonstead Road and owner of Pirates Cove Marina

The Stakeholders Group has met on three occasions to discuss the preferred direction in which future waterfront development should proceed and to identify specific needs within the community regarding waterfront development. The following issues have been identified by the Stakeholders Group:

- The significance of Three Rivers Point to Native American heritage should be recognized.
- The history of Three Rivers Point as the location of a former world-class entertainment nightclub and destination motel should be recognized.
- Future waterfront development should include a mix of residential, retail, office space and public open space to promote a “waterfront village” atmosphere.
- Three Rivers Point should be developed as a destination attraction accessible by both land and water.
- Adjacent waterfront developments (specifically Three Rivers Point and Maider Road) should be linked by pedestrian walkways and limited-access roadways.
- Access to the waterfront for boating and shoreline fishing is limited and should be increased.

## J.2. Opportunities for Waterfront Enhancement and Development

Issues raised by the Stakeholders Group were used to formulate broad planning goals for future projects within the Waterfront Corridor. The following opportunities for development along the waterfront were identified:

- Development of the now vacant Three Rivers Point into a multi-use center, including residential housing, office space, retail space, dining establishments and public open space. This center will include elements commemorating the Native American historic significance of this location and recognition of this site as a former world-class entertainment nightclub. Views of the waterfront will be emphasized in this development. Development is intended to create a destination point for boaters traveling the waterway and for the general public. Public docking and access from the water will be included.
- Development of former industrial sites along Maider Road into a mixed residential/retail community. Included will be new residential developments, docking facilities, a riverfront walkway and connecting greenways.
- Construction of a boardwalk linking Three Rivers Point with the proposed Maider Road development. Where possible, this would be a riverfront pedestrian boardwalk.
- Construction of new and/or improvement of existing public boat launch facilities.
- Development of public shoreline fishing locations.
- Development of the Town-owned land on Black Creek Road in a way that complements the Lock 23 Canal Park.

### J.3. Constraints to Waterfront Development

The following constraints to the broad planning goals listed in Section IV.B. have been identified:

- Route 57, separating Three Rivers Point from Maider Road, presents a physical barrier to linking these two sites with a pedestrian walkway.
- The volume and speed of traffic on Route 57 presents somewhat of a constraint to the proposed development at Three Rivers Point.
- The CSX rail line crossing Maider Road will need to be taken into consideration when designing a pedestrian link between Three Rivers Point and Maider Road.
- Environmental remediation activities at the industrial sites on Maider Road must be completed before development of these sites can proceed. Consideration should be made for the future redevelopment of these sites when undergoing remediation operations.
- The lack of municipal sanitary sewers on portions of Maider Road will influence the density of future developments in this area.
- The lack of public municipal water service along portions of Maider Road may influence the density of future developments in this area.
- The present configuration of Maider Road may limit waterfront access and residential development in this area.
- The lack of municipal sanitary sewers will need to be taken into consideration when developing the Town's Black Creek Road site.

### **SECTION III - WATERFRONT REVITALIZATION POLICIES**

The LWRP policies presented in this section consider the economic, environmental and cultural characteristics of the Town of Clay's waterfront. These policies are those of the New York State Coastal Management Program. The Town of Clay has adopted these policies, which will be incorporated into the evaluation of all proposed projects within the Waterfront Corridor.

The policies are comprehensive and reflect existing State laws and authorities. They represent a balance between economic development and preservation that will permit beneficial use of, and prevent adverse effects on, waterfront resources. The policies are the basis for Federal and State consistency determinations for activities affecting the waterfront area.

These policies are organized under four headings:

- Developed Waterfront Policies
- Natural Waterfront Policies
- Public Waterfront Policies
- Working Waterfront Policies

#### **A. Definitions**

Selected terms used in the policies are defined below.

***Accretion:*** The gradual and imperceptible accumulation of sand, gravel or similar material deposited by natural action of water on the shore. This may result from a deposit of such material upon the shore or by a recession of the water from the shore.

***Agricultural Land:*** Land used for agricultural production, or used as part of a farm, or having the potential to be used for agricultural production. Agricultural lands include lands in agricultural districts, as created under Article 25-AA of the Agricultural and Markets Law; lands comprised of soils classified in soil groups 1, 2, 3, or 4 according to the New York State Department of Agriculture and Markets Land Classification System; or lands used in agricultural production, as defined in Article 25-AA of the Agriculture and Markets Law.

***Aquaculture:*** The farming of aquatic organisms, including fish, mollusks, crustaceans and aquatic plants. Farming implies some form of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators, etc. Farming also implies ownership of the stock being cultured.

***Best Management Practices:*** Methods, measures or practices determined to be the most practical and effective in preventing or reducing the amount of pollutants generated by non-point sources to a level compatible with water quality standards established pursuant to Section 17-0301 of the Environmental Conservation Law. Best management practices include, but are not limited to, structural and non-structural controls, and operation and maintenance procedures. Best management practices can be applied before, during or after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

***Boating Facility:*** A business or accessory use that provides docking for boats and encompasses 4,000 square feet or greater of surface waters, as measured by the outermost perimeter of the dock, and is designed to accommodate six or more boats.

***Coastal Barrier Resource Area:*** Any one of the designated and mapped areas under the Coastal Barrier Resources Act of 1982, (P.L. 97-348), and any areas designated and mapped under the Coastal Barrier Improvement Act of 1990 (P.L. 101-591), as administered by the FWS, and any future designations that may occur through amendments to these laws.

***Coastal Hazard Area:*** Any coastal area included within an Erosion Hazard Area designated by the DEC pursuant to the Coastal Erosion Hazard Areas Act of 1981 (Article 34 of the Environmental Conservation Law) and any coastal area included within a V-zone as designated on Flood Insurance Rate Maps prepared by FEMA pursuant to the National Flood Insurance Act of 1968 (P.L. 90-448) and the Flood Disaster Protection Act of 1973 (P.L. 93-234).

***Development:*** Other than existing development, any construction or other activity which materially changes the use, intensity of use or appearance of land or a structure, including any activity which may have a direct and significant impact on coastal waters. Development shall not include ordinary repairs or maintenance or interior alterations to existing structures or traditional agricultural practices. The term shall include division of land into lots, parcels or sites.

***Historic Maritime Communities:*** Historic centers of maritime activity identified in Chapter 587, Laws of 1994, for the purpose of fostering the protection and beneficial enjoyment of the historic and cultural resources associated with maritime activity on Long Island Sound.

***Historic Resources:*** Those structures, landscapes, districts, areas or sites, or underwater structures or artifacts which are listed or designated as follows: any historic resource in a Federal or State park established solely or in part in order to protect and preserve the resource; any resource on, nominated to be on, or determined eligible to be on the National or State Register of Historic Places; any cultural resource managed by the State Nature and Historic Preserve Trust or the State Natural Heritage Trust; any archaeological resource which is on the inventories of archaeological sites maintained by the Department of Education or the Office of Parks, Recreation and Historic Preservation; any resource which is a significant component of a Heritage Area; any locally designated historic or archaeological resources protected by a local law or ordinance.

***Maritime Center:*** A discrete portion or area of a harbor or bay that is developed with, and contains concentrations of, water-dependent commercial and industrial uses or essential support facilities. The harbor or bay area is a center for waterborne commerce, recreation or other water-dependent business activity and, as such, is an important component of the regional transportation system. A maritime center is characterized by: sheltered and suitable hydrologic conditions; land- and water-based infrastructure essential for the operation of water-dependent commercial and industrial uses, extant or easily provided; physical conditions necessary to meet the siting and operational requirements of water-dependent uses; close proximity to central business districts; and limited high value natural resources.

***Maritime Support Services:*** Industrial, commercial or retail uses which provide necessary goods and services to water-dependent businesses, thus enabling those businesses to operate in an efficient and economically viable manner.

***Native or Indigenous Stock:*** Fish, shellfish and crustaceans originating in and being produced, growing, living or occurring naturally in the coastal waters.

***Natural Ecological Community:*** A variable assemblage of interacting plant and animal populations that share a common environment.

***Natural Protective Features:*** A near shore area, beach, bluff, primary dune, secondary dune or wetland, and the vegetation thereon.

***Public Trust Lands:*** Those lands below navigable waters, with the upper boundary normally being the mean high water line, or otherwise determined by local custom and practice. Public trust lands, waters and living resources are held in trust by the State or by the trustees of individual towns for the people to use for walking, fishing, commerce, navigation and other recognized uses of public trust lands.

***Rare Ecological Communities:*** Ecological communities which, according to the State Natural Heritage Program, qualify for a Heritage State Rank of S1 or S2, and those which qualify for both a Heritage State Rank of S3, S4 or S5 and an Element Occurrence Rank of A.

***Traditional Waterfront Communities:*** Communities which historically have contained concentrations of water-dependent businesses, possess a distinctive character and serve as a focal point for commercial, recreational and cultural activities within the region.

***Vulnerable Fish and Wildlife Species:*** Those listed in New York Codes, Rules and Regulations, Title 6 (6 NYCRR), Part 182.5 as Endangered Species, Threatened Species and Special Concern Species.

***Vulnerable Plant Species:*** Those listed in 6 NYCRR, Part 193.3 as Endangered Species, Threatened Species, Exploitably Vulnerable Species and Rare Species.

***Water-Dependent Use:*** A business or other activity which can only be conducted in, on, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

***Water-Enhanced Use:*** A use or activity which does not require a location adjacent to coastal waters, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail or entertainment uses.

***Waterfront Redevelopment Area:*** A waterfront area which is part of or near a business district and contains blighted or underutilized properties which are adequate in size to accommodate significant redevelopment of regional or State-wide benefit. The following factors shall be considered in identification of waterfront redevelopment areas: (1) evidence of community commitment and initiative; (2) participation in the LWRP; (3) adequacy of

local land and water use regulations; (4) adequacy of infrastructure; (5) opportunities for local and regional economic growth; and (6) opportunities for improved public access, environmental quality and creation of local activity centers.

## **B. Developed Waterfront Policies**

***POLICY 1: FOSTER A PATTERN OF DEVELOPMENT IN THE WATERFRONT AREA THAT ENHANCES COMMUNITY CHARACTER, PRESERVES OPEN SPACE, MAKES EFFICIENT USE OF INFRASTRUCTURE, MAKES BENEFICIAL USE OF A WATERFRONT LOCATION, AND MINIMIZES ADVERSE EFFECTS OF DEVELOPMENT.***

The regional character of a community's waterfront is defined by the pattern of developed and open space throughout that community. The collection of natural, recreational, commercial, ecological, cultural and aesthetic resources in the community defines its character. The distribution of developed and open lands establishes a pattern of human use that reflects a historic choice between economic development and preservation of waterfront resources.

Development that does not reinforce the traditional pattern of human use would result in an undesirable loss to the community and detract from the landscape characteristics of the region. Development, public investment and regulatory decisions should preserve open space and natural resources, and sustain the historic waterfront communities as centers of activity. Water-dependent uses generally should locate in existing centers of maritime activity in order to support the economic base and maintain the maritime character of these centers, and to avoid disturbance of shorelines and waters in open space areas.

This policy is intended to foster a development pattern that provides for beneficial use of waterfront resources. The primary components of the desired development pattern are strengthening traditional waterfront communities as centers of activity, encouraging

water-dependent uses to expand in maritime centers, enhancing stable residential areas and preserving open space.

### ***Description of Community Development***

The Town of Clay was established in 1827 and is the northernmost town of the nineteen towns in Onondaga County. The largest town in Onondaga County, Clay is 52 square miles in size and includes part of the Village of North Syracuse. The Seneca River forms its western boundary and the Oneida River forms its northern boundary. These two rivers meet at Three Rivers Point to form the Oswego River.

The 2000 Census estimated a population of 58,805 and the current estimate is approximately 60,000. Clay's modern development as a residential community began in 1955, with the development of the Bayberry tract on County Route 57. Subsequent residential infill in the Waterfront Corridor consists of single and multi-family housing, with much of the residential area located south of NYS Route 31. Commercial development is generally located along the County Route 57 and NYS Route 31 corridors. Development north of Route 31 consists of agricultural land use and low density residential development.

### ***Section 1.1: Concentrate development and redevelopment in or adjacent to traditional waterfront communities.***

Clay's waterfront properties, which comprise 26 miles of the Town's shoreline, are a valuable resource for scenic and water-dependent recreation. Historically, these properties have been used for residential and agricultural purposes, with limited industrial applications. Overall demand for agricultural and industrial uses has declined, and many of Clay's former waterfront industrial sites and agricultural lands are now vacant, deteriorated or underutilized. However, demand for waterfront property for residential and recreational use is increasing throughout the State and the only reasonable expectation is that this increasing demand will continue into the foreseeable future. As a result, Clay's Waterfront Corridor will face increasing and competing development demands.

The goal of this policy section is to maintain traditional waterfront communities and ensure that development within and around these communities supports and is compatible with the character of the community. This can be accomplished by focusing public investment, actions and assistance in waterfront redevelopment areas to reclaim deteriorating waterfront land and Brownfields to be redeveloped for new purposes. The Town shall locate new development where infrastructure is adequate or can be upgraded to accommodate new development. New development shall be consistent with the existing character of the surrounding community or shall have a positive influence on the character of that community.

***Section 1.2: Ensure that development or uses take appropriate advantage of their waterfront location.***

Any development in the Waterfront Corridor shall consider its proximity to the river shoreline and the manner in which it takes advantage of its waterfront location. Residential development shall be positioned and oriented to take advantage of scenic views and access to the waterfront. All new development shall take into consideration the possibility of a link to the waterfront, water-dependent activities and access.

***Section 1.3: Protect stable residential areas.***

The Town shall maintain stable residential areas and allow for continued compatible residential and supporting development in or adjacent to these areas.

Currently established stable residential areas within the Corridor include the Bayberry area, located in the southern portion of the Corridor, the Belgium area, located along NYS Route 31 up to the Seneca River at the Town of Clay's west Town boundary, and the Moyers Corners/Kimbrook area, located east of the Belgium area along NYS Route 31 and west of County Route 57.

***Section 1.4: Maintain and enhance natural areas, recreation, open space and agricultural lands.***

The Town shall avoid loss of natural areas, recreational areas, open space and agricultural lands by limiting expansion of infrastructure and services which would promote conversion of these areas to other uses. When new development does result in a loss of these types of land uses, whenever possible, the Town shall assure that such development maintains the values associated with these types of land uses.

***Section 1.5: Minimize adverse impacts of new development and redevelopment.***

The Town shall minimize potential adverse land use, environmental and economic impacts that would result from proposed development. The Town shall minimize the potential for adverse impacts of the types of development which individually may not result in a significant adverse environmental impact, but when taken together, could lead to or induce subsequent significant adverse impacts. In promoting water-dependent and water-enhanced uses, the following actions shall be considered:

- Favored treatment to water-dependent and water-related development when it comes to the development of waterfront properties.
- For waterfront areas that are publicly owned, development shall be oriented toward water-dependent uses.
- Local land use controls, especially the use of zoning districts exclusively for waterfront uses, will be used to assure adequate space for the development of water-dependent and water-enhanced uses.

***POLICY 2: PRESERVE HISTORIC RESOURCES OF THE WATERFRONT AREA.***

Archaeological sites and historic structures are tangible links to the past development of a community. The preservation of our history is critical in the advancement of our future.

The intent of this policy is to preserve the historic and archaeological resources of the waterfront area. Concern is not limited to the specific site or resource, but extends to the area adjacent to and around specific sites or resources. The quality of adjacent areas is often critical to maintaining the quality and value of a historic resource. Effective preservation must also include active efforts, when appropriate, to restore or revitalize historic resources.

Three Rivers Point has been identified as a place of historic significance. Native American heritage places importance on this site as a meeting place of various tribes within the Iroquois Confederacy. It is thought to be the location of the first colonial settler in the Town. In the mid-1900's, a nightclub headlining world-class entertainment was located here. Development of this site shall commemorate all of these historically significant aspects.

There are no buildings or structures in the Waterfront Corridor listed on the National Register of Historic Places. Additionally, there are no buildings or structures that are thought to be considered for listing on the National or any local registries.

***Section 2.1: Maximize preservation and retention of historic resources.***

Development of any site with historic significance shall be in a manner that preserves any historic resources remaining on that site. If historic resources no longer remain on the property, the proposed development shall attempt to commemorate the site for its historic significance.

***Section 2.2: Protect and preserve archaeological resources.***

Development of any site containing archeological resources shall be in a manner that preserves resources on that site. Archeological assessments shall be completed prior to site construction on any site that may contain archaeological resources.

While archeological resources have not been recently identified at the Three Rivers Point site or along the Oneida River's south shore near Oak Orchards Road (a location thought to have

been a Native American encampment and burial ground), any development in these areas shall consider the possibility of encountering archeological resources.

***Section 2.3: Protect and enhance resources that are significant to the waterfront culture.***

Through much of the 19<sup>th</sup> and 20<sup>th</sup> Centuries, development across New York State was driven by commerce along the Erie and Barge Canals. The Town shall preserve the historic character of this resource by working within the goals and methods outlined in the Erie Canalway Preservation and Management Plan. Goals of this plan include preservation of historic character by protecting historic materials and features or by making repairs using appropriate measures, and providing for compatible use of this resource, while limiting and minimizing alterations to the lands adjacent to this resource.

***POLICY 3: ENHANCE VISUAL QUALITY AND PROTECT SCENIC RESOURCES THROUGHOUT THE WATERFRONT AREA.***

Visual quality is a major contributor to the character of the waterfront area, and the primary basis for the public's appreciation. In addition to the scenic natural resources, the variety of cultural elements in the landscape and interplay of the built and natural environments are of particular importance to visual quality.

The intent of this policy is to protect and enhance visual quality and protect recognized scenic resources of the waterfront area.

Scenic resources in the Waterfront Corridor include an inactive lock in Caughdenoy, Three Rivers Point and the Lock 23 Canal Park.

***Section 3.1: Protect and improve visual quality throughout the waterfront area.***

The river shorelines along the Waterfront Corridor have a number of scenic views of the Oneida and Seneca Rivers that contribute to the enjoyment of the waterfront. Actions

undertaken in the waterfront area shall protect, restore and enhance these views, particularly existing publicly accessible views. Efforts shall also be made to enhance privately accessible views and open those views to the public, where practical and feasible. Enhancement of scenic views can be promoted by thinning/removal of vegetation to restore views to the Rivers.

In future development, the following site and facility-related guidelines should be used to ensure the protection, restoration or enhancement of the visual quality of waterfront areas wherever possible:

- Position structures and other development, such as power lines and signs, back from the shoreline or in other inconspicuous locations to maintain the attractive quality of the shoreline and retain views to and from the shore;
- Cluster or orient structures to retain views, save open space and provide visual organization to a development;
- Prevent, wherever possible, blocking river views from upland areas;
- Remove deteriorated and/or degrading elements that detract from the landscape;
- Maintain or restore the original land form, except when changes screen unattractive elements and/or add appropriate interest;
- Maintain or add vegetation to provide interest, encourage the presence of wildlife, blend structures into the site and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters.
- Use appropriate materials, in addition to vegetation, to screen unattractive elements.

- Use appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.
- Undertake any new construction or activities in the Town so as not to obstruct scenic views. Particular attention must be paid to views from public parks and public rights-of-way;
- Natural materials and colors shall be used to the maximum extent practicable in construction, such that structures are not discordant with the landscape.

It should be recognized that each development situation is unique and the guidelines will have to be applied accordingly.

***Section 3.2: Protect aesthetic values associated with recognized areas of high scenic quality.***

This particular section of this policy is not applicable, in that there are no Scenic Areas of Statewide Significance (SASS) resources located within the Town of Clay. However, the Town shall make every effort to protect and enhance visual quality and protect recognized scenic resources of the waterfront area in accordance with the intent of this policy section.

**C. Natural Waterfront Policies**

***POLICY 4: MINIMIZE LOSS OF LIFE, STRUCTURES, AND NATURAL RESOURCES FROM FLOODING AND EROSION.***

This policy seeks to protect life, structures and natural resources from flooding and erosion hazards throughout the Waterfront Corridor. The policy reflects State flooding and erosion regulations and provides measures for reduction of hazards and protection of resources.

***Section 4.1: Minimize losses of human life and structures from flooding and erosion hazards.***

The Town of Clay participates in the NFIP. As a requirement of this program, the Town has adopted a floodplain management ordinance. This ordinance is intended to minimize public and private losses due to flood conditions. In response to the requirements of the Disaster Mitigation Act of 2000, the Town has also developed a Hazard Mitigation Plan. This plan is designed to improve planning for response to, and recovery from, disasters, including flood events.

Development, construction, filling and other work completed in the Waterfront Corridor shall be implemented in a manner that complies with all ACOE and DEC rules and regulations. Appropriate permits are required for proposed development within 100-year flood zones. Non water-dependent activities and land uses shall be discouraged from development in flood-prone areas.

***Section 4.2: Preserve and restore natural protective features.***

Natural protective features, such as freshwater wetlands, help safeguard riverfront property from flooding and erosion. The Town shall prevent development in natural protective features, except as specifically allowed in 6 NYCRR Part 505.8.

***Section 4.3: Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.***

All erosion and flood control projects will be undertaken in a manner that minimizes impact to public lands.

***Section 4.4: Manage navigation infrastructure to limit adverse impacts on coastal processes.***

Maintenance of the navigation channel is the responsibility of the New York State Canal Corporation. The Town will work with the Canal Corporation to maintain the navigation channels in a manner consistent with this policy.

***Section 4.5: Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.***

No specific erosion control projects are anticipated by the Town. If public funding is utilized within the Waterfront Corridor for erosion control measures, the Town shall review the intent of such a project to assure that it results in a public benefit.

***Section 4.6: Consider sea level rise when siting and designing projects involving substantial public expenditures.***

This section is not applicable to the Town of Clay, in that waters of the Town do not influence mean sea level.

***POLICY 5: PROTECT AND IMPROVE WATER QUALITY AND SUPPLY.***

The purpose of this policy is to protect the quality of water within the Oswego River Basin. Significant point source discharges within the Waterfront Corridor to the Seneca and Oneida Rivers are limited to discharges from two municipal wastewater treatment plants. These plants are operated by Onondaga County.

Under the National Pollution Discharge Elimination System (NPDES) stormwater program, municipal separate storm sewer systems (MS4s) require authorization to discharge pollutants under a NPDES permit. In New York State, this program is administered by the

DEC through their State Pollutant Discharge Elimination System (SPDES) program. The Town of Clay has adopted a law to be in compliance with these requirements.

***Section 5.1: Prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.***

All projects disturbing more than one acre of land will require a Stormwater Pollution Prevention Plan (SWPPP). The Town will evaluate the potential impact of all projects and may, at their discretion, require a SWPPP for projects disturbing less than one acres if it is believed that a particular project may result in an adverse impact to water quality.

***Section 5.2: Manage land use activities and use best management practices to minimize non-point pollution of waterfront areas.***

All development projects in the Waterfront Corridor shall incorporate best management practices regarding stormwater management and control to minimize erosion and sedimentation. A SWPPP shall be required of all projects disturbing more than one acre of land. Erosion and sediment control measures shall be required on all projects disturbing less than one acre.

***Section 5.3: Protect and enhance the quality of waterfront area waters.***

The quality of water resources is defined in terms of chemical, physical and biological characteristics which, in turn, relate to the water's acceptability for its intended use. The DEC has classified all streams, lakes and rivers according to best use. The classifications are used to regulate water quality and enforce water quality standards. The water quality classifications for the Seneca and Oneida Rivers is Class B:

*Primary contact recreation and any other uses except as a source of water supply for drinking, culinary or food processing purposes.*

As mentioned above, a SWPPP shall be required for all projects disturbing more than one acre of land. Erosion and sediment control measures shall be required on all projects disturbing less than one acre.

***Section 5.4: Limit the potential for adverse impacts of watershed development on water quality and quantity.***

The watershed of the Oswego River Basin extends well beyond the Town of Clay. All projects within the Waterfront Corridor will be completed in a manner that limits the potential for adverse impacts to the waters of the Seneca and Oneida Rivers.

***Section 5.5: Protect and conserve the quality and quantity of potable water.***

Potable water service is currently provided to a significant portion of the Town by the Onondaga County Water Authority. The remaining, more rural portions of the Town utilize groundwater as a potable water source. Surface waters in the Town are not currently utilized for water supply purposes.

Protection of local groundwater and surface water is dictated by the State and shall be considered in planning and decision-making. Impacts to be evaluated include those from construction activity, land use management, point and non-point pollution sources and direct actions on waterways.

***POLICY 6: PROTECT AND RESTORE THE QUALITY AND FUNCTION OF THE ECOSYSTEM.***

The ecosystem consists of physical (non-living) components, biological (living) components and their interactions. Its physical components include environmental factors such as water, soils, geology, energy and contaminants. The biological components include aquatic plants and animals, and those living in and around the shoreline.

Certain natural resources that are important for their contribution to the quality and biological diversity of the ecosystem have been specifically identified by the State for protection. These natural resources found in the Waterfront Corridor include regulated freshwater wetlands and possibly rare, threatened and endangered species. In addition to specifically identified discrete natural resources, the quality of the ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover and the population of over-wintering songbirds. These more common natural resources collectively affect the quality and biological diversity of the ecosystem.

This policy recognizes the importance of the natural ecosystems within the Waterfront Corridors and provides for protection and enhancement of natural resources making up these ecosystems.

***Section 6.1: Protect and restore ecological quality.***

The Town will encourage the maintenance and improvement of ecological quality by ensuring that water quality, air quality and the destruction of natural habitats are limited to the extent practical in the all waterfront revitalization projects.

***Section 6.2: Protect and Restore Significant Coastal Fish and Wildlife Habitats.***

This section is not applicable to the Town of Clay LWRP, as there are no designated Significant Coastal Fish and Wildlife Habitats in the Town waterfront area.

***Section 6.3: Protect and restore freshwater wetlands.***

A substantial number of individual wetlands, comprising various types of freshwater wetlands, have been identified within the Waterfront Corridor. One hundred twenty-five identified State and Federal wetlands, totaling approximately 1,650 acres (20% of the

Waterfront Corridor), are located within the Waterfront Corridor. These identified wetlands consist of 21 different FWS classifications and 15 different DEC identified wetland areas. Development within these wetlands is regulated by the DEC and ACOE.

All development within the Waterfront Corridor will be evaluated for compliance with the State and Federal Freshwater Wetland Regulations.

New roads and walkways that would traverse wetlands shall be elevated, wherever possible, so water circulation is not impeded. The maintenance or upgrading of existing roads and rail lines shall not impinge on wetlands. Activities in the Waterfront Corridor that would adversely affect freshwater wetlands by causing increases in erosion, sedimentation, pollution or similar affects, shall be avoided wherever possible. Where such impacts cannot be avoided, mitigating actions will be required.

Areas adjacent to wetlands shall be designed to:

- Maximize pervious land surface and vegetative cover to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands;
- Direct runoff away from adjacent waters and wetlands, to the extent feasible, by site grading or other methods; and
- Remove runoff from parking lot, maintenance, fueling and wash down areas in a manner that will prevent oils, grease and detergents from reaching adjacent waters and wetlands.

***Section 6.4: Protect vulnerable fish, wildlife, and plant species, and rare ecological communities.***

The Town will encourage the abundance of marine and terrestrial resources by ensuring that habitat is not degraded or adversely affected as a result of development in the waterfront

area. Any action taken in the Waterfront Corridor that would adversely impact fish, wildlife, plant species and/or rare ecological communities will be considered inconsistent with these policies. Actions to maintain and/or improve the quality of habitat for fish, wildlife and plant species, and rare ecological communities will be deemed consistent with these policies.

***Section 6.5: Protect natural resources and associated values in identified regionally important natural areas.***

This policy does not apply to the Town of Clay, as no locations within the Waterfront Corridor have been identified as regionally important natural areas.

***POLICY 7: PROTECT AND IMPROVE AIR QUALITY IN THE WATERFRONT AREA.***

This policy provides for protection of the Waterfront Corridor air quality from degradation of the air quality as a result of air emissions from new development.

***Section 7.1: Control or abate existing and prevent new air pollution.***

All new waterfront revitalization projects shall limit pollution resulting from stationary air contamination sources, consistent with applicable standards and requirements. Projects shall also consider, and minimize, the impact from vehicles and vessels emissions.

***Section 7.2: Limit discharges of atmospheric radioactive material to a level that is as low as practicable.***

Any proposed project with such an emission shall be closely scrutinized.

***Section 7.3: Limit sources of atmospheric deposition of pollutants to the waterway, particularly from nitrogen sources.***

Air emissions are regulated by the State of New York. The Town will work with the State in this regard.

***POLICY 8: MINIMIZE ENVIRONMENTAL DEGRADATION IN THE WATERFRONT AREA FROM SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTES.***

The intent of this policy is to protect people from sources of contamination and to protect waterfront resources from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites to permit redevelopment. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites, and in-place sediment contamination.

***Section 8.1: Manage solid waste to protect public health and control pollution.***

Solid waste in the Town of Clay is handled through independent solid waste hauling companies. Various Town regulations and ordinances require property owners to collect, handle and dispose of solid waste from their properties in a timely and environmentally safe manner.

Recycling is mandatory within Onondaga County. All property owners, residential and commercial, have responsibilities regarding the recycling of certain solid wastes from their homes and facilities.

***Section 8.2: Manage hazardous wastes to protect public health and control pollution.***

Two sites within the Waterfront Corridor are currently undergoing site remediation for the removal of hazardous and/or petroleum-based wastes. All work shall be completed in accordance with DEC and EPA regulations. The Town shall assure that all sites where hazardous wastes are identified are remediated to appropriate levels prior to redevelopment.

***Section 8.3: Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.***

Activities related to the environment and toxic and/or hazardous materials are regulated by Federal and State laws. The Town will work with the appropriate regulatory agencies to ensure protection of human health and the environment.

***Section 8.4: Prevent and remediate discharge of petroleum products.***

Two former asphalt plants and one former bulk storage terminal exist within the Town's waterfront area. The redevelopment of these sites is critical to the implementation of the Town's revitalization efforts.

The future siting of bulk petroleum offshore loading facilities is not anticipated at this time. Future redevelopment may include marinas and vessel fueling facilities. When such facilities are proposed along the Town waterfront, development will be consistent with applicable State regulations. The Town shall assure that the following are addressed:

- Facility siting and construction shall be in a manner that minimizes adverse impacts from potential oil spills;
- Facilities shall have adequate plans for prevention and control of petroleum discharges;
- Such plans shall prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles; and
- In the event of a petroleum discharge, a plan must be in place to clean up and remove any petroleum discharge, giving first priority to minimizing environmental damage.

***Section 8.5: Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the State; and the continued use of transportation facilities.***

As previously stated, the Town of Clay's local law (§30.74(C), §30.76(A)[9] and §30.82 of the Town Code) stipulates that transport of solid waste through the Town shall not be operated or conducted in a manner that will unnecessarily contribute pollutants to the soil, air, ground water and surface water, or unnecessarily contribute noxious odors or fumes to the air or environment.

***Section 8.6: Site solid and hazardous waste facilities to avoid potential degradation of waterfront resources.***

The future siting of solid and hazardous waste facilities in the Town is not anticipated at this time. In the unlikely event that the siting of such a facility along the Town waterfront becomes necessary, development will be consistent with applicable State and local policies for such facilities.

**D. Public Waterfront Policies**

***POLICY 9: PROVIDE FOR PUBLIC ACCESS TO, AND RECREATIONAL USE OF, THE WATERWAY, PUBLIC LANDS, AND PUBLIC RESOURCES OF THE WATERFRONT AREA.***

The intent of this policy is to provide new public access and protect existing public access to waterfront resources. Along many stretches of the shoreline, physical and visual access to waterfront lands and waters for the general public is limited. Limitations on reaching or viewing the waterfront are further heightened by a general lack of opportunity for diverse forms of recreation at those sites that do provide access. Often access and recreational opportunities that are available are limited to local residents. Existing development has made much of the waterfront inaccessible. In addition to loss of opportunities for physical access, visual access is also limited.

This policy incorporates measures needed to provide and increase public access in the form of viewscapes, boater access to the water and public waterfront green space throughout the

waterfront area. The need to maintain and improve existing public access and facilities is among these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing demand. Another measure is to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation. Desired types of public access include boat access (launch sites and marinas), fishing access and other recreational access, such as nature walks/trails and park space. Please refer to Section II.B. for additional information regarding existing access amenities.

***Section 9.1: Promote appropriate and adequate physical public access and recreation throughout the waterfront area.***

The Town shall consider the opportunity to include public access to the waterfront in all private development projects. When appropriate, private development shall be encouraged to include public green space along and/or near the shoreline. Boat launches, marinas, fishing access, nature walks/trails and park space are examples of public access that should be considered during proposed development planning.

Any development at Three Rivers Point shall consider boat docking facilities and access to the development from the water. Development along Maird Road shall also take into consideration the possibility of docking facilities to provide access to and from the water.

Other forms of non-motorized transportation shall also be considered for waterfront access. Walkways and bicycle paths, where appropriate, shall link development throughout the Waterfront Corridor with the waterfront.

Public and private development shall take into consideration opportunities for expansion of the Canalway Trail. Any development at Three Rivers Point and along Maird Road shall consider public access that may connect to future expansion of the Canalway Trail.

All waterfront development projects shall consider visual aesthetics and the impact that the project has on the public's view of the waterfront.

***Section 9.2: Provide public visual access from public lands to waterfront lands and waters or open space at all sites where physically practical.***

Future development of public lands shall provide visual access to the waterfront and open lands.

Development of public lands shall strive to prevent the loss of existing visual access to the waterfront and, where possible, enhance public visual access. Buildings and other structures shall be located and designed to enhance public visual access wherever possible. Vegetative and structural screening shall be incorporated to enhance the public's visual appreciation of the waterfront when appropriate.

Private development shall be undertaken in a manner that limits, and preferably enhances, existing public visual access to the waterfront. The location, layout and size of buildings, structures and landscaping shall be in a manner to preserve existing public visual access to the extent practicable.

Public roadways should be laid out and landscaped in a manner that provides visual access to the waterfront whenever possible.

***Section 9.3: Preserve the public interest in and use of lands and waters held in public trust by the State, and other public entities.***

Development of public land or the leasing of public lands shall be in a manner that preserves the public interest.

As reported in Section II.B., publicly owned lands exist throughout the Corridor. New York State holds ownership of the Seneca River, Oswego River and Erie Canal, along with the Lock 23 Canal Park. The DEC holds ownership of three undeveloped parcels and the Town of Clay holds ownership of various park spaces and undeveloped tracts of land. Two wastewater treatment plants owned by Onondaga County are also located within the Corridor.

*Section 9.4: Assure public access to public trust lands and navigable waters.*

Any trusts granted on public lands shall, if at all practicable, ensure public access to the waterfront.

**E. Working Waterfront Policies**

***POLICY 10: PROTECT WATER-DEPENDENT USES AND PROMOTE SITING OF NEW WATER-DEPENDENT USES IN SUITABLE LOCATIONS.***

The intent of this policy is to protect existing water-dependent commercial, industrial and recreational uses, and to promote future siting of water-dependent uses at suitable locations. It is also the intent of this policy to enhance the economic viability of water-dependent uses by ensuring adequate infrastructure for water-dependent uses and their efficient operation.

***Section 10.1: Protect existing water-dependent uses.***

The Town will facilitate the continued existence of water-dependent uses in the waterfront with particular emphasis on those that will contribute to public and visual access to waterfront lands and waters. Any development which would displace, adversely impact or interfere with existing water-dependent uses shall be determined to be adverse to this policy.

To ensure that water-dependent uses can continue to be accommodated within the Town, government agencies will avoid undertaking, funding or approving non water-dependent uses when such uses would preempt the reasonably foreseeable development of water-dependent uses. Furthermore, government agencies will utilize appropriate existing programs to encourage compatible water-dependent activities.

Recreational boating is the dominant water-dependent use in the Waterfront Corridor. Existing boat launch sites in the Corridor provide access to the water for small boats (under 20 feet). Additional launch sites should be considered in new waterfront development.

To support and encourage recreational boating, new development in the Waterfront Corridor shall consider docking facilities.

Three existing water-dependent marina facilities are located within the Corridor. Two of the marinas, Pirates Cove and Caughdenoy Marina, are located north of NYS Route 31. The third marina is located in the southern portion of the Corridor, off Bel Harbor Drive. The DEC also operates a boat launch site on the Oneida River.

***Section 10.2: Promote maritime centers as the most suitable locations for water-dependent uses.***

Future development within the Waterfront Corridor shall be consistent with current uses of the waterfront. Areas along the waterfront shall be zoned consistent with their current use or for uses that compliment the current uses.

***Section 10.3: Allow for development of new water-dependent uses outside of maritime centers.***

Restrictions shall not be placed on lands outside the Waterfront Corridor that would prohibit the development of a water-related project that does not necessarily require a waterfront location, but may, if located on the waterfront, present visual, aesthetic or other concern to the waterfront.

Examples of potential water-dependent uses outside of maritime centers include, but are not limited to, boat sales, repair, storage and equipment facilities, restaurants, parks, and nature and cultural centers.

***Section 10.4: Improve the economic viability of water-dependent uses by allowing for non water-dependent accessory and multiple uses, particularly water-enhanced and maritime support services.***

The Town shall allow non water-dependent uses of the waterfront when such uses compliment or support existing waterfront development or proposed water-dependent uses.

Examples of such non water-dependent water-enhanced uses include residential, commercial, recreational, cultural, entertainment and professional development.

Restaurants and cafés should be designed in a manner to emphasize the visual access to the waterfront when possible. Residential development should also be cited in a manner to emphasize visual access to the water. Pedestrian and bicycle trails off the water's edge should provide seating and lookouts in locations that provide visual access to the waterfront.

Development of water-enhanced uses should not be cited or carried out in a manner that precludes future expansion of water-dependent uses.

***Section 10.5: Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation, and maintain regionally important uses.***

No regionally important uses of the waterfront have been identified in the Town of Clay.

***Section 10.6: Provide sufficient infrastructure for water-dependent uses.***

Maintenance of the Seneca and Oneida Rivers and the associated channels within them is the responsibility of the New York State Canal Corporation. The Town will work with the Canal Corporation, as necessary, to meet the intent of this section of the policy.

***Section 10.7: Promote efficient harbor operation.***

While the Town of Clay does not have traditional harbor facilities within the Corridor, the Seneca River, Oneida River and Erie Canal are utilized for recreational purposes. These State waters are utilized for boating, fishing, swimming and other water sports. Many

private landowners along the shoreline utilize the waters and its adjacent land for water access, boat docking and recreational purposes. The Town of Clay shall enforce the New York State Canal Corporation Guidelines pertaining to dock installations and shoreline development that apply to the use of the Corridor's Seneca and Oneida Rivers and Erie Canal.

***POLICY 11: PROMOTE SUSTAINABLE USE OF LIVING MARINE RESOURCES.***

The intent of this policy is to ensure that development of the waterfront area does not adversely impact the long-term maintenance and health of living marine resources. Living marine resources play an important role in the social and economic well-being of the people of waterfront communities. Fishing opportunities to the public constitute an important contribution to the public's enjoyment and appreciation of the waters.

Continued use of living resources depends on maintaining long-term health and abundance of marine fisheries resources and their habitats, and on ensuring that the resources are sustained in usable abundance and diversity for future generations. This requires the State's active management of marine fisheries, protection and conservation of habitat, restoration of habitats in areas where they have been degraded and maintenance of water quality at a level that will foster occurrence and abundance of living marine resources. Allocation and use of the available resources must: (1) be consistent with the restoration and maintenance of healthy stocks and habitats and (2) maximize the benefits of resource use so as to provide valuable recreational experiences.

***Section 11.1: Ensure the long-term maintenance and health of living marine resources.***

The waters of the Seneca and Oneida Rivers are not considered commercial fisheries. However, these waters are important recreational fisheries. Recreational fishing is regulated by the DEC. The Town of Clay will work with the DEC to promote recreational fishing and the enforcement of its regulations.

***Section 11.2: Provide for commercial and recreational use of marine resources.***

Commercial fisheries do not exist in the Town. Facilities for recreational fishing will be considered for development by the Town.

***Section 11.3: Maintain and strengthen a stable commercial fishing fleet.***

This section is not applicable to the Clay LWRP. There is no commercial fishery in the waters of Central New York.

***Section 11.4: Promote recreational use of marine resources.***

Facilities for recreational fishing, boat access, docking/storage, water sports and educational uses, etc. will be considered for development by the Town.

***Section 11.5: Promote managed harvest of shellfish originating from uncertified waters.***

This section is not applicable to the Clay LWRP. There is no shellfish fishery in the waters of Central New York.

***Section 11.6: Promote aquaculture.***

At this time, the waters of the Town of Clay are not likely to be considered for aquaculture development.

***POLICY 12: PROTECT AGRICULTURAL LANDS.***

The intent of this policy is to conserve and protect agricultural land by preventing the conversion of farmland to other uses and protecting existing and potential agricultural production. Agricultural acreage has sharply reduced over a relatively short period of time. This loss has occurred as the regional economy has become less dependent on agricultural

interests and the residential value of rural lands has exceeded its agricultural value. As a result, many areas in the Waterfront Corridor have rapidly transformed from one dominated by agrarian uses and activities to one dominated by single family residences. Protecting the remaining agricultural land will help assure a local agricultural economy, persevere the local farming heritage, provide open space and secure scenic quality of the rural areas.

***Section 12.1: Protect existing agriculture and agricultural lands from conversion to other land uses.***

No critical agricultural lands have been identified in the Waterfront Corridor. While many acres of land remain in agricultural use, the importance of agriculture as a viable means of commerce in the Town greatly diminished through the 1900's, particularly over the last 30 years. While many parcels of land remain zoned for agricultural use, relatively few acres remain commercially agricultural.

Zoning will be enforced to preserve open lands and agricultural lands.

***Section 12.2: Establish and maintain favorable conditions which support existing or promote new agricultural production.***

The Town shall allow mixed use of lands to assist in the retention of agricultural lands.

***Section 12.3: Minimize adverse impacts on agriculture from unavoidable conversion of agricultural land.***

When lands are converted from agricultural use to other uses, efforts will be made to minimize the impact of this conversion on other agricultural lands.

***Section 12.4: Preserve scenic and open space values associated with agricultural lands.***

The Town shall locate and arrange development to maximize protection of agricultural land in large contiguous tracts to protect associated scenic and open space values.

***POLICY 13: PROMOTE APPROPRIATE USE AND DEVELOPMENT OF ENERGY AND MINERAL RESOURCES.***

In dealing with energy problems, the first order of preference is the conservation of energy. Energy efficiency in transportation and site design and efficiency in energy generation are the best means of reducing energy demands. Reduced demand for energy reduces the need for construction of new facilities that may have adverse impacts on waterfront resources.

In addition to the impacts of construction of new energy generating facilities, the potential impacts of oil and gas extraction and storage and mineral extraction must be considered. In particular are the potential adverse impacts of mining activities on aquifers. The intent of this policy is to promote the use and development of energy and mineral resources while minimizing the adverse effects of resource development.

***Section 13.1: Conserve energy resources.***

As current economic conditions regarding energy costs are anticipated to continue, the Town shall promote the planning and construction of sites using energy efficient design.

***Section 13.2: Promote alternative energy sources that are self-sustaining, including solar and wind powered energy generation.***

The Town is not located in an area that meets the minimum industry requirements for self-sustaining energy development. Should technological advances enable cost-effective development of such facilities in the future, these facilities would be located in applicably zoned areas.

***Section 13.3: Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.***

There are currently no major energy generating facilities located in the Town. The development of new major energy generating/transmission facilities in the future is not

anticipated at this time. Future development of such facilities shall be in accordance with all applicable sections of this LWRP.

***Section 13.4: Minimize adverse impacts from fuel storage facilities.***

The future siting of bulk petroleum offshore loading and/or storage facilities is not anticipated at this time. In the unlikely event that the siting of such a facility along the Town waterfront becomes necessary, development will be consistent with applicable State and local policies.

Any fuel storage facilities located on the waterfront shall employ equipment and practices to prevent the leaking or spilling of fuel to the waterway.

***Section 13.5: Minimize adverse impacts associated with mineral extraction.***

There are no commercial mining operations currently located in the waterfront area.

## SECTION IV - PROPOSED PROJECTS AND LAND USE

### A. Existing Land Use Development Plans

The Town of Clay has embarked on a number of land use studies and plans in the recent past. In 1999, a land use and traffic circulation study was completed of the Town's two main transportation arteries, Route 31 and Route 57. This area had seen significant growth in both residential and commercial development in the years preceding 1999 and such a study was necessary to properly manage future growth. A second corridor study of these two main transportation routes was completed in 2006. This study complemented the 1999 study and focused primarily on the need for future roadway improvements, access management and land use. Copies of these reports are available for review at the Town of Clay Town Hall (*Route 31 & Route 57 Land Use and Circulation Study*, November 1999; *Route 31 & Route 57 Corridor Study*, April 2006).

Between 1995 and 2005, a surge of residential development occurred in the predominantly agricultural section of the Town north of Route 31. In an effort to manage this growth, the Town completed the *Northern Land Use Study* in 2007. The purpose of this study was to assist the Town in projecting future growth patterns in this area and to manage future land use. Along with general recommendations pertaining to zoning, traffic patterns and land use, this report included specific recommendations for waterfront development. These recommendations included:

- *Understand the Town's relationship to the Rivers and the Canal, and reflect what is unique about them and the Town in future riverfront design projects.*
- *Plan at a scale larger than the riverfront.*
- *Maximize the variety of recreational uses.*

A copy of this report is available for review at Town Hall (*Town of Clay Northern Land Use Study*, Revised May 2007).

As described in Section II.B., existing land use in the Waterfront Corridor consists primarily of both high and low density residential development. Large undeveloped tracts of land remain north of Route 31.

## **B. Proposed Land Use of Waterfront Corridor**

Proposed land uses in the waterfront corridor are intended to be consistent with the policies presented in Section III. In addition, proposed land uses shall take into account both the opportunities for development and the constraints to development identified in Sections II.J.

The highest priority for the Town in developing a comprehensive master plan for the Waterfront Corridor should be to develop recreational and land-based water-dependent uses while fostering an appreciation for the historic heritage that the Seneca and Oneida Rivers have played in the Town's past. The Town has a rich waterfront heritage that includes Native American presence, early colonial settlements, agriculture, industry and the Barge Canal.

The following were identified as general objectives to be considered in future developments within the Waterfront Corridor:

- Native Americans settled along the Seneca and Oneida Rivers long before the Europeans made their way to the Town of Clay. Various archeological investigations conducted along the river provided evidence of Native American settlements and encampments in the Three Rivers Area. It is believed that the Three Rivers Area was a regular meeting place for members of the Iroquois Confederacy prior to the late 1790's. The significance of Three Rivers Point to Native American heritage should be recognized.

- The history of Three Rivers Point as the location of a former world-class entertainment night club and destination motel should be recognized.
- Future waterfront development should include a mix of residential, retail, office space and public open space to promote a “waterfront village” atmosphere.
- Three Rivers Point should be developed as a destination attraction, accessible by both land and water.
- Adjacent waterfront developments (specifically Three Rivers Point and Maider Road) should be linked by pedestrian walkways and limited-access roadways.
- Access to the waterfront for boating and shoreline fishing is limited and should be increased.

Taking these points into consideration, the following long-term land and water uses are proposed for the Waterfront Corridor:

- Maider Road shall continue as a residential area with future development emphasizing water access and water use. Efforts should be initiated to remediate former industrial sites along Maider Road to allow new development of residential, water-dependent and water-enhanced commercial development.
- Three Rivers Point shall be developed into a multi-use center highlighting the history of the site and establishing itself as a regional waterfront destination.
- Town-owned land on Black Creek Road shall be held by the Town for future development in a manner that is consistent and compliments the State Lock 23 Canal Park.
- Development of select locations for public shoreline fishing access.

- Construction of new and/or improvement of existing public boat launch and docking facilities.
- Construction of select pedestrian walkway linking new waterfront development and possibly linking to the Canalway Trail.

### **C. Proposed Projects**

The following projects are considered in response to issues and opportunities previously identified. These recommendations seek to provide a balance of residential and commercial development while conserving the natural environment and historic heritage of the waterfront. Refer to *Figure 15 – Proposed Redevelopment Projects* for the location of each of the following proposed projects:

#### ***Development of Three Rivers Point:***

Development of Three Rivers Point has been identified as the highest priority waterfront redevelopment opportunity in the Town of Clay. The first phase of development should include reconstruction of the seawall, construction of docking facilities and construction of a shoreline walkway. This work may be completed by, or in conjunction with, the New York State Canal Corporation. The shoreline walkway should include a hard decorative walking surface, lighting and benches. The walkway should extend either under Route 57 and the CSX rail bridge (preferably) or up to Route 57. If it runs up to Route 57, it should be a location that will be amenable to a pedestrian crosswalk in the future. Docking facilities should include marine power hookups and water connections.

The Town owns a number of parcels on the Point totaling approximately 4.8 acres. A portion of this land should be set aside for public green space and public facilities. This public area provides an opportunity to commemorate and recognize the historic significance of this site. Public facilities should include green space and restrooms with showers.

The balance of the Town land on the Point should be zoned to encourage mixed-use development consisting of eating establishments, boutique retail, office space and high-density housing. The land should then be sold to private development interests with pre-approved plans that meet the Town’s intent for this site.

This project could be broken up into the following phases:

<u>PHASE</u>	<u>COST ESTIMATE</u>
Site Survey	\$10,000
Phase I Environmental Site Assessment	\$7,000
Geotechnical Investigation	\$12,000
Reconstruction of Sea Wall	\$1.4 Million
Shoreline Walkway	\$90,000
Docking Facilities	\$50,000
Extension of Public Sewer System	

**Project Benefits**

Three Rivers Point is one of the finest points along the Canal system for citing a recreational docking and marine facility. Lock 23, located just to the east of Three Rivers Point, is the busiest lock on the Canal system. A significant amount of recreational boating traffic passes this point throughout the Canal operating season. Development of the point as a waterfront destination accessible from the Canal provides the opportunity for economic stimulus as businesses cater to the needs of the recreational boater. Benefits would also be realized by the recreational boating community. Boating destinations along the Canal in the vicinity of Three Rivers Point currently exist in Seneca Falls, Baldwinsville, the east end of Oneida Lake, Phoenix and Oswego. Public docking and marine facilities at Three Rivers Point would greatly complement these facilities.

Agencies involved in redevelopment of Three Rivers Point might include the DEC, Canal Corporation and the Department of State.

***Development of a Redevelopment Plan for Maider Road:***

Maider Road, situated along the Oneida River adjacent to Three Rivers Point and Route 57, presents a terrific opportunity for future development. However, a number of obstacles exist to any future growth of Maider Road. One active and one inactive industrial site remain in the heart of this area. Another former industrial area is currently undergoing environmental investigations and remediation. The area's proximity to Route 57 provides easy access to the more developed portions of the Town to the south and Oswego County to the north. However, increased traffic at the Maider Road intersection with Route 57 due to future development could present concerns. Public water is limited to the west end of Maider Road. There are no sanitary sewers serving this area.

The Maider Road area is an ideal location for both water-dependent and water-enhanced uses. With an accessible shoreline, it provides a great opportunity for docking and marine services. Following closure and remediation of the former industrial sites, there will be ample land available for planned residential development. Residential development of this area should have an emphasis on water usage and access. In addition, development of this area should take advantage of, and preserve, scenic views. Pedestrian and vehicular traffic connections to Three Rivers Point should also be considered.

The redevelopment of Maider Road and the surrounding area is very complex, and beyond the scope of this Program. It is our recommendation that a redevelopment plan be formulated for the future of Maider Road and the surrounding area. The plan should include all of the opportunities and concerns raised above. Such a plan will consider the types of development that best suit the area and the need for any zoning to encourage this development.

The cost for an engineering study and master plan for the redevelopment of Maider Road is estimated to be \$90,000.

### ***Environmental Remediation of Former Industrial Sites on Maider Road***

One active and one inactive industrial site are located at the west end of Maider Road. Another former industrial area is currently undergoing environmental investigations and remediation. These sites present an obstacle for redevelopment of this area for water dependent and residential development. Efforts should be made to further investigate and remediate Town-owned parcels along Maider Road. The Town should also work in conjunction with private owners of environmentally impacted lands along Maider Road to facilitate remediation of these properties. All former industrial land along Maider Road should be remediated to accommodate future residential development.

The BOA Program may be the ideal avenue to pursue the funding and other resources to complete this work. It is recommended that the Town pursue having this area designated a BOA to facilitate site evaluation and remediation.

### ***Provide Shoreline Access at DEC Property:***

Much of the river shoreline through the Town of Clay is privately owned. As a result, there are limited opportunities for the general public to enjoy the benefits of access to the rivers. It is suggested that the Town work with the DEC to develop shoreline access to the Seneca River from land currently owned by the DEC west of Route 57, just north of the Bayberry development. This property, totaling approximately 38 acres, is currently vacant land that is not in use. It is in the middle of a densely populated portion of the Town and is easily accessible by Route 57. Considerations for this property include hiking trails, picnic tables and benches adjacent to the water, shoreline fishing access including handicapped accessible shoreline fishing, and a boat launching facility for canoes, kayaks and other non-motorized watercraft.

***Preservation of the Town-Owned Land on Black Creek Road for Future Use:***

The Black Creek Road property lies adjacent to State lands abutting the Oneida River on both the east and west sides of Lock 23. This parcel's proximity to the waterfront and the State's Lock 23 Park provides an excellent opportunity for water-dependent and water-enhanced development.

The Town has not yet determined the best means of utilizing this property. It is recommended that the Town retain this property for future development in a manner that compliments Lock 23 Park and provides unique waterfront related activities.

**D. Proposed Water Uses**

Current water uses of the Oneida and Seneca Rivers through the Town of Clay consist of recreational boating, boat docking by private property owners and occasional commercial traffic. Use of the waterway is not expected to change in the future. The Town will work in partnership with the New York State Canal Corporation and other State agencies to develop public access and boater enhancements. Jurisdiction for use of the waterway and shoreline will remain with the New York State Canal Corporation. All waterway uses shall be in conformance with rules and regulations of the New York State Canal Corporation. Boating on the Oneida and Seneca Rivers shall conform to the Boating Rules and Regulations as listed in the latest edition of the *Cruising Guide to the New York State Canal System*, as well as applicable sections of the *Rules and Regulation of the New York State Canal Corporation* (NYCRR, Title 21, Chapter III, Subchapter D). The construction of docks, retaining walls or other structures in the water shall conform to applicable sections of the *Rules and Regulation of the New York State Canal Corporation*, applicable regulations as governed by the DEC and applicable regulations of the ACOE. Please refer to *Appendix C – Canal Regulations* for additional information.

### ***Harbor Management Plan:***

As previously described in *Section I – Waterfront Revitalization Area Boundary* and *Section II – Inventory and Analysis*, the Seneca, Oneida and Oswego Rivers within Clay are part of the State Canal System, owned and maintained by the NYS Canal Corporation. Consistent with boating activities throughout the Canal System, long-term water uses appropriate for the State Canal System within Clay include recreational and, to a lesser extent, commercial boating.

A key recommendation set forth in the statewide Canal Revitalization Program was the establishment of harbor centers and service ports at existing urban and village centers along the length of the Canal System which would provide an array of pedestrian and boater public services aimed at revitalizing the System as a major recreation resource. In this regard, Three Rivers Point is identified to serve as a service port, with docks, shower and laundry facilities, and campgrounds for canal boaters and trail users.

While the Town works in partnership with the NYS Canal Corporation and other State agencies to develop public access and boater enhancements, jurisdiction for use of the Canal and shoreline rests with New York State. In this regard, the NYS Canal Corporation maintains the navigation channel and canal infrastructure. In addition, rules and regulations adopted pursuant to New York State Canal Law (21 NYCRR Sub-Chapter D, Parts 150-156) and design standards enforced by the NYS Canal Corporation serve as the definitive controls governing use of the Canal. Key provisions set forth in the rules and regulations are as follows:

- Navigation season (beginning from April 5<sup>th</sup> – May 20<sup>th</sup> to November 15<sup>th</sup> – 20<sup>th</sup>)
- Size of boats (up to 300 feet long and 43½ feet wide)
- Maximum boat speed (6 miles per hour along land-cut canal segments and dependent on local conditions along canalized rivers and lakes)
- Occupancy of NYS Canal Corporation lands adjacent to the Canal System is regulated through the issuance of revocable permits by the NYS Canal Corporation.

The NYS Canal Corporation also enforces guidelines governing the construction of docks along the Canal System, set forth in the *Standards for Docks on the Canal System*. Key provisions of those standards are as follows:

- Applicable to residential/non-commercial docks accommodation four or fewer boats with a maximum dock length of 100 feet (commercial and larger docks analyzed on a case-by-case basis).
- Docks shall not interfere with Canal navigation.
- Docks shall have a minimum offset of 24 feet (for land-cut canal sections) or 50 feet (for canalized water bodies) from navigation channels.
- Docks shall be constructed parallel to the shore in land-cut areas and be at least 50 feet from navigation aides.
- Dock designs shall be approved by the NYS Canal Corporation.
- Boat slips must incorporate acceptable provisions for shoreline protection.
- One dock per property owner is permitted.
- Docks shall not restrict access across Canal lands.
- Docks shall be set back at least 10 feet from adjacent property lines.
- Excavated slips shall be no larger than 1,000 square feet.

The complete text of the dock standards is included as *Appendix D – Standards for Docks on the Canal System*.

## **SECTION V - LOCAL IMPLEMENTATION TECHNIQUES**

Proposed land and water uses within the waterfront corridor, policies impacting the waterfront corridor and proposed projects within the waterfront corridor must be undertaken in a manner consistent with the LWRP. Means by which to implement the LWRP include:

- The enforcement of existing laws and regulations.
- The establishment of new laws and regulations specifically imposed to assist in the impletion of the LWRP.
- Establishment of local review policies that evaluate proposed projects for consistency with the LWRP.
- Identification of financial resources available to fund projects and programs of the LWRP.

### **A. Existing Local Laws and Regulations**

Local laws and regulations are the basic means of enforcing provisions of the LWRP. The enforcement of these laws and regulations helps assure the long-term beneficial use of the waterfront. The following is a listing of existing Town of Clay laws and regulations that will serve to implement the LWRP:

- Town of Clay Northern Land Use Study.
- Town of Clay Subdivision Regulations.
- Town of Clay Zoning Ordinance.

***Town of Clay Northern Land Use Study:***

The Northern Land Use Study is a study of the lands north of Route 31 in the Town of Clay. For many years, this part of the Town had remained primarily agricultural. In the 1960's and 1970's, the agricultural use of these parcels began to decline. By 1980, large tracts of former agricultural land were no longer in productive use. In the 1990's, this portion of the Town was experiencing its first wave of residential development. As population in the Town continued to grow, Town representatives realized that residential pressures would be placed in this area. Town planners recognized the need for a study to examine land features restricting development, as well as infrastructure that supported development. Such a study would allow Town officials to plan future land uses in this area.

This study, currently under review in draft form, proposes to retain the RA-100, Residential/Agricultural District in most of the areas, but allow for future development by including the incorporation of a new R-60, One-Family Residential District. Also recommended in the study were considerations for future development to provide safe and strategic traffic circulation. The final recommendation of the study was the allowance of limited business activity that was particularly aimed at providing services to the new neighborhoods.

***Town of Clay Subdivision Regulations:***

The Town has specific subdivision regulations that pertain to the subdivision of any parcel or land into two or more lots. These regulations dictate quite specifically the procedures that must be taken prior to approval of any subdivision of property. Included in these regulations are submittal, review and approval procedures for subdivision requests.

***Town of Clay Zoning Ordinance:***

The intent of the Town of Clay Zoning Ordinance is for the regulation, control and restriction of use and development of land and buildings in the Town. This ordinance is designed to

promote and protect the local environment, the public health and safety, and the public's general welfare. This ordinance includes zoning boundaries for the entire Town. Also included in the ordinance are the procedures for site plan review and approval of all new structures, modifications, alterations or replacements of existing structures, as well as the change of use of existing structures (as defined by New York State Uniform Code).

Additionally, recent establishment of Planned Development District (PDD) zones will assist in implementation of the Program. PDD zoning enables more creative and customized development of properties. The PDD zone promotes a dialogue between the applicant and Town both before and during site plan development.

## **B. Proposed New or Revised Local Laws and Regulations**

The existing laws and regulations cited above are not adequate to assure that the policies and conditions of the LWRP are upheld in future waterfront redevelopment. The adoption of an LWRP requires the adoption of new laws and regulations to assure that the Program's policies and intentions are carried out.

Both State and Federal coastal management laws require State and Federal agencies to determine that a proposed action which they directly undertake, fund or approve within the boundaries of an approved LWRP is consistent with the policies of that LWRP. Any action found to be inconsistent with the Program should not be undertaken. The Town of Clay is required to make a similar commitment to ensure local consistency with their LWRP. This is achieved by ensuring that local laws implementing the Program reflect the provisions of the LWRP.

### ***Local LWRP Consistency Law:***

The Town has adapted a Local LWRP Consistency Law. The intent of this law is to provide a framework for the Town to consider the policies and intentions of the LWRP when

reviewing applications for projects, developments or other actions within the Waterfront Corridor. This law allows the Town to provide advice and assistance to the New York State Department of State for consistency review of State and Federal actions within the Waterfront Corridor.

This new law dictates that the Town Planning Board shall act as lead agency for all actions within the Waterfront Corridor being considered by any Town agency or department. As lead agency, all Town agencies and departments shall refer actions within the Waterfront Corridor to the Planning Board to be evaluated for consistency with the LWRP policy standards and other conditions set forth in the Program. Following their review, the Planning Board shall render a written decision either directly to the applicant or to the applicable Town department indicating whether or not the action is consistent with the LWRP. This written decision shall also include suggested modifications to denied projects that may lead to eventual approval in a future submittal.

Refer to *Appendix E – Waterfront Consistency Law* for additional information.

### **C. Review Process for Proposed Waterfront Projects**

Article IX of the Town of Clay Zoning Ordinance, *Administration and Enforcement*, outlines the procedures for review of an application to build a new structure, modify an existing structure, or change the use of an existing structure. These procedures include submission of site plans, review by the Planning Board and possible consideration by the Board of Appeals. The Town's subdivision regulations outline similar procedures for applicants applying for subdivision of land.

Current subdivision regulations and the current site plan review process have been an effective means of evaluating projects presented for development in the Town. Major changes are not recommended to the regulations or the ordinance as a result of implementing this LWRP. However, implementing the LWRP Consistency Law will require modifications to the review process for projects within the Waterfront Corridor. These

changes may include modifying building permit and subdivision applications to include a box indicating whether or not the proposed project or land to be subdivided lies within or is adjacent to the Waterfront Corridor. Internal procedural changes may be necessary as well. For instance, a procedure will need to be implemented for Town agencies and departments to notify the Planning Board of projects or actions to be taken within the Waterfront Corridor.

The review process for all projects will be two-fold. Local projects will require review for consistency with the LWRP in accordance with procedures set forth in the Program Consistency Law. Proposed State actions will be reviewed in accordance with guidelines established by the New York State Department of State (DOS). See *Appendix F – New York State Department of State Coastal Management Program - Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect* for a copy of the DOS guidelines.

#### **D. Financial Resources Available for Funding Projects and Programs of the LWRP**

Costs for the implementation of the LWRP fall into three categories. Administrative costs, capital costs and maintenance costs.

Administrative costs are those costs associated with the Town's efforts to manage and oversee conformance and enforcement of the LWRP. The Town needs to recognize that there will be administrative costs associated with the Program and budget appropriately. Departments that may need additional budgetary expenditures to implement the Program include legal counsel for the review of policy conformance, Planning Board for consistency review and general administration to support additional review efforts. Funding for administrative costs shall come from the Town's general revenue sources and shall be reflected in the annual budget.

Capital costs reflect the costs incurred by the Town in completing specific projects. The LWRP has identified a number of projects to be completed by the Town that will require significant capital expenditures. Projects such as these are generally funded through State

or Federal grants, many of which require partial matching either in dollars or in-kind services. Possible sources for these grants include:

***The New York State Clean Water/Clean Air Bond – Environmental Conservation Law Article 56***

- Project eligibility should be evaluated under different Bond Act funds, including the Safe Drinking Water Fund (Title 2), the Clean Water Fund (Title 3) and the Municipal Environmental Restoration Project Fund (Title 5).

***The New York State Brownfield Opportunity Areas Program***

- Under the Brownfield Opportunity Areas (BOA) Program, the DOS provides financial and technical assistance to municipalities and community-based organizations. Funding can be used to complete revitalization plans and implementation strategies for areas affected by the presence of Brownfield sites, as well as site assessments for strategic sites. DEC provides relevant technical assistance and advice to the DOS and BOA grantees, particularly regarding site assessments on strategic Brownfield sites in BOA study areas.

***The New York State Environmental Protection Fund – Environmental Conservation Law Article 54***

- The fund, administered by the New York State Office of Parks, Recreation and Historic Preservation, provides assistance for park, recreation and historic preservation projects. Funding for the implementation of Local Waterfront Revitalization Programs, administered by the New York State Department of State, is also available through this program.

***The Federal “Superfund” – Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)***

- This fund provides the Federal government with funds to implement short-term “removal” actions, or longer-term remedial investigation and remediation of

hazardous waste sites listed on the National Priorities List (NPL). This fund was used to implement limited clean-up activities at the former Diamond International Site.

***Federal Environmental Response and Spill Compensation Fund – Navigation Law Article 12***

- This fund is available to States to implement investigation and cleanup of petroleum discharges and removal of underground storage tanks. The fund is also available to compensate injured parties, including municipalities, which have lost revenue as a result of the discharge of petroleum.

***Clean Water State Revolving Fund for Water Pollution Control***

- Financing is available to respond to non-profit source pollution projects. Non-point source refers to water pollution from diffuse sources that are not directly related to a piped discharge. Examples include remediation of contamination from leaking underground storage tanks or collection and treatment of road runoff, and water body restoration such as stream bank stabilization, drainage erosion and sediment control.

***Industrial Finance Program***

- Provides low interest loans to private businesses for environmental improvement capital projects, including Brownfields site remediation and solid waste management.

***The State Revolving Fund Program***

- One of the largest environmental infrastructure financing programs in the nation. Three primary loans are available through EFC: Bond-Funded Loans, Financial Hardship Loans (including interest-free, long-term) and Interest-Free Short-Term (up to two years).

***Community Development Block Grant (CDBG)***

- This program provides direct funding from the Department of Housing and Urban Development (HUD) for activities that support the reuse of industrial sites.

CDBG funds are used for grants, loans, loan guarantees and technical assistance activities. Formally a Federal program, New York State has been administering the program since 2000.

#### ***Section 108 Federal Loan Guarantees***

- Another HUD program, may also be applicable to the industrial site reuse effort. Eligible projects include rehabilitation of obsolete structures, property acquisition and site preparation activities that could include removal of contamination from a property.

