



Town of Clarence, New York

Zoning Law & Map  
Chapter 229 of Town Law

Adopted by Town Board Resolution  
March 9, 2005

Amended February 2007

# TABLE OF CONTENTS

<b>ARTICLE 1 PURPOSE AND APPLICABILITY</b>		<u>Page</u>
§ 229-1	Authority	1
§ 229-2	Purpose	1
§ 229-3	Title	1
§ 229-4	Jurisdiction	1
§ 229-5	Separability	2
§ 229-6	Effective Date	2

<b>ARTICLE 2 GENERAL PROVISIONS</b>		<u>Page</u>
§ 229-7	Applicability	3
§ 229-8	Lot Standards	3
§ 229-9	Irregular Lot Setbacks	3
§ 229-10	Stormwater Runoff	3
§ 229-11	Required Yards	4
§ 229-12	Temporary Structures	4
§ 229-13	Temporary Conditional Permits	5
§ 229-14	Vibration, Noise, Odor, & Lighting	7
§ 229-15	Yard and Garage Sales	7
§ 229-16	Parking of Commercial and Recreational Vehicles	7
§ 229-17	Private Vehicle Sales	8
§ 229-18	Produce Stands	9
§ 229-19	Customary Home Occupations	9
§ 229-20	Parking	10
§ 229-21	Outside Display of Materials	12
§ 229-22	Zoning Map Interpretation	13
§ 229-23	Grade	14

<b>ARTICLE 3 ZONING DISTRICTS</b>		<u>Page</u>
§ 229-24	District Enumerated	18
<b>Article 4</b>	§ 229-26 Agricultural Flood Zone	19
<b>Article 5</b>	§ 229-39 Agricultural Rural Residential	23
<b>Article 6</b>	§ 229-47 Residential Single-Family	27
<b>Article 7</b>	§ 229-57 Traditional Neighborhood	32
<b>Article 8</b>	§ 229-69 Community Facilities	37
<b>Article 9</b>	§ 229-75 Restricted Business	39
<b>Article 10</b>	§ 229-83 Commercial	43
<b>Article 11</b>	§ 229-91 Major Arterial	47
<b>Article 12</b>	§ 229-99 Industrial Business Park	51

# TABLE OF CONTENTS

<b>ARTICLE 13</b>	<b>OPEN SPACE DESIGN DEVELOPMENT</b>	<u>Page</u>
	§ 229-106 Purpose	54
	§ 229-107 Intent	54
	§ 229-108 Regulations Governing OSDD	55
<b>ARTICLE 14</b>	<b>CLARENCE HOLLOW OVERLAY DISTRICT</b>	<u>Page</u>
	§ 229-109 Purpose and Intent	57
	§ 229-110 Boundary	57
	§ 229-111 Permitted Uses	57
	§ 229-112 Affect upon Subdivision Regulations	57
	§ 229-113 Site Design Requirements	58
	§ 229-114 Underlying Zoning District Regulations	60
<b>ARTICLE 15</b>	<b>SPECIAL EXCEPTION USE PERMITS</b>	<u>Page</u>
	§ 229-115 Purpose	61
	§ 229-116 Procedures	61
	§ 229-117 Bed & Breakfast Inns	61
	§ 229-118 Cemeteries	61
	§ 229-119 Public Recreational Facilities	62
	§ 229-120 Drive-In Theaters	62
	§ 229-121 Rooming/Boarding Homes	62
	§ 229-122 Churches/Civic Uses/Nursing Homes	62
	§ 229-123 Public Safety Stations	62
	§ 229-124 Drive-In Facilities	63
	§ 229-125 Car Washes	63
	§ 229-126 Multi-Family Developments	63
	§ 229-127 Private Schools	64
	§ 229-128 Gasoline Service Stations/Commercial Garages	64
	§ 229-129 Restaurants, Nightclubs, and Bars	64
	§ 229-130 Traditional Neighborhood Uses in Structures Between 10,000 – 30,000 Sq. Ft.	64
	§ 229-131 Restricted Business Uses Exceeding 10,000 Sq. Ft. & Commercial Uses Exceeding 30,000 Sq. Ft.	65
	§ 229-132 Major Arterial Uses Exceeding 50,000 Sq. Ft.	65
	§ 229-133 Adult Establishment	65
	§ 229-134 Indoor Storage of Hazardous Material	66
	§ 229-135 Outdoor Storage of Hazardous Material	67
	§ 229-136 Secondary Living Unit	67
	§ 229-137 Expanded Home Occupations	67
	§ 229-138 Telecommunication Towers	68

# TABLE OF CONTENTS

<b>ARTICLE 15</b>	<b>SPECIAL EXCEPTION USE PERMITS</b>	<u>Page</u>
§ 229-139	Motor Vehicle, Equipment and Implement Sales and Service	68
§ 229-140	Building Supply Sales and Storage Yards	68
§ 229-141	Parking Facilities	68
§ 229-142	Light Manufacturing and Assembly Operations	68
§ 229-143	Warehousing and Distribution Facilities	69
§ 229-144	Fuel Storage and Supply Operations	69
§ 229-145	Excavations	69
§ 229-146	Manufactured Home Parks	69
§ 229-147	Beauty Salons	69
§ 229-148	Shopping Plazas	69

<b>ARTICLE 16</b>	<b>ADMINISTRATION</b>	<u>Page</u>
§ 229-149	Purpose	70
§ 229-150	Zoning Permit Process	70
§ 229-151	Site Plan Review Requirements	71
§ 229-152	Procedure for Processing Permits	74
§ 229-153	Concept Plan Review and Recommendation	75
§ 229-154	Town Board Review and Consideration	75
§ 229-155	General Site Plan Performance Criteria	75
§ 229-156	Development Plan Review	77
§ 229-157	Zoning Permit	78
§ 229-158	Certificate of Occupancy	80
§ 229-159	Complaints Regarding Violations	80
§ 229-160	Enforcement	80
§ 229-161	Penalties	81
§ 229-162	Non-Conforming Uses	81
§ 229-163	Zoning Board of Appeals	82
§ 229-164	Planning Board	85
§ 229-165	Zoning Code and Map Amendments	86

<b>ARTICLE 17</b>	<b>DEFINITIONS</b>	<u>Page</u>
§ 229-166	Intent	90
§ 229-167	Interpretation	90
§ 229-168	Definitions	91

# *Article 1*

# PURPOSE AND APPLICABILITY

## **229-1 AUTHORITY**

This Local Law is hereby adopted pursuant to the authority conferred by Article 16 of the Town Law and Section 10 of the Municipal Home Rule Law of New York State.

## **229-2 PURPOSE**

- A. The Town of Clarence Zoning Law is established for the purpose of promoting the public health, safety and welfare, and the most appropriate use for which the land in each district may be adapted; for conserving the value of buildings; and for enhancing the value of land throughout the Town.
- B. The purpose of this Law is to provide the minimum regulations necessary to facilitate safe and orderly growth and to ensure that growth forms an integral part of a community of functional neighborhoods and town centers; increases collective security and community identity to promote civic awareness and responsibility; and enhances the quality of life for the entire town to ensure the greatest possible economic and social benefits for all residents.
- C. To these ends, the Zoning Law, Districts, and Maps have been prepared with due consideration of future growth; the promotion of a sensible built environment, which respects local and regional architecture; the promotion of an integrated and balanced transportation system based on pedestrian, transit, and automobile use, the adequate provision of water and sewer infrastructure, schools, parks, and other public necessities; and for the preservation and enhancement of the natural environment through the protection and replenishment of forests by landscaping of the public realm and supplemental plantings for projects which reduce existing tree cover resources.
- D. This law was prepared based on the goals as adopted in the comprehensive plan of the Town of Clarence in accordance with New York State Town Law Section 263 and is established to implement the goals identified therein.

## **229-3 TITLE**

This Law is officially titled as “The Zoning Law of the Town of Clarence, New York”, and shall be known as the “Zoning Law”. The official map designating the various zoning districts shall be titled, “Town of Clarence, New York Official Zoning Map”, and shall be known as the “Zoning Map” or “Official Zoning Map.”

## **229-4 JURISDICTION**

This Law governs the development and use of all land and structures within the corporate limits of the Town of Clarence, New York, said territory being indicated on the Official Zoning Map as is on file at the Planning and Zoning Department. This map and its boundaries shall be incorporated and made part of this Law.

# *Article 1*

## PURPOSE AND APPLICABILITY

### ***229-5 SEPARABILITY***

If any Section or specific provision or standard of this Law or any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

### ***229-6 EFFECTIVE DATE***

This Law shall become effective upon the date of adoption by the Clarence Town Board. Upon such date, this Law shall replace the previous Town of Clarence Zoning Law adopted August 18, 1942, and any amendments to said Law made after said date.

**229-7 APPLICABILITY**

The following provisions shall apply throughout the jurisdiction of this Law, regardless of the underlying regulating district.

**229-8 LOT STANDARDS**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

- A. No yard or lot existing at the time of passage of this Law shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Law shall meet at least the minimum requirements established by this Law.
- B. Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory building(s) on any lot, except in appropriate zoning districts which permit a lot to contain both residential and commercial uses in one or more principal structures or within the same structure.
- C. Nothing in this Law shall be deemed to require any change in the plans, construction or designed use of any building or structure upon which a building permit was secured prior to the adoption of this Law, so long as said building permit remains valid.
- D. All non-residential lots shall have access available from a public street or a thirty-six foot (36') maintained easement for use by service or emergency vehicles.
- E. Any group of five (5) or more residential lots must have access available from a paved public street with a minimum sixty-foot (60') right of way, except that a private driveway may be allowed to service developments that meet the Open Development Area regulations, Open Space Design Development requirements, and other developments that the Town Board determines that a public benefit cannot be derived.

**229-9 IRREGULAR LOT SETBACKS**

The Zoning Enforcement Officer shall determine the location of required front, side and rear yards on irregularly shaped lots. The determination will be based on the spirit and intent of this Law to achieve an appropriate spacing and location of buildings and structures on individual lots, subject to review and approval of the Zoning Board of Appeals.

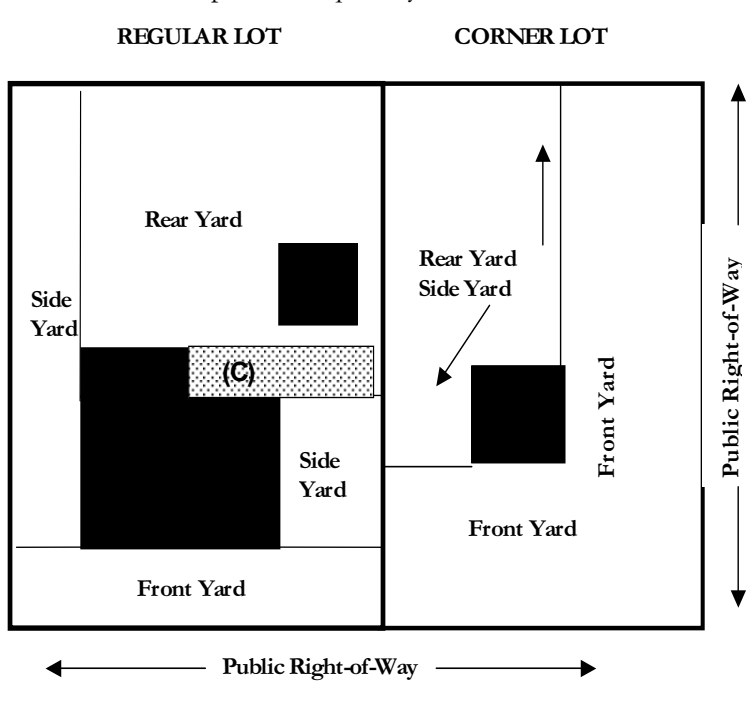
**229-10 STORMWATER RUNOFF**

Any site of disturbed ground over one (1) acre in size shall adhere to the following provisions:

- A. All proposed stormwater management facilities shall be analyzed, designed, and constructed in accordance with the New York State Stormwater Management Design Manual (October 2001 or most current edition), be compliant with all Environmental Protection Agency Stormwater Phase II regulations and requirements, and be compliant with requirements of the Building and Engineering Departments.

229-11 REQUIRED YARDS

All lots shall provide required yards as shown:



- A. Rear yards extend from the corner of a structure forming the primary rear wall façade of the structure, to the back lot line.
- B. Structures with staggered rear facade walls shall measure rear yards from the corner of the wall with the longest facade facing the rear lot line.
- C. Structures with two (2) staggered rear walls of equal length may measure the rear yard from either facade corner.
- D. Side yard lots at street corners have no corner side yard requirement. Corner lots have a V-shaped front yard along all highway right-of-ways to the closest point of the principal structure.

229-12 TEMPORARY STRUCTURES

Temporary structures and uses, when in compliance with all applicable provisions of this Law, and all other laws, ordinances, and regulations of the Town of Clarence shall be allowed. The following temporary structures and uses shall be permitted:

- A. Construction trailers used in conjunction with construction projects provided that the following conditions are met:

# Article 2

# GENERAL PROVISIONS

- 1) Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential subdivision, a valid building permit for at least one of the residential units being constructed.
  - 2) All construction trailers shall be located at least ten feet (10') off any street right-of-way and not be placed in any required rear or side yard setback.
  - 3) Any construction trailer must be removed before an occupancy permit may be issued for the premises on which it is located.
- B. Certain uses of a temporary nature (i.e. less than ninety (90) days in duration one time per calendar year) which would not otherwise be permitted in a particular zoning district may be issued a temporary permit as herein provided. Upon completion and submittal of a Peddler's, Hawker's, and Solicitor's License application or a Special Event application, the Zoning Enforcement Officer may grant a zoning permit for the following temporary uses:
- 1) Christmas Tree Sales
  - 2) Seasonal Agricultural Produce Stands
  - 3) Pumpkin Sales
  - 4) Other sales activities in conjunction with the Peddlers, Hawkers, & Solicitors Ordinance of the Town of Clarence (Chapter 147 of the Code of the Town of Clarence) or the Special Events Law (Chapter 187 of the Code of the Town of Clarence).

The permit shall be valid for a specified period only, not to exceed ninety (90) days in duration and only for normal business hours. A permit for a temporary use under this section may not be issued in the Single-Family Residential Zoning District.

- C. Structures, whether temporary or permanent, located in a subdivision and used as sales offices for the subdivision development are permitted in accordance with the following conditions:
- 1) Any temporary structure used as a sales office shall be located on a lot, which is in compliance with the regulations of this Law and shall meet all yard requirements for the applicable zoning district. A minimum of three off-street parking spaces shall be provided on the lot to accommodate persons using the sales office. A landscape plan approved under the Landscape Ordinance (Chapter 131 of the Code of the Town of Clarence) shall be provided to create an aesthetically pleasing appearance.
  - 2) At the completion of the sales in a tract, or one (1) year from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Town Board determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the subdivision. In such case, one or more extensions (each not to exceed one (1) year in duration) may be so authorized by the Town Board.

## **229-13 TEMPORARY CONDITIONAL PERMITS**

- A. Uses designated as "permitted uses" and "uses permitted with Special Exception Use Permits" can be considered and may be applied for through the Planning and

Zoning Department. The Town Board, pursuant to this Law, may allow any application for uses not listed only after the provisions of this section have been met.

- B. It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in Clarence. To provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:
  - 1) For any use not listed in this Law, the Zoning Enforcement Officer shall refer the use permit application to the Town Board to determine if said use can reasonably be interpreted to fit into a use category where similar uses are described in the Law.
  - 2) Uses pre-existing the adoption of this Law that are not listed as permitted uses are allowed to remain as non-conforming uses in accordance with this Law. Unless a use is allowed as a "permitted," "Special Exception Use," "Temporary Conditional," or "non-conforming use," then such use is expressly prohibited in that district by this Law.
- a. The Town Board may authorize the granting of a Temporary Conditional Permit for uses not specifically enumerated within a zoning district. Such permits may be issued in all zoning districts, except the Residential Single-Family District, and are designed for non-permanent uses and are subject to conditions as established by the Town Board.
  - 1) Applications
    - a) Applications shall be made through the Planning and Zoning Office to the Town Board.
    - b) Temporary Conditional Permits may only be issued after a public hearing thereon and may be referred to the Planning Board for Site Plan Review and compatibility with the Town's Comprehensive Plan.
    - c) The Town Board shall set conditions on the proposed use to ensure compatibility with the surrounding residents.
  - 2) Permits
    - a) Initial approval for Temporary Conditional Permits shall be for a period not to exceed one (1) year. Subsequent renewals may be extended at the discretion of the Town Board for a term not to exceed five (5) years.
    - b) Consideration shall be given to the quiet enjoyment of the surrounding residents. The Town Board may deny an application based upon a finding that the proposed use would negatively impact the quiet enjoyment of the surrounding residents and is not compatible with the Town's Comprehensive Plan.
  - 3) Conditions
    - a) The Town Board shall set conditions on the proposed use to ensure compatibility with the surrounding residents.
    - b) Any violation of such conditions shall constitute a violation of the Zoning Law. The Zoning Enforcement Officer will then execute the enforcement section of this Law.
    - c) The Town Board, after a public hearing and notice, shall have the authority to revoke a Temporary Conditional Permit upon discovery of a violation of the conditions established to allow such permit.

4) Non-Transferability

Temporary Conditional Permits shall be tied to a specific use upon a property and may not be transferred from one owner to another or changed in any manner without approval of the Town Board.

**229-14 VIBRATION, NOISE, ODOR, & LIGHTING**

A. VIBRATION

No established use in any district shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line, which creates a nuisance to any person of ordinary sensitivities on another property.

B. NOISE

Every use of land shall be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities. Every nonresidential use in any zoning district which adjoins a residential district must be operated in such a way that any noise which may be detected by the human senses without instruments at the district boundary line is no louder than the noise which could be expected from uses permitted in those residential districts.

C. ODOR

Every use of land shall be operated in such a way that regularly recurring odors are not disturbing and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities on another property.

D. LIGHTING

No use on any property shall incorporate lighting that exposes adjoining residential properties to excessive exposure after 11 p.m. on any night. Any commercial property shall employ shield lighting of downcast intensity. The lighting requirements are specifically described in Chapter 7, Section 8, of this Law (Site Plan Review Criteria).

**229-15 YARD AND GARAGE SALES**

Yard, garage, tag, patio and apartment sales are permitted without a permit, as an accessory use on any residentially or institutionally developed lot in any zoning district under the Special Events Law (Chapter 187 of the Code of the Town of Clarence). Such sales shall be limited to no more than ten (10) days, two (2) times per calendar year. Temporary signs announcing such sales may not be placed on any utility poles or street signs and must be removed immediately upon completion of the sale.

**229-16 PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES**

A. Recreational Vehicles

- 1) For purposes of this Law, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreation vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility

# Article 2

# GENERAL PROVISIONS

services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreational vehicles.

- 2) No more than one (1) recreational vehicle may be stored on any residentially zoned lot.
- 3) Any recreational vehicle that is parked on a property must be owned and registered within the last year to the owner or occupant of the property where it is placed.

## B. Commercial Vehicles

On any lot of less than one (1) acre in size, which is located in any Single-Family Residential or Agricultural Zoning District, one (1) commercial vehicle of no greater than ten thousand (10,000) pounds and one (1) rear axle may be parked on an overnight basis and shall be limited to vans and pickup trucks. All other commercial vehicles are prohibited. The vehicle must be owned and registered within the last year to the owner or occupant of the property where it is placed. The requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any zoning district for a period of up to twenty-four (24) hours.

## C. Prohibited Vehicles

No residentially zoned lot may be used as the base of operation for any freight hauling truck and commercial passenger vehicles.

## D. Location and Screening

Any recreational vehicle placed upon property in any residential zoning district shall be placed on a paved driveway or in the side or rear yard of a property. If the vehicle is placed in the side or rear yard area, then it must be setback at least three feet from any property line and shall be screened from view of adjoining properties. No recreational vehicle may be placed in the front yard of any residence, unless it is placed on the paved driveway.

## E. Conformance with Vehicles, Abandoned Ordinance

Any vehicle parked outside of a wholly enclosed building must meet the requirements of the Vehicles, Abandoned Ordinance (Chapter 209 of the Code of the Town of Clarence).

## **229-17 PRIVATE VEHICLE SALES**

Every property owner has a vested right to sell their personal or commercial vehicles from their property under the following requirements:

- A. The vehicle must be owned by the property owner or their immediate family member.
- B. One vehicle may be sold at any one time.

# Article 2

# GENERAL PROVISIONS

- C. A total of four (4) vehicles may be sold in any three hundred sixty-five (365) day period. A total of thirty days maximum shall be permitted for the vehicle to be displayed for sale outside of a wholly enclosed structure.
- D. All vehicles displayed for sale must meet the requirements of the Abandoned Vehicle Ordinance, Chapter 209 of the Code of the Town of Clarence.

## **229-18 PRODUCE STANDS**

Local farmers operating within the Agricultural-Flood and Agricultural-Rural Residential Zoning Districts may have produce stands to retail their produce grown on-site. Produce stands not located in a permanent structure shall adhere to the following provisions:

- A. Must have property owner permission to operate on a lot.
- B. Permit shall be good for the time period May through October only.
- C. Trailers shall not be used as temporary structures.
- D. All parking shall be accommodated on site.
- E. All structures shall comply with the setback provisions of the district and all signs shall be in conformance with the Town of Clarence Sign Law (Chapter 181 of the Code of the Town of Clarence).

## **229-19 CUSTOMARY HOME OCCUPATIONS**

- A. Owners or occupants of residential living units may operate an occupation following these provisions in order to ensure that the residential character of the unit remains intact:
  - a. Not more than 25% of the net floor area of the home is used for the occupation.
  - b. No non-residents are employed therein, except as permitted in section 2.13.2 below.
  - c. Only household appliances and equipment are used.
  - d. There is no outside display of merchandise and no on-premises outdoor advertising in excess of the provisions granted in the Sign Law (Chapter 181 of the Code of the Town of Clarence).
  - e. No use shall create a noise, dust, odor, fire or traffic nuisance or hazard.
- B. One non-resident assistant may be employed in a professional office of a doctor, dentist, musician, teacher, lawyer, architect, artist, or member of some recognized profession in the principal building of the residents therein.
- C. No building in the Single-Family Residential Zoning District shall be used as a tourist home and not more than two (2) boarders may be kept by a resident family.

# Article 2

# GENERAL PROVISIONS

## 229-20 PARKING

### A. PERMIT REQUIRED

- 1) No person, firm, or business entity shall construct or alter an off-street parking area for a commercial use without first obtaining a permit through the Town Board according to the Site Plan Review procedures set forth in Section 7.3 (Site Plan Review) of this Law.
- 2) Any residential driveway cuts or parking areas shall meet the requirements of the highway work permit procedures of the agency with jurisdiction.

### B. GENERAL DESIGN STANDARDS

- 1) Any off-street parking area shall be designed so that vehicles should be exiting forward out of such areas without backing onto a public street.
- 2) Off-street parking areas of all developments shall be designed so that sanitation, snow removal, emergency, and other public service vehicles can serve such developments without restriction or obstruction.
- 3) Every off-street parking area shall be designed so that vehicles cannot extend onto public rights-of-way, sidewalks, or tend to bump against or damage any wall, vegetation, or other structure.
- 4) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians and without interfering with parking areas.
- 5) No off-street parking area shall be located over an active or auxiliary septic tank field.

### C. PARKING SPACE DIMENSIONS

- 1) Each parking space, (other than those designed for the disabled) shall contain a rectangular area at least nineteen (19) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this Section.
- 2) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty (20) feet long by eight (8) feet wide.

### D. AISLE AND DRIVEWAY WIDTHS

- 1) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

<u>Aisle Width (feet)</u>	<u>0</u>	<u>Angle of Parking (degrees)</u>			
		<u>30</u>	<u>45</u>	<u>60</u>	<u>90</u>
One Way Traffic	13	13	13	18	20
Two Way Traffic	19	19	20	22	24

- 2) Driveways shall be not less than ten feet (10') in width for one way traffic and eighteen feet (18') in width for two way traffic, except that ten feet (10') wide driveways are permissible for two way traffic when (i) the driveway is not longer than eighty feet (80'), (ii) it provides access to not more than ten (10) spaces, and (iii) sufficient turning space is provided so that vehicles need not back into a public street. In no case shall a

# Article 2

# GENERAL PROVISIONS

driveway width exceed thirty feet (30'), except as required by the New York State Department of Transportation or the Erie County Department of Public Works Division of Highways.

## E. HANDICAP PARKING

1.) In general, the Town of Clarence enforces the State of New York Building and Fire Prevention Code regarding handicap parking.

a) Except for a lot containing a single-family or duplex dwelling, all uses shall be required to provide the following number of spaces designed for disabled persons.

<b>Total Number of Required Off-Street Parking Spaces</b>	<b>Total Number of Spaces Required for Disabled</b>
1-50	1
51-100	2
101 or more	2 plus one for every fifty spaces over one hundred

b) The number of such spaces shall be in addition to any required spaces.

## F. MINIMUM PARKING REQUIREMENTS

1) Certificates of Occupancy shall not be issued until all provisions of this section have been met. All square footage is in gross square feet (GSF) of building area.

Residential (All Districts all Types)	2 per unit
Institutions of higher learning	1.5 per two students/1 per two residents
All other schools	1.5 per classroom
Government Institutions	1 per 300 sq. ft./1 per four seats of meeting area
General Health and Welfare Institutions	1 per bed, plus 1 per 100 sq. ft. of medical office
Religious Institutions/ Cultural Facilities	1 per 4 seats
Civic/ Social/ Fraternal Organizations	1 per 200 sq. ft./1 per four seats
Group Homes	1 per three residents
Child Care Centers	1 per ten children, 1 per employee
Nursing Homes/ Retirement	1 per three beds
Manufacturing/Warehousing/Light Assembly	1 per employee of maximum shift, 1 per 200 sq. ft. of office
All other Industrial Uses	1 per 400 sq. ft.
Professional Office	1 per 200 sq. ft.
Medical Office	1 per 100 sq. ft.
Retail	1 per 150 sq. ft.
Theaters/Restaurants	1 per three seats

# Article 2

# GENERAL PROVISIONS

Night Clubs/ Lounges/ Bars	1 per 100 sq. ft.
Drive Through (Queuing Lanes)	12 car lengths for first window 8 car lengths each additional window
Personal Service Shops	1 per 100 sq. ft.
Beauty Salons or Barber Shops	2 per operator station
All Other Commercial	1 per 200 sq. ft.
Commercial Uses in a TND	1 per 1000 sq. ft.
Bed & Breakfast Inns/ Hotels	1 per room, plus 2 for owner
Convention Facilities	1 per 250 sq. ft.

- 2) Any use not specifically addressed or referred to in this list shall have parking requirements recommended by the Planning Board and approved by the Town Board. The Town Board may deviate from the above parking requirements with a recommendation by the Planning Board during site plan review.
- 3) Shared access and parking arrangements with adjoining properties shall be reviewed and recommended by the Planning Board and approved by the Town Board. Appropriate legal access agreements shall be provided by the applicant and approved by the Town Attorney prior to final approval by the Town Board.
- 4) The Planning Board may recommend that greenspace be substituted in lieu of the required parking area on a particular site plan, depending upon the proposed use.

## 229-21 OUTSIDE DISPLAY OF MATERIALS

- A. The visibility of the outside display of product must be regulated to ensure that the health, safety and general welfare of the citizens of the Town is protected. The following regulations are established to ensure that outside displays are reviewed and approved in a consistent manner and implemented to ensure the visual impacts associated with such displays are compatible to the character of the community.
- B. Outside displays shall include any display of materials for sale outside of any enclosed structure.
- C. Special Exception Use Permit Uses. Businesses, which by the nature of the product sold, desire outside displays, shall receive initial approval for such displays via the special exception use permit process. Such businesses include, but not limited to, motor vehicle sales, recreational vehicle sales, landscape and nursery product sales and lumber and building supply sales.
- D. Other Displays within Permitted Uses.

Other than Special Exception Use Displays, all other businesses must apply for a permit from the Planning and Zoning Office to undertake outside displays and must meet the following regulations. No additional signs or other advertising devices including balloons, lights, flashing lights, strings of flags or pennants or other similar devices with moving, fluttering or revolving items shall be allowed.

- 1) Outside display areas must meet all side and rear yard zoning setback requirements

# Article 2

# GENERAL PROVISIONS

- 2) Outside display areas must be setback at least ten feet (10') from any street or highway right-of-way line.
- 3) If any outside display is proposed within an approved parking area, temporary fencing or other means of separation shall be utilized to enhance the safety of the display.

## E. Permit Process

- 1) Applicants shall submit a site plan, drawn to scale, depicting the location of the display. Such plans shall indicate setbacks from all property lines, parking plans and pedestrian flow patterns.
- 2) In reviewing applications for outside displays, the Planning and Zoning Department shall not allow outside displays, which negatively affect the health, safety and welfare of the residents of the Town. No outside display shall restrict:
  - A. Vehicular traffic flow
  - B. Pedestrian access and safety
  - C. Fire lane access visibility
  - D. Existing lighting systems
  - E. Line of sight for incoming and outgoing vehicles
- 3) The Planning and Zoning Department shall have the authority to reject any application based upon its potential negative impact to any of the above listed items. Appeals of a decision of the Planning and Zoning Department shall be directed to the Town Board.
- 4) Outside display permits shall be valid for a period of one (1) year.
- 5) Any person, group or corporation operating in contravention to the regulations described in this section shall be in violation of the Zoning Law.

## 229-22 ZONING MAP INTERPRETATION

- A. The map entitled "Town of Clarence, New York Official Zoning Map," as certified as such by the Town Clerk, is hereby declared to be the proper zoning for said districts as of the effective date of this Law.
- B. For purposes of interpretation of district boundaries as shown on the official zoning map, the following rules shall apply:
  - A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
  - B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
  - C. Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits.

- D. Boundaries indicated as parallel to or extensions of features indicated in this Section shall be construed as such. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- E. Boundaries indicated as following the boundary limits of the Town of Clarence shall be construed as following such boundaries.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by this Section, the Zoning Board of Appeals shall have the authority to interpret the district boundaries.

**229-23 GRADE**

- A. The Building Inspector, in conjunction with the Town Engineer, shall determine or approve the grade of the top of the foundation wall of all buildings or structures before granting a building permit. The Building Inspector shall determine the top of foundation wall, which shall be used in determining the grade. The top of the foundation wall shall not be less than one-quarter inch (1/4") or more than one-half inch (1/2") above the crown of the abutting roadway for each foot of distance measured between the center of the abutting roadway and the center of the front building foundation wall with a maximum of forty inches (40") above the center of an abutting roadway.
- B. If the natural grade exceeds one-half inch (1/2") per foot, or if existing buildings on the same side of the roadway within five hundred feet (500') have grades in excess of one-half inch (1/2") per foot, or if the existing buildings so located have setbacks materially different from the required setback, the Building Inspector may authorize and approve a different elevation which, in his judgment will provide reasonable and uniform grades.
- C. The determination of the Building Inspector and/or the Town Engineer establishing a grade of the top of foundation wall may upon proper application be subject to review and change or modification by the Zoning Board of Appeals.
- D. Proposed structures exceeding one hundred feet (100') of setback from a highway right-of-way shall be approved by Building Inspector with a maximum top of the foundation wall twenty-four inches (24") over existing grades.

## Schedule I – Use Controls

<b>Zone</b>	<b>Purpose</b>	<b>Permitted Uses</b>	<b>Permitted Accessory Uses</b>	<b>Uses Requiring Special Exception Use Permits</b>
Agricultural-Flood Zone	To encourage agricultural operations and provide for associated residential housing development within the Black Creek Density Floodway.	Customary agricultural operations; greenhouses; nurseries; single-family dwellings; two-family dwellings; home occupations; churches under 10,000 sq. ft.; golf courses; parks; playgrounds; schools; riding academies; cemeteries; public utility facilities;	Customary agricultural out-buildings; barns; stables; sheds; garages; swimming pools; agricultural support structures	Expanded Home Occupations; Bed & Breakfast Inns; Turf Farming; Rooming or Boarding Houses; Telecommunications Towers; Beauty salons; Secondary living units; churches over 10,000 sq. ft.;
Agricultural-Rural Residential	To provide an area for low-density residential housing development of rural character.	Customary agricultural operations; greenhouses; nurseries; single-family dwellings; home occupations; churches under 10,000 sq. ft.; golf courses; parks; playgrounds; schools; riding academies; cemeteries; public utility facilities;	Customary agricultural out-buildings; barns; stables; sheds; garages; swimming pools; agricultural support structures	Expanded Home Occupations; Bed & Breakfast Inns; Turf Farming; Rooming or Boarding Houses; Telecommunications Towers; Beauty salons; Secondary living units; churches over 10,000 sq. ft.;
Residential Single-Family	To provide for low-density residential housing development consistent with neighborhood design and character.	Single-family dwellings; home occupations; churches under 10,000 sq. ft.; parks; playgrounds; schools; public service facilities; pre-existing agricultural operations; public utility facilities;	Garages; swimming pools; storage sheds; private recreational facilities;	Expanded Home Occupations; Telecommunication Towers; Bed & Breakfast Inns; Secondary living units; churches over 10,000 sq. ft.;
Traditional Neighborhood District (TND)	To encourage small commercial developments and professional offices with higher-density residential uses.	Single and two-family dwellings; second-floor multi-family dwelling units; professional offices; restaurants; retail stores; non-profit institutions of charitable, religious, cultural or civic purposes; personal service shops; custom work shops; craft stores; banks; Bed & Breakfast Inns;	Private garages; barns; sheds; private recreational facilities;	Telecommunication towers; any new structures between 10,000-30,000 sq. ft.; expansions of existing structures requiring site plan approval and that bring the total area of the structure to over 10,000 sq. ft.; drive-thru facilities; automobile service stations; multi-family dwellings units;
Community Facility	To provide a protective district for community owned lands.	Churches; parks; governmental offices; golf courses; nature preserves; public or private schools; recreational trails; cemeteries; telecommunications towers; public utility facilities.	Parking facilities; gazebos; recreational facilities; utility sheds; pole barns; swimming pools; greenhouses; agricultural support structures	None.
Restricted Business	To encourage the development of commercial uses restricted to professional offices and institutions of charitable, religious, cultural, or civic purposes.	Single-family homes; two-family homes; professional offices; funeral home; nursing home; medical clinic; non-profit institutions of charitable; religious; cultural or civic purposes; bed & breakfast; cemeteries; public utility facilities; day care centers; beauty salons.	Private garages; barns; sheds; private recreational facilities.	Telecommunication towers; multi-family dwellings; parking facilities; Any new structures over 10,000 sq. ft.; expansions of existing structures requiring site plan approval and that bring the total area of the structure to over 10,000 sq. ft.; Cumulative area of multiple structures on one property over 30,000 sq. ft.

## Schedule I – Use Controls

<b>Zone</b>	<b>Purpose</b>	<b>Permitted Uses</b>	<b>Permitted Accessory Uses</b>	<b>Uses Requiring Special Exception Use Permits</b>
Commercial	To encourage the development of commercial uses including retail sales; professional offices; restaurants; personal service shops and similar commercial type uses.	Two-family homes; printing shops; laundry; dry cleaning; heating; plumbing; electrical shops; retail stores; restaurants; shopping centers or plazas; custom work shops; craft stores; banks; antique shops; professional offices; personal service shops; hotel; motel; tourist homes; day care center; nursery school; non-profit institutions of charitable; religious; cultural or civic purposes; public utility facilities.	Private garages; barns; sheds; private recreational facilities.	Drive-in/Drive-through facilities; commercial garages; automobile service stations; motor vehicle, equipment and implement sales and service; light manufacturing and assembly operations; car wash; theaters, assembly halls, and similar public recreation uses; telecommunication towers; lumber & building supply retailers; multi-family dwellings; manufactured home park; parking facilities; Any new structures over 30,000 sq. ft.; expansions of existing structures requiring site plan approval and that bring the total area of the structure to over 30,000 sq. ft;
Major Arterial	To encourage controlled growth in the areas of Town serviced by major thoroughfares and high volume automobile traffic.	Restaurants; retail stores; shopping plazas/centers; hotel; motel; professional offices; banks; financial institutions; funeral homes; indoor theaters; bowling alleys; all similar public recreation uses; non-profit institutions of charitable; religious; cultural or civic purposes; public utility facilities.	Private garages; barns; sheds; private recreational facilities.	Motor vehicle, equipment and implement sales and service; multi-family dwellings; commercial garages; telecommunication towers; light manufacturing; parking facilities; lumber & building supply; drive-in/drive-through facilities; parking facilities; Any new structures over 50,000 sq. ft.; expansions of existing structures requiring site plan approval and that bring the total area of the structure to over 50,000 sq. ft; car wash.
Industrial Business Park	To encourage the development of manufacturing and light industrial operations.	Non-hazardous light industrial operations; manufacturing operations; assembly plants; personal storage facilities; commercial research facilities; telecommunication towers; warehouses/distribution operations; industrial parks; public utility facilities.	Private garages; barns; sheds.	Adult entertainment uses; excavations including quarry; sand pit; gravel pit; topsoil stripping; fuel storage and supply operations; automotive service stations.
Clarence Hollow – Overlay (CH-O)	To preserve the character of the Clarence Hollow community as a hamlet style area with mixed uses set in a historical context.	Underlying zoning district regulations shall apply.	Underlying zoning district regulations shall apply.	Underlying zoning district regulations shall apply.
Open Space Design Development – Overlay (OSD)	To preserve open space and protect important natural resources and sensitive lands.	Underlying zoning district regulations shall apply.	Underlying zoning district regulations shall apply.	Underlying zoning district regulations shall apply.

## Schedule II – Lot Dimensions & Area Requirements

Zoning District	Lot Area Minimum	Zoning District Incentives*	Lot Coverage	Minimum Lot Width	Corner Width	Front Yard Setback	Min. Rear Yard	Min. Side Yard	Max. Building Height
<b>Residential Zones</b>									
Agricultural - Floodzone	1.33 acres (57,938 sq. ft.) 2.66 acres/2-family	N/A	10%	150' or BCDF 200'/2-family	200'	45'-200'	45' 25'/5' <sup>a</sup>	15' 10'/5' <sup>a</sup>	35'
Agricultural - Rural Residential	1.33 acres (57,938 sq. ft.)	N/A	10%	150'	200'	45'-200'	45' 5' <sup>a</sup>	15' 5' <sup>a</sup>	35'
Residential Single-Family (no public sewers)	1.0 acres (43,560 sq. ft.)	100' lot width (32,670 sq. ft. lot)	18% <sup>1</sup> 13% <sup>2</sup>	125'	200'	45'-100'	45' 5' <sup>a</sup>	12.5' 5' <sup>a</sup>	35' 16' <sup>a</sup>
Residential Single-Family (public sewers)	.459 acres (20,000 sq. ft.)	100'x150' lot size (see text for desc.)	18% <sup>1</sup> 13% <sup>2</sup>	125'	125'	45'-100'	45' 5' <sup>a</sup>	12.5' 5' <sup>a</sup>	35' 16' <sup>a</sup>
<b>Commercial Zones</b>									
Restricted Business	20,000 sq. ft. 1.0 acre (no public sewers)	80% Lot Coverage	70%	100'	300'	80'	25' 10' <sup>a</sup> 45' <sup>r</sup>	25' 10' <sup>a</sup> 45' <sup>r</sup>	35'
Commercial	20,000 sq. ft. 1.0 acre (no public sewers)	80% Lot Coverage	70%	100'	300'	80'	25' 10' <sup>a</sup> 45' <sup>r</sup>	25' 10' <sup>a</sup> 45' <sup>r</sup>	45'
Major Arterial	20,000 sq. ft. 1.0 acre (no public sewers)	85% Lot Coverage	75%	100'	300'	135' from CL of Transit	25' 10' <sup>a</sup> 45' <sup>r</sup>	25' 10' <sup>a</sup> 45' <sup>r</sup>	45'
<b>Mixed-Use Zones</b>									
TND Hollow	15,000 sq. ft. (public sewers) 1.0 acre (no public sewers)	85% Lot Coverage	60%	70'	120'	10'	25'	10'	40'
TND Harris Hill									
TND Center									
TND Swormville									
TND Wolcottsburg									
<b>Industrial Use Zones</b>									
Industrial Business Park	1.0 acre	85% Lot Coverage	75%	125'	200'	80'	25' 100' <sup>r</sup>	20' 100' <sup>r</sup>	45'

<sup>r</sup>- Distance from a residential zone

\*- See text for other restrictions or incentives that may apply


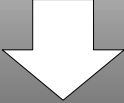
<sup>a</sup>- accessory structure setbacks

Note: Lots of record are described in the zoning district section

Article 3	ZONING DISTRICTS
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**229-24 DISTRICT ENUMERATED**

The Zoning Districts of this Local Law establish development provisions on a sliding scale from more rural to more urban. Together, the districts create the fabric of the town.

 <b>More Rural</b> <b>More Urban</b> 	A-FZ A-RR RSF  TND CFD RB C MA I	Agricultural Flood Zone Agricultural Rural-Residential Residential Single-Family Sewered Lots Unsewered Lots  Traditional Neighborhood District Community Facilities District Restricted Business Commercial Major Arterial Industrial Business Park
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CH-O OSD-O	Clarence Hollow – Overlay Zone Open Space Design Development– Overlay Zone  B. The Overlay Districts provide a set of provisions applicable to all properties within the overlay, regardless of the underlying regulating district, and are aimed at creating and maintaining a desired character.
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**229-25 SCHEDULE I – USE CONTROLS, SCHEDULE II – LOT DIMENSIONS & AREA REQUIREMENTS**

<i>Article 4</i>	AGRICULTURAL FLOOD ZONE	A-FZ
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**229-26 INTENT**

Agricultural zoning districts are intended to accommodate primarily agricultural operations and associated low-density residential development. Lot size and density is primarily determined by soil quality and the location of the Black Creek Density Floodway (BCDF). The intent of this district is to maintain a rural boundary, preserving agricultural and forested areas of Clarence.

**229-27 PERMITTED USES**

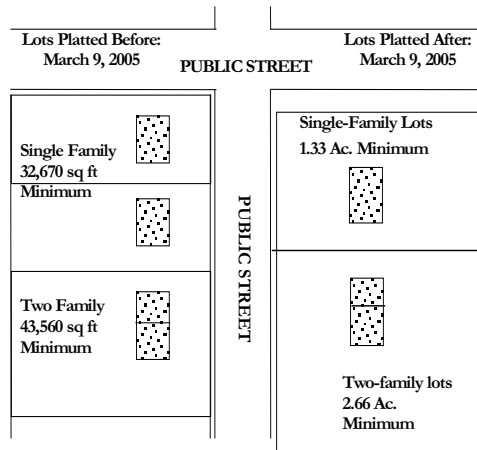
- |                           |                                 |                          |
|---------------------------|---------------------------------|--------------------------|
| Agricultural Operations   | Golf Courses                    | Home Occupations         |
| Single-Family Homes       | Churches (under 10,000 sq. ft.) | Riding Academies         |
| Two-Family Homes          | Parks                           | Cemeteries               |
| Modular Homes             | Playgrounds                     | Greenhouses or nurseries |
| Public utility facilities | Schools                         |                          |

**229-28 USES PERMITTED WITH A SPECIAL EXCEPTION USE PERMIT**

- |                                |   |
|--------------------------------|---|
| Bed and Breakfast Inns         | Telecommunications Towers (Chapter 173 of the Code of the Town of Clarence) |
| Expanded home occupations      | Beauty Salons or Parlors  |
| Rooming or Boarding Houses     | Secondary living units  |
| Churches (over 10,000 sq. ft.) |   |

**229-29 LOT AREA PROVISIONS**

Lots platted prior to March 9, 2005 shall be a minimum of 32,670 sq. ft. for single-family lots and 1 acre for two-family lots, subject to increase by the Erie County Health Dept. All lots within the Black Creek Density Floodway must meet the requirements of the Flood Damage Prevention Law (Chapter 107 of the Code of the Town of Clarence).

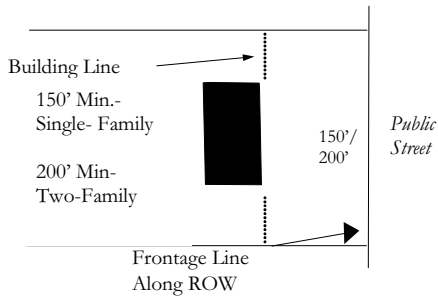


All lots platted after March 9, 2005 shall adhere to the following lot size provision: Minimum: 1.33 acres for single-family lots and 2.66 acres for two-family lots, subject to increase by the Erie County Health Dept. All lots located within the Black Creek Density Floodway shall conform to the requirements of the Flood Damage Prevention Law (Chapter 107 of the Code of the Town of Clarence).

<i>Article 4</i>	AGRICULTURAL FLOOD ZONE	A-FZ
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**229-30 LOT WIDTH**

A. All lots located within the Black Creek Density Floodway must meet the minimum requirements of the Flood Damage Prevention Law (Chapter 107 of the Code of the Town of Clarence)



B. All single-family lots must front along a minimum of one hundred fifty feet (150') of publicly dedicated right-of-way. All two-family lots must front along a minimum of two hundred feet (200') of publicly dedicated right-of-way.

C. The required minimum lot width at the building line shall be one hundred fifty feet (150') for single-family homes and two hundred feet (200') for two-family homes. Corner lots must front along a minimum of two hundred feet (200') along both publicly dedicated right-of-ways.

D. Exception: Lot widths for lots platted prior to the date of adoption of this law shall be of sufficient width to accommodate a home and required side yard setbacks in accordance with the Flood Damage Prevention Law, Chapter 107 of the Code of the Town of Clarence.

**229-31 SETBACKS**



Setbacks shall be equal to the average setbacks for principal buildings on the same side of the street within five hundred feet (500'). Building and street facades shall extend parallel to front property lines. The Zoning Board of Appeals shall determine frontage for irregularly shaped lots.

Where there are no such buildings, minimum setbacks shall be as follows:

Front	45–200 (max.) ft.
Side	15 ft.
Rear	45 ft.

No front yard setback line established by the Code Enforcement Officer may vary more than ten feet (10') except upon application and approval of the Zoning Board of Appeals.

Side yards, which abut a public or private street, shall have the same minimum setback as the front yard setback. Minimum side yards for side load garages shall extend no closer than twenty-eight feet (28') to the side lot line. There shall be a minimum of a three-foot (3') setback requirement from any lot line along a driveway for required drainage.

Article 4	AGRICULTURAL FLOOD ZONE	A-FZ
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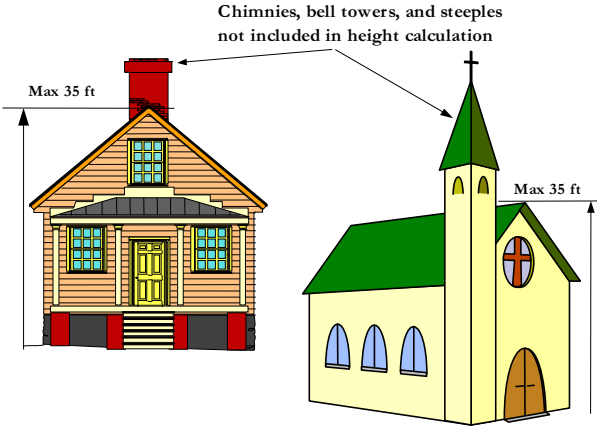
**229-32 BUILDING SIZE**

The minimum building size for principal structures shall be one thousand square feet (1,000 sq. ft.) for a single-family unit. The minimum building size for a two-family unit shall be two thousand square feet (2,000 sq. ft.).

**229-33 BUILDING HEIGHT**

The vertical distance from the mean elevation of the finished grade of the frontage street, to the ridge line. All uses will be no more than thirty-five feet (35').

Exceptions: Roof equipment and structures not intended for human occupancy and which are necessary to the building upon which they are placed.



**229-34 ACCESSORY STRUCTURES**

The following uses are permitted within outbuildings:

- Agricultural Support Structures
- Greenhouses                      Barns
- Parking facilities                Saunas
- Gazebos                            Workshops
- Pool houses                        Conservatories
- Equipment Enclosures        Permitted Home Occupations

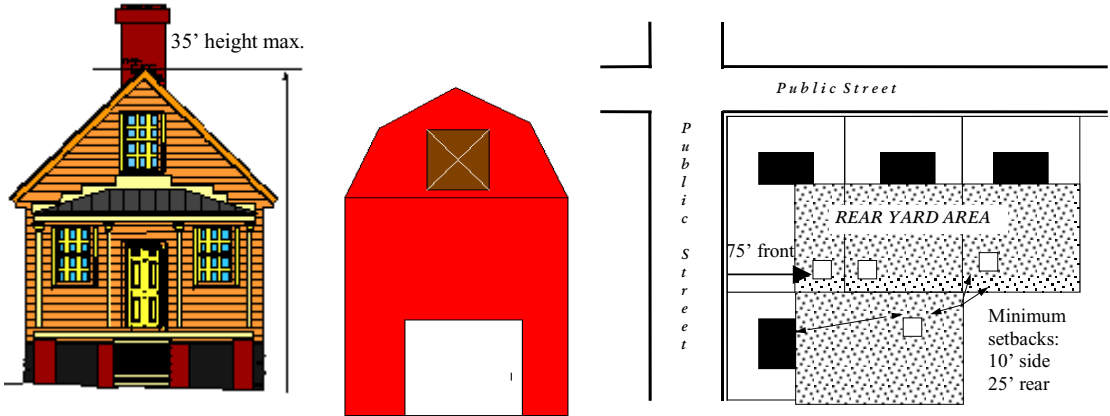
Trash containers, mechanical equipment and outdoor storage shall be located only within the rear yard or side yard and be screened from public view.

Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, school bus shelters, and pump covers may be placed in any front, side or rear yard. Doghouses may be placed in rear yards only.

A principle structure must be erected before an accessory structure will be permitted on any lot. Accessory structures may only occur in side and rear yards.

- Maximum height: 35 ft.
- Minimum side yard setback: 10 ft., 5 ft. if 200 sq. ft. or less.
- Minimum rear yard setback: 25 ft., 5 ft. if 200 sq. ft. or less.
- Minimum front yard setback: 75 ft., except private garages.
- Minimum setback from principal structure: 6 ft.

<i>Article 4</i>	AGRICULTURAL FLOOD ZONE	A-FZ
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**229-35 LOT COVERAGE**

The maximum building footprint for any residential lot shall not exceed ten percent (10%) of the entire lot area. The building footprint shall include all aspects of the principal structure under a roof and over a foundation, excluding exposed porches and including attached garages. This footprint shall not include any accessory buildings or detached garages, which meet requirements as herein stipulated.

<i>Article 5</i>	AGRICULTURAL RURAL RESIDENTIAL	A-RR
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**229-36 INTENT**

Agricultural Rural Residential Districts are intended to accommodate low-density residential development. Lot size and density is primarily determined by access to public or community water and sewer infrastructure. The intent of this district is to maintain a rural boundary, preserving agricultural, open space, and forested areas on the perimeter of Clarence in order to transition from vacant or idle land to rural residential uses consistent with the planned growth objectives of the Town.

**229-37 PERMITTED USES**

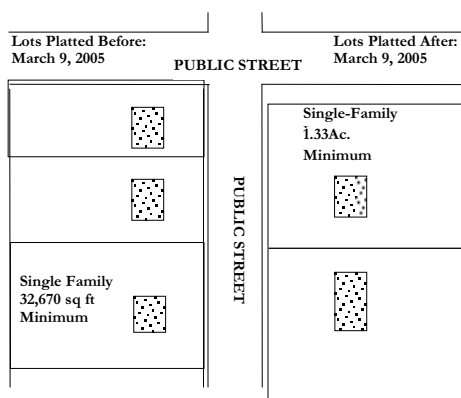
- |                                   |                                 |                          |
|-----------------------------------|---------------------------------|--------------------------|
| Single-Family Homes               | Golf Courses                    | Schools                  |
| Modular Homes                     | Churches (under 10,000 sq. ft.) | Riding Academies         |
| Home Occupations                  | Parks                           | Cemeteries               |
| Customary Agricultural Operations | Playgrounds                     | Greenhouses or nurseries |

**229-38 USES PERMITTED WITH A SPECIAL EXCEPTION USE PERMIT**

- |                           |                                |
|---------------------------|--------------------------------|
| Bed and Breakfast Inns    | Rooming or Boarding Houses     |
| Turf farming              | Telecommunications Towers      |
| Expanded home occupations | Secondary living units         |
| Beauty Salon or Parlor    | Churches (over 10,000 sq. ft.) |

**229-39 LOT PROVISIONS**

Lots platted prior to March 9, 2005 shall be a minimum of 32,670 sq ft. for single-family lots (subject to increase by the Erie County Health Department).



All lots platted after March 9, 2005 shall adhere to the following lot size provisions:

Minimum: 1.33 acres for a single-family lot. (subject to increase by the Erie County Health Department)

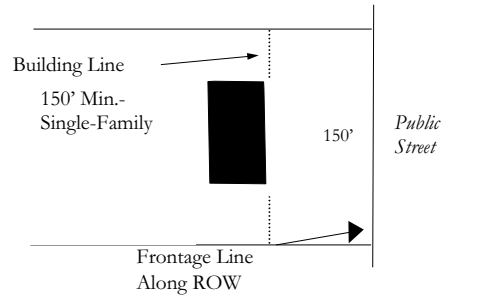
<i>Article 5</i>	AGRICULTURAL RURAL RESIDENTIAL	A-RR
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**229-40 LOT WIDTH**

All lots must front along a minimum of 150 ft. of publicly dedicated R-O-W in order to be built on. Corner lots must have a minimum of 200 ft. of publicly dedicated R-O-W on each public street.

Minimum lot width at building line: 150 ft. for single-family homes.

(Exception: For any lot platted and recorded in the Erie County Clerk's Office prior to March 9, 2005, minimum lot width shall be one hundred feet (100').

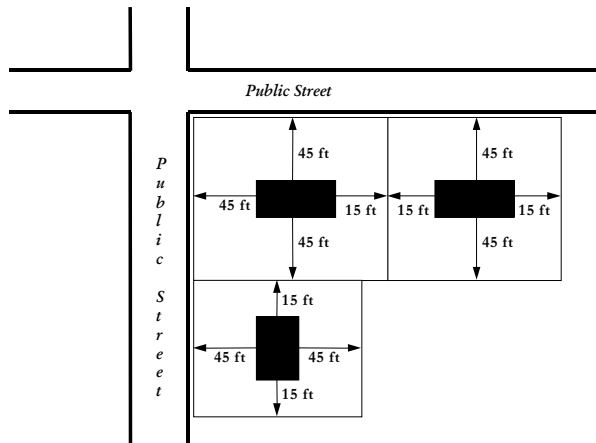


**229-41 SETBACKS**

Setbacks shall be equal to the average setbacks for principal buildings on the same side of the street within five hundred feet (500'). Building and street facades shall extend parallel to front property lines. The Zoning Board of Appeals shall determine frontage for irregularly shaped lots.

Where there are no such buildings, minimum setbacks shall be as follows:

- Front 45-200 ft. (max.)
- Side 15 ft.
- Rear 45 ft.



No front yard setback line established by the Code Enforcement Officer may vary more than ten feet (10') except upon application and approval of the Zoning Board of Appeals. Side yards, which abut a public or private street, shall have the same minimum setback as the front yard setback. Minimum side yards for side load garages shall extend no closer than twenty-eight feet (28') to the side lot line. There shall be a minimum of a three-foot (3') setback requirement from any lot line along a driveway for required drainage.

<i>Article 5</i>	AGRICULTURAL RURAL RESIDENTIAL	A-RR
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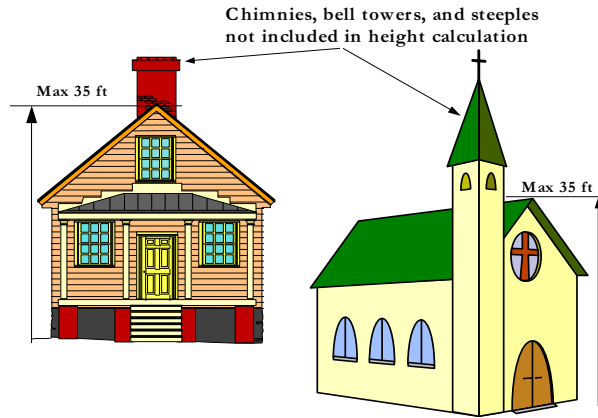
**229-42 BUILDING SIZE**

The minimum building size for principal structures shall be one thousand square feet (1,000 sq. ft.) for a single-family unit.

**229-43 BUILDING HEIGHT**

The vertical distance from the mean elevation of the finished grade of the frontage street, to the ridgeline.  
All uses - 35 ft.

Exceptions: Roof equipment and structures not intended for human occupancy and which are necessary to the building upon which they are placed.



**229-44 ACCESSORY STRUCTURES**

The following uses are permitted within outbuildings:

- |                                 |                            |
|---------------------------------|----------------------------|
| Parking facilities              | Saunas                     |
| Gazebos                         | Workshops                  |
| Pool houses                     | Conservatories             |
| Equipment Enclosures            | Permitted Home Occupations |
| Agricultural Support Structures |                            |

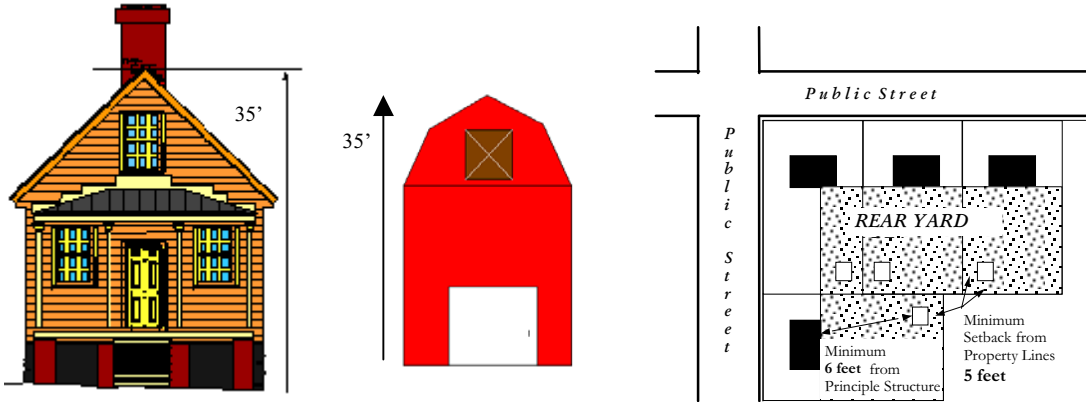
Trash containers, mechanical equipment and outdoor storage shall be located only within the rear yard or side yard and be screened from public view.

Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, pump covers, and school bus shelters may be placed in any front, side or rear yard. Doghouses may be placed in rear yards only.

A principle structure must be erected before an accessory structure will be permitted on any lot. Accessory structures may only occur in side and rear yards.

- Maximum height: 35 ft.
- Minimum side yard setback: 10 ft./ 5 ft. if in rear yard and 200 sq. ft. area or less.
- Minimum rear yard setback: 25 ft./ 5 ft. if in rear yard and 200 sq. ft. area or less.
- Minimum front yard setback: 75 ft., except private garages.
- Minimum setback from principal structure: 6 ft.

<i>Article 5</i>	AGRICULTURAL RURAL RESIDENTIAL	A-RR
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**229-45 LOT COVERAGE**

The maximum building footprint for any residential lot shall not exceed ten percent (10%) of the entire lot area. The building footprint shall include all aspects of the principal structure under a roof and over a foundation, excluding exposed porches and including attached garages. This footprint shall not include any accessory buildings or detached garages, which meet requirements as herein stipulated.

<i>Article 6</i>	<b>RESIDENTIAL SINGLE-FAMILY</b>	<b>R-SF</b>
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**229-46 INTENT**

- A. The Residential Single-Family District is designed to promote the health, safety, and general welfare of the town’s neighborhoods as well as providing for their expansion along the same traditional lines with which they were established.
- B. It is anticipated that these regulations will ensure that new development is consistent with the adopted comprehensive plan.
- C. The residential single-family district is envisioned to contain any future large-scale developments and future sewer districts with large areas of open space preservation to maintain a more open suburban character.

**229-47 A. PERMITTED USES**

Single-Family Dwellings	Public Service Facilities
Home Occupations	Parks or playgrounds
Cemeteries	Schools
Pre-existing agricultural operations	Churches (under 10,000 sq. ft.)
Public utility facilities	

- B. Customary agricultural uses within the Residential Single-Family District shall be permitted only on lots that measure over five acres (5 ac.) in size. Any agricultural use pre-existing the adoption of this law that occurs on lots that measure less than five acres (5 ac.) in size may continue as a pre-existing non-conforming use.

**229-48 USES PERMITTED WITH A SPECIAL EXCEPTION USE PERMIT**

Bed & Breakfast Inns
Expanded home occupations
Telecommunication Towers (Chapter 178 of the Code of the Town of Clarence)
Secondary living units
Churches (over 10,000 sq. ft.)

**229-49 LOT AREA PROVISIONS**

LOT	DESCRIPTION	MINIMUM LOT SIZE	INCENTIVE LOT SIZE
	Sewered Large Lot	20,000 sq. ft.	15,000 sq. ft.
	Unsewered Large Lot	43,560 sq. ft.	32,670 sq. ft.

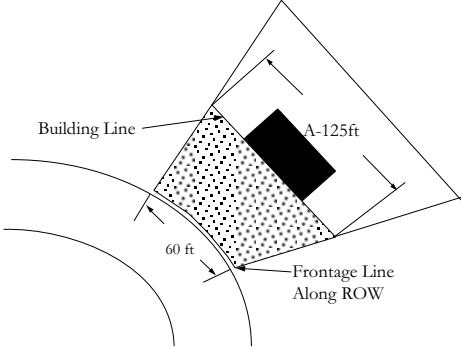
Incentive lots in this district can only be considered when twenty-five percent (25%) of the parent parcel is preserved as open space in perpetuity (for example: via a permanent conservation easement recorded in the property deed). Incentive lots may be granted only by the Town Board for major subdivisions and by the Planning Board for minor

<i>Article 6</i>	<b>RESIDENTIAL SINGLE-FAMILY</b>	<b>R-SF</b>
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subdivisions. To be considered for an incentive lot size, the minimum parent parcel lot size must be at least five acres (5 ac.). All other district regulations shall apply.

**229-50 LOT WIDTH**

- A. All lots must front along a minimum of one hundred twenty-five feet (125') of publicly dedicated road. Exception: Lots on public roads with curvature in excess of thirty (30) degrees must maintain a minimum sixty feet (60') of public road frontage.
- B. Corner lots must have a minimum of 200 ft. of publicly dedicated R-O-W on each public street. In areas served by public sewer service, the minimum may be reduced to 125 ft. of publicly dedicated R-O-W on each public street.
- C. Minimum lot width at the building line:
  - Standard RS-F Lot – 125'
  - Incentive Lot – 100'
- D. For any lot platted prior to the adoption of this law and recorded in the Erie County Clerk's Office prior to the date of adoption, minimum lot width shall be one hundred feet (100').



**229-51 BUILDING SIZE**

No building or buildings exclusive of accessory buildings, porches, entries, garages, and terraces, shall contain less than one thousand three hundred fifty square feet (1,350 sq. ft.) for a one story building, nor less than nine hundred square feet (900 sq. ft.) of usable first floor living space if more than one story and a total of at least one thousand five hundred square feet (1,500 sq. ft.) of usable space in all.

**229-52 SETBACKS**

- A. Front yard:
  - 1) On lots with an established building setback line shown on a filed subdivision plat, no building or accessory building shall extend closer to a street or highway right-of-way than said established building setback line, nor shall any dwelling be erected or otherwise located so that the front building line lies more than ten feet (10') from the established building setback line.
  - 2) On lots in undeveloped areas not shown on a filed subdivision plat, no building or accessory building shall extend closer to the street or highway right-of-way than forty-five feet (45'), nor shall any dwelling be erected or otherwise located so that the front building line lies more than one hundred feet (100') from the street or highway right-of-way.

<i>Article 6</i>	RESIDENTIAL SINGLE-FAMILY	<b>R-SF</b>
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3) On lots in developed areas not shown on a filed subdivision plat, no building or accessory building shall extend closer to a street or right-of-way than a building line established by the Zoning Code Enforcement Officer after review and examination of the existing structures within five hundred feet (500') of the proposed building. Said line shall in no case be closer than thirty-five feet (35') from the street or highway right-of-way. No building in any such developed area shall be erected or otherwise located with its front building line more than ten feet (10') behind the building line so established by the Zoning Code Enforcement Officer. The determination of the Zoning Code Enforcement Officer establishing a building line may, upon proper application, be subjected to review and modification by the Zoning Board of Appeals (see chapter 7).

4) The standard minimum setbacks shall be as follows:

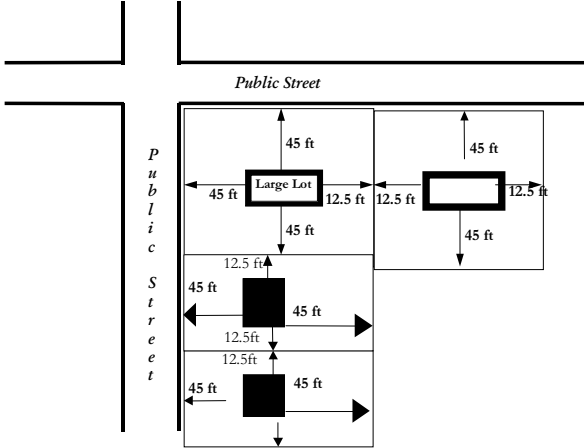
- Front - 45'-100'
- Side - 12.5'
- Rear - 45'

**B. Side yard:**

Side yards, which abut a public or private street, shall have the same minimum setback as the front yard setback. Minimum side yards for side load garages shall extend no closer than twenty-eight feet (28') to the side lot line. There shall be a minimum of a three-foot (3') setback requirement from any lot line along a driveway for required drainage. No principal building, exclusive of eaves or cornices, shall extend closer than twelve and one-half feet (12.5') to either side lot line.

**C. Rear yard:**

No principal building shall extend closer than forty-five feet (45') to the rear lot line, except that on a lot extending through from street to street or highway to highway, the front yard requirements on each street or highway shall be observed.



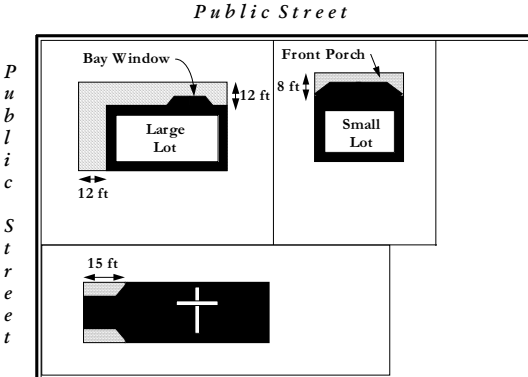
**229-53 ENCROACHMENTS**

A. Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways shall be permitted to extend within the minimum front setback, to a maximum of twelve feet (12'). Open patios and decks in rear yards may extend up

<i>Article 6</i>	RESIDENTIAL SINGLE-FAMILY	R-SF
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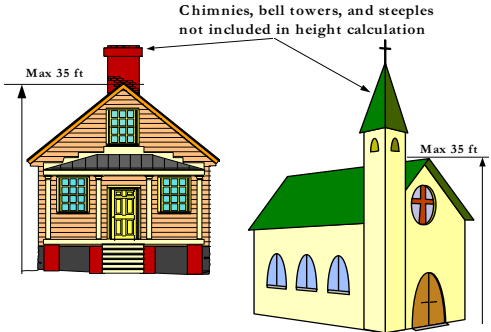
to twelve feet (12') into the setback area.

- B. Side yards that abut a public street shall be treated as described above. Hedges, garden walls, or fences may be built on property lines or as a continuation of building walls.



**229-54 BUILDING HEIGHT**

- A. The vertical distance from the mean elevation of the finished grade relative to the frontage street, to the ridgeline of the structure.
- 1) All uses - 35 ft.
- B. Exceptions:
- 1) Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.



**229-55 ACCESSORY STRUCTURES**

- A. The following uses are permitted within outbuildings:
- |                      |                |
|----------------------|----------------|
| Parking facilities   | Saunas         |
| Gazebos              | Workshops      |
| Poolhouses           | Conservatories |
| Equipment Enclosures | Sheds          |

\*Agricultural Support Structures (see below)

- B. Trash containers, mechanical equipment and outdoor storage shall be located only within the rear yard and be screened from public view.
- C. Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, pump covers, and school bus shelters may be placed in any front, side or rear yard. Doghouses may be placed in rear yards only.

Article 6	RESIDENTIAL SINGLE-FAMILY	R-SF
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D. Attached accessory structures shall not exceed 40% of the total area of the principal structure or 960 sq. ft., whichever is smaller. Detached accessory structures shall not exceed 720 sq. ft. At no time shall the total area of an accessory use exceed 20% of the rear yard. Such uses shall only be permitted in the rear and side yards.

E. Minimum side and rear setbacks: 10'/5' if in rear yard.

Minimum setback from principal structure: 6'  
Maximum height: 16'

F. Accessory structures with a total area exceeding four hundred square feet (400 sq. ft.) shall be constructed using materials and features similar to the principal structure.

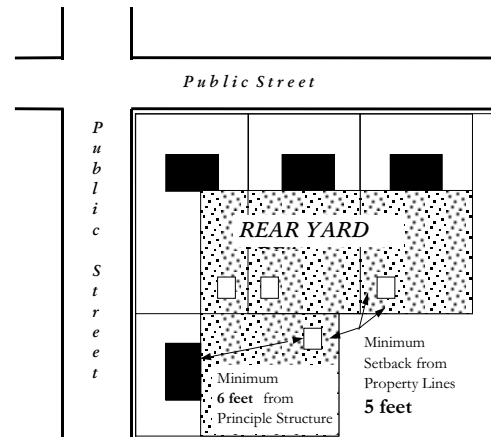
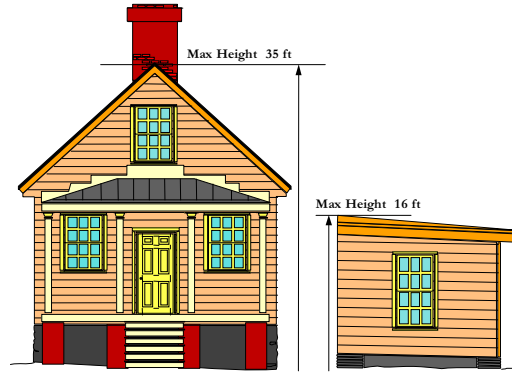
G. Outbuildings in rear yards that abut a publicly dedicated street must have a minimum setback equal to the front yard setback.

H. Only one private garage is allowed whether attached or detached and two accessory buildings up to two hundred square feet (200 sq. ft.) on any one lot where a principal building exists.

I. No overhead door shall exceed 9' in height.

J. No accessory building may be built without a principal building on the lot.

K. Customary agricultural outbuildings shall be permitted on any lot that has a permitted agricultural operation. There shall be no limitation on the size of an agricultural outbuilding, but they shall meet all other regulations in this section.



**229-56 LOT COVERAGE**

The maximum building footprint for any residential lot shall not exceed eighteen percent (18%) for a single-story structure and thirteen percent (13%) for a two-story structure of the entire lot area for any principal structure. The building footprint shall include all aspects of the principal structure under a roof and over a foundation, excluding exposed porches and including attached garages. This footprint shall not include any accessory buildings or detached garages, which meet requirements as herein stipulated.

<i>Article 7</i>	TRADITIONAL NEIGHBORHOOD	<b>TND</b>
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**229-57 INTENT**

The purpose of this district is to require the usage of traditional neighborhood design criteria within the boundaries of the district in order to implement the principals of the Town’s adopted comprehensive plan. This district is intended to achieve the following:

- A. Provide incentives to encourage the adaptive reuse of existing structures.
- B. Allow and encourage a mixture of uses and mixed-use structures.
- C. Accomplish and continue a sense of community.
- D. Provide a walkable, pedestrian friendly environment.
- E. Respect and preserve unique natural features within the district.
- F. Provide design regulations that encourage compatible building arrangements, bulk, form, character, and landscaping to establish a livable, harmonious, and diverse environment.
- G. Discourage the demolition of existing structures that posses significant historic or other essential elements that contribute to the character of the district.
- H. Create a small town, historic style business district that limits large scale, out of character commercial developments.

**229-58 PERMITTED USES**

The following uses are allowed as vested rights in facilities measuring no more than ten thousand square feet (10,000 sq. ft.) in gross area:

- |  |                             |
|--|-----------------------------|
| Personal service shops                   | Professional offices        |
| Small retail shops                       | Diners or small restaurants |
| Banks                                    | Churches                    |
| Mixed-use buildings                      | Single-family residences    |
| Community facilities                     | Two-family residences       |
| Second-floor multi-family dwelling units | Bed & Breakfast Inns        |

**229-59 USES PERMITTED WITH A SPECIAL EXCEPTION USE PERMIT**

The following uses are only allowed if they meet the Town’s Special Exception Use Permit requirements and any overlay zoning requirements:

- A. Any permitted use in a new structure measuring between 10,000-30,000 sq. ft in gross area.
- B. Expansions of existing structures requiring site plan approval that will result in a cumulative structure measuring between 10,000-30,000 sq. ft. in gross area.
- C. Drive-thru establishments.
- D. Multi-family dwelling units (Max. 8 units/ac.)
- E. Motor vehicle, equipment and implement sales and services.

<i>Article 7</i>	TRADITIONAL NEIGHBORHOOD	<b>TND</b>
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**229-60 LOT AREA PROVISIONS**

No lot shall be less than fifteen thousand square feet (15,000 sq. ft.) if used as a dwelling or dwellings, nor less than five thousand square feet (5,000 sq. ft.) area per unit if used for multiple-family residential. Commercial lots must be a minimum of eight thousand four hundred square feet (8,400 sq. ft.) area. For all non-sewered lots in this district, the Erie County Health Department shall set the minimum requirements for on-site septic system installation and maintenance.

**229-61 LOT DIMENSIONS**

No lot shall be less than seventy feet (70') in width and one hundred twenty feet (120') in depth. Corner lots shall be no less than one hundred twenty feet (120') on each street. Non-sewered lots must meet a minimum lot width of one hundred fifty (150') and two hundred twenty feet (220') in depth.

**229-62 BUILDING SIZE**

- A. No building or buildings exclusive of accessory buildings, porches, entries, garages, and terraces, shall contain less than eight hundred square feet (800 sq. ft.) gross floor area. No building or buildings exclusive of accessory buildings, porches, entries, garages, and terraces, shall contain more than ten thousand square feet (10,000 sq. ft.) gross floor area, if used as a permitted use nor more than thirty thousand square feet (30,000 sq. ft.) gross floor area, if used as a special exception use.
- B. Buildings used in whole or in part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than nine hundred (900) square feet of usable living space if a one-story building used as a one-family dwelling, nor less than six hundred (600) square feet of usable first floor living space if more than one story, provided that no such building shall contain a total of less than one thousand square feet (1,000 sq. ft.) of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than six hundred (600) square feet of usable living space for each one-bedroom family unit or apartment, seven-hundred twenty (720) square feet of usable living space for each two-bedroom family unit or apartment and one-thousand (1,000) square feet of usable living space for each three-bedroom family unit or apartment.

**229-63 SETBACKS**

- A. Setbacks shall be as follows:

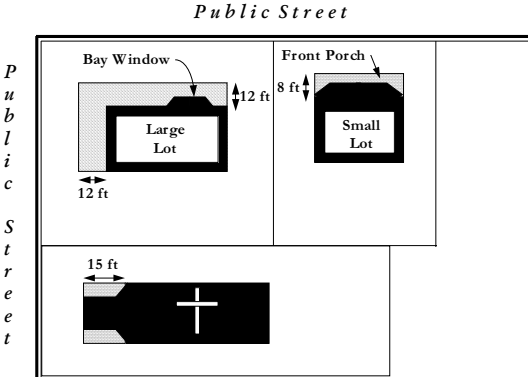
Yard	Distance (in feet)
Front	10
Side	10
Rear	25

<i>Article 7</i>	<b>TRADITIONAL NEIGHBORHOOD</b>	<b>TND</b>
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B. All new buildings shall adhere to these setback lines for required yard areas. The established build-to-line is ten feet (10'). Where there is a pre-existing building setback line established, principal structures may vary up to thirty-five feet (35') from the established build-to-line as measured from structures within three hundred feet (300') of the proposed building. In no case may the front yard setback for a principal structure exceed forty-five feet (45') from the front property line.

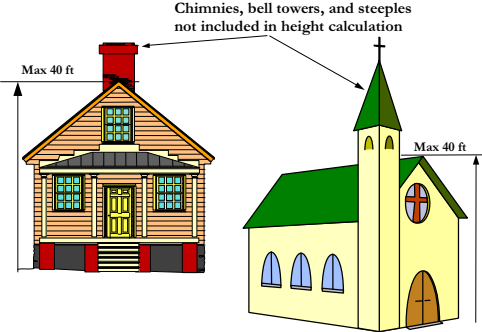
**229-64 ENCROACHMENTS**

- A. Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways shall be permitted to extend within the minimum front setback, to a maximum of twelve feet (12'). Open patios and decks in rear yard may extend up to twelve feet (12'). In no case shall the encroachment enter a public highway right-of-way, or property line.
- B. Side yards that abut a public street shall be treated as described above. Hedges, garden walls, or fences may be built on property lines or as a continuation of building walls. Buildings should avoid long monotonous, uninterrupted walls or roof planes. Blank, windowless walls are generally not allowed along street frontage.



**229-65 BUILDING HEIGHT**

- A. The vertical distance from the mean elevation of the finished grade relative to the frontage street, to the ridgeline of the structure.
  - 1) All uses - 40 ft. Maximum
- B. Exceptions:
  - 1) Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.



**229-66 ACCESSORY STRUCTURES**

Any commercial accessory structure that is placed in this district must be approved by the Town Board. Attached residential accessory structures shall not exceed 40% of the total area of the principal structure or 960 sq. ft., whichever is smaller. Any detached residential accessory structure must not exceed seven hundred twenty square feet (720 sq. ft.) and shall be placed no closer than five feet (5') to any side or rear lot line if wholly within the rear yard. Otherwise, the principal building setbacks shall apply.

<i>Article 7</i>	TRADITIONAL NEIGHBORHOOD	<b>TND</b>
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**229-67 DESIGN STANDARDS**

- A. General
  - 1. All development and redevelopment requiring site plan approval must meet the requirements of any zoning overlay that exists in the area of development.
  - 2. The scale, proportions, massing and detailing of any proposed buildings or major renovation shall be in proportion to the scale, proportion, massing and detailing in the area.
  - 3. Connections shall be provided from the site to the existing sidewalk system. Pedestrian and bicycles shall be accommodated in the site design.
- B. Parking Lots
  - 1. All parking shall be located at the side or rear of the building. No parking shall be located in the front yard of the building.
  - 2. If the parking is located in the side yard, it must be partially screened from the road by low walls, fences or hedges as approved by the Town's Landscape Committee.
  - 3. Parking lots shall not abut street intersections.
  - 4. Adjacent parking lots shall have internal vehicular connections.
  - 5. On-street parking directly fronting the lot shall count toward fulfilling the parking requirements of that lot.
- C. Architecture
  - 1. The architectural style of all new structures must be reviewed and approved by the Town Board and may be referred to the Planning Board for its review and recommendation.
  - 2. All proposed structures must conform to any overlay zoning requirements.
  - 3. Due to the visibility of the district, architectural compatibility is necessary in order to visually connect development and allow for proximity of varied uses.
  - 4. Materials- Walls shall be clad in stone, brick, marble, cast concrete, vinyl siding, drivit, and hardiboard or other cement paneling. Metal paneling is prohibited.
  - 5. Configurations- Two wall materials may be combined (horizontally) on one facade. The heavier material must be below. Roof lines shall not be flat.
  - 6. Techniques- All rooftop equipment shall be enclosed in the building material that matches the structure or is visually compatible with the structure.

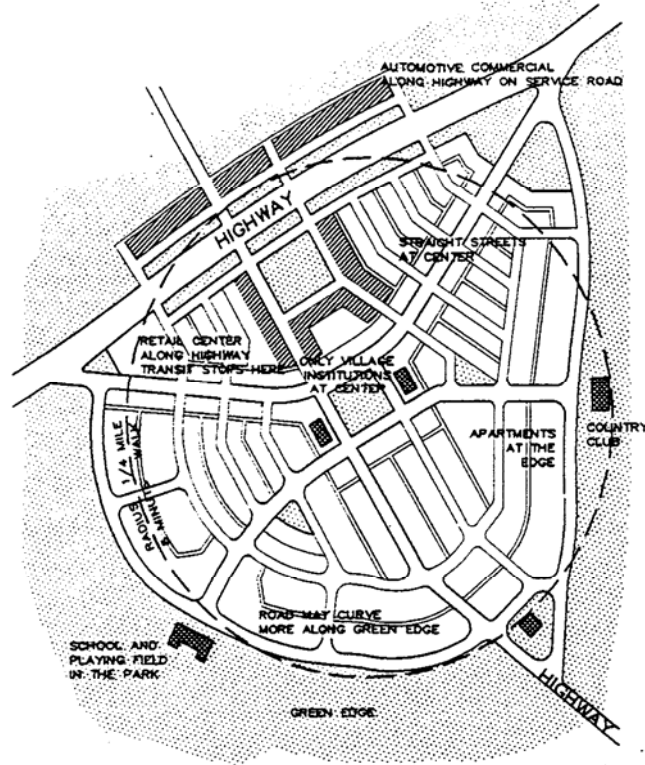
**229-68 LOT COVERAGE**

- A. All buildings and impervious surfaces including, but not limited to, parking areas and public or private drives may not cover more than sixty percent (60%) of a project site. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example: via a permanent easement recorded in the deed) the lot coverage requirements may be increased to eighty-five percent of the lot (85%).

B. The Rural Neighborhood

- 1) Scale:  
.5 to 1 mile across
- 2) An example of a TND in the countryside is called a hamlet or village.
- 3) Within a hamlet or village the following land uses are arranged to service the needs of the resident population in a convenient walking environment:

Open space, civic buildings, low and high density residential, retail/commercial, business/workplace, and parking.



<i>Article 8</i>	COMMUNITY FACILITIES	<b>CF</b>
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**229-69 INTENT**

The intent of this district is to allow for the use and continued development of publicly owned and non-profit institutional property.

**229-70 PERMITTED USES**

Facilities may include churches, parks, governmental offices, golf courses, nature preserves, public or private schools, recreational trails, cemeteries, public utility facilities, and telecommunication towers (Chapter 173 of the Code of the Town of Clarence).

**229-71 DEVELOPMENT PROVISIONS**

- A. In general, buildings and structures within the Community Facilities District should match the character of the surrounding land uses.
- B. There shall be no minimum lot size standard in this zoning classification.
- C. The minimum development setbacks for principal structures shall be as follows:
  - 1. Front (defined as main entrance): 80 Feet
  - 2. All other setbacks (side and rear): 25 Feet
  - 3. Maximum height: 35 Feet
    - a. Exceptions:
      - Roof equipment not intended for human occupancy and which is Necessary to the structure upon which it is placed, and steeples, or spires and bell towers

**229-72 DESIGN STANDARDS**

- A. Internal setbacks for buildings shall be such that circulation of auto and pedestrian traffic is accommodated and all fire safety issues are addressed.
- B. Internal buildings shall be laid out in the form of quadrangles or other well-defined open areas to give prominence to important structures and to allow for gathering and pedestrian circulation.
- C. All parking required by the uses in this district shall be provided on-site and in sufficient number not to require on-street parking or encroachment on adjacent property.
- D. Parking areas shall not encroach into any required development setback and shall be interconnected within the property.
- E. Trash containers, storage areas, loading areas and mechanical equipment shall be screened from public view.

<i>Article 8</i>	COMMUNITY FACILITIES	<b>CF</b>
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**229-73 ARCHITECTURAL STANDARDS**

Principal structures shall be built so that they terminate a vista, where possible, and shall be of sufficient design to create visual anchors for the property. All principal structures on a property shall maintain a consistent architectural style.

**229-74 ACCESSORY STRUCTURES**

A. The following are permitted accessory structures/uses:

Parking facilities	Gazebos	Recreational facilities
Utility sheds	Pole barns	Greenhouses

B. No accessory buildings designed, intended or used for community facility purposes shall extend closer than twenty-five feet (25') to any side or rear lot line of any residential lot used wholly for residential purposes, nor closer than twenty-five feet (25') to any residential district boundary, nor closer than ten feet (10') to any side or rear lot line wholly within any commercial zoning district. Accessory buildings lying wholly to the rear of the principal buildings shall not extend closer than ten feet (10') to the side or rear lot line, provided these lines do not designate a residential district boundary or are in common with a lot used wholly for residential purposes.

<i>Article 9</i>	<b>RESTRICTED BUSINESS</b>	<b>RB</b>
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**229-75 INTENT**

The intent of this district is to allow for the continued and future use, expansion, and new development of professional offices and similar less intensive business uses. The regulations are designed to be more compatible with residential areas of the town and are intended to be less traffic generating than retail businesses. Professional office development is encouraged along the Sheridan Drive corridor, northern Transit Road, and small sections of Wehrle Drive and Bergtold Road. As most of the Restricted Business Districts are located outside of areas serviced by public sewers, designs should reflect a more open character.

**229-76 PERMITTED USES**

The following list of uses are allowed as vested rights in structures measuring up to 10,000 square feet in area or a cumulative total of 30,000 square feet of building area on an individual property:

- |                      |                           |
|----------------------|---------------------------|
| Single-family homes  | Two-family homes          |
| Professional offices | Mortuary/Funeral homes    |
| Nursing homes        | Medical clinics           |
| Bed & Breakfasts     | Community facilities      |
| Home occupations     | Public utility facilities |
| Day care centers     | Beauty salons             |

**229-77 USES PERMITTED WITH SPECIAL EXCEPTION USE PERMITS**

- A. Any permitted use that involves a structure in excess of 10,000 square feet or a cumulative total of 30,000 square feet of building area on an individual property and the following list of uses:
1. Telecommunications Towers (Chapter 173 of the Code of the Town of Clarence)
  2. Multiple-Family Dwellings
  3. Bank or Financial Institution
  4. Parking Facilities

**229-78 ACCESSORY STRUCTURES**

- A. Permitted Accessory Structures:

- |                          |                                 |
|--------------------------|---------------------------------|
| Private Garages          | Barns                           |
| Sheds                    | Fences/Walls                    |
| Enclosures for dumpsters | Private recreational facilities |

- B. No accessory buildings designed, intended or used for business purposes shall extend closer than twenty-five feet (25') to any side or rear lot line of any residential lot used wholly for residential purposes, nor closer than twenty-five feet (25') to any residential district boundary, nor closer than ten feet (10') to any side or rear lot line wholly within the Restricted Business District. Accessory buildings lying wholly to the rear of the principal buildings shall not extend closer than ten feet (10') to the side or rear lot line,

<i>Article 9</i>	<b>RESTRICTED BUSINESS</b>	<b>RB</b>
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provided these lines do not designate a residential district boundary or are in common with a lot used wholly for residential purposes.

- C. Private garages, toolhouses and other accessory buildings used wholly in connection with private residence shall extend not closer than ten feet (10') to any side or rear lot line.

**229-79 DEVELOPMENT & DESIGN PROVISIONS**

- A. No lot shall be less than one hundred feet (100') of public road frontage and be at least one hundred twenty feet (120') in depth. Corner lots shall be not less than three hundred feet (300') of public road frontage on each street. If the property has public sewer access, then no lot shall contain less than twenty thousand square feet (20,000 sq. ft.) nor less than five thousand square feet (5,000 sq. ft.) of area per family unit if used for multiple dwellings. If the property has no public sewer access, then no lot shall contain less than 1 acre (43,560 sq. ft.) of land area and be subject to review and approval of the Erie County Health Department or New York State Department of Environmental Conservation for private wastewater treatment permits.
- B. Minimum development setbacks:
  - a. Front Yard: 80 ft. Where there is an established front setback line between adjoining properties, that setback line would apply to the property to a minimum of forty-five feet (45').
  - b. Side Yard: 25 ft.
  - c. Rear Yard: 25 ft.
  - d. Setback to adjoining residential (min): 45 ft.

Any commercial uses shall not be located adjacent to residential uses unless separated by a minimum forty-five foot (45') greenbelt.

Arcades, awnings, and open porches shall be permitted to encroach a maximum of twelve feet (12') into front setbacks and side setbacks.

- C. No principal building shall contain less than eight hundred square feet (800 sq. ft.) of usable floor space. Buildings used in whole or in part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than nine hundred square feet (900 sq. ft.) of usable living space if a one-story building used as a one-family dwelling, nor less than six hundred square feet (600 sq. ft.) of usable first floor living space if more than one story, provided that no such building shall contain a total of less than one thousand square feet (1,000 sq. ft.) of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than six hundred square feet (600 sq. ft.) of usable living space for each one-bedroom family unit or apartment, seven-hundred twenty square feet (720 sq. ft.) of usable living space for each two-bedroom family unit or apartment and one-thousand square feet (1,000 sq. ft.) of usable living space for each three-bedroom family unit or apartment.

<i>Article 9</i>	RESTRICTED BUSINESS	<b>RB</b>
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- D. No structure shall have a height greater than 35 ft.
  - 1) Exceptions:
    - Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.

**229-80 SITE DESIGN STANDARDS**

- A. Internal setbacks for buildings shall be such that circulation of auto and pedestrian traffic is accommodated and all fire and safety issues are addressed.
- B. Internal buildings shall be laid out in the form of quadrangles or other well-defined open areas to give prominence to important structures and to allow for gathering and pedestrian circulation.
- C. All parking required by the uses in this district shall be provided on-site and in sufficient number not to require on-street parking or encroachment on adjacent property.
- D. Parking areas shall not encroach into any required development setback and shall be interconnected within the property. There shall be a minimum forty-five foot (45') greenbelt from any restricted business property to a residentially zoned property.
- E. Trash containers, storage areas, loading and mechanical equipment shall be located within the parking area and shall be screened from public view. Dumpsters shall be properly secured.

**229-81 ARCHITECTURAL STANDARDS**

- A. Principal structures shall be built so that they terminate a vista, where possible, and shall be of sufficient design to create visual anchors for the property. All principal structures on a property shall maintain a consistent architectural style.
- B. Architectural metal paneling approved by the Town Board may be used for wall surfaces provided the metal paneling does not exceed 20% of the wall face.
- C. Materials.
  - 1. Walls shall be clad in stone, brick, marble, approved metal paneling, cast concrete, vinyl siding, drivit, wood, or cement paneling.
  - 2. Roofs shall be clad in slate, sheet metal, corrugated metal, or asphalt shingles.
- D. Techniques.
  - 1. All rooftop equipment shall be enclosed in the building material that matches the structure or is visually compatible with the structure.

<i>Article 9</i>	RESTRICTED BUSINESS	<b>RB</b>
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*229-82 LOT COVERAGE*

All principal buildings, accessory structures, and impervious surfaces located on a Restricted Business District property may not exceed seventy percent (70%) of the gross area of the lot. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example: via a permanent easement recorded in the deed) the lot coverage requirements may be increased to eighty percent of the lot (80%).

**229-83 INTENT**

Developments in the Commercial districts are intended to achieve the high quality site layout and use flexibility inherent in campus design. This is accomplished through attention to architectural compatibility with other buildings and the relationship of building facades to public roadways.

These regulations are intended to encourage larger commercial facilities to locate on Main Street between the hamlets of Harris Hill and Clarence Hollow, Wehrle Drive near Transit Road, and parts of Sheridan Drive. These provisions should encourage designs that will minimize traffic congestion, reduce conflict points, and encourage a pleasing community character.

**229-84 PERMITTED USES**

A. The following list of uses are allowed as vested rights in facilities measuring up to 30,000 square feet in area:

- |  |   |
|--|---|
| Two-family homes                                   | Permitted in-fill uses in existing structures |
| Professional offices                               | Medical offices                               |
| Funeral homes                                      | Nursing homes, Dependent living facilities    |
| Convention facilities                              | Motels, Hotels                                |
| Retail sales activities                            | Grocery store/Convenience store               |
| Personal service shops, craft shops, antique shops | Retail nursery or greenhouse                  |
| Trade or industrial school                         | Restaurants                                   |
| Small animal hospital/veterinary clinic            | Banks/financial institutions                  |
| Dry cleaners/commercial laundry                    | Plumbing, heating, electrical shops           |
| Printing shops                                     | Day care centers/Nursery schools              |
| Community facilities                               | Public utility facilities                     |

B. Exclusions: Uses listed above which involve on-site manufacturing, outdoor storage of merchandise, hazardous materials, warehousing and/or storage necessitating truck travel, and mining.

**229-77 USES PERMITTED WITH SPECIAL EXCEPTION USE PERMITS**

Any permitted use that involves a facility in excess of 30,000 square feet and the following list of uses:

- |  |   |
|--|---|
| Automotive sales, automotive equipment and implement sales, trailer sales        | Business/Commercial parks                     |
| Shopping plaza   | Car wash                                      |
| Drive-in/Drive-thru facilities   | Automotive service station, commercial garage |
| Gasoline service station   | Light manufacturing operations                |
| Multiple-family dwelling units   | Manufactured housing park                     |
| Lumber/Building supply companies.  | Indoor storage of hazardous materials         |
| Telecommunications towers (Chapter 173)  |   |
| Parking facilities   |   |
| Theatres, assembly halls, bowling alleys, and all similar public recreation uses |   |

<i>Article 10</i>	COMMERCIAL	<b>C</b>
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**229-78 ACCESSORY STRUCTURES**

A. Permitted Accessory Structures:

- |   |                                 |
|---|---------------------------------|
| Private garages                                 | Barns                           |
| Sheds and similar structures                    | Fences/Walls                    |
| Enclosures for dumpsters, outdoor storage, etc. | Private recreational facilities |

- B. No accessory buildings designed, intended or used for business purposes shall extend closer than twenty-five feet (25') to any side or rear lot line of any residential lot used wholly for residential purposes, nor closer than twenty-five feet (25') to any residential district boundary, nor closer than ten feet (10') to any side or rear lot line wholly within a commercial zoning classification. Accessory buildings lying wholly to the rear of the principal buildings shall not extend closer than ten feet (10') to the side or rear lot line, provided these lines do not designate a residential district boundary or are in common with a lot used wholly for residential purposes.

**229-87 DEVELOPMENT & DESIGN PROVISIONS**

- A. No lot shall have less than one hundred feet (100') of public road frontage nor be less than one hundred twenty feet (120') in depth. Corner lots shall be not less than three hundred feet (300') of public road frontage on each street. If the property has public sewer access, then no lot shall contain less than twenty thousand square feet (20,000 sq. ft.) nor less than five thousand square feet (5,000 sq. ft.) of area per family unit if used for multiple dwellings. If the property has no public sewer access, then no lot shall contain less than 1 acre (43,560 sq. ft.) of land area and be subject to review and approval of the Erie County Health Department or New York State Department of Environmental Conservation for private wastewater treatment permits.
- B. Lot of record: No lot shall have less than seventy feet (70') of public road frontage and be at least one hundred twenty feet (120') in depth. No lot shall contain less than fifteen thousand square feet (15,000 sq. ft.) in area if used for a dwelling or dwellings.
- C. Minimum development setbacks:
1. Front Yard: 80 ft. Where there is an established front setback line between adjoining properties, that setback line would apply to the property to a minimum of forty-five feet (45').
  2. Side Yard: 25 ft.
  3. Rear Yard: 25 ft.
  4. Setback to adjoining residential (min): 45 ft.
  5. Any commercial uses shall not be located adjacent to residential uses unless separated by a minimum forty-five foot (45') greenbelt.
  6. Arcades, awnings, and open porches shall be permitted to encroach a maximum of twelve feet (12') into front setbacks and side setbacks.
- D. Interior road lot setbacks:
1. Buildings located along main interior roads shall have unified front setbacks of at least ten feet (10').

<i>Article 10</i>	COMMERCIAL	<b>C</b>
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2. Building side and rear setbacks shall be determined by the following:
  - a. Parking loading and storage needs for the use;
  - b. Adequate internal circulation of all traffic, and all fire and safety concerns.

E. Size of buildings:

No principal building shall contain less than eight hundred square feet (800 sq. ft.) of usable floor space. Buildings used in whole or in part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than nine hundred square feet (900 sq. ft.) of usable living space if a one-story building used as a one-family dwelling, nor less than six hundred square feet (600 sq. ft.) of usable first floor living space if more than one story, provided that no such building shall contain a total of less than one thousand square feet (1,000 sq. ft.) of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than six hundred square feet (600 sq. ft.) of usable living space for each one-bedroom family unit or apartment, seven-hundred twenty square feet (720 sq. ft.) of usable living space for each two-bedroom family unit or apartment and one-thousand square feet (1,000 sq. ft.) of usable living space for each three-bedroom family unit or apartment.

F. Maximum height: 45 ft.

1. Exceptions:

- Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.

**229-88 ADDITIONAL PARKING REQUIREMENTS**

- A. All parking required by the uses in this district shall be provided on site and in sufficient number not to require on-street parking on adjacent streets or encroachment on adjacent property.
- B. Parking may occur within the required side and rear yard development setbacks, but not the front yard setback area. A minimum of five feet (5') must be maintained between a commercial zoning district property line and forty-five feet (45') to a residential zoning district property line.
- C. Parking for interior lots may not occur within front setbacks. Adjacent parking lots shall be interconnected within the property.
- D. Trash containers, storage areas, loading and mechanical equipment shall be located within the parking area and shall be screened from public view. Dumpsters shall be properly secured.

**229-89 ARCHITECTURAL STANDARDS**

- A. Due to the visibility of the district, architectural compatibility is necessary in order to visually connect development and allow for proximity of varied uses. Approved metal paneling may not exceed thirty percent (30%) of a building wall façade, which is visible from a street.

<i>Article 10</i>	COMMERCIAL	C
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- B. Materials:  
Walls shall be clad in stone, brick, marble, approved metal paneling, cast concrete, vinyl siding, drivit, and hardiboard or other cement paneling.
  
- C. Configurations
  - 1. Two wall materials may be combined (horizontally) on one facade. The heavier material must be below.
  - 2. Roof lines shall not be flat
  
- D. Techniques
  - 1) All rooftop equipment shall be enclosed in the building material that matches the structure or is visually compatible with the structure.

**229-90 LOT COVERAGE**

All principal buildings, accessory structures, and impervious surfaces located on a Commercial District property may not exceed seventy percent (70%) of the gross area of the lot. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example: via a permanent easement recorded in the deed) the lot coverage requirements may be increased to eighty percent of the lot (80%).

**229-91 INTENT**

The intent of these provisions is to encourage commercial enterprise in an area of town that can adequately provide for a high volume of automobile traffic and to facilitate convenient access, minimize traffic congestion, reduce vehicle conflict points, and reduce visual clutter for those commercial uses. Major Arterial District includes all those areas along Transit Road (NYS Rt 78) from Wehrle Drive to Swormville.

**229-92 PERMITTED USES**

A. The following list of uses are allowed as vested rights in facilities measuring up to 50,000 square feet in area:

- |  |  |
|--|--|
| Shopping center or plaza   | Convention facilities                              |
| Permitted in-fill uses in existing structures                                | Restaurants  |
| Hotels and motels  | Professional, medical, executive offices           |
| Banks and financial institutions   | Dry cleaners/commercial laundry                    |
| Funeral homes  | Printing shops                                     |
| Theatres and public assembly   | Bowling alleys                                     |
| Public recreational facilities   | Public utility facilities                          |
| Retail sales activities  | Personal service shops, craft shops, antique shops |
| Non-profit institutions of charitable, religious, cultural or civic purposes | Day care centers and nursery schools               |
| Heating, plumbing, and electrical shops                                      |  |

B. Exclusions: Uses listed above which involve on-site manufacturing, outdoor storage of merchandise, hazardous materials, warehousing and/or storage necessitating truck travel, and mining.

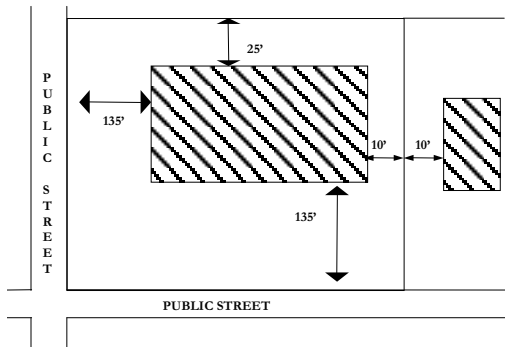
**229-93 USES PERMITTED WITH SPECIAL EXCEPTION USE PERMIT**

A. Any permitted use that involves a facility in excess of 50,000 square feet and the following list of uses:

- Motor vehicle, equipment and implement sales and service
- Multiple-family dwellings
- Commercial garages/Gasoline service stations
- Telecommunications towers (Chapter 173 of the Code of the Town of Clarence)
- Light manufacturing operations
- Lumber and building supply operations
- Drive-in/Drive-thru facilities
- Drive-in theaters
- Parking facilities
- Car washes

**229-94 DEVELOPMENT AND DESIGN PROVISIONS**

- A. Minimum Lot Size: No lot shall have less than one hundred feet (100') of public road frontage nor be less than two hundred feet (200') in depth. Corner lots shall have not less than three hundred feet (300') of public road frontage on each street. No lot shall contain less than twenty thousand square feet (20,000 sq. ft.). If the lot is used for dwelling purposes, then it shall not be less than five thousand square feet (5,000 sq. ft.) of area for each family dwelling unit.
- B. Lot width (min): 100 feet
- C. Lot depth (min.): 200 feet
- D. Front setback (min): 135 feet from centerline of all public road right-of-ways.
- E. Side setback (min): 25 feet to matching zone.
- F. Rear setback (min): 25 feet
- G. Setback to adjoining residential (min): 45 feet
- H. Any commercial uses shall not be located adjacent to residential uses unless separated by a minimum forty-five foot (45') greenbelt.
- I. Arcades, awnings, and open porches shall be permitted to encroach a maximum of twelve feet (12') into front setbacks and side setbacks.
- J. Interior setbacks: Buildings located along main interior roads shall have unified front setbacks of at least ten (10'). Building side and rear setbacks shall be determined by the following:
  - Parking, loading and storage needs for the use
  - Adequate internal circulation of all traffic, and all fire and safety concerns
- K. Size of buildings: No principal building shall contain less than one thousand square feet (1,000 sq. ft.) of usable floor space. Buildings used in whole or part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than nine hundred square feet (900 sq. ft.) of usable living space if a one-story building used as a one-family dwelling, nor less than six hundred square feet (600 sq. ft.) of usable first floor living space if more than one-story, provided that no such building shall contain a total of less than one thousand square feet (1,000 sq. ft.) of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than six hundred square feet (600 sq. ft.) of usable living space for each one-bedroom family unit or apartment, seven hundred twenty square feet (720 sq. ft.) of usable living space for each two-bedroom family unit or apartment and one thousand square feet (1,000 sq. ft.) of usable living space for each three-bedroom family unit or apartment.



<i>Article 11</i>	MAJOR ARTERIAL	<b>MA</b>
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- L. Building Height:
  - 1) Building height shall be measured as the vertical distance from the mean elevation of the finished grade relative to the frontage street, to the ridgeline of the structure.
    - a) All uses - Maximum 45 ft.
  - 2) Exceptions:
    - a) Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.
  - 3) Transmission and Receiving Towers, (total height from ground level to top of tower) intervening buildings are included in total tower height

**229-95 ACCESSORY BUILDINGS**

A. Permitted Accessory Structures:

Private Garages	Barns
Sheds	Fences/Walls (see Chapter 101)
Enclosures for dumpsters, outside storage, etc.	Private Recreational Facilities

- B. No accessory building designed, intended or used for business purposes shall extend closer than forty-five feet (45') to any side or rear lot line of any residential lot used wholly for residential purposes, nor closer than twenty-five feet (25') to any side or rear lot line wholly within a major arterial district. Accessory buildings lying wholly to the rear of the principal buildings shall not extend closer than ten feet (10') to the side or rear lot lines, provided these lines do not designate a residential district or are in common with a lot used wholly for residential purposes.
- C. Private garages, sheds and other accessory buildings used wholly in connection with private residence shall extend not closer than ten feet (10') to any side or rear lot line.

**229-96 ADDITIONAL PARKING REQUIREMENTS**

Parking may occur within the side or rear setbacks of the principal building. Parking within required setback areas must be a minimum of five feet (5') from any property line. Adjacent parking lots and rear service lanes of lots shall have internal vehicular access. There shall be a minimum forty-five foot (45') greenbelt from any parking area to a residentially zoned property line.

**229-97 ARCHITECTURAL STANDARDS**

- A. All walls **visible** from a public right-of-way shall be clad with the same material required for the front of the building (see A. Materials below).
- B. Approved metal paneling may not exceed 40% of any facade of a structure visible from a R-O-W.
- C. All walls **not visible** from a public right-of-way may be constructed of cinder blocks or approved metal paneling but shall be painted to match the overall color scheme of the rest of the building.

<i>Article 11</i>	MAJOR ARTERIAL	MA
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D. Materials

- 1) Walls shall be clad in stone, brick, marble, approved metal paneling, cast concrete, vinyl siding, drivit, and hardiboard or other cement paneling.
- 2) Pitched roofs shall be clad in wood shingles, slate, sheet metal, corrugated metal, or diamond tