

# Town of Clay

4401 State Route 31  
Clay, NY 13041

## ZONING CODE

### Chapter 230

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**Revised**

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## 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."

**AFFORDABLE SENIOR CITIZEN FACILITY**- A residential dwelling unit made available for sale or rent such that the shelter portion of the housing cost is below the market price of such units. [Added 3-1-2010 by L.L. 1-2010]

**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. [Amended 3-1-2010 by L.L. 1-2010]

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 § 230-27I(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 RENTAL** -- Land and/or structures commercially used for the rental of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats. **[Amended 4-5-2010 by L.L. 3-2010]**

**MOTOR VEHICLE SALES** -- Land and/or structures commercially used for the sales of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats. **[Amended 4-5-2010 by L.L. 3-2010]**

**MOTOR VEHICLE SERVICE** -- Land and/or structures commercially used for the servicing and repair (including auto body/collision repair) of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats. **[Amended 4-5-2010 by L.L. 3-2010]**

**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** -- 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. [Amended 3-1-2010 by L.L. 1-2010]

**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."

**SENIOR ASSISTED-LIVING FACILITY-** A building, portion of building or a group of buildings that provide dwellings in a residential environment where individual cooking facilities are limited to microwave ovens, and/or cooktops, with assistance available by way of common meals, housekeeping and personal services. Occupancy is restricted to persons 62 years of age or older or couples one of whose member is 62 years of age or older who may have difficulties with one or more essential activities of daily living, such as feeding, bathing, dressing or mobility. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR CITIZEN FACILITY-** A facility intended to provide for specialized housing for persons of 62 years of age or older including senior independent-living facilities, Senior congregate-living facilities, senior assisted-living facilities and senior-day-care facilities. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR COMMUNITY CENTER-** A building under the direct control of the ownership/management of rented units and/or a community association of homeowners and used as a place of assembly for religious, social, recreational or educational programs and meetings of the residents of the Senior District. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR DAY-CARE FACILITY-** A facility with limited operating hours where specialized caregiving and supervision are provided for three or more adults, away from their own homes for less than 24 hours per day, and who have difficulties with one or more essential activities of daily living. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR HOUSING DEVELOPMENT-** A building or group of buildings that contain any combination of two or more senior citizen facilities, one-family dwelling, multiple-family dwelling, and senior support services; intended specifically for persons 62 years of age or older. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR INDEPENDENT-LIVING FACILITY-** A building or portion of a building or a group of buildings containing dwelling units with full kitchens specially designed for use and occupancy by the elderly which may have common amenities but no common dining room and whose occupancy is restricted to persons 62 years of age or older or couples one of whose member is 62 years of age or older. [Added 3-1-2010 by L.L. 1-2010]

**SENIOR SUPPORT SERVICES-** Senior support services may include limited retail, restaurant, medical and personal services. Such support services shall be intended for use by residents of the senior district, and are allowable by Special Permit only. [Added 3-1-2010 by L.L. 1-2010]

**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) *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-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.                | [4] Library.          |
| [2] Day-care center.       | [5] Community center. |
| [3] Religious institution. | [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) <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-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.



- (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.



**K. R-SR Senior Residence District. [Added 3-1-2010 by L.L No. 1-2010]**

**(1) Intent.** *Due to the growth of the Senior Citizen population in the Town it is the intent to create a zone, which accommodates persons who are age 62 and above particular living needs, as opposed to the population at large. These districts will differ from traditional residential districts in terms of allowing mixed land uses; small office and retail support services, handicapped, social, recreational and medical facilities orientated to this age group and specialized parking requirements. They may be for citizens with lower incomes or built as market rate housing, or a mixture of both. It is intended to allow both single family and multifamily units within the same zone. Such development shall occur on sites served by both public water and sewers.*

**(2) Recording Requirement:** In order to provide adequate notice to tenants, the public and subsequent owners of the property regarding the applicable age restriction and other Town rules, related to this ordinance the filing of an approved covenant or other notice in the office of the County Clerk in the property chain of title shall be required prior to the issuance of a building permit. The form and content of a proposed covenant or notice shall be approved by the Town prior to a final determination. The applicant/owner must provide the Town with proof of recording in the form of a filing receipt prior to obtaining a building permit.

**(3) Uses allowed:**

- (a) Office of Planning and Development issuing a building permit:
  - [1] none.
  
- (b) Planning Board site plan approval:
 

<ul style="list-style-type: none"> <li>[1] Senior housing development</li> <li>[2] Senior citizen facility.</li> <li>[3] Affordable senior citizen facility.</li> <li>[4] Senior community center.</li> </ul>	<ul style="list-style-type: none"> <li>[5] Nursing home/Senior Assisted-living facility, (no more than 30% of the total dwelling units shall be for any combination of these purposes).</li> <li>[6] Senior day-care facility</li> <li>[7] Senior independent-living facility.</li> </ul>
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- (c) Planning Board special permit approval:
  - [1] Religious institution.
  - [2] Senior support services less than 2000 sq. ft. per usage. (Restaurants not to exceed 1200 square feet, total senior support services not to exceed 10% of the total habitable sq. ft.)
  
- (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] Senior support services greater than 2000 sq. ft. and less than 3500 sq. ft. per usage (together with (c)[2] above not to exceed 10% of the total habitable sq. ft.)

**(4) 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.*

**(5) R-SR residential lot and structure dimensional requirements.**

- (a) **Lot:** Each project shall have a minimum of 5 buildable acres and 100 feet road frontage.

**(b) One-Family Detached Dwelling (Maximum 50% of project area)**

- [1] Lot.
  - [a] Area, minimum: 6000 square feet.
  - [b] Width, minimum: 70 feet.
  - [c] Depth, minimum: n/a.
  - [d] Coverage (impervious surfaces), maximum: 75%
- [2] Principal structure and attached accessory structures.
  - [a] Front yard minimum: 20 feet
  - [b] Side yard minimum: 10 feet each side
  - [c] Rear yard minimum: 20 feet
  - [d] Maximum height: 20 feet/1 story
- [3] Accessory structures, detached. (Limited to 100 sq. ft.)
  - [a] Front yard minimum: existing principal structure front line.
  - [b] Side yard setback: 10 feet each side
  - [c] Rear yard setback: 20 feet
  - [d] Maximum height: 12 feet

**(c) Multiple-Family Dwelling**

- [1] Lot.
  - [a] Dwelling units per acre: 15 maximum.
  - [b] Coverage (impervious surfaces), maximum 75%
- [2] Principal structure and attached accessory structures. (no habitable space below grade/ground surface, structures must have peaked roof.)
  - [a] Front yard minimum setback: 35 feet.
  - [b] Side yard minimum: 40 feet each side.
  - [c] Rear yard minimum: 40 feet.
  - [d] Maximum height: 35 feet
  - [e] Minimum distance between buildings: 40 feet.

- [3] Accessory structures, detached.
  - [a] Front yard minimum: existing principal structure front line.
  - [b] Side yard setback: 40 feet each side
  - [c] Rear yard setback: 40 feet
  - [d] Maximum height: 15 feet

(d) **Nonresidential/Senior support services**

- [1] Lot.
  - [a] Area, minimum: based on project minimums
  - [b] Width, minimum: based on project minimums
  - [c] Depth, minimum (feet): n/a.
  
- [2] Principal structure and attached accessory structures. (Basements to be used for utilities/storage only)
  - [a] Front yard minimum: 35 feet
  - [b] Side yard minimum: 40 feet each side
  - [c] Rear yard minimum: 40 feet
  - [d] Maximum height (feet):30 feet
  
- [3] Accessory structures, detached.
  - [a] Front yard minimum: existing principal structure front building line.
  - [b] Side yard minimum: 40 feet each side
  - [c] Rear yard minimum: 40 feet
  - [d] Maximum height: 15 feet

(6) **R-SR supplemental district design standards.**

- (a) Perimeter landscape strip (Nonresidential/Senior Support Services Only): 25 feet
- (b) Lot and structure design, scale, and materials: subject to site plan review.
- (c) 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.

**§ 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.

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**§ 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.

(7) 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.*

- (7) 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.
- (7) 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.

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**§ 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.                       | [3] Secondary use. |
| [2] Nursing home/assisted-living facility. |                    |

(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.                               | [8] Hotel/motel.                     |
| [2] Restaurant.  | [9] Veterinary care facility.        |
| [3] Automobile car wash facility.                            | [10] Indoor Recreation-Participant.  |
| [4] Motor vehicle service. [Amended 4-5-2010 by L.L. 3-2010] | [Amended 12-19-2011 by L.L. 4-2011]  |
| [5] Motor vehicle sales.[Amended 4-5-2010 by L.L. 3-2010]    | [11] Indoor Recreation-Spectator.    |
| [6] Motor vehicle rental.[Amended 4-5-2010 by L.L. 3-2010]   | [Amended 12-19-2011 by L.L. 4-2011]  |
| [7] Drive-in service.  | [12] Outdoor Recreation-Participant. |
|  | [13] Outdoor Recreation-Spectator.   |
|  | [Amended 12-19-2011 by L.L. 4-2011]  |

(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) 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      |
| [3] Personal service use. | [9] Medical office    | service.                           |
| [4] Office building.      | [10] Hospital/clinic. | [14] Veterinary care facility.     |
| [5] Bank/credit union.    | [11] Nursing home/    | [15] Day-care center               |
| [6] Restaurant.           | assisted-living       | [16] Instructional facility.       |
|                           | 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.          | [7] Gasoline service station.        |
| [2] Drive-in service.                   | [8] Nightclub/dance hall.            |
| [3] Automobile car wash facility.       | [9] Indoor Recreation-Participant.   |
| [4] Motor vehicle service.              | [Amended 12-19-2011 by L.L. 4-2011]  |
| [Amended 4-5-2010 by L.L. 3-2010]       | [10] Indoor Recreation-Spectator.    |
| [5] Motor vehicle sales. [Amended 4-5-  | [Amended 12-19-2011 by L.L. 4-2011]  |
| 2010 by L.L. 3-2010]                    | [11] Outdoor Recreation-Participant. |
| [6] Motor vehicle rental. [Amended 4-5- | [Amended 12-19-2011 by L.L. 4-2011]  |
| 2010 by L.L. 3-2010]                    | [12] Outdoor Recreation-Spectator.   |
|   | [Amended 12-19-2011 by L.L. 4-2011]  |

(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) 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). | [6] Manufacturing.            |
| [2] Exhibit hall.  | [7] Emergency vehicle station |
| [3] Public self-storage facility.                                    | [8] Cropland.                 |
| [4] Wholesale.   |                               |
| [5] Warehouse.   |                               |

(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.                | [4] Commercial Nursery              |
| [2] Outdoor furnace.                  | [Added 2-7-2011 by L.L. No. 1-2011] |
| [Added 10-19-2009 by L.L. No. 4-2009] | [5] Commercial Greenhouse           |
| [3] Motor vehicle rental.             | [Added 2-7-201 by L.L. No. 1-2011]  |
| [Added 4-05-2010 by L.L. No. 3-2010]  |                                     |

(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 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. | [5] Motor vehicle rental.<br>[Added 4-05-2010 by L.L. No. 3-2010] |
| [2] Contractor's service yard.                                    | [6] Commercial Nursery<br>[Added 2-7-2011 by L.L. No. 1-2011]     |
| [3] Motor vehicle storage.  | [7] Commercial Greenhouse<br>[Added 2-7-2011 by L.L. No. 1-2011]  |
| [4] Outdoor furnace.<br>[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:</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) 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 \_\_\_\_\_.

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**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

<b><u>Group Name</u></b>	<b><u>Minimum Required Parking Spaces</u></b>	<b><u>Minimum Required Loading Spaces</u></b>
<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

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**§ 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. [Added 10-6-2008 by L.L. No. 7-2008]

**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.

**NEIGHBORHOOD IDENTIFICATION SIGN** -- A sign identifying a neighborhood, residential tract, multifamily development, apartment complex or similar neighborhood identification. See free standing sign

**NONCONFORMING SIGN** – Signs legally established which do not conform to the regulations herein.

**NOW HIRING SIGN** – A sign soliciting employees for the place of business where posted and that does not contain any information other than that relating to the solicitation of employees. [Added 12-5-2011 by L.L. No. 3-2011]

**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, laticing, 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 statutory 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.
- [a] *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.
- [b] *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.
- [c] *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.

- [d] *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.
- [a] *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.
- [b] *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.
- [c] *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.
- [d] *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. [Added 10-6-2008 by L.L. No. 7-2008]
- [e] *Now Hiring Sign* – These signs may be installed a maximum of sixty (60) days. No sign shall exceed thirty-two (32) square feet. [Added 12-5-2011 by L.L. No. 3-2011]

#### 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:

[1] Billboard

[2] 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.

**J. 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.
- (7) 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>SIGN TYPES and requirement list</b>															
<b>FREESTANDING SIGNS</b>															
Permit type	X	P	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	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	25 ft
MIN Setback		25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.	25ft.		25ft.	25ft.
<i>(In addition to free-standing sign (when allowed))</i>															
<b>CHOICE of ONE:</b>															
<i>wall, projecting, roof, marquee sign types -when allowed)</i>															
<i>(In addition to free-standing sign (when allowed))</i>															
<b>CHOICE of TWO:</b>															
<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	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