#### ***New York State and United States Departments of Transportation***

- Grants and loans may be available pursuant to the DOT Transportation Efficiency Act (TEA21), formerly ISTEA (Industrial Access Program Chap 54 of Laws of 1985-appropriations bill).

#### ***New York State Empire State Development Corporation (ESDC)***

- Program grants and loans are available as incentives to attract commercial development and may be applicable to Brownfields development. The Economic Development Fund is the primary funding program.

#### ***United States Department of Commerce Economic Development Administration***

- Grants are available to assist economic development projects.

#### ***New York State Nonpoint Source Implementation Grants Program***

- The NYSDEC has a grant program under its Nonpoint Source Implementation Grants Program. The Program provides grants for up to fifty percent (50%) of the cost of eligible nonpoint source water pollution assessment, planning and abatement projects.

### ***Private Foundation Grants***

- The Environmental Grantmaker's Association, 1290 Avenue of the Americas, Suite 3450 New York, New York, 10104 compiles a listing of hundreds of potential foundations and trusts which may provide funding assistance to creative environmental/economic development initiatives. The Foundation Center's satellite location at the Yonkers Public Library has a searchable database of charitable foundations.

### ***Greenway Conservancy***

- Provides funding for trail-related projects.

### ***The Environmental Protection Fund***

- A legislatively designated long-term source of revenues available to meet the pressing environmental needs of the State. A portion of this funding is administered by the New York State Department of State for LWRP implementations.

### ***Land and Water Conservation Fund***

- Federal monies allocated to the States by the Department of the Interior for land acquisition and development of outdoor recreation.

### ***Pittman-Robertson Program***

- Federal monies from the Federal Aid in Wildlife Restoration Act, apportioned to the States for wildlife conservation and hunter education.

### ***Sport Fish Restoration Program***

- Also known as the Dingell-Johnson program and amended by the Wallop Breaux Act, collects taxes on sport fishing related items and returns the monies to the States for use in fisheries management and research programs.

### ***Biodiversity Stewardship and Research Fund***

- A legislatively designated vehicle to receive funds from a variety of sources; Federal, State and private; to support biodiversity stewardship, research and education in New York State.

### ***Forest Legacy Program***

- Federal monies designed to identify and protect environmentally sensitive forests that are threatened with conversion to non-forest uses.

### ***Environmental Benefit Project Funds and Natural Resource Damages***

- If appropriate and in accordance with law and guidance, may be provided for open space conservation.

### ***Migratory Bird Stamp and Print***

- A dedicated source of revenue for management and acquisition of wetlands and associated migratory bird habitat in New York State and Canada.

### ***Return a Gift to Wildlife***

- A State income tax donation program. The revenues are used for a variety of projects that benefit fish and wildlife.

### ***State Revolving Loan Fund***

- Provides low-interest loans to municipalities to construct and expand sewage treatment facilities. Continuation of the State revolving loan fund depends on periodic reauthorization of the Clean Water Act with grants to States to capitalize the loan fund.

### ***Federal Non-Game Wildlife Funding Initiative***

- Under consideration by the International Association of Fish and Wildlife Agencies, would provide a flexible program of grants to the States, funded through a Federal

excise tax on backpacks, mountain bicycles, tents, climbing gear and similar outdoor recreational equipment.

***Gifts and Donations***

- A way for individuals and businesses to contribute directly to the conservation of open space through donations of land or easements.

## **SECTION VI - STATE ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION OF THE LWRP**

State actions will affect and be affected by implementation of the LWRP. Under State law, certain State actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions, and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs that are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented by local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification or approval programs; grant, loan, subsidy or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP.

The second part of this section is a more focused and descriptive list of State agency actions which are necessary to further implement the LWRP. It is recognized that a State agency’s ability to undertake such actions is subject to a variety of factors and considerations, that the consistency provisions referred to above may not apply, and that the consistency requirements cannot be used to require a State agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section VI.B. which also discusses State assistance needed to implement the LWRP.

**A. State Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP**

***Office for the Aging:***

- Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

***Department of Agriculture and Markets:***

- Agricultural Districts Program
- Rural Development Program
- Farm Worker Services Programs
- Permit and approval programs:
  - Custom Slaughters/Processor Permit
  - Processing Plant License
  - Refrigerated Warehouse and/or Locker Plant License
- Farmland Protection Grants from the Environmental Protection Fund

***Division of Alcoholic Beverage Control/State Liquor Authority:***

- Permit and Approval Programs:
  - Ball Park - Stadium License
  - Bottle Club License
  - Bottling Permits
  - Brewer's Licenses and Permits
  - Brewer's Retail Beer License
  - Catering Establishment Liquor License
  - Cider Producer's and Wholesaler's Licenses
  - Club Beer, Liquor and Wine Licenses
  - Distiller's Licenses
  - Drug Store, Eating Place and Grocery Store Beer Licenses
  - Farm Winery and Winery Licenses
  - Hotel Beer, Wine and Liquor Licenses
  - Industrial Alcohol Manufacturer's Permits
  - Liquor Store License

- On-Premises Liquor Licenses
- Plenary Permit (Miscellaneous-Annual)
- Summer Beer and Liquor Licenses
- Tavern/Restaurant and Restaurant Wine Licenses
- Vessel Beer and Liquor Licenses
- Warehouse Permit
- Wine Store License
- Winter Beer and Liquor Licenses
- Wholesale Beer, Wine and Liquor Licenses

***Division of Alcoholism and Substance Abuse Services:***

- Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Permit and approval programs:
  - Certificate of approval (Substance Abuse Services Program)
- Permit and approval:
  - Letter Approval for Certificate of Need
  - Operating Certificate (Alcoholism Facility)
  - Operating Certificate (Community Residence)
  - Operating Certificate (Outpatient Facility)
  - Operating Certificate (Sobering-Up Station)

***Council on the Arts:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Architecture and environmental arts program.

***Department of Banking:***

- Permit and approval programs:
  - Authorization Certificate (Bank Branch)
  - Authorization Certificate (Bank Change of Location)
  - Authorization Certificate (Bank Charter)
  - Authorization Certificate (Credit Union Change of Location)

- Authorization Certificate (Credit Union Charter)
- Authorization Certificate (Credit Union Station)
- Authorization Certificate (Foreign Banking Corporation Change of Location)
- Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
- Authorization Certificate (Investment Company Branch)
- Authorization Certificate (Investment Company Change of Location)
- Authorization Certificate (Investment Company Charter)
- Authorization Certificate (Licensed Lender Change of Location)
- Authorization Certificate (Mutual Trust Company Charter)
- Authorization Certificate (Private Banker Charter)
- Authorization Certificate (Public Accommodation Office - Banks)
- Authorization Certificate (Safe Deposit Company Branch)
- Authorization Certificate (Safe Deposit Company Change of Location)
- Authorization Certificate (Safe Deposit Company Charter)
- Authorization Certificate (Savings Bank Charter)
- Authorization Certificate (Savings Bank De Novo Branch Office)
- Authorization Certificate (Savings Bank Public Accommodations Office)
- Authorization Certificate (Savings and Loan Association Branch)
- Authorization Certificate (Savings and Loan Association Change of Location)
- Authorization Certificate (Savings and Loan Association Charter)
- Authorization Certificate (Subsidiary Trust Company Charter)
- Authorization Certificate (Trust Company Branch)
- Authorization Certificate (Trust Company-Change of Location)
- Authorization Certificate (Trust Company Charter)
- Authorization Certificate (Trust Company Public Accommodations Office)
- Authorization to Establish a Life Insurance Agency
- License as a Licensed Lender
- License for a Foreign Banking Corporation Branch

***Central New York Regional Transportation Authority (Regional Agency):***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- Facilities construction, rehabilitation, expansion, or demolition.

- Increases in special fares for transportation services to public water-related recreation resources.

***Office of Children and Family Services:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Homeless Housing and Assistance Program.
- Permit and approval programs:
  - Certificate of Incorporation (Adult Residential Care Facilities)
  - Operating Certificate (Children's Services)
  - Operating Certificate (Enriched Housing Program)
  - Operating Certificate (Home for Adults)
  - Operating Certificate (Proprietary Home)
  - Operating Certificate (Public Home)
  - Operating Certificate (Special Care Home)
  - Permit to Operate a Day Care Center

***Department of Correctional Services:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

***Dormitory Authority of the State of New York:***

- Financing of higher education and health care facilities.
- Planning and design services assistance program.

***Empire State Development/Empire State Development Corporation:***

- Preparation or revision of statewide or specific plans to address State economic development needs.
- Allocation of the state tax-free bonding reserve.

***Education Department:***

- Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.

- Permit and approval programs:
  - Certification of Incorporation (Regents Charter)
  - Private Business School Registration
  - Private School License
  - Registered Manufacturer of Drugs and/or Devices
  - Registered Pharmacy Certificate
  - Registered Wholesale of Drugs and/or Devices
  - Registered Wholesaler – Re-packer of Drugs and/or Devices
  - Storekeeper’s Certificate
- Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.

***New York State Energy Research and Development Authority:***

- Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

***Department of Environmental Conservation:***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- Classification of Waters Program; classification of land areas under the Clean Air Act.
- Facilities construction, rehabilitation, expansion or demolition or the funding of such activities.
- Financial assistance/grant programs:
  - Capital projects for limiting air pollution
  - Cleanup of toxic waste dumps
  - Flood control, beach erosion and other water resource projects
  - Operating aid to municipal wastewater treatment facilities
  - Resource recovery and solid waste management capital projects
  - Wastewater treatment facilities
- Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- Funding assistance for issuance of permits and other regulatory activities (New York City only).

- Implementation of the Environmental Quality Bond Act of 1972, including:
  - Water Quality Improvement Projects
  - Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- Marine Finfish and Shellfish Programs.
- New York Harbor Drift Removal Project
- Permit and approval programs:

*Air Resources*

- Certificate of Approval for Air Pollution Episode Action Plan
- Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- Permit for Burial of Radioactive Material
- Permit for Discharge of Radioactive Material to Sanitary Sewer
- Permit for Restricted Burning
- Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

*Construction Management*

- Approval of Plans and Specifications for Wastewater Treatment Facilities

*Fish and Wildlife*

- Certificate to Possess and Sell Hatchery Trout in New York State
- Commercial Inland Fisheries Licenses
- Fishing Preserve License
- Fur Breeder's License
- Game Dealer's License
- Licenses to Breed Domestic Game Animals
- License to Possess and Sell Live Game
- Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- Permit to Raise and Sell Trout
- Private Bass Hatchery Permit
- Shooting Preserve Licenses

- Taxidermy License
- Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- Floating Object Permit
- Marine Regatta Permit
- Navigation Aid Permit

Marine Resources

- Digger's Permit (Shellfish)
- License of Menhaden Fishing Vessel
- License for Non-Resident Food Fishing Vessel
- Non-Resident Lobster Permit
- Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- Permits to Take Blue-Claw Crabs
- Permit to Use Pond or Trap Net
- Resident Commercial Lobster Permit
- Shellfish Bed Permit
- Shellfish Shipper's Permits
- Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- Permit - Article 25 (Tidal Wetlands)

Mineral Resources

- Mining Permit

- Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- Underground Storage Permit (Gas)
- Well Drilling Permit (Oil, Gas and Solution Salt Mining)

Solid Wastes

- Permit to Construct and/or Operate a Solid Waste Management Facility
- Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- Approval of Plans for Wastewater Disposal Systems
- Certificate of Approval of Realty Subdivision Plans
- Certificate of Compliance (Industrial Wastewater Treatment Facility)
- Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- Permit - Article 36, (Construction in Flood Hazard Areas)
- Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- State Pollutant Discharge Elimination System (SPDES) Permit
- Approval - Drainage Improvement District
- Approval - Water (Diversion for) Power
- Approval of Well System and Permit to Operate
- Permit - Article 15 (Protection of Water) - Dam
- Permit - Article 15, Title 15 (Water Supply)
- River Improvement District Approvals
- River Regulatory District Approvals
- Well Drilling Certificate of Registration
- 401 Water Quality Certification
- Preparation and revision of Air Pollution State Implementation Plan.
- Preparation and revision of Continuous Executive Program Plan.
- Preparation and revision of Statewide Environmental Plan.
- Protection of Natural and Man-made Beauty Program.
- Urban Fisheries Program.
- Urban Forestry Program.
- Urban Wildlife Program.

***Environmental Facilities Corporation:***

- Financing program for pollution control facilities for industrial firms and small businesses.

***Facilities Development Corporation:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

***Office of General Services:***

- Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- Facilities construction, rehabilitation, expansion, or demolition.

***Department of Health:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Permit and approval programs:
  - Approval of Completed Works for Public Water Supply Improvements
  - Approval of Plans for Public Water Supply Improvements.
  - Certificate of Need (Health Related Facility - except Hospitals)
  - Certificate of Need (Hospitals)
  - Operating Certificate (Diagnostic and Treatment Center)
  - Operating Certificate (Health Related Facility)
  - Operating Certificate (Hospice)
  - Operating Certificate (Hospital)
  - Operating Certificate (Nursing Home)
  - Permit to Operate a Children's Overnight or Day Camp

- Permit to Operate a Migrant Labor Camp
- Permit to Operate as a Retail Frozen Dessert Manufacturer
- Permit to Operate a Service Food Establishment
- Permit to Operate a Temporary Residence/Mass Gathering
- Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
- Permit to Operate Sanitary Facilities for Realty Subdivisions
- Shared Health Facility Registration Certificate

***Division of Housing and Community Renewal and Its Subsidiaries and Affiliates:***

- Facilities construction, rehabilitation, expansion, or demolition.
- Financial assistance/grant programs:
  - Federal Housing Assistance Payments Programs (Section 8 Programs)
  - Housing Development Fund Programs
  - Neighborhood Preservation Companies Program
  - Public Housing Programs
  - Rural Initiatives Grant Program
  - Rural Preservation Companies Program
  - Rural Rental Assistance Program
  - Special Needs Demonstration Projects
  - Urban Initiatives Grant Program
  - Urban Renewal Programs
- Preparation and implementation of plans to address housing and community renewal needs.

***Housing Finance Agency:***

- Funding programs for the construction, rehabilitation, or expansion of facilities.
- Affordable Housing Corporation

***Job Development Authority:***

- Financing assistance programs for commercial and industrial facilities.

***Medical Care Facilities Financing Agency:***

- Financing of medical care facilities.

***Office of Mental Health:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Permit and approval programs:
  - Operating Certificate (Community Residence)
  - Operating Certificate (Family Care Homes)
  - Operating Certificate (Inpatient Facility)
  - Operating Certificate (Outpatient Facility)

***Office of Mental Retardation and Development Disabilities:***

- Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- Permit and approval programs:
  - Establishment and Construction Prior Approval
  - Operating Certificate Community Residence
  - Outpatient Facility Operating Certificate

***Division of Military and Naval Affairs:***

- Preparation and implementation of the State Disaster Preparedness Plan.

***Natural Heritage Trust:***

- Funding program for natural heritage institutions.

***Office of Parks, Recreation and Historic Preservation (including Regional State Park Commission):***

- Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- Funding program for recreational boating, safety and enforcement.
- Funding program for State and local historic preservation projects.
- Land and Water Conservation Fund programs.

- Nomination of properties to the Federal and/or State Register of Historic Places.
- Permit and approval programs:
  - Floating Objects Permit
  - Marine Regatta Permit
  - Navigation Aide Permit
  - Posting of Signs Outside State Parks
- Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- Recreation services program.
- Urban Cultural Parks Program.
- Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

***Power Authority of the State of New York:***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- Facilities construction, rehabilitation, expansion, or demolition.

***New York State Science and Technology Foundation***

- Corporation for Innovation Development Program.
- Center for Advanced Technology Program.

***Department of State:***

- Appalachian Regional Development Program.
- Coastal Management Program.
  - Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- Community Services Block Grant Program.

- Permit and approval programs:
  - Billiard Room License
  - Cemetery Operator
  - Uniform Fire Prevention and Building Code

***State University Construction Fund:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

***State University of New York:***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

***Thruway Authority/Canal Corporation (Regional Agency):***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of land and other resources under the jurisdiction of the Thruway Authority and the Canal Corporation.
- Facilities construction, rehabilitation, expansion, or demolition.
- Permit and approval programs:
  - Advertising Device Permit
  - Approval to Transport Radioactive Waste
  - Occupancy Permit
  - Permits for use of Canal System lands and waters.
- Statewide Canal Recreationway Plan
- Direct and financial assistance related to improvements and enhancements to the State Canal System.

***Department of Transportation:***

- Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:

- Highways and parkways
- Bridges on the State highways system
- Highway and parkway maintenance facilities
- Rail facilities
- Financial assistance/grant programs:
  - Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - Funding programs for rehabilitation and replacement of municipal bridges
  - Subsidies program for marginal branchlines abandoned by Conrail
  - Subsidies program for passenger rail service
  - Financial assistance to local governments for transportation enhancement activities.
- Permits and approval programs:
  - Approval of applications for airport improvements (construction projects)
  - Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
  - Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
  - Certificate of Convenience and Necessity to Operate a Railroad
  - Highway Work Permits
  - License to Operate Major Petroleum Facilities
  - Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
  - Real Property Division Permit for Use of State-Owned Property
- Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

***Urban Development Corporation (and Its Subsidiaries and Affiliates):***

- Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
  - Tax-Exempt Financing Program
  - Lease Collateral Program
  - Lease Financial Program
  - Targeted Investment Program
  - Industrial Buildings Recycling Program
- Administration of special projects.
- Administration of State-funded capital grant programs.

***Division of Youth:***

- Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

**B. State and Federal Programs Necessary to Further the LWRP**

**STATE AGENCIES**

***Office of General Services:***

Prior to any development occurring in the water or on the immediate waterfront, the Office of General Services should be contacted for a determination of the State's interest in underwater, or formally underwater, lands and for authorization to use and occupy these lands.

- In accordance with Section 334 of the New York State Real Property Law, any subdivision of waterfront properties on navigable waters must depict the location of riparian (including littoral) lines out into the navigable waters on the property survey that must be filed with the respective county clerk.

***Office of Parks, Recreation and Historic Preservation:***

- Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreation services programs.
- Certification of properties within districts listed on the National Register of Historic Places.
- Provision of funding for State and local historic preservation activities.
- Review of Type I actions affecting a property listed on the National Register of Historic Places.
- Activities under the Urban Cultural Park program.

***Department of State:***

- Provision of funding for the implementation of an approved LWRP.
- Provision of funding under the Community Services Block Grant program.
- Provision of funding through Title 11 of the Environmental Protection Fund.
- Grants for design and construction of waterfront projects and preparation of detailed redevelopment strategies.
- Technical assistance regarding local laws and priority projects.

***Council on the Arts:***

- Assistance from the Architecture and Environmental Arts program for a harborfront plan.

***Department of Transportation:***

- Assistance for street repairs through the Consolidated Highway Improvements Program.

***New York State Canal Corporation:***

- Permits and other legal instruments necessary to utilize lands owned by the Canal Corporation for public access.

**FEDERAL AGENCIES**

***Department of Housing and Urban Development:***

*Office of the Assistant Secretary for Community Planning and Development*

- Funding under the Community Development Block Grant Program for improvements in the waterfront.

***Department of Defense:***

*Corps of Engineers, Buffalo District*

- Review of any proposed action affecting a resource listed on the National Register of Historic Places, pursuant to the National Environmental Protection Act.

***Department of the Interior:***

*National Park Service*

- Provision of funding under the Land and Water Conservation Fund Program.
- Review of Federal actions within the National Register Districts pursuant to NEPA.

***Department of the Treasury:***

- Continuation of Incentives for Qualified Building Rehabilitation.
- Provision of appropriate tax exempt status for nonprofit agencies active in the coastal area.

***Economic Development Administration:***

- Assistance under the Public Works and Economic Development Act for street improvements.

***Department of Transportation:***

- Provision of funding through the Transportation Equity Act for the 21<sup>st</sup> Century (TEA 21).

***United States Coast Guard***

- Maintenance/rehabilitation of facilities.

## **SECTION VII - LOCAL COMMITMENT AND CONSULTATION**

In 2005, the Town of Clay began actively pursuing interests in further developing land it had recently acquired at Three Rivers Point. As discussions regarding the redevelopment of this area progressed, the Town turned its interests to development of a comprehensive plan for new waterfront development of its entire 26 miles of shoreline along the Seneca and Oneida Rivers. In 2006, Supervisor Rowley and the Town Council initiated efforts to have an LWRP completed for the Town.

In April 2007, the Town completed a Community Outreach Plan for the LWRP. This outreach plan identified means by which to involve the local community in the development of the LWRP and provide opportunities for public comments on its recommendations. The most critical element of this outreach plan was the establishment of a Stakeholders Group. The Stakeholders Group was to consist of individuals from the community who held some particular interest in waterfront redevelopment. The purpose of the group was to assist in the identification of potential projects to be included in the LWRP and to provide input and feedback to the Town during its development.

In June 2007, members of the Town Council discussed candidates for the Stakeholders Group. The Stakeholders Group met for the first time on July 24, 2007. The group consisted of seven individuals from the community-at-large, one Town Councilor and the Town Supervisor. Members of the community-at-large all have a particular interest in waterfront revitalization due to living on the waterfront, owning a business on the waterfront or representing a group with a particular interest in waterfront redevelopment.

The Stakeholders Group met on three other occasions in addition to its first meeting. During these meetings, options for waterfront redevelopment were discussed, the history of the waterfront activities was presented and particular projects of interest were offered for consideration. In addition, the group was provided the first sections of the LWRP for review and comment.

In addition to review by the Stakeholders Group, on April 21, 2008 a public information meeting was held at the Town of Clay Town Hall to solicit public input regarding the completeness and

accuracy of *Section II – Inventory and Analysis* and *Section III – Waterfront Revitalization Policies* of the LWRP. More than a week earlier, these sections of the report were placed in Town Hall and the North Syracuse Public Library for public review. A legal notice of their availability was published in local papers.

The purpose of forming the Stakeholders Group and holding the informational meeting was an attempt by the Town to develop an LWRP that truly reflects the interests of the community. The intent of all projects presented in this Program are a direct result of discussions held during Stakeholder Group meetings.

Other organizations and agencies have assisted and consulted in the development of this Program. The DEC has been contacted regarding property they hold in the Town and their intended future use of that property. The New York State Canal Corporation has provided much information pertaining to use, restrictions and regulations along the Seneca and Oneida Rivers. The New York State Department of State has been contacted on numerous occasions regarding the development of this Program. Also, the Town of Clay local historian was consulted on a number of occasions regarding the region's history and its influence on the waterfront.

## **SECTION VIII - ENVIRONMENTAL IMPACT STATEMENT**

The Town of Clay, as lead agency, has determined that this proposed LWRP will not have a significant adverse environmental impact, and therefore has prepared a Negative Declaration.

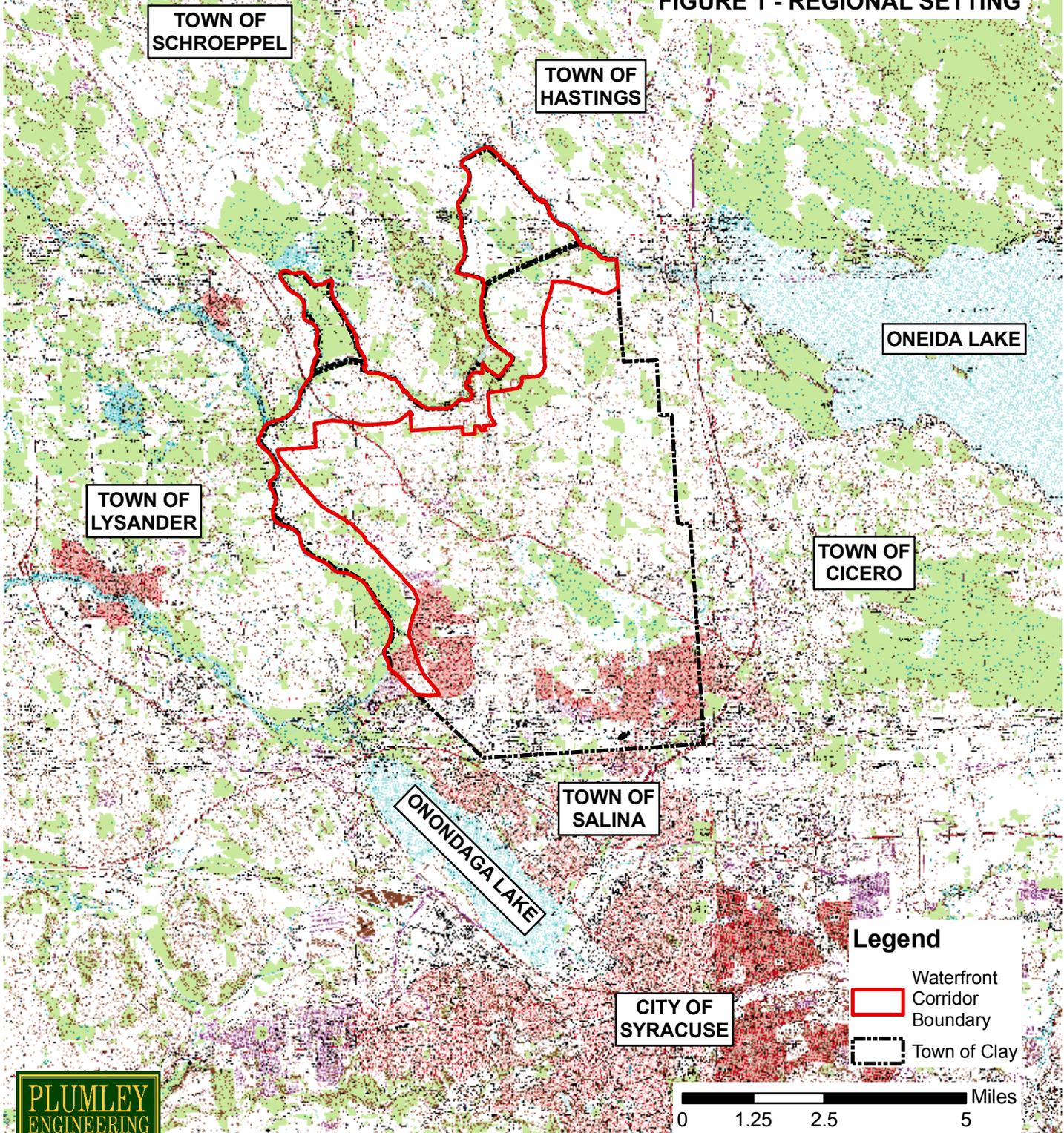
Refer to *Appendix G – State Environmental Quality Review Full Environmental Assessment Form* for additional information.

# FIGURES

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



FIGURE 1 - REGIONAL SETTING



## Legend

- Waterfront Corridor Boundary
- Town of Clay



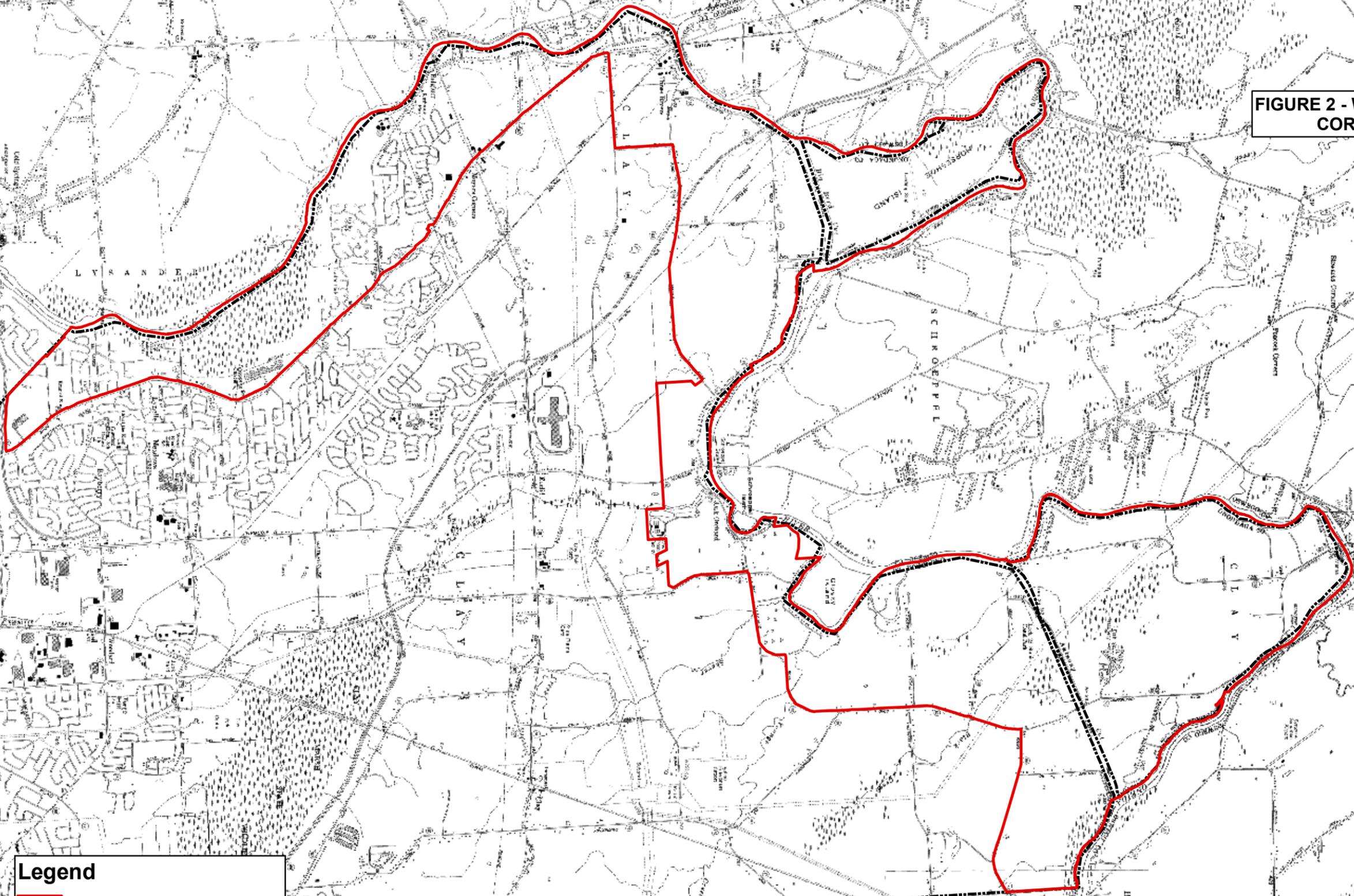
2006225  
February 2008

USGS Topographic Maps - Baldwinsville, Brewerton, Central Square, Syracuse West, Camillus, Cicero, Mallory, Pennellville, and Syracuse East 7.5-Minute Quads.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



**FIGURE 2 - WATERFRONT CORRIDOR**



**Legend**

-  Waterfront Corridor Boundary
-  Town of Clay

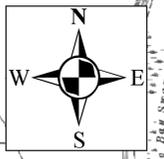


2006225  
February 2008

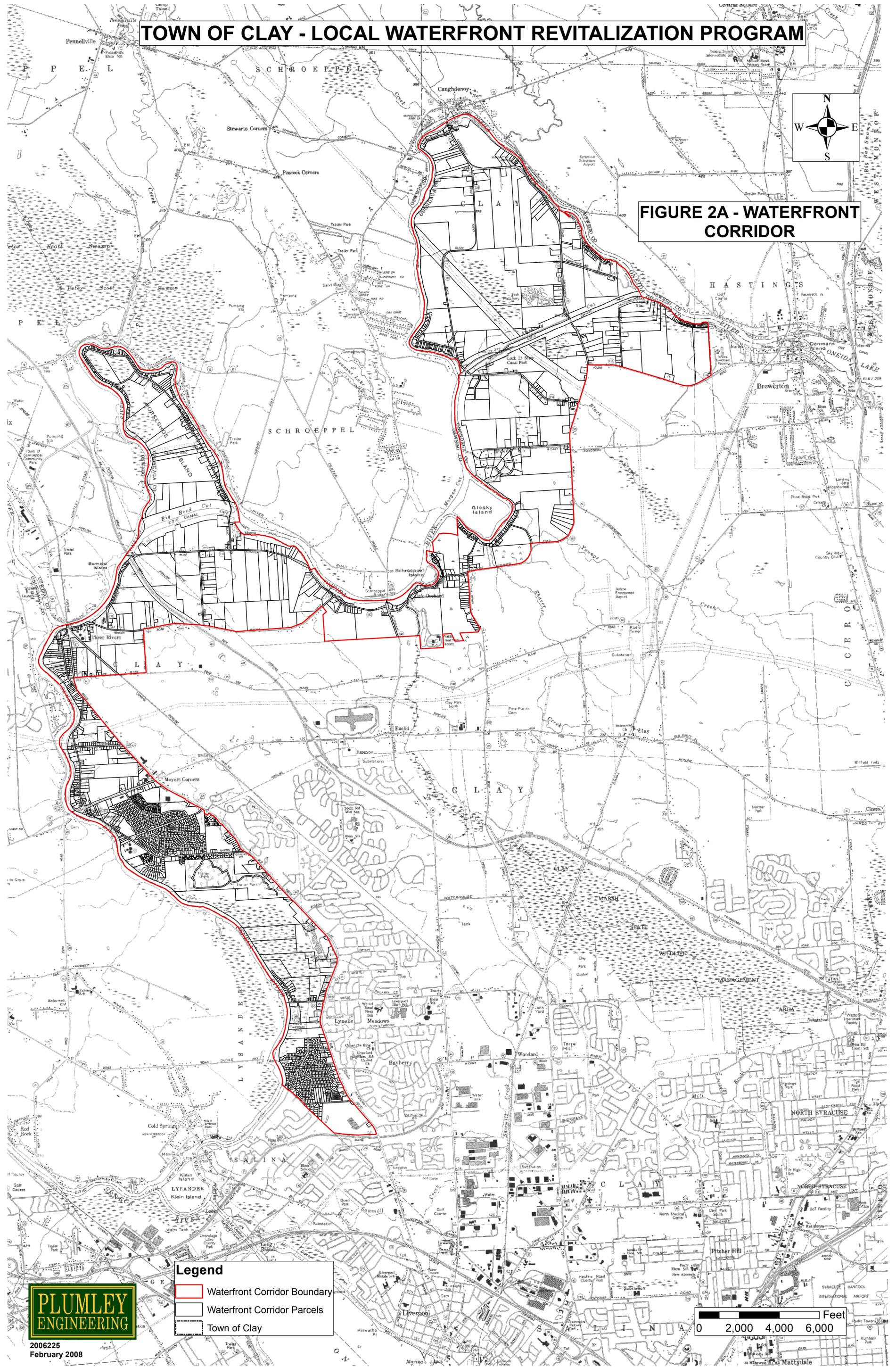


DOT Topographic Maps, Planimetric Data - Baldwinsville, Brewerton, Central Square, Syracuse West, Camillus, and Pennellville 7.5-Minute Quads.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



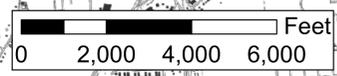
## FIGURE 2A - WATERFRONT CORRIDOR



- Legend**
- Waterfront Corridor Boundary
  - Waterfront Corridor Parcels
  - Town of Clay



2006225  
February 2008



Town of Clay Parcel Data Provided by the Town of Clay.  
DOT Topographic Maps, Planimetric Data - Baldwinsville, Brewerton, Central Square, Syracuse West, Camillus, and Pennellville 7.5-Minute Quads.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

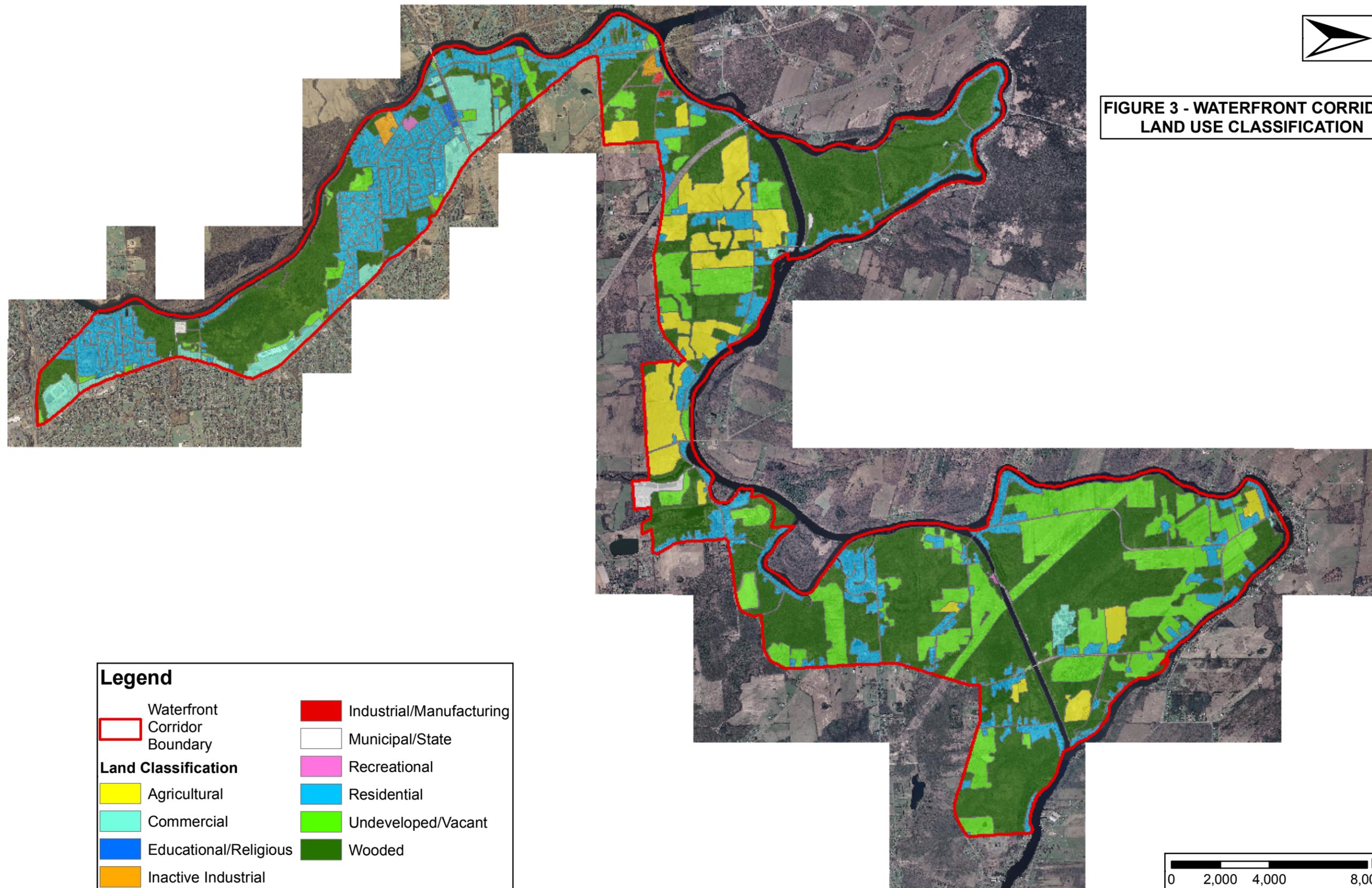


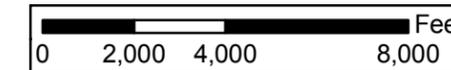
FIGURE 3 - WATERFRONT CORRIDOR  
LAND USE CLASSIFICATION



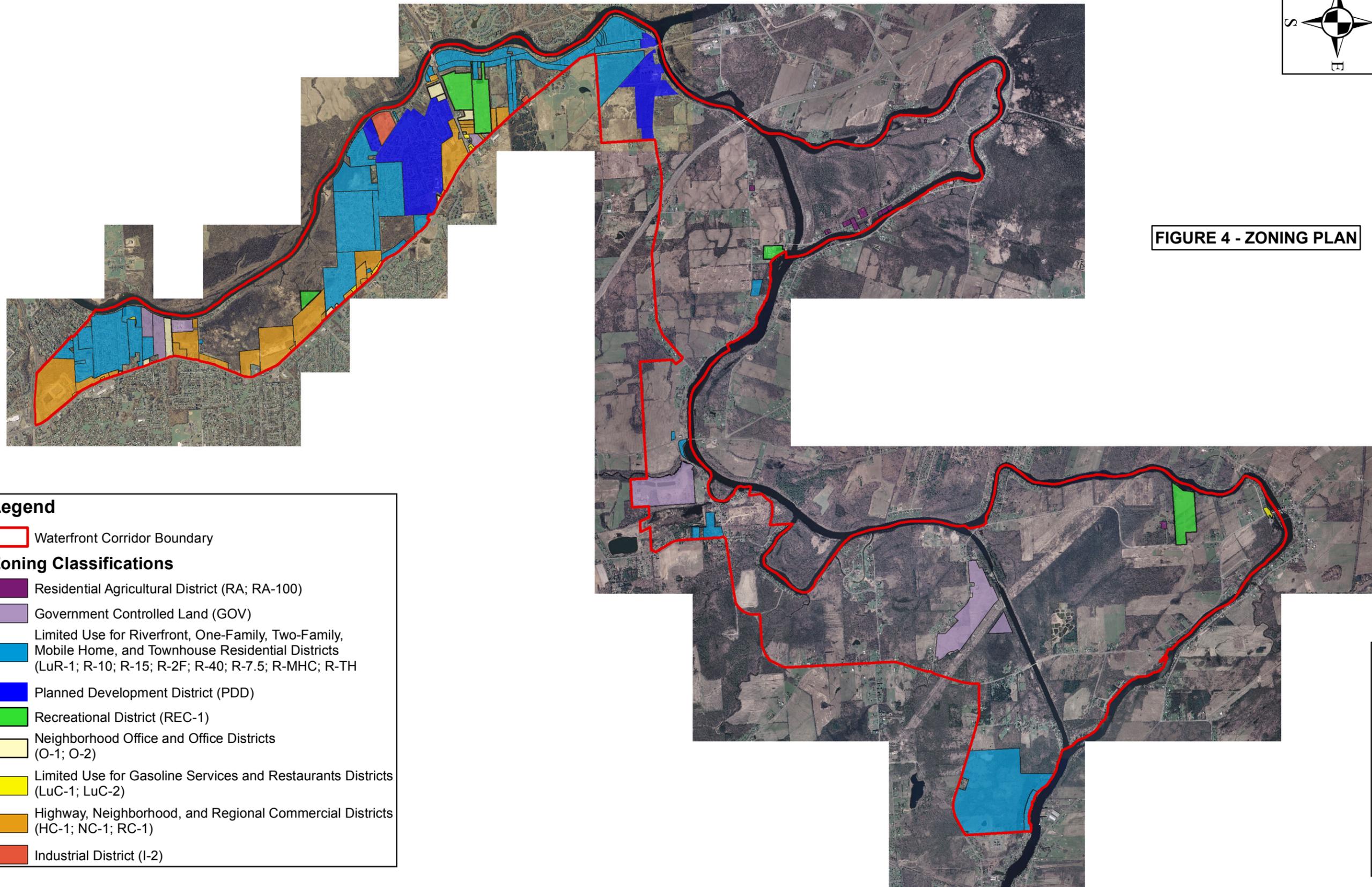
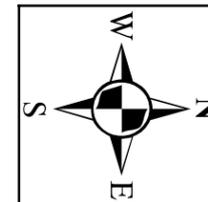
Legend	
	Waterfront Corridor Boundary
	Agricultural
	Commercial
	Educational/Religious
	Inactive Industrial
	Industrial/Manufacturing
	Municipal/State
	Recreational
	Residential
	Undeveloped/Vacant
	Wooded



2006225  
February 2008



# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



**FIGURE 4 - ZONING PLAN**

**Legend**

- Waterfront Corridor Boundary
- Zoning Classifications**
- Residential Agricultural District (RA; RA-100)
- Government Controlled Land (GOV)
- Limited Use for Riverfront, One-Family, Two-Family, Mobile Home, and Townhouse Residential Districts (LuR-1; R-10; R-15; R-2F; R-40; R-7.5; R-MHC; R-TH)
- Planned Development District (PDD)
- Recreational District (REC-1)
- Neighborhood Office and Office Districts (O-1; O-2)
- Limited Use for Gasoline Services and Restaurants Districts (LuC-1; LuC-2)
- Highway, Neighborhood, and Regional Commercial Districts (HC-1; NC-1; RC-1)
- Industrial District (I-2)



# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

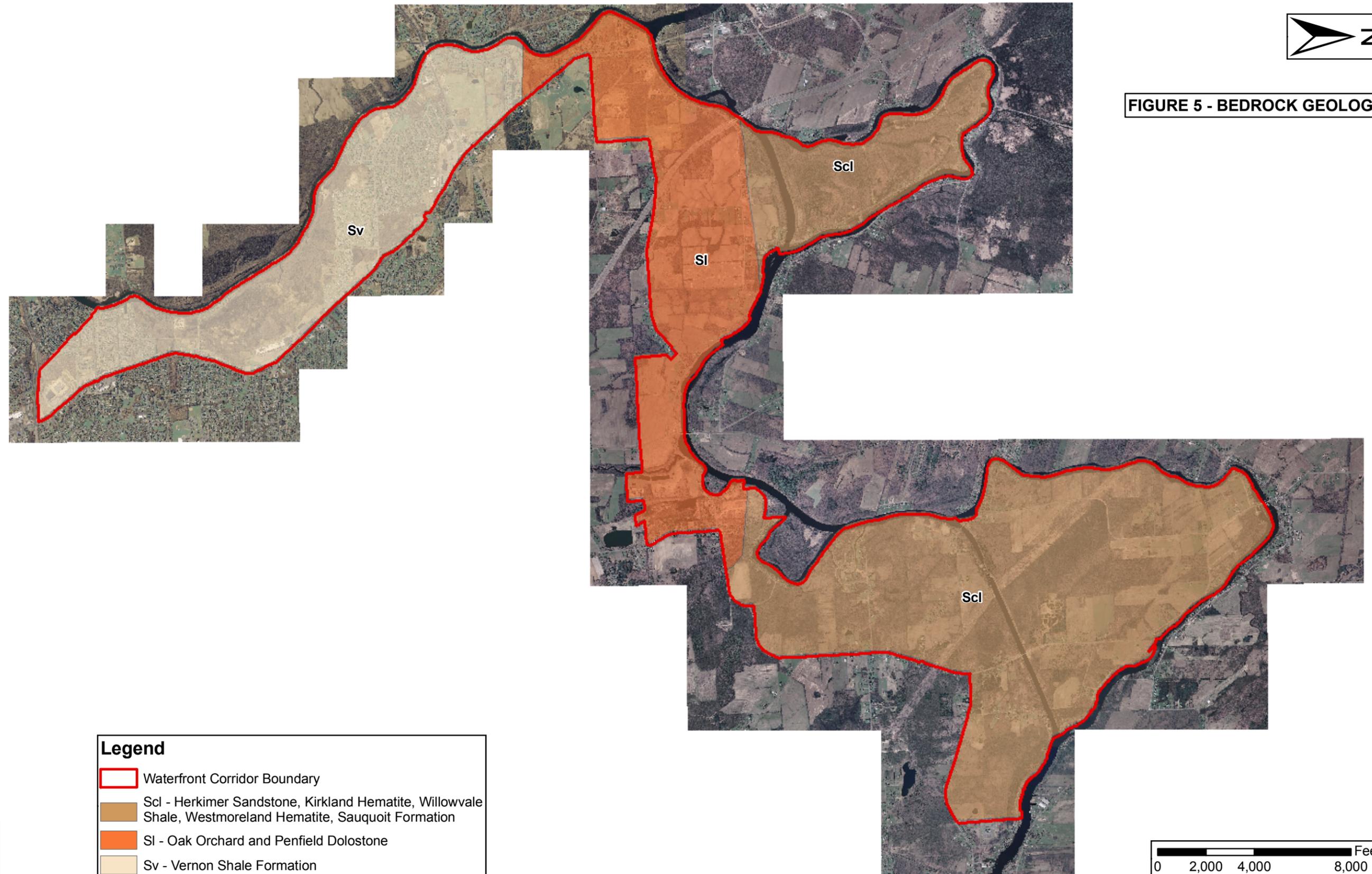


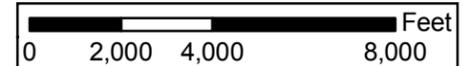
FIGURE 5 - BEDROCK GEOLOGY

**Legend**

-  Waterfront Corridor Boundary
-  Scl - Herkimer Sandstone, Kirkland Hematite, Willowvale Shale, Westmoreland Hematite, Sauquoit Formation
-  SI - Oak Orchard and Penfield Dolostone
-  Sv - Vernon Shale Formation



2006225  
February 2008



New York State Geological Survey - Geologic Map of New York, Finger Lakes Sheet, 1970.  
NYS GIS Clearinghouse - Town of Clay, Onondaga County, New York, 1-Foot Resolution Natural Color Orthoimagery, April 2006.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

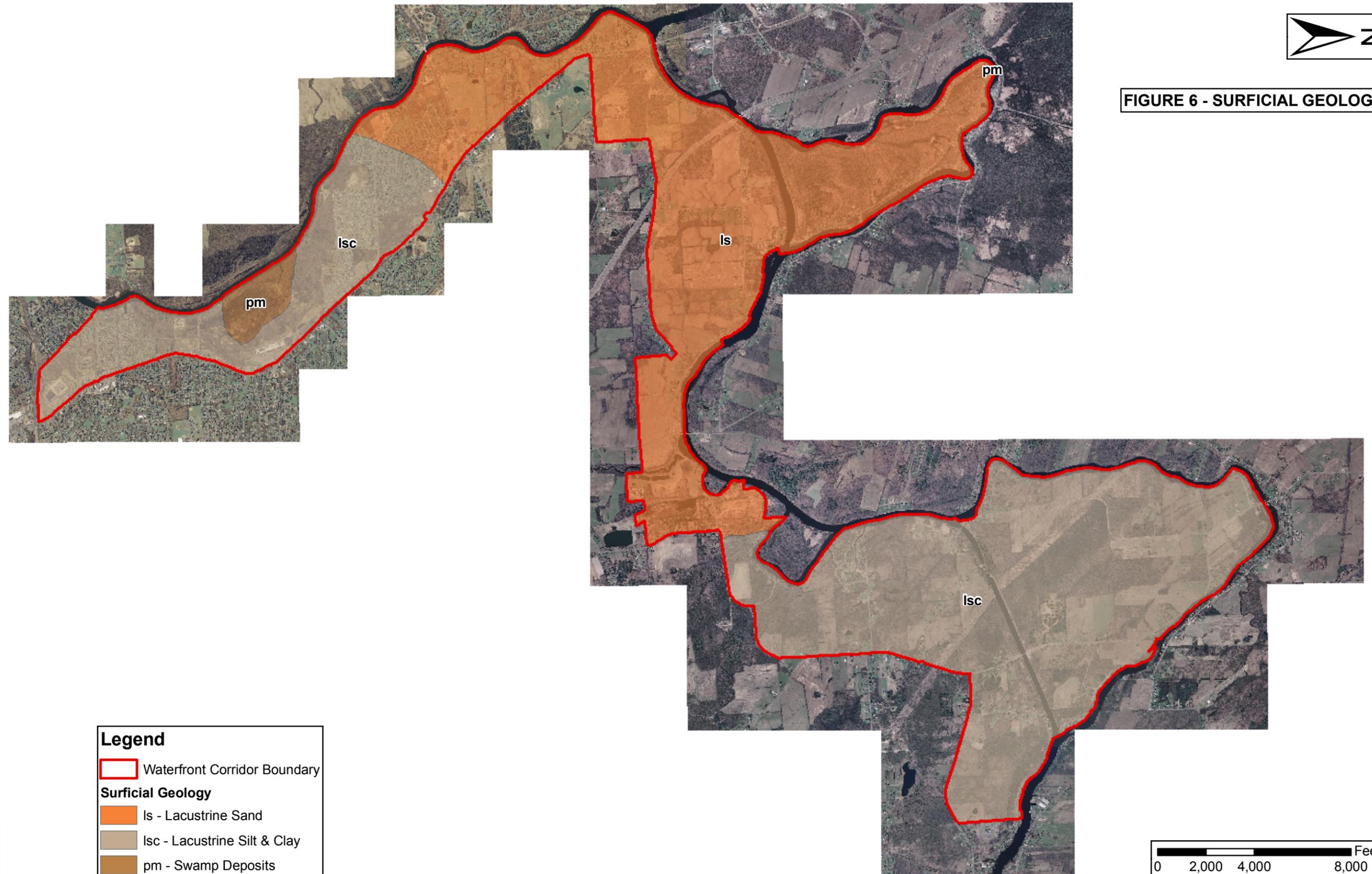


FIGURE 6 - SURFICIAL GEOLOGY

**Legend**

-  Waterfront Corridor Boundary
- Surficial Geology**
-  Is - Lacustrine Sand
-  lsc - Lacustrine Silt & Clay
-  pm - Swamp Deposits

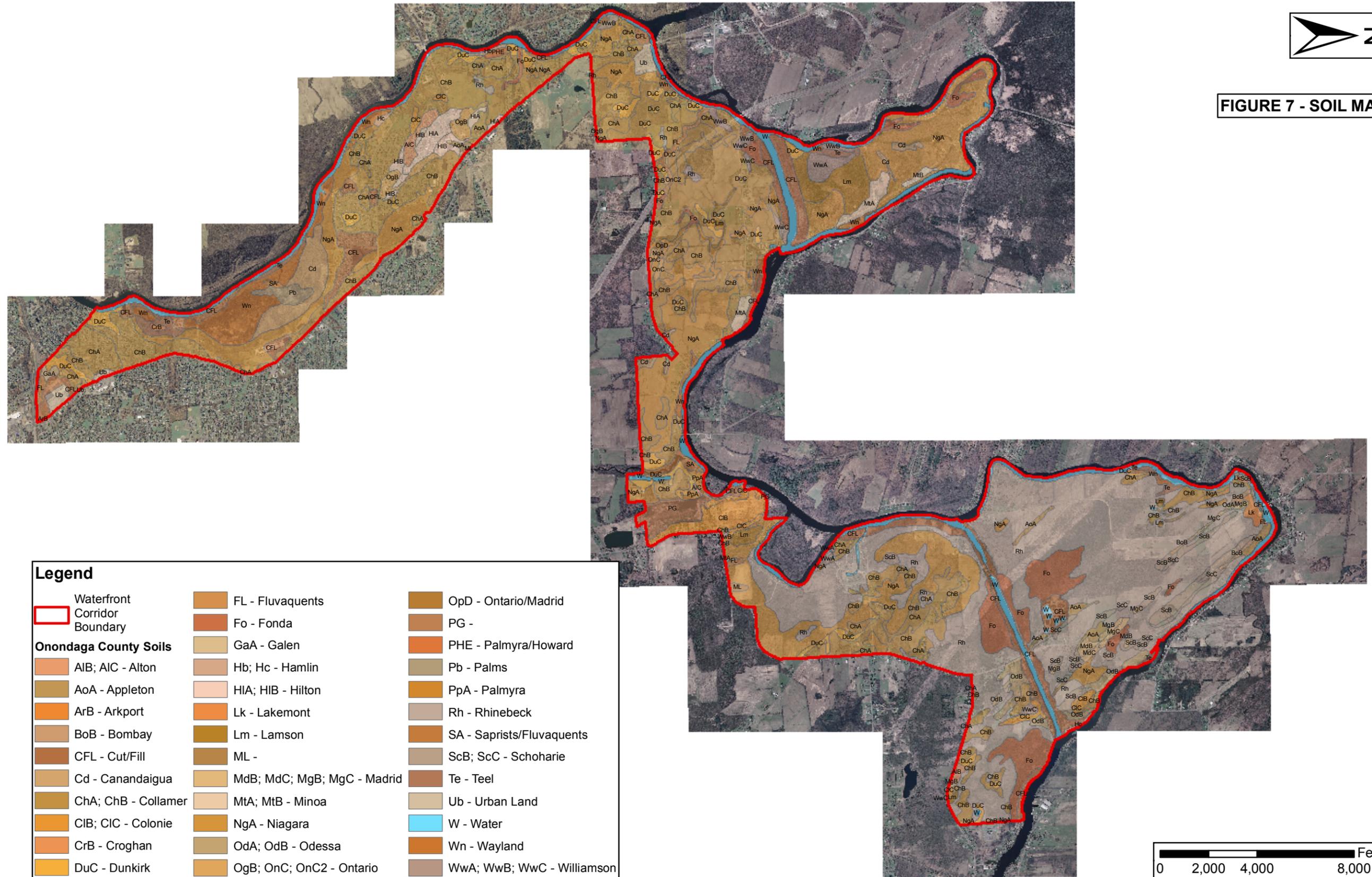


2006225  
February 2008

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



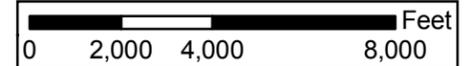
FIGURE 7 - SOIL MAP



Legend		
	Waterfront Corridor Boundary	
	<b>Onondaga County Soils</b>	
	AIB; AIC - Alton	
	AoA - Appleton	
	ArB - Arkport	
	BoB - Bombay	
	CFL - Cut/Fill	
	Cd - Canandaigua	
	ChA; ChB - Collamer	
	CIB; CIC - Colonie	
	CrB - Croghan	
	DuC - Dunkirk	
	FL - Fluvaquents	
	Fo - Fonda	
	GaA - Galen	
	Hb; Hc - Hamlin	
	HIA; HIB - Hilton	
	Lk - Lakemont	
	Lm - Lamson	
	ML -	
	MdB; MdC; MgB; MgC - Madrid	
	MtA; MtB - Minoa	
	NgA - Niagara	
	OdA; OdB - Odessa	
	OgB; OnC; OnC2 - Ontario	
	OpD - Ontario/Madrid	
	PG -	
	PHE - Palmyra/Howard	
	Pb - Palms	
	PpA - Palmyra	
	Rh - Rhinebeck	
	SA - Saprists/Fluvaquents	
	ScB; ScC - Schoharie	
	Te - Teel	
	Ub - Urban Land	
	W - Water	
	Wn - Wayland	
	WwA; WwB; WwC - Williamson	



2006225  
February 2008





# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

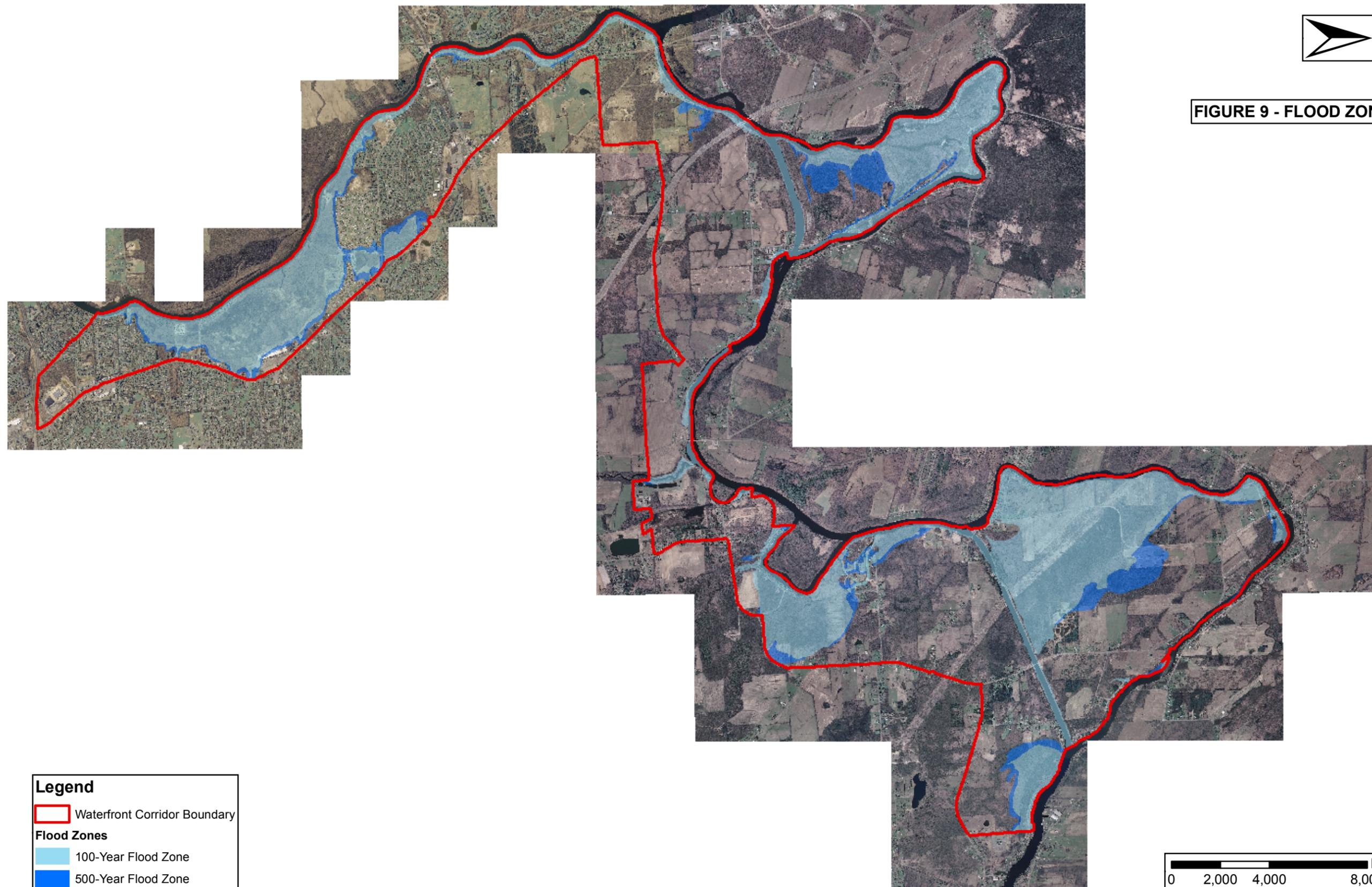


FIGURE 9 - FLOOD ZONES

**Legend**

- Waterfront Corridor Boundary
- Flood Zones**
  - 100-Year Flood Zone
  - 500-Year Flood Zone

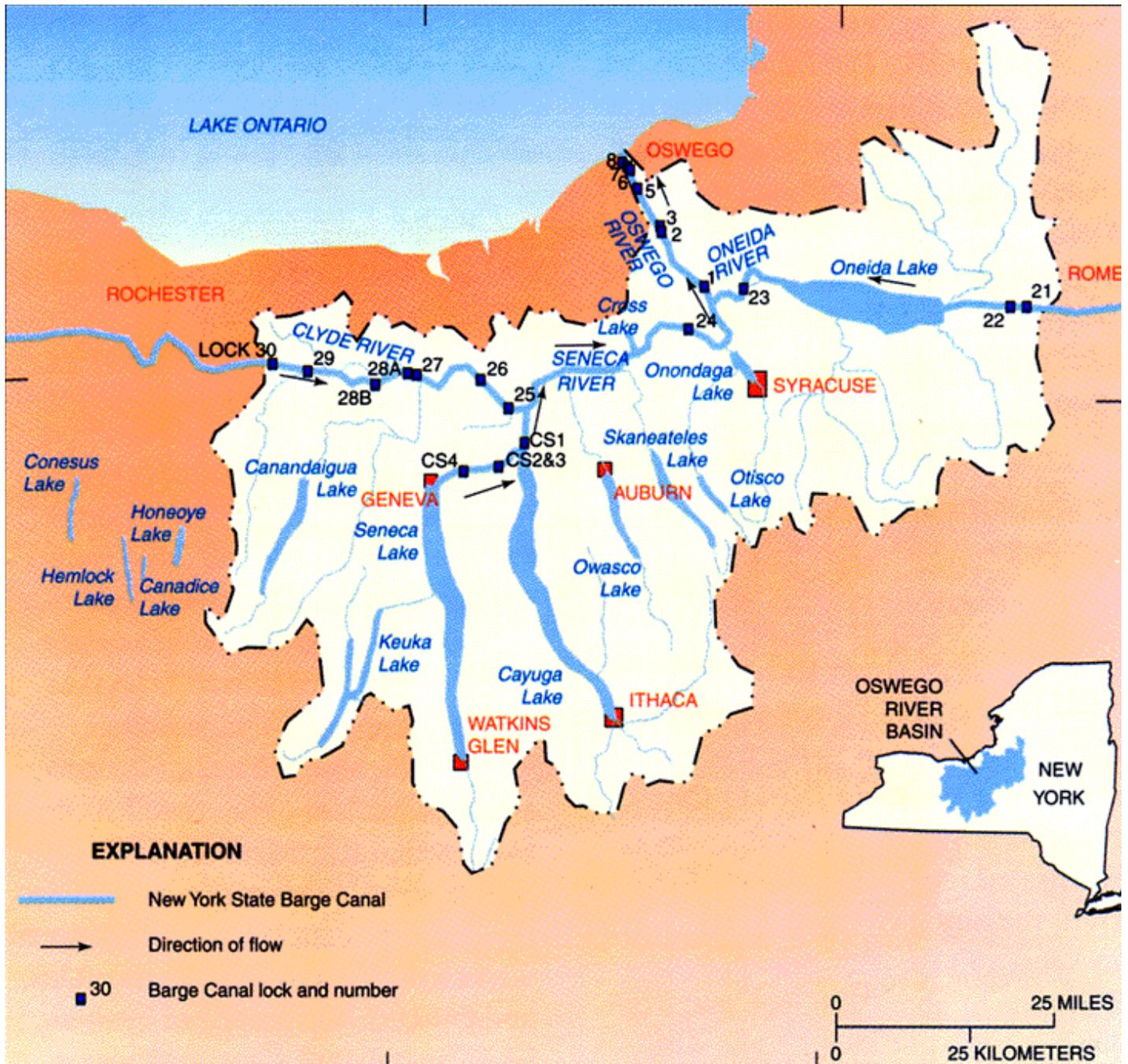


2006225  
February 2008

Federal Emergency Management Agency - Flood Insurance Rate Maps, 1980, 1982, 1983, and 1989 Towns of Clay and Lysander Panels.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

FIGURE 10 - OSWEGO RIVER BASIN



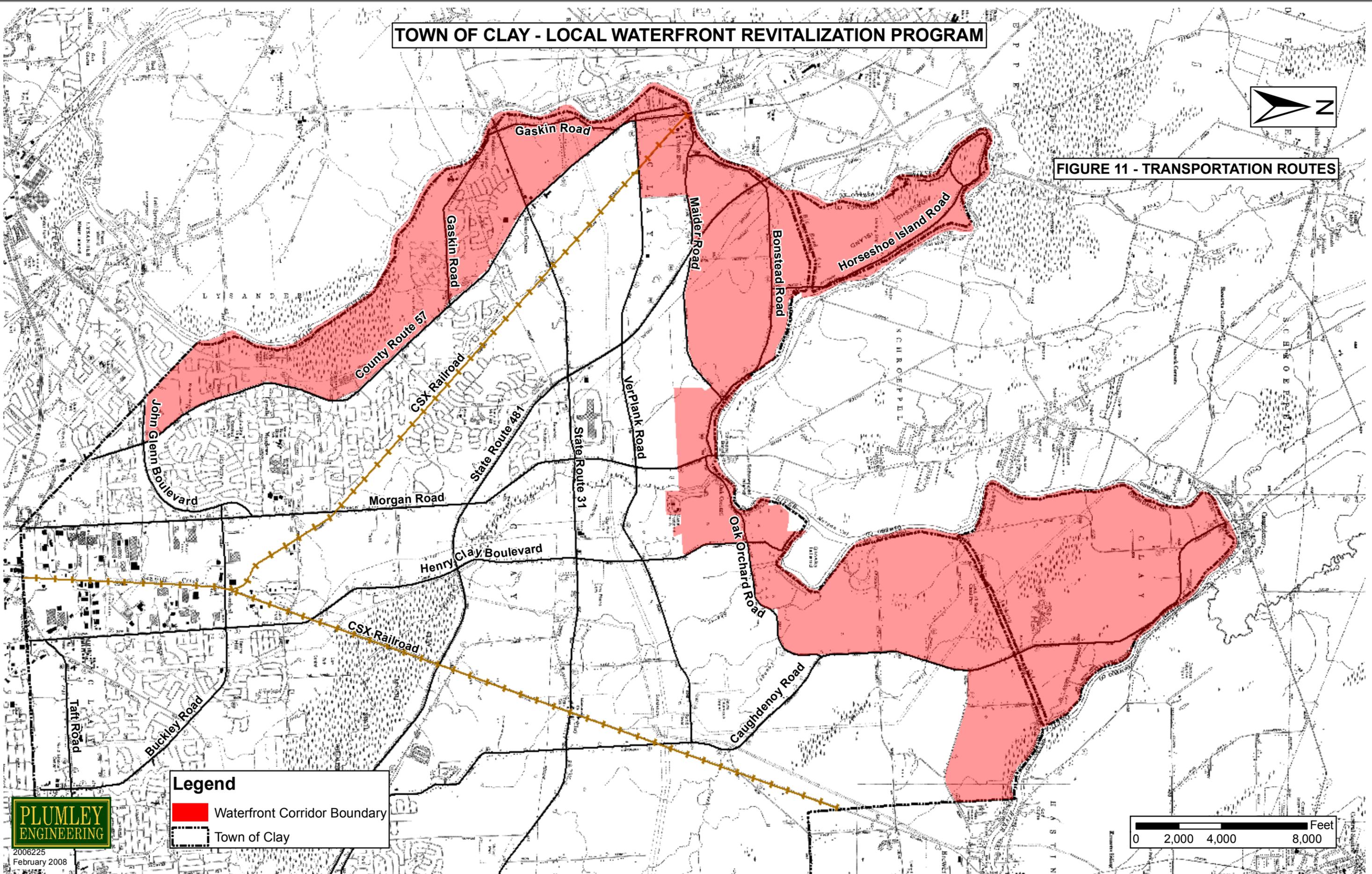
2006225  
February 2008

USGS Figure - Location of Major Lakes and Rivers, New York State Barge Canal, and Major Cities within the Oswego River Basin in Central New York, Fact Sheet FS 180-99, February 2002.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



FIGURE 11 - TRANSPORTATION ROUTES



**Legend**

- Waterfront Corridor Boundary
- Town of Clay



2006225  
February 2008

DOT Topographic Maps, Planimetric Data - Baldwinsville, Brewerton, Central Square, Syracuse West, Camillus, and Pennellville 7.5-Minute Quads.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

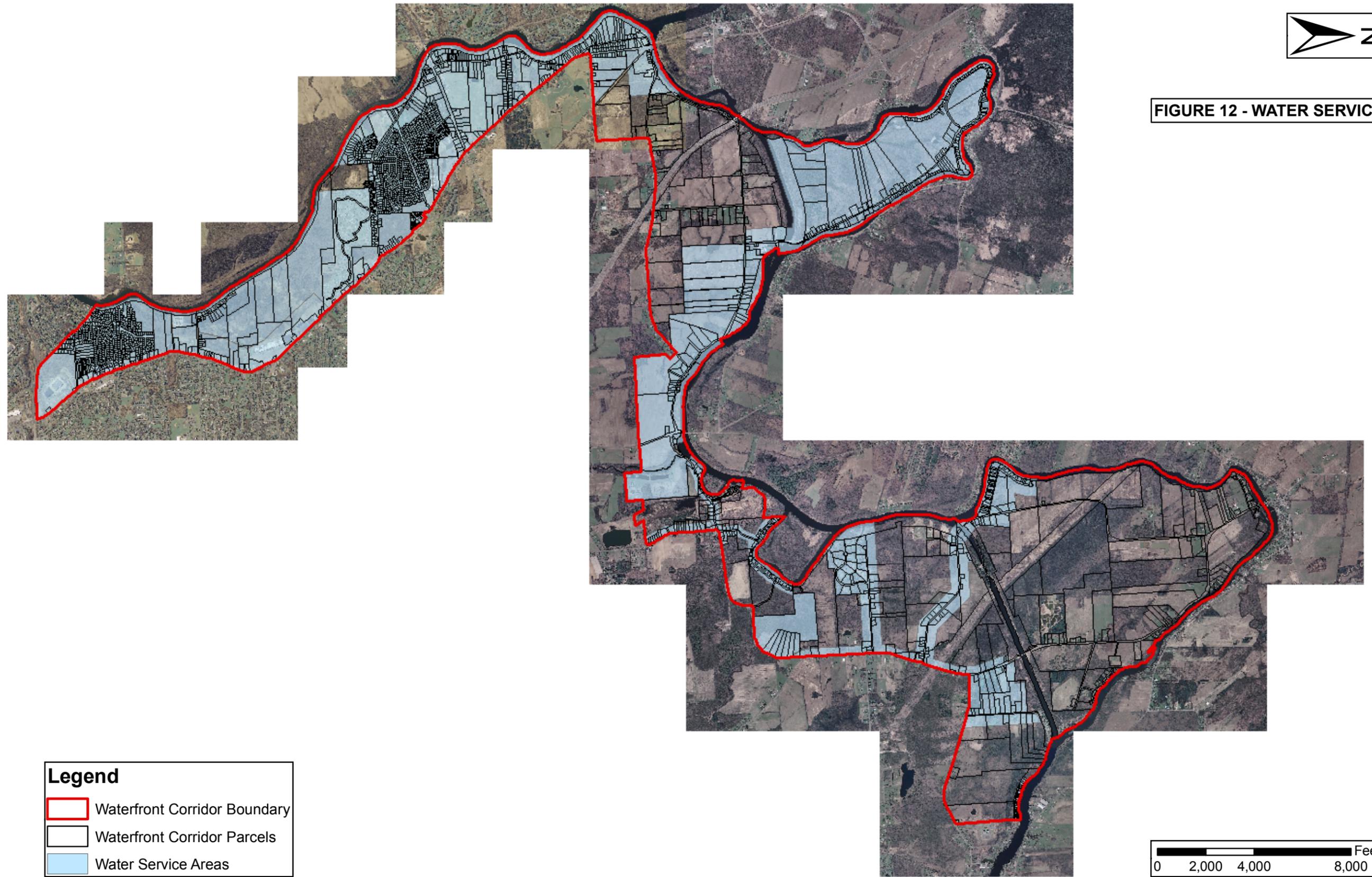


FIGURE 12 - WATER SERVICE

**Legend**

-  Waterfront Corridor Boundary
-  Waterfront Corridor Parcels
-  Water Service Areas



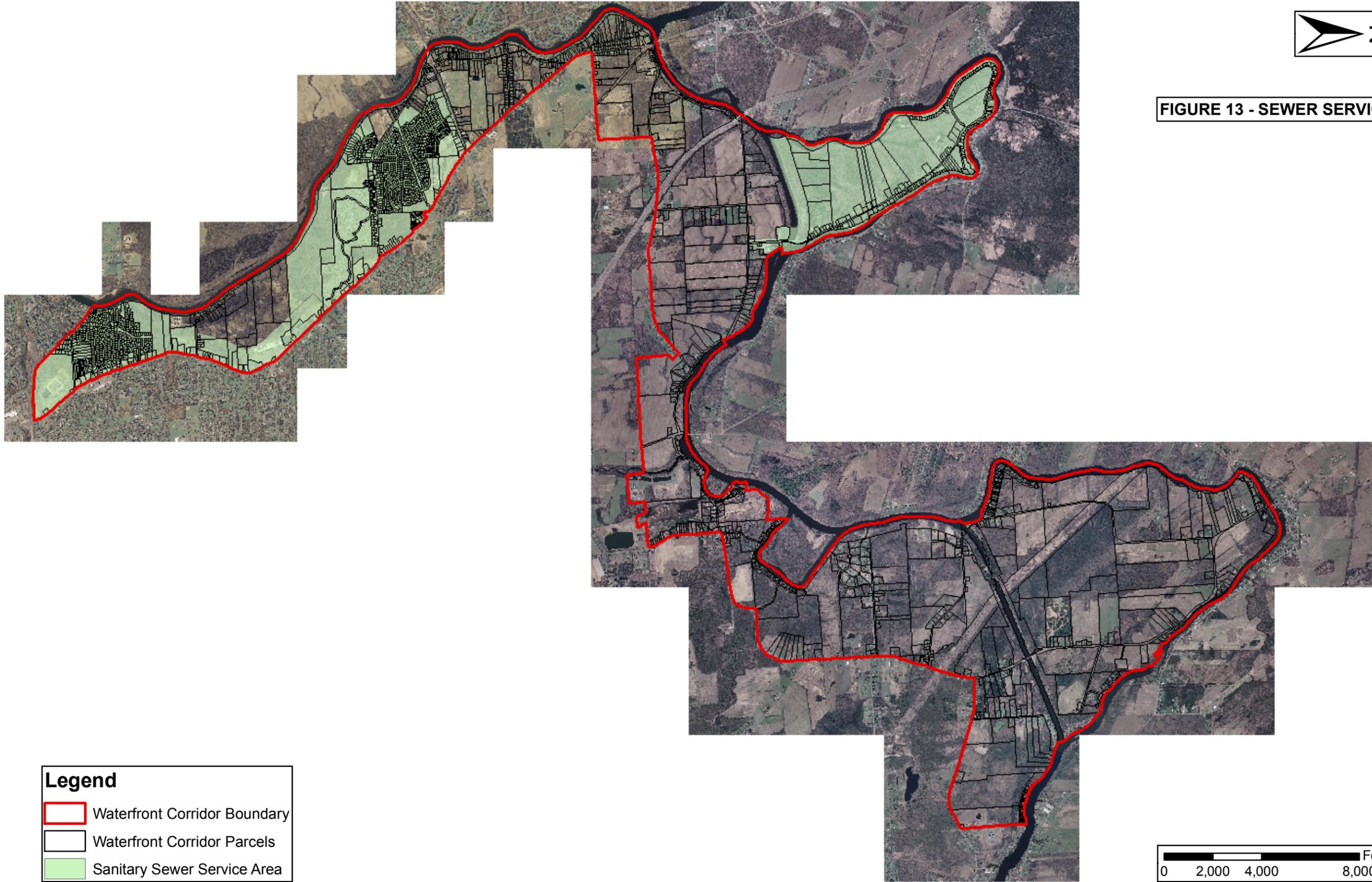
2006225  
February 2008

Water Service Area and Parcel Data provided by the Town of Clay.  
NYS GIS Clearinghouse - Town of Clay, Onondaga County, New York, 1-Foot Resolution Natural Color Orthoimagery, April 2006.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM



FIGURE 13 - SEWER SERVICE



**Legend**

-  Waterfront Corridor Boundary
-  Waterfront Corridor Parcels
-  Sanitary Sewer Service Area



2006225  
February 2008

Sanitary Sewer Service Area and Parcel Data provided by the Town of Clay.  
NYS GIS Clearinghouse - Town of Clay, Onondaga County, New York, 1-Foot Resolution Natural Color Orthoimagery, April 2006.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

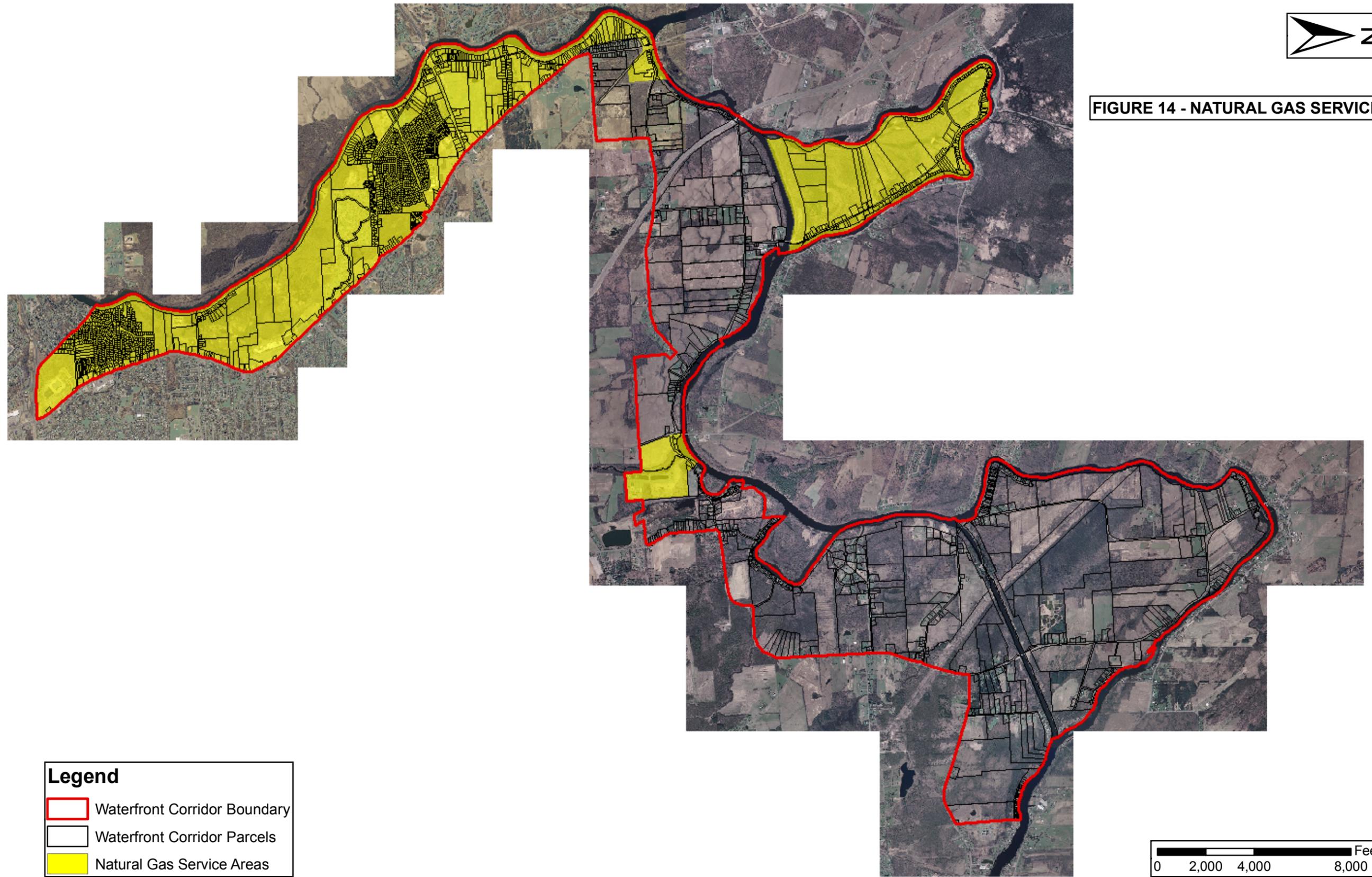


FIGURE 14 - NATURAL GAS SERVICE

**Legend**

-  Waterfront Corridor Boundary
-  Waterfront Corridor Parcels
-  Natural Gas Service Areas



2006225  
February 2008

Natural Gas Service Area data provided by National Grid.  
Parcel Data provided by the Town of Clay.  
NYS GIS Clearinghouse - Town of Clay, Onondaga County, New York, 1-Foot Resolution Natural Color Orthoimagery, April 2006.

# TOWN OF CLAY - LOCAL WATERFRONT REVITALIZATION PROGRAM

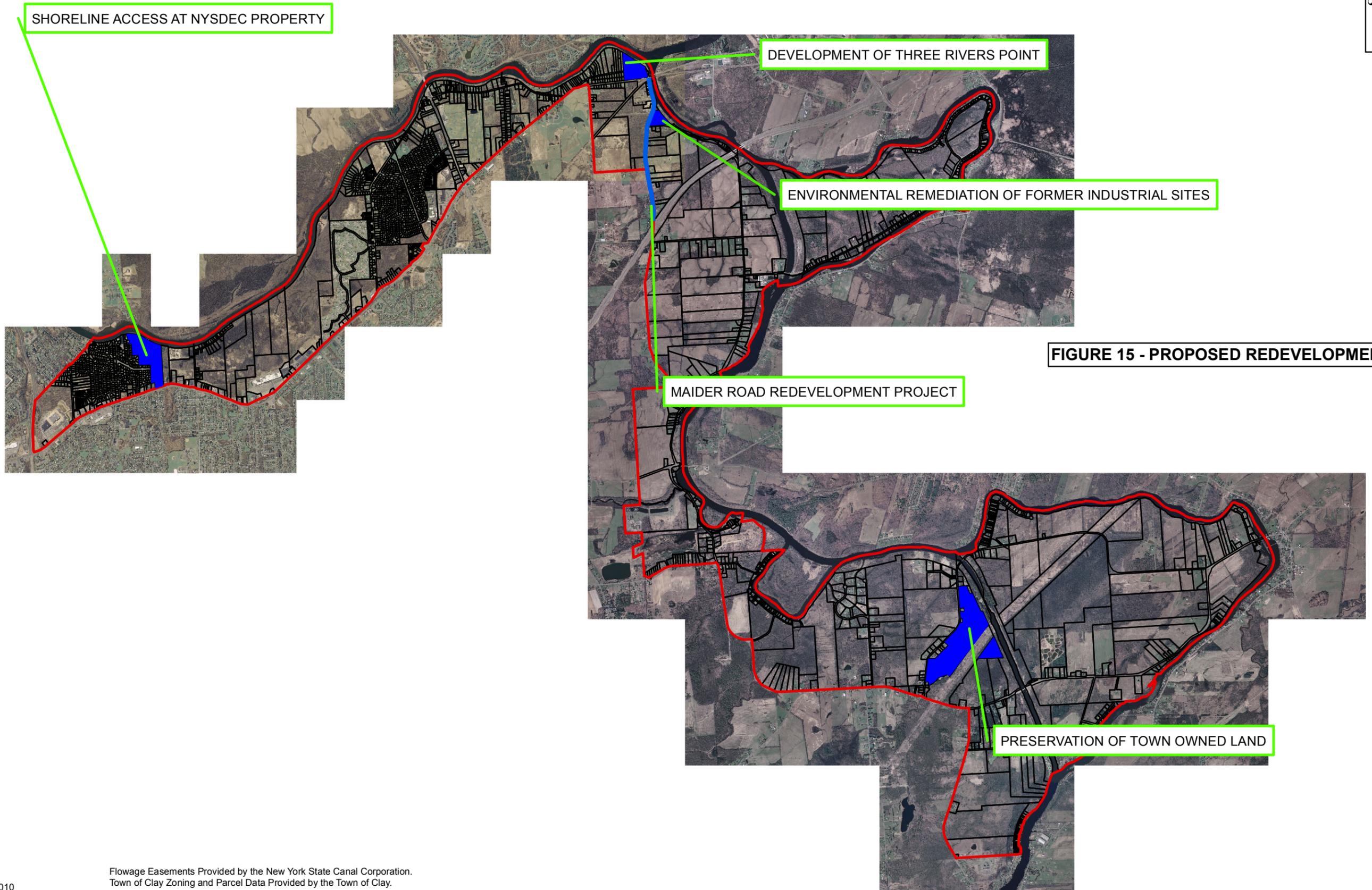
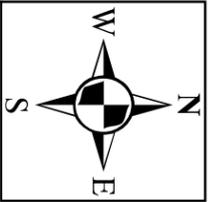


FIGURE 15 - PROPOSED REDEVELOPMENT PROJECTS



# **TABLES**

**TABLE 1 – MAMMALS, REPTILES AND AMPHIBIANS  
THAT INHABIT THE TUG HILL UPLAND, LAKE ONTARIO PLAIN  
AND APPALACHIAN UPLAND REGIONS\***

<b>MAMMALS</b>			
Virginia Opossum	Small-footed Myotis	Southern Bog Lemming	White-footed Mouse
Masked Shrew	Silver-haired Bat	Boreal Red-backed Vole	Striped Skunk
Smoky Shrew	Eastern Pipistrelle	Red Fox	Meadow Vole
Longtail Shrew	Big Brown Bat	Gray Fox	Pine Vole
Northern Water Shrew	Red Bat	Yellownose Vole	Deer Mouse
Pygmy Shrew	Hoary Bat	Woodchuck	River Otter
Least Shrew	Coyote	Eastern Chipmunk	Woodland Jumping Mouse
Shorttail Shrew	Raccoon	Beaver	Indiana Myotis
Starnose Mole	Fisher	Red Squirrel	White-tailed Deer
Hairytail Mole	Shorttail Weasel	Flying Squirrel	Porcupine
Little Brown Myotis	Longtail Weasel	Gray Squirrel	Showshoe Hare
Meadow Jumping Mouse	Muskrat	Keen Myotis	Mink
Eastern Cottontail			
<b>REPTILES</b>			
Eastern Painted Turtle	Eastern Massasauga	Stinkpot Eastern Spiny	
Spotted Turtle	Eastern Milk Snake	Coal Skink Eastern Ribbon Snake	
Common Snapping Turtle	Northern Water Snake	Northern Redbelly Snake	
Bog Turtle	Softshell Eastern Garter Snake	Northern Ringneck Snake	
Map Turtle	Black Rat Snake	Timber Rattlesnake	
Wood Turtle	Queen Snake	Northern Brown Snake	
Northern Black Racer	Eastern Smooth Green Snake		
<b>AMPHIBIANS</b>			
Eastern Hellbender	Northern Dusky Salamander	American Toad	
Mudpuppy	Mountain Dusky Salamander	Green Frog	
Redback Salamander	Northern Spring Salamander	Northern Spring Peeper	
Longtail Salamander	Northern Two-Lined Salamander	Northern Leopard Frog	
Slimy Salamander	Blue-Spotted Salamander	Mink Frog	
Northern Red Salamander	Four-Toed Salamander Bullfrog	Wood Frog	
Spotted Salamander	Red-Spotted Newt	Gray Tree Frog	
Jefferson Salamander	Western Chorus Frog	Pickerel Frog	

\* This table includes a region that extends beyond the Town of Clay Local Waterfront Revitalization Plan Waterfront Corridor. Some species listed may not be found in the Waterfront Corridor.

SOURCE: *Integrating Timber and Wildlife Handbook*, R.E. Chambers, 1983.

**TABLE 2 – MACROINVERTEBRATES**

Stoneflies*	Mayflies*	Scuds*	Dragonflies*	Leech
Aquatic Worms	Blood Worms	Midge*	Sedge*	
Riffle Beatle	Snipe Fly	Crane Fly	Black Fly	

\* Several species of each were indexed in the Onondaga Lake/Seneca River region.

SOURCE: *Macroinvertebrates in the Onondaga Lake Watershed*, Onondaga County Department of Water Environmental Protection, 2003.

**TABLE 3 – BIRDS\***

Great Blue Heron	Turkey Vulture	Wood Duck	Mallard	Osprey
Northern Harrier	Red Tailed Hawk	American Kestrel	Wild Turkey	Killdeer
Spotter Sandpiper	Upland Sandpiper	American Woodcock	Rock Pigeon	Mourning Dove
Black Billed Cuckoo	Yellow Billed Cuckoo	Great Horned Owl	Barred Owl	Whip-poor-will
Ruby-throated Hummingbird	Belted Kingfisher	Red-bellied Woodpecker	Downy Woodpecker	Hairy Woodpecker
Northern Flicker	Pileated Woodpecker	Eastern Wood-Pawee	Alder Flycatcher	Willow Flycatcher
Least Flycatcher	Eastern Phoebe	Great Crested Flycatcher	Eastern Kingbird	Warbling Vireo
Red-eyed Vireo	Blue Jay	American Crow	Purple Martin	Tree Swallow
Northern Rough-winged Swallow	Bank Swallow	Barn Swallow	Black-Capped Chickadee	Tufted Titmouse
Red-breasted Nuthatch	House Wren	Ruby-crowned Kinglet	Eastern Bluebird	Veery
Wood Thrush	American Robin	Gray Catbird	Northern Mockingbird	European Starling
Cedar Waxwing	Golden-winged Warbler	Blue-winged Warbler	Yellow Warbler	Pine Warbler
American Redstart	Ovenbird	Common Yellowthroat	Scarlet Tanager	Eastern Towhee
Chipping Sparrow	Savannah Sparrow	Song Sparrow	Northern Cardinal	Rose-breasted Grosbeak
Indigo Bunting	Bobolink	Red-winged Blackbird	Common Grackle	Brown-headed Cowbird
Baltimore Oriole	House Finch	American Goldfinch	House Sparrow	Canada Goose
American Black Duck	Pied-billed Grebe	American Bittern	Green Heron	Sharp Shinned Hawk
Cooper's Hawk	Ring-Necked Pheasant	Virginia Rail	Wilson's Snipe	Chimney Swift
Yellow Bellied Sapsucker	Cliff Swallow	Marsh Wren	Blue-grey Gnatcatcher	Brown Thrasher
Chestnut-sided Warbler	Black-throated Green Warbler	Field Sparrow	Grasshopper Sparrow	Swamp Sparrow
Eastern Meadowlark	Orchard Oriole	Purple Finch	White-breasted Nuthatch	Brown Creeper
Brewster's Warbler	Least Bittern	Hooded Merganser	Sora	Yellow-throated Vireo
Winter Wren	Cerulean Warbler	Black and White Warbler	Northern Waterthrush	Canada Warbler

\* All Breeding Species Documented Between 2000 and 2005.

SOURCE: *New York State Breeding Bird Atlas*, New York State Department of Environmental Conservation, 2005.

# APPENDICES

## **APPENDIX A**

# **PLANNED DEVELOPMENT DISTRICT RESOLUTION AND ZONING MAP**

# Town of Clay

Jill Hageman-Clark  
Town Clerk



"One of America's 100 Best Places to Live"

STATE OF NEW YORK    }  
COUNTY OF ONONDAGA} ss:  
TOWN OF CLAY            }

November 15, 2010

I, the undersigned, Town Clerk of the Town of Clay, do hereby certify that I am in charge and have custody of all records of the Town of Clay and that the attached photocopy of the Town Board Resolution adopted on **June 21, 2010** is a true and exact copy of the original of said item on file and on record in my office.

Jill Hageman-Clark  
Town Clerk of the Town of Clay  
Onondaga County, New York

Subscribed and sworn to before  
me this 15 day of November  
2010.

Notary Public

**PENELOPE A. THOMPSON**  
**NOTARY PUBLIC, State of New York**  
**Qualified in Oswego County No. 5960750**  
**Commission Expires March 30, 2014**

4401 State Route 31, Clay, New York 13041-8707

Phone: (315) 652-3800 ❖ Website: [www.townofclay.org](http://www.townofclay.org) ❖ E-Mail: [townclerk@townofclay.org](mailto:townclerk@townofclay.org) ❖ Fax: (315) 622-7259

-----  
RESOLUTION OF THE TOWN BOARD OF THE TOWN OF  
CLAY, ONONDAGA COUNTY, NEW YORK  
RE: GRANTING THE APPLICATION ON MOTION OF THE TOWN  
BOARD FOR A CHANGE OF ZONES ON **THIRTEEN PARCELS**  
FROM **RA-100 RESIDENTIAL AGRICULTURAL DISTRICT, R-10**  
**ONE-FAMILY RESIDENTIAL DISTRICT AND I-2 INDUSTRIAL**  
**2 DISTRICT TO PDD PLANNED DEVELOPMENT DISTRICT**  
LOCATED AT THE INTERSECTION OF OSWEGO AND BONSTEAD  
ROADS, BENNETT ROAD (TO THE EAST), MAIDER ROAD (TO THE  
NORTH AND GASKIN ROAD (TO THE WEST), A/K/A THREE  
RIVERS POINTE WITH TAX MAP NUMBERS AS LISTED  
BELOW, IN THE TOWN OF CLAY, NEW YORK  
-----

At a Regular Meeting of the Town Board of the Town of Clay, County of Onondaga, State of New York, held at the Town Hall of the Town of Clay, located at 4401 State Route 31, Clay, New York, on the 21st day of **June 2010**, at **7:30 P.M.**, local time.

The meeting was called to order by Supervisor Damian M. Ulatowski and upon the roll being called the following Town Board members were:

<b>PRESENT:</b>	Damian M. Ulatowski	Supervisor
	Robert L. Edick	Councilman
	Clarence A. Rycraft	Councilman
	Naomi R. Bray	Councilwoman
	William C. Weaver	Councilman
	Joseph A. Bick	Councilman
	Bruce N. Johnson	Councilman

**ABSENT:** None

The following resolution was moved, seconded and passed, to wit:

**WHEREAS**, a Petition dated **May 21st, 2010** and made on Motion of the Town Board has been presented to and filed in the Office of the Town Clerk of the Town of Clay, which Petition requests a change of zone of certain parcels of land hereinafter described by tax map numbers owned by the Town of Clay and others, from **RA-100 Residential Agricultural District, R-10 One-family Residential Districts and I-2 Industrial 2 District** to **PDD Planned Development District** located at the intersection of Oswego and Bonstead Roads, Bennett Road (to the east), Maider Road (to the north and Gaskin Road (to the west), said area a/k/a Three Rivers Point having Tax Map Numbers as hereinafter listed; and

**WHEREAS**, the proposed zone change was duly referred to the Onondaga County Planning Board in accordance with Article 12 (b) of the General Municipal Law; and

**WHEREAS**, the Onondaga County Planning Board has reviewed and considered the referral from the Clay Town Board and has recommended that said application be decided solely on its own merits by the Clay Town Board; and

**WHEREAS**, the Planning Board of the Town of Clay has also examined into the application; held a public informational hearing on the matter and made its recommendation to the Town Board of the Town of Clay; and

**WHEREAS**, the Town Board passed a resolution on **May 3rd, 2010**, calling a public hearing to consider said application for **June 7th, 2010**, commencing at **7:35 P.M.**, local time, which at which time the said public hearing was duly opened, held and thereafter adjourned to **June 21st, 2010** at **7:41 P.M.**, at which time the public hearing was opened and was thereafter closed at the Town Hall of the Town of Clay, located at 4401 New York State Route 31, Clay, Onondaga County, New York to consider the proposed amendment of "The Zoning Ordinance of the Town of Clay" and "The Zoning Map of the Town of Clay" at which time all persons interested in said application were given an opportunity to be heard by the Town Board; and

**WHEREAS**, the Town Board of the Town of Clay has duly considered the Petition, the evidence produced at said public hearing and the aforementioned recommendations;

**NOW, THEREFORE**, be it

**RESOLVED, ORDERED AND DETERMINED**, that the Town Board of the Town of Clay makes the following findings with respect to said Petition:

That the request for a change of zone be granted; that the Town Planning Board reviewed said application and has made their recommendation for said change of zone and the County Planning Board recommended that said application be decided solely on its own merits; and that the granting of said change of zone has no significant or adverse environmental impact; is compatible with the land use in the surrounding area; that the granting of said change of zone will not create a hazard to the health, safety and welfare of the Town of Clay residents; that the granting of said change of zone will not create a traffic hazard within the Town of Clay, nor will it adversely affect the property values of surrounding lands; that there are adequate facilities available to provide the necessary public improvements to accommodate the requested zone change; that the granting of said zone change is in the best interest and welfare of the Town of Clay; and

**BE IT FURTHER RESOLVED, ORDERED AND DETERMINED**, that "The Zoning Ordinance of the Town of Clay" and "The Zoning Map of the Town of Clay" shall be, and the same hereby are amended to change the zone of the following parcels of land: Clay on motion of the Town Board, for a change of zone on the following properties – 8879 Oswego Road -, Tax Map No. 017.-01-02.1, consisting of 1.57 acres from RA-100 Residential Agricultural District to PDD Planned Development District; Oswego Road, Tax Map No. 017.-01-02.2, consisting of 1.6 acres from RA-100 Residential Agricultural District to PDD Planned Development District; Oswego Road - Tax Map No. 017.-01-02.3, consisting of 1.43 acres from R-10 One-Family Residential District to PDD Planned Development District; 8885 Oswego Road - Tax Map No. 017.-01-01.1, consisting of 0.2 acres from RA-100 Residential Agricultural District to PDD Planned Development District; 8865 Gaskin Road – Tax Map No. 017.-02-01.0 consisting of 0.6 acres from R-10 One-Family Residential District to PDD Planned Development District; 3382 Maider Road – Tax Map No. 017.-03-01.0 consisting of 0.2 acres from RA-100 Residential Agricultural District to PDD Planned Development District; 3384 Maider Road – Tax Map No. 017-03-2.0, consisting of 0.1 acres from RA-100 Residential Agricultural District to PDD Planned Development District; 3428 Maider Road – Tax Map No. 017.-03-10.0 consisting of 1.83 acres from RA-100 Residential Agricultural District and I-2 Industrial 2 District to PDD Planned Development District; 3414 Maider Road – Tax Map No. 017.-03-09.1, consisting of 10.83 acres from RA-100 Residential Agricultural District to PDD Planned Development District; Maider

Road – Tax Map No. 017.-03-09.2 consisting of 0.6 acres from RA-100 Residential Agricultural District to PDD Planned Development District; 3473 Maider Road – Tax Map No. 017.-03-11.0, consisting of 45.0 acres from RA-100 Residential Agricultural District to PDD Planned Development District; Maider Road - Tax Map No. 017.-03-12.0, consisting of 5.20 acres from RA-100 Residential Agricultural District to PDD Planned Development District and Maider Road - Tax Map No. 016.-01-03.1, consisting of 7.35 acres from I-2 Industrial 2 District to PDD Planned Development District.

**IT IS FURTHER RESOLVED AND ORDERED**, that the Town Clerk shall enter this Ordinance in the Minutes of the Town Board, shall cause a copy thereof to be published in the Post Standard, shall post a copy thereof together with the necessary change on the Zoning Map, on the sign board maintained by the Town Clerk pursuant to Section 30, Subsection 6 of the Town Law of the State of New York and shall cause Affidavits of Publication and Posting to be filed in the Office of the Town Clerk.

The question of the adoption of the foregoing resolution was duly put to a roll vote, which resulted as follows:

Damian M. Ulatowski	Voting	Yes
Robert L. Edick	Voting	Yes
Clarence A. Rycraft	Voting	Yes
Naomi R. Bray	Voting	Yes
William C. Weaver	Voting	Yes
Joseph A. Bick	Voting	Yes
Bruce N. Johnson	Voting	Yes

The Resolution was thereupon duly adopted.

\*\*\*\*\*

STATE OF NEW YORK        )  
                                      ) SS:  
COUNTY OF ONONDAGA    )

I, the undersigned Clerk of the Town of Clay, County of Onondaga, New York, **DO HEREBY CERTIFY:**

That the preceding Resolution was duly adopted by the Town Board of the Town of Clay at a Regular Meeting of said Town Board duly called and held on **June 21st. 2010**, that said Resolution was entered in the Minutes of the said Meeting; that I have compared the foregoing copy with the original thereof now on file in my office and that the same is a true and correct copy of said original and of the whole of said original.

**I FURTHER CERTIFY**, that all members of said Town Board had due notice of said Meeting.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Town of Clay this **28th** of **June 2010**.

(S E A L)

  
\_\_\_\_\_  
**JILL HAGEMAN-CLARK, TOWN CLERK OF THE  
TOWN OF CLAY, ONONDAGA COUNTY, NEW YORK**

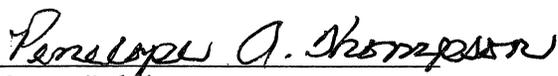
STATE OF NEW YORK        )  
  ) SS:  
COUNTY OF ONONDAGA    )

The undersigned deposes and says:

1. That she is the Town Clerk of the Town of Clay, Onondaga County, New York.
2. That on **June 29th, 2010**, she duly posted a certified copy of the preceding Resolution on the Town Bulletin Board maintained pursuant to Subdivision 6 of Section 30 of the Town Law of the State of New York.
3. That said resolution was also posted on the Town of Clay website [www.townofclay.org](http://www.townofclay.org)

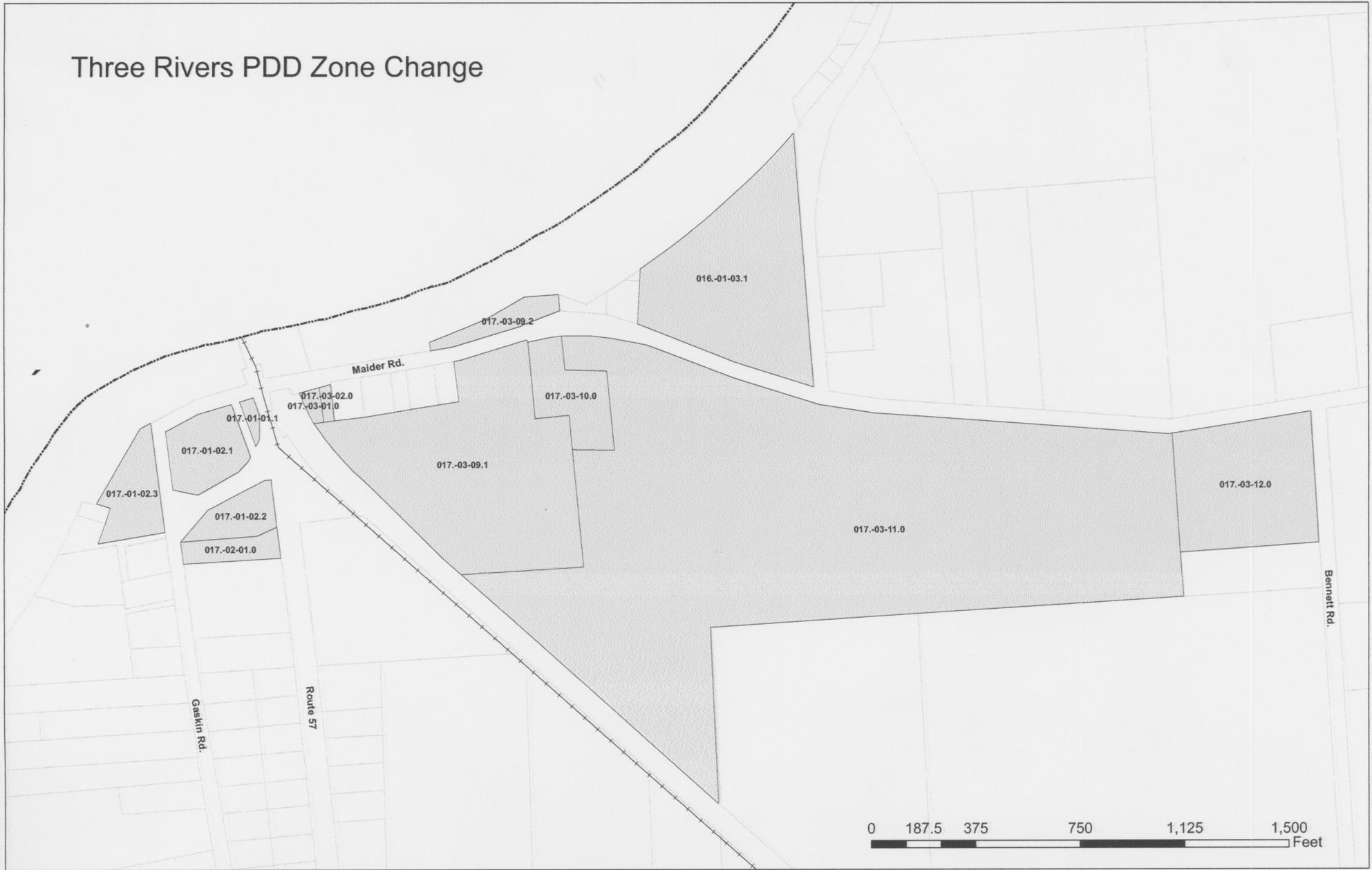
  
\_\_\_\_\_  
**JILL HAGEMAN-CLARK, TOWN CLERK OF THE  
TOWN OF CLAY, ONONDAGA COUNTY, NEW YORK**

Subscribed and sworn to before me  
this ~~20~~ day of **June 2010**.

  
\_\_\_\_\_  
Notary Public

**PENELOPE A. THOMPSON  
NOTARY PUBLIC, State of New York  
Qualified in Oswego County No. 5960750  
Commission Expires March 30, 2014**

# Three Rivers PDD Zone Change



REDUCED MAP

## **APPENDIX B**

### **TOWN OF CLAY ZONING CODE**

# **Town of Clay**

4401 State Route 31  
Clay, NY 13041

## **ZONING CODE**

### **Chapter 230**

**June 6, 2005**

**Revised**

**October 1, 2006**

**Revised**

**October 6, 2008**

**Revised**

**January 19, 2010**

## TABLE OF CONTENTS

	<b>Page:</b>
<b>ARTICLE I General Provisions</b>	
§ 230-1. Title	4
§ 230-2. Enacting clause	4
§ 230-3. Purpose	4
§ 230-4. Interpretation	4
§ 230-5. Conformance with other codes	4
§ 230-6. Severability	5
§ 230-7. Repealer	5
§ 230-8. When effective	5
§ 230-9. Penalties for offenses; enforcement	5
§ 230-10. Applicability	5
<b>ARTICLE II Definitions</b>	
§ 230-11. Terms defined	7
<b>ARTICLE III Zone Districts</b>	
§ 230-12. Establishment; Zoning Map; boundaries	24
§ 230-13. Residential Districts	27
RA-100 Residential Agricultural District	28
R-40 One-Family Residential District	30
R-15 One-Family Residential District	32
R-10 One-Family Residential District	34
R-7.5 One-Family Residential District	36
R-2F Two-Family Residential District	38
R-TH Townhouse District	40
R-APT Apartment District	42
R-MHC Mobile Home Court District	44
LuR Limited Use for Riverfront	46
§ 230-14. Recreation Districts	47
Rec-1 Recreation District	48
§ 230-15. Office Districts	51
O-1 Neighborhood Office District	52
O-2 Office	54
§ 230-16. Commercial Districts	57
NC-1 Neighborhood Commercial District	58
HC-1 Highway Commercial	60
RC-1 Regional Commercial	62
LuC-1 Limited Use District for Gasoline Services	64
LuC-2 Limited Use District for Restaurants	66

## TABLE OF CONTENTS

	<b>Page:</b>
<b>§ 230-17. Industrial Districts</b>	68
<b>I-1 Industrial 1 District</b>	70
<b>I-2 Industrial 2 District</b>	72
<b>S-1 Special Use District</b>	74
<b>§ 230-18. PDD Planned Development District</b>	76
<b>§ 230-19. Overlay Districts</b>	90
<b>Highway Overlay Zone District</b>	90
<b>AFH Airport Flight Hazard Districts</b>	94
<b>Gas Transmission Overlay</b>	95
<b>ARTICLE IV Supplemental Regulations</b>	
<b>§ 230-20. Land uses and structures</b>	96
<b>Accessory Uses</b>	96
<b>Animals/Pets</b>	97
<b>Swimming Pools</b>	98
<b>Stormwater Management / Erosion &amp; Sediment Control</b>	99
<b>Outdoor Furnaces</b>	118
<b>§ 230-21. Parking and loading</b>	120
<b>§ 230-22. Signs</b>	126
<b>§ 230-23. Nonconformities</b>	140
<b>ARTICLE V Administration</b>	
<b>§ 230-24. Town Board</b>	143
<b>§ 230-25. Zoning Board of Appeals (ZBA)</b>	145
<b>§ 230-26. Planning Board</b>	148
<b>§ 230-27. Special Permit Review</b>	154
<b>§ 230-28. Office of Commissioner of Planning and Development</b>	163

## GENERAL REFERENCES

Department of Planning and Development – See Ch. 14, Art. III.

Zoning Board of Appeals - See Ch. 64.

Building construction – See Ch. 81.

Numbering of buildings – See Ch. 84.

Unsafe buildings – See Ch, 86.

Environmental quality review – See Ch. 97.

Excavations – See Ch 100.

Fire Prevention – See Ch. 108.

Flood damage prevention- See Ch. 112.

Green acres- See Ch. 126.

Mobile home courts - See Ch. 144.

Noise – See Ch, 152.

Parks and recreation - See Ch. 163.

Sewers - See Ch. 185.

Subdivision of land - See Ch. 200.

## ARTICLE I

## General Provisions

## § 230-1. Title.

This chapter shall be known as the "Town of Clay Zoning Code" (hereinafter called the "code") and shall consist of the following text and the Town of Clay Official Zoning Map (hereinafter termed the "Zoning Map").

## § 230-2. Enacting clause.

The Town Board of the Town of Clay, in the County of Onondaga, in the State of New York, hereby ordains, enacts and publishes the Town of Clay Zoning Code and Official Zoning Map.

## § 230-3. Purpose.

This chapter provides for regulating, controlling, and restricting the use and development of land and buildings within the Town of Clay in order to promote and protect, to the fullest extent reasonable, the environment of the Town and its public health, safety and general welfare in accordance with purposes outlined in applicable sections of the New York State Town Law.

## § 230-4. Interpretation.

For purposes of interpretation and application, the provisions of this code shall be deemed to be the specified minimum or maximum requirements necessary for the promotion of the public health, safety, comfort, convenience and general welfare.

## § 230-5. Conformance with other codes.

This code shall not be construed, unless specifically stated, as superseding, limiting, changing or suspending any law, ordinance, code or regulation still in effect regulating the safety, construction or sanitation of any building or structure. The New York State Fire Prevention and Building Code (NYSFPBC) is an example of a major state regulation addressing identical or similar issues as this Zoning Code. As an example, this Zoning Code may allow a zero-foot setback from a property line while the NYSFPBC requires 10 feet or appropriate alternatives, such as fire-resistant materials. In such cases, the NYSFPBC will be the prevailing requirement.

**§ 230-6. Severability.**

Should any section or provisions of this chapter or code be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the code as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**§ 230-7. Repealer.**

Upon filing of this chapter in the office of the Secretary of State of New York, "The Town of Clay, New York, Zoning Code, 1978" and all subsequent amendments thereto adopted by ordinance or by local law shall be and the same hereby are repealed.

**§ 230-8. When effective.**

This chapter shall take effect immediately upon filing in the office of the Secretary of State of the State of New York.

**§ 230-9. Penalties for offenses; enforcement.**

A. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$250 or imprisonment for a period not to exceed 15 days, or both. Such violation shall not be a crime, and the penalty or punishment imposed shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any liability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof. Each week's continued violation shall constitute a separate, additional violation.

B. Injunctive relief. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this chapter, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**§ 230-10. Applicability.**

Except as hereinafter provided:

A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

- B. No building or structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of dwelling units; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards or other open spaces than are herein specified for the district in which it is located or in regulations applicable to all districts.
- C. No part of a yard or open space required about any building or structure for the purpose of complying with this code shall be included as part of a yard or open space similarly required for another building or structure.
- D. Uses not permitted. All uses not specifically permitted in a district by right or permitted upon issuance of a site plan or special permit approval shall be deemed prohibited in that district. A use not clearly addressed by this code may have its status determined by an interpretation of the Commissioner of Planning and Development, subject to appeal to the Zoning Board of Appeals, or may be added to the Zoning Code by adoption of a text amendment by the Town Board.
- E. Existing buildings and uses. This code shall not apply to an existing building or structure, nor to the existing use of any building, structure or land to the extent it was legally established or legally used at the time of enactment of this code. The terms of this code shall apply to any subsequent change in use, alterations, extension or movement of a building or structure and to any change in use of land.
- F. Types of zoning reviews. For purposes of general understanding, a permitted use or structure is allowed in a zone district and does not require discretionary review or approval by any Town board. Permitted uses may require a building permit or certificate of occupancy for certain activities. A variance is a waiver of the applicable use or dimensional controls and requires Zoning Board of Appeals approval. Site plan or special permit reviews are for uses or structures which are allowed, but, due to their nature, necessitate discretionary Board review; such review includes but is not limited to elements of size, site design, intensity of use and character. To determine the type of review for a specific use or structure, consult Article III, Zone Districts, Article IV, Supplemental Regulations, and Article V, Administration.
- G. Changes in use (changes in land use). Properties and structures are anticipated by this code to periodically change. Changes in ownership or simple occupancy will not normally require Zoning Code review or approval if there are no accompanying physical changes and if there are no changes in land use. A change in land use is a change from one land use to another as defined in this code. (Examples include: a retail store changed to an office; a warehouse changed to a wholesale use.) Changes in land use require review and approval as required by this code as if there was new or modified construction.

ARTICLE II  
Definitions

**§ 230-11. Terms defined.**

- A. Generally. Except as otherwise indicated in this section, the words used in this chapter shall have the meaning commonly attributed to them. Doubts as to the precise meaning of any words used in this chapter shall be clarified by the Zoning Board of Appeals under its power of interpretation. Terms not defined in this chapter shall have the meanings provided in the New York State Uniform Fire Prevention and Building Code, and/or will carry their customary meanings per Webster's Dictionary.
- B. Rules of interpretation. For the purpose of this chapter, certain terms or words herein shall be interpreted or defined as follows:
- (1) Words used in the present tense include the future tense.
  - (2) The singular includes the plural and the plural includes the singular, unless the context indicates otherwise, and the masculine includes the feminine and neuter.
  - (3) The word "person" includes an individual person, a firm, a corporation, a copartnership, and any other agency of voluntary action.
  - (4) The term "shall" is always mandatory, and the term "may" is permissive.
  - (5) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
  - (6) The word "lot" includes the word "plot" or "parcel".
  - (7) The word "building" or "structure" includes any part thereof.

- C. As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meaning as indicated:

**ACCESSORY USES AND STRUCTURES** -- See separate definitions for "use, accessory" and "structure, accessory."

**ANIMAL BOARDING/BREEDING FACILITY** -- A primary or accessory use where domestic or farm animals are harbored overnight for compensation and are provided with basic supervision and care (food, sleeping and waste disposal areas). Common examples of this use include dog breeders and private or public horse stables. This land use may include facilities and area for grooming, training, riding, or shows.

**ANIMAL CARE/TRAINING FACILITY** -- A primary or accessory use where domestic (dog and cat) animals are temporarily present for nonmedical care (grooming) or training programs, such as dog obedience; companion, seeing-eye, or rescue instruction, or competitive skills activities (hunting, retrieving, racing). This land use may include sale of retail products and/or areas for shows. The definition excludes facilities for the boarding or breeding of animals.

**ANIMALS** -- This chapter recognizes and addresses three basic categories of animal that are relevant to control within the scope and purpose of this chapter: domestic, farm and exotic or wild animals.

- A. **DOMESTIC ANIMALS** -- Those species that have historically been bred to live with people and are commonly trained and associated with people's homes or places of work as pets or as (nonfarm) working companions; these are dogs and cats. Other animals that have an historical presence as pets are some nondomesticated species that are maintained within glass tanks, cages or similar display containers and include tropical fish, birds, small reptiles (turtles, frogs, lizards), and small rodents (hamsters, gerbils, mice and rats). Note: These nondomesticated animals are commonly available from retail pet stores, and supplies and food for their care are generally available in general merchandise outlets, such as grocery or department stores.
- B. **FARM ANIMALS** -- Those species that have historically and commonly been associated with agricultural uses as the production product (food, hides, fur, etc.) or as work animals directly related to agricultural process (hauling, plowing, etc.). Typical farm animals include horses, cows, chickens, sheep and pigs. Some species of fish are also raised in aquatic farms, such as salmon, catfish and trout. An agricultural use may be devoted solely to animal breeding for sale and end use by others, such as horses that are used for recreational purposes (racing, riding or show).
- C. **EXOTIC (WILD) ANIMALS** -- Those species that are indigenous or nonindigenous wild animals captured or bred in captivity and typically are not acclimated through selective breeding to regular human contact. Though individual animals of many species have been domesticated for such human purposes as education (zoos, teaching facilities), entertainment (theater, circus shows) or even as pets, they are not considered to be domestic or farm animals. Examples include large animals: monkeys, apes, lions, tigers, wolves, alligators and boa constrictors. Small animals include: falcons, hawks, squirrels, and raccoons. Some animals, such as ferrets, may require special licensing from New York State to be sold or maintained as pets. Due to the size, characteristics or nature of some of these animals, they remain potentially harmful to humans and require special care and monitoring even when domesticated.

APARTMENT -- A dwelling unit in a multiple-family dwelling or mixed-use occupancy building.

APARTMENT BUILDING -- See "dwelling, multiple-family."

ASSISTED-LIVING FACILITY -- See "nursing home/assisted-living facility."

AUTO BODY REPAIR -- See "motor vehicle sales, service and rental."

BANK/CREDIT UNION -- See "retail use."

BED-AND-BREAKFAST RESIDENCE -- A type of home occupation in an owner-occupied, single-family residence offering overnight lodging for guests or tourists and may include dining facilities limited only to the overnight guests.

BUFFER -- See "perimeter landscape strip."

BUILDABLE AREA -- The area within a lot eligible to be built upon or occupied by structures and/or land use activities that is bounded and established by the required front, side and/or rear building lines set forth in the zone district requirements or supplemental regulations.

BUILDING -- A type of structure wholly or partially enclosed within exterior walls and a roof to be used for sheltering people, animals, property, business or other activities. Structures divided with interior walls extending from the foundation through to the roof shall generally be considered separate buildings. Common examples include: houses, garages, factories, barns, and mobile homes. Fences, signs and temporary structures, such as tents, are not buildings.

BUILDING, HEIGHT OF -- The vertical distance as measured from the average elevation of the proposed finished grade (ground surface) at the front of the building or of a structure to the highest point of the building or the structure, which highest point shall include, but not be limited to, the highest or topmost point of the roof, together with all towers, chimneys, penthouses, signs, tanks, elevators or stair bulkheads, mechanical equipment, and/or light poles.

BUILDING LINE -- A line or lines determined by zone district setback requirements, parallel to the property lines and establishing the closest points that a structure may be placed within a property.

BUILDING LINE WIDTH -- See "lot width."

BUILDING PRODUCT SALES, STORAGE AND DISPLAY -- A retail or wholesale use where lumber, construction supplies and similar products are sold, displayed for sale or stored. Materials may be stored and activities may be conducted in exterior open areas.

BULK STORAGE -- The commercial development of land to be used or occupied by structures, equipment, vehicles or storage areas designed to hold and distribute large quantities of material. Examples include petroleum products, fuels and potentially hazardous chemicals.

CELL TOWER -- See "utility substation."

**CEMETERY** -- Land improved and maintained for the interment of human or animal remains and may include interment structures, such as mausoleums, administrative and maintenance structures and facilities for conducting funeral services, but excludes facilities for the cremation of human or animal remains.

**COMMUNICATION TOWER** -- See "utility substation."

**COMMUNITY CENTER** -- A facility under the direct supervision and control of a charitable, religious, social service or similar not-for-profit civic organization designed and used as a place of assembly for religious, social, recreational or educational programs and meetings for the general public. A center may contain incidental food facilities. It shall exclude private clubs and any facilities to house or lodge overnight guests.

**COMPREHENSIVE PLANNING** -- The processes engaged in and developed by the Town to formulate and/or implement immediate and long-range objectives for the enhancement and development of the Town. These processes include the accumulated case actions, analyses, policies, studies, reports with or without maps and may or may not be formally adopted by the Town.

**CONSOLIDATION** -- The combining of one or more parcels of land. See also "subdivision."

**CONTRACTOR'S SERVICE YARD** -- Land or structures serving as the base of operations for building trades contractors, trucking or heavy equipment operators or similar professions. Examples include: irrigation and well-drilling services, plumbing contractors, or landscape contractors. Such uses may include: related offices; storage areas for equipment, materials and job-site trailers; and service areas for equipment. This use excludes on-site retail or wholesale sales, or the storage and/or servicing of merchandise, vehicles or equipment unrelated to the contracting business.

**CORNER LOT** -- See "lot, corner."

**CREMATORY** -- A building with incinerators or furnaces used to reduce human or animal remains to a dust or gravel-like material. The use shall exclude space for the storage or burial of remains. (See also "cemetery.")

**CROPLAND** -- Land without any buildings used for the commercial production of agricultural products, such as corn, wheat, vegetables, ornamental plants, or fruit. It may include minimal improvements and/or structures, such as fences or irrigation systems.

**DANCE STUDIO** -- See "instructional facility."

**DAY-CARE CENTER** -- A land use in which care and supervision of (at least three or more) minors (children) or dependent adults is provided on a daily or regularly programmed basis outside of their place of residence. Care for each person is for less than a period of 24 hours and may occur during any part of a day. Examples of activities which are day-care facilities under this code include: nursery schools, preschool programs, after-school programs or day-care centers, and senior day-care facilities.

**DISTRICT, ZONE** -- See "zone district."

**DRIVE-IN SERVICE** -- An accessory or primary land use that is a facility from which customers conduct any business, secure consumer goods or services, and such goods and services are dispensed for use or consumption either off-premises or while the customers remain in their motor vehicles. This facility may be a mechanical device, a service-type window, or a kiosk attached to or detached from a principal building. This definition includes facilities commonly referred to as: "drive-in or drive-through banks," "drive-in restaurants and movie theaters," "ATMs (automatic teller machines)," and "drive-up kiosks." This definition specifically excludes gasoline service stations, car washes, and similar motor vehicle services where the vehicle is the object of the retail service; it also excludes designated vehicle loading areas accessory to retail or wholesale uses.

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

**DWELLING** -- A house, apartment building or other permanent building designed or used primarily for human habitation.

**DWELLING, MULTIPLE-FAMILY** -- A building designed for and occupied as a principal use by three or more dwelling units.

**DWELLING, ONE-FAMILY** -- A building containing only one dwelling unit, and occupied by only one family.

**DWELLING, TWO-FAMILY** -- A building containing only two units, and occupied by only two families.

**DWELLING UNIT** -- A complete self-contained residential unit, with living, sleeping, cooking, and sanitary facilities within the unit, for use by one family.

**EMERGENCY VEHICLE STATION** -- The use of land, structures or facilities to store, care and operate emergency rescue, fire or ambulance services. It may include space for vehicles, equipment and personnel.

**EXCAVATION/MINING USE** -- Land used for the removal and transfer of sand, gravel, rock or stone, topsoil or earth and similar substances from their original or natural locations to a different property. Examples include: borrow pit, gravel or sand pit or mine. This definition shall exclude the removal of such substances incidental to the construction or the operation of a principal use and when the removed substances are redistributed on the original site or disposed of in accordance with a method approved by the Town. (See also the Code of Town of Clay, Chapter 100, Excavations.)

**EXHIBIT HALL** -- A facility designed for the assembly of large numbers of people to attend meetings, lectures, conventions, or commercial product shows. It may include areas for the consumption of food, classrooms, auditoriums and offices. It excludes facilities for and the conducting of sporting events and recreational activities.

**FAMILY** -- One or more persons occupying the premises and living as a single housekeeping unit with common use, care and access to living and sleeping areas with shared cooking, eating and toilet facilities as distinguished from a group of individuals occupying specified rooms and without common access,

use, or care of the entire dwelling, such as within a boarding- and rooming house, motel/hotel, dormitory, fraternity/sorority, club or hospital/nursing home.

**FARM** -- Land occupied for the commercial production of field crops, fruits, vegetables, ornamental plants, livestock and livestock products, woodlands or similar products. A farm may include one or more noncontiguous properties, but the primary farm properties (those occupied by residential or any other farm-related structures) shall meet the zone district's minimum dimensional standards. A farm typically includes buildings, structures and outdoor areas for the storage, distribution, use of fuel, supplies, equipment and raw agricultural products and may include buildings used for residential purposes; the term includes facilities to process, cook, mill or transform raw agricultural products into retail consumer goods. (See also "cropland" definition; for retail sale, see "farm stand.")

**FARM STAND** -- An incidental and subordinate activity of a farm, nursery or greenhouse involving a building or lot or portions of a building or lot used for the seasonal retail sale of agricultural products, and may include activities in which retail customers pick or select their own produce from the fields or growing areas. A farm stand sales area may be one or more noncontiguous spaces within a property and shall be greater than 100 square feet. A total sales area of 100 square feet or less does not constitute a farm stand.

**FIREWOOD** — Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter. [Added 10-19-2009 by L.L. 5-2009]

**FRONT YARD** -- See "yard, front" (applicable to other derivations, e.g., front yard depth, front yard width).

**FUNERAL HOME** -- A building or portion of building designed and occupied for the preparation of deceased persons or animals for burial and for the arrangement and management of burial ceremonies; the use commonly includes accommodations for people to congregate and hold ceremonies and includes the terms "funeral parlor" or "undertaker." The term excludes facilities for the cremation of human remains or animals. (See "personal service use.")

**GASOLINE SERVICE STATION** -- A building, structure or area of land used primarily for the servicing of motor vehicles. It shall primarily include facilities for the retail sale and dispensing of motor fuels and petroleum products, goods and services generally required in the operation and maintenance of motor vehicles, sale and servicing of tires, batteries, automotive accessories and replacement items; lubrication services and the performance of routine automotive maintenance and repairs. It may include areas for the retail sale of items such as: prepared foods, groceries, magazines, household or personal care items.

**GASOLINE STATION, LIMITED USE** -- A retail gasoline sales facility consisting solely of gasoline pumps, a shelter for station personnel, an overhead canopy, underground gasoline storage tank(s) and typical associated fire suppression and environmental protection equipment. Except for retail gasoline sales or vehicle washing, no other vehicle-related services shall be provided. It may include incidental sale of materials or merchandise, such as prepared food, magazines, household and personal items. A limited-use gasoline station may be considered, when found appropriate by a reviewing board, to be a secondary use.

**GRAPHIC PLAN** -- Drawing(s) of a site offering a depiction of how a site exists or is proposed to be modified. The graphic plan typically accompanies the submission application or documentation for a zoning approval and will be drawn to scale and include details specified by the Town.

**GREENHOUSE, ACCESSORY** -- An accessory structure for a residential, nonresidential or commercial land use that is typically enclosed with glass, plastic or similar materials and which may be used for personal enjoyment and/or the noncommercial production of plants.

**GREENHOUSE, COMMERCIAL** -- A structure typically enclosed with glass, plastic or similar translucent materials within which agricultural or horticultural products are grown for retail or wholesale sale, and includes appropriate areas for parking, loading and storage, office and customers.

**GROSS FLOOR AREA** -- The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. In addition to areas primarily used for human occupancy, the term also includes basements, elevator shafts, stairwells and any floor space (attics, penthouses, mechanical rooms) with structural headroom of six feet, six inches or more.

**HAZARDOUS MATERIAL STORAGE** -- A facility designed, constructed and maintained to safely store and distribute materials considered hazardous in normal use. Examples include: ammunition, explosives and chemical waste.

**HEARING, INFORMATIONAL** -- An informal process that may be required by this code or may be optional by a reviewing board; its primary purpose is to disseminate and present information to the public. The notification requirements and conduct of the meeting shall be established by the reviewing board.

**HEARING, PUBLIC** -- A formal process required by NYS law and/or this code; its primary purposes are to provide information to the public and to solicit opinions and comments from the public. Notification requirements are stipulated by NYS law, this code and/or Town policy.

**HEAVY EQUIPMENT SALES, SERVICE AND STORAGE** -- A use where construction, farm or similar large equipment and machinery may be sold, stored, displayed or serviced. Such activities may be conducted in open areas outside of any structures.

**HOME OCCUPATION** -- Any personal or professional service, trade or occupation conducted within a dwelling by the residents thereof, which use is incidental and accessory to the use of the property for residential purposes, which does not change its residential character, and conforms to the requirements of this code. [See § 230-271(2)(a).]

**HOSPITAL/CLINIC** -- An institution specializing in giving medical, surgical or rehabilitation treatments to persons on an in- or out-patient basis, and may include lodging and dining facilities for the patients and staff.

**INDOOR RECREATION - PARTICIPANT** -- A principal use of structure for individual or small group sporting events or recreational activities, such as: indoor tennis courts, bowling alleys and athletic clubs. Such facilities are designed for the direct use and participation of most of the attendees, and may include minimal spectator facilities.

**INDOOR RECREATION - SPECTATOR** -- A principal use of structure for individual or team sporting events or recreational activities, such as indoor soccer fields and basketball courts. Such facilities are designed for the direct use and participation of some of the attendees, and include substantial spectator facilities.

**INSTRUCTIONAL FACILITY** -- A principal use offering individual or small group instruction, orientation or training in various topics for personal development, such as performing arts, martial arts, crafts, or computer usage.

**JUNKYARD** -- Land occupied by an activity principally characterized by the collection, dismantling and salvaging of waste material, inoperative equipment, machinery or motor vehicles, and may include the retail sale and/or wholesale distribution of salvaged material. (See "dump.")

**KENNEL** -- (See "animals" and animal-related definitions.) A land use or structure used for the commercial harboring or care of domestic animals, such as dogs, cats, and similar domestic pets.

**LANDSCAPE BUFFER** -- See "perimeter landscape strip."

**LAND USE** -- A type of term used in this code as a group label for terms that describe and define human activities (land uses) that may occur on the land.

**LIBRARY** -- A public or private institution maintaining a selection of books, records and similar media for use by the general public or membership, and may include meeting or lecture rooms, but shall exclude businesses which rent books, records, videotapes, videodiscs, athletic equipment or similar objects for compensation or profit.

**LOT** -- An area of land defined by property lines shown on a deed, survey or official tax map, and is considered as a unit, occupied or capable of being occupied by one principal building and accessory buildings or uses, or when permitted in this code by multiple buildings or uses united by a common use or interest; and including such open spaces as are required by this code, and having frontage on a public or private right-of-way or an officially approved right-of-way.

**LOT AREA** -- The total square footage within the property line of a lot, including easements and excluding land within dedicated streets or highway boundaries

**LOT, CORNER** -- A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of intersection of less than 135°. The narrower ROW frontage of a corner lot shall be the front of the lot, and the lot shall have one side yard and one rear yard established in relation to that front yard. (See also "lot, three-sided.")

**LOT, FLAG** -- An irregularly shaped lot with at least two major portions: a nondevelopable narrow area abutting a right-of-way connected to the larger developable area surrounded by other lots, conforming in all other respects to the district lot and setback requirements. The undevelopable portion of the lot shall be maintained clear of all structures and have a minimum width of 30 feet.

**LOT FRONTAGE** -- The length of the front lot line measured at the street right-of-way. [Added 10-19-2009 by L.L. 5-2009]

**LOT, ORIENTATION** -- The orientation of lot shall be determined as follows. The front property line of a lot shall be same as the street right-of-way line, regardless of length and intended orientation of any existing or proposed buildings, and the side and rear lines shall be determined relative to that front line. For corner, reverse-frontage and flag lots, see applicable definitions. For all other irregularly shaped lots, the lot orientation shall be determined by the Commissioner of Planning and Development.

**LOT, REVERSE-FRONTAGE** -- A non-corner lot that has two opposite lot lines contiguous with a street right-of-way line, one line representing the front and the other representing the rear of the lot. Unless specified during a subdivision approval process, the front lot line shall be determined by Commissioner of Planning and shall be based upon the following guidelines: the predominant orientation of nearby lots, the character of the abutting rights-of-way, and the existing or intended land use.

**LOT, SHORELINE** -- See "shoreline lot."

**LOT, THREE-SIDED** -- A lot with only three property lines forming its boundaries. For purposes of enforcement it shall have: no rear yard, two side yards and a front yard extending the entire width of the lot. The front yard shall conform to the requirements of the applicable zone district and shall have two side yards with a minimum depth of 10 feet each, regardless of the zone district requirements.

**LOT WIDTH** -- The distance between the side property lines measured along the front building line as determined by the applicable front yard setback requirement as defined in this code.

**LOT WIDTH, SHORELINE** -- See "shoreline lot width."

**MANUFACTURING** -- Land and/or a building occupied to process or transform raw or previously processed materials into finished products or parts and the storage and distribution of those materials to other manufacturers and/or wholesale or retail businesses. Examples include: furniture manufacturer, metal processing, chemical processing, or assembly plants. This use shall exclude bulk storage and distribution of petroleum, natural gas or potentially hazardous chemicals.

**MANUFACTURED HOME** -- A transportable dwelling unit suitable for one family, year-round occupancy and containing the same conveniences as immobile housing with respect to water supply, light, heat, power and waste disposal. A manufactured home is a portable unit designed and built to be towed on its own chassis comprised of a frame and wheels and designed for occupancy without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. A unit may also be two or more separately moveable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing (double wide). Though manufactured units retain mobility, they are designed to be used as long-term residential units and exclude travel trailers, motorized homes, pickup coaches, camping trailers, and all forms of recreational vehicles.

**MARINA, INDIVIDUAL** -- The accessory use of land adjacent to a water body for an individual private dock or boathouse facility incidental to a principal residential use.

**MARINA, PRIVATE** -- The use of land, structures and adjacent water bodies for the storage and docking of one or more boats at docks or boathouse facilities. It shall exclude public or club use and shall contain no facilities for fuel, repair, sales, food or similar commercial operations.

**MARINA, PUBLIC** -- The use of land, structures and adjacent water bodies for the storage, docking, and/or servicing of boats for compensation or as nonprofit operation. It may include other business activities, such as retail fuel sales and administrative operations, restaurants and similar services.

**MEDICAL OFFICE** -- An office where patients are treated or attended to by medical practitioners that include but are not limited to: physicians, dentists, physical or occupational therapists, laboratory tests, diagnostic (X-ray, MRI, etc.) testing. This definition excludes clinics and hospitals.

**MINI-WAREHOUSE** -- See "public self-storage facility."

**MOBILE HOME** -- See "manufactured home."

**MOBILE HOME COURT** -- Land designed and planned in accordance with this code for occupancy by one or more manufactured home units.

**MODULAR STRUCTURE** -- Any structure or building designed only for permanent placement. It may be assembled completely or partially into major building components off-site; and transported to a different site for permanent placement on a foundation. A major building component shall include but not be limited to such elements as rooms and be an assembled unit of walls, floor and ceiling. Off-site preassembly of elements such as stairs or steps, roof rafters or floor joists commonly used in the conventional construction of a building shall not be considered major building components. For purposes of these zoning regulations, a modular structure is the same as any conventionally built structure and shall comply with all applicable use and dimensional controls.

**MOTOR VEHICLE SALES, SERVICE, RENTAL** -- Land and structures commercially used for the servicing and repair (including auto body/collision repair), sales, or rental of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats.

**MOTOR VEHICLE STORAGE** -- A facility occupying land, structures and/or buildings for the temporary controlled storage of operable motor vehicles. The addition or removal of any vehicle shall be subject to the control of the facility management. The use may contain space for offices and vehicles directly related to the operation. Examples include: impound yards, towing services, vehicle holding yards or similar facilities storing vehicles for legal or financial reasons. This use excludes routine public parking, public garages, the storage of disabled or junk motor vehicles and/or "motor vehicle sales, service, rental" (as defined).

**NIGHTCLUB/DANCE HALL** -- An establishment typically open to the public that predominantly includes areas for customer dancing or similar activity from live performance or recorded musical entertainment; it may include incidental food services and eating areas. (See also "land use," "restaurant," and "indoor recreation-participant.")

**NURSERY, COMMERCIAL** -- Land and/or building improved and occupied for the commercial raising, storage or retail sale of household or ornamental plants, and may include the incidental sale of garden supplies.

**NURSERY SCHOOL** -- See "day-care center."

**NURSING HOME/ASSISTED-LIVING FACILITY** -- An establishment where elderly, sick, invalid, infirm or convalescent persons are housed or lodged, furnished with meals and long-term nursing care and rehabilitation for hire.

**OFFICE** -- A building or a portion of a building exclusively occupied to perform services as a principal, accessory or incidental use of an administrative, professional or clerical nature and includes activities such as: insurance, real estate, financial, legal, design, and management. It shall exclude a "medical office," separately defined in this code.

**OFFICE BUILDING** -- A principal structure primarily designed and/or occupied by one or more offices. (See "office" definition.)

**OUTDOOR FURNACE** — 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. For the purpose of this definition, outdoor furnaces are considered an accessory structure. [Added 10-19-2009 by L.L. 5-2009]

**OUTDOOR FURNACE — COMMERCIAL.** An outdoor furnace with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h). [Added 10-19-2009 by L.L. 5-2009]

**OUTDOOR FURNACE — RESIDENTIAL.** An outdoor furnace with a thermal output rating of 250,000 British thermal units per hour (Btu/h) or less. [Added 10-19-2009 by L.L. 5-2009]

**OUTDOOR RECREATION - PARTICIPANT** -- A principal use of land or structures for individual or small group sporting events or recreational activities, such as swimming pools, tennis courts, golf courses and exercise tracks, archery, pistol or rifle ranges. Such facilities are designed for the direct use and participation of most of the attendees and may include minimal spectator facilities. This land use may include incidental facilities for serving food and beverages.

**OUTDOOR RECREATION - SPECTATOR** -- A principal use of land and facilities for individual or team sporting events or recreational activities, such as outdoor soccer, football or baseball fields or basketball courts. Such facilities provide substantial spectator seating and observation areas and may include space for direct participation of some of the attendees. This land use may include incidental facilities serving food and beverages.

**OUTDOOR RETAIL SALES, DISPLAY AND SERVICE** -- (See also "retail use.") The use of an area of land outside of a building for the sale, display, servicing or storage of products, equipment, supplies, or merchandise related to a retail use. Such areas may be incidental to a principal retail use occupying a building or may be the primary sales area and include by illustration the sale of lumber, building or garden supplies, but specifically excludes vehicle sales, service or repair, junkyards, waste or scrap products or farm products.

**PARCEL** -- An area of land to be subdivided or consolidated. (See also "lot.")

**PARKLANDS** -- See "park/playground (private)."

**PARK/PLAYGROUND (PRIVATE)** -- Private land reserved and minimally improved for recreational, educational or scenic purposes available to the general public or to a limited membership and may include facilities such as ball fields, tennis and basketball courts, playground equipment, storage and service buildings and picnic shelters, but excludes outdoor recreational (participant or spectator) uses as defined in this code.

**PERIMETER LANDSCAPE STRIP** -- The land adjacent to front, side and rear lot lines, included within the same space for required setbacks but solely designed and used for buffering and transition between lots. Irrespective of allowable structures or uses within such required setbacks, the perimeter strip shall not be used for parking. Driveways and walks are permitted to transverse a perimeter strip to allow for necessary vehicle and pedestrian movements. It is intended that such perimeter strip be used for planting of trees, shrubs, flowers, and evergreens to provide neighborhood beautification.

**PERSONAL SERVICE USE** -- A commercial activity where the customer is typically present and is the direct object of the services received and characterized by the direct on-premises sale of services to the ultimate customer and includes uses commonly referred to as: "barbershops," "beauty salons," "dry cleaners," "self-service laundries" and similar activities. (See also "retail use.")

**PRIVATE CLUB** -- A facility under the direct supervision and control of a charitable, religious, fraternal, social service, public or similar community organization, including not-for-profit corporations, providing, and generally limited to, club membership, a place of congregation or meeting for purposes of education, training, counseling, active or passive recreation or similar pursuits, including social facilities. This land use may include incidental facilities for serving food and beverages. This term shall not include schools or retail business activities.

**PROPERTY LINE** -- Legal boundary surrounding any area of land that is properly recorded on a deed, survey or tax map with the Town and/or County Clerk. For purposes of this code, any street, highway, or railroad ROW line shall also be considered a property line. Power and utility transmission ROW lines shall not be property lines unless explicitly noted in appropriate legal documents.

**PUBLIC SELF-STORAGE FACILITY** -- A land use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include: mini-warehouse, public storage, or self-storage facilities; the use excludes: temporary or portable units, such as tractor trailers or storage trailers (with or without wheels).

**REAR YARD** -- See "yard, rear" (applicable to other derivations, e.g., rear yard depth).

**RECREATION AREA** -- See "park/playground (private)" or "outdoor recreation - participant."

**RECYCLING BULK PROCESS FACILITY** -- A principal land use engaged in the commercial bulk collection of recyclable materials from off-site or unrelated sources, and may include the associated storage, processing, distribution and/or resale of these materials. Materials collected may include appliances, motor vehicles, construction waste, by-products of manufacturing processes, organic materials and materials received from recycling collection sites (see separate definition). Recyclable materials exclude any material considered under the Town Code to be garbage.

**RECYCLING COLLECTION SITE** -- A principal, secondary or accessory land use engaged in the collection of recyclable materials directly from consumers and includes the temporary storage for transfer to a recycling bulk processor or an approved waste disposal site. For purposes of enforcement,

these sites, when permanently established, shall be considered retail uses. Such uses may include: collection bins or equipment for bottles and cans, batteries (excluding motor vehicle batteries), paper products, plastics, packaging or similar types of items commonly used in households or offices. These uses specifically exclude: the collection of any organic by-products or waste, typical household or office trash, medical waste, furniture, appliances or any motor vehicles. Examples include: redemption centers, bottle and can collection areas or equipment at retail stores, temporary (nonprofit fundraising) collection sites, or retail stores accepting trade-in products, such as computers or similar electronic equipment.

**RECYCLING PROCESS** -- An activity that collects, transforms, compacts, breaks down or otherwise converts waste, by-products of manufacturing processes, or finished products into smaller or component parts. These parts may then be disposed of in an approved waste disposal site or made available for reuse in any other process, such as: manufacturing, construction, or agriculture. Examples include: glass crushing, reprocessing of road asphalt, composting, paper reprocessing, metal separation, organic-waste treatments, separation or refinement of chemicals or paints, motor vehicle oil (used) re-treatment.

**RECYCLING PROCESS FACILITY** -- Equipment, structure or area of land used as a secondary or accessory land use in a recycling process. This facility shall be integral or directly related to the production process of any principal agricultural, commercial or industrial land use. Examples include: organic composting bins or areas, animal waste (manure) holding areas and spreading equipment, or treatment plants for manufacturing by-products or waste. A recycling facility for typical household residential uses (e.g., garden composting bins) is excluded from this definition.

**RELIGIOUS INSTITUTION** -- A building used by people to regularly gather, attend and/or participate in religious services, ceremonies, instruction, meetings or similar activities and includes buildings commonly referred to as "churches," "synagogues," "meeting houses" or "temples"; the use may also § include attached or detached dwelling units for a caretaker and/or primary religious official and their families.

**RENDERING PLANT** -- A facility to process and convert raw animal products, by-products or general food waste into nonfood products that may be commercially usable for agricultural, industrial or consumer purposes, such as oil, soap, or fertilizer.

**RESTAURANT** -- A building or portion of a building occupied for the retail sale of food and/or beverages that are prepared and served in a ready-to-consume state for either on- or off-premises consumption. This definition includes uses commonly referred to as: "luncheonettes," "snack bars," "family restaurants," "ice cream or pizza parlors," "take-out restaurants," "taverns," "inns" and "cafes." Excluded are: nightclubs/dance halls, temporary facilities associated with carnivals, field days, charitable fundraising or similar events and the incidental retail sale of prepared food accessory to another principal use, such as a gasoline service station or employee cafeterias and snack areas.

**RESUBDIVISION** -- See "subdivision."

**RETAIL USE** -- An activity primarily characterized by the on-premises sale and display of goods and services to the consumer; the use may contain areas for related accessory uses. Examples include uses commonly referred to as: "department stores," "hardware stores," "grocery stores," "boutiques," "craft shops," "appliance repair shops," "video rental stores" and "personal service uses" (defined separately in this code). Excluded are the following principal uses: restaurants; gasoline service stations; motor vehicle sales, service or rental; and outdoor retail sales, display or service.

**RIGHT-OF-WAY (ROW)** -- Legal boundary of the edges of a public or private road, street, highway, railroad, waterway or similar transportation corridor. Such boundaries are typically controlled and set by government agencies and/or state law. Current ROW lines may supersede an older property survey or deed description. The ROW line is the same as the street line forming the front or side property line of abutting lots.

**SCHOOL** -- A public or private institution providing a curriculum of elementary and secondary academic instruction and includes a kindergarten, elementary, middle and high school. It excludes vocational, trade, or boarding schools, colleges or the offering of group instruction within a residence.

**SECONDARY USE** -- See "use, secondary."

**SELF-STORAGE FACILITY** -- See "public self-storage facility."

**SETBACK** -- The minimum or maximum (as set forth in each zone district) distance formed by a line connecting two points measured towards the interior of a lot from the front, side and rear property lines forming the boundaries of the lot's buildable area and required yard areas. For irregular or curved property lines, the distance shall be a line parallel to the property line. (See also "yards, required.")

**SHOPPING CENTER** -- Land planned, improved and managed to accommodate a grouping of two or more commercial uses in one or more buildings designed to share parking, access, signage and other site services; uses commonly included within a shopping center are: retail stores, restaurants, drive-in services, gasoline service stations, indoor recreation and offices. Two or more separately owned commercial units shall not be deemed a shopping center solely by virtue of the fact that they share a common access to adjoining highways and/or parking facilities.

**SHORELINE** -- The physical boundary of a water body and may fluctuate with natural changes in water elevation. Unless established by a federal or state agency, the shoreline shall be the annual mean high-water mark, as determined by a professional civil engineer or a licensed surveyor. (See also "lot, shoreline"; "lot width"; "shoreline"; and "structure, shoreline.")

**SHORELINE IMPROVEMENTS** -- Installation of any man-made materials or modifications to existing natural conditions to facilitate access, swimming, boating, or fishing to an adjacent body of water. It includes but is not limited to such activities as excavation of boat slips or launches; installation of piers, docks, decks, or walls.

**SHORELINE LOT** -- Any property that has at least one property line or portion of a property line within or adjacent to a water body. For enforcement purposes, the front of a lot shall be along a property line adjacent to an existing or proposed public or private right-of-way. The portion of a lot adjacent to a water body shall be subject to the width, setback or other provisions of the Riverfront Overlay Zone.

**SHORELINE LOT WIDTH** -- The width of property adjacent to a water body shall be measured as the most direct straight or curved line parallel to the approximate center line of the adjacent water body, as determined by the Commissioner. The natural variations of a shoreline shall not be used to determine the shoreline width of a property.

**SHORELINE STRUCTURE** -- A type of accessory structure, as defined in this code, specifically designed or modified to facilitate direct access to an adjacent water body, such as a storage building or boathouse that affords protection and/or storage to boating craft while remaining in the water.

SITE PLAN -- See "graphic plan"; see also "site plan review."

SITE PLAN REVIEW -- An examination of a proposed land development by the Town Planning Board pursuant to the guidelines and standards of this code.

SLAUGHTERHOUSE -- A facility where animals are temporarily held, butchered and prepared for either retail or wholesale market consumption.

SPECIAL USE -- An accessory use to a principal use which, because of its unique characteristics, requires special consideration in each case by the Planning Board before a building permit can be issued. This is subject to annual renewal. [Added 10-19-2009 by L.L. 5-2009]

STORAGE -- See "public self-storage facility."

STORAGE UNIT, PORTABLE -- An incidental and temporary structure to hold or shelter materials; examples include: storage trailers, box trailers, inflatable units, tents.

STREET -- A public or private right-of-way affording the public vehicular and/or pedestrian access to abutting property. (See "right-of-way.")

STREET LINE -- A single line formed by the intersection or overlap of the street or road right-of-way boundary and the abutting property line.

STRUCTURE -- Anything constructed, erected or otherwise situated on the land, whether of a permanent or temporary nature.

STRUCTURE, ACCESSORY -- A building, structure or mechanical equipment or decorative device attached to or detached from a principal structure, located on the same lot or property and is subordinate and incidental to the use of the principal structure. The term includes improvements such as: mailboxes, garages, storage sheds, waste disposal equipment, antennas, swimming pools, parking/loading areas and signs.

STRUCTURE, PRINCIPAL -- A building, structure or mechanical equipment designed, built, occupied, or used by the principal land use activity allowed on the lot.

STRUCTURE, SHORELINE -- See "shoreline structure."

SUBDIVISION -- The division of a parcel of land into two or more blocks, lots, or plots, with or without streets or highways, for sale, lease, any similar conveyance or future development.

SUBDIVISION ADJUSTMENT -- The relocation of an existing lot line(s) between two or more legally existing lots without creating new streets, curb cuts, infrastructure needs or lots; or the elimination of a lot line consolidating two existing legal or legal nonconforming lots without creating new streets, curb cuts, or infrastructure needs. For purposes of § 230-28F (Subdivision adjustments) of this code, legally existing lots may also include lots on an approved unfiled plat map.

**SWIMMING POOL** -- An accessory structure that is a receptacle for water, having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or on the ground.

**THEATER, INDOOR** -- A form of indoor recreation-spectator use comprised of two main permanent building components: a display or performance space (stage, movie screen, podium, etc.) and customer sitting areas for viewing and listening to presentations/performances. It may include incidental areas for the sale of prepared food and drinks (snack-beverage bar, vending machines), but not designated eating or dining areas.

**TOWNHOUSE** -- A series of principal structures combined into a larger single building. Each building is a series of single-family dwelling units, having a common wall between each unit with each unit having separate utility services and being located on a separate filed lot.

**TRASH TRANSFER STATION** -- See "recycling bulk process facility."

**TRUCKING TERMINAL** -- Land and buildings used as a relay station for the transfer of cargo from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include pickup and dropoff areas, parking areas for trucks, and structures or areas for the servicing of trucks associated with the terminal.

**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. [Added 10-19-2009 by L.L. 5-2009]

**USE, ACCESSORY** -- An activity located on the same lot or property which is incidental to a principal use that is subordinate and supportive in purpose to the principal use. Some examples include uses such as: management offices for business, institutional or industrial establishments; incidental machine or equipment repair for retail businesses.

**USE, PRINCIPAL** -- The major use or activity occurring on a lot and defining the overall purpose of the land and structures.

**USE, SECONDARY** -- A minor land use within a larger principal land use or structure that does not directly relate or support the principal land use. Secondary uses are permitted when specified in a district, subject to the designated review.

**UTILITY SUBSTATION** -- Land occupied by a building, structure or equipment used for private business or by a private or public utility service regulated by the NYS Public Service Commission or a federal agency in the transmission or collection of energy, water, or sanitary waste and may include communication towers, transmission poles and towers, cellular phone towers or antennas, pump stations, and equipment monitoring buildings. It excludes transmission facilities for public broadcasting use; offices for public benefit; vehicles, equipment and material storage; warehousing and similar functions.

**VETERINARY CARE FACILITY** -- A business providing for the care, medical treatment and incidental boarding of dogs, cats, similar domestic animals, and/or farm animals.

**WAREHOUSE** -- A building primarily designed or used for the storage of materials, such as consumer products, business or administrative records, industrial or agricultural supplies, tools or equipment,

and/or personal items. This definition excludes public self-storage facilities, wholesale uses, and truck terminals, separately defined in this section.

**WHOLESALE** -- A commercial activity characterized by the bulk storage, distribution and/or sale of merchandise to other retail, manufacturing, construction contracting, institutional or wholesale establishments. This use may include provision for related administrative offices, product showrooms, truck storage and parking areas. It excludes facilities for the storage and distribution of petroleum, natural gas or hazardous chemicals.

**YARD** -- The land area of a lot or property unoccupied by principal structures or principal land use activities. Yards are typically occupied, used or improved with landscaping, signs, parking, pavements and similar minor and incidental structures or activities. Yards or portions of yards may be both regulated and unregulated by this code according to the zone district and/or the supplemental regulations. (See also definitions for "yard, required" and each type of yard.)

**YARD, FRONT** -- The required open space extending across the entire width of the lot between the front property line and the required front setback distance. Permissible intrusions into the front yard may include steps and ramps that are minimally necessary for access, eaves and cornices. (For additional permitted intrusions, see Article IV, Supplemental Regulations.) **[Amended 10-19-2009 by L.L. 5-2009]**

**YARD, REAR** -- An open, unoccupied space, except for walks, patios, paved areas, accessory structures and the parking of motor vehicles, on the same lot with the building between the rear building line and the rear lot line and extending the full width of the lot.

**YARD, REQUIRED** -- The areas of land within a property and measured inwardly from the property lines specifically regulated by this code as to the type and nature of permitted structures, improvements or activities. The requirements may vary by zone districts, land use or other criteria. The required yards are for multiple purposes, such as perimeter landscape strips, vehicular separation, aesthetics, fire protection, snow storage and drainage. (See also definitions for "setback, yard" and each type of yard.)

**YARD, SIDE** -- An open, unoccupied space on the same lot with the building, situated between the side building line and side lot line, and extending between the required front yard and rear yard. It may be occupied by walks, patios, pavement, eaves and cornices. **[Amended 10-19-2009 by L.L. 5-2009]**

**ZONE DISTRICT** -- Legal areas established by this code to organize and regulate private land development activity within the Town. A zone district will typically encompass many properties that may be occupied or used by a variety of land uses. The land uses regulated by a district are based upon the specific text included in this code.

ARTICLE III  
**Zone Districts**

**§ 230-12. Establishment; Zoning Map; boundaries.**

- A. Conventional zone districts. For the purposes of this code, the Town of Clay is divided into the following conventional zoning districts (an area where lots, structures and uses are uniformly regulated to fulfill a common purpose):

**Section 230-13, Residential Districts**

RA-100 Residential Agricultural  
 R-40 One-Family Residential  
 R-15 One-Family Residential  
 R-10 One-Family Residential  
 R-7.5 One-Family Residential  
 R-2F Two-Family Residential  
 R-TH Townhouse  
 R-Apt Apartment  
 R-MHC Mobile Home Court  
 LuR Limited Use for Riverfront

**Section 230-14, Recreation Districts**

Rec-1 Recreation

**Section 230-15, Office Districts**

O-1 Neighborhood Office  
 O-2 Office

**Section 230-16, Commercial Districts**

NC-1 Neighborhood Commercial  
 HC-1 Highway Commercial  
 RC-1 Regional Commercial  
 LuC-1 Limited Use for Gasoline Services  
 LuC-2 Limited Use for Restaurants

**Section 230-17, Industrial Districts**

I-1 Industrial 1  
 I-2 Industrial 2  
 S-1 Special Use

- B. Specialized districts. This code provides for a district(s) that afford both greater flexibility for development and oversight by the Town. Such districts, when established by the Town, would be used as an alternative to a conventional district.

**Section 230-18, Special Districts**

PDD Planned Development District  
 GOV Government Controlled Land (indicated on Zoning Map for information - zone district is RA-100)

- C. Overlay districts. An overlay district is a form of zone district which imposes additional regulations for specific purposes, such as historic preservation, flooding, parking or other concerns, and may be established at the discretion of the Town Board pursuant to § 230-24C, Zoning amendments, of this code. Overlay districts establish controls that are superimposed upon, and are in addition to, the existing zone district regulations affecting land use and structure.

**Section 230-19, Overlay Districts**

- HOV Highway
- AFH Airport Flight Hazard
- Gas Trans Gas Transmission

- D. Zoning Map. The location and boundaries of each zoning district are shown on the map entitled "Town of Clay Zoning Map," certified by the Town Clerk, on file in Town Hall, and which is hereby declared to be a part of this chapter.
- E. Interpretation of district boundaries. When uncertainty exists with respect to the boundaries of any district as shown on the Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following mapped lot lines shall be construed as following such lot lines. Tax maps, maintained for assessment purposes, shall be a primary source for determining the identification of a parcel, its size, location and boundaries. Unless specifically changed by the Town, zone district designations shall apply to any successor lots created subsequent to a Zoning Map amendment.
  - (2) Boundaries indicated as approximately following the center lines of streets shall be construed to follow such center lines.
  - (3) Boundaries indicated as following shorelines of streams and lakes shall be construed to follow such shorelines, and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
  - (4) Boundaries indicated as approximately following the corporate boundaries of the Town of Clay shall be construed as following such corporate boundaries.
  - (5) Boundaries indicated as parallel to, or extensions of, physical or political features indicated in Subsection E(1) through (4) above shall be so interpreted as parallel or extensions. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map or a description of boundaries, if available, adopted by the Town Board.
  - (6) Where a district boundary line divides a lot existing at the time of adoption of this chapter, the regulations of the applicable districts shall apply to the respective portions of the lot.
  - (7) All land within the Town shall have a zone district designation. If, for any reason, a lot appears on the Zoning Map to be without any designation, then it shall be considered to be within the RA-100 Zone District.

- (8) The Office of the Commissioner of Planning and Development shall determine the location of zone district boundaries. Any challenge of that office's determination may be brought by any aggrieved party to the Zoning Board of Appeals for an interpretation.

F. Organization of conventional zone district texts. Each conventional zone district is divided into the following parts:

- (1) Intent statement (in italics) that provides general guidance and is not enforceable.
- (2) Allowable uses that list individual land uses by name and assigns each to a Town review procedure.
- (3) Lot and structure dimensional requirements in a schedule format, indicating numerical type requirements for activities and structures related to the allowed land uses.
- (4) Supplemental district design standards (not in all districts) that indicate numerical or review requirements for some specialized condition.
- (5) Cross-references (as an aid to users) to other sections of the Zoning Code that may be helpful or are commonly applicable.

G. Dimensional requirement groupings or categories. In specific zone districts, more than one set of dimensional standards may be established to account for the variety of allowable land uses. Determination of a category for any individual land use shall be made by the Commissioner of Planning and Development. The groupings of dimensional requirements were organized according to following:

- (1) No category indicated. When no separate group or category is indicated, all uses within the district are subject to the same dimensional standards. (Some land uses may be subject to additional site plan or special permit standards.)
- (2) Residential: all land uses where a dwelling unit is the principal activity (includes one-, two-, and multiple-family dwellings, apartments and townhouses and manufactured homes).
- (3) Nonresidential: land uses that are commonly considered supportive of or associated with residential areas, but have no dwelling units. (Examples include schools, religious institutions, and community centers.)
- (4) Agricultural: land uses involved with a farm, as defined in this code, or use engaged in a similar activity. (Examples include farms, farm stands, commercial greenhouses or nurseries.)
- (5) Commercial: land uses engaged in retail, office activity. (Examples include retail uses, office buildings, medical offices, and shopping centers.)
- (6) Industrial: land uses involved with production, storage and distribution. (Examples include warehouses, manufacturing, and truck terminals.)

**§ 230-13. Residential Districts.**

Every proposed residential subdivision shall provide a park and recreation area not less than 2,000 square feet per lot or, in the discretion of the Planning Board, a sum as provided in Chapter 105, Fees, in lieu thereof.

**A. RA-100 Residential Agricultural District (based on A-1).**

(1) Intent. *The intent of this district is to accommodate agricultural activities, to provide a setting for low-density family dwellings, and supportive nonresidential development in areas of the Town that are unlikely to be served by both public water and sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

- |                 |                 |
|-----------------|-----------------|
| [1] One-family. | [3] Cropland.   |
| [2] Farm.       | [4] Farm stand. |

(b) Planning Board site plan approval:

- |                                |   |
|--------------------------------|---|
| [1] Park/playground (private). | [3] Nursery, commercial. [Amended 10-19-2009 by L.L. No. 4-2009]    |
| [2] Cemetery.                  | [4] Greenhouse, commercial. [Amended 10-19-2009 by L.L. No. 4-2009] |

(c) Planning Board special permit approval:

- |                            |  |
|----------------------------|--|
| [1] School.                | [5] Community center.                                  |
| [2] Day-care center.       | [6] Marina, private.                                   |
| [3] Religious institution. | [7] Special use. [Added 10-19-2009 by L.L. No. 4-2009] |
| [4] Library.               |  |

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

- [1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

- |  |   |
|--|---|
| [1] Emergency vehicle station.         | [5] Outdoor recreation - spectator.                       |
| [2] Animal care/training facility.     | [6] Outdoor recreation- participant.                      |
| [3] Animal boarding/breeding facility. | [7] Two-family dwelling.                                  |
| [4] Veterinary care facility.          | [8] Outdoor furnace.[Added 10-19-2009 by L.L. No. 4-2009] |

(3) Cross-reference to other commonly used regulations, see sections noted:

- |   |                        |
|---|------------------------|
| (a) <i>Definitions:</i>                           | <i>see Article II.</i> |
| (b) <i>Accessory uses and structures:</i>         | <i>see § 230-20A.</i>  |
| (c) <i>Lot: structure dimensional exemptions:</i> | <i>see § 230-20B.</i>  |
| (d) <i>Parking:</i>                               | <i>see § 230-21.</i>   |
| (e) <i>Signs:</i>                                 | <i>see § 230-22.</i>   |
| (f) <i>Utility substation:</i>                    | <i>see § 230-27.</i>   |
| (g) <i>Highway Overlay Zone:</i>                  | <i>see § 230-19.</i>   |
| (h) <i>Animals, pets:</i>                         | <i>see § 230-20A.</i>  |

(4) RA-100 lot and structure dimensional requirements.

Lot	Residential	Nonresidential	Agricultural
Area, minimum	100,000 sq. ft.	5 acres	10 acres
Width, minimum	250 ft.	125 ft.	500 ft.
Coverage, maximum building	n/a (%)	n/a (%)	n/a (%)
Coverage, maximum total	n/a (%)	n/a (%)	n/a (%)
Principal structure and attached accessory structures			
Front yard minimum	75 ft.	100 ft.	75 ft.
Side yard minimum	25 ft.	50 ft.	Greater of 25 ft. or 1.5 x the hgt.
Rear yard minimum	25 ft.	50 ft.	Greater of 25 ft. or 1.5 x the hgt.
Maximum height	35 ft.	50 ft.	60 ft.
Maximum gross floor area	n/a (sq. ft.)	n/a (sq. ft.)	n/a (sq. ft.)
Maximum number of floors	n/a	n/a	n/a
Accessory structures: detached, greater than 100 sq. ft.			
Front yard minimum	75 ft.	100 ft.	75 ft.
Side yard setback	25 ft.	25 ft.	Greater of 25 ft. or 1.5 x the hgt.
Rear yard setback	25 ft.	25 ft.	Greater of 25 ft. or 1.5 x the hgt.
Maximum height	25 ft.	25 ft.	60 ft.

(5) RA-100 supplemental district design standards.

- (a) Perimeter landscape strip (feet): n/a.
- (b) Additional setback abutting residential district (feet): n/a.
- (c) Structure design, scale and materials. Subject to designated board review, shall reflect and be sympathetic to the existing or planned character of residential structures in the surrounding area.

(6) RA-100 special provisions: large lot, one-family dwelling. Any one-family dwelling maintained on a lot five acres or greater shall be eligible to use or maintain:

- (a) A portion of the lot for raising agricultural products, except livestock, for personal consumption or commercial purposes.
- (b) A seasonal farm stand, subject to ZBA special permit approval.
- (c) Accessory farm structures subject to residential lot and structure dimensional standards.
- (d) Agricultural livestock, such as personal food sources or pets.

**B. R-40 One-Family Residential District (formerly R-1B).**

(1) Intent. *The purpose of this district is to allow lower-density, single-family uses and supportive nonresidential development within the portions of the Town that are not served by public sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] One-family dwelling.

(b) Planning Board site plan approval:

[1] Park/playground (private).

(c) Planning Board special permit approval:

[1] School.	[4] Library.
[2] Day-care center.	[5] Community center.
[3] Religious institution.	[6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

[1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.  
 [2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

(a) <i>Definitions: see Article II.</i>	
(b) <i>Accessory uses and structures:</i>	<i>see § 230-20A.</i>
(c) <i>Lot: structure dimensional exemptions:</i>	<i>see § 230-20B.</i>
(d) <i>Parking:</i>	<i>see § 230-21.</i>
(e) <i>Signs:</i>	<i>see § 230-22.</i>
(f) <i>Utility substation:</i>	<i>see § 230-27.</i>
(g) <i>Highway Overlay Zone:</i>	<i>see § 230-19.</i>
(h) <i>Animals, pets:</i>	<i>see § 230-20A.</i>

## (4) R-40 Residential lot and structure dimensional requirements.

## (a) Lot.

- [1] Area, minimum: 40,000 square feet.
- [2] Width, minimum: 150 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

## (b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 50 feet.
- [2] Side yard minimum:
  - [a] One side: 10% lot width.
  - [b] Total both sides: 25% lot width.
- [3] Rear yard minimum: 30 feet.
- [4] Maximum height: 30 feet.

## (c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure front line.
- [2] Side yard setback: 15 feet.
- [3] Rear yard setback: 15 feet.
- [4] Maximum height: 15 feet.

## (5) R-40 Nonresidential lot and structure dimensional requirements.

## (a) Lot.

- [1] Area, minimum: 80,000 square feet.
- [2] Width, minimum: 150 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

## (b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 50 feet.
- [2] Side yard minimum:
  - [a] One side: 15% lot width.
  - [b] Total both sides: 30% lot width.
- [3] Rear yard minimum: 30 feet.
- [4] Maximum height: 30 feet.

## (c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear building line.
- [2] Side yard minimum: 15% lot width.
- [3] Rear yard minimum: 30 feet.
- [4] Maximum height: 15 feet.

**C. R-15 One-Family Residential District (formerly R-1A).**

(1) Intent. *The intent of this district is to permit moderate-density, single-family and supportive nonresidential development on sites in the Town served by both public water and sewer.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] One-family dwelling.

(b) Planning Board site plan approval:

[1] Park/playground (private).

(c) Planning Board special permit approval:

[1] School.	[4] Library.
[2] Day-care center.	[5] Community center.
[3] Religious institution.	[6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

[1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.  
 [2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

<i>(a) Definitions:</i>	<i>see Article II.</i>
<i>(b) Accessory uses and structures:</i>	<i>see § 230-20A.</i>
<i>(c) Lot: structure dimensional exemptions:</i>	<i>see § 230-20B.</i>
<i>(d) Parking:</i>	<i>see § 230-21.</i>
<i>(e) Signs:</i>	<i>see § 230-22.</i>
<i>(f) Utility substation:</i>	<i>see § 230-27.</i>
<i>(g) Highway Overlay Zone:</i>	<i>see § 230-19.</i>
<i>(h) Animals, pets:</i>	<i>see § 230-20A.</i>

- (4) R-15 Residential lot and structure dimensional requirements.
- (a) Lot.
    - [1] Area, minimum: 15,000 square feet.
    - [2] Width, minimum: 80 feet.
    - [3] Depth, minimum (feet): n/a.
    - [4] Coverage, maximum (%): n/a.
  - (b) Principal structure and attached accessory structures.
    - [1] Front yard minimum: 25 feet.
    - [2] Side yard minimum:
      - [a] One side: 10% lot width.
      - [b] Total both sides: 25% lot width.
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 30 feet.
  - (c) Accessory structures, detached.
    - [1] Front yard minimum: existing principal structure front line.
    - [2] Side yard setback: 10% lot width.
    - [3] Rear yard setback: 10 feet.
    - [4] Maximum height: 12 feet.
- (5) R-15 Nonresidential lot and structure dimensional requirements.
- (a) Lot.
    - [1] Area, minimum: based on design, parking, yards, etc.
    - [2] Width, minimum: 80 feet.
    - [3] Depth, minimum (feet): n/a.
    - [4] Coverage, maximum (%): n/a.
  - (b) Principal structure and attached accessory structures.
    - [1] Front yard minimum: 25 feet.
    - [2] Side yard minimum:
      - [a] One side: 15% lot width.
      - [b] Total both sides: 30% lot width.
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 30 feet.
  - (c) Accessory structures, detached.
    - [1] Front yard minimum: existing principal structure rear building line.
    - [2] Side yard minimum: 15% lot width.
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 15 feet.

**D. R-10 One-Family Residential District (formerly R-1).**

(1) Intent. *This district is intended to permit higher density, single-family uses and supportive nonresidential development on sites in the Town served by both public water and sewer.*

(2) Uses allowed:

- (a) Office of Planning and Development issuing a building permit:  
[1] One-family dwelling.
- (b) Planning Board site plan approval:  
[1] Park/playground (private).
- (c) Planning Board special permit approval:  
[1] School. [4] Library.  
[2] Day-care center. [5] Community center.  
[3] Religious institution. [6] Marina, private.
- (d) ZBA special permit approval and optional advisory referral to the Planning Board:  
[1] Home occupation.
- (e) Town Board special permit approval and optional advisory referral to the Planning Board:  
[1] Emergency vehicle station.  
[2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* see Article II.
- (b) *Accessory uses and structures:* see § 230-20A.
- (c) *Lot: structure dimensional exemptions:* see § 230-20B.
- (d) *Parking:* see § 230-21.
- (e) *Signs:* see § 230-22.
- (f) *Utility substation:* see § 230-27.
- (g) *Highway Overlay Zone:* see § 230-19.
- (h) *Animals, pets:* see § 230-20A.

## (4) R-10 residential lot and structure dimensional requirements.

- (a) Lot.
  - [1] Area, minimum: 10, 000 square feet.
  - [2] Width, minimum: 75 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum (%): n/a.
  
- (b) Principal structure and attached accessory structures.
  - [1] Front yard minimum: 25 feet.
  - [2] Side yard minimum:
    - [a] One side: 10% lot width.
    - [b] Total both sides: 25% lot width.
  - [3] Rear yard minimum: 10 feet.
  - [4] Maximum height: 30 feet.
  
- (c) Accessory structures, detached.
  - [1] Front yard minimum: existing principal structure front line.
  - [2] Side yard setback: 10% lot width.
  - [3] Rear yard setback: 10 feet.
  - [4] Maximum height: 12 feet.

## (5) R-10 nonresidential lot and structure dimensional requirements.

- (a) Lot.
  - [1] Area, minimum: based on design, parking, yards, etc.
  - [2] Width, minimum: 75 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum (%): n/a.
  
- (b) Principal structure and attached accessory structures.
  - [1] Front yard minimum: 25 feet.
  - [2] Side yard minimum:
    - [a] One side: 15% lot width.
    - [b] Total both sides: 30% lot width.
  - [3] Rear yard minimum: 10 feet.
  - [4] Maximum height: 30 feet.
  
- (c) Accessory structures, detached.
  - [1] Front yard minimum: existing principal structure rear building line.
  - [2] Side yard minimum: 15% lot width.
  - [3] Rear yard minimum: 10 feet.
  - [4] Maximum height: 15 feet.

**E. R-7.5 One-Family Residential District (formerly R-2).**

(1) Intent. *The intent of this district is to preserve existing high-density, single-family uses and supportive nonresidential development in areas served by both public water and sewers. This district may be applied, only in such cases, where it is demonstrated that the development density is compatible and appropriate to the affected lands and the surrounding neighborhoods.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] One-family dwelling.

(b) Planning Board site plan approval:

[1] Park/playground (private).

(c) Planning Board special permit approval:

[1] School.	[4] Library.
[2] Day-care center.	[5] Community center
[3] Religious institution.	[6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

[1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.  
 [2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

(a) <i>Definitions:</i>	<i>see Article II.</i>
(b) <i>Accessory uses and structures:</i>	<i>see § 230-20A.</i>
(c) <i>Lot: structure dimensional exemptions:</i>	<i>see § 230-20B.</i>
(d) <i>Parking:</i>	<i>see § 230-21.</i>
(e) <i>Signs:</i>	<i>see § 230-22.</i>
(f) <i>Utility substation:</i>	<i>see § 230-27.</i>
(g) <i>Highway Overlay Zone:</i>	<i>see § 230-19.</i>
(h) <i>Animals, pets:</i>	<i>see § 230-20A.</i>

(4) R-7.5 residential lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: 7,500 square feet.
- [2] Width, minimum: 70 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 25 feet.
- [2] Side yard minimum:
  - [a] One side: 10% lot width.
  - [b] Total both sides: 25% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 30 feet.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure front line.
- [2] Side yard setback: 10% lot width.
- [3] Rear yard setback: 10 feet.
- [4] Maximum height: 12 feet.

(5) R-7.5 nonresidential lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: based on design, parking, yards, etc.
- [2] Width, minimum: 70 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum 25 feet.
- [2] Side yard minimum:
  - [a] One side: 15% lot width.
  - [b] Total both sides: 30% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 30 feet.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear building line.
- [2] Side yard minimum: 15% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 12 feet.

**F. R-2F Two-Family Residential District (formerly R-3).**

(1) Intent. *The intent of this district is to permit single- and two-family dwellings and supportive nonresidential development on sites served by both public water and sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

- [1] One-family dwelling.
- [2] Two-family dwelling.

(b) Planning Board site plan approval:

- [1] Park/playground (private).

(d) Planning Board special permit approval:

- [1] School.
- [2] Day-care center.
- [3] Religious institution.
- [4] Library.
- [5] Community center.
- [6] Marina, private.

(e) ZBA special permit approval and optional advisory referral to the Planning Board:

- [1] Home occupation.

(f) Town Board special permit approval and optional advisory referral to the Planning Board:

- [1] Emergency vehicle station.
- [2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* *see Article II.*
- (b) *Accessory uses and structures:* *see § 230-20A.*
- (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
- (d) *Parking:* *see § 230-21.*
- (e) *Signs:* *see § 230-22.*
- (f) *Utility substation:* *see § 230-27.*
- (g) *Highway Overlay Zone:* *see § 230-19.*
- (h) *Animals, pets:* *see § 230-20A.*

(4) R-2F residential lot and structure dimensional requirements.

(a) Lot.

		One-family	Two-family
[1]	Area, minimum	10,000 sq. ft.	15,000 sq. ft.
[2]	Width, minimum	80 ft.	80 ft.
[3]	Depth, minimum (feet)	n/a	
[4]	Coverage, maximum (%)	n/a	

(b) Principal structure and attached accessory structures (one- and two-family dwellings).

- [1] Front yard minimum: 25 feet.
- [2] Side yard minimum:
  - [a] One side: 10% lot width.
  - [b] Total both sides: 25% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 30 feet.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure front line.
- [2] Side yard setback: 10% lot width.
- [3] Rear yard setback: 10 feet.
- [4] Maximum height: 12 feet.

(5) R-2F nonresidential lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: based on design, parking, yards, etc.
- [2] Width, minimum: 80 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 25 feet.
- [2] Side yard minimum:
  - [a] One side: 15% lot width.
  - [b] Total both sides: 30% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 30 feet.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear building line.
- [2] Side yard minimum: 15% lot width.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height: 12 feet.

**G. R-TH Townhouse District (formerly R-5).**

(1) Intent. *The intent of this district is to permit residential and supportive nonresidential development on sites in townhouse arrangements served by both public water and sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] Townhouse.

(b) Planning Board site plan approval:

[1] Park/playground (private).

(c) Planning Board special permit approval:

[1] School.	[4] Library.
[2] Day-care center.	[5] Community center.
[3] Religious institution.	[6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

[1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.  
 [2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

(a) <i>Definitions:</i>	<i>see Article II.</i>
(b) <i>Accessory uses and structures:</i>	<i>see § 230-20A.</i>
(c) <i>Lot: structure dimensional exemptions:</i>	<i>see § 230-20B.</i>
(d) <i>Parking:</i>	<i>see § 230-21.</i>
(e) <i>Signs:</i>	<i>see § 230-22.</i>
(f) <i>Utility substation:</i>	<i>see § 230-27.</i>
(g) <i>Highway Overlay Zone:</i>	<i>see § 230-19.</i>
(h) <i>Animals, pets:</i>	<i>see § 230-20A.</i>

- (4) R-TH residential lot and structure dimensional requirements.
- (a) Site requirements.
    - [1] Minimum size parcel under development: three acres.
    - [2] Minimum average gross land area/unit: 6,000 square feet.
  - (b) Lot.
    - [1] Area, minimum per dwelling unit: 1,600 square feet.
    - [2] Width, minimum of unit: 16 feet.
    - [3] Depth, minimum (feet): n/a.
    - [4] Coverage, maximum (%): n/a.
  - (c) Principal structure and attached accessory structures.
    - [1] Front yard minimum: 20 feet.
    - [2] Side yard minimum:
      - [a] Building, one side: 20 feet.
      - [b] Building, total: 60 feet.
      - [c] Internal townhouse units: 0 feet (subject to NYSFPBC standards).
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 30 feet.
    - [5] Minimum distance between buildings: 40 feet.
  - (d) Accessory structures, detached.
    - [1] Front yard minimum: existing principal structure front line.
    - [2] Side yard setback: same as principal structure.
    - [3] Rear yard setback: 10 feet.
    - [4] Maximum height: 12 feet.
- (5) R-TH nonresidential lot and structure dimensional requirements.
- (a) Lot.
    - [1] Area, minimum: based on design, parking, yards, etc.
    - [2] Width, minimum (feet): n/a.
    - [3] Depth, minimum (feet): n/a.
    - [4] Coverage, maximum (%): n/a.
  - (b) Principal structure and attached accessory structures.
    - [1] Front yard minimum: 20 feet.
    - [2] Side yard minimum:
      - [a] One side: 15% lot width.
      - [b] Total both sides: 30% lot width.
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 30 feet.
  - (c) Accessory structures, detached.
    - [1] Front yard minimum: existing principal structure rear building line.
    - [2] Side yard minimum: 15% lot width.
    - [3] Rear yard minimum: 10 feet.
    - [4] Maximum height: 12 feet.

**H. R-APT Apartment District (formerly R-4).**

(1) Intent. *The intent of this district is to permit multiple-family residential and supportive nonresidential development on sites served by both public water and sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] none.

(b) Planning Board site plan approval:

[1] Multiple-family dwelling.  
 [2] Park/playground (private).

(c) Planning Board special permit approval:

[1] School. [4] Library.  
 [2] Day-care center. [5] Community center.  
 [3] Religious institution. [6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board:

[1] Home occupation.

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.  
 [2] Outdoor recreation - participant.  
 [3] Nursing home/assisted-living facility.

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* *see Article II.*
- (b) *Accessory uses and structures:* *see § 230-20A.*
- (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
- (d) *Parking:* *see § 230-21.*
- (e) *Signs:* *see § 230-22.*
- (f) *Utility substation:* *see § 230-27.*
- (g) *Highway Overlay Zone:* *see § 230-19.*
- (h) *Animals, pets:* *see § 230-20A.*

(4) R-Apt residential lot and structure dimensional requirements.

(a) Lot.

	<u>1 bdrm apt.</u>	<u>2 bdrm apt.</u>	<u>3 bdrm apt.</u>
Area, minimum per dwelling unit	based on calculation of density, parking, yards, etc. 6,000 sq. ft.   6,750 sq. ft.   7,500 sq. ft.		
Width, minimum (ft.)	n/a		
Depth, minimum (ft.)	n/a		
Coverage, maximum (%)	n/a		

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 35 feet.
- [2] Side yard minimum:
  - [a] One side: 33.3% total required side yard feet.
  - [b] Total both sides: 60 feet plus four feet per each one foot of building height over 35 feet.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height (feet): n/a.
- [5] Minimum distance between buildings: 40 feet.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure front line.
- [2] Side yard setback: 33.3% total required side yard feet.
- [3] Rear yard setback: 25 feet.
- [4] Maximum height: 15 feet.

(5) R-Apt nonresidential lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: based on design, parking, yards, etc.
- [2] Width, minimum: based on design, parking, yards, etc.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 35 feet.
- [2] Side yard minimum:
  - [a] One side: 15% lot width.
  - [b] Total both sides: 30% lot width.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height (feet): n/a.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear building line.
- [2] Side yard minimum: 15% lot width.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height: 15 feet.

**I. R-MHC Mobile Home Court District (formerly T-2).**

(1) Intent. *This district accommodates an organized and managed grouping of individual mobile home units in portions of the Town served by public water and sewers.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit:

[1] Manufactured home.

(b) Planning Board site plan approval:

[1] Mobile home court.

[2] Park/playground (private).

(c) Planning Board special permit approval:

[1] School.

[4] Library.

[2] Day-care center.

[5] Community center.

[3] Religious institution.

[6] Marina, private.

(d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

[1] Emergency vehicle station.

[2] Outdoor recreation - participant.

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* *see Article II.*
- (b) *Accessory uses and structures:* *see § 230-20A.*
- (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
- (d) *Parking:* *see § 230-21.*
- (e) *Signs:* *see § 230-22.*
- (f) *Utility substation:* *see § 230-27.*
- (g) *Highway Overlay Zone:* *see § 230-19.*
- (h) *Animals, pets:* *see § 230-20A.*

- (4) R-MHC residential lot and structure dimensional requirements.
- (a) Site requirements.
- [1] Minimum parcel size for development: capacity for at least 100 mobile home units meeting all applicable requirements of this code.
- [2] Minimum gross land area/mobile home unit: 7,000 square feet/unit.
- [3] Minimum portion of gross land area as an on-site recreation area: not less than 700 square feet/unit.
- (b) For purposes of interpretation and enforcement, leased land areas established for occupancy by dwelling units shall be considered a lot as defined in this code. Any applicable dimensional standards shall apply to both principal and accessory structures.
- (c) See provisions of Chapter 144, Mobile Home Courts.
- (5) R-MHC nonresidential lot and structure dimensional requirements.
- (a) Lot.
- [1] Area, minimum: based on design, parking, yards, etc.
- [2] Width, minimum (feet): n/a.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum (%): n/a.
- (b) Principal structure and attached accessory structures.
- [1] Front yard minimum: 20 feet.
- [2] Side yard minimum:
- [a] One side: 33.3% total required side yard.
- [b] Total both sides: 60 feet plus four feet per each one foot of building height over 35 feet.
- [3] Rear yard minimum: 10 feet.
- [4] Maximum height (feet): n/a.
- (c) Accessory structures, detached.
- [1] Front yard minimum: existing principal structure front line.
- [2] Side yard setback: 33.3% total required side yard.
- [3] Rear yard setback: 10 feet.
- [4] Maximum height: 12 feet.

**J. LuR Limited Use for Riverfront (formerly T-3).**

- (1) *Intent. It is the intent to maintain in this district the quality of environment generally associated with small, narrow riverfront lots improved with one-family dwellings. This district is intended to accommodate the community needs, particularly of those riverfront areas or tracts which were created by default through the temporary occupancy permit system of the State of New York and, later on, from grants of these lots to the permit holders. For purposes of illustration of such intent, reference is made to the "Brewerton South Shore Tract," as more fully shown on a boundary survey map made by Richard J. Chiesa, licensed land surveyor, filed in the Onondaga County Clerk's office on June 11, 1984, as Map No. 6179, consisting of three sheets.*
- (2) Uses permitted:
  - (a) One-family dwelling, provided that each lot shall have river frontage.
  - (b) Not more than one dwelling structure shall be permitted on a single lot at any time.
  - (c) Accessory structures limited to: boat dock, waterfront deck, single-car garage and one accessory building not to exceed 100 square feet.
- (3) Uses prohibited:
  - (a) All other uses.
- (4) Lot sizes and yards. Every lot shall meet the following minimum requirements:
  - (a) Yard depth from mean water level at river shore: 40 feet.
  - (b) Yard depth from edge of paved or graveled edge of road: 25 feet.
  - (c) Each side yard width: eight feet.
  - (d) Lot width measured at midpoints of side lines: 50 feet.
  - (e) Minimum lot area: 7,500 square feet.

**§ 230-14. Recreation Districts.**

Architectural review standards. The design, construction and materials of all structures in this district shall demonstrate compatibility to adjacent residential developments. Such factors may include architectural style of the building and its massing, roofline, exterior facade materials, color of materials, windows, doors and service areas and other aspects of the building design.

**A. Rec-1 Recreation District (based on C-9).**

(1) Intent. *The intent of this District is to preserve and enhance the quality of existing or planned residential areas. It allows for a variety of community and recreational uses to serve the needs of the residents of the Town. Uses and structures within this District shall emphasize the scale and design of any proposed uses to ensure compatibility with existing or planned residential development.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit: (reserved)

(b) Planning Board site plan approval:

- |                                       |  |
|---------------------------------------|--|
| [1] School.                           | [8] Indoor recreation - participant.           |
| [2] Day-care center.                  | [9] Indoor recreation - spectator.             |
| [3] Religious institution.            | [10] Secondary use (retail, restaurant, etc.). |
| [4] Library.                          | [11] Marina, private.                          |
| [5] Community center.                 | [12] Marina, public.                           |
| [6] Outdoor recreation - participant. | [13] Instructional facility.                   |
| [7] Outdoor recreation - spectator.   | [14] Park/playground (private).                |

(c) Planning Board special permit approval: (reserved)

(d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

- [1] Emergency vehicle station.

(3) Cross-reference to other commonly used regulations; see sections noted:

- |   |                        |
|---|------------------------|
| (a) <i>Definitions:</i>                           | <i>see Article II.</i> |
| (b) <i>Accessory uses and structures:</i>         | <i>see § 230-20A.</i>  |
| (c) <i>Lot: structure dimensional exemptions:</i> | <i>see § 230-20B.</i>  |
| (d) <i>Parking:</i>                               | <i>see § 230-21.</i>   |
| (e) <i>Signs:</i>                                 | <i>see § 230-22.</i>   |
| (f) <i>Utility substation:</i>                    | <i>see § 230-27.</i>   |
| (g) <i>Highway Overlay Zone:</i>                  | <i>see § 230-19.</i>   |

- (4) Rec-1 lot and structure dimensional requirements.
- (a) Lot.
- [1] Area, minimum: 40, 000 square feet.
  - [2] Width, minimum: 150 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum building: 60%.
  - [5] Coverage, maximum total (%): n/a.
- (b) Principal structure and attached accessory structures.
- [1] Front yard minimum: 75 feet.
  - [2] Side yard minimum:
    - [a] One side: 50 feet.
    - [b] Total both sides: 100 feet.
  - [3] Rear yard minimum: 50 feet.
  - [4] Maximum height: 35 feet.
  - [5] Maximum gross floor area (square feet): n/a.
  - [6] Maximum number of floors: n/a.
- (c) Accessory structures: detached.
- [1] Front yard minimum: existing principal structure rear building line.
  - [2] Side yard setback: 25 feet.
  - [3] Rear yard setback: 25 feet.
  - [4] Maximum height: 30 feet.
- (5) Rec-1 supplemental district design standards.
- (a) Perimeter landscape strip: 25 feet.
  - (b) Additional setback where abutting residential district: 50 feet.
  - (c) Structure design, scale and materials: subject to site plan review; shall reflect and be sympathetic to the existing or planned character of residential structures in the surrounding area.

**blank page**

**§ 230-15. Office Districts.**

Architectural review standards. The design, construction and materials of all structures in this district shall demonstrate compatibility to adjacent residential developments. Such factors may include architectural style of the building and its massing, roofline, exterior facade materials, color of materials, windows, doors and service areas and other aspects of the building design

**A. O-1 Neighborhood Office District (based on R-6).**

- (1) Intent. *The intent of this district is to preserve the existing residential quality of the surrounding area while permitting alternative and compatible office development on selected sites that may not be suitable for residential use. This district shall emphasize the scale and design of any proposed office uses to ensure compatibility with existing or planned residential development.*
  
- (2) Uses allowed:
  - (a) Office of Planning and Development issuing a building permit: (reserved)
  
  - (b) Planning Board site plan approval:
    - [1] Office building.
    - [2] Park/playground (private).
    - [3] Instructional Facility
  
  - (c) Planning Board special permit approval:
    - [1] Medical office.
    - [2] Day-care center.
  
  - (d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)
  
  - (e) Town Board special permit approval and optional advisory referral to the Planning Board: (reserved)
  
- (3) Cross-reference to other commonly used regulations; see sections noted:
  - (a) *Definitions:* *see Article II.*
  - (b) *Accessory uses and structures:* *see § 230-20A.*
  - (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
  - (d) *Parking:* *see § 230-21.*
  - (e) *Signs:* *see § 230-22.*
  - (f) *Utility substation:* *see § 230-27.*
  - (g) *Highway Overlay Zone:* *see § 230-19.*

## (4) O-1 lot and structure dimensional requirements.

## (a) Lot.

- |     |                             |                     |
|-----|-----------------------------|---------------------|
| [1] | Area, minimum:              | 20,000 square feet. |
| [2] | Width, minimum:             | 100 feet.           |
| [3] | Depth, minimum (feet):      | n/a.                |
| [4] | Coverage, maximum building: | 25%.                |
| [5] | Coverage, maximum total:    | 60%.                |

## (b) Principal structure and attached accessory structures.

- |     |  |                                  |
|-----|--|----------------------------------|
| [1] | Front yard minimum:                    | 35 feet.                         |
| [2] | Side yard minimum:                     |                                  |
|     | [a]                                    | One side: 10% lot width.         |
|     | [b]                                    | Total both sides: 25% lot width. |
| [3] | Rear yard minimum:                     | 20 feet.                         |
| [4] | Maximum height:                        | 30 feet.                         |
| [5] | Maximum number of floors:              | two.                             |
| [6] | Maximum number of principal buildings: | one.                             |
| [7] | Maximum gross floor area:              | 4,000 square feet.               |

## (c) Accessory structures, detached.

- |     |                     |  |
|-----|---------------------|--|
| [1] | Front yard minimum: | existing principal structure rear building line. |
| [2] | Side yard setback:  | 10% lot width.                                   |
| [3] | Rear yard setback:  | 20 feet.   |
| [4] | Maximum height:     | 15 feet.   |
| [5] | Maximum floor area: | 500 square feet.                                 |

## (5) O-1 supplemental district design standards.

- |     |   |   |
|-----|---|---|
| (a) | Perimeter landscape strip:                              | 15 feet.  |
| (b) | Additional setback where abutting residential district: | 25 feet.  |
| (c) | Structure design, scale and materials:                  | subject to site plan review; shall reflect and be sympathetic to the existing or planned character of residential structures in the surrounding area. |

**B. O-2 Office (based on C-1 and R-7).**

(1) Intent. *The intent of this district is to preserve the existing residential quality along portions of major roads within the Town. It shall also respect the general character of the surrounding area while permitting alternative and compatible office development on selected sites that are not suitable for residential use. This district shall emphasize the scale and design of any proposed office uses to ensure compatibility with existing or planned residential development.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit: (reserved)

(b) Planning Board site plan approval:

- [1] Office building.
- [2] Park/playground (private).
- [3] Instructional Facility.

(c) Planning Board special permit approval:

- [1] School.
- [2] Day-care center.
- [3] Religious institution.
- [4] Library.
- [5] Community center.

(d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

- [1] Emergency vehicle station.
- [2] Bank/credit union.
- [3] Medical office.
- [4] Drive-in service.
- [5] Secondary use.

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* *see Article II.*
- (b) *Accessory uses and structures:* *see § 230-20A.*
- (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
- (d) *Parking:* *see § 230-21.*
- (e) *Signs:* *see § 230-22.*
- (f) *Utility substation:* *see § 230-27.*
- (g) *Highway Overlay Zone:* *see § 230-19.*

- (4) O-2 lot and structure dimensional requirements.
- (a) Lot.
- [1] Area, minimum: 40, 000 square feet.
  - [2] Width, minimum: 100 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum building: 30%.
  - [5] Coverage, maximum total: 70%.
  - [6] Maximum gross floor area/lot (square feet): n/a.
- (b) Principal structure and attached accessory structures.
- [1] Front yard minimum: 35 feet.
  - [2] Side yard minimum:
    - [a] One side: 25 feet.
    - [b] Total both sides: 75 feet.
  - [3] Rear yard minimum: 50 feet.
  - [4] Maximum height: 30 feet.
  - [5] Maximum number of floors: two.
- (c) Accessory structures, detached.
- [1] Front yard minimum: existing principal structure rear line.
  - [2] Side yard setback: 10 feet.
  - [3] Rear yard setback: 10 feet.
  - [4] Maximum height: 15 feet.
- (5) O-2 supplemental district design standards.
- (a) Perimeter landscape strip: 15 feet.
  - (b) Additional setback where abutting residential district: 25 feet.
  - (c) Structure design, scale and materials: subject to site plan review; shall reflect and be sympathetic to the existing or planned character of residential structures in the surrounding area.
  - (d) Office parks and multiple buildings on one lot. More than one principal land use and/or principal structure is permitted in this district, subject, if applicable, to subdivision review and to site plan review for each lot development.

**blank page**

**§ 230-16. Commercial Districts.**

Architectural review standards. The design, construction and materials of all structures in this district shall demonstrate compatibility to adjacent residential developments. Such factors may include architectural style of the building and its massing, roofline, exterior facade materials, color of materials, windows, doors and service areas and other aspects of the building design.

**A. NC-1 Neighborhood Commercial District (based on C-2).**

(1) Intent. *It is the intent to maintain in NC-1 Districts the quality of environment that is usually found in areas of commercial use often located near residential neighborhoods. The intensity and scale of the uses, lots and structures are intended to be compatible to nearby residential areas. Compatibility of site development shall be enhanced by encouraging adequate provisions for landscaped open space, attractive architecture and other amenities.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit: (reserved)

(b) Planning Board site plan approval:

- |   |                             |
|---|-----------------------------|
| [1] Retail use (less than 5,000 square feet). | [4] Bank/credit union.      |
| [2] Personal service use.                     | [5] Medical office.         |
| [3] Office building.                          | [6] Instructional facility. |
|   | [7] Day-care center         |

(c) Planning Board special permit approval: (reserved)

(c) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(d) Town Board special permit approval and optional advisory referral to the Planning Board:

- |  |   |
|--|---|
| [1] Emergency vehicle station.             | [4] Retail use (5,000 to 15,000 square feet). |
| [2] Hospital/clinic.                       | [5] Drive-in service.                         |
| [3] Nursing home/assisted-living facility. | [6] Secondary use.                            |

(3) Cross-reference to other commonly used regulations; see sections noted:

- |   |                        |
|---|------------------------|
| (a) <i>Definitions:</i>                           | <i>see Article II.</i> |
| (b) <i>Accessory uses and structures:</i>         | <i>see § 230-20A.</i>  |
| (c) <i>Lot: structure dimensional exemptions:</i> | <i>see § 230-20B.</i>  |
| (d) <i>Parking:</i>                               | <i>see § 230-21.</i>   |
| (e) <i>Signs:</i>                                 | <i>see § 230-22.</i>   |
| (f) <i>Utility substation:</i>                    | <i>see § 230-27.</i>   |
| (g) <i>Highway Overlay Zone:</i>                  | <i>see § 230-19.</i>   |

(4) NC-1 lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: 40,000 square feet.
- [2] Width, minimum: 150 feet.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum building (%): n/a.
- [5] Coverage, maximum total (%): n/a.
- [6] Maximum gross floor area/lot: 15,000 square feet.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 50 feet.
- [2] Side yard minimum:
  - [a] One side: 25 feet.
  - [b] Total both sides: 50 feet.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height: 30 feet.
- [5] Maximum number of floors: two.
- [6] Maximum number of principal structures: n/a.

(c) Accessory structures, detached.

- [1] Front yard minimum: 50 feet.
- [2] Side yard setback: 25 feet.
- [3] Rear yard setback: 25 feet.
- [4] Maximum height: 15 feet.

(5) NC-1 supplemental district design standards.

- (a) Perimeter landscape strip: 10 feet.
- (b) Additional setback where abutting residential district: 25 feet.
- (c) Lot and structure design, scale and materials: subject to site plan review; shall reflect and be consistent with the existing or planned character of the surrounding area.
- (d) Multiple buildings on one lot. More than one principal land use and/or principal structure is permitted in this district, subject, if applicable, to subdivision review and to site plan review for each lot development.

**B. HC-1 Highway Commercial (based on C-2).**

(1) Intent.

(a) *It is the intent to maintain in this district the quality of environment that is usually found in areas of commercial use often located near, but generally not immediately adjacent to, residential neighborhoods. The intensity and scale of the uses, lots and structures are intended to be commensurate to moderately concentrated business areas.*

(b) *Development in these districts should be designed so as to be compatible with the general characteristics which exist or are to be expected in the nearby neighborhoods, such as open space, green areas, landscaping and architecture.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit: (reserved)

(b) Planning Board site plan approval:

- |                           |                                  |                                       |
|---------------------------|----------------------------------|---------------------------------------|
| [1] Retail use.           | [5] Theater, indoor              | [9] Outdoor retail sales and service. |
| [2] Personal service use. | [6] Shopping center              |                                       |
| [3] Office building.      | [7] Public self-storage facility | [10] Day-care center                  |
| [4] Bank/credit union.    | [8] Medical office               | [11] Instructional Facility           |

(c) Planning Board special permit approval:

- [1] Hospital/clinic.
- [2] Nursing home/assisted-living facility.
- [3] Secondary use.

(d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

- |  |                               |
|--|-------------------------------|
| [1] Emergency vehicle station.               | [5] Drive-in service.         |
| [2] Restaurant.                              | [6] Hotel/motel.              |
| [3] Automobile car wash facility.            | [7] Veterinary care facility. |
| [4] Motor vehicle sales, service and rental. |                               |

(3) Cross-reference to other commonly used regulations; see sections noted:

- (a) *Definitions:* *see Article II.*
- (b) *Accessory uses and structures:* *see § 230-20A.*
- (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
- (d) *Parking:* *see § 230-21.*
- (e) *Signs:* *see § 230-22.*
- (f) *Utility substation:* *see § 230-27.*
- (g) *Highway Overlay Zone:* *see § 230-19.*

(4) HC-1 lot and structure dimensional requirements.

- (a) Lot.
  - [1] Area, minimum: 80,000 square feet.
  - [2] Width, minimum: 200 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum building (%): n/a.
  - [5] Coverage, maximum total (%): n/a.
  - [6] Maximum gross floor area/lot: 30,000 square feet.
  
- (b) Principal structure and attached accessory structures.
  - [1] Front yard minimum: 75 feet.
  - [2] Side yard minimum:
    - [a] One side: 50 feet.
    - [b] Total both sides: 100 feet.
  - [3] Rear yard minimum: 50 feet.
  - [4] Maximum height: 35 feet.
  - [5] Maximum number of floors: two.
  - [6] Maximum number of principal structures: n/a.
  
- (c) Accessory structures, detached.
  - [1] Front yard minimum: 75 feet.
  - [2] Side yard setback: 50 feet.
  - [3] Rear yard setback: 50 feet.
  - [4] Maximum height: 25 feet.

(5) HC-1 supplemental district design standards.

- (a) Perimeter landscape strip: 20 feet.
- (b) Additional setback where abutting residential district: 30 feet.
- (c) Lot and structure design, scale and materials: subject to site plan review; shall reflect and be consistent with the existing or planned character of the surrounding area.
- (d) Multiple buildings on one lot. More than one principal land use and/or principal structure is permitted in this district, subject, if applicable, to subdivision review and to site plan review for each lot development.

**C. RC-1 Regional Commercial (based on C-3, -5, -7 and -10).**

(1) *Intent. This district is intended to allow for diverse, large-scale commercial development of potentially multiple lots, structures and uses arranged in a planned and coordinated manner. Such development shall be treated as a unified development maintaining coordinated site management of shared parking, signage and similar site improvements. This district shall emphasize design to ensure compatibility with adjoining properties, land uses, public facilities and environmental features and, therefore, each shopping center complex shall conform to both district and individual lot development standards.*

(2) Uses allowed:

(a) Office of Planning and Development issuing a building permit: (reserved)

(b) Planning Board site plan approval:

- |                           |  |  |
|---------------------------|--|--|
| [1] Shopping center.      | [7] Theater, indoor.                         | [12] Public self-storage facility.     |
| [2] Retail use.           | [8] Motel/hotel.                             | [13] Outdoor retail sales and service. |
| [3] Personal service use. | [9] Medical office                           |  |
| [4] Office building.      | [10] Hospital/clinic.                        | [14] Veterinary care facility.         |
| [5] Bank/credit union.    | [11] Nursing home/ assisted-living facility. | [15] Day-care center                   |
| [6] Restaurant.           |  | [16] Instructional facility.           |

(c) Planning Board special permit approval: (reserved)

(d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)

(e) Town Board special permit approval and optional advisory referral to the Planning Board:

- |                                   |  |
|-----------------------------------|--|
| [1] Emergency vehicle station.    | [4] Motor vehicle sales, rental and service. |
| [2] Drive-in service.             | [5] Gasoline service station.                |
| [3] Automobile car wash facility. | [6] Nightclub/dance hall.                    |

(3) Cross-reference to other commonly used regulations; see sections noted:

- |   |                        |
|---|------------------------|
| (a) <i>Definitions:</i>                           | <i>see Article II.</i> |
| (b) <i>Accessory uses and structures:</i>         | <i>see § 230-20A.</i>  |
| (c) <i>Lot: structure dimensional exemptions:</i> | <i>see § 230-20B.</i>  |
| (d) <i>Parking:</i>                               | <i>see § 230-21.</i>   |
| (e) <i>Signs:</i>                                 | <i>see § 230-22.</i>   |
| (f) <i>Utility substation:</i>                    | <i>see § 230-27.</i>   |
| (g) <i>Highway Overlay Zone:</i>                  | <i>see § 230-19.</i>   |

- (4) RC-1 lot and structure dimensional requirements.
  - (a) RC site.
    - [1] The following site requirements shall supersede and override any of the following individual lot or structure requirements and shall collectively apply to all lots within the complex:
      - [a] Minimum site area: five acres.
      - [b] Site perimeter landscape strip: 30 feet.
      - [c] Additional site perimeter landscape strip abutting residential districts: 50 feet.
      - [d] Cumulative coverage structure and pavement: 75%.
    - [2] Required yards for an RC site shall apply to all principal uses and structures within the RC site. These yards are determined in the same manner as yards for an individual lot. These yards shall include within the same space any perimeter landscape strip required above. These site requirements shall apply to RC sites occupied by a single principal use or multiple principal uses.
      - [a] Front yard: 100 feet.
      - [b] Side yard (each): 75 feet.
      - [c] Rear yard: 75 feet.
- (5) RC-1 individual lot standards.
  - (a) Lot.
    - [1] Area, minimum (square feet): n/a.
    - [2] Width, minimum (feet): n/a.
    - [3] Depth, minimum (feet): n/a.
    - [4] Coverage, maximum building (%): n/a.
    - [5] Coverage, maximum total: 100%.
    - [6] Maximum gross floor area (square feet): n/a.
  - (b) Principal structure and attached accessory structures. These requirements apply to all structures within an RC-1 shopping center site:
    - [1] Front yard minimum: zero feet.
    - [2] Side yard minimum:
      - [a] One side: zero feet.
      - [b] Total both sides: zero feet.
    - [3] Rear yard minimum: zero feet.
    - [4] Maximum height:
      - [a] Office building, motel/hotel, hospital/clinic, nursing home/assisted-living facility: 50 feet.
      - [b] All other uses: 35 feet.
    - [5] Maximum number of floors: four.
  - (c) Accessory structures, detached:
    - [1] Front yard minimum: zero feet.
    - [2] Side yard setback: zero feet.
    - [3] Rear yard setback: zero feet.
    - [4] Maximum height: same as principal structure.
- (6) RC-1 supplemental district design standards.
  - (a) Individual lot perimeter landscape strip: subject to site plan review.
  - (b) Additional setback where abutting residential district (feet): n/a.
  - (c) Lot and structure design, scale and materials: subject to site plan review.
  - (d) Multiple principal uses or structures are permitted, subject to site plan and/or subdivision review, if applicable.

**D. LuC-1 Limited Use District for Gasoline Services (based on C-4).**

- (1) Intent. *The intent of this district is to augment the uses of existing or planned general commercial districts with the enumerated limited uses. In this district, it allows for the inclusion of motor vehicle and gasoline service facilities to serve the residents, employees and customers of surrounding residential neighborhoods or business areas.*
  
- (2) Uses allowed:
  - (a) Office of Planning and Development issuing a building permit: (reserved)
  
  - (b) Planning Board site plan approval:
    - [1] Gasoline service station.
    - [2] Accessory uses related to the gasoline service station:
      - [a] Retail service of automobiles conducted inside a structure.
      - [b] Preparation and/or retail sale of food and other convenience store items.
      - [c] Automobile car wash facility.
  
  - (c) Planning Board special permit approval: (reserved)
  
  - (d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)
  
  - (e) Town Board special permit approval and optional advisory referral to the Planning Board:
    - [1] Drive-in service.
  
- (3) Cross-reference to other commonly used regulations; see sections noted:
  - (a) *Definitions:* *see Article II.*
  - (b) *Accessory uses and structures:* *see § 230-20A.*
  - (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
  - (d) *Parking:* *see § 230-21.*
  - (e) *Signs:* *see § 230-22.*
  - (f) *Utility substation:* *see § 230-27.*
  - (g) *Highway Overlay Zone:* *see § 230-19.*

(4) LuC-1 lot and structure dimensional requirements.

- (a) Lot.
  - [1] Area, minimum: 40,000 square feet.
  - [2] Width, minimum: 200 feet.
  - [3] Depth, minimum (feet): n/a.
  - [4] Coverage, maximum building (%): n/a.
  - [5] Coverage, maximum total (%): n/a.

- (b) Principal structure and attached accessory structures.
  - [1] Front yard minimum: 50 feet.
  - [2] Side yard minimum:
    - [a] One side: 25 feet.
    - [b] Total both sides: 50 feet.
  - [3] Rear yard minimum: 25 feet.
  - [4] Maximum height (feet): n/a.
  - [5] Maximum gross floor area (square feet): n/a.
  - [6] Maximum number of floors: n/a.

- (c) Accessory structures, detached.
  - [1] Front yard minimum: existing principal structure rear line.
  - [2] Side yard setback (feet): n/a.
  - [3] Rear yard setback (feet): n/a.
  - [4] Maximum height (feet): n/a.

(5) LuC-1 supplemental district design standards.

- (a) Perimeter landscape strip: 20 feet.
- (b) Additional setback where abutting a residential district: 50 feet (total).
- (c) Lot and structure design, scale and materials: subject to site plan review; shall reflect and be consistent with the existing or planned character of the surrounding area.

**E. LuC-2 Limited Use District for Restaurants (based on C-8).**

- (1) Intent. *The intent of this district is augment the uses of existing or planned general commercial districts with the enumerated limited uses. This district is to allow for restaurant land uses on sites that afford adequate parking, storage and related facilities in a manner that is compatible with the existing or planned character of surrounding commercial or industrial land uses and with minimal or no adverse effect upon public facilities and environmental features.*
  
- (2) Uses allowed:
  - (a) Office of Planning and Development issuing a building permit: (reserved)
  - (b) Planning Board site plan approval:
    - [1] Restaurant.
  - (c) Planning Board special permit approval:
    - [1] Drive-in service.
  - (d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)
  - (e) Town Board special permit approval and optional advisory referral to the Planning Board: (reserved)
  
- (3) Cross-reference to other commonly used regulations; see sections noted:
  - (a) *Definitions:* *see Article II.*
  - (b) *Accessory uses and structures:* *see § 230-20A.*
  - (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
  - (d) *Parking:* *see § 230-21.*
  - (e) *Signs:* *see § 230-22.*
  - (f) *Utility substation:* *see § 230-27.*
  - (g) *Highway Overlay Zone:* *see § 230-19.*

(4) LuC-2 lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum (square feet): n/a.
- [2] Width, minimum (feet): n/a.
- [3] Depth, minimum (feet): n/a.
- [4] Coverage, maximum building (%): n/a.
- [5] Coverage, maximum total (%): n/a.

(b) Principal structure and attached accessory structures.

- [1] Front yard minimum: 50 feet.
- [2] Side yard minimum:
  - [a] One side: 25 feet.
  - [b] Total both sides: 50 feet.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height (feet): n/a.
- [5] Maximum gross floor area (square feet): n/a.
- [6] Maximum number of floors: n/a.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear line.
- [2] Side yard setback (feet): n/a.
- [3] Rear yard setback (feet): n/a.
- [4] Maximum height (feet): n/a.

(5) LuC-2 supplemental district design standards.

- (a) Perimeter landscape strip: 15 feet.
- (b) Additional setback where abutting residential district: 30 feet (total).
- (c) Lot and structure design, scale and materials: subject to site plan review; shall reflect and be consistent with the existing or planned character of the surrounding area.

**§ 230-17. Industrial Districts.**

*Introduction. The industrial districts are for those areas of the Town that are found to be suitable for heavy commercial and/or industrial activities. These activities comprise land uses and structures that are engaged in the large-scale production or processing of raw materials; the transformation of materials from one form to another; the handling, storage or production of significant quantities of potentially hazardous or objectionable materials, and/or the use of dangerous or obnoxious processes used in the production or handling of materials. All of these activities are expected to require good access to transportation routes, extra attention for fire and emergency services, and may require specialized water or sanitary sewage services. The districts are generally ordered in increasing level of intensity. Industrial District 1 is for lowest intensity types of industrial land uses, those that operate within enclosed structures and are least likely to have adverse impacts beyond their individual properties. Industrial 2 is for moderate-intensity land uses that may have exterior activity, will tend to be larger in scale and may have more objectionable characteristics requiring more monitoring and mitigation measures. The S-1 Special Uses District is for high-intensity land uses that may employ unique processes or materials which need to be sensitively placed within the Town.*

**A. Performance standards for all industrial districts.**

- (1) Noise. No land use activity shall emit noises measured at the property lines of the subject property exceeding 70 decibels between 6:00 a.m. and 10:00 p.m., or 60 decibels between 10:00 p.m. and 6:00 a.m. These maximum sound levels may be intermittently exceeded by not more than seven decibels for a maximum of six minutes during any sixty-minute period. Any land use activity on property that is entirely or partially within 500 feet of a Residential Zone District shall be subject to the more restrictive noise standards of either this section or of the Town of Clay Code, Chapter 152.
- (2) Vibration. No land use activity shall emit intermittently, or, as a result of normal operations, any vibration that creates an unreasonable displacement as determined at the property lines of the subject property by the Commissioner.
- (3) Dust and dirt. No land use activity shall emit quantities of soot, cinders or fly ash measured at the emitting source, in excess of the more restrictive current standard of either the United States Environmental Protection Agency (EPA) or NYS Department of Environmental Conservation (NYSDEC). Other kinds of dust, dirt and other particulate matter shall not exceed any applicable emission standards established by either by EPA or NYSDEC. There shall be no dust and/or dirt generated by any other sources related to the land use activity as observed by the Commissioner crossing the property lines of the subject property.
- (4) Smoke. No land use activity shall emit smoke, measured at the emitting source, in excess of the more restrictive current standard of either the United States Environmental Protection Agency (EPA), US Bureau of Mines or NYS Department of Environmental Conservation (NYSDEC), as observed by the Commissioner.
- (5) Noxious gases. No land use activity shall emit such quantities of noxious acids, fumes, or gases in such manner and concentration as to endanger the health or safety of any person, or to cause or have a tendency to cause injury or damage to property, business or vegetation.

- (6) Odor. No land use activity shall emit any odor at the property lines that is unreasonably offensive, as determined by the Commissioner.
  - (7) Lighting and glare. No land use activity shall illuminate its property or engage in processes that emit direct or reflected glare that is determined by the Commissioner to be unreasonably intense or offensive when visible at the property lines. No lighting of signs, buildings or yards shall be allowed, unless it is of such intensity, location, direction and shielding so as not to impair the vision of any motor vehicle driver. Any land use activity, structure or site improvement on property that is entirely or partially within 500 feet of a Residential Zone District shall be subject to the more restrictive lighting standards of either this section or of the Town of Clay Zoning Code § 230-22B(6), Illumination.
  - (8) Radioactive materials. No land use activity shall emit any form or quantities of radioactive materials that are considered unsafe under standards established by the United States Bureau of Standards, and/or the NYS Department of Labor.
  - (9) Fire and safety hazards. All buildings, operations, storage, waste disposal, etc. shall be in accordance with applicable provisions of the NYS Uniform Fire Prevention and Building Code.
- B. (Reserved for additional comments and common regulations for the following zones.)

**C. I-1 Industrial 1 District.**

- (1) I-1 intent. *The purpose of the I-1 District is to promote and accommodate those kinds of industrial uses that provide the logistical assembly, shipping, storage, servicing, or similar support for retail or other business uses. Nonindustrial uses are limited to large office buildings or land uses that are essential to the district. These uses are expected to conduct all operations in one or more buildings, organized in a well-planned setting within enclosed structures in a clean, quiet manner that results in little or no exterior evidence of industrial activity and, therefore, can be compatible to nearby commercial or residential areas.*
- (2) *Uses allowed. In addition to the following requirements, all land uses and/or structures shall comply with all relevant local, county, state or federal permits and regulations prior to or as a condition of final zoning approval.*
- (a) Department of Planning and Development issuing a building permit:  
(reserved)
- (b) Planning Board site plan approval (and within enclosed structure):
- |  |                               |
|--|-------------------------------|
| [1] Office building (not less than 15,000 sq. ft. total floor area). | [5] Warehouse.                |
| [2] Exhibit hall.  | [6] Manufacturing.            |
| [3] Public self-storage facility.                                    | [7] Emergency vehicle station |
| [4] Wholesale.   | [8] Cropland.                 |
- (c) Planning Board special permit approval:
- |  |
|--|
| [1] Accessory exterior activity of the permitted uses listed above.  |
| [2] Contractor's service yard. [Added 10-19-2009 by L.L. No. 4-2009] |
- (d) ZBA special permit approval and optional advisory referral to the Planning Board:  
(reserved)
- (e) Town Board special permit approval and optional advisory referral to the Planning Board:
- |                        |  |
|------------------------|--|
| [1] Trucking terminal. | [2] Outdoor furnace. [Added 10-19-2009 by L.L. No. 4-2009] |
|------------------------|--|
- (3) Cross-reference to other commonly used regulations; see sections noted:
- |  |
|--|
| (a) <i>Definitions: see Article II.</i>                          |
| (b) <i>Accessory uses and structures: see § 230-20A.</i>         |
| (c) <i>Lot: structure dimensional exemptions: see § 230-20B.</i> |
| (d) <i>Parking: see § 230-21.</i>                                |
| (e) <i>Signs: see § 230-22.</i>                                  |
| (f) <i>Utility substation: see § 230-27.</i>                     |
| (g) <i>Highway Overlay Zone: see § 230-19.</i>                   |

(4) Industrial 1 lot and structure dimensional requirements.

(a) Lot.

- [1] Area, minimum: n/a.
- [2] Width, minimum: n/a.
- [3] Depth, minimum: n/a.
- [4] Coverage, maximum building: 60%.
- [5] Coverage, maximum total: 80%.

(b) Principal structures and attached accessory structures.

- [1] Front yard minimum:
  - [a] NYS or county highway: 200 feet.
  - [b] Town or private highway: 50 feet.
- [2] Side yard minimum: 25 feet.
- [3] Rear yard minimum: 25 feet.
- [4] Maximum height: n/a.
- [5] Maximum gross floor area: n/a.
- [6] Maximum number of floors: n/a.

(c) Accessory structures, detached.

- [1] Front yard minimum: existing principal structure rear line.
- [2] Side yard setback: 25 feet.
- [3] Rear yard setback: 25 feet.
- [4] Maximum height: same as principal structure.

(5) Industrial 1 supplemental district design standards.

- (a) Front perimeter landscape strip (% of front yard depth): 50%.
- (b) Additional side or rear yards where abutting a nonindustrial district: 50 feet.
- (c) Structure design, scale and materials:
  - [1] When a new or modified land use and/or structure is proposed on any property that is entirely or partially within 500 feet of a Residential Zone District boundary, then the reviewing board shall also consider the compatibility of the site and building design, scale of site development, and any impacts related to such development with the existing or planned character of those residential zones.
  - [2] Any open storage of materials or waste shall be screened from view from all property lines with a seven-foot-high fence, hedge or similar opaque barrier. Such screening shall comply with applicable setbacks.
  - [3] Architectural review standards. The design, construction and materials of all structures in this district shall demonstrate compatibility to adjacent residential developments. Such factors may include architectural style of the building and its massing, roofline, exterior facade materials, windows, doors and service areas and other aspects of the building design.

**D. I-2 Industrial 2 District.**

- (1) I-2 intent. *The purpose of the I-2 District is to promote and accommodate processes that primarily operate in a clean and orderly manner that may involve exterior activities sensitive to environmental features and available public services. Other uses are permitted that provide the logistical assembly, shipping, storage, servicing, or similar support for retail or other business uses. This district should be located away from residential districts.*
  
- (2) *Uses allowed. In addition to the following requirements, all land uses and/or structures shall comply with all relevant local, county, state or federal permits and regulations prior to or as a condition of final zoning approval.*
  - (a) Department of Planning and Development issuing a building permit: (reserved)
  
  - (b) Planning Board site plan approval:
 

[1] Exhibit hall.	[6] Utility substation.
[2] Wholesale.	[7] Emergency vehicle station.
[3] Warehouse.	[8] Building products sale, storage and display.
[4] Trucking terminal.	[9] Cropland.
[5] Manufacturing.	
  
  - (c) Planning Board special permit approval: (reserved)
  
  - (d) ZBA special permit approval and optional advisory referral to the Planning Board: (reserved)
  
  - (e) Town Board special permit approval and optional advisory referral to the Planning Board:
    - [1] Heavy equipment sales, service, exterior storage and display.
    - [2] Contractor's service yard.
    - [3] Motor vehicle storage.
    - [4] Outdoor furnace. [Added 10-19-2009 by L.L. No. 4-2009]
  
- (3) Cross-reference to other commonly used regulations; see sections noted:
  - (a) *Definitions: see Article II.*
  - (b) *Accessory uses and structures: see § 230-20A.*
  - (c) *Lot: structure dimensional exemptions: see § 230-20B.*
  - (d) *Parking: see § 230-21.*
  - (e) *Signs: see § 230-22.*
  - (f) *Utility substation: see § 230-27.*
  - (g) *Highway Overlay Zone: see § 230-19*

(4) Industrial 2 lot and structure dimensional requirements. [Note: When a lot is surrounded on all sides (including across a highway ROW) by other industrial zones, the standards with the asterisk (\*) apply.]

- (a) Lot.
  - [1] Area, minimum: n/a.
  - [2] Width, minimum: n/a.
  - [3] Depth, minimum: n/a.
  - [4] Coverage, maximum building: 60% ; \*75%.
  - [5] Coverage, maximum total: 80%; \*90%.
  
- (b) Principal structures and attached accessory structures.
  - [1] Front yard minimum:
    - [a] NYS or county highway: 200 feet.
    - [b] Town or private highway: 50 feet.
  - [2] Side yard minimum: 25 feet.
  - [3] Rear yard minimum: 25 feet.
  - [4] Maximum height: n/a.
  - [5] Maximum gross floor area: n/a.
  - [6] Maximum number of floors: n/a.
  
- (c) Accessory structures, detached.
  - [1] Front yard minimum: existing principal structure rear line.
  
  - [2] Side yard setback: 25 feet.
  - [3] Rear yard setback: 25 feet.
  - [4] Maximum height: same as principal structure.

(5) Industrial 2 supplemental district design standards. [Note: When a lot is surrounded on all sides (including across a highway ROW) by other industrial zones, the standards with the asterisk (\*) apply.]

- (a) Front perimeter landscape strip (% of front yard depth): 50%; \*25%.
- (b) Additional side or rear yards where abutting a nonindustrial district: 100 feet.
- (c) Structure design, scale and materials:
  - [1] When a new or modified land use and/or structure is proposed on any property that is entirely or partially within 500 feet of a Residential Zone District boundary, then the reviewing board shall also consider the compatibility of the site and building design, scale of site development, and any impacts related to such development with the existing or planned character of those residential zones.
  - [2] Any open storage of materials or waste shall be screened from view from all property lines with a seven-foot-high fence, hedge or similar opaque barrier. Such screening shall comply with applicable setbacks.

**E. S-1 Special Use District.**

- (1) S-1 intent. *It is the purpose of the S-1 District to permit uses, that are likely to have objectionable features, by issuance of a special permit by the Town Board. In order to control and mitigate the objectionable effects of a proposed use, the special permit process is intended to be explicitly limited to the approved activity. Any change of use will require the issuance of a new special permit by the Town Board. To the maximum extent possible, this district should be located in existing or planned industrial areas with substantial physical distances from residential neighborhoods. Furthermore, it shall be the ongoing policy of the Town to strictly monitor these uses and to periodically evaluate their associated benefits and/or impacts upon the Town. Upon discontinuance of any of these uses, the Town will seek to establish new zone districts that it finds to be compatible to the existing or planned developments within the vicinity of the site.*
  
- (2) *Uses allowed. In addition to the following requirements, all land uses and/or structures shall comply with all relevant local, county, state or federal permits and regulations prior to or as a condition of final zoning approval.*
  - (a) Town Board special permit approval and optional advisory referral to the Planning Board:
 

[1] Rendering plant.	[4] Recycling bulk process facility.
[2] Slaughterhouse.	[5] Hazardous material storage.
[3] Dump.	[6] Bulk storage, liquid or gaseous hazardous materials
  
  - (b) Discontinuance or change of an approved land use.
    - [1] Short-term discontinuance: When an approved operating land use ceases operation for a period of at least 12 consecutive months, a new application shall be submitted and reviewed to restart the land use or to change land uses pursuant to the procedures required in Subsection E(2)(a) above.
    - [2] Long-term discontinuance: When an approved operating land use ceases operation for a period of 24 or more consecutive months, the Town may initiate, on its own action, a zone change for the site to a zone district it finds to be consistent with the existing or planned development of the area surrounding the site.
    - [3] Change in land use: Any change of an approved operating land use (currently functioning or discontinued less than 12 consecutive months) to a different land use allowed within this district shall require a new special permit by the Town Board, subject to procedures required in Subsection E(2)(a) above.
  
- (3) Cross-reference to other commonly used regulations; see sections noted:
  - (a) *Definitions:* *see Article II.*
  - (b) *Accessory uses and structures:* *see § 230-20A.*
  - (c) *Lot: structure dimensional exemptions:* *see § 230-20B.*
  - (d) *Parking:* *see § 230-21.*
  - (e) *Signs:* *see § 230-22.*
  - (f) *Utility substation:* *see § 230-27.*
  - (g) *Highway Overlay Zone:* *see § 230-19.*

(4) S-1 lot and structure dimensional requirements. [Note: When a lot is surrounded on all sides (including across a highway ROW) by other industrial zones, the standards with the asterisk (\*) apply.]

- (a) Lot.
  - [1] Area, minimum: five acres.
  - [2] Width, minimum: n/a.
  - [3] Depth, minimum: n/a.
  - [4] Coverage, maximum building: 60%.
  - [5] Coverage, maximum total: 80%.
  
- (b) Principal structures and attached accessory structures.
  - [1] Front yard minimum:
  - [2] NYS or county highway: 300 feet; \*200 feet.
  - [3] Town or private highway: 100 feet; \*50 feet.
  - [4] Side yard minimums: 50 feet.
  - [5] Rear yard minimum: 50 feet.
  - [6] Maximum height: 50 feet.
  - [7] Maximum gross floor area: n/a.
  - [8] Maximum number of floors: n/a.
  
- (c) Accessory structures, detached.
  - [1] Front yard minimum: same as principal structure.
  - [2] Side yard setback: 50 feet.
  - [3] Rear yard setback: 50 feet.
  - [4] Maximum height: same as principal structure.

(5) S-1 supplemental district design standards. [Note: When a lot is surrounded on all sides (including across a highway ROW) by other industrial zones, the standards with the asterisk (\*) apply.]

- (a) Front perimeter landscape strip (% of front yard depth): 50%; \*25%.
- (b) Additional side or rear yards where abutting a nonindustrial district: 100 feet.
- (c) Structure design, scale and materials:
  - [1] When a new or modified land use and/or structure is proposed on any property that is entirely or partially within 500 feet of a Residential Zone District boundary, then the reviewing board shall also consider the compatibility of the site and building design, scale of site development, and any impacts related to such development with the existing or planned character of those residential zones.
  - [2] Any open storage of materials or waste shall be screened from view from all property lines with a seven-foot-high fence, hedge or similar opaque barrier. Such screening shall comply with applicable setbacks that may be applicable to the proposed use or subject property.

**§ 230-18. PDD Planned Development District.****A. Contents of the PDD section.**

- (1) **Section 230-18B, Planned Development District (PDD):** *introductory section; intent and procedure overview.*
- (2) **Section 230-18C, Authorization for a PDD:** *authorization stating basic land use, area and timing expectations.*

*Note: The next three subsections (§ 230-18D through F) describe the procedures for proposing, reviewing and adopting a PDD. During this entire process, there will be frequent communication and interaction between the Town Board and Planning Board. The primary and advisory roles of each Board will vary, depending upon the step in the process.*

- (3) **Section 230-18D, Concept plan review (Step 1):** *(Town Board leads) is the initial consideration of the idea for a PDD. This subsection contains procedures for the Town Board, review criteria to evaluate the proposal, and submission requirements for this step.*
- (4) **Section 230-18E, PDD project plan review (Step 2):** *(Planning Board leads) is the preparation and review of detailed plans and documentation for the proposed PDD. This subsection contains procedures for the Planning Board, review criteria to evaluate the proposal, and submission requirements for this step.*
- (5) **Section 230-18F, PDD adoption (Step 3):** *(Town Board leads) is the finalization of all plans and documentation that is to be considered for formal adoption by the Town Board. This subsection contains procedures for the Town Board, review criteria to evaluate the proposal, and submission requirements for this step.*
- (6) **Section 230-18G, Implementing the PDD:** *describes additional reviews that may be required for an adopted PDD to fulfill in order to initiate actual development.*
- (7) **Section 230-18H, Modifications and amendments to an existing PDD:** *standards and procedures to address routine and major changes that may occur.*
- (8) **Section 230-18I, PDD default dimensional and performance standards:** *a set of automatic default land use and dimensional controls to be applied if the approved PDD documents purposely accept the default standards or inadvertently omit establishing a specific regulatory control.*

## B. Planned Development District (PDD).

(1) **Intent.**

- (a) *This district allows for a variety of land uses and a flexible arrangements of lots, structures, and land uses in a well-planned and coordinated design. The flexibility of land uses and lots is achieved by the Town continuously participating in and approving stages of project planning and development. Any combination of land uses already permitted within the Town may be proposed for development on sites under this district. This district is also intended to accommodate land uses or scales of development that may be unique or require more consideration by the Town. This district may be applied anywhere in the Town, provided the project scale and design is found to further Town planning goals and to be compatible and coordinated with the environmental constraints and the existing and/or planned availability of public water, sewer, drainage, and transportation facilities.*
  - (b) ***Substantively and procedurally, the PDD is intended to promote and maintain a dialogue between the applicant and the Town. The PDD enables both the applicant and the Town to customize the development of a site in ways that are not feasible in conventional zone districts. The development standards are not predetermined, but are created jointly by the applicant and the Town via the procedures set forth in this section.***
- (2) **Procedure overview.** *The classification of any property within the Planned Development District (PDD) requires the undertaking of a **three**-step process involving the approvals from both the Town Board and the Planning Board.*
- (a) *In the first step, **concept plan review**, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PDD and sets the limits on the nature and range of uses, geometric and site controls and overall project planning. The Town Board's action is in response to the applicant's submission of a general outline that sets forth the contemplated development for the proposed PDD. This step begins a dialogue between the applicant and the Town, and, it does not commit the Town Board to adopt a PDD zone change in the final step of this process.*
  - (b) *In the second step, **project plan review**, the Planning Board is delegated by the Town Board to be responsible for ensuring that the general concept outline approved by the Town Board will be properly implemented. The Planning Board achieves compliance by reviewing and approving the project plan submitted by the applicant. The project plan is the detailed narrative and graphic documentation for the development of the entire PDD.*
  - (c) *The final steps, **implementation and enforcement**, are through a formal zone change by the Town Board and site plan and/or subdivision reviews of individual sites or portions of the PDD by the Planning Board that ensure the actual construction and development fully implement the concept and project plans adopted in the formation of the PDD.*

**C. Authorization for a PDD.**

- (1) **Type of action.** Establishment of a Planned Development District (PDD) is a zone change to the Zoning Map made by the Town Board, pursuant to the requirements of the NYS Town Law, governing the formation and modifications of zone districts, the local requirements of the Town of Clay and the procedures of this section.
  
- (2) **Application to specific lands.**
  - (a) The PDD regulations are applied and effective to only a specific area that may include more than one property. The Zoning Map is amended upon adoption of an approval resolution by the Town Board of a PDD project plan, pursuant to the requirements of this section. No permits or other approvals are issued until the zone change has been approved by the Town Board, as stipulated in PDD adoption (Step 3).
  
  - (b) Land uses permitted.
    - [1] Generally. The Town Board shall specify the land uses permitted within the PDD when the concept plan for such district is accepted and may identify specific uses for lots or subareas within the PDD. The Town Board may establish the unit densities and other dimensional and performance standards for all uses. If the Town Board chooses not to establish such standards, then the provisions of PDD default dimensional and performance standards of this section shall apply.
  
    - [2] Preassigned land uses. The PDD shall also be used to address uses, which, due to their size or character, have potentially significant impacts and require maximum review of location, scale and design. The following uses shall be permitted only in a PDD upon specific approval of the Town Board:
      - [a] Public or private airport.
  
      - [b] Theme/amusement park.
  
      - [c] Resort complex/conference center.
  
    - [3] Minimum PDD area.
      - [a] Minimum area. No PDD shall have a gross land area of less than 25 acres, exclusive of existing public rights-of-way, unless otherwise specified by the Town Board.
  
      - [b] Adding area. Once established, a PDD may be enlarged to include other contiguous areas regardless of their size. Such areas, if separated by a public right-of-way, may be considered contiguous,

if, in the opinion of the Town Board, the continuity of the original PDD is maintained or enhanced.

(3) **Phased development.**

- (a) PDD subareas. The Town Board may identify portions of a PDD as discrete geographic subareas of the project. Such designated subareas (sections or phases) may have land uses or standards different from the balance of the PDD, provided that such designated subareas are fully integrated in the overall development for the entire PDD.
- (b) Project staging. The Town Board may establish the sequence in which development of a PDD shall proceed by specifying the order in which subareas, sections or phases of a PDD are to be developed. If not specified by the Town Board, the Planning Board may, on its own initiative during the project plan review, establish a sequence of project staging or approve a proposed sequence by the applicant.
- (c) Review of project phases. If a proposed PDD is to be undertaken in a staged development, the Town Board, during concept review, may phase the schedule of the Planning Board's project plan approval to correspond with the approved project staging. The first phase shall consist of a minimum of 25% of the total PDD area.

D. **PDD concept plan review (Step 1).** *In the first step, **concept plan review**, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PDD and sets the limits on the nature and range of uses, geometric and site controls and overall project planning. The Town Board's action is in response to the applicant's submission of a general outline that sets forth the contemplated development for the proposed PDD. **This step begins a dialogue between the applicant and the Town; and it does not commit the Town Board to adopt a PDD zone change in the final step of this process.***

(1) **Concept plan review procedures.**

- (a) Receipt and referral. An applicant wishing to propose a PDD shall prepare and submit documents (see concept plan submissions) to the Town Board. Upon receipt of a PDD proposal, the Town Board can accept or refuse to consider the proposal for further action. If the Town Board accepts the PDD proposal for consideration it shall refer the PDD submission documents to the Planning Board for its advisory opinion on the formation of the PDD. The Planning Board shall respond to the Town Board with a written report of its findings and recommendations within a time period established by the Town Board, to be not less than 30 days and not more than 90 days, unless modified by mutual agreement of the Town Board and Planning Board.
- (b) SEQRA. The Town Board shall declare itself lead agency for purposes of the NYS Environmental Quality Review Act and shall determine if the proposed PDD is a Type 1 or unlisted action and make the appropriate notification or

referrals to the applicable municipalities, involved or interested agencies or other levels of government.

- (c) Review and discussion. Prior to any informational or public hearing, the Town Board may meet with the applicant, the Planning Board or other interested parties to discuss the PDD proposal.
  - (d) Informational hearings. The Town Board may hold an informational hearing; after which, and upon the consideration of the recommendations by the Planning Board and other agencies, it may proceed to act on the proposed PDD concept plan.
  - (e) Concept plan acceptance. The Town Board shall consider the proposal and vote to accept, modify or reject the PDD concept. If the Town Board accepts or modifies the PDD concept, it shall prepare a written resolution indicating its findings and its willingness to entertain a zone change upon completion of a PDD project plan. It shall also authorize the Planning Board to engage in the review and possible approval of a PDD project plan. It may instruct the Planning Board of the specific land uses, nature of buildings, minimum area and geometric controls to be maintained in the PDD or in designated subareas, project phasing and a timetable of Planning Board review. The resolution shall include a copy of the accepted written and graphic PDD concept plans, any SEQRA-related materials, and other relevant information.
  - (f) Concept plan acceptance date. The date of Town Board acceptance only initiates the second review phase of the PDD procedures. Upon concept acceptance, the PDD is not in effect and the applicant does not obtain vested rights for development.
- (2) **Concept plan review criteria.** The Town Board shall find that approval of a PDD concept is reasonable and appropriate in furthering the overall land development policies and goals of the Town. In making this determination, the Town Board shall consider and record in its resolution of acceptance how the proposed PDD addresses the following:
- (a) Comprehensive planning activities of the Town of Clay.
  - (b) Applicable infrastructure plans and policies.
  - (c) Applicable environmental policies and programs.
  - (d) Responds to conditions or issues not previously addressed by the Town of Clay.
- (3) **Concept plan submission requirements.** In order to obtain the conceptual approval of the Town Board for the establishment of a Planned Development District, a concept plan of the proposal shall be submitted, comprised of the following components:
- (a) Narrative component. a brief written narrative outlining the applicant's overall concept for the proposed PDD, including, but not limited to, the following: an explanation of how the proposed PDD conforms to concept plan review criteria, the range and mix of land

uses, development density, building types, impact upon existing and provision for public facilities, points of access, parking, open space/recreation areas, project financing and phasing, and other applicable items.

- (b) Graphic component: a generalized graphic plan of the entire site, drawn to a scale that reasonably depicts the land use, development patterns, density and improvements addressed in the applicant's narrative statement.
- (c) Project schedule: an outline of the expected sequence and duration to fully implement and construct the entire PDD.
- (d) SEQRA: the long environmental assessment forms (LEAF), as determined by the Town, in accordance with the NY State Environmental Quality Review Act (SEQRA).
- (e) Survey: survey(s) or tax maps of the property or properties proposed for inclusion in the PDD as part of the graphic component.
- (f) Zone change application forms: forms, as required by the Town of Clay, available from the Department of Planning and Development.

**E. PDD project plan review (Step 2).** *In the second step, **project plan review**, the Planning Board is delegated by the Town Board to be responsible for ensuring that the general concept outline approved by the Town Board will be properly implemented. The Planning Board achieves compliance by reviewing and approving the project plan submitted by the applicant. The project plan is the detailed narrative and graphic documentation for the development of the entire PDD. This step begins with the following actions of the Planning Board and concludes with a recommendation to the Town Board*

**(1) Project plan review procedures.**

- (a) Transfer to the Planning Board. Upon acceptance of a PDD concept plan by the Town Board, the Planning Board shall begin, with the applicant, the development of a PDD project plan.
- (b) Submittals. The project plan is a substantial elaboration of the concept plan accepted by the Town Board. It is a significantly more detailed narrative and graphic documentation for the development of the entire land area or of designated subareas within the PDD (see submission requirements). The applicant shall prepare and submit project plan materials to the Planning Board. The applicant may submit materials immediately following PDD concept plan acceptance by the Town Board. All materials shall be prepared and completed to the satisfaction of the Planning Board.
- (c) Review schedule. Unless otherwise specified by the Town Board, the project plan shall be acted upon by the Planning Board within 180 days of the approval date of the PDD concept plan by the Town Board. Any time within this period, the Planning Board or the applicant may request or recommend to the Town Board a

modification of this schedule. Failure to obtain project plan acceptance within the required time limits shall cause the concept plan authorization to lapse.

- (d) SEQRA. A thorough analysis of environmental issues shall commence during this stage of the PDD review process under the authority of the Town Board. The Town Board may retain oversight responsibility or it may direct the Planning Board to oversee the preparation and completion of any environmental analysis or DEIS. In either case, the Planning Board shall advise the Town Board on the scope and the necessity for a preparation of an environment analysis or a draft environmental impact statement (DEIS).
  - (e) Analysis, review, discussion and referrals. During its review, the Planning Board shall engage in a substantive review of the project plan. It may meet with the applicant, government agencies or other interested parties to improve its understanding of the proposal. The Planning Board may refer the proposed project plans to appropriate governmental agencies for any advisory opinion or recommendation. The Planning Board shall direct the preparation of a written report of the Board's interim analysis, findings and progress.
  - (f) Informational hearings. The Planning Board may hold informational hearings for fact-finding and to gather community input.
  - (g) PDD project plan review completion. The Planning Board shall, when it concludes its analysis and review [Subsection E(1)(a) through (f) above], vote to recommend that the Town Board accept, accept with modifications or reject the PDD project plan. It shall base its recommendation upon finding that the proposed project plan is in accordance with the approved concept plan, the Town Subdivision Regulations, EN and all applicable codes and regulations of Onondaga County and New York State.
  - (h) Planning Board recommendation. The Planning Board shall, if it finds that all materials and information are acceptable, direct the preparation of a written report to the Town Board containing its findings and recommendations. The report shall include, if appropriate, the accepted written and graphic PDD project plans, a PDD construction and development schedule, recommended methods of implementation following final PDD adoption, a draft DEIS or recommended SEQRA findings, and any other relevant materials.
- (2) **Project plan review criteria.** The Planning Board shall determine that approval of a PDD project plan is reasonable and appropriate in meeting the objectives of the accepted concept plan, and that the project plan furthers the overall land development policies and goals of the Town. In making this determination, the Planning Board shall apply its collective experience and judgment to evaluate the appropriateness of the development proposed in the project plan. It shall also consider and record in its resolution of recommendation to the Town Board how the proposed PDD addresses the following:
- (a) Uses and structures. The variety and arrangement of land uses and structures throughout the proposed development are appropriate for the site. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized by the Town Board.

- (b) Dimensional standards. The Planning Board shall ensure compliance of the project plan guided by the Town Board resolution conceptually accepting the PDD. It shall evaluate the project plan with respect to the minimum area and geometric controls and other standards set forth by the Town Board or the default standards of this section if not specifically modified by the Town Board. It shall evaluate the appropriateness of the proposed density of development and other factors it finds relevant, such as location, community needs, public infrastructure and relationship to surrounding development.
  - (c) Subdivision review. In anticipation of PDD acceptance and potential subdivision action, the Planning Board may simultaneously review any proposed subdivision sketch plans to determine conformance to Town Subdivision Regulations.EN
  - (d) Other zoning reviews. The Planning Board shall specify recommended zoning review processes and permits that will control and monitor the implementation of the PDD.
  - (e) Feasibility of completing the PDD. The Planning Board shall evaluate and comment whether the proposed sequence, staging and expected schedule for implementing the PDD can be achieved in the manner described. It shall seek to identify any public infrastructure or improvements that are related to or contingent upon the successful completion of the proposed PDD and set forth a preliminary schedule of PDD milestones that are to be achieved after adoption.
- (3) **Project plan submission requirements.**
- (a) Project plan submissions. The project plan of the entire site must include graphic documentation, maps, drawings and other materials that show at a sufficient scale and detail to allow the Planning Board to evaluate the feasibility and impacts of the proposed development.
    - [1] Site plans for all construction areas preliminarily showing approximate size, height, and bulk of buildable areas.
    - [2] Preliminary landscaping plans showing all open space, plazas, malls, courts, and pedestrian ways, ponds, waterways or similar landscaped features.
    - [3] Preliminary grading plans showing existing and proposed topographic contours and any significant natural or sensitive environmental resources.
    - [4] Improvement plans showing existing and proposed drainage, water and sewer facilities, and easements, if any, within or affected by the proposed development.
    - [5] Vehicular and pedestrian circulation plans showing proposed streets, points of access, sidewalks and off-street parking and loading to serve any proposed building or facilities.

- [6] Proposed construction schedule, sequence of development, project financing and preliminary milestones to be achieved from time of adoption to completion.
  - [7] Preliminary contract and filing documents between the applicant and Town for any public facilities, districts, enforcement and management of the PDD.
- (b) Supporting and explanatory material. The Planning Board may require the submission of additional material to explain and justify the project plan, which could include but is not limited to the following:
- [1] Information necessary to assure compatibility of the proposed project with adjoining existing uses and to Town planning objectives.
  - [2] An explanation of the manner in which all requirements of the project plan and of other applicable regulations are to be met.
  - [3] Expected treatments or project-wide strategies for issues such as: signs, lighting, snow storage, building and site aesthetics.
  - [4] Impact and relationship to existing or proposed public services such as: public infrastructure; solid waste collection; emergency vehicle, police and fire protection.

**F. PDD adoption (Step 3).** *The final steps, implementation and enforcement, are through a formal zone change by the Town Board and site plan and/or subdivision reviews of individual sites or portions of the PDD by the Planning Board that ensure the actual construction and development fully implement the concept and project plans adopted in the formation of the PDD.*

- (1) **PDD adoption procedures.** A PDD takes effect only upon the Town Board's approval or approval with modifications of a zone change incorporating the PDD project plan accepted by the Planning Board and according to the PDD criteria for adoption and submission requirements.
- (a) Recommendation to Town Board. The Planning Board completes and returns its written recommendation of the project plan to the Town Board. Upon receipt, the Town Board may proceed to considering a zone change for the proposal.
  - (b) Hearings, referrals and SEQRA. The Town Board shall, pursuant to law and this code, conduct a public hearing(s), make all required referrals not previously completed, and finalize the SEQRA process.
  - (c) Project plan action. The Town Board shall approve, approve with modification or disapprove the PDD project plan referred by the Planning Board. The Town Board resolution shall explicitly state that the proposed dimensional controls are accepted or the default dimensional and performance standards apply. It shall also explicitly state the accepted staging and schedule to implement and construct the proposed PDD.

- (d) Zone change action. Upon project plan adoption, the Town Board shall vote to grant the zone change and file its action pursuant to local and state requirements.
- (e) Filing of approvals. The PDD shall be effective upon proper execution and filing of all documents, contracts and plans as a supplement to the Zoning Map.

(2) **PDD criteria for final adoption.**

- (a) The Town Board shall confirm or modify and restate its findings of Town goals addressed in the concept plan (Step 1) acceptance above.
- (b) The Town Board shall confirm that the PDD project plan (Step 2) fulfills the expectations established in the concept plan accepted or as subsequently modified.

(3) **PDD adoption submission requirements.**

- (a) Forms and documentation: copies of materials approved by the Planning Board.
- (b) Reports, referrals and recommendations: any documents developed or received by the Planning Board during project plan review.
- (c) Survey(s) and legal descriptions of properties included in the entire PDD.
- (d) SEQRA documentation, DEIS and preliminary draft findings (if prepared).
- (e) Final drafts of all contracts, filing documents and plans and enforcement instructions.

G. **Implementing the PDD.** *This section identifies processes that are anticipated to be necessary following Town Board approving action on the PDD, and depending on the specifics of the proposal, to allow for actual construction and occupancy of a PDD proposal. These processes will address development of PDD project details and potential project changes that are fully consistent with the approved project plan. These other permits and approvals may be obtained by the applicant pursuant to the requirements of those individual processes and/or the requirements specified in the resolution adopting the PDD.*

(1) **Town permits.**

- (a) Construction compliance. Any use or structure, open space, infrastructure improvement or regrading shall be established pursuant to the standards set forth in the adoption of the PDD.
- (b) Site plan and special permit. Subject to the instructions of the Town Board in final resolution of PDD adoption, the standards, procedures and submission requirements of a site plan and/or special permit are to be applied for those individual uses, structures, or improvements.
- (c) Subdivision review: the standards and procedures of the Town Subdivision RegulationsEN for the establishment of any new lot configurations.

- (d) All other Town permits. Building, highway access and similar permits are required to be obtained pursuant to their respective permit requirements.
- (2) **Other permits.** All other agency permits required from federal, state or county regulations shall be obtained prior to on-site development activity.
- (3) **Failure to implement the PDD.** The Town Board may consider, after notification to the developer-applicant, rezoning actions to alternative zone districts if the PDD construction of the entire project or of specified phases is not completed or if adopted PDD milestones are not achieved within 18 months of the approved PDD project schedule.
- H. **Modifications and amendments to an existing PDD.** *This subsection describes how changes are addressed after a PDD has been adopted, constructed and/or occupied. All changes to an existing PDD will be regulated by the following provisions: changes that will affect individual lots that have been subsequently established after the PDD adoption will require approval by the Commissioner or the ZBA; changes that are directed to the entire PDD or to an identified stage of the PDD will require review by either the Planning Board or Town Board depending on the perceived effect.*
- (1) **Minor modifications affecting one property.** The Commissioner of Planning and Development shall evaluate all modifications and may either refer the proposal for consideration of a variance by the ZBA or approve minor modifications for development with the PDD pursuant to the following:
- (a) **Thresholds.**
- [1] The proposed change is applicable to one property within the PDD.
- [2] The proposed change complies with the land use, dimensional and performance standards.
- [3] There is no change in the defined land use.
- [4] The basic physical relationship and function of buildings and improvements is maintained.
- (b) **Criteria.** The Commissioner can find that the proposed modification does not require any modification of applicable standards, substantially alter the property from the approved plan and does not change the relationship to surrounding properties or improvements.
- (c) **Procedure.** The Commissioner shall process and document the approval of such modifications in a manner consistent with the general procedural and enforcement provisions of this code. The Commissioner may issue a building permit, certificate of compliance or similar approvals (e.g., minor subdivision or site plan adjustments) when authorized by this code.

- (d) Waivers of PDD standards. The Commissioner finds that the change for a proposed development, improvement, or modification fails to comply with the land use, dimensional or performance standards adopted for the specific PDD and shall be subject to the procedures and standards for issuance of a use or area variance by the Zoning Board of Appeals.
  - (e) Transfer to Planning Board or Town Board. The Commissioner may require any requested modification to be submitted for a PDD intermediate design and land use modification by the Planning Board, or, for a major modification, to the Town Board.
- (2) **Intermediate modifications; project plan amendment.** Existing or approved PDD land uses, structures and improvements may be altered or modified after the effective date of PDD adoption. Unless otherwise required by the Town Board or Planning Board, such modifications shall be subject to the issuance of a project plan amendment by the Planning Board, pursuant to the following:
- (a) Thresholds.
    - [1] There are changes in type or location of approved land uses within the same general land use category (e.g., residential, commercial, industrial) and within the same PDD section identified in the approved project plan.
    - [2] Increase in floor area in excess of 10% of a principal or accessory structure.
    - [3] Demolition of a principal structure, except where mandated by an appropriate official in the interest of public safety.
    - [4] Establishment or realignment of new streets or other public/common areas.
    - [5] Any change, except routine replacement and maintenance, to landscaping, open space, parking, public facilities or other improvements addressed in the project plan.
  - (b) Criteria. The Planning Board shall find that the proposed modification does not substantially alter any modification of applicable standards, maintains the basic relationship of the property to the approved project plan and maintains the basic relationship to surrounding properties or improvements.
  - (c) Procedure. The Planning Board shall review and consider a project plan amendment under procedures set forth in this section for adoption of a project plan (Step 2), except that Town Board approval shall not be required.
  - (d) Transfer to Town Board. The Planning Board may, at any time, find that the proposed modification substantially alters the project plan and require the requested modification to be submitted for a PDD major amendment by the Town Board.

- (3) **Major modifications.** Any modification not addressed by the minor or intermediate modifications above, exceeding the limits established at the inception of the district, or expanding or altering the PDD boundary shall be reviewed and approved by the Town Board, subject to the procedures for establishing a PDD (Steps 1, 2 and 3).
- (4) **Nonconformities.** It is the intent of the PDD that no nonconforming elements will exist within the PDD. The flexibility of the land use and geometric controls and review procedures should prevent the creation of any nonconforming element. In the event that a nonconformity does exist, any subsequent changes shall conform to the PDD controls and shall be subject to an issuance of a project plan amendment by the Planning Board [see Subsection H(2), Intermediate modifications].

I. **PDD default dimensional and performance standards.** *The following standards are intended to assist the Town by avoiding any enforcement oversight or ambiguity. A PDD is intended to promote flexibility and creativity of design; therefore, the following will apply in the absence of specifically established standards by the Town Board.* Unless the Town Board establishes other controls or standards at the inception of the district, the following shall apply uniformly, **by default** to the entire PDD or to designated portions.

- (1) **Land uses.** There are no default land uses in a PDD.
- (2) **Dimensional controls.** The following controls shall apply, **unless specifically modified** by the Town Board during the initial establishment of the PDD:
  - (a) **Distance between buildings on one lot.**
    - [1] Residential: front, rear and side yards for residential uses shall be designed so that a building is no closer than 20 feet to any other residential building and 50 feet to any nonresidential building.
    - [2] Nonresidential: front, rear and side yards for nonresidential uses shall be designed so that a building is no closer than 30 feet to any other nonresidential building and 50 feet to any residential building.
    - [3] For purposes of interpretation, a structure which contains both residential and nonresidential uses shall comply with the requirements of Subsection I(2)(a)[2] above.
    - [4] Accessory structures shall be no closer than 10 feet to the principal structure with which they are associated and no closer than 20 feet to any other principal structure, and five feet to any other accessory structure.
  - (b) **Distance from lot lines.** The minimum distance between any point on a principal building and the lot line shall not be less 10 feet.
  - (c) **Density of development.** Unless the Town Board has otherwise established a minimum density then all residential development shall provide an average density of 5,000 square feet per dwelling unit. Commercial and industrial uses shall maintain an average minimum density of 20,000 square feet per building.

- (d) Lot coverage. Maximum lot coverage for all development within a PDD shall not exceed 35% of the gross land area.
  - (e) Height. The maximum height of all principal structures shall not exceed 35 feet for residential buildings and 40 feet for commercial or industrial buildings, and accessory structures shall not exceed 15 feet.
  - (f) Parking/Loading. The parking and loading provisions of this Zoning Code shall apply to PDDs unless modified by the Town Board. Shared parking and storage may be included in the calculation of overall parking compliance.
  - (g) Supplementary regulations and site plan standards. Unless modified by the Town Board when establishing the PDD, the supplementary regulations and site plan standards of this Zoning Code shall apply to all development within the PDD.
- (3) **Performance standards.** Unless modified by the Town Board when establishing the PDD, the performance standards applicable to all industrial districts shall apply.

**§ 230-19. Overlay Districts.**

**A. Highway Overlay Zone District.**

- (1) *Intent. The purpose of this overlay district is to foster and maintain a balance between major highways or roads within the Town and private development on lands abutting these roads. These major routes are identified, from time to time, based on variety of factors. These factors include traffic volume, highway functional classification, portion and extent of the Town served by that route. The balance between road and development sought is to protect the proper function of the highway by minimizing adverse effects of development on highway safety or efficiency; to preserve the long-term ability for a highway to improve and expand; and to protect abutting development from adverse effects of the highway. This overlay district attempts to achieve this balance by superimposing on the conventional underlying zone districts additional standards upon vehicular access points, and lot width, depth and setbacks. This district will not alter the allowable land uses permitted within any district affected.*
- (2) **Application.** The Highway Overlay Zone District applies to lots adjacent to or abutting designated highways. This overlay district imposes dimensional controls in addition to the conventional underlying zone district requirements. In the event that there is a difference or conflict with other sections of this code, then the more restrictive or largest minimum requirements shall apply.
- (3) **Designated highways.**
  - (a) Designated major highway: a road identified within this chapter, used primarily for the through movement of vehicles, and subject to Overlay Zone District restrictions. There are several types or levels of major highway: A, B, and C. Type A are those that are currently, or have the potential for becoming, five or more travel lanes in width. Type B are those that are currently, or have the potential for becoming, four travel lanes in width. Type C are considered major roads, but are unlikely to become four travel lanes in width.
  - (b) The following roads are hereby determined to be major roads within the Town of Clay and hereafter referred to as designated major highways. The precise linear extent of the overlay zone for each road shall be generally from the center of one intersection to another, or from the Town boundary to an intersection, as described in this chapter designating a highway or road to be Type A, B or C.

<b>Type A</b>	<b>Type B</b>	<b>Type C</b>
NYS Route 31	Morgan Road	Bear Road
	Route 11	Buckley Road
	Route 57 (Oswego Road)	Caughdenoy Road
	I-481	VerPlank Road
	South Bay Road	Vine Street
	East and West Taft Roads	Wetzel Road (Buckley Road
	Henry Clay Boulevard	to Route 57)
	(Route 31 to south Town line)	Henry Clay Boulevard (Route 31 north
		to Oak Orchard Road)

- (c) Designated minor highway. A road identified within this chapter fulfilling similar transportation objectives as designated major highways, but has lower traffic volumes and capacity.

**(Reserved for designated minor highways)**

**(4) Schedule of requirements.**

(a) Definitions.

- [1] Lots with access: lots that are existing or proposed, which, due to the lot configuration or a lack of alternative road frontage, require direct vehicular driveway access to the Type A, B or C highway.
- [2] Lots without access: lots that are existing or proposed, which have or can have direct vehicular driveway access to a nondesignated highway or local street and have no planned or permitted vehicular access directly onto a Type A, B or C highway.

(b) Requirements.

[1] Schedule.

<u>Lot Area and Frontage</u>	<u>Lots with Access</u>	<u>Lots without Access</u>
Lot area, minimum		
Type A	2 times minimum area	Conventional zone district
Type B	1.75 times minimum area	Conventional zone district
Type C	1.5 times minimum area	Conventional zone district
Minor highway	1.25 times minimum area	Conventional zone district
Lot frontage, minimum		
Type A	2 times minimum frontage	Conventional zone district
Type B	1.75 times minimum frontage	Conventional zone district
Type C	1.5 times minimum frontage	Conventional zone district
Minor highway	1.25 times minimum frontage	

- [2] If there is no required minimum lot width or frontage in the underlying conventional district, then lots affected by the overlay shall have a minimum frontage of 200 feet and a minimum depth of 200 feet.

- (5) **Designated highway setback:** the required distance, measured perpendicularly from the existing **highway pavement center line** into the lot and within which no structure or parking shall be placed unless provided for in this code.

Required Setback for **All Lots** (feet)

Principal structure

Type A	165
Type B	140
Type C	115
Minor highway	100

Accessory structure (e.g., swimming pool, storage shed)

Type A	115
Type B	90
Type C	65
Minor highway	50

Parking area

Type A	90
Type B	70
Type C	55
Minor highway	50

(6) **Highway Overlay District corner lot requirements.**

- (a) Lots situated at the intersection of a Type A, B, or C highway and a minor highway or a nondesignated highway shall have a minimum depth, measured along the nondesignated ROW, of 250 feet from the Type A, B, or C highway right-of-way edge.
- (b) Driveway access for a corner lot to either a designated highway or a nondesignated highway shall be no closer than 100 feet to the intersection of the highway right-of-way lines.
- (c) Within the triangular area formed by the intersection of two right-of-way lines and a third line joining them at points 50 feet away from their intersection, there shall be no planting or structures which obstruct motorists' vision or diminish highway sight distance.

- (7) **Highway overlay subdivision review.** The subdivision of any lot or portion of a lot that abuts a designated highway shall be subject to subdivision review and approval, regardless of the number or orientation of the proposed lots.

(8) **Highway Overlay District exceptions for existing lots.**

- (a) Residential districts: New residential developments shall comply. For existing reverse-frontage lots (rear yards), the arterial setback shall be reduced by 50 feet for additions, swimming pools and accessory structures.
- (b) Lots and structures legally existing that do not comply to the regulations in this section may continue to be used and developed subject to the following:
  - [1] An existing lot which has less than the minimum lot area, frontage and/or lot depth may be developed in accordance with the applicable zone district regulations, provided it complies with the required designated highway setbacks and any applicable driveway permit standards.
  - [2] Additions, renovations and similar improvements may be made upon existing principal or accessory structures in accordance with the applicable conventional zone district regulations, even if that existing structure fails to comply with designated highway setback requirements. However, those improvements shall not encroach closer to the designated highway than the existing structure.

B. **AFH Airport Flight Hazard Districts.** The following regulations shall apply in all Airport Flight Hazard Districts.

- (1) **Overlapping or combined districts.** An Airport Flight Hazard District may overlap or be combined with other zoning districts of the Town of Clay. In the event that such Airport Flight Hazard District overlaps or is combined with lands of other zoning districts of the Town of Clay, both the provisions of such other zoning district and of the Airport Flight Hazard District shall apply to such land and airspace; provided, however, that notwithstanding the regulations contained in any part of this chapter, no exception to the height limit shall be permitted in any zoning district which is combined with such Airport Flight Hazard District, except to the extent that the height limit specified in such Airport Flight Hazard District exceeds the height limit specified in the zoning district.
- (2) **Airspace included in an Airport Flight Hazard District.**
  - (a) All airspace located within the boundaries of the Town of Clay located over Hancock International Airport, Michael's Field and Airline Enterprise Field and that airspace beyond and within 3,000 feet of the perimeter of said airports computed at a gliding angle of one foot in height to every 30 feet of horizontal distance from and beyond the nearest point of the perimeter of said airports.
  - (b) All airspace located within the boundaries of the Town of Clay located over Hancock International Airport, Michael's Field and Airline Enterprise Field and that airspace extending for a distance of 10,000 feet at a gliding angle of one foot to every 50 feet of horizontal distance computed from a point 200 feet beyond the end of each runway used for instrument flight operations, and one foot in height for each 40 feet in horizontal distance computed from said point or points for all other flight operations.
- (3) Height limitation. No structure, building, tower, pole, wire, tree or other thing or portion thereof shall be erected, created, established or used within an Airport Flight Hazard District in such a manner that any part or portion thereof would extend or protrude into the airspace identified and set forth in Subsection B(2) of this section.

**C. Gas Transmission Overlay.****(1) High-pressure natural gas transmission lines.**

- (a) Notwithstanding any code, rule, regulation, Code or law to the contrary, no structure shall be permitted within 25 feet of the right-of-way line or property line of any high-pressure natural gas transmission line in the Town of Clay. A high-pressure natural gas transmission line is defined as one whose normal operating pressure is equal to or in excess of 250 pounds per square inch.
- (b) Any proposed construction, excavation or site work within 50 feet of any such right-of-way or property line shall not be commenced until the applicant has submitted to the Town of Clay Planning Board a statement, verified by a licensed land surveyor, showing the depth of the transmission line from existing grade, and the Planning Board has approved such construction, excavation or site work.
- (c) There shall be no trees, shrubbery or planting whose root systems could possibly reach the transmission line placed or planted anywhere within such right-of-way or property.
- (d) No water, sewer, drainage or electricity lines shall cross any such transmission line until the plans therefor have been approved by the Town of Clay Planning Board.
- (e) These regulations apply only to high-pressure gas transmission lines constructed in accordance with the applicable provisions of the ASA Code for gas transmission lines constructed within the boundary lines of cities and villages. In any case where high-pressure gas transmission lines are not constructed in accordance with the provisions of the above-mentioned ASA Code, a special permit shall be required from the Planning Board before any structure is constructed or located or any septic tank or drain field is installed within 300 feet from such high-pressure gas transmission line.

**(2) Setback from hazardous liquid transmission pipelines.**

- (a) No structures shall be constructed or located or septic tank, drain field, or other underground facility be installed closer than 200 feet from any hazardous liquid transmission pipeline, unless such pipeline is covered by not less than three feet of compacted earth, in which case such setback shall be 50 feet.
- (b) Verification of the amount of cover over the pipeline shall be to the satisfaction of the Town of Clay Planning Board, and the determination shall be made by it as part of a subdivision or site plan approval process, or, in the event neither such process is involved by the issuance of a special permit, by the Planning Board.
- (c) In the event the reduced setback is permitted, no regrading shall take place within the setback space without the approval of the Planning Board, and signs conveying this restriction shall be erected and maintained at locations approved by the Planning Board.

ARTICLE IV  
**Supplemental Regulations**

**§ 230-20. Land uses and structures.**

**A. Land uses.**

- (1) Accessory uses and structures.
  - (a) Unless otherwise specified, all accessory uses and structures shall be subject to the same review process as the principal use to which they are incidental.
  - (b) No accessory use or structure shall occupy a lot without a principal use or principal structure present on the same lot.
  - (c) Unless otherwise specified, all accessory uses and structures shall conform to the lot and structure dimensional standards applicable to the principal use or structure.
  - (d) Mechanical equipment, decorations, antennas, chimneys and similar appurtenances may not require site plan or special permit review if they are less than 10 square feet in area, attached to the principal structure and are found by the Commissioner to be consistent with the conditions, if any, of board approval.
  - (e) Accessory buildings (e.g., storage units, sheds, etc.) for one- or two-family dwellings or townhouses in residential districts that are 100 square feet or less in area and less than 12 feet in height do not need a building permit or certificate of occupancy from the Town of Clay. However, these accessory buildings shall comply with the following minimum standards:
    - [1] Minimum setback of three feet from any property line, principal building or other accessory buildings.
    - [2] Not located within any easement or right-of-way.
    - [3] Located in the portion of a lot behind a line formed by the front wall of the principal building.
    - [4] Located in compliance with any applicable corner lot requirements.
- (2) Principal uses and structures.
  - (a) Unless otherwise specified by this code, there shall be only one principal use per lot.
  - (b) Unless otherwise specified by this code, there shall be only one principal structure per lot.
  - (c) Temporary residences. A manufactured home may be utilized as a temporary residence in any residential district while the permanent residence located on the same property is under construction or not otherwise habitable due to remodeling.

Such temporary residence shall be subject to a special permit from the Zoning Board of Appeals. The special permit duration shall be a duration not to exceed six months and may not be renewed more than three consecutive six-month periods.

- (d) Portable storage units are permitted on active construction sites subject to a permit from the Office of Planning and Development or as an accessory structure within a contractor's storage yard. Units not in active use may be stored, subject to site plan review, within a contractor's storage yard. Portable storage is not permitted on sites when unrelated to construction activity.
- (3) Animals/pets. The raising or harboring of animals within a community can pose a variety of risks to residents that range from simple nuisances of noise and odor to serious health hazards of personal injury and infections. The potential for occurrence of these risks can be minimized by restricting the number and types of animals that individuals maintain for their personal enjoyment, use or business.
- (a) Residential, Planned Development or Commercial Zone Districts. No property or dwelling shall contain more than three adult dogs and three adult cats ("adult" is a dog or cat over six months in age). There is no restriction upon the number of other kinds of domestic animals maintained within a dwelling that are consistently maintained within appropriate containers such as aquariums or birdcages; these animals include, by illustration, tropical fish, exotic birds, ferrets, gerbils and hamsters. No exotic animals harbored outside of such containers or farm animals (see definitions) shall be harbored or maintained as pets.
  - (b) RA-100 Zone District. There is no limit on the type or number of farm, exotic or domestic animals maintained as pets by a residents within their respective residential properties, provided such property is five acres or greater in area.
  - (c) All other districts. A special permit from the ZBA shall be required for pets maintained in nonconforming residential and/or farm land uses within any other district.
  - (d) Land uses with animal-related activities or structures. An approved site plan review or special permit is required, depending on the zone district, for primary, secondary or accessory land uses that are related to animals, such as: private stables or accessory kennels, veterinary care facilities, animal training facilities, and animal boarding facilities. Such uses are specifically listed; see each zone district to determine if such uses are permitted and under what review procedure.
- (4) Excavation, filling or site preparation. No land disturbance, unrelated to an approved construction, within any lot that affects more than or results in the movement of more than 500 cubic feet shall be permitted without prior site plan review by the Planning Board. Such review and any subsequent approval may be included in the site plan or special permit reviews for the land uses or structures as required in the zone district regulations. (See Chapter 100 of the Town Code.)

**B. Structures.**

- (1) Front yard intrusions permitted. A porch may intrude into the required front yard up to a maximum of six feet, provided there is no roof or wall enclosures and any railing is not higher than 36 inches.
- (2) Fences
  - (a) No wall or fence, other than a wire fence, shall be erected, replaced or maintained on any residential lot having a height in excess of seven (7) feet.
  - (b) No fence or hedge having a height in excess of two and one-half (2 ½) feet shall be erected, replaced or maintained in the front yard or side yard between the street line and the setback line.
  - (c) Fences cannot be erected across a drainage easement per section 185.20, Stormwater Drainage.
  - (d) Fences in Flood Zones must comply with Chapter 112, Flood Damage Prevention.
  - (e) Fences surrounding swimming pools must comply with section 230-20B(3).
- (3) Swimming Pools and Hot Tubs: No building permit for the erection or maintenance of a swimming pool or hot tub shall be issued except upon compliance with Chapter 81, Building Permits, of the Town Code and the following provisions:
  - (a) Map or Survey. The application shall be accompanied by a map or survey showing the exact location of the pool with reference to lot side lines, existing buildings, water mains, electric lines, gas lines and sewer lines. The application shall show the manner and method of disposal of waste water.
  - (b) Lighting. No lighting shall be permitted in, on or about a swimming pool except such lighting that shall shine into or upon the pool which shall cast no light or reflections onto abutting properties.
  - (c) Overhead Wires. No overhead electric lines shall be maintained within twenty (20') feet of the nearest portion of a pool or appurtenances.
  - (d) Perimeter. A perimeter of at least four (4') feet around all edges of the pool shall be maintained between the edges of the pool and fence erected around the pool.
  - (e) Disposal of Waste Water. Waste water shall not be discharged into any sanitary sewer in the Town of Clay. Waste water shall be prevented from

flowing over or into the land of any adjoining property owner or over any abutting street.

- (f) Filling. No pool having water capacity in excess of one hundred (100) gallons shall be filled or added to at any time during the effectiveness of emergency water orders or measures.
- (g) Existing Pools. Existing pools shall conform to all provision of this subsection.
- (h) Abandonment. Should the pool be abandoned, the owner shall arrange to remove the depression and return the surface of the ground to its original grade and Enforcement Officer shall be notified

**C. Lots. (Reserved)**

**D. Stormwater Management and Erosion & Sediment Control [Added 1-23-2008 by L.L. No. 2- 2008]**

- (1) **Purpose.** The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in §230-20 D (3) hereof. This local law seeks to meet those purposes by achieving the following objectives:
  - (a) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-02-02 or as amended or revised;
  - (b) Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
  - (c) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
  - (d) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
  - (e) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

- (f) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.
- (2) **Statutory Authority.** In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the **Town of Clay** has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the **Town of Clay** and for the protection and enhancement of its physical environment. The **Town of Clay** may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.
- (3) **Findings of Fact. It is hereby determined that:**
- (a) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
  - (b) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
  - (c) Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
  - (d) Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
  - (e) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
  - (f) Substantial economic losses can result from these adverse impacts on the waters of the municipality;
  - (g) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
  - (h) The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;

- (i) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.
- (4) **Applicability.**
- (a) This local law shall be applicable to all land development activities as defined in §230-20 D (6).
  - (b) The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Town Board of the Town of Clay, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
  - (c) All land development activities subject to review and approval by the Planning Board and the Town Board of the Town of Clay under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this local law.
  - (d) All land development activities not subject to review as stated in section (c) above shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.
- (5) **Exemptions.** The following activities may be exempt from review under this law.
- (a) Agricultural activity as defined in this local law.
  - (b) Silvicultural activity except that landing areas and log haul roads are subject to this law.
  - (c) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
  - (d) Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
  - (e) Any part of a subdivision if a plat for the subdivision has been approved by the Town of Clay on or before the effective date of this law.

- (f) Land development activities for which a building permit has been approved on or before the effective date of this law.
- (g) Cemetery graves.
- (h) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (i) Emergency activity immediately necessary to protect life, property or natural resources.
- (j) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- (k) Landscaping and horticultural activities in connection with an existing structure.

- (6) **Definitions:** The terms used in this § 230-20 or in documents prepared or reviewed under this section shall have the following meaning:

**AGRICULTURAL ACTIVITY** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**APPLICANT** - a property owner or agent of a property owner who has filed an application for a land development activity.

**CHANNEL** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING** - any activity that removes the vegetative surface cover.

**DEDICATION** - the deliberate appropriation of property by its owner for general public use.

**DEPARTMENT** - the New York State Department of Environmental Conservation

**DESIGN MANUAL** - the New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

**DEVELOPER** - a person who undertakes land development activities.

**EROSION CONTROL MANUAL** - the most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**GRADING** - excavation or fill of material, including the resulting conditions thereof.

**IMPERVIOUS COVER** - those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**INDUSTRIAL STORMWATER PERMIT** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels, associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION** - the process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**LAND DEVELOPMENT ACTIVITY** - construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**MAINTENANCE AGREEMENT** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**NONPOINT SOURCE POLLUTION** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**PHASING** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT** - land development activity

RECHARGE - the replenishment of underground water reserves.

SEDIMENT CONTROL - measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SILVICULTURE- the cultivation of forest trees; forestry.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 -  
A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 –  
A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

STABILIZATION - the use of practices that prevent exposed soil from eroding.

STOP WORK ORDER - an order issued which requires that all construction activity on a site be stopped.

STORMWATER - rainwater, surface runoff, snowmelt and drainage

STORMWATER HOTSPOT - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs) - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point

source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF** - flow on the surface of the ground, resulting from precipitation

**SURFACE WATERS OF THE STATE OF NEW YORK** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**WATERCOURSE** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERWAY** - a channel that directs surface runoff to a watercourse or to the public storm drain.

(7) **Stormwater Pollution Prevention Plans**

(a) **Stormwater Pollution Prevention Plan Requirement**

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

(b) **Contents of Stormwater Pollution Prevention Plans**

[1] All SWPPPs shall provide the following background information and erosion and sediment controls:

[a] Background information about the scope of the project, including location, type and size of project.

[b] Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent

off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s); site map must be at a scale of 1" = 100' or larger.

- [c] Description of the soil(s) present at the site;
- [d] Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
- [e] Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- [f] Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
- [g] Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout;
- [h] A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- [i] Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- [j] Temporary practices that will be converted to permanent control measures;
- [k] Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- [l] Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- [m] Name(s) of the receiving water(s);

- [n] Delineation of SWPPP implementation responsibilities for each part of the site;
  - [o] Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - [p] Any existing data that describes the stormwater runoff at the site.
- [2] Land development activities as defined in §230-20 D. (6) of this Article and meeting Condition “A”, “B” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in [3] below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

- [3] SWPPP Requirements for Condition A, B and C:

[a] All information in §230-20 D 7(b)[1] of this local law.

[b] Description of each post-construction stormwater management practice.

[c] Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

[d] Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.

[e] Comparison of post-development stormwater runoff conditions with pre-development conditions.

- [f] Dimensions, material specifications and installation details for each post-construction stormwater management practice.
- [g] Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- [h] Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- [i] Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with §230-20 D 9(d) of this local law.
- [j] For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.

(c) Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

(d) Contractor Certification

[1] Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

[2] The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

[3] The certification statement(s) shall become part of the SWPPP for the land development activity.

- (e) A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

(8) **Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.** All land development activities shall be subject to the following performance and design criteria:

(a) Technical Standards

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

[1] The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

[2] New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

(b) Equivalence to Technical Standards

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in §230-20 D (8)(a)[1] and the SWPPP shall be prepared by a licensed professional.

(c) Water Quality Standards

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

(9) **Maintenance, Inspection and Repair of Stormwater Facilities**

(a) Maintenance and Inspection During Construction

[1] The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local

law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

- [2] For land development activities as defined in §230-20 D. (6) of this Article and meeting Condition A, B or C in §230-20 D 7(b)(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site logbook.

(b) Drainage Easement(s)

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a drainage easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Clay to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Clay.

(c) Maintenance After Construction

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- [1] A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- [2] Written procedures for operation and maintenance and training new maintenance personnel.
- [3] Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with §230-20 D (8)(c).

(d) Maintenance Agreements

The Town of Clay shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Clay, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(10) Severability and Effective Date

(a) Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

(b) Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State. Approved by: Town of Clay Town Board, January 23, 2008.

(11) Construction Inspection

(a) Erosion and Sediment Control Inspection

The Town of Clay Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Clay enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

- [1] Start of construction
- [2] Installation of sediment and erosion control measures
- [3] Completion of site clearing
- [4] Completion of rough grading
- [5] Completion of final grading

- [6] Close of the construction season
- [7] Completion of final landscaping
- [8] Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

(b) Stormwater Management Practice Inspections

The Town of Clay Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(c) Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

(d) Submission of Reports

The Town of Clay Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

(e) Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town

of Clay the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph (c) above.

(12) Performance Guarantee

(a) Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Clay in its approval of the Stormwater Pollution Prevention Plan, the Town of Clay may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Clay as the beneficiary. The security shall be in an amount to be determined by the Town of Clay based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Clay, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Clay. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

(b) Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Clay with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Clay may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(c) Recordkeeping

The Town of Clay may require entities subject to this law to maintain records demonstrating compliance with this law.

(13) Enforcement and Penalties

(a) Notice of Violation.

When the Town of Clay determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- [1] The name and address of the landowner, developer or applicant;
- [2] The address when available or a description of the building, structure or land upon which the violation is occurring;
- [3] A statement specifying the nature of the violation;
- [4] A description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;
- [5] A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- [6] A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

(b) Stop Work Orders

The Town of Clay may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Clay confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

(c) Violations

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

(d) Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine

not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(e) Withholding of Certificate of Occupancy

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

(f) Restoration of lands

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Clay may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(14) Fees for Services

The Town of Clay may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Clay or performed by a third party for the Town of Clay.

**SCHEDULE A**  
**Stormwater Management Practices Acceptable for Water Quality**  
*(From: New York State Stormwater Management Design Manual, Table 5.1)*

<b>Group</b>	<b>Practice</b>	<b>Description</b>
<b>Pond</b>	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
<b>Wetland</b>	Shallow Wetland (W-1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.
<b>Infiltration</b>	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
<b>Filtering Practices</b>	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F-2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
<b>Open Channels</b>	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

## Schedule B

### STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

**WHEREAS**, the Town of Clay ("Municipality") and the \_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and

**WHEREAS**, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

1. This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.
2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five-year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
7. The facility owner shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).
8. This agreement shall be recorded in the Office of the County Clerk, County of Onondaga together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to \_\_\_\_\_.
9. If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
10. This agreement is effective \_\_\_\_\_.

**E. Outdoor Furnaces. [Added 10-19-2009 by L.L. No. 4-2009]**

- (1) **Purpose.** This local law provides for the implementation of a policy to regulate outdoor furnaces so that residents and commercial establishments will continue to have clean air and an environment free of obnoxious odors, noxious fumes and smells. Although outdoor furnaces 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 chapter is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.
- (2) **Permits Required.** The Town Board shall issue a special permit for the use of an outdoor furnace, prior to the issuance of any building permits. No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Clay without first having obtained a permit from the Department of Planning and Development. Application for permit shall be made on the forms provided by the Department of Planning and Development. Upon approval by the code enforcement officer, a certificate of compliance will be issued.
- (3) **Specific Requirements.**
  - (a) Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace.
  - (b) Prohibited substances. Industrial waste, rubber, plastic, used motor oil, toxic chemicals, contaminated waste, yard waste, household garbage, cardboard and wastepaper, animal waste and any material prohibited for combustion by federal or state statute.
  - (c) Permitted zones. Outdoor furnaces shall be permitted **only** in the *RA-100*, *I-1* and *I-2* Zoning Districts as shown on the Town's Zoning Map.
  - (d) Minimum lot size. Outdoor furnaces shall be permitted **only** on lots of three (3) acres or more.
  - (e) Setbacks. Outdoor furnaces/wood storage shall be set back not less than 100 feet from the nearest lot line.
  - (f) Outdoor furnaces shall not be located closer than 25 feet to any other structure.
  - (g) Months of operation. Outdoor furnaces shall be operated **only** between September 1 and May 31.
  - (h) Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.
  - (i) No outdoor furnace shall be utilized in any manner as a waste incinerator.

- (4) **Suspension of Permit.** A permit issued pursuant to this chapter may be suspended as the Code Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Clay if any of the following conditions occurs:
- (a) Emissions from the outdoor furnace exhibit greater than 20% opacity (six minute average), except for one continuous six-minute period per hour of not more than 27% opacity, which shall be determined as provided in 6 NYCRR 227-1.3(b);
  - (b) Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;
  - (c) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
  - (d) The emissions from the outdoor furnace cause damage to vegetation or property; or
  - (e) The emissions from the outdoor furnace are or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided in § 230-20 E.(7) hereof.

- (5) **Nonconforming Outdoor Furnaces.** See Section 230-23 *Nonconformities*.
- (6) **Enforcement.** This chapter shall be enforced by the Code Enforcement Officer of the Town of Clay.
- (7) **Penalties For Offences.** Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$250 for each day or part thereof during which such violation continues. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace is located until paid.
- (8) **Effect On Other Regulations.** Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other federal, state, regional or local agency. Outdoor furnaces, and any electrical, plumbing or other apparatus or device used in connection with an outdoor furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and recommendations and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

### § 230-21. Parking and loading.

*This section has been modified to address the new land uses established in the Zoning Code and to provide more current parking and loading standards. Primary changes include organizing both the parking and loading requirements in a single, consistent format. Land uses are treated comprehensively through a concept of parking groups. Requirements have been updated and provision for reserve and shared parking has been established.*

#### A. Size.

- (1) **Parking space size.** A parking space shall be 9 1/2 feet by 20 feet with a 20 feet wide driving isle. Spaces are measured from centerline of stripe.
- (2) **Handicap parking.** Handicap parking shall follow the requirements of the Building Code of the State of New York. Medical Office Buildings may require more parking spaces as per Site Plan Review.
- (3) **Loading space size.** A loading space shall be a minimum of 12 feet wide and 55 feet in length with a height clearance of 14 feet. It shall also provide sufficient adjacent maneuvering space for trucks and similar vehicles to safely enter, unload and depart the loading space. Loading space design, placement and configuration will be subject to approval during site plan or special permit reviews, as required by the respective zone district. The length of loading space may reduced by the reviewing board to 35 upon finding that it is appropriate for the site and structure and does not result in any interference with other vehicular or pedestrian movements.

#### B. **Required parking and loading table.** *The following table establishes the minimum number of parking and loading spaces for each proposed or existing land use based upon **parking groups**. Parking groups are collections of land uses that are considered by the Town to have similar parking and loading needs. The parking groups are designed to use the familiar land use terminology used in this code and do not alter whether a land use is permitted or not within any district. The Commissioner of Planning and Development shall determine the appropriate parking group for any land use.*

#### C. **Parking groups defined.**

ASSEMBLY -- Land use accommodating large groups for events, such as performance, show, lecture, religious service, meeting, or ceremony (examples: indoor or outdoor recreation-spectator, theaters, religious institutions).

COMMUNITY SUPPORT SITE -- Land use providing utility, safety and similar services to the community or individual property (examples: utility substations, telecommunication devices, fire stations, emergency vehicle stations).

MANAGED-LIVING FACILITY -- Land use providing temporary living, sleeping, or care accommodations (examples: hotels, motels, hospitals, nursing homes).

**MEDICAL OFFICE, CLIENT-BASED-** Land use intended to primarily serve clients or patients with medical, health care, therapeutic, or similar matters (examples: medical offices, dentist offices, diagnostic centers).

**MEDICAL OFFICE, NON-CLIENT-BASED** -- Land use focusing on a variety of medical professional, administrative, management, clerical tasks and similar back-office operations; customers, clients, patients or similar nonemployees are not routinely present. (Examples – medical records storage facility).

**MIXED-USE SITE** -- Land use where there are identifiable separate primary uses on the site, and more than one of the above parking groups could apply (examples: shopping centers with car dealer, office-apartment buildings).

**OFFICE, CLIENT-BASED** -- Land use intended to primarily serve clients or patients with professional, financial or similar matters (examples: accounting or legal services, tax preparation office engineering, insurance).

**OFFICE, NON-CLIENT-BASED** -- Land use focusing on a variety of professional, administrative, management, clerical tasks and similar back-office operations; customers, clients, patients or similar nonemployees are not routinely present. (Examples -).

**OPEN-SPACE-RELATED** -- Land use designed where the primary activities or services are conducted outside, and buildings are generally accessory to the exterior activity (examples: outdoor recreation-participant, playgrounds, ball fields, cemeteries).

**PRODUCTION SITE** -- Land use primarily devoted to the manufacture and/or processing of materials with accessory management office and storage space and incidental customer-client space (examples: farms, manufacturers).

**RESIDENTIAL** -- Land use primarily used as or contains a dwelling unit as defined in this code (examples: one-, two-, and multiple-family dwellings, townhouses, mobile homes, apartments).

**RESTAURANT/ENTERTAINMENT** -- Land use serving, on retail basis, food and beverage for on or off-site consumption, may include related entertainment facilities (examples: restaurants, bars, nightclubs).

**RETAIL SERVICE SITE, CUSTOMER-BASED** -- Land use intended to primarily serve clients, patients, or customers with retail or personal services (examples: banks, stores, repair shops, groceries, shopping centers).

**STORAGE SITE** -- Land use primarily designed for the long- or short-term storage, handling and shipping of bulk materials or individual items (examples: warehouses, wholesale distributors, truck terminals).

**VEHICULAR SERVICE SITE** -- Land use designed for the sales, service and/or storage of motor vehicles and where the vehicle operator typically remains with the vehicles or leaves the vehicle for service (examples: car repair, gas stations, car washes, car dealers).

D. Calculation of parking and loading requirements.

- (1) **Type of parking spaces.** The following table is the basis for determining only the number of employee and customer parking spaces.
- (2) **Site plan/special permit** review required. The following types of spaces are excluded from this table: vehicle service, storage, display, queuing or for vehicles owned, operated or otherwise directly related to the land use (e.g., service or delivery vehicles, buses or vans). Adequate space for these vehicles shall be separately provided on the site, identified in the graphic plan(s) submitted to the Town and evaluated during the site plan review or special permit review, as required by the respective zone district.
- (3) **Reserve spaces.** Upon approval during either site plan or special permit reviews, a percentage of the required parking or loading spaces may be set aside for future installation. These spaces shall be maintained as potentially usable spaces, but, until needed, shall be landscaped, treated and maintained per the requirements of the reviewing board. The reserve spaces shall be clearly shown on any graphic plans approved by the Town. Unless otherwise prohibited by the Town, the owner-occupant may prepare these reserve spaces for vehicular use per the approved plan, without additional site plan or special permit review. The Town may require the owner-occupant to prepare the reserve spaces for vehicular use upon a finding by the reviewing board that the reserve spaces are needed.
- (4) **Shared/Off-site parking.** All parking and loading spaces shall be maintained entirely within the same lot as the land use(s), unless specifically allowed by the reviewing board. The reviewing board may, during site plan or special permit review, allow the required parking spaces to be maintained on any lot within 500 feet of the primary land use if it determines that it is impractical to provide parking on the same lot with the building by the issuance of a special permit.
- (5) **Parking ratios.** The table sets forth a minimum number of spaces required per selected characteristics of land use. Square footage is used for most of the land uses and is based on the gross or entire floor area of a building or structure, as measured along the exterior walls.
- (6) **Fractional results.** A parking or loading space calculation resulting in fraction of a space shall be rounded to the closest whole number, except that no loading space shall be required for land uses that yield a calculated loading space that is less than one space.

E. **Required parking and loading spaces. The following parking and loading spaces shall be provided and satisfactorily maintained by the owner-occupant of the property for each land use on the property.**

<u>Group Name</u>	<u>Minimum Required Parking Spaces</u>	<u>Minimum Required Loading Spaces</u>
<b>Residential</b>		
1 to 3 units	2/unit	0
4 or more	2/unit	Subject to site plan review

<u>Group Name</u>	<u>Minimum Required Parking Spaces</u>	<u>Minimum Required Loading Spaces</u>
<b>Managed-living facility</b>		
Health-related	2/bed	1/10,000 sq. ft.
Hotel-, motel-type use	1.5/room	1/10,000 sq. ft.
<b>Assembly</b>		
Fixed seating Open floor plan: flexible seating	1/3 seats 10/1,000 sq. ft.	0 0
<b>Office, client-based</b>		
Less than 4,000 sq. ft.	5/1,000 sq. ft.	0
4,000 to 15,000 sq. ft.	4/1,000 sq. ft.	0
Greater than 15,000 sq. ft.	4/1,000 sq. ft.	1/30,000 sq. ft.
<b>Office, non-client-based</b>		
Less than 4,000 sq. ft.	4/1,000 sq. ft.	0
4,000 to 15,000 sq. ft.	3/1,000 sq. ft.	0
Greater than 15,000 sq. ft.	2/1,000 sq. ft.	1/50,000 sq. ft.
<b>Medical Office, client-based</b>		
Less than 4,000 sq. ft.	5/1,000 sq. ft.	0
4,000 to 15,000 sq. ft.	6/1,000 sq. ft.	1
Greater than 15,000 sq. ft.	7.5/1,000 sq. ft.	1/15,000 sq. ft.
<b>Medical Office, non-client-based</b>		
Less than 4,000 sq. ft.	4/1,000 sq. ft.	0
4,000 to 15,000 sq. ft.	3/1,000 sq. ft.	0
Greater than 15,000 sq. ft.	2/1,000 sq. ft.	1/50,000 sq. ft.
<b>Retail service site</b>		
Less than 15,000 sq. ft.	6/1,000 sq. ft.	0
15,000 to 30,000 sq. ft.	5/1,000 sq. ft.	0
Greater than 30,000 sq. ft.	4/1,000 sq. ft.	1/50,000 sq. ft.
<b>Restaurant/ entertainment site</b>		
Fixed seating: package food	15/1,000 sq. ft.	1/30,000 sq. ft.
Fixed seating: family dining	25/1,000 sq. ft.	1/30,000 sq. ft.
Open floor plan: flexible seating	35/1,000 sq. ft.	1/30,000 sq. ft.
<b>Production site</b> (manufacturing)	4/1,000 sq. ft.	1/30,000 sq. ft.
<b>Storage site</b> (warehousing)	0.5/1,000 sq. ft.	1/50,000 sq. ft.
<b>Vehicular service site</b> (see separate requirements for vehicle queuing, storage and display)		
Entire site	5/acre	0
Incidental retail space (add parking)	6/1,000 sq. ft.	0

<u><b>Group Name</b></u>	<u><b>Minimum Required Parking Spaces</b></u>	<u><b>Minimum Loading Spaces</b></u>
<b>Open-space-related</b>		
Active area	10/acre	0
Passive area	2/acre	0
<b>Community support site</b>		
Unstaffed site	1/lot	0
Staffed site	Subject to site plan review by Planning Board	

**Mixed uses:** Cumulative total of required parking for each primary use based on above schedule

**blank page**

**§ 230-22 Signs.**

- A. *Intent. The purpose of this section is to define, promote, and regulate signs that identify a business, service, or product in a manner that provides for or promotes public safety and are compatible with and enhance their existing and planned surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly, simply, and should be aesthetically designed in a manner that is compatible with their existing and planned surroundings.*

**B. Definitions.**

“A” FRAME SIGN - a temporary sign that remains moveable and self-supporting, placed directly on the ground surface with two sides connected or hinged at the top each side is capable of displaying sign text.

ADVERTISING SIGN -- A sign, including those which are composed of light rays only, calculated to attract public attention to a product, service or undertaking encompassing activities off the property where such signs are situated, including what are commonly termed "posters" or "symbols," and similar devices of whatever composition, size, location or color.

ANIMATED SIGN -- any portion of a sign or attachments to a sign that move by electronic, mechanical or natural means, including, by way of illustration and not limitation, rotating signs, wind signs and signs where movement is simulated by illumination devices such as from flashing and intermittent light, as opposed to light of a constant intensity (see also electronic message board sign and electronic display screen)

AWNING SIGN -- a major sign painted on, attached to or incorporated into the surface materials of an awning on the front face (side parallel to building façade) or the projecting awning sides. It may include multiple sign text areas within the allowable sign area.

BANNER SIGN – A temporary sign hung either with or without frames, possessing written communication applied to non-rigid paper, plastic or fabric of any kind.

BILLBOARD -- a sign constructed or installed as a principal structure or principal or secondary land use of a lot to display information unrelated to the site location.

BUILDING IDENTIFICATION SIGN -- A sign identifying the street number and/or name of a structure.

BUSINESS SIGN -- A sign identifying and directing attention to a business offering a commodity, service, industry or other activity which is sold, offered or conducted. Such sign is to be located, pursuant to this code, directly on or at the business location, within the property boundaries or within the leased area for multiple occupants. See freestanding, marquee, projecting, roof and wall signs, as defined by this code.

CANOPY SIGN -- a major sign painted on, attached to or incorporated into the surface materials of a canopy on the front face (side parallel to building façade) or on the projecting canopy sides. It may include multiple sign text areas within the allowable sign area.

COMMUNITY/PERSONAL EVENT SIGN - a temporary sign announcing a activity or event on a specific date and location; examples include garage sale, rummage sale, fund-raiser.

CONTRACTOR SIGN (residential, commercial, non-residential) – a temporary sign displaying the names and contact information about businesses responsible for design and construction related work performed on the lot.

DIRECTORY SIGN - a minor sign displaying a list of occupants or tenants of a building or lot commonly with some location (bldg or room #) and/or graphic directional information. This sign type is distinct from a major sign depicting multiple messages within the allowed sign area.

**ELECTRONIC DISPLAY SCREEN** -- a device, designed to display changeable text or imagery on a video screen or comparable surface, installed within a permanent sign structure occupying a portion of, or the entire allotment of sign area as allowed in this code.

**ELECTRONIC MESSAGE BOARD SIGN**-- Any sign or portion of a sign that uses an electronic display screen or changing lights to form a message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

**FREESTANDING SIGN** -- a major sign within its own structure located directly on the ground with its own foundation or structural support; and includes monument, pole and pylon signs. It may include multiple sign text areas within the allowable sign area.

**GRAND OPENING SIGN:** An exterior wall sign, banner, or freestanding sign intended for display for a limited period of time to advertise the opening of a new business for which a certificate of occupancy permit has been issued.

**HOME OCCUPATION SIGN** -- see business sign - a sign used for the business use on a residential property.

**INFORMATION SIGN** -- A minor sign which contains information intended exclusively as a public service and of a noncommercial nature indicating such facilities as rest rooms, public telephones, bus stops, rest areas and on-site building identification signs.

**LANDSCAPING SIGN** -- A minor sign located on a section of ground constructed by the arrangement of flowers, shrubs, trees or other similar natural elements.

**MARQUEE SIGN** – a major sign painted on, attached to or incorporated into the surface materials of a marquee on the front face (side parallel to building façade) or on the projecting marquee sides. It may include multiple sign text areas within the allowable sign area.

**MONUMENT SIGN** -- a style of freestanding sign constructed as a solid structure or one which gives the appearance of a continuous, non-hollow, unbroken, mass that may display one side or two parallel sides of sign area. May also be called pedestal sign.

**MENU BOARD SIGN** -- A minor sign for the point-of-purchase advertising display that allows the retailer to list products and prices, including order conformation display.

**NONCONFORMING SIGN** – Signs legally established which do not conform to the regulations herein.

**NEIGHBORHOOD IDENTIFICATION SIGN** -- A sign identifying a neighborhood, residential tract, multifamily development, apartment complex or similar neighborhood identification. See free standing sign

**OFF-PREMISE SIGN** - A sign unrelated to the property upon which it is located. (See also billboard)

**OFFICIAL SIGN** -- A sign established pursuant to governmental authority or used for the identification of public buildings, facilities and activities, and shall include traffic regulation devices authorized by the

Vehicle and Traffic Law of the State of New York and any other sign authorized and required under local, state or federal law.

**OPEN HOUSE SIGN, RESIDENTIAL** -- A temporary sign announcing the availability of a residence to visited and examined by the public in order to promote a real estate sale.

**POLITICAL SUBDIVISION AND CIVIC SIGN** -- A minor sign includes flag or pennant containing the insignia or emblem of a political subdivision, nonprofit civic-oriented organization or fraternal order.

**POLITICAL SIGN** – a temporary sign installed in the ground or attached to a building relating to the election of a person to a public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body.

**POLE SIGN**- a style of free-standing sign, usually double-faced, mounted on a pole(s), tube(s) or other vertical supports that are installed directly within the ground and has no other connection or means of stability for secondary support. See **FREESTANDING SIGN**.

**PRIVATE TRAFFIC SIGN** -- A minor sign situated within private property providing information for traffic movement and storage, such as directional signs, parking areas, freight and loading areas, prohibited parking areas, points of ingress and egress, speed limits and related items, but expressly excluding off-street parking lot or garage identification signs.

**PROJECTING SIGN** -- A major sign which is affixed and is perpendicular to any building wall or structure and extends beyond the building wall or parts thereof, and no portion of which projects above the roofline or parapet of a building. It may include multiple sign text areas within the allowable sign area.

**PUBLIC SAFETY SIGN** -- A minor sign containing information designed for the protection and safety of the occupants or users of site or the public about aspects of the lot. Examples are warnings of danger areas, trespassing notices, work areas, utility warnings, street elevators, sentry dogs, security systems, safety warning devices and similar notices.

**PYLON SIGN** -- A style of freestanding sign of which the entire bottom of the sign is generally in contact with or in close proximity to the ground. See **FREESTANDING SIGN**.

**REAL ESTATE SIGN (RESIDENTIAL, COMMERCIAL, NON-RESIDENTIAL)** -- a temporary sign indicating a specific lot or property is for sale, rent or lease.

**REPRESENTATIONAL SIGN** -- A three-dimensional sign built so as to physically represent the object advertised.

**SANDWICH BOARD SIGN** – see ‘A’ frame

**ROOF SIGN** -- a major sign placed partially or entirely above the upper edge of any building wall or parapet or a sign painted, installed or incorporated into the surface material of the roof covering; roof signs shall also include signs located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure. It may include multiple sign text areas within the allowable sign area.

**SIGN** – An accessory structure that is a natural object or part thereof; device; or inscription, which is represented on any land or the outside of any building used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banners, flags, pennants, insignia, trademarks, devices or representations used as, or which is in the nature of, an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry or public performance.

All signs in this code have been organized with the following groups or categories in order to administer these sign regulations in an effective and balanced manner signs while recognizing the similarities and differences of sign structural type and general function.

- Major signs – permanent structures or modifications to a structure or lot to direct information to the general public about the land use(s) of the lot. (see section C 1 a)
- Minor signs permanent structures or modifications to a structure or lot and to facilitate movement or activity within a lot.
- Temporary signs – non-permanent signs allowed for limited duration direct information to the general public.

**SIGN AREA** – The area of a sign is the entire area within a single continuous perimeter enclosing the extreme limits or writing, representation, emblem, or any figure of similar character, as included in the definition of sign, together with any frame or material or color forming an integral part of the display used to differentiate such sign from the background against which it is placed. Sign area calculation excludes the necessary supports or uprights on which such sign is situated. See also §230-22 E(3)

**SIGN COPY CHANGES** -- Change of copy on a sign, the customary use of which involves frequent and periodic changes of copy such as those customarily associated with theatre marquees and bulletin boards.

**SIGN DISPLAY SURFACE** -- The surface made available by the structure, either for the direct mounting of letters and decoration or for the mounting of facing material intended to carry the entire advertising message.

**SIGN FACING** -- The surface of the sign upon, against, or through which the message of the sign is exhibited.

**SIGN HEIGHT** -- The vertical distance from the uppermost point of a sign (measured from a ten-foot radius of the sign structure or structural trim) to the average unaltered ground height beneath the sign and within the structure thereof.

**SIGN LETTERS AND DECORATIONS** -- The letters, illustrations, symbols, figures, insignia, and other devices employed to express and illustrate the message of the sign.

**SIGN MAINTENANCE** -- Routine maintenance, including minor repairs, such as repainting, bulb replacement and repair of electrical or mechanical parts.

**SIGN STRUCTURAL TRIM** -- The molding, battens, cappings, nailing strips, latticing, and platforms which are attached to the sign structure.

**SIGN STRUCTURE** -- The supports, uprights, bracing and framework of the sign.

SITE DEVELOPMENT SIGN - see contractor sign

STATUARY SIGN -- An inscription commemorating an event of unique historical, social, cultural or geographical significance.

TEMPORARY SIGN -- A sign installed and maintained pursuant to this code, that may be constructed of non-permanent or disposable material such as cloth, plastic, paper, wood or similar products and which is intended to inform of a time sensitive event. Notwithstanding the materials temporary signs are subject to the time, location and maintenance requirements of this code.

TIME AND/OR TEMPERATURE DEVICE - A device providing information of the current time and/or meteorological conditions.

VEHICULAR SIGN - A motor vehicle covered or decorated, modified to display a sign as defined in this section

WALL SIGN -- A major sign which is painted upon or directly attached and parallel to an exterior wall of a building. It may include multiple sign text areas within the allowable sign area.

WINDOW SIGN -- A sign situated on the glazed surface of a window, not forming an integral part of a window display.

WINDOW DISPLAY SIGN -- A sign situated beyond 12 inches of the interior of a window face and forming an integral part of a window display.

## C. Sign Standards and Requirements

All signs are regulated by one of the following three categories: major, minor and temporary signs. In addition, all signs are subject to the general standards and procedures described following this section.

### (1) Major sign standards

**See Table A for specific sign requirements**

- (a) Generally: Major signs are permanent, substantial yet accessory structures designed, sized and located to present information to the general public about the business or operation of the principal land use located on the property.
- The types of signs considered to be major signs are included in the accompanying Table
  - Table A requirements are premised and intended to be a balance between maximizing commercial/property needs of the lot with community objectives of preserving safety of vehicular and pedestrian movements, minimizing visual clutter, and encouraging well-conceived community design and aesthetics.
  - The sign requirements apply to all land uses and structures allowed in each zone district; it shall include all zone districts within a district group unless a zone district or exception is specifically listed.
- (b) Approval method, numerical and other requirements subject to Table A requirements.

### (2) Minor sign standards

- (a) Generally: Minor signs are permanent accessory structures designed, sized and located to present limited information to the users, visitors, or occupants within a lot. Such signs shall be installed for limited navigation and safety, directory or other purposes related to the internal operation on the property and are regulated pursuant to the following requirements. These requirements shall be applied to promote the safe and effective use of the property in manner and design that enhances the appearance of the lot and surrounding properties.
- (b) Approval Method: All minor signs shall be subject to approval during the review required for the principal use or structure and shall be within the jurisdiction of the applicable reviewing board (Town Board, Planning Board, ZBA). These boards may as a condition of approval direct the Commissioner of Planning and Development to finalize and adjust details of design and location of all minor signs within the parameters of the approved plan.
- (c) Types of Minor Signs: The following are recognized as minor signs subject to this section: private traffic, public safety, information, directory, menu and statuary signs.
- (d) Size of Minor Signs: should not exceed 4 sq. ft. and may be adjusted by the reviewing board for enhancing sign purpose, the site conditions, and/or the activity of the internal user (driver or pedestrian, customer, visitor or employee).
- (e) Number of Minor Signs: minimal number to accomplish sign purpose, the site conditions and activity of the internal user.
- (f) Location of Minor Signs: located to maximize the internal operation of the lot and away from the public or private ROW and from adjoining properties.

**(3) Temporary sign standards**

- (a) Generally: Temporary signs are non-permanent accessory structures designed and installed to present time-limited information to the public that may be of a commercial or non-commercial nature. The following requirements have been established to allow for the broadest opportunities for expression while preserving public safety and the aesthetic qualities of community appearance.
- (b) Contact Information: All temporary signs shall have local contact information, either printed on or attached to some portion of the sign itself or as an alternative the placement of temporary signs shall be recorded with the Commissioner of Planning and Development. This local contact shall be the person, agency or enterprise responsible for proper installation, care and the prompt removal of temporary signs. Signs lacking printed contact information or the alternative of recording with the Commissioner may be removed by the Town.
- (c) Approval Method: No prior approval is required for signs less than 16 sq. ft. Signs greater than 16 sq. ft. shall be reviewed by the Commissioner of Planning Development to ensure that the proposed location does not impede pedestrian or vehicular movements, is fully and adequately secured to the ground or structure and meet all applicable safety standards.
- (d) Location of Temporary Signs: No temporary sign shall be placed within any public Right-of-Way (ROW). All temporary signs shall be located within the boundaries of a private lot upon permission of the property owner if located on lot unrelated to event. See also General Prohibitions and Requirements for corner lots.
- (e) Installation, maintenance and removal of temporary signs: All temporary signs shall be installed in a manner consistent with these regulations. Any damaged, dislodged or deteriorated temporary sign shall be immediately removed. Temporary signs shall be removed within the time period allotted for each type of temporary sign.

**(f) Types of temporary signs:**

[1] Long duration temporary signs include signs related to real estate and construction activity on a specific property displayed during the sales or construction period.

- *Commercial/Non-Residential Use Real Estate Sales Sign* – A maximum of three signs per lot shall be permitted. No sign shall exceed sixteen (16) square feet in area on frontages of 100 feet or less. Signs on frontages greater than 100 feet shall not exceed thirty-two (32) square feet. On corner properties, if either frontage does not exceed 200 feet, only one such sign shall be allowed on the lot. If the lot exceeds 200 feet in frontage in both directions one sign shall be allowed on each road frontage of the lot. These signs shall be removed from the sales lot within 48 hours of the passing of title to a new owner or withdrawal from the market.
- *Residential Real Estate Sales Sign* – A maximum of one sign per lot shall be permitted. The sign shall not exceed four (4) square feet in area and it shall be removed from the sales property within 48 hours of the passing of title to a new owner or withdrawal from the market.
- *Commercial/Non-residential Contractor Sign* - A maximum of one sign per street frontage shall be permitted. The sign shall not exceed 32 square feet in area. In residential subdivisions, the sign may be placed at the inception of the filed section of the project and may only be located at major entrances to the subdivision and be maintained within a period commencing not more than 14 days prior to the start of construction of the section and terminating not more than 14 days following completion of the filed section or after three years after

the start of construction.

- Residential Contractor Sign - A maximum of one sign per lot shall be permitted. The sign shall not exceed 4 square feet in area. The sign shall be removed within 48 hours of completion or cessation of work on the lot

[2] Short duration temporary signs include signs related to the occurrence of a specific event or related to a date-certain activity.

- *Residential Open House Real Estate Sign* - A maximum of three signs per event are permitted only during the hours of the sales event. No sign shall exceed four square feet in area. The signs may be located on any property with prior permission of the owner or tenant.
- *Community/Personal Event Sign* – These signs may be installed a maximum of three (3) times per year for a maximum of 14 days prior to the each event and shall be removed within 48 hours of conclusion of the event. No sign shall exceed four square feet in area. One sign per lot may be located on any property with prior permission of the owner or tenant.
- *Political Sign* - These signs may be installed a maximum of two (2) times per year for a maximum of 60 days prior to the each event and shall be removed within 48 hours of the conclusion of the event. No sign shall exceed 32 square feet in area in any zone district and in the Residential Districts no sign shall exceed 6 square feet in area. These signs may be located on any property with prior permission of the owner or tenant.
- *Grand Opening Sign* – These signs may be installed a maximum of four (4) weeks; either prior to, during, or after the event. No sign shall exceed thirty-two (32) square feet in area in any zone district.

#### D. Procedures for Obtaining a Sign Approval

- (1) **Generally.** Unless exempted by this section or waived by the reviewing Board all signs shall be evaluated during Site Plan Review or Special Permit Review when required by this zoning ordinance for the principal use or structure. When no other review is required for the principal use or structure the Planning Board shall review proposed signs pursuant to the requirements of Table A. All major and minor signs shall be subject to a building permit prior to the performance of any sign work. Such permits shall be issued by the Commissioner of Planning and Development in accordance with the conditions of the reviewing board approval.
- (2) **Referrals.** The Town Board and Zoning Board of Appeals shall refer to the Planning Board all proposals that are accompanied by free-standing sign requests in a special permit or variance applications before those boards.
- (3) **Exceptions.**
  - (a) No sign permit shall be required for the following:  
[1] Temporary signs less than 16 sq. ft.
  - (b) The foregoing exceptions shall not be deemed to waive any regulations contained in this or any other law which is otherwise applicable.
- (4) **Prerequisites to issuance of approval or permits.** As a prerequisite to the issuance of any permit, in addition to any other restrictions applicable thereto, the following findings shall be made:
  - (a) The proposed sign is not in conflict with the general prohibitions contained in Subsection E of this section, the provisions of which may not be waived, and complies with all other applicable provisions.
  - (b) The proposed sign will not have any adverse impact upon the character or integrity of any land use having unique cultural, historical, geographical, architectural or other significance.

#### E. Construction and Design Standards

- (1) **Design standards.** The following design standards are provided to encourage and direct appropriate and compatible graphic design, material, colors, illumination and placement of proposed signs. In general, sign design shall be consistent with the purpose and intent of this chapter.
  - (a) Signs should be designed to be compatible with their existing and planned surroundings and should be consistent with the architectural character of the buildings on which they are located.
  - (b) Sign panels and graphics should relate with and not obstruct architectural features or details and should be in proportion to them.
  - (c) Layout should be orderly and graphics concise.
  - (d) Illumination should be appropriate to the character of the sign and its surroundings and shall be in accordance with §230-22 E (2) (e) of this Chapter.
  - (e) All illuminated signs shall meet Underwriters Laboratories (UL) rating standards.
  - (f) The addition of a street address on freestanding signs shall be required unless otherwise determined by the Planning Board.

**(2) General prohibitions and requirements**

The following regulations shall be applicable to all signs, except, official signs, as defined in Subsection B, are exempt from the provisions of this section.

- (a) Signs are accessory structures: Only signs that are accessory structures as defined in this code and shall be permitted pursuant to the requirements of this section. No sign shall be installed or used as a principal structure or principal or secondary use. Unless otherwise permitted no sign shall be unrelated to the property upon which it is located.
- (b) Maintenance, Care and Public Safety. No sign shall be maintained that due to its condition, location, materials or method of installation poses a risk of littering or public safety, as determined by the Commissioner of Planning and Development.
- (c) Obstructions. No sign shall obstruct by physical or visual means any fire escape, window, door or any opening providing ingress or egress or designed for fire or safety equipment; any passageway from one part of a structure or roof to another portions thereof; or any opening required for ventilation, or which is required to remain unobstructed by any applicable law.
- (d) Projections.
  - [1] No sign shall project into a vehicular driveway at an elevation less than 14 feet above grade.
  - [2] No sign shall project into an area on designed as a pedestrian way at an elevation less than 10 feet above grade.
- (e) Placement. No sign shall be placed upon or attached to any public right-of-way, utility pole, lamp post, water or fire hydrant, sidewalk, bridge, tree or similar installation or improvement, whether situated upon public or private property.
- (f) Signs are prohibited which by their use or simulation of colors, design or placement, tend to confuse, detract from or in any manner obstruct the utilization of traffic regulatory devices. All determinations of this type shall be made by the enforcement officer, who shall consider, but not be limited to, the following aspects of such signs:
  - [1] The use of words such as "stop," "go," "look," "caution," "danger," "warning" and similar nomenclature.
  - [2] The use of colors and lights in the spectrum of colors utilized for traffic regulatory devices.
  - [3] All blinking, intermittent, flashing, or other animated forms of illumination or light, and all sources of illumination which, through direct or indirect means, create glare.
- (g) Illumination. No sign shall produce illumination in excess of one foot-candle at a distance of four feet.
- (h) Corner visibility. On a corner lot within the areas formed by right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a distance of 25 feet from their intersection, no sign shall project into the elevation between a height of two and half feet and a height of 10 feet above the grade of each street at the center line thereof.

- (i) Vehicular Signs – Signs on motor vehicles.
- (1) All commercial vehicles related to business or enterprise shall be stored or parked in locations approved during Site Plan Review, Special Permit or Variance approval.
  - (2) No person shall park any vehicle or trailer on a public right-of-way / public property / private property so as to be intended to be viewed from a vehicular public right-of-way, which has for its basic purpose the providing of advertisement of products/services or directing people to a business or activity located on the same property or any other premises, and in a manner such that motor vehicle functions as a sign.
  - (3) This section is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle or signs that are part of a vehicle, such as a construction trailer, whose primary purpose is not advertising to the public.
- (j) Prohibited Signs The Town having considered and observed its overall community objectives , its physical and administrative resources, the visual and physical character of the community, the variety of communication opportunities for lots and land uses, and the negative visual, aesthetic and physical impact of certain types of signs declare that the following are prohibited types of signs:
- Billboard
  - Electronic Message Board Sign

**(3) Computation of sign area.**

- (a) The area of the sign support should be in relationship to the area of overall dimension of the signage with approval of the reviewing board.
- (b) The area of a sign is the entire area within a single continuous perimeter enclosing the extreme limits or writing, representation, emblem, or any figure of similar character, as included in the definition of sign, together with any frame or material or color forming an integral part of the display used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is situated.
- (c) When a wall sign consists of individual letters, symbols or characters, its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols and characters.
- (d) When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within 12 inches of each other. Otherwise, all faces of the sign shall be used to compute the sign area.
- (e) The allowed area of a three dimensional representational sign shall be determined by the Town of Clay Planning Board.

## F. Sign Maintenance

Sign maintenance. The Commissioner shall order the removal of any sign (major, minor or temporary) that is not kept in good repair and a proper state of preservation. In making such determination, the Commissioner shall consider, but need not be limited to, the following elements: defective lighting; broken, loose or missing parts; fading, flaking or blistering paint; illegibility; or any condition which may constitute a littering or safety hazard.

## G. Signs for lots with nonconforming use, lot or structure

Sign for properties that may be nonconforming lots or have a non-conforming use or structure shall be subject to a Special Permit from the Planning Board. Any proposed sign shall conform to the sign standards currently applicable to the property based on its zoning classification. In reviewing a sign proposal the Planning Board may consider the nature of the nonconformities as well the nature of the current zoning and surrounding land development pattern. It may modify, but not exceed, the current sign standards to have any proposed sign fit compatibly within the site.

## H. Non-conforming signs.

*Intent- this section is intended to encourage the eventual elimination of signs which do not comply with §230-22 Signs of the Town of Clay Zoning Code. The elimination of nonconforming signs is important to the Intent as stated in §230-22 A.*

1. Any sign which, on **April 7, 2008**, the date of adoption of this Local Law, does not conform to the provisions of this chapter shall be considered a legal nonconforming sign and shall be permitted, provided that when originally installed, it was in compliance with all applicable codes, ordinances, and regulations which were in effect.
2. Sign faces may be changed on nonconforming signs when there is no change to the primary use of the site or when only a portion of a multiple-tenant sign is being changed.
3. If a business leaves its premises, the owner of the property/building shall be responsible for the removal of any business sign from said premises, within 60 days.
4. A nonconforming sign may be continued and shall be maintained in good condition as required by this chapter but it shall not be:
  - (a) Structurally changed to another nonconforming sign.
  - (b) Structurally altered to prolong the life of the sign, except to meet safety requirements.
  - (c) Altered in any manner that increases the degree of nonconformity.
5. All nonconforming signs shall be terminated or brought into compliance by **December 31, 2018**.

**I. Abandoned signs.**

- (1) **Determination.** The Commissioner shall order the removal of any sign which has become abandoned. In making such determination, the Commissioner shall consider, but need not to be limited to, the following elements:
- (a) Period of nonuse of the activity, product, service or other item relative to the business activity has been discontinued for a period of 90 days, the sign shall be presumed to have become abandoned, unless the owners, beneficial user, or other party in interest files a written certification with the enforcement officer indicating that such business activity (including its appurtenances) is to be reactivated within 30 days following such ninety-day period.
  - (b) The sign is situated upon or incidental to a site which has been scheduled for demolition and it appears that the activity, product, service or other item relative is no longer viable irrespective of the lapse of time.
  - (c) The sign is otherwise nonconforming or illegal, and the owner or beneficial user cannot with reasonable diligence be located.
- (2) **Removal of signs.** Any abandoned, or illegal sign existing after **December 31, 2008** shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. Upon removal of any wall sign (including signs painted on walls), the surface area of the facade shall, within 30 days of removal, be restored to a condition substantially equivalent to the remaining portion of the facade in appearance. The enforcement officer, upon determining that any such sign exists, shall, upon expiration of the continuance period or such other time limit which may be provided for, notify the owner or beneficial user of such sign, in writing, to remove the sign within 30 days from the date of such notice. Upon failure to comply with such notice within the prescribed time, the enforcement officer shall remove or cause removal of such sign and shall assess all costs and expenses incurred in the removal against the property on which such sign is located.

**K. Penalties for offenses. See Section 230-9.**

**§ 230-23. Nonconformities.**

*This section describes procedures and standards for how preexisting standards are reconciled with the current code. Any legally established principal or accessory use, structure, improvement or lot not in compliance with the provisions of this code or subsequent amendments shall be regarded as a nonconforming element subject to the provisions of this section. It is the intent of this section to discourage the long-term continuation of any nonconforming elements. This section is also intended to allow for the reasonable and limited continuation and modification of nonconforming elements since it is not always feasible for nonconforming elements to immediately cease existing.*

A. Authority. Any modification of a nonconformity, including any addition, enlargement, alteration, structural alteration or change in use shall be subject to the provisions of this section.

B. Definitions.

NONCONFORMING ELEMENT -- Any other aspect of a development, such as parking, signs or similar standards that were legally preexisting to the current code requirements.

NONCONFORMING LOT -- A parcel of land legally established pursuant to the Town's subdivision regulations, but does not meet the current dimensional requirements for lot width, depth or area, if any, of the applicable zone district regulations.

NONCONFORMING STRUCTURE -- A legally preexisting principal or accessory structure that does not comply with applicable yard, setback, height, lot coverage or similar dimensional requirements.

NONCONFORMING USE -- A legally preexisting activity or land use occurring on or associated with a structure or site and is not permitted by building or zoning permit, site plan review or a special permit approval in the applicable zone district. A nonconforming use may be found to occur in conforming structures. A nonconforming use must be discontinued before the property can be used for a conforming use.

NONCOMPLYING -- Any use, structure, lot or other element improperly established or illegally existing prior to the enactment of this code or subsequent amendments.

C. Nonconforming structure requirements.

- (1) General maintenance and repair. Except as otherwise provided for in this section, nonconforming structures may continue to exist and to be maintained and repaired, provided such maintenance or repair does not expand or increase the applicable nonconformity.
- (2) Structural alterations, renovations and additions. Modifications to a nonconforming structure may be made upon issuance of a building permit. In no event shall these modifications increase or expand the degree of the structure's nonconformity, nor expand a nonconforming use without a properly issued variance from the Zoning Board of Appeals.

- (3) Damaged structures. Should a nonconforming structure or a nonconforming portion of a structure be destroyed by any means to an extent of more than 75% of its replacement cost at time of destruction, it shall not be reconstructed except to the exact or more conforming dimensions as it existed on the date of destruction. This reconstruction shall be commenced and completed with due diligence. If, however, a place of residence of a citizen of the Town of Clay is destroyed by accidental fire, hurricane, tornado or other act of God, said homeowner may rebuild the residence to the original type and size of structure or may rebuild or replace it with a superior type of construction.

D. Nonconforming use requirements.

- (1) Except as otherwise provided in this section, nonconforming uses may continue to exist.
- (2) A nonconforming use may not be enlarged to occupy additional floor area within an existing structure or additional lot space, nor be converted to another use, except in conformance with this code. Any such proposed modification or enlargement of a nonconforming use shall be subject to approval of a use variance from the Zoning Board of Appeals.
- (3) A nonconforming use may be changed to another nonconforming use only upon issuance of a special permit by the Zoning Board of Appeals. The Board shall evaluate the appropriateness of the proposed nonconforming use to the zone district and shall find that it will not have a greater impact on surrounding properties than the existing nonconforming use. In its determination, the Zoning Board of Appeals may consider parking demand, pedestrian and traffic volume, intensity of use, hours of activity, noise levels and any other factors considered relevant.
- (4) A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to a nonconforming use.
- (5) The provisions of § 230-23C(3) above, regarding repair and restoration of damaged structures, shall apply to conforming structures containing a nonconforming use.
- (6) Any previously established permitted use now subject to the site plan review or special permit requirements of this code shall be regarded as nonconforming if it does not comply with the current site plan review or special permit standards and criteria.
- (6) The nonconforming use of a structure or land which has ceased operation for six months shall be deemed abandoned and may not be reestablished. The six-month period will commence upon written notification by the Commissioner to the property owner. During this six-month period, the owner may request a time extension from the Zoning Board of Appeals in order to continue the nonconforming status. The Zoning Board of Appeals may extend the six-month period with a maximum additional 24 months upon finding that the nonconforming use occupies a structure uniquely designed to its use or that the additional needed time is reasonable and appropriate for the circumstances of the property. If the original or extended period has expired without an approved continuation of the nonconforming status, then the structure or land shall be used in conformity with this code.

- E. Nonconforming lot requirements.
- (1) Lots established without Town subdivision approval are considered legal if they were filed and recorded in the Office of the Onondaga County Clerk prior to January 1, 1985, and conformed to the zoning requirements in effect at the time of filing.
  - (2) Limited waiver. A nonconforming lot in any district may be improved with a permitted, site plan review or special permit use if all applicable setbacks, yards, dimensional, parking, and/or screening requirements are met.
- F. Nonconforming elements; other requirements. The Commissioner may determine that other permanent and/or physical aspects of a property, such as accessory elements, are subject to the regulations and protections of this section. Unless specified below, they shall be subject to requirements applicable to the most similar type of nonconformity.

ARTICLE V  
**Administration**

**§ 230-24. Town Board.**

*This section describes the Town Board's role in zoning and planning. Generally, Town Board authority is set forth in NYS legislation and by its own local laws and resolutions. Amendments to the Town Zoning Code and associated map are Town Board legislative acts enacted after a public hearing and are intended to implement land use and development policy objectives.*

- A. Establishment. The Town Board is authorized by the state to be the governing body of the Town of Clay. Town Board composition, terms, compensation and eligibility for membership, employment of staff and other relevant factors for the conduct of the Town Board shall be decided in conformance with the requirements of the NYS Town Law.
- B. Powers and duties.
- (1) Zoning establishment. Pursuant to NYS Town Law § 261, the Town Board is authorized to regulate buildings, structures, parcels, and general development within its boundaries.
  - (2) Zoning amendments. Pursuant to NYS Town Law §§ 261, 262, 263, 264, 265 and 266 and the provisions of this section, the Town Board shall approve the adoption of all modifications to this Zoning Code and any changes to the Zoning Map.
  - (3) Creation of authority. Pursuant to NYS Town Law §§ 267, 271 and other applicable sections, the Town Board is authorized to create boards and committees, to delegate various responsibilities to these boards and committees, and to authorize funding for expenses.
  - (4) Special permits. Pursuant to Town Law § 274-b, the Town Board is authorized to review, approve, approve with modifications or disapprove applications for special permits designated in this code.
  - (5) Official map. The Town Board may establish an official map of the Town of Clay, pursuant to NYS Town Law §§ 270 and 273.
  - (6) Comprehensive planning. The Town Board may engage in and/or fund the preparation of any plans, documents or studies to be used as reference tools to guide the future growth of the Town of Clay, exclusive of the Village of North Syracuse.
- C. Zoning amendments.
- (1) Definitions. For purposes of this code, there are two types of zoning amendments:  
  
TEXT AMENDMENT -- A modification to the written language of the Zoning Code, and may include regulations that affect the entire Town or creation of districts affecting limited portions of the Town.

**ZONE CHANGE** -- Applies the language of the Zoning Code to specific areas of the Town; it may modify the zone district boundaries or add or remove zone districts from the Zoning Map.

- (2) Standards of review.
    - (a) Compliance to Town planning. All zoning amendments shall be considered with respect to the Town's planning actions, programs, studies, and/or any planning documents that are consistent with the provisions of NYS Town Law § 272-a. All zoning amendments shall seek to further the policies of these programs and plans.
    - (b) Community well-being. All zoning amendments shall, in the judgment of the Town Board, enhance the health, safety and welfare of the entire Town and promote land development that furthers the community interests of the Town.
    - (c) Districts. Districts with separate and distinct regulations for land uses and structures may be established and applied when they further Town-wide objectives, respond to general conditions within an area and will uniformly treat land uses and structures within the district.
  - (3) Procedures.
    - (a) Schedule of review. The procedures for considering and adopting zoning amendments shall be pursuant to the applicable provisions of NYS Town Law §§ 264 and 265 and this code.
    - (b) Submission requirements. A proposal for a zoning amendment shall be submitted on forms required by the Town. Forms are available from the Department of Planning and Development.
    - (c) Applicant. All zoning amendments constitute the adoption of a code, and, therefore, the Town Board is the official applicant in all cases. The Planning Board, a property owner or any resident of the Town may request that the Town Board initiate a zoning amendment.
    - (d) Planning Board referral. All zoning amendments shall be referred by the Commissioner on behalf of the Town Board to the Town Planning Board for advisory review and comment. The Town Board shall not act until a Planning Board recommendation has been received or until the allotted review time has expired. (See also § 230-26, Planning Board.)
    - (e) Compliance to other provisions of NYS law. The Town Board shall comply with all applicable state laws, including provisions of the NYS Environmental Review Act (SEQRA) and of the NYS General Municipal Law § 239, requiring referral to the Onondaga County Planning Board.
- D. Special use permits. See § 230-27, Special permit review.

**§ 230-25. Zoning Board of Appeals (ZBA).**

*This section establishes and describes the responsibilities of the Town of Clay Zoning Board of Appeals (ZBA). It includes the grant of authority by the Town Board, a delegation of power to independently approve the following kinds of land development actions: special permit, variance, interpretation; and to develop procedural requirements and standards of approval to guide the ZBA in its authorized actions.*

- A. Establishment. The Zoning Board of Appeals (ZBA) was created pursuant to New York State Town Law § 267, consisting of five members. ZBA composition, terms, compensation and eligibility for membership; employment of staff and other relevant factors for the conduct of the Zoning Board of Appeals shall be decided in conformance with the requirements of the NYS Town Law.
- B. Powers and duties.
- (1) Special permits. Pursuant to NYS Town Law § 274-b, the ZBA is authorized to review, approve, approve with modifications or disapprove applications for special permits assigned to the ZBA in this code in accordance with the standards or criteria adopted in that section (see § 230-27).
  - (2) Variances. Pursuant to NYS Town Law § 267-b, the ZBA is authorized to review, approve, approve with modifications or disapprove applications for variances in accordance to the standards or criteria adopted in this section.
    - (a) "Area variances" are defined by state law and permit the use of land in a manner which is not allowed by the dimensional or physical requirements of the zoning regulations.
    - (b) "Use variances" are defined by state law and permit the use of land for a purpose which is not allowed or is prohibited by the zoning regulations.
  - (3) Interpretations. Pursuant to NYS Town Law § 267-b, the ZBA is the Town agency authorized to review, interpret and make final determinations regarding the actions of Town administrative or enforcement officials in their application of the Zoning Code.
  - (4) Guidelines, procedures, rules and regulations. The ZBA shall conduct its meetings and actions in accordance with the provisions of NYS Town Law § 267-a. It may prepare materials for its use and for public use that will facilitate the manner of application reviews. Such materials may include application forms, guidelines for approval, procedures and other rules and regulations governing the conduct of ZBA reviews.
- C. Special permits. See § 230-27, Special permit review.
- D. Variances.
- (1) Purpose. Both area and use variances are intended as remedies when the Zoning Code is found by the ZBA to unduly affect specific conditions of property. Either variance seeks to ensure that the requested uses or structures in conflict with this code are allowed when

necessary for the property; and in a manner appropriate and compatible to the site, neighborhood and zone district.

(2) Authority.

- (a) Applicable uses or structures. The uses or structures associated with a requested area or use variance shall be subject to the satisfaction of the requirements of NYS Town Law § 267-b and the reasonable standards established by the ZBA.

[1] Area variances are required when a proposed use or structure that is otherwise permitted in the zone district or at the specific location cannot comply with the dimensional requirements of the Zoning Code.

[2] Use variances are required when the proposed land use activity is not permitted in the zone district or at the specific location.

- (b) Procedure and application required. All variance requests shall be subject to public hearing and the procedures established or authorized by NYS Town Law § 267-b and this code. All variances requested shall be submitted on forms required by the Town. Application forms and guidelines are available from the Department of Planning and Development. A graphic plan for the proposed development of a site for a use or structure shall accompany an application for a variance. This plan shall show the features of the site, the proposal and any pertinent information in a level of detail established by the ZBA.
- (c) Appropriateness of variance proposal. No variance shall be granted unless the ZBA finds that the standards established by NYS Town Law § 267-b have been met by the applicant. The reasons for approval, approval with conditions or disapproval shall be documented and appropriately filed in Town offices.
- (d) Imposition of conditions. The ZBA may, when approving a variance request, impose conditions which shall be documented and appropriately filed in Town offices.
- (e) Standards of approval. No application for an area or use variance shall be granted unless the minimum standards established by NYS Town Law § 267-b and as set forth in the Town's guidelines for a variance have been met.

E. Interpretations.

- (1) Purpose. Interpretations offer an opportunity to evaluate and change or modify the decision of an enforcement officer or another administrative Town official or board in their/its application of the Zoning Code.
- (2) Authority.
- (a) Applicability. Pursuant to NYS Town Law § 267-b, Subdivision 1, the ZBA, upon request, shall interpret any administrative decision derived from the enforcement

or application of any part of the Zoning Code or Zoning Map. Any aggrieved party may request the ZBA to examine the decision or interpretation of a Town Official that is enforcing this Zoning Code. The ZBA interpretation shall be the final decisions.

- (b) Procedure and application required. All interpretation requests shall be subject to public hearing and the procedures established by this code. All interpretation requests shall be submitted on forms required by the Town. If applicable, a plan for the proposed development of a site for a use or structure shall be submitted with an interpretation request. Such plan shall show the features of the site and proposal and any pertinent information in a level of detail set by the ZBA.
- (c) Decision. Any decision by the ZBA for an interpretation shall follow the same procedures and requirements for a variance. In considering an interpretation, the ZBA may consider the language of the code, the graphic representation of the Zoning Map, existing conditions of areas affected by the interpretation request, the intent of the Town in establishing the subject zoning requirements, and/or any other relevant materials that can aid in its evaluation.

**§ 230-26. Planning Board.**

*This section establishes and describes the responsibilities of the Town of Clay Planning Board. It includes the grant of authority by the Town Board, a delegation of power to conduct and approve certain kinds of land development actions, procedural requirements and standards of approval to guide the Board in its authorized actions.*

A. Establishment. The Planning Board was created pursuant to New York State Town Law § 271, consisting of seven members. Board composition, terms, compensation and eligibility for membership; employment of staff and other relevant factors for the conduct of the Planning Board shall be decided in conformance with the requirements of NYS Town Law.

B. Powers and duties.

- (1) Comprehensive planning. Pursuant to NYS Town Law § 272-a, the Planning Board shall be responsible for periodically investigating and reporting on the future growth and land development issues within the entire area of the Town of Clay, exclusive of the incorporated limits of the Village of North Syracuse.
- (2) Subdivision of land. Pursuant to NYS Town Law §§ 276 through 279, the Planning Board is authorized (see also Town of Clay Subdivision RegulationsEN) to review, approve, approve with modifications or disapprove the following:
  - (a) All subdivision plats with or without streets showing lots, blocks or sites; and
  - (b) Any changes in the lines of existing streets, highways or public areas shown on subdivision plats filed in the Office of the Onondaga County Clerk or on plans and/or maps adopted by the Town of Clay; and
  - (c) Any changes in the layout, closing or abandonment of such streets, highways, or public areas pursuant the applicable to the provisions of the NYS Town and Highway Laws; and
  - (d) Upon authorization by the Town Board for each specific application, voluntary or mandatory cluster development pursuant to and as defined by § 278 of the Town Law that modifies zoning regulations simultaneously with subdivision review.
  - (e) The Planning Board is further authorized to adopt or amend, after it conducts a public hearing and the approval by the Town Board, subdivision rules and regulations.
- (3) Special use permits. Pursuant to NYS Town Law § 274-b, the Planning Board is authorized to review, approve, approve with modifications or disapprove applications for those special permits assigned to the Planning Board in this code in accordance to the standards or criteria adopted in that section (see § 230-27).
- (4) Site plan reviews. Pursuant to NYS Town Law § 274-a, the Planning Board is authorized to review, approve, approve with modifications or disapprove applications for site plan review designated in this code to the standards or criteria adopted in this section.

- (5) Advisory referrals and other powers. The Planning Board shall also exercise all other powers conferred upon it by the provisions of this code and NYS Town Law. It shall rule upon all matters which may be referred to it from time to time by resolution of the Town Board. It shall conduct hearings and perform its duties in accordance with the procedures provided in the applicable sections of the Town Law and of this Zoning Code.

C. Special use permits. See § 230-27, Special permit review.

D. Site plan review.

- (1) Purpose. Site plan review seeks to promote the optimum site design within the limits of the dimensional requirements established in the zone district regulations. The following standards and procedures regulate the placement and design of buildings and improvements on a single property in order to achieve physical arrangements that are most appropriate to site conditions, public services, environmental resources and neighborhood character.

(2) Authority.

(a) Compliance with review.

[1] No land use, building, structure or improvement requiring site plan review by this Zoning Code shall be constructed, occupied, modified, altered or changed, except in compliance to the procedures and standards of this section.

[2] Any previously established use or structure legally existing prior to the enactment of this code, but which is now subject to site plan review, shall be subject to the provisions of this section.

(b) Relationship to variances. In the event that an area variance from zoning dimensional requirements is necessary, the Board of Zoning Appeals may simultaneously review and decide such a request during the Planning Board's review of the site plan.

(c) Site plan review exemptions. See § 230-28 for minor modifications to approved plans (Office of the Commissioner of Planning and Development).

(d) Procedure and application required. All requests for site plan review shall be subject to public hearing and the procedures established or authorized by this code and shall be submitted on forms required by the Town. Application forms and guidelines are available from the Department of Planning and Development. A graphic plan for the proposed development of a site shall accompany an application for a site plan review. This plan shall show the features of the site, the proposal and any pertinent information in a level of detail established by the Planning Board.

(e) Appropriateness of site plan review proposal. No site plan review shall be granted unless the Planning Board finds that the standards established by this code have

been met by the applicant. The reasons for approval, approval with conditions or disapproval shall be documented and appropriately filed in the Town offices.

- (f) Imposition of conditions. The Planning Board may impose conditions when approving a site plan, which shall be documented and appropriately filed in Town offices.
- (3) General site plan standards of review. This subsection has two parts: Part 1 contains general standards applicable to all site plan uses; Part 2 contains standards applicable to certain specified uses in addition to the general standards of Part 1.
  - (a) Part 1. All applications for site plan review shall meet the following minimum standards of performance and that are elaborated upon in the guidelines for a site plan review available from the Department of Planning and Development.
    - [1] Zoning compliance. All development depicted in the proposed site plan shall comply with the applicable intent and regulations of the Town Zoning Code, including the specific zone district in which it is located and to any other applicable Town, county, state or federal regulations.
    - [2] Relationship to site conditions. Any proposed development shall be appropriate to the existing or proposed site conditions, such as slope, soil or drainage patterns. Any changes in grade, ground cover or vegetation shall not cause erosion or adverse effects on drainage patterns and shall be appropriately designed for the site.
    - [3] Relationship to surrounding properties.
      - [a] The proposed site plan shall ensure that the size, placement, design and construction materials of any buildings or improvements are compatible to the character and use of surrounding properties and neighborhood.
      - [b] The proposed site plan shall ensure that drainage, lighting, signage and any other exterior effects of the proposal do not adversely affect surrounding properties.
    - [4] Vehicular and pedestrian circulation. There shall be safe, efficient vehicular and pedestrian movement within the site, to neighboring properties and in relationship to streets serving the site.
    - [5] Services and utilities. The proposed site plan shall contain provisions for water supply, wastewater disposal, drainage, fire protection and solid waste disposal that are adequate for the proposed use, established in conformance with applicable permit standards and procedures, and are consistent to the Town's long-term objectives for public facilities and services.

- [6] Environmental resources. The site shall be located, designed and operated in a manner that avoids or minimizes disturbance of significant natural or cultural resources; is consistent with the site's soil capabilities to accommodate the development; provides overland drainage systems and controls stormwater runoff in a manner conforming to area-wide drainage plans and Town planning objectives; and complies with applicable county, state or federal regulations for significant environmental resources.
- [7] Aesthetics.
- [a] The site shall be designed to include building materials, screening, landscaping treatments of structures, parking, drainage and storage areas that are consistent with existing development and aesthetic standards or any guidelines promulgated by the Town, which minimize adverse visual effects on surrounding properties or public rights-of-way.
- [b] Lighting and signage shall be appropriate in size, color and placement for the site and for the character of the surrounding area and shall have no adverse impact on surrounding properties.
- [8] Emissions. The detection of any noise, smoke, heat or odor shall be within limits established by this code or other applicable laws or regulations. Such emissions shall be minimized and directed away from surrounding properties. Mechanical devices or attachments associated with these emissions are to be installed and maintained in accordance with applicable health and safety codes and adequately screened from view.
- [9] Stormwater Pollution Prevention Plan. A Stormwater Pollution Prevention Plan consistent with the requirements of § 230-20 D shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards of § 230-20 D. The approved Site Plan shall be consistent with these provisions.

(b) Specific site plan review standards (Part 2). (Reserved)

E. Town Board referrals. The Town Board shall refer to the Planning Board for its advisory opinion on all requests for zoning amendments. The Town Board may submit other matters for Planning Board comment (see also § 230-24, Town Board). The Planning Board shall respond to the Town Board in the following manner:

- (1) The Planning Board shall submit a written recommendation to the Town Board within 32 days of receipt of referral, unless an extension is mutually agreed upon.
- (2) Informational meetings and hearings.
- (a) The Planning Board may conduct an informational meeting on any proposed text amendments prior to making its advisory recommendation.

- (b) The Planning Board shall conduct an informational hearing on any proposed zone changes prior to making its advisory recommendation.

F. Cluster development. The intent of this approach is to promote subdivision development which offers variety in lot size, site configuration, and affordable options in response to topography and natural features. This alternative shall result in design and development which promotes the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities and preserves the natural and scenic qualities of open land.

- (1) Definition. A "cluster development" is a development of lots, each containing less area than the minimum area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area, through the provision of open space, preservation of natural features, or more efficient use of land, as a part of the subdivision plan.
- (2) Authority. The Town Board may authorize the Planning Board, on a case-by-case basis, pursuant to Town Law § 278, to vary the zoning requirements as to lot size, lot width and setback requirements in connection with a proposed subdivision plat, subject to the standards and procedures contained herein. Such variations shall result in cluster developments. The Town Board may authorize the Planning Board to mandate the owner of a property to submit an application for cluster development on such property.
- (3) Procedure. Cluster development procedure shall follow the language set forth in Chapter 200, Subdivision of Land, of the Code of the Town of Clay.
- (4) Applicability. This authorization shall be applicable to the following residential, office, and commercial zone districts:
  - RA-100 Residential/Agricultural
  - R-40 One-Family Residential
  - R-15 One-Family Residential
  - R-10 One-Family Residential
  - O-1 Neighborhood Office
  - O-2 Office
  - NC-1 Neighborhood Commercial
- (5) Minimum cluster site area. To be eligible for clustering, a site shall have a minimum of 20 acres in the specified residential zones and five acres in the specified office and commercial zones.
- (6) Minimum lot size. Residential building lots shall not be reduced on the proposed clustered site to be less than the zone district having the next lesser lot size required by the Zoning Code (for example, R-40 to R-15).
- (7) Limit on setback reductions. This authorization shall not allow the reduction of setbacks to zero feet that may result in attached single-family structures or multiple-family dwellings.

- (8) Clustered density calculation. The density calculation shall be based on the total approvable number of lots conforming to the conventional requirements and after deducting those areas that would not normally be included with such approvable lots. Deducted areas include but are not limited to:
- (a) Residential: roads, designated wetlands, ponds, streams, and stormwater detention areas.
  - (b) Commercial: roads, designated wetlands, ponds, streams, and stormwater detention areas.
- (9) Minimum open space. There shall be a minimum of 20% of preserved open space and/or natural features resulting from each clustered site, after the deductions indicated in this section.
- (a) The developer will propose the specific areas to be retained as open space, subject to the approval of the Planning Board. The preserved open space shall be used for purposes such as: preserving important features, providing passive recreational opportunities, or preserving views.
  - (b) The preserved open space resulting from the proposed clustering is separate from and in addition to any lands required pursuant to the park and recreation requirements of this code.
- (10) Restriction and recording of preserved open lands. Open space created by the use of cluster development shall be clearly labeled on the final plat as to its shape, use, ownership, management, method of preservation and the rights to such land, if any, of the property owners of the subdivision and the general public. The final plat should clearly identify that the open space is permanently reserved for open space purposes and shall not be platted for building lots. It shall also clearly indicate any other legal instruments, such as conservation easements or deed restrictions, employed to implement the preservation of open space.
- (11) Modification of Town cluster criteria. The Town Board, upon request or upon its own initiative, may modify the cluster criteria by finding that the proposed cluster development is reasonable for the site and meets the intent of this section.

**§ 230-27. Special Permit Review.**

*This section establishes and describes the procedures and standards for special permit reviews by all boards within the Town of Clay. It includes the grant of authority by the Town Board for each board to conduct reviews and approve or disapprove requests for special permit.*

- A. Purpose. The special permit approval process seeks to ensure that certain permitted uses are established in a manner that is appropriate and compatible to a site, neighborhood and zone district.
- B. Authority. Individual special permits are assigned by this code to the review authority of any one of the following boards: Town Board, ZBA or Planning Board. Refer to each zone district or the supplemental regulations to determine the exact board for a specific land use activity or structure. The ZBA and Planning Board shall apply the provisions of this section to their respective reviews of special permit proposals. The Town Board may consider other factors or concerns it deems relevant to its review of a special permit proposal.
- C. Designation of land uses and/or structures. A special permit is required for those uses or structures so designated within a zone district or other sections of this code. These uses or structures are hereby declared to possess characteristics of such unique and/or special form that each shall be considered as an individual case. Some uses or structures, specified in the specific standards of approval, shall be subject to the satisfaction of additional requirements and standards set forth in this section and to any other applicable requirements of this chapter.
- D. Relationship to variances. When necessary, the simultaneous review of a special permit with an area variance for the same proposed development may occur and shall be coordinated among the appropriate reviewing boards. The ZBA may simultaneously review and decide on an area variance from zoning dimensional requirements if such area variance request is necessary.
- E. Procedure and application required. All special permit requests shall be subject to public hearing and the procedures established or authorized by this code. All proposed special permits shall be submitted on forms required by the Town. Application forms and guidelines are available from the Department of Planning and Development. A graphic plan for the proposed development of a site for a use or structure shall accompany an application for a special permit. This plan shall show the features of the site, the proposal and any pertinent information in a level of detail set by the reviewing board.
- F. Appropriateness of special permit proposal. No special permit shall be granted by the reviewing board unless it finds that the use or structure for which the special permit is sought will not, under conditions that the reviewing board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
- G. Imposition of conditions. The reviewing board may impose conditions when approving a special permit which shall be documented and appropriately filed in Town offices.
- H. Limits on special permit approval.
  - (1) A special permit shall be deemed to authorize only one use or structure, unless specifically authorized by the reviewing board.

- (2) Special permit authorization shall expire or be voided if the proposal fails to be initiated by issuance of a building permit within 12 months of approval; or after a maximum of two twelve-month extensions have been granted by the Commissioner.

I. Standards of approval. This section has two parts: Part 1 contains general standards applicable to all special permit uses; Part 2 contains standards applicable to certain specified uses in addition to the general standards of Part 1. All applications for a special permit shall meet the following minimum standards of performance that are elaborated upon in the guidelines for a special permit available from the Department of Planning and Development.

- (1) Special permit standards of review: general (Part 1).
  - (a) General codes compliance. The proposed use or structure shall comply with the applicable intent and regulations of the Town Zoning Code, including the specific zone district in which it is located, and to any other applicable Town, county, state or federal regulations.
  - (b) Conformance to Town planning.
    - [1] The proposed use or structure shall be so located and designed that it is compatible in size and character to existing patterns of development and land uses and/or is consistent with the long-term development objectives for the affected portions of the Town.
    - [2] The proposed use or structure shall be appropriately located with respect to the existing pattern of streets and other facilities, including but not limited to: water, sanitary lines and drainage systems; and will not adversely affect the functioning of these facilities nor impede any planned improvements.
  - (c) Scale of development. The scale and design of the proposed use or structure shall be physically and visually compatible with the conditions of the site and surrounding properties and will be developed in a manner that ensures the provision of necessary public facilities, improvements and landscaping.
  - (d) Vehicular and pedestrian circulation. There shall be safe and efficient vehicular and pedestrian movement within the site, to neighboring properties and in relationship to any streets serving the site.
  - (e) Public safety, services and utilities. The proposed use or structure shall be served with adequate water supply, wastewater disposal and drainage facilities in compliance with applicable local, state or federal requirements and shall include satisfactory provision for solid waste disposal, fire, police and emergency service protection, utilities and other services necessary to support the proposed use or structure.
  - (f) Environmental resources. The proposed use or structure shall be located, designed and operated in a manner that avoids or minimizes disturbance of significant natural or cultural resources; is consistent with the site's soil capabilities to

accommodate the use or structure; provides overland drainage systems and controls stormwater runoff in a manner conforming to area-wide drainage plans and Town planning objectives; and complies with applicable county, state or federal regulations for significant environmental resources.

- (g) Aesthetics.
- [1] The site shall be designed to include building materials, screening, landscaping treatments of structures, parking, drainage and storage areas that are consistent with existing development and aesthetic standards or any guidelines promulgated by the Town, which minimize adverse visual effects on surrounding properties or public rights-of-way.
- [2] Lighting and signage shall be appropriate in size, color and placement for the site and the character of the surrounding area and shall have no adverse impact on surrounding properties.
- (h) Emissions. The detection of any noise, smoke, heat or odor shall be within limits established by this code or other applicable laws or regulations. Such emissions shall be minimized and directed away from surrounding properties. Mechanical devices or attachments associated with these emissions are to be installed and maintained in accordance with applicable health and safety codes and adequately screened from view.
- (2) Special permit standards of review: specific (Part 2).
- (a) Home occupation; *intent. The following provisions specify and explain the conditions under which a home occupation may be established and operated. These criteria are intended to fulfill the definition and are intended to allow residents to conduct certain incidental business activities within their homes while not altering the primary use or appearance of the property as a residential dwelling.*
- [1] Limit on number. There shall be only one home occupation allowed per dwelling unit.
- [2] Applicant. The owner of the property or authorized representative shall be the applicant in all cases.
- [3] Discontinuance. A home occupation discontinued for any reason for a period of six consecutive months may not be reestablished without reapplication to the Zoning Board of Appeals in compliance with these regulations.
- [4] Transfer. A home occupation permit is specifically issued to the residents of the dwelling, and shall terminate upon the departure of those residents and may not be transferred to a new resident without the express approval of the Zoning Board of Appeals.

- [5] Preexisting. No home occupation existing on the date of enactment of this code may be modified or altered in any way, except in compliance with this section.
- [6] Employees. There shall be no nonresident employees of a home occupation with the following exception: nonresident employees are permitted for any profession that is mandated by state or federal professional licenses to require on-premise attendants, assistants or similar employee aides.
- [7] Exterior display. To ensure that no exterior display or indication of the activity shall be visible to the general public, the following are prohibited, including, but not limited to:
- [a] Outdoor sales or display of items for sale;
  - [b] Signs, except one identification sign measuring two square feet and subject to the sign standards of § 230-22;
  - [c] On-site parking of more than one commercial vehicle associated with the home occupation, unless housed in an enclosed residential garage;
  - [d] Any variation in the residential character of the property, such as construction of a separate entrance, other exterior structural alteration (such window and lighting modifications), or the addition of parking area beyond what is explicitly authorized by the ZBA;
  - [e] Outdoor storage of any materials, goods, vehicles, machinery or similar materials associated with the home occupation;
  - [f] Production by the home occupation activity of odor, noise, lighting, or vibration.
- [8] Location. A home occupation or parts of a home occupation activity may be located in the principal structure, accessory structures or combination of structures. No exterior area is to be used in conjunction with the activity, except for authorized parking spaces.
- [9] Maximum extent. The maximum allowable gross floor area of a home occupation shall be calculated based upon the total first floor area of the principal structure. Regardless of location, the home occupation shall not utilize more than 25% of the first floor area of the principal structure or a cumulative total of 500 square feet, whichever is less. All areas devoted to the use of the home occupation shall be shown on a floor plan submitted with the special permit application.

- [10] Sales. On-premises sale of merchandise is prohibited, except where clearly incidental and secondary to the home occupation, limited in scope, and where there is no exterior evidence of items for sale. This shall not prevent on-premises sales or mail-order handling of materials stored and shipped from off-site.
- [11] Delivery vehicles. The home occupation shall not increase the number or type of delivery vehicles customary to a dwelling.
- [12] Parking and pavement. A minimum and/or a maximum number of parking spaces shall be specified by the ZBA. The ZBA may also specify the location and extent of parking areas.
- [13] Hours. Hours of operation shall not exceed from 7:00 a.m. to 9:00 p.m.
- [14] Hazards. The home occupation shall not create any hazard to neighboring persons or property and shall not cause any electronic interference, excessive noise, vibration, smoke, dust, odors, heat, or glare on surrounding properties.
- [15] Group activity. The ZBA may limit the number and locations within the property where individuals or students shall receive group services or instruction.
- [16] Multifamily dwellings. Home occupations shall be allowed in multifamily dwellings, but only within those units that have direct pedestrian access to the outside of the structure and do not require any customer or client of the home occupation to use a shared or common corridor. The Zoning Board of Appeals may impose additional requirements on home occupations in multiple-family dwellings for the protection of other residents.
- [17] Additional conditions. The ZBA may impose additional conditions upon the home occupation to preserve the residential character of the site and neighborhood.
- (b) Drive-in service.
- [1] Vehicular circulation. The lot shall have sufficient area and frontage for safe and efficient vehicular access, egress, internal circulation and provision of services without adversely affecting the flow of traffic on the abutting streets.
- [2] Vehicular stacking. Provision for the stacking of five vehicles waiting for service shall be maintained on site for each drive-in service window or unit.
- [3] Landscaped buffer. On each lot line abutting a residential use, there shall be a landscaped buffer, eight feet in width measured from the lot line, planted with a staggered double row of evergreen trees, installed at a

height of four feet, on six-foot centers, and maintained to a height of at least six feet. The reviewing board may authorize opaque fencing to be substituted for landscaping planting upon finding that such screening would provide a more effective buffer for the residential use.

- [4] General landscaping. A landscaped area shall be maintained (exclusive of driveways) on all sides of the property having street frontage or abutting nonresidential uses; treatment shall be of grass, ornamental stone, or evergreens maintained below two feet in height, and surrounded by curbing (wood, stone, concrete) four to six inches in height. The landscaped area shall be of sufficient width and length for snow storage needs and to separate the site's vehicular areas from those of abutting uses and the streets.
- (c) Motor vehicle service and repair.
- [1] The lot shall have sufficient area and frontage for safe and efficient vehicular access, egress, internal circulation and servicing of vehicles without adversely affecting the flow of traffic on the abutting streets.
- [2] Entrance or exit driveways shall be located at least 20 feet from any side or rear lot lines and at least 75 feet from any intersecting street right-of-way line.
- [3] All fuel pumps and service areas shall be located at least 30 feet from any street line or 30 feet from any other lot line.
- [4] All fuels, including fuel oil, gasoline or similar substances, shall be stored in underground tanks at least 35 feet from any lot line, and tanks shall be installed and maintained in accordance with the current standards of the National Board of Fire Underwriters and the NYS Uniform Fire Prevention and Building Code. Vents must be at least 25 feet from any lot line.
- [5] Any inactive flammable liquid/fuel storage tank below grade must be removed within six months after the dispensing of fuel or the use of the tank has ceased.
- [6] All repair, painting, servicing or storage of parts, equipment, and containers of solvents, lubricants, waste oil and similar materials used directly in the operation of the use (other than dispensing of fuel, oil, water and air to vehicles) must be performed and contained within a principal or accessory structure.
- [7] Vehicles awaiting routine repair must be stored on site, but not between the front building line and front property line.
- [8] On each lot line abutting a residential use, there shall be a landscaped buffer, eight feet in width measured from the lot line, planted with a

staggered double row of evergreen trees, installed at a height of four feet, on six-foot centers, and maintained to a height of at least six feet. The Board of Appeals may authorize opaque fencing to be substituted for landscaping planting upon finding that such screening would provide a more effective buffer for the residential use.

- [9] A landscaped area shall be maintained (exclusive of driveways) on all sides of the property having street frontage or abutting nonresidential uses; treatment shall be of grass, ornamental stone, or evergreens maintained below two feet in height, and surrounded by curbing (wood, stone, concrete) four to six inches in height. The landscaped area shall be of sufficient width and length for snow storage needs and to separate the site's vehicular areas from those of abutting uses and the streets.
- [10] Waste disposal and similar accessory service areas shall be adequately screened from view and maintained to avoid any discharge of hazardous materials to the surface drainage system.
- (d) Motor vehicle sales.
- [1] All sales activities and vehicle storage or display shall be maintained outside of required yards.
- [2] Accessory service and repair facilities shall be subject to the provisions of Subsection I(2)(c) above.
- (e) Utilities substation.
- [1] Notwithstanding anything set forth in any other section of this Zoning Code to the contrary, the following public utility uses shall be authorized within any district in the Town of Clay only upon the issuance of a special permit by the Town Board upon the determination by said Board that there is a sufficient compliance with the requirements of this section:
- [a] Utility substation;
  - [b] Public transit or railroad electric substation;
  - [c] Public utility stations for gas or oil metering and regulating;
  - [d] Telephone exchange or other community equipment substations;
  - [e] Terminal facilities at river crossings for access to electric, gas or steam lines;
  - [f] Water or sewage pumping stations;
  - [g] Communication towers, radio and television towers, relay stations, or transmitting or booster antennas;

- [h] Sewage treatment plants; and
  - [i] Other public utility uses which are of the same general character as those listed above.
- [2] Utility substation procedure. The following procedure shall govern the issuance of a special permit for the public utility uses authorized in Subsection I(2)(e)[1] above:
- [a] An application for a public utility permit shall be made to the Town Board. The Town Board shall refer the application to the Planning Board for its review and recommendations to the Town Board. The application for the permit shall be on forms required by the Town and include a detailed graphic plan, including a detailed landscaping plan.
  - [b] The Planning Board shall review the application to determine if the plans comply with the requirements hereinafter set forth within 45 days after receipt of the application. The Planning Board shall deliver a written report to the Town Board in which it shall recommend approval, approval with modification, or disapproval of the application and shall state the reasons for its recommendation.
  - [c] The Town Board, after a public hearing, may approve, approve with modification, or disapprove the application. The Town Clerk shall give notice of such hearing by the publication of a notice in the official newspaper, specifying the time when and the place where such hearing will be held and in general terms describing the application. Said notice shall be published at least 10 days prior to the day of the hearing.
  - [d] The Commissioner of Planning and Development shall issue a building permit pursuant to said approval or approval with modification, upon finding compliance with all other applicable provisions of law.
- [3] Utility substation requirements and regulations.
- [a] The public utility structures and uses authorized in Subsection I(2)(e)[1] shall conform to all the regulations of the district in which they are located and to any particular regulations which apply under other provisions of this chapter. In addition, there shall be reasonable compatibility in all respects with any structure or use in the neighborhood, actual or permitted, which may be directly and substantially affected.
  - [b] Public utility structures and uses shall be situated upon the site with consideration given for layout, public safety, health,

screening, signs, access, landscaping, driveway and highway access, and architecture or design so that:

- [i] The flow, control and safety of traffic shall not be adversely affected to an unreasonable degree;
- [ii] There shall be reasonable provision for open spaces and yards, appropriate to the structure and use;
- [iii] The utility shall not be in conflict with other utilities in the area;
- [iv] The uses and facilities affixed to the land shall not be located closer than 20 feet to any lot line, and any television, radio, or other type of tower shall be located on a lot which is of sufficient size so its setback will be at least the height of the structure plus 25 feet;
- [v] All parking for service and employees shall be on site;
- [vi] The structure shall be adequately landscaped with year-round evergreen shrubbery and trees; and electric or gas utility substations or water pumping stations shall be surrounded with fences, barriers, and safety devices prescribed by the Town Board;
- [vii] The location and height of buildings, the location, nature and height of walls, fences and other structures, and the nature and extent of drainage and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent lands and buildings, nor impair the value thereof;
- [viii] The outside storage of equipment shall not be permitted on the site; all lighting shall be directed away from adjacent lots and public thoroughfares; and
- [ix] The Town Board may require additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including performance standards governing noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, humidity, heat or glare applicable to the district in which such use, building or other structure, or tract of land is located.

§ 230-28. **Office of Commissioner of Planning and Development** (Department of Planning and Development).

*This section sets forth and describes the responsibilities of the Office of Commissioner of Planning and Development for the Town of Clay. It includes the grant of authority by the Town Board, a delegation of power to administer and apply the Zoning Code and to provide necessary support to the various boards within the Town.*

- A. Establishment. The Office of Commissioner of Planning and Development is established by Chapter 14, Article III, and Chapter 81 of the Town of Clay Municipal Code. The Commissioner, by authority of this code, is further authorized to administer the Town Zoning Code and Subdivision Regulations<sup>EN</sup> at the direction of the Town Board, Planning Board and Zoning Board of Appeals and to assume other responsibilities as directed by these Boards.
- B. Powers and duties.
- (1) Building permits. The Commissioner shall be responsible for the issuance or denial of building permits for any activity requiring such permit by this Zoning Code pursuant to Chapter 81 of the Town Municipal Code.
  - (2) Certificates of occupancy. The Commissioner shall be responsible for the issuance or denial of certificate of occupancy for any activity requiring such permit by this Zoning Code, pursuant to Chapter 81 of the Town Municipal Code.
  - (3) Minor modifications to approved site plans. The Commissioner is authorized to approve, approve with modifications, or disapprove minor modifications to site plans for uses and structures subject to site plan review by the Planning Board.
  - (4) Subdivision adjustments. The Commissioner is authorized to approve, approve with modifications, or disapprove minor adjustments to lot lines, including relocation of a lot line, consolidation of lots, and transfer of portions of lots between adjacent properties.
  - (5) Guidelines, procedures, rules and regulations. The Commissioner shall be responsible for maintaining records and developing appropriate forms to process applications for building permits or certificates of occupancy, and offering the necessary assistance to applicants and Town officials in the application of the Zoning Code and Subdivision Regulations.<sup>EN</sup>
  - (6) Technical support to boards. The Commissioner shall be available to advise and support the various boards of the Town government, including assistance in applying the Zoning Code and Subdivision Regulations; drafting forms, guidelines or procedures for board adoption; analyzing zoning or subdivision applications.
  - (7) Commissioner's discretion for application submission requirements. The Commissioner is authorized to modify the contents of any material required for submission for any zoning or subdivision application. Such modification shall be:
    - (a) Limited to the level of detail of information to be presented (e.g., scale of plans, material specifications, or degree of measurement or accuracy); and

- (b) Based upon an understanding that the level of submission is appropriate to the stage of board review and the complexity of the proposal; and
  - (c) Received by the reviewing board, which may require additional materials to be submitted in the course of its review.
- (8) Other powers and responsibilities. The Commissioner shall be responsible for such other responsibilities as described in Chapter 14, Article III, and Chapter 81 of the Clay Municipal Code and any other powers or responsibilities delegated by the Town Board, Zoning Board of Appeals or Planning Board.
- C. Building permits. See Chapter 81.
- D. Certificates of occupancy. See Chapter 81.
- E. Minor modifications to approved site plans. This section establishes standards of review for changes to a site that has been previously granted site plan approval. No board review is likely for changes within the standards of Subsection E(1) below; however, the applicant will be responsible for building, occupancy or similar permits which may be necessary. Subsection E(2) describes when some larger modifications may be approved by the Commissioner. Any change exceeding the requirements of Subsection E(1) and (2) shall be considered a substantial modification and must be approved as a new proposal.
  - (1) Nonsubstantial modification. The Commissioner has the authority to issue a building permit or certificate of occupancy for additions or modifications of land uses and/or structures previously subject to site plan review approval, provided there is not more than one proposed addition or modification within any twenty-four-month time period, and the proposal adds less than 50% of the ground-level space of the existing building or structure, or less than 10,000 square feet, whichever is less; or is found by the Commissioner of Planning to comply with the following:
    - (a) Dangerous condition: removal or repair of a dangerous condition determined by an enforcement agency that circumstances exist which, if not corrected, contribute a threat to life, health or safety of the general public or such other persons for whose protection such regulations were intended. Such determination may be verbal or in writing. The term "enforcement agency" shall refer to any public agency or official having jurisdiction to issue orders affecting the life, health and safety of persons within the Town.
    - (b) Principal and accessory structures: routine repair, replacement or maintenance of electrical or mechanical installations, or of damaged or worn parts or surfaces, including repainting, facade repair and roof replacements.
    - (c) Ownership: changes in ownership or management of an establishment, excluding a home occupation, which do not change the use of the property.
    - (d) Lot dimensions: any change or modification in lot configuration, if it does not substantially affect an approved site plan.

- (e) Parking: replacement or repair of existing pavement or painting of driveway and parking areas without altering the approved traffic pattern.
  - (f) Landscaping: routine landscaping and plant replacement, establishment of new landscaped areas without altering the approved vehicular or pedestrian circulation and parking patterns; such changes should be consistent with any applicable controls in the approved plan concerning height, location, and visibility.
  - (g) Screening devices: repair or replacement, in kind, of existing required screening devices.
  - (h) Signs: repair or replacement, in kind, of existing signs, including changes in text.
- (2) Additional authority for Commissioner to approve site plan modifications. The Commissioner has the authority to approve, approve with modifications or disapprove any proposed addition or modification that exceeds the standards of Subsection E(1) above, upon finding that the proposed addition or modification remains within the intent of the Planning Board's original site plan approval. The Commissioner may, at any time, consult with the Planning Board to determine the appropriateness of the Commissioner's review. The Commissioner may, at any time, find that the proposal is beyond the scope of the original approval, decline to act, and require a new submission to the Planning Board.
- (3) Substantial modification; major board review. Any change or modification determined by the Commissioner to exceed or not be applicable to Subsection E(1) or (2) shall be subject to review as a new proposal, pursuant to the applicable sections of this code.
- (4) Procedures and submissions for minor modifications.
- (a) The applicant shall submit to the Commissioner written and/or site plan materials adequately describing the nature of the proposed modification.
  - (b) The Commissioner shall evaluate the nature and extent of the proposed modifications.
  - (c) Upon finding that the proposed modifications are within the standards of § 230-28A or § 230-28B above, the Commissioner shall act to approve, approve with modifications or disapprove the request.
  - (d) Copies of the approved modifications shall be filed in the original, official file and transmitted to the applicant.
- F. Subdivision adjustments. This section describes the circumstances and standards under which proposed subdivisions may be approved by the Commissioner of Planning and Development. It establishes a subgroup of subdivision actions that, while complying with the standards of Town's Subdivision RegulationsEN and Zoning Code, do not need Planning Board review or approval.
- (1) Purpose. This section is to allow for the minor reallocation of land between existing lots while not altering the allowable use of the lots or the infrastructure of the area. It may be used to correct platting errors or to facilitate a more effective use of a lot.

- (2) Authority.
- (a) The Commissioner is authorized to approve, approve with modifications or disapprove subdivision adjustments.
  - (b) The Commissioner shall not adjust lot lines on more than 50% of the original lots contained in a filed or unfiled plat.
  - (c) Standards of approval.
    - [1] Each lot affected by a proposed lot line relocation or line removal must comply with the minimum dimensional requirements of the applicable zone district.
    - [2] The lot line relocation may be for any purpose, such as improved landscape buffer, snow storage, or reorientation of buildings.
    - [3] No lot line adjustment shall increase the degree of any nonconformity.
    - [4] A consolidation of land shall result in a lot(s) that meets the minimal dimensional requirements of the applicable zone district. Legal nonconforming lots may be consolidated, resulting in a single lot with a diminished degree of nonconformity; an area variance may still be required.
    - [5] No subdivision adjustment shall result in a lot or lots that could substantially alter the purpose or impact of an existing site development, unless the land use or structures are subject to appropriate reviews by applicable Town boards. Such adjustment shall be conditioned upon the issuance of the approvals from the appropriate Town board(s).
- (3) Procedure.
- (a) All requests for minor subdivision adjustment shall be submitted on forms available from the Office of Planning and Development.
  - (b) Simultaneous requests for subdivision adjustment shall be submitted by each affected property owner when a proposed subdivision adjustment is for a transfer of land area between two separate properties. This is to avoid even the temporary creation of a strip or configuration of land not complying with the zoning requirements.
  - (c) All subdivision adjustments shall be filed according to the Town and county procedures and standards applicable to subdivision plats prior to any conveyance, development or permits.

Permit Method:  
 C- Commission Ofc Sign Permit  
 NP- No Permit Required  
 P- Planning Board Review  
 SP- Planning Board Special Permit  
 X- Not Permitted

**Table A- Major Signs**

DISTRICT GROUPS	RESIDENTIAL DISTRICTS 230-13			RECREATION DISTRICTS 230-14		OFFICE DISTRICTS 230-15		COMMERCIAL DISTRICTS 230-16				INDUSTRIAL DISTRICTS 230-17			
	Zone Districts			ALL		ALL		0-1	0-2	NC-1	HC-1, LuC-1, LuC-2	RC-1		I-1	I-2, S-1
	Land use or other sub-groups (see 230-12G)			Residential	Agricult. & Non-Res.							RC site	RC lots		
exceptions or other specific conditions			Home Occup.	Neighborhood - Apt. Proj ID		Less than 10 acres	10 acres or greater			Less than 5 acres	5 acres or greater				
<b>M A J O R S I G N S</b>	<b>SIGN TYPES and requirement list</b>														
	<b>FREESTANDING SIGNS</b>														
	Permit type	X	P	P	P	P	P	P	P	P	P	P	X	P	P
	MAX #		1/entry	1/lot	1/lot	1/lot	1/lot	1/entry	1/lot	1/lot	1/entry	1/entry		1/entry	1/entry
	MAX area		24 sqft	24 sqft	64 sqft	128 sqft	24 sqft	32 sqft	24 sqft	32 sqft	64 sqft	128 sqft		32 sqft	64 sqft
	MAX height		6ft	6 ft	15 ft	15 ft	15 ft	15 ft	15 ft	25 ft	25 ft	25 ft		25 ft	25 ft
	MIN Setback		25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.		25ft.	25ft.
	<i>(In addition to free-standing sign (when allowed)</i>							<i>(In addition to free-standing sign (when allowed)</i>							
	<b>CHOICE of ONE:</b>							<b>CHOICE of TWO:</b>							
	<i>wall, projecting, roof, marquee sign types -when allowed)</i>							<i>wall, projecting, roof, marquee sign types - when allowed)</i>							
	<b>WALL SIGNS</b>														
	Permit type	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	MAX # (sq. ft. or % wall facing ROW)	Per lot	Per bldg	Per lot	Per Tenant		Per Tenant	Per Tenant	Per Tenant	Per Tenant	Per Tenant		Per Tenant	1	1
	MAX area (% of vertical face)	2sqft	4sqft	16sqft	16sqft		16sqft	32sqft	16sqft	8%	8%		8%	8%	8%
	MAX height	1st story	1st story	1st story	na		na	na	na	na	na		na	na	na
	MAX projection (from wall face)	4"	4"	15"	15"		15"	15"	15"	15"	15"		15"	15"	15"
	<b>PROJECTING SIGNS</b>														
	Permit type	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	MAX #	Per lot	Per bldg	Per lot	Per Tenant		Per Tenant	Per Tenant	Per Tenant	Per Tenant	Per Tenant		Per Tenant	Per Tenant	Per Tenant
	MAX area	2sqft	4sqft	16sqft	16sqft		16sqft	16sqft	16sqft	16sqft	24 sqft		16sqft	16sqft	16sqft
MAX height	8 ft	1st story	1st story	1st story		1st story	1st story	1st story	2nd story	2nd story		2nd story	2nd story	2nd story	
MAX projection (from wall face)	2 ft	4 ft	8 ft	8 ft		8 ft	8 ft	8 ft	8 ft	8 ft		8 ft	8 ft	8 ft	
<b>MARQUEE-AWNING-CANOPY SIGNS</b>															
Permit type	X	P	P	P	P	P	P	P	P	P	P	P	P	P	
MAX #		1	1	Per bldg		Per bldg	Per bldg	Per bldg	Per bldg	Per bldg		Per bldg	Per bldg	Per bldg	
MAX area (% of vertical face)		25%	25%	25%		25%	25%	25%	25%	25%		25%	25%	25%	
<b>ROOF SIGNS</b>															
Permit type	X	X	X	X		X	P	X	P	P	P	X	X	P	
MAX #							Per Bldg		Per Bldg	Per Bldg				Per Bldg	
MAX area							16sqft		16sqft	32 sqft				16sqft	
MAX height above roof line							6ft		6ft	6ft				6ft	
MAX Vertical projection (above top of wall)							8 ft		8 ft	8 ft				8 ft	

Notes:  
 Per Tenant- also includes owner or other occupants  
 Per Bldg- applies to principal buildings only  
 Per Lot- see lot definition

Notes:  
 RC Site- when part of approved site plan may include multiple lots  
 PDD Lots- signs subject to approved Project Plan

## **APPENDIX C**

### **CANAL REGULATIONS**

# **Canal Regulations**

## **INDEX**

### **SUBCHAPTER D: CANAL SYSTEM**

#### **Part 150: GENERAL PROVISIONS**

§150.1: Definitions

§150.2: Canals Free

§150.3: The Navigation Season

§150.4: Unauthorized Operation of Locks

§150.5: Propelling Float Against Gate

§150.6: Prohibited Activities

§150.7: Canal Officials Not to be Freight Agents

§150.8: Misconduct; Taking of Gratuities

§150.9: Prohibiting Movement of Explosives

§150.10: Seizure of Obstruction

§150.11: Swimming, Diving, Fishing, and Hunting at Canal Structures

§150.12: Hunting and Fishing Permits Not Authorized

§150.13: Aircraft on canal Waters

#### **Part 151: NAVIGATIONAL RULES**

§151.1: Equipment

§151.2: Floats in Bad Condition

§151.3: [Reserved]

§151.4: Canal Officers May Examine Floats

- §151.5: Dimensions and Design of Floats
- §151.6: Draft Marks on Commercial Floats
- §151.7: Number of Unites in Tow
- §151.8: Formation of Tows
- §151.9: Propulsion of Barge by Pushing
- §151.10: Mooring
- §151.11: Obstruction of Navigation
- §151.12: When Canal Levels are Drawn
- §151.13: Buoys and Lights
- §151.14: Assistance to Floats
- §151.15: Speed on Canals
- §151.16: Speed When Passing
- §151.17: When Passing Stationary or Slow-Moving Floats, etc.
- §151.18: Preference of Floats in Passing
- §151.19: Locks
- §151.20: Signaling Lift Bridges
- §151.21: Warning Signal Approaching Bends
- §151.22: When Traffic is Congested
- §151.23: Pilot Rules
- §151.24: Aids to Navigation
- §151.25: Clearance
- §151.26: Non-Navigation Season Storage of Floats

**Part 152: RULES FOR PLEASURE BOATS**

§152.1: Regulations for Pleasure Boats

**Part 153: TERMINAL USE**

§153.1: Points for Float Receipt and Discharge of Cargoes

§153.2: Payment of Charges

§153.3: Dockage and Wharfage for Canal Floats

§153.4: Storage Charges for Canal Freight at all Canal Terminals

§153.5: Storage Rates for Canal Freight

§153.6: Special Storage Provisions at all Terminals

§153.7: Stevedoring

§153.8: Abandoned Property

§153.9: Mooring Facilities During Closed Season

§153.10: Refusal to Obey Directions

**Part 154: FEES AND CHARGES FOR SALVAG WORK AND FOR USE OF DRY DOCKS**

§154.1: Salvage Work

§154.2: Use of Dry Docks

**Part 155: DIMENSION REQUIREMENTS AND MILEAGE DATA**

§155.1: Floats

§155.2: Channel

§155.3: Bridges

§155.4: Locks

§155.5: Mileage

§155.6: Distance Between Certain Points on Canals and Connecting Waters

**Part 156: REVOCABLE PERMITS**

§156.1: Granting Revocable Permits

§156.2: Occupancy and Use of Canal Lands or Waters

§156.3: Permits for Aircraft on Canal Waters

§156.4: Schedule of Fees for Revocable Permits for the Temporary Use or Occupancy of Canal Lands or Facilities and for the Diversion or Use of Canal Waters

**Part 157: PUBLIC ACCESS TO CANAL CORPORATION RECORDS**

§157.1: Records Available for Inspection and Copying; Fees

§157.2: Rights of Party Denied Access to Records

## **PART 150: GENERAL PROVISIONS**

Historical Note: Part (§§150.1-150.5) repealed, new (§§150.1-150.2) filed Oct. 2, 1972, renum. Part 181, Title 17, filed Nov. 5, 1979; new (§§150.1-150.13) added by renum. Part 50, Title 17, Jan. 1997.

### **§ 150.1 Definitions**

The following terms when used in this Chapter, unless otherwise expressly stated or unless the context or subject matter requires otherwise, shall have the following meanings:

(a) The New York State Canal Corporation (the Canal Corporation) shall mean the corporate subsidiary of the New York State Thruway Authority, created by section 382 of the Public Authorities Law. The New York State Thruway Authority (the Authority) shall mean the public corporation created by title 9 of article 2 of the Public Authorities Law.

(b) Canal Recreationway Commission shall mean the advisory body created pursuant to article 13-A of the Canal Law, consisting of state, local and private citizens representative of diverse canal interests and geographic areas of the canal system.

(c) The Canal Recreationway Plan shall mean the comprehensive plan for development of the New York State Canal System formulated pursuant to article 13-A of the Canal Law.

(d) Division director shall mean the administrative head of a designated area constituting a division of the Canal Corporation.

(e) The New York State canal or the canal system shall each mean all the canals, canal lands, feeder canals, reservoirs, canal terminals and canal terminal lands of the State transferred to the jurisdiction of the authority and operated by the Canal Corporation pursuant to Chapter 766 of the Laws of 1992, as hereinafter defined.

(f) Canals or canal shall mean the channel and adjacent State-owned banks of the inland waterways of the State constructed, improved, or designated by authority of the Legislature as canals and shall include canalized rivers and lakes, canal water supply reservoirs, canal water supply feeder channels and all appertaining structures including locks, dams, bridges, etc., necessary for the proper maintenance and operation of the canals.

(g) Canal terminal shall mean the facilities which have been constructed or acquired under authority of the Legislature in connection with the canal system for loading, unloading, and/or temporarily storing commodities transported upon the canals and shall include docks, dock walls, bulkheads, wharves, piers, slips, basins, harbors, buildings, equipment, tracks and roadways together with the lands now owned or as may hereafter

be acquired by the State or the Canal Corporation for the proper maintenance and operation of the canal terminals.

(h) Erie Canal shall mean the portion of the canal system connecting the Hudson River at Waterford with the Niagara River at Tonawanda.

(i) Oswego Canal shall mean the portion of the canal system connecting the Erie Canal at Three Rivers with Lake Ontario at Oswego.

(j) Champlain Canal shall mean the portion of the canal system connecting the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall.

(k) Cayuga and Seneca Canals shall mean the portions of the canal system connecting the Erie Canal at a point near Montezuma with Cayuga and Seneca Lakes and through Cayuga Lake and Cayuga inlet to the southerly side of State Street in the city of Ithaca and through Seneca Lake with Montour Falls.

(l) Canal lands shall mean all lands and waters forming a part of the canal system, title to which was originally vested in the State, acquired by the State or which may in the future be acquired by the State or the Canal Corporation for canal purposes.

(m) Permit shall mean a revocable agreement granting temporary occupancy or use of lands, facilities, or structures of the canal system.

(n) Float shall mean every boat, vessel, raft or floating thing navigated on the canals or moved thereupon under the direction of some person having the charge thereof.

(o) Master shall mean every person having for the time, the charge, control or direction of any float.

(p) Person shall mean an individual, partnership, corporation or association.

(q) Mooring shall mean the making fast of a float to a structure. This may be by direct attachment to the structure or through other floats.

(r) Dockage shall mean the charges which are established for the mooring of a vessel at a terminal.

(s) Wharfage shall mean the charges which are established for the privilege of moving commodities from or into floats while moored at a terminal.

(t) Storage shall mean the temporary occupancy, by commodities, of space on a canal terminal. Storage carries no responsibility by the State, the authority or the Canal Corporation for damage or loss of commodities.

(u) Canal freight shall mean commodities moved or to be moved via the New York State

canals.

(v) Day shall mean a period of 24 hours or fraction thereof.

(w) Area occupied shall mean driveways, passageways, etc., which are monopolized by the commodity to the exclusion of other shippers.

(x) Outgoing canal freight shall mean freight delivered on a canal terminal for transportation on the canal system.

(y) Incoming canal freight shall mean freight delivered on a canal terminal after transportation on the canal system.

(z) Owner of a vessel, operating on the canals, shall mean the person so declared and filed with the United States Treasury Department (Bureau of Customs), and who is also required to file proper certificate of registry with the Canal Corporation.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; amd. filed Dec. 26, 1972; renum. 181.1, Title 17, filed Nov. 5, 1979; new added by renum. 50.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

## **§ 150.2 Canals free**

Navigation on the State canals is free except for mooring, dockage, wharfage, storage, or use of canal equipment or facilities for which a permit or pass is required and charges are established in this Subchapter. The acceptance of fees or gratuities of any kind by lock officials or other canal employees is forbidden. Vessels propelled in whole or part by mechanical power shall be charged a toll for use of locks and lift bridges. Tolls shall be collected through sale of lock and lift bridge passes obtainable on an annual basis for the navigation season, as defined in section 150.3 of this Part. In the case of recreational vessels, two-day passes and 10-day passes (consecutive days) for unlimited lockage/lift bridge passage shall also be obtainable. Charges for lock and lift bridge passes are established as follows:

(a) Recreational vessels.

(1) Annual pass for the navigation season:

Vessel Size	Rate
less than 16'	\$ 25.00
16' - under 26'	\$ 50.00
26' - 39'	\$ 75.00

greater than 39'                   \$ 100.00

(2) Unlimited two-day lockage/lift bridge passage:

Vessel Size	Rate
less than 16'	\$ 5.00
16' - under 26'	\$ 10.00
26' - 39'	\$ 15.00
greater than 39'	\$ 20.00

(3) Unlimited 10-day lockage/lift bridge passage:

Vessel Size	Rate
less than 16'	\$ 12.50
16' - under 26'	\$ 25.00
26' - 39'	\$ 37.50
greater than 39'	\$ 50.00

(b) Commercial cargo-carrying vessels. Annual pass for the navigation season: \$ 750 per commercial operator.

(c) Crewed, passenger-carrying tour boats. (1) Non-sleeper. Annual pass for the navigation season: \$ 10 per passenger capacity.

(2) Sleep-aboard. Annual pass for the navigation season: \$ 30 per passenger capacity.

(d) Non-crewed hire boats. Annual pass for the navigation season: \$ 300 per vessel. The Canal Corporation may provide for sale of lock and lift bridge passes by the Canal Corporation or by any other entity pursuant to such procedures as the chairman may prescribe.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 181.2, Title 17, filed Nov. 5, 1979; new added by renum. 50.2, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; April 26, 2002 as emergency measure; July 2, 2002. Amended opening para., added (a)(3).

### **§ 150.3 The navigation season**

The opening of the navigation season depends upon natural conditions. Notice of official opening and closing dates will be announced by the Canal Corporation annually.

Historical Note: Sec. repealed, filed Oct. 2, 1972; new added by renum. 50.3, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

#### **§ 150.4 Unauthorized operation of locks**

Neither the lock gates, valves, paddles, capstans, nor any part of the machinery on or connected with a lock shall be operated by any person other than the duly appointed lock officials; nor shall any mechanical part of any lock be handled or interfered with by any other person. Any person violating this section shall be subject to a penalty of not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, filed Oct. 2, 1972; new added by renum. 50.4, Title 17, Jan. 1997.

#### **§ 150.5 Propelling float against gate**

Any person who propels a float to or against any lock gate, or, being in control of such float, permits it to be propelled against any lock gate, buffer beam or other structure, for the purposes of opening, closing or otherwise operating the same, shall be deemed guilty of violating the foregoing section and shall be subject to the penalty therefor.

Historical Note: Sec. repealed, filed Oct. 2, 1972; new added by renum. 50.5, Title 17, Jan. 1997.

#### **§ 150.6 Prohibited activities**

The activities and uses enumerated in this section shall be absolutely prohibited on any canal system land.

(a) Alms. No person shall solicit alms or contributions.

(b) Pollution of waters. No person shall in any manner cause to be placed in waters or into any storm sewer, drain or stream flowing into such waters any sewage, garbage, trash, litter, debris, waste material or any nauseous or offensive matter.

(c) Littering. No person shall in any manner cause any rubbish, garbage, refuse, organic or inorganic waste, diseased or dead animal, or other offensive matter or any abandoned property or material to be placed or left in or on any property, except in receptacles provided for that purpose.

(d) Injury to property. No person shall make an excavation on or injure, destroy, deface, remove, fill in, tamper with or cut any real or personal property, tree or other plant life.

(e) Disorderly conduct. No person shall do any of the following:

- (1) disobey a lawful order of any officer or employee of the Canal Corporation or any sign erected by or at the direction of the Canal Corporation;
- (2) throw stones or other objects or missiles which may inflict bodily injury or damage to property;
- (3) obstruct vehicular or pedestrian traffic;
- (4) climb upon any wall, fence, structure or monument;
- (5) throw away or discard any lighted match, cigar, cigarette, charcoal or other burning object other than in a receptacle provided for that purpose;
- (6) operate any vehicle or equipment in such a manner as to endanger other persons or property or in such a manner so as to create an unreasonable noise or disturbance;
- (7) commit an act which may result in injury to any person or damage to real or personal property or create a hazardous or offensive condition by any act which serves no legitimate purpose;
- (8) operate a snowmobile, motorbike or any other motorized vehicle;
- (9) dumping of garbage or refuse;
- (10) horseback riding; and
- (11) carrying of firearms.

(f) Property closed to public. No person shall enter or remain upon any property or within any structure during such hours, seasonal or indefinite periods that such property or structure has been designated as closed by a sign or by an employee of the Canal Corporation.

(g) Use of established ways. No person shall use other than trails, overlooks, roads and other ways established and provided for public use by the Canal Corporation. No liability shall attach to the State, the authority or the Canal Corporation, or any officer, employee or agent of said State, authority or Canal Corporation, for injuries to persons resulting from the use of other than such established trails, overlooks, roads or ways.

(h) Any person violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. added by renum. 50.6, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999. Amended (e)-(g).

### **§ 150.7 Canal officials not to be freight agents**

No Canal Corporation official or employee shall act as agent for shippers, boat owners, or freighting firms engaged in canal commerce, or receive directly or indirectly any compensation from any shipper, boat owner, firm, or any person for procuring freight on freight boats. Such information as may be available as to freight to be shipped or as to freight boats will be furnished by the Canal Corporation to all applicants without charge of any kind.

Historical Note: Sec. added by renum. 50.7, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **§ 150.8 Misconduct; taking of gratuities**

Any person employed on the canal locks or any other post on the canal who shall report for duty in an intoxicated condition, or who becomes intoxicated while on duty, or who is absent from duty during working hours without permission, or who shall demand or receive, under any pretense or any form or manner whatsoever, any gratuity, valuable thing or what is commonly known as "scale money" from boatmen or others, or who unlawfully takes or receives any merchandise or other articles from floats navigated on the canals, shall be subject to dismissal.

Historical Note: Sec. added by renum. 50.8, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **§ 150.9 Prohibiting movement of explosives**

The movement of explosives through the New York State canals is prohibited. The term explosives as used in this Subchapter includes liquid nitroglycerine, dynamite, nitrocellulose fireworks, black powder, smokeless powder, fulminate, ammunition, bombs, fuses, squibs and other articles of like nature.

Historical Note: Sec. added by renum. 50.9, Title 17, Jan. 1997.

### **§ 150.10 Seizure of obstruction**

The Canal Corporation may cause to be seized and removed any object, article, float or sunken thing found within the limits of the canal system not under the care or charge of any person. The Canal Corporation shall sell, or offer for sale all seized objects, articles, floats or sunken things either before or after their removal, as the Canal Corporation deems essential for maintenance of the canal system. The sale shall be at public auction after giving 10 days' notice of such proposed sale conspicuously posted at two public places in the city or town where such object, article, float or sunken thing is found unless

before the time of such sale the owner thereof appears and claims same and pays to the Canal Corporation the cost and expense which it has incurred in connection with the seizure, removal and proposed sale. The owner thereof shall be liable for the cost and expense of such seizure, removal and sale of the said object, article, float or sunken thing, which cost and expense may be recovered by the Canal Corporation in an appropriate action or proceeding brought in the name of the Canal Corporation in any court of competent jurisdiction. The avails of such sale shall be accounted for by the Canal Corporation which may, on the application of the owner and upon due proof of ownership, pay over such proceeds to the owner after deducting all costs, expenses and reasonable charges of the seizure, removal and sale thereof. Whenever, in the opinion of the Canal Corporation, the navigation or operation of any part of the canal system is interrupted or endangered, the Canal Corporation may cause to be cut up, destroyed or otherwise removed, any object, article, float or sunken thing in or partly in the waters of the canal system which may, in its judgment, be causing such interruption or damage. The Canal Corporation may enter into an agreement with the owner or owners of any property so cut up, destroyed or otherwise removed, covering the amount of damage sustained. Such agreement shall become an obligation of the Canal Corporation and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section 120 of the Canal Law.

Historical Note: Sec. added by renum. 50.10, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

#### **§ 150.11 Swimming, diving, fishing and hunting at canal structures**

Swimming, diving or fishing in the lock chambers or from the lock walls or any other canal structure is prohibited. Hunting on, at or near canal locks or any other canal structure is prohibited. Any person violating this section shall be subject to a penalty of not to exceed \$ 25 for each offense.

Historical Note: Sec. added by renum. 50.11, Title 17, Jan. 1997.

#### **§ 150.12 Hunting and fishing permits not authorized**

No Canal Corporation employee has any authority or shall be allowed to grant any person, hunting permits or permits to fish in any of the canals of the State or in the State reservoirs. (See section 150.11 of this Part.)

Historical Note: Sec. added by renum. 50.12, Title 17, Jan 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

#### **§ 150.13 Aircraft on canal waters**

The taking off from or landing upon the surface of waters of the canal system by aircraft is prohibited, except under conditions specified in a revocable permit or when a landing and subsequent take-off is necessary under actual distress conditions. Any person

violating this section shall be subject to a penalty of not to exceed \$ 100 for each offense. (See section 156.3 of this Title.)

Historical Note: Sec. added by renum. 50.13, Title 17, Jan. 1997.

## **PART 151. NAVIGATIONAL RULES**

Historical Note: Part (§§151.1-151.34) repealed, new (§§151.1-151.41) filed Oct. 2, 1972; renum. Part 182, Title 17, filed Nov. 5, 1979; new Part (§§151.1-§§151.30) added by renum. Part 51, Title 17, Jan. 1997.

### **§ 151.1 Equipment**

Every float navigated on the canal shall be properly staffed and equipped and shall comply with all applicable provisions of the New York State Navigation Law. Additionally, each float shall have bow and stern lines, and fenders securely fastened to the float to prevent the float from breaking concrete or damage to the lock and approach walls. Tires, hay bales, or other devices which in the opinion of the lock operator pose a risk to canal equipment, are forbidden for use as fenders. Vinyl ball or cylindrical style fenders are acceptable.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; amd. filed Dec. 26, 1972; renum. 182.1, Title 17, filed Nov. 5, 1979; new added by renum. 51.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.2 Floats in bad condition**

The Canal Corporation may prohibit from entering the canals any float which, in the opinion of the Canal Corporation or its representative, is in such condition that it may jeopardize canal structures, or is likely to become a source of damage or delay to navigation. If such a float is already in the canal, it shall be prohibited from proceeding. If the operator of the float refuses or fails to obey such prohibition, such operator and the owner shall be subject to a penalty not to exceed \$ 100 and may have privileges to utilize the canal system suspended.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.2, filed Nov. 5, 1979; new added by renum. 51.2, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.4 Canal officers may examine floats**

The Canal Corporation or its representative officers shall, at all times, have full authority to stop any float at any point on the canals, and to board and remain on such float as long as deemed necessary for the purpose of examining the same. Every effort shall be made to provide any information as is requested. Any person obstructing such officer in the

execution of the officer's duty shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.4, filed Nov. 5, 1979; new added by renum. 51.4, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.5 Dimensions and design of floats**

(a) The maximum dimensions of a float which may enter the locks of the canal system are 300 feet long and 43 1/2 feet wide.

(b) The maximum height above water of floats navigated on the canal system shall not exceed the vertical overhead clearance of canal structures.

(c) All floats passing through the locks shall be free from projections or sharp corners that may damage the lock walls or other lock structures.

(d) Any float not conforming to the provisions of this section may be refused passage through the locks.

(e) The owner or operator of any float navigating the canal in violation of the provisions of this section shall be subject to a penalty not to exceed \$ 100.

Historical Note:  Sec. repealed, new filed Oct. 2, 1972; amd. filed Aug. 31, 1976; renum. 182.5, Title 17, filed Nov. 5, 1979; new added by renum. 51.5, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005. Amended (a), (c), (e). 

### **§ 151.6 Draft marks on commercial floats**

All commercial floats operating on the canal shall have legible, properly sized, and properly spaced draft marks that comply with Section 97.40-10 of Title 46 of the United States Code of Federal Regulations.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.6, Title 17, filed Nov. 5, 1979; new added by renum. 51.6, Title 17, Jan. 1997; repealed, new filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.7 Number of units in tow**

Without special permission of the Canal Corporation, no fleet shall consist of more units than may be passed through a lock in two lockings.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.7, Title 17, filed Nov.

5, 1979; new added by renum. 51.7, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999. 

### **§ 151.8 Formation of tows**

Fleet formation of two loaded barges abreast is permitted in the canalized river and lake sections of the canal. Such formation shall not be used in other sections of the canal without the written permission of the Canal Corporation. Where difficulty is experienced in holding light fleets within the buoyed channels, the Canal Corporation or its representative may order such formation and devices for control as in its judgment will best protect the buoys. Failure to comply with such orders will subject the operator of the towing tug to a penalty not to exceed \$ 100.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.8, Title 17, filed Nov. 5, 1979; new added by renum. 51.8, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.9 Propulsion of barge by pushing**

(a) No barge may be pushed in canal waters, unless:

(1) The construction and make-up of the fleet is such that the steersman has an unobstructed view of the full outline of the deck at the bow of the forward barge and of the water surface 400 feet in advance of such bow.

(2) When under way, there is at all times on the deck of the first pushed barge a deckhand to signal directions to the steersman.

(3) When entering or leaving a lock, deckhands shall be stationed at the forward end of the first pushed barge to signal directions to the steersman and to handle fenders as required.

(b) All floats navigating the canals shall comply with the provisions of the Inland Navigation Rules,\* as published and amended by the United States Coast Guard, relative to lights to be carried on floats, except as otherwise provided herein.

\*NB Not filed with the Department of State.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.9, Title 17, filed Nov. 5, 1979; new added by renum. 51.9, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.10 Mooring**

(a) Each float moored in the canal shall be made fast to secure moorings, at bow and stern, with good and sufficient lines so as to prevent such float from breaking away under

the ordinary strain caused by passing floats, current, etc.

(b) No float shall be moored or anchored in the canal channel at any point where its presence will interfere with navigation, and no float shall be moored or anchored at any point in the canal for a period in excess of 24 hours without the authorization of the Canal Corporation or its representative.

(c) No float shall be moored at any Canal Corporation owned dock or terminal in excess of 48 hours in any calendar month, without first obtaining an official permit.

(d) No mooring is allowed in the "Waterford Flight" between the foot of Lock E-2 and Guard Gate No. 2, without authorization from the Canal Corporation.

(e) No float shall tie by or be moored at the head or foot of any lock except with the consent of the lock operator.

(f) The operator of a float shall comply with all directions given by the lock operator.

(g) Except as directed by the lock operator, the use of ladders in the lock chambers for mooring purposes is prohibited and no float shall be tied or fastened to the same. In no event shall any line be tied or made fast to any ladder or mooring device within the lock chamber.

(h) No float shall moor to or attach a line to any buoy, light or channel marker in the canals. Floats moored within or along the edge of the canal channel at night shall comply with the Inland Navigation Rules\*, as published and amended by the United States Coast Guard.

(i) A violation of this section shall subject the owner or operator of the offending float to a penalty not to exceed \$ 100.

Historical Note:  Sec. repealed, new filed Oct. 2, 1972; renum. 182.10, Title 17, filed Nov. 5, 1979; new added by renum. 51.10, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.11 Obstruction of navigation**

The operator of any float who obstructs navigation of the canal by improper mooring, management or conduct of a float, or any person who obstructs navigation of the canal by placing any object in the waters of the canal or by placing any obstruction upon the bank thereof, shall be subject to a penalty not to exceed \$ 100 for each such obstruction.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.11; Title 17, filed Nov. 5, 1979; new added by renum. 51.11, Title 17, Jan. 1997; repealed, new added by renum. and amd. 151.12, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.12 When canal levels are drawn**

In the event the Canal Corporation, in its discretion, determines it is necessary to draw down water from any canal level, all floats which may be upon such level shall be moved to such points as the Canal Corporation or its representative shall direct. The operator of a float who fails or refuses to comply with such direction from the Canal Corporation or its representative shall be subject to a penalty not to exceed \$ 100.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.12, Title 17, filed Nov. 5, 1979; new added by renum. 51.12, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.11, new added by renum. and amd. 151.14, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.13 Buoys and lights**

No person in the canal shall move, alter or destroy any buoy or other aid to navigation; nor shall a float operator moor a float to any buoy or other aid to navigation or set out navigation markers, except in accordance with a duly authorized permit. Whenever a float operator strikes a buoy or light, notices that a buoy or light is out of position, its light is out or is otherwise in bad order, or encounters or observes some other hazardous physical condition, such float operator shall report the matter to the lock operator at the next lock through which the float passes with a written statement as to the location of the displaced buoy, extinguished light or other improper condition as appropriate, the time when the accident occurred, or the time when condition reported was noticed. Forms for such report may be obtained from the lock operator.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.13, Title 17, filed Nov. 5, 1979; new added by renum. 51.13, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; repealed, new added by renum. and amd. 151.15, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.14 Assistance to floats**

(a) In case any float grounds, sinks or otherwise obstructs navigation on the canal, the Canal Corporation may cause the same to be salvaged, destroyed or removed, subject to the provisions of section 83 of the Canal Law.

(b) The Canal Corporation will provide equipment and personnel to assist floats meeting with mishap on the canal as follows:

(1) Where a float is in the channel and in danger of obstructing navigation, or there is danger of loss of life or serious property damage, the Canal Corporation assistance will be as prompt and thorough as possible.

(2) Where a float is sunk entirely outside of the channel and there is no immediate

prospect of such float coming into the channel or otherwise interfering with navigation, Canal Corporation equipment will ordinarily not be used in such salvage work. However, the division canal engineer may grant a request for such assistance when the division canal engineer determines that the equipment is available. In such cases, the fee established by this Chapter will be charged. Before the Canal Corporation will start work of this character, the owner, master or representative must deliver to the division canal engineer a guarantee in the form of a certified check for the estimated cost of the work.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.14, Title 17, filed Nov. 5, 1979; new added by renum. 51.14, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.12, new added by renum. and amd. 151.16, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.15 Speed on canals**

Every operator of a float is responsible for the wake of that float. In dug sections of the canal system, float speed shall not exceed ten miles per hour, except within 100' of a dock, pier, raft, float, anchored or moored, float speed shall not exceed five miles per hour.

In canalized rivers of the canal system, float speed shall not exceed the posted speed, or, if there is no posted speed, shall depend on the conditions of traffic but shall not exceed forty-five miles per hour, except within 100' of a dock, pier, raft, anchored or moored float, speed shall not exceed five miles per hour, unless such float is being operated near such dock, pier, raft, anchored or moored float for the purpose of enabling a person engaged in water skiing to take off or land.

In lakes of the canal system, float speed shall depend on the conditions of traffic, except within 100' of the shoreline, a dock, pier, raft, anchored or moored float, speed shall not exceed five miles per hour, unless such float is being operated near such dock, pier, raft, anchored or moored float for the purpose of enabling a person engaged in water skiing to take off or land.

So far as may be practicable, the rates of speed will be indicated for the various sections at each lock and in no event shall such rates of speed be exceeded. Any operator of a float violating this section shall be subject to a penalty not exceeding \$ 100 for each offense and the lock or bridge at which the float first appears following such violation, may refuse such float passage for a period of not more than 6 hours.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.15, Title 17, filed Nov. 5, 1979; new added by renum. 51.15, Title 17, Jan. 1997; renum. 151.13, new added by renum. and amd. 151.17, filed Feb. 15, 2005; amd. filed April 9, 2009 eff. April 29, 2009. 

### **§ 151.16 Speed when passing**

Every float, when passing any float underway or while passing a moored float, shall slow down to a speed and exercise proper control so as to prevent damage to such other floats. Any person violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note:  Sec. repealed, new filed Oct. 2, 1972; renum. 182.16, Title 17, filed Nov. 5, 1979; new added by renum. 51.16, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.14, new added by renum. and amd. 151.18, filed Feb. 15, 2005 eff. March 2, 2005.

### **§ 151.17 When passing stationary or slow-moving floats, etc**

When two floats, going in opposite directions approach each other in the vicinity of a float which is stationary or moving at a slow rate of speed, in such manner that they would, if both should continue their headway, meet by the side of such third float, the float which shall be going in the same direction as the third float is going, or is headed, shall stop until the float going in the opposite direction has passed. In canalized rivers where a current exists, however, the float which is proceeding with the current shall have the right of way past the stationary or slow-moving float and the float which is proceeding against the current shall wait until the float proceeding with the current has passed. The float proceeding with the current shall indicate to the approaching float its intention to proceed. Any operator of a float violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.17, Title 17, filed Nov. 5, 1979; new added by renum. 51.17, Title 17, Jan. 1997; renum. 151.15, new added by renum. 151.19, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.18 Preference of floats in passing**

(a) Floats in passing shall be governed by the whistle signals as prescribed in the Inland Navigation Rules,\* as published and amended by the United States Coast Guard.

(b) When in a navigable channel, every float shall, when it is safe and practicable, keep to that side of the channel which lies on the starboard side of such float.

(c) When approaching or exiting a lock, no float within 1,000 feet of the lock shall pass another float.

(d) Any operator of a float violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.18, Title 17, filed Nov. 5, 1979; new added by renum. 51.18, Title 17, Jan. 1997; renum. 151.16, new added by renum. and amd. 151.20, filed Feb. 15, 2005 eff. March 2, 2005. 

## **§ 151.19 Locks**

(a) Passage. (1) When approaching a lock, float operators must stop at a safe distance and follow specified signals provided by the lock operator. Operators of floats intending to enter a lock can contact the lock operator via marine band radio channel 13, or by three distinct blasts or soundings of a horn, whistle, or other signaling device. Lock operators will reply with navigation lights. Green indicates that the lock is ready and the float may advance. Red indicates that the float must wait.

(2) A float approaching a lock which is not ready to receive it shall come to a full stop at a safe distance from the lock and await the signal of the lock operator to approach. If the lock is ready to receive the float, the float shall slow down at a proper distance from the lock to avoid damaging the lock structure or equipment.

(3) If no light is shown, the float shall stop, stay in place or tie up immediately to the approach wall, and await further instructions from the lock operator.

(4) A float which arrives at a lock and does not employ the first opportunity of passing through same, shall lose its preference if there is any other float ready to pass through the lock.

(5) No owner or operator of a float shall unnecessarily or unreasonably delay, hinder or detain its entry into, passage through, or exit from a lock or the passage through a lock of any other float awaiting locking. The lock operator may order any float engaging in such delay removed from the lock and the owner thereof shall pay all expenses involved in such towing or removal.

(6) Fenders shall be used as required to prevent damage to the lock structure. Floats leaving the lock shall navigate at a reduced speed until the stern of such float has reached a point of at least 150 feet beyond the lock chamber.

(7) Every float operator shall comply strictly with directions or orders of the lock operator as to management of the float while awaiting locking, during locking or on entering or leaving a lock.

(8) (i) At Lockport operators of double-locking tows: eastbound, are required to have the power unit remain on the upper level until the first locking is complete; when westbound, the power unit shall enter the lock with the first locking of its double-locking tow, so as to provide power on the upper level for the floats comprising the first locking.

(ii) At the Waterford flight of locks double-locking tows are not allowed in either direction without special permission of the Canal Corporation or its representative.

(9) (i) No operator of a float shall allow the float to leave an approach wall, enter a lock, or leave a lock until the lock gates are fully open, and no red light is shown by the traffic control device on the lock, or operator of a float is directed by a lock operator to proceed.

(ii) Every operator of a float waiting to enter a lock shall give way to floats leaving the lock.

(iii) No operator of a float shall allow the float to pass through a lock unless the float is equipped with good and sufficient mooring lines and securely attached fenders; the float and any goods or equipment on the float are in a condition that permits passage through the lock in a safe and controlled manner; and the float is of a dimension, configuration or draft that permits safe passage.

(10) No person shall, while on a float that is passing through a lock of the canal, smoke or have or maintain an open flame, including a pilot light.

(11) The lock operator may require the removal of persons or perishable property from canoes, rowboats or personal watercraft during locking. The lock operator may prohibit the passage of such float through the lock if, in the discretion of the lock operator, such passage would create a hazardous condition or obstruction to navigation.

(b) Floats under control. To prevent any damage to the lock structure or its equipment, floats shall, at all times, enter each lock squarely and under proper control, at a speed that is consistent with navigation safety under the weather and water conditions prevailing in the vicinity of the lock at that time. Float personnel shall execute all specified and required navigation and safety measures to bring the float safely into the lock and to insure a full stop in the lock chamber without touching, hitting or damaging lock gates or any other vulnerable part of the lock structure or equipment. Lines shall be put out from the float to slow its final drift speed, bring it to a stop and hold it safely in the lock during locking operation.

(c) Penalties. Any operator of a float violating this section shall be subject to a penalty not to exceed \$ 100 for each offense and the lock operator may refuse the float passage through the lock for a period of not more than 6 hours.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; amd. filed Oct. 31, 1976; renum. 182.19, Title 17, filed Nov. 5, 1979; new added by renum. 51.19, Title 17, Jan. 1997; renum. 151.17, new added by renum. and amd. 151.21, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.20 Signaling lift bridges**

(a) When approaching a lift bridge, float operators intending to pass under the bridge can contact the bridge operator via marine band radio 13, or by three distinct blasts or soundings of a horn, whistle, or other signaling device. Such contact or signal must be given at least 1,000 feet from the bridge. Bridge operators will reply with navigation lights, horn or whistle. Green lights indicate that the bridge is raised and ready and the float may advance. Red lights indicate that the float must wait. Where the bridge operator responds by horn or whistle, three distinct blasts indicate the float may advance. Six rapid

blasts mean that the float shall come to an immediate stop and await further instructions.

(b) No float operator shall proceed under a movable bridge until the bridge is fully raised and the bridge operator has given the signal to proceed.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.20, Title 17, filed Nov. 5, 1979; new added by renum. 51.20, Title 17, Jan. 1997; renum. 151.18, new added by renum. and amd. 151.22, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.21 Warning signal approaching bends**

Every float nearing a short bend in the channel where, from the height of the banks or other cause, a float approaching from the opposite direction cannot be seen, shall sound a long distinct signal at least one-half mile from such point. Any float that may be approaching in the opposite direction shall answer with a similar signal. Any person violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.21, Title 17, filed Nov. 5, 1979; new added by renum. 51.21, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.19, new added by renum. and amd. 151.23 filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.22 When traffic is congested**

In case of a delay to navigation causing a congestion of floats at any point, the floats shall take such places as shall be assigned to them by the Canal Corporation or its representative and they shall be passed through the lock or allowed to proceed along the canal in such order as in the judgment of the Canal Corporation, or its authorized representative, shall be deemed best for the interests of general navigation. In all such cases, floats must comply strictly with the directions of the Canal Corporation or its representative. Failure or refusal to comply with such directions will subject the operator of the float to a penalty not to exceed \$ 100.

Historical Note:  Sec. repealed, new filed Oct. 2, 1972; renum. 182.22, Title 17, filed Nov. 5, 1979; new added by renum. 51.22, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.20, new added by renum. and amd. 151.24, filed Feb. 15, 2005 eff. March 2, 2005.

### **§ 151.23 Pilot rules**

All floats navigating the canals shall comply with the provisions of the Inland Navigation Rules,\* as published and amended by the United States Coast Guard, relative to the rules for floats passing each other, lights on floats and other matters consistent with the proper use of the canal, except as otherwise provided in this Chapter. Any person violating this section shall be subject to a penalty not to exceed \$ 100 for each offense.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.23, Title 17, filed Nov. 5, 1979; new added by renum. 51.23, Title 17, Jan. 1997; renum. 151.21, new added by renum. and amd. 151.25, filed Feb. 15, 2005 eff. March 2, 2005.

\* As authorized by Public Laws 96-591; 33 U.S.C. 2001-2038, 2071-2073; 33 CFR 84, *et. seq.* See Appendix B attached hereto. (*Editor's note:* Appendix B was not filed with the Department of State.)

#### **§ 151.24 Aids to navigation**

When entering canals at the Waterford entrance and traveling away therefrom, red buoys and red lights are located on the starboard side of the canal channel, while green buoys and green lights are located on the port side of the canal channel. When entering from any other location and traveling toward Waterford, red is on port and green is on starboard.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.24, Title 17, filed Nov. 5, 1979; new added by renum. 51.24, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 151.22, new added by renum. and amd. 151.26, filed Feb. 15, 2005 eff. March 2, 2005.

#### **§ 151.25 Clearance**

(a) Every commercial float shall have a clearance. Clearances may be obtained from the operator of the first lock through which the float passes after taking cargo aboard. No float may proceed beyond the place for which it has clearance or unload any article before its arrival there. Float operators must obtain a new clearance whenever property is transferred from one float to another.

(b) A float operator shall display the clearance upon the request of any Canal Corporation employee. Unless the clearance has on it the signature of the issuing lock operator, the lock operators shall not permit the float to pass.

(c) A float whose clearance is lost may be detained until it is recleared or until the operator of the float has procured a duplicate clearance from the lock where clearance is claimed to have been issued.

(d) The Canal Corporation, or its representative, may refuse clearance for a float against whose owner there is an unpaid penalty involving such float assessed under this Chapter, or against whose owner there is an unpaid bill rendered by the Canal Corporation for assistance to such float, or for repairing damage to Canal Corporation property caused by such float.

(e) The Canal Corporation may refuse clearance for any float, or further passage of any float already in the canal when, in the opinion of a Canal Corporation employee, its condition or equipment does not comply with this Chapter or its crew has navigated the

float in a careless, reckless or inefficient manner.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.25, Title 17, filed Nov. 5, 1979; new added by renum. 51.25, Title 17, Jan. 1997; renum. 151.23, new added by renum. and amd. 151.28, filed Feb. 15, 2005 eff. March 2, 2005. 

### **§ 151.26 Non-navigation season storage of floats**

The owner or operator of a float shall not leave such float in the canal system during the closed or winter season without first obtaining a permit from the Canal Corporation or its representative. Applications for such permits shall include a description of the proposed place of storage and must be submitted before the close of the navigation season.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 182.26, Title 17, filed Nov. 5, 1979; new added by renum. 51.26, Title 17, Jan. 1997; renum. 151.24, new added by renum. and amd. 151.30, filed Feb. 15, 2005 eff. March 2, 2005.

## **PART 152. SPECIAL RULES FOR PLEASURE BOATS**

Historical Note:  Part (§§152.1-152.23) repealed, new (§§152.1-152.3) filed Oct. 2, 1972; renum. Part 183, Title 17, filed Nov. 5, 1979; new (§§152.1-152.3) added by renum. Part 52, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005.  
Amended Part title.

### **§ 152.1 Regulations for pleasure boats**

In addition to the regulations governing general traffic on the canals, the following regulations shall apply to pleasure boats:

(a) Pleasure boats will not be permitted to enter or navigate any of the canals when, in the judgment of the Canal Corporation or its representative, they may become a source of danger or of delay to navigation.

(b) Pleasure boats shall be operated in such a manner on the canal as not to interfere with the use of such waters by commercial floats.

(c) During any period of low water, the locks will be operated for pleasure boats at such hours and at such intervals as will, in the judgment of the Canal Corporation or its representative, conserve the water supply for the locking of freight carriers.

(d) The Canal Corporation may, from time to time, establish definite time schedules for the operation of locks and lift bridges.

(e) Pleasure boats are required to come to a stop at each lift or swing bridge. The Canal Corporation will operate such bridges with due regard to street traffic and public convenience.

(f) Any float operator violating any of these rules and regulations shall be subject to a penalty not to exceed \$ 100 for each offense and the lock or bridge operator at which the float first appears following such violation may refuse the float passage for a period of not more than 6 hours.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 183.1, Title 17, filed Nov. 5, 1979; new added by renum. 52.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

## **PART 153. TERMINAL USE**

Historical Note:  Part (§§153.1-153.3) repealed, new (§§153.1-153.4) filed Oct. 2, 1972; renum. Part 184, Title 17, filed Nov. 5, 1979; new (§§153.1-153.11) added by renum. Part 53, Title 17, Jan. 1997.

### **§ 153.1 Points for float receipt and discharge of cargoes**

Terminals are provided for the receipt and discharge of canal freight at the principal points of shipment. The loading, unloading or storage of commodities at points on the canal system other than these terminals shall not be allowed without first obtaining a permit therefor from the Canal Corporation.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 184.1, Title 17, filed Nov. 5, 1979; new added by renum. 53.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 153.2 Payment of charges**

A float owner or operator shall promptly pay to the Canal Corporation all charges, fees and penalties in connection with the use of a canal terminal or terminal facilities. In case of delay in payment of any charge, fee or penalty, the Canal Corporation may withhold clearance for a float or floats registered under the name of the defaulting person.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; amd. filed Dec. 27, 1976; renum. 184.2, Title 17, filed Nov. 5, 1979; new added by renum. 53.2, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005. 

### **§ 153.3 Dockage and wharfage for canal floats**

(a) There are no docking or wharfage charges for canal floats while receiving or discharging canal freight.

(b) Charges will be imposed for the use of cranes or derricks, including operators, fuel and oil. For canal freight only, the charge for a crane or derrick shall be \$ 150 per hour.

There will be an additional charge if the crane requires transportation to the point of operation. Cranes ordinarily operate on an eight-hour per day basis. Special arrangements will be necessary for service beyond the eight-hour period.

Historical Note: Sec. repealed, new filed Oct. 2, 1972; renum. 184.3, Title 17, filed Nov. 5, 1979; new added by renum. 53.3, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005. Amended (b). 

#### **§ 153.4 Storage charges for canal freight at all canal terminals**

(a) Outgoing canal freight delivered at any canal terminal during the non-navigation season will be allowed a free storage period from February 15th to 15 days after the official opening of the canal. Regular storage rates will be charged for each 10-day period, or fraction thereof, elapsing before and after such free period, during which such freight remains at the terminal.

(b) Outgoing canal freight delivered at any canal terminal during the navigation season will be allowed a free storage period of 20 days. Regular storage rates will be charged for each 10-day period, or fraction thereof, elapsing after such free period.

(c) (1) Incoming canal freight delivered at any canal terminal during the navigation season will not be charged a storage fee if such freight is entirely removed from the canal terminal within 20 days from delivery.

(2) If any part of such freight remains at the canal terminal longer than 20 days, the regular storage rate for one 10-day period will be charged against the entire cargo. This charge will cover the first 20 days of occupancy of the canal terminal. Thereafter the regular storage rates will be charged for each 10-day period, or fraction thereof, with such rates applied to the amount of freight as remains at the terminal at the commencement of each 10-day period. All of the terminals shall be cleared of such storage by February 1st, unless the Canal Corporation grants a permit to extend such storage period.

(d) Any freight delivered to and placed at a canal terminal for shipment via the canal system which is, after such delivery, diverted to shipment by means other than the canal, will be charged twice the regular storage rates for each 10-day period, or fraction thereof, elapsed from date of delivery at the terminal to time of removal therefrom.

Historical Note: Sec. filed Oct. 1972; renum. 184.4, Title 17, filed Nov. 5, 1979; new added by renum. 53.4, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 5, 2005. Amended (a)-(d).

#### **§ 153.5 Storage rates for canal freight**

(a) The Canal Corporation shall determine the basis of storage charges, which shall be by weight, as far as practicable. The Canal Corporation shall also determine the manner of

storing all such commodities.

(b) Outdoor storage charges shall be at the rate of one-quarter cent per hundredweight for each 10-day period, or fraction thereof, that freight remains at the canal terminal, in accordance with section 153.4 of this Part.

(c) Any materials, supplies or equipment maintained or stored at a canal terminal will be subject to a storage charge for each 10-day period of occupancy at the rate specified under subdivision (b) of this section.

(d) When, in the opinion of the Canal Corporation, it is not feasible to determine the weight of any commodity subject to storage charges under this Part, the charge shall be based on the area occupied with one square foot of such area to be considered as representing 200 pounds.

Historical Note: Sec. added by renum. 53.5, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; Feb. 15, 2005 eff. March 2, 2005.

#### **§ 153.6 Special storage provisions at all terminals**

The Canal Corporation may issue special storage permits when, in its opinion, the circumstances are such that it is impractical to apply the general regulations. Such permits will be issued pursuant to section 156 of this Title.

Historical Note: Sec. added by renum. 53.6, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; repealed, new added by renum. and amd. 153.7, filed Feb. 15, 2005 eff. March 2, 2005.

#### **§ 153.7 Stevedoring**

The Canal Corporation will not provide stevedoring or handling service, or insurance. All freight storage is at the owner's risk and expense.

Historical Note: Sec. added by renum. 53.7, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 153.6, new added by renum. and amd. 153.8, filed Feb. 15, 2005 eff. March 2, 2005.

#### **§ 153.8 Abandoned property**

In the event that any property of any name or nature is left at any canal terminal or in any storehouse connected therewith beyond the period authorized, or in the event the owner of property abandons same at a canal terminal, the Canal Corporation may notify the owner of such left or abandoned property, if the name and address of such owner be known, and direct that it be removed. But if the name and address of such owner be not known or if the owner fails to comply promptly with the notice of removal, the Canal Corporation may cause such property to be removed from the canal terminal site. If the

name of the owner is known, such removal shall be at the owner's risk, cost and expense.

Historical Note: Sec. added by renum. 53.8, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 153.7, new added by renum. and amd. 153.9, filed Feb. 15, 2005 eff. March 2, 2005.

### **§ 153.9 Mooring facilities during closed season**

(a) Floats which have actually transported freight on the canal system at some time during the immediately preceding navigation season, including tugs which have supplied motive power to such floats, will be afforded free mooring facilities at the canal terminals for a period not to exceed one year insofar as space is available. The Canal Corporation shall assign such mooring space by issuance of a revocable permit pursuant to section 156 of this Title.

(b) Preference will be given to loaded floats over light floats, and the operator of any float or floats may be called upon to shift such float or floats from time to time to a different berth, or to another terminal, when in the opinion of the Canal Corporation, such change of berth is desirable. When adequate space for loaded floats is not available, the light floats may be required to vacate the terminal. If such order for change of berth or to vacate a berth is not accomplished promptly, the shift may be made by the Canal Corporation and the cost of such shift will become a charge against the float and its owner.

(c) Floats which have not transported freight on the canals during the immediately preceding navigation season, may be allowed to moor at the canal terminals under a revocable permit and at a mooring rate to be determined by the Canal Corporation.

(d) Floats used in the repair of the active canal floats described in the above subdivisions may be assigned mooring facilities at a mooring rate to be determined by the Canal Corporation when, in the discretion of the Canal Corporation, space is available.

Historical Note: Sec. added by renum. 53.9, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 153.8, new added by renum. and amd. 153.10, filed Feb. 15, 2005 eff. March 2, 2005.

### **§ 153.10 Refusal to obey directions**

(a) In case the operator of a float moored at any terminal fails or refuses to obey this Part, or in case the Canal Corporation is unable, after reasonable inquiry and effort, to communicate with the master of such float, the Canal Corporation may cause the float to be moved away from said terminal, or from place to place at the said terminal, as may in the Canal Corporation's discretion be necessary. The cost and expense incurred in moving the offending or obstructing float shall be chargeable to the owner of said float or the operator.

(b) The owner of a float or the operator who fails or refuses to obey any of this Part, including any directions given by the Canal Corporation or its representative pursuant to this Part, shall be subject to a penalty not to exceed \$ 100 per day for each and every day's failure, or refusal to comply therewith.

Historical Note: Sec. added by renum. 53.10, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999; renum. 153.9, new added by renum. and amd. 153.11, filed Feb. 15, 2005 eff. March 2, 2005.

## **PART 154. FEES AND CHARGES FOR SALVAGE WORK AND FOR USE OF DRY DOCKS**

Historical Note: Part (§§154.1-154.12) repealed, filed Oct. 2, 1972; new (§§154.1-154.2) added by renum. Part 54, Title 17, Jan. 1997.

### **§ 154.1 Salvage work**

(a) The following rates will be charged for the use of Canal Corporation equipment:

(1) Tug .....	\$ 35 per hour
(2) Tender tug.....	\$ 20 per hour
(3) Buoy boat (with operator and supplies) .....	\$ 9 per hour
(4) Derrick boat (without propulsion).....	\$ 35 per hour
(5) Derrick boat (self-propelled).....	\$ 50 per hour
(6) Self-propelled scow.....	\$ 15 per hour
(with personnel or equipment)	
(7) Steel flat scow (150-ton).....	\$ 35 per day or
(without personnel or equipment)	fraction thereof
(8) Steel flat scow (450-ton).....	\$ 45 per day or
(without personnel or equipment)	fraction thereof
(9) Dump scow.....	\$ 50 per day or
(without personnel or equipment)	fraction thereof
(10) Dipper-dredge.....	\$ 55 per hour
(11) Hydraulic dredge.....	\$ 60 per
hour	
(12) Gasoline pump.....	\$ 8 per hour
(with operator and accessories, but gasoline and oil to be furnished by the user)	

(b) The basis for applying daily rates will include the entire period from the time when such equipment is taken from its headquarters or its normal station location to the time that such equipment is returned thereto. The basis for applying hourly rates will be the actual hours that the equipment is worked or operated, including transit time for movement of such equipment from its normal station location and its return thereto.

(c) Use of equipment and personnel will be limited to salvage work on floats sunk in the canal channel or those in danger of obstructing navigation.

- (1) Division director will determine with the Director of Canal Maintenance and operations as to necessity for use of Canal Corporation equipment.
- (2) Division director will determine what personnel and equipment will be needed and probable length of service.
  - (i) Division director will bill owner or person responsible for estimated cost of assistance at established rates and make request for immediate payment.
  - (ii) Copies to the Director of Canal Maintenance and Operations and the Authority's Office of Investments and Asset Management.
- (3) Canal Corporation equipment will be operated as directed by the person in charge of salvage operations but the Canal Corporation shall assume no responsibility therefor.
- (4) On completion of work and return to Canal Corporation location, Division director will prepare revised invoice in quadruplicate, and disperse all copies as follows:
  - (i) Owner.
  - (ii) Director of Canal Maintenance and Operations.
  - (iii) Authority's Office of Investments and Asset Management. This copy to show payroll and voucher reference on detail sheet.
  - (iv) Division director.
- (d) Reimbursement for damages to canal structures. (1) Division director estimates the cost of the work and submits original estimate invoice as follows:
  - (i) Owner -- with request for payment of 75 percent.
  - (ii) Director of Canal Maintenance and Operations.
  - (iii) Authority's Office of Investments and Asset Management.
  - (iv) Division director retains copy.
- (2) Division director prepares revised invoice when work is completed. If final invoice exceeds the 75 percent, request is made by the division director for the difference; if it is less than 75 percent, refund is made by the Authority's Office of Investments and Asset Management. The division director disperses invoices as follows:
  - (i) Owner.

- (ii) Director of Canal Maintenance and Operations.
- (iii) Authority's Office of Investments and Asset Management.
- (iv) Division director retains copy.

Historical Note: Sec. repealed, filed Oct. 2, 1972; new added by renum. 54.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **§ 154.2 Use of dry docks**

(a) The following rates will be charged for the use of Canal Corporation owned dry docks:

(1) Minimum charge for docking for any type of float will be \$ 100 for 24 hours or portion thereof.

(2) Charge for lay docking for any type of float will be \$ 50 for 24 hours or portion thereof.

(b) Invoices. To be submitted by the division director.

(1) Credit may be extended to regular operators on canal.

(2) Other transactions shall be on a cash basis.

(c) Canal Corporation's services. Shall consist of labor required for receiving and discharging float from dock. No labor shall be available for repair work.

(d) Payrolls. Time will be submitted on regular payrolls at approved rates. Distribution shall show time and amount in receiving or discharging float and reference to invoice number.

Historical Note: Sec. repealed, filed Oct. 2, 1972; new added by renum. 54.2, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999. Amended (a)-(c).

## **PART 155. DIMENSION REQUIREMENTS AND MILEAGE DATA**

Historical Note: Part (§§155.1-155.10) filed Aug. 31, 1976; renum. Part 185, Title 17, filed Nov. 5, 1979; new (§§155.1-155.6) added by renum. Part 55, Title 17, Jan. 1997.

### **§ 155.1 Floats**

The maximum dimensions of a float which may enter the locks of the canal system are

300 feet long and 43-1/2 feet wide.

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.1, Title 17, filed Nov. 5, 1979; new added by renum. 55.1, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005.

### **§ 155.2 Channel**

(a) Waterford to Oswego route. Minimum bottom width, land line, earth section ..... 104 feet  
Width of channel, water surface, land line, earth section..... 160 feet  
Minimum bottom width, land line, rock section..... 120 feet  
Bottom width of channel in canalized rivers, generally..... 200 feet  
Design depth..... 14 feet

(b) All other routes. Minimum bottom width, land line, earth section..... 75 feet  
Width of channel, water surface, land line, earth section..... 123 feet  
Minimum bottom width, land line, rock section..... 94 feet  
Bottom width of channel in canalized rivers, generally.....200 feet  
Design depth..... 12 feet

(c) Change of depth notices are published by the Canal Corporation and can be obtained from the Canal Corporation, P. O. Box 189, Albany, New York, 12201 or by accessing the Notices to Mariners posted on the Canal Corporation's website.

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.2, Title 17, filed Nov. 5, 1979; new added by renum. 55.2, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005. Amended (a)-(b), added (c).

### **§ 155.3 Bridges**

Limiting clearances under bridges: Erie Canal, Waterford to Three Rivers Point, and the Oswego Canal..... 20 feet  
Erie Canal, Three Rivers Point to Tonawanda, Cayuga and Seneca Canal, and the Champlain Canal..... 15 1/2 feet

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.3, Title 17, filed Nov. 5, 1979; new added by renum. 55.3, Title 17, Jan. 1997.

### **§ 155.4 Locks**

Built of concrete, operated by electricity:  
Average time of locking..... 20 minutes  
Length between lock gates..... 328 feet  
Available length inside lock chambers..... 300 feet  
Width of lock chambers ..... 45 feet

Available width of lock chambers.....	43 1/2 feet
Depth of water on lock sills: Waterford to Oswego route.....	13 feet
All other routes.....	12 feet
Total Number of Locks.....	57

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.4, Title 17, filed Nov. 5, 1979; new added by renum. 55.4, Title 17, Jan. 1997; amd. filed Feb. 15, 2005 eff. March 2, 2005.

**§ 155.5 Mileage**

Erie Canal, Waterford to Tonawanda .....	338 miles
Oswego Canal, Three Rivers Point to Oswego .....	24 miles
Cayuga and Seneca Canal, junction with the Erie Canal to Ithaca and Watkins Glen, including Cayuga and Seneca Lakes and the spur to Montour Falls .....	92 miles
Champlain Canal, Waterford to Whitehall .....	60 miles
Canal harbors at Utica, Syracuse and Rochester .....	<u>10 miles</u>
Total canal mileage .....	524 miles

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.5, Title 17, filed Nov. 5, 1979; new added by renum. 55.5, Title 17, Jan. 1997.

**§ 155.6 Distance between certain points on canals and connecting waters**

New York City, Pier 6, East River to Waterford .....	154 miles
Tonawanda to Buffalo .....	12 miles
Lockport to Tonawanda .....	18 miles
Waterford to Three Rivers Point .....	160 miles
Junction, Erie and Cayuga and Seneca Canals, to Lock 1, C. and S. ....	4 miles
Junction, Lock 1, Cayuga and Seneca Canal, to Lock 4, C. and S. ....	8 miles
Whitehall to Rouses Point .....	110 miles
Albany to Whitehall .....	70 miles
Waterford to Oswego .....	184 miles

Historical Note: Sec. filed Aug. 31, 1976; renum. 185.6, Title 17, filed Nov. 5, 1979; new added by renum. 55.6, Title 17, Jan. 1997.

**PART 156. REVOCABLE PERMITS**

Historical Note: Part (§§156.1-156.4) added by renum. Part 56, Title 17, Jan. 1997.

**§ 156.1 Granting revocable permits**

The Canal Corporation or its representative may, in its discretion, issue revocable permits granting certain limited privileges whenever the same can be done without detriment to canal navigation or damage to the canal banks or other structures thereof. The Canal

Corporation shall prescribe the terms and conditions by which such revocable permits may be issued for the temporary use of canal lands or facilities and for the diversion of canal waters for sanitary, farm purposes or industrial use. An application for a revocable permit may be obtained from the New York State Canal Corporation, P.O. Box 189, Albany, NY 12201, or any division office.

Historical Note: Sec. added by renum. 56.1, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **§ 156.2 Occupancy and use of canal lands or waters**

(a) Canal lands or waters may not be occupied or used except under the terms and conditions prescribed in a revocable permit issued by the Canal Corporation or its representative.

(b) Any person violating this section shall be subject to a penalty of not to exceed \$ 100 for each offense.

Historical Note: Sec. added by renum. 56.2, Title 17, Jan. 1997; amd. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **§ 156.3 Permits for aircraft on canal waters**

The Canal Corporation may, under certain limited and special conditions, issue revocable permits granting the taking off from or landing upon the surface waters of the canal system by aircraft whenever, in its judgment, the same can be done without detriment to canal navigation or without endangering the life or property of others. (See section 150.13 of this Title.)

Historical Note: Sec. added by renum. 56.3, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999. 

### **§ 156.4 Schedule of fees for revocable permits for the temporary use or occupancy of canal lands or facilities and for the diversion or use of canal waters**

The following fees shall be payable for canal work permits, for permits for the use and occupancy of canal lands or facilities and for permits for the diversion or use of canal waters:

(a) Canal work permits. Any party who plans to perform any work on the canal system must apply for and obtain a revocable canal work permit. Application, review and issuance of the permit will be administered by the Office of Canal Maintenance and Operations through the Division Office of Canals. Canal work permit applicants must pay the following fees:

(1) Application fee: \$ 25 (nonrefundable).

(2) Spoil removal: \$ 0.50 per cubic yard.

(i) Fee waived when removal is determined by the Canal Corporation to be advantageous to the Canal Corporation.

(3) Snow dumping: \$ 25.

(i) Fee waived for municipalities.

(4) An additional charge of \$ 250 per day will be imposed for any approved work on the canal system requiring an onsite inspection by Canal Corporation staff of one-half day or more.

(5) Insurance requirements for canal work permits:

(i) Insurance coverage must be provided to cover the People of the State of New York, the Authority and Canal Corporation, and all employees of the Authority and the Canal Corporation for all operations of the permittee. A permittee may provide insurance coverage as stated in either clause (a) or (b) of this subparagraph:

(a) Filing of a certificate of insurance which indicates canal work permit coverage, submitted to the Canal Corporation by permittee's insurance company or agent to insure the Authority and the Canal Corporation for all operations of the permittee under the permit.

(b) Payment under the departmental blanket policy of \$ 7.50 for insurance coverage.

(c) Utility companies and municipalities may furnish an undertaking in lieu of clause (a) or (b) of this subparagraph. An undertaking is a written agreement signed by a utility company or a municipality in which it agrees to faithfully perform the work under all canal work permits issued to them, comply with all the terms and conditions of such canal work permits, restore the Canal Corporation property to a satisfactory condition, and pay all damages, costs and judgments which may be recovered against the Authority and/or Canal Corporation by reason of damages arising out of work done under such canal work permits. Undertakings must include the wording required by the Canal Corporation and must be executed through an insurance/bonding company. In some cases a private corporation may furnish an undertaking; however, each request must be reviewed independently.

(d) An applicant for a canal work permit shall obtain workers' compensation insurance and/or workers' disability benefits coverage in accordance with the Workers' Compensation Board requirements.

(b) Permit for use of Canal Corporation property. Any party who plans to use and/or occupy canal lands or facilities must apply for and obtain a revocable permit for use of

Canal Corporation property. The application and issuance of this permit is administered by the Division Office of Canals for a fee as determined in accordance with this subdivision.

(1) Fees for use of canal lands and facilities.

(i) Permit fees for use of canal lands and facilities will be based on the property's fair market rental value as established by the Canal Corporation by an analysis, comparison and use of the most comparable rentals and sales found in the market, with the exception of permits described in subparagraph (ii) of this paragraph. The fee will be based upon a consideration of the use made of the permitted area, including placement of, but not limited to docks, ramps, slips and floats.

(ii) Permit fees for canal land used in conjunction with adjoining residences or camps for access to the canal waters or maintained as part of the permittee's property shall be \$ 50 per year. This type of permit is restricted to upland owners and includes only lands between an upland residence or campsite and the canal waters; the permitted area cannot exceed one acre of land and cannot contain any building improvements. The permit gives the permittee the right of exclusive access across the canal lands to the canal waters. An additional charge of \$ 50 will be imposed if the permittee elects to erect and/or maintain a dock, ramp, slip or float within the canal waters.

(2) Powerline, telephone and other communication crossings.

(i) Aboveground crossings. The annual permit fees for aboveground powerline, telephone and other communication crossings will be based on 50 percent of the occupied property's fair market rental value as determined by the Canal Corporation. The area necessary to accommodate the crossings will be computed by multiplying the required width of the corridor by the length of the corridor as measured along its centerline. The required corridor widths will vary based on the size and type of the bearing structure and the capacity of the transmission line. The minimum prescribed corridor widths are as follows:

<i>Powerline voltage</i>	<i>Minimum prescribed corridor width</i>
765kv .....	250 feet
500kv .....	175 feet
230 to 345kv .....	150 feet
115 to 138kv .....	100 feet
34.5 to 69kv .....	50 feet
23kv or less (includes telephone or other communication crossings) .....	25 feet

The corridor width of a multiline crossing will be determined by taking one-half the prescribed corridor width for each outside line and adding it to the distance between them. In no case shall the total corridor width be less than the required width for the powerline having the greatest voltage capacity. If more than one transmission line is attached to the same bearing structure, the corridor width will be that required for the transmission line with the greatest voltage capacity. The annual permit fee will be computed by multiplying the corridor area by 50 percent of the property's fair market

rental value. If the area within the corridor is over water, it will be appraised using the value of adjoining canal upland.

(ii) Underground crossings. The annual permit fee for underground powerline, telephone and other communication crossings will be computed in the same manner as aboveground, except the corridor width will be a minimum 25 feet regardless of the line's voltage capacity.

(3) Pipeline crossings. (i) Aboveground (at grade). The annual permit fees for all aboveground pipelines will be based on 100 percent of the occupied property's fair market rental value as determined by the Canal Corporation. The area which is required to accommodate an aboveground pipeline crossing will be computed by multiplying the length of the pipeline by a 25-foot minimum corridor width.

(ii) Underground. The annual permit fee for an underground pipeline crossing will be based on 50 percent of the occupied property's fair market rental value as determined by the Canal Corporation. The area which is required to accommodate the underground crossing will be computed by multiplying the prescribed corridor width times the length of the pipeline. The minimum prescribed corridor widths for underground pipelines are as follows:

<i>Pipeline-diameter</i>	<i>Minimum prescribed corridor width</i>
Under 6 inches	15 feet
6 inches or more	25 feet

(4) Vendors. For temporary or periodic occupancy, \$ 5 per day, \$ 50 minimum or \$ 250 per year.

(5) Water usage. The fee will be based on a review of comparable prices of water available in the geographic area but will not exceed two percent of the cost per gallon charged by the nearest potable municipal water supplier.

(6) For uses not specified in this subdivision, the fee will be based on all relevant factors, such as nature and extent of use of canal property.

(7) Minimum fee. The minimum fee for a permit for use of Canal Corporation property will be \$ 50.

(8) Late charge. If the permit fee has not been paid in full by the 15th day after it has become due, an additional charge of two percent per month will be due and owing to the Canal Corporation.

(9) Canal identification plates. The Canal Corporation will issue canal identification plates to all approved holders of a permit for use of Canal Corporation property. These plates must be conspicuously posted on the property while the permit is in force and must be removed and returned to the Canal Corporation when the permit is no longer in force.

(10) Periodic review of permit fees. The Canal Corporation may revise fees for a permit for use of Canal Corporation property periodically to reflect fair market rental value. Written notice will be given to the permittee.

(11) Procedure for contesting determination of permit fees. (i) The permit applicant or permittee may dispute a permit fee determination within one month of being informed thereof by delivering or mailing, by certified mail, a request for a conference to the Division Office of Canals having jurisdiction. This request must specify and document reasons for disagreement with the fee. Such conference shall be scheduled and conducted in the Division Office of Canals. The permit applicant or permittee may have representation at the conference. After all relevant information has been presented and analyzed, the Division director shall within 14 days notify the permit applicant or permittee of the decision in writing.

(ii) The Division director's decision may be appealed by the permit applicant or permittee within 30 days of the receipt of the decision, in writing, to the New York State Canal Corporation, P.O. Box 189, Albany, NY 12201, by certified mail. The Director of Canals shall conduct an independent review of all the available information, and may also schedule a conference to allow the permit applicant or permittee, or a representative, to rebut the Division director's permit fee determination. Based on a full review of all the available data and within 14 days of receipt of a request for review, or of a conference, whichever is later, the Director of Canals shall decide the final fee determination. This determination shall be the final determination and shall be communicated to the permit applicant or permittee in writing.

(iii) Fees due the Canal Corporation are not waived either in total or in part during the appeal process outlined in subparagraph (ii) of this paragraph. Any overpayment which may result from a successful appeal will be refunded.

(12) Insurance requirements.

(i) Permit holders must provide the Canal Corporation with proof of general liability coverage issued by an insurance carrier licensed to do business in the State of New York naming the People of the State of New York, the Authority and the Canal Corporation as additional insureds.

(ii) The coverage must be single limit per occurrence for combined property damage and/or bodily injury, including death.

(iii) Minimum limits:

(a) Residential/Recreational	\$ 300,000
(b) Agricultural	\$ 300,000
(c) Vendors	\$ 500,000
(d) Industrial	\$ 2,000,000

- (e) Commercial \$ 2,000,000
- (f) Utility corporations or private corporations transmitting natural gas, electricity or fluids of a hazardous nature \$ 3,000,000
- (g) Special events involving public participation \$ 2,000,000
- (h) For uses not specified in this subparagraph, the limits will be established by considering the limits listed in this subparagraph as well as the individual characteristics of the proposed use.

(iv) The Canal Corporation reserves the right to periodically adjust the minimum limits of coverage as set forth in this section and to individually adjust the insurance coverage of a permit holder if, in the opinion of the Canal Corporation, such terms are beneficial to the People of the State of New York, the Authority and the Canal Corporation.

Historical Note: Sec. added by renum. 56.4, Title 17, Jan. 1997; amds. filed: March 30, 1999 as emergency measure; June 2, 1999 eff. June 23, 1999.

### **Part 157: Public Access to Canal Corporation Records**

#### §157.1 Records available for inspection and copying; fees

##### 1. Subject Matter List

The Canal Corporation will keep a reasonably detailed current list, by subject matter, of all records in the possession of the Canal Corporation, whether or not available under the Freedom of Information Law.

##### 2. Availability of records.

The Canal Corporation shall produce its records for inspection by appointment during those days and hours that it is regularly open for business, as follows: Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m.(excluding observed holidays). Written requests for copies of records should be directed to the Canal Corporation's Records Access Officer at 200 Southern Boulevard, Albany, New York 12209.

##### 3. Fees.

- a. The fee for copies of records not exceeding 9 x 14 inches in size shall be 25 cents per page.
- b. The fees for searching the records of the Canal Corporation for an accident report, for furnishing a copy of an accident report, and for furnishing a copy of an accident reconstruction report shall not exceed the fees charged by the division of state police pursuant to section sixty-six-a of the public officers law and/or by the department of motor vehicles pursuant to section two hundred two of the vehicle and traffic law; provided, however, that no fee shall be charged to any public officer, board or body, or volunteer fire company, for searches or copies of accident reports to be used for a public purpose.
- c. Except when a different fee is otherwise prescribed by statute, the fee for a copy of any other record shall be the actual cost of reproducing such record, as determined by the Records Access Officer in accordance with Public Officers Law section 87.
- d. The Canal Corporation Executive Director, or his or her designee may, at his or her discretion, waive all or any portion of the fees authorized by this subdivision.

§157.2 Rights of party denied access to records.

If access to a record is denied, such denial may be appealed to the Canal Corporation Executive Director, or his or her designee.

## **APPENDIX D**

# **STANDARDS FOR DOCKS ON THE CANAL SYSTEM**

**NEW YORK STATE THRUWAY AUTHORITY/  
NEW YORK STATE CANAL CORPORATION**

**STANDARDS FOR DOCKS  
ON THE CANAL SYSTEM**



**NEW YORK STATE CANAL CORPORATION**

**MAY 2001**

**BUREAU OF MANAGEMENT ANALYSIS AND PLANNING**

**TAP-915 (05/01)**

## TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. Introduction .....	1
II. Application .....	1
III. Standards .....	1
A. Navigation.....	1
B. General.....	2
C. Environmental.....	3
IV. Appendix.....	4
V. Distribution.....	5

# STANDARDS FOR DOCKS ON THE CANAL SYSTEM

## I. INTRODUCTION

Section 100 of the Canal Law authorizes the Canal Corporation to "issue revocable permits granting certain limited privileges therein, whenever the same can be done without detriment to Canal navigation or damage to the banks or other structures thereof." The purpose of this document (the "Standards") is to provide specific standards for docks on the Canal System.

## II. APPLICATION

The Standards shall apply to residential/non-commercial docks, which can accommodate four or fewer boats, each of which shall not exceed 40 feet in length, with a maximum dock length of 100 feet.

Commercial docks, as well as docks larger than the size standard established above, will be analyzed on a case-by-case basis.

The Standards apply to the Erie, Champlain, Oswego and Cayuga/Seneca Canals (i.e., the areas under Canal Corporation jurisdiction). Docks on reservoirs and feeder canals will be considered by the Canal Corporation on a case-by-case basis.

Any new dock installations or extensions to current docks will require a work permit.

## III. STANDARDS

### A. NAVIGATION

No dock shall interfere with Canal navigation, by either physically impeding navigation or obstructing the vision of boaters traveling on the Canal System.

1. Minimum offset from edge of navigation channel (bottom angle):
  - a. River section: 50 feet minimum offset.
  - b. Land cut section: 24 feet minimum offset (16 feet clear area plus 8 feet nominal boat width). Where a 24 feet offset is physically impossible, a dock with 4 feet maximum projection from the shoreline is allowable.
  - c. On curved sections of the Canal, the Canal Corporation may require greater offsets than the offsets set forth in a. and b., to account for sight distance or vessel maneuverability considerations. The Division Canal Engineer may designate certain limited areas where docks are prohibited for navigation reasons.

## STANDARDS FOR DOCKS ON THE CANAL SYSTEM

2. Docks shall be parallel to shore in land cut areas.
3. Docks shall be at least 50 feet from Canal Corporation navigation aids.
4. Docks and moored boats shall not hinder boaters' views of navigation aids or structures on the Canal System.
5. Protection of the dock and moored boats from passing boat wakes is the permittee's responsibility. Boats shall not be moored on the outer (Canal) side of wake protection devices.
6. Docks and slips shall have their design approved by the Division Canal Engineer. A standard approved dock design is attached as Appendix A.
7. Excavated slips are not permitted where:
  - a. The Canal is in an embankment section;
  - b. An unstable or unsafe condition would be created; or
  - c. The Division Canal Engineer determines that there is insufficient Canal Right-of-Way, or a future trail would be impeded.
8. No dock installation will be permitted which may impair the integrity of an embankment.
9. Slips, cuts, etc., must be lined with stone bank protection, riprap, or other method for protection against erosion and wave action as approved by the Canal Corporation.

### **B. GENERAL**

1. One dock per property owner (residential) is permitted. More than one dock shall be treated as a commercial dock installation.
2. Docks and decks shall not restrict access (e.g., for trails, maintenance or operations) across Canal lands.
3. Docks shall be set back at least 10 feet from property lines of adjacent upland owners. Extensions of property lines across Canal Corporation property to the water shall be as determined by the Canal Corporation.
4. No new boathouses will be permitted.
5. Covered slips may have a roof only – no sides are permitted.

## STANDARDS FOR DOCKS ON THE CANAL SYSTEM

6. Excavated slips, where permitted, shall be no larger than 1,000 sq. feet.
7. All electrical and plumbing services to docks, slips and decks shall meet all applicable local, state and federal codes.
8. No enclosed storage shall be permitted on docks or decks.
9. Flotation devices for docks shall be foam blocks, pontoons or other material manufactured specifically for flotation. Metal barrels, drums, or other containers that are not specifically made for flotation are prohibited.
10. Retaining walls, when a part of a dock request, shall be constructed of stone, concrete blocks, poured concrete or other materials acceptable to the Canal Corporation. Railroad ties, vehicle tires, creosote timbers, guide railing, and asphalt are not permitted.

### C. ENVIRONMENTAL

1. Any dock with more than four boat moorings or 100 linear feet of dockage will require an independent environmental review under the State Environmental Quality Review Act (SEQRA).
2. No creosote or pentachlorophenol shall be allowed.
3. Slips or other excavations shall require a letter of no effect from the State Historic Preservation Office before permit issuance.
4. Slips or other excavations will require appropriate sampling and disposal of materials as directed by the Canal Corporation.
5. Fills are prohibited within the limits of an established floodway, flowage easement or flood plain, unless mitigation measures approved by the Canal Corporation and all other appropriate state and federal agencies are included.

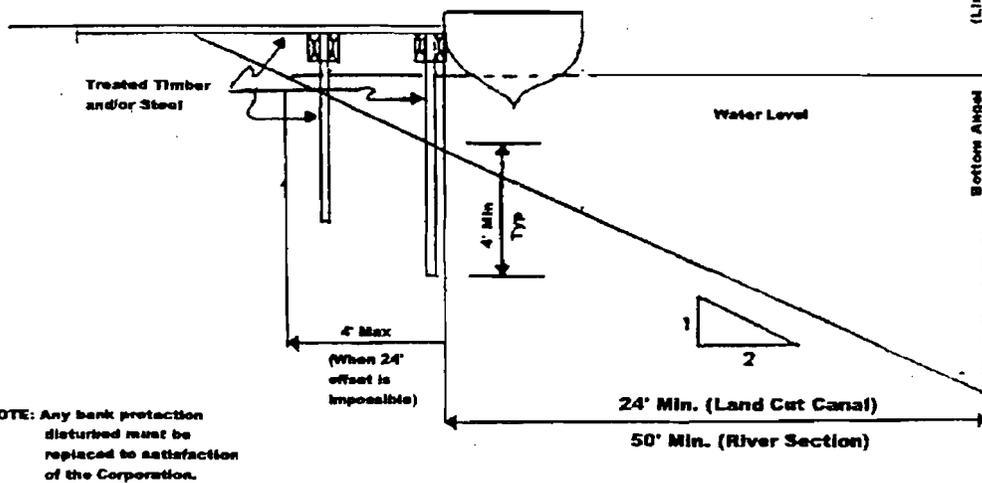
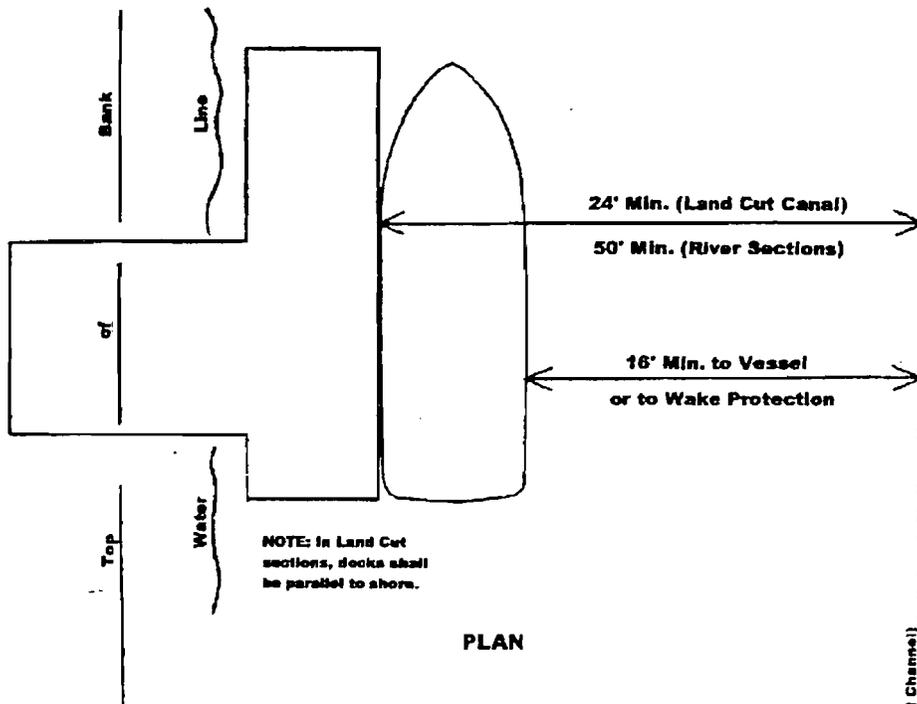
STANDARDS FOR DOCKS  
ON THE CANAL SYSTEM

IV. APPENDIX

APPENDIX A

(Reduced from Sheet Size 8-1/2" x 11")

APPENDIX A - DOCK ALONG CANAL



--- Canal ---

**V. DISTRIBUTION**

Executive Director  
Deputy Executive Director  
Department Heads  
Deputy General Counsel  
Chief Assistant Counsel, Legal Services  
Assistant Counsels, Legal Services (4)  
Director of Human Resource Management  
Director of Labor Relations  
Director of Investments and Asset Management  
Supervisor of the Bureau of Real Property Management  
Director of Design  
Director of Canal Design  
Director of Canals Maintenance and Operations  
Canals Administrative Officer  
Supervisor, Canal Engineering and Capital Program  
Director of the Bureau of Environmental Management and Historic Preservation  
Director of Canal Development  
Director of Canal Marketing  
Director of Canal Policy Implementation  
Division Directors  
Division Canal Engineers  
Division Canal Section Superintendents  
Division Canal Permit Coordinators  
Division Canal Right-of-Way Agents

## **APPENDIX E**

### **WATERFRONT CONSISTENCY LAW**

# Town of Clay

Jill Hageman-Clark  
Town Clerk



"One of America's 100 Best Places to Live"

STATE OF NEW YORK }  
COUNTY OF ONONDAGA } ss:  
TOWN OF CLAY }

November 15, 2010

I, the undersigned, Town Clerk of the Town of Clay, do hereby certify that I am in charge and have custody of all records of the Town of Clay and that the attached is a photocopy of the Town of Clay, Local Law 2 of the Year 2010, adopted by the Town Board on **March 15, 2010**, filed on **April 2, 2010** and is a true and exact copy of the original of said item on file and on record in my office.

Jill Hageman-Clark  
Town Clerk of the Town of Clay  
Onondaga County, New York

Subscribed and sworn to before  
me this 15 day of November  
2010.

Notary Public

**PENELOPE A. THOMPSON**  
**NOTARY PUBLIC, State of New York**  
**Qualified in Oswego County No. 5960750**  
**Commission Expires March 30, 2012**

4401 State Route 31, Clay, New York 13041-8707

Phone: (315) 652-3800 ❖ Website: [www.townofclay.org](http://www.townofclay.org) ❖ E-Mail: [townclerk@townofclay.org](mailto:townclerk@townofclay.org) ❖ Fax: (315) 622-7259



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

DAVID A. PATERSON  
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ  
SECRETARY OF STATE

April 2, 2010

Robert M Germain  
town Attorney  
4401 State Route 31  
Clay NY 13041-8707

**RE: Town of Clay, Local Law 2, 2010, filed on April 2, 2010**

Dear Sir/Madam:

The above referenced material was received and filed by this office as indicated.  
Additional local law filing forms can be obtained from our website, [www.dos.state.ny.us](http://www.dos.state.ny.us).

Sincerely,  
State Records and Law Bureau  
(518) 474-2755

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~XXXXX~~  
~~XXX~~ of  
Town  
~~XXXXXX~~

Clay

Local Law No. 2 of the year 20 10

A local law Adding a new Chapter 226 entitled "WATERFRONT CONSISTENCY LAW"  
(Insert Title)  
TO THE CODE OF THE TOWN OF CLAY

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~XXXXXX~~  
~~XXX~~ of  
Town  
~~XXXXXX~~

CLAY

as follows:

SEE ATTACHED LOCAL LAW

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2010 of the ~~(County)(City)~~ (Town)(Village) of Clay was duly passed by the **Town Board** on March 15th 2010, in accordance with the applicable provisions of law.  
(Name of Legislative body)

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

*Jill Hageman Clark*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

**JILL HAGEMAN-CLARK**

Date: **March 25th, 2010**

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

**ROBERT M. GERMAIN, TOWN ATTORNEY**

Title

~~XXXX~~

~~City~~ of Town of Clay

Town

~~Village~~

Date: **MARCH 25TH, 2010**

# LOCAL LAW NO. 2 OF THE YEAR 2010

## TOWN OF CLAY

**LOCAL LAW NO. 2 OF THE YEAR 2010 ADDING A NEW CHAPTER 226** entitled **WATERFRONT CONSISTENCY LAW** to the Code of the Town of Clay.

**BE IT ENACTED** by the Town Board of the Town of Clay, County of Onondaga as follows:

**SECTION 1.** The addition of a new **Chapter 226** to be entitled **“WATERFRONT CONSISTENCY LAW”** to the Code of the Town of Clay.

The purpose of this local law is to provide a framework for the Town of Clay to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct Town/Planning Board actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes of the Local Waterfront Revitalization Program

February 1st, 2010 called public hearing for local law for March 1st. 2010 at 7:38 P.M.,

Notice of public hearing published in the Post Standard on February 18th, 2010.

Public hearing held and completed on March 1st. 2010.

Local Law was approved at the March 15th. 2010 Town Board meeting.

Local Law sent to Dept. of State on March ~~3-26~~ 2010.

Received letter from Dept. of State, local law filed on April 2, 2010

**LOCAL COMMITMENT AND CONSULTATION**

**Local Commitment**

The Town of Clay established a Waterfront Development Committee to initiate and oversee preparation of a Local Waterfront Revitalization Program. Committee memberships have a broad range of interests and experience with the Town’s Three Rivers Project, historic preservation, recreational boating, and economic development.

With respect to preparation of the draft Local Waterfront Revitalization Program, the Committee met with staff of the New York State Department of State to address and refine waterfront issues and future development

The Town also commissioned Plumley Engineering, P.C., to help coordinate and facilitate the LWRP and to coordinate our efforts with Three Rivers Point Project. Funding for this project was provided by the Town through a grant from the New York State Department of State.

**Consultation**

The Draft LWRP (with Draft Environmental Impact Statement) was reviewed and approved by the Town Board and forwarded to the New York State Department of State. The Department of State then initiated a 60day review of the Draft LWRP pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the State Environmental Quality Review Act. Copies of the Draft LWRP were posted on the Town’s website.

**LOCAL LAW NO. 2 OF THE YEAR OF 2010 ADDING A NEW CHAPTER TO BE ENTITLED ‘WATERFRONT CONSISTENCY LAW’ TO THE CODE OR DRAFT LWRP OF THE TOWN OF CLAY”**

It is enacted by the Town Board of the Town of Clay, New York as follows:

**§ 226-1. Title.**

This local law is to be known as the “Waterfront Consistency Law” of the Town of Clay.

**§ 226-2. Authority and purpose.**

This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

The purpose of this local law is to provide a framework for agencies of the Town of Clay to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes.

**§ 226-3 Legislative intent.**

It is the intention of the Town of Clay that the preservation, enhancement and utilization of the natural and manmade resources of the unique waterfront area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of fish and wildlife; diminution of open space areas or public access to the waterfront; erosion of shoreline; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

The substantive provisions of this local law shall only apply while there is in existence a Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

**§ 226-4 Definitions.**

1. "Actions" means either Type I or unlisted actions as defined in SEQRA regulations (6N.Y.C.R.R.617.2) which are undertaken by an agency and which include:
  - (a) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
    - (i) are directly undertaken by an agency; or
    - (ii) involve funding by an agency; or
    - (iii) require one or more new or modified approvals from an agency or agencies.

- (b) agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
  - (c) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
  - (d) any combinations of the above.
2. "Agency" means any board, agency, department, office, other body, or officer of the Town of Clay.
  3. "Waterfront area" means the Waterfront Revitalization Area delineated in the Town's Local Waterfront Revitalization Program.
  4. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
  5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
  6. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.
  7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Town of Clay, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Clay.

**§ 226.5 Review of actions.**

1. Whenever a proposed action is located in the Town's waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Paragraph 9 herein.

2. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review.
3. The agency shall refer a copy of the completed WAF to the Waterfront Development Committee within ten (10) days of its submission and prior to making its determination, shall consider the recommendation of the Waterfront Development Committee with reference to the consistency of the proposed action.
4. After referral from an agency, the Waterfront Development Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 9 herein. The Waterfront Development Committee shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency recommendation.
5. The Waterfront Development Committee shall render a written recommendation to the agency within thirty (30) days following referral of the WAF from the agency, unless extended by mutual agreement of the Committee and the applicant or in the case of a direct action, the agency. The recommendation shall indicate whether, in the opinion of the Waterfront Development Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for the opinion. The Waterfront Development Committee shall, along with the consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with the LWRP policy standards and conditions or to greater advance them.

In the event that the Waterfront Development Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.

6. If the agency and the Committee concur in the consistency of the proposed action, the agency may proceed with the action. In the event that the agency, after reviewing the written recommendation of the Committee, finds that it disagrees with the consistency recommendation of the Committee, the agency shall within fifteen (15) days prepare a written finding detailing its position and transmit it to the Committee. The Committee and the agency shall meet to resolve their differences within fifteen (15) days of the Committee's receipt of the agency's finding.

7. If the Committee and the agency cannot reach a mutually agreeable determination of consistency, the matter will be referred to the Town Board of the Town of Clay for a finding of consistency. The agency shall take no action until the Town Board has made a determination and finding of consistency with the LWRP.
8. The provisions of § 226-5 (7) shall not apply to the Zoning Board of Appeals. Instead, where the Zoning Board of Appeals is the agency, the Zoning Board of Appeals shall consider the written consistency recommendation of the Committee when reviewing and considering an application for a variance.
9. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in the Town of Clay LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with the LWRP in making their consistency determination. The action shall be consistent with the policy to:
  - (a) Revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other comparable uses.
  - (b) Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.
  - (c) Strengthen small harbors by maintaining the mix of traditional uses, assuring safe navigation and resolving use conflicts and competition through harbor and water surface use management.
  - (d) Encourage the location of development in areas where public services and facilities essential to such development are adequate.
  - (e) Significant fish and wildlife habitats will be protected, preserved, and, where practical, restored to maintain their viability as habitats.
  - (f) In order to minimize damage to natural resources and property from flooding and erosion, development will be sited away from hazard areas wherever practical, and natural flooding and erosion protective features will not be degraded.

- (g) Erosion protection structures shall be constructed only if they are necessary to protect human life, existing development, or new water-dependent development and will result in no measurable increase in erosion or flooding at other locations. Non-structural measures shall be used whenever possible. Public funds shall only be used where the public benefits outweigh the long term costs.
- (h) Maximize public access and recreational opportunities to the shoreline and to waterways.
- (i) Protect, enhance and restore structures, districts, and sites that are of significance to the history, architecture, archeology or culture of the state, its communities, or the nation.
- (j) Protect and improve the visual quality of the waterfront.
- (k) Municipal, industrial, and commercial discharge of effluent and pollutants, including, but not limited to, toxic and hazardous substances, into water bodies will conform to state and national water quality standards.
- (l) Policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing water body classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.
- (m) Best management practices will be used to ensure the control of stormwater runoff, combined sewer overflows, and the non-point discharge of excess nutrients, organics, and eroded soils into state waterways.
- (n) Discharge of waste materials into state waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas, and water supplies.
- (o) Excavation, dredging, and dredge spoil disposal will be undertaken in a manner which protects fish and wildlife habitats, scenic resources, natural protective features, important agricultural land, and wetlands, and does not cause an increase in the erosion of such land.
- (p) Preserve and protect wetlands and the benefits derived from these resources.

10. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:
- (a) no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
  - (b) the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
  - (c) the action will advance one or more of the other LWRP policy standards and conditions; and
  - (d) the action will result in an over-riding Town, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

11. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Development Committee. Such files shall be made available for public inspection upon request.

#### § 226.6 Enforcement

A Town Code Enforcement Officer shall be responsible for enforcing this Chapter. No work or activity on a project in the waterfront area which is subject to review under this Chapter shall be commenced or undertaken until the Code Enforcement Officer has been presented with a written determination from an agency that the action is consistent with the Town's LWRP policy standards and conditions.

In the event that an activity is not being performed in accordance with this Chapter or any conditions imposed thereunder, the Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

**§ 226.7 Violations**

1. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding five hundred dollars for a conviction of a first offense and punishable by a fine of one thousand dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
2. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

**§ 226.8 Severability**

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

**§ 226.9 Effective Date**

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

## **APPENDIX F**

# **NEW YORK STATE DEPARTMENT OF STATE COASTAL MANAGEMENT PROGRAM – GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS WHERE LOCAL WATERFRONT REVITALIZATION PROGRAMS ARE IN EFFECT**

# Appendix **New York State Department of State Coastal Management Program - Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect**

## I. **PURPOSES OF GUIDELINES**

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

## II. **DEFINITIONS**

- A. Action means:
  - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
  - 2. Occurring within the boundaries of an approved LWRP; and
  - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
  2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
  3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

### III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
  2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
  3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

### IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the

state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

## **V. RESOLUTION OF CONFLICTS**

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
  - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
  - 2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
  - 3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.

4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

## **APPENDIX G**

# **STATE ENVIRONMENTAL QUALITY REVIEW FULL ENVIRONMENTAL ASSESSMENT FORM**



# TOWN OF CLAY

4401 State Route 31 Clay, New York 13041-8707

(315) 652-3800

ROBERT M. GERMAIN  
TOWN ATTORNEY

Fax (315) 622-7259\*

E-Mail: [legal@townofclay.org](mailto:legal@townofclay.org)\*  
[www.townofclay.org](http://www.townofclay.org)\*

PENELOPE A. THOMPSON  
PARALEGAL  
September 23rd, 2008

**KEVIN MILLINGTON, ESQ.**

New York State Department of State  
Division of Coastal Resources  
41 State Street  
Albany, New York 12231-0001

Re: SEQR DETERMINATION  
Full Environmental Assessment Form  
Approval Town of Clay  
Local Waterfront Revitalization Plan  
Our File No.: 1696

Dear Mr. Millington,

Enclosed herewith please find a fully executed completed SEQR Determination with regard to the above captioned matter, as well as a Certification by the Town Clerk as to the resolution passed by the Town Board at the September 15, 2008 Town Board Meeting.

If you require any additional documentation, please do not hesitate to contact us.

Thanking you for your consideration in this regard.

Very truly yours,

Robert M. Germain  
Town Attorney  
Town of Clay

Encls.

xc: Mr. James J. Rowley, Supervisor (w/encls.)  
Councilwoman Naomi R. Bray (w/encls.)  
Plumley Engineering, P.C. (w/encls.)



# TOWN OF CLAY

4401 State Route 31 Clay, New York 13041-8707

(315) 652-3815

VIVIAN I. MASON  
TOWN CLERK

FAX (315) 622-7259

September 23, 2008

To whom it may concern,

This is to certify that at a Regular Town Meeting of the Town Board, Town of Clay, held on September 15, 2008 the following resolution was passed:

“Move the adoption of a resolution that the application and subsequent actions of the Town of Clay with regard to the **Local Waterfront Revitalization Program Grant and Study** is an unlisted action with a completed EAF and involves no other permit granting agency outside of the Town. That the proposed project will not have a significant effect on the environment and therefore does not require the preparation of an EIS.”

Very truly yours,

Vivian I. Mason  
Town Clerk

**617.20**  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

---

**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

**Identify the Portions of EAF completed for this project:**



Part 1



Part 2



Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be prepared.**
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore **a CONDITIONED negative declaration will be prepared.\***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore **a positive declaration will be prepared.**

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Approval - Town of Clay Local Waterfront Revitalization Plan

\_\_\_\_\_  
Name of Action

Town of Clay

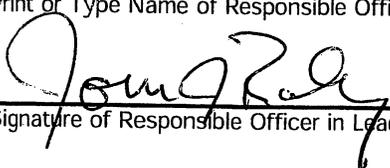
\_\_\_\_\_  
Name of Lead Agency

James J. Rowley

\_\_\_\_\_  
Town Supervisor

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

  
\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (If different from responsible officer)

September 17, 2008

\_\_\_\_\_  
Date

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Approval - Town of Clay Local Waterfront Revitalization Plan

Location of Action (include Street Address, Municipality and County)

Town of Clay, Onondaga County, New York

Name of Applicant/Sponsor Town of Clay

Address 4401 State Route 31

City / PO Clayt

State New York

Zip Code 13041

Business Telephone (315) 652-3800

Name of Owner (if different) Same as above

Address \_\_\_\_\_

City / PO \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

Description of Action:

Through a grant from the New York State Department of State, the Town of Clay has prepared a Local Waterfront Revitalization Plan. This plan includes a history of water uses and waterfront activities in the Town, an inventory of current water and land uses along the waterfront, policies and procedures for future development of the waterfront, and proposed projects for future development.

This plan is being reviewed and approved by both the Town of Clay and the NYS Dept. of State.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Total acreage of project area: 8,200 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>0</u> acres	<u>0</u> acres
Forested	<u>3,690</u> acres	<u>3,000</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>575</u> acres	<u>500</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>1,340</u> acres	<u>1,340</u> acres
Water Surface Area	<u>395</u> acres	<u>395</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>2,200</u> acres	<u>2,965</u> acres
Other (Indicate type) _____	<u>0</u> acres	<u>0</u> acres

3. What is predominant soil type(s) on project site? Loam

- a. Soil drainage:  Well drained \_\_\_\_\_ % of site  Moderately well drained 50 % of site.  
 Poorly drained 50 % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? 0 acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

a. What is depth to bedrock <50 (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% 100 %  10- 15% \_\_\_\_\_ %  15% or greater \_\_\_\_\_ %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes  No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No

8. What is the depth of the water table? 0 - 20 (in feet)

9. Is site located over a primary, principal, or sole source aquifer?  Yes  No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Because a specific project is not being presented a request to the DEC and the US Fish and Wildlife Service has not been made.

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

The Seneca and Oneida Rivers are used for recreational purposes.

14. Does the present site include scenic views known to be important to the community?  Yes  No

15. Streams within or contiguous to project area:

Yes

a. Name of Stream and name of River to which it is tributary

Mud Creek - Oneida River  
Shaver Creek - Oneida River  
Youngs Creek - Oneida River  
Black Creek - Oneida River

16. Lakes, ponds, wetland areas within or contiguous to project area:

Seneca River  
Oneida River

b. Size (in acres):

N/A

17. Is the site served by existing public utilities?  Yes  No
- a. If **YES**, does sufficient capacity exist to allow connection?  Yes  No
- b. If **YES**, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No

20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description**

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: \_\_\_\_\_ acres.
- b. Project acreage to be developed: \_\_\_\_\_ acres initially; \_\_\_\_\_ acres ultimately.
- c. Project acreage to remain undeveloped: \_\_\_\_\_ acres.
- d. Length of project, in miles: \_\_\_\_\_ (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. \_\_\_\_\_ %
- f. Number of off-street parking spaces existing \_\_\_\_\_; proposed \_\_\_\_\_
- g. Maximum vehicular trips generated per hour: \_\_\_\_\_ (upon completion of project)?
- h. If residential: Number and type of housing units:

This action is not project related but rather approval of a LWRP. No questions of this section apply except Question No. 25 of page 8 of 21.

	One Family	Two Family	Multiple Family	Condominium
Initially	_____	_____	_____	_____
Ultimately	_____	_____	_____	_____

- i. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? \_\_\_\_\_ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? \_\_\_\_\_ tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A

a. If yes, for what intended purpose is the site being reclaimed?

- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? \_\_\_\_\_ acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No

6. If single phase project: Anticipated period of construction: \_\_\_\_\_ months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated \_\_\_\_\_ (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction \_\_\_\_\_; after project is complete \_\_\_\_\_

10. Number of jobs eliminated by this project \_\_\_\_\_

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity \_\_\_\_\_ gallons/minute.

23. Total anticipated water usage per day \_\_\_\_\_ gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

**25. Approvals Required:**

		Type	Submittal Date
City, Town, Village Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Town Council</u>	<u>Sep-08</u>
		_____	_____
		_____	_____
City, Town, Village Planning Board	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____
City, Town Zoning Board	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____
City, County Health Department	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____
Other Local Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____
Other Regional Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____
State Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Department of State</u>	<u>Oct-08</u>
		_____	_____
		_____	_____
Federal Agencies	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
		_____	_____
		_____	_____

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |   |   |  |                                      |
|---|---|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan        | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

The designated Waterfront Corridor consists of parcels zoned Residential, Recreational, Neighborhood Office and Industrial.

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Residential and Commercial

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  
 Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Town of Clay Date Sept 15, 2008

Signature 

Title Town Supervisor

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

**General Information** (Read Carefully)

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable?** The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions** (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

#### Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO       YES

**Examples** that would apply to column 2

- |  |                          |                          |  |
|--|--------------------------|--------------------------|--|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

	1	2	3	
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	

- Construction or expansion of a sanitary landfill.    Yes  No
- Construction in a designated floodway.    Yes  No
- Other impacts:    Yes  No

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

- Specific land forms:    Yes  No

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

**Examples** that would apply to column 2

- Developable area of site contains a protected water body.    Yes  No
- Dredging more than 100 cubic yards of material from channel of a protected stream.    Yes  No
- Extension of utility distribution facilities through a protected water body.    Yes  No
- Construction in a designated freshwater or tidal wetland.    Yes  No
- Other impacts:    Yes  No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

**Examples** that would apply to column 2

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.    Yes  No
- Construction of a body of water that exceeds 10 acres of surface area.    Yes  No
- Other impacts:    Yes  No



1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO       YES

**Examples** that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion.                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO       YES

**Examples** that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use.                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO       YES

**Examples** that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?  
 NO  YES

**Examples** that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?  
 NO  YES

**Examples** that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO  YES

**Examples** that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO  YES

**Examples** that would apply to column 2

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1	2	3	
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

• Other impacts:

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO       YES

**Examples** that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • A major reduction of an open space important to the community.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO       YES

List the environmental characteristics that caused the designation of the CEA.

**Examples** that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action to locate within the CEA?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?

NO       YES

**Examples** that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in major traffic problems.             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON ENERGY**

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO       YES

**Examples** that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**NOISE AND ODOR IMPACT**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO       YES

**Examples** that would apply to column 2

- |  |                          |                          |                              |                             |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Blasting within 1,500 feet of a hospital, school or other sensitive facility.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day).   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will remove natural barriers that would act as a noise screen.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |



	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?  
 NO       YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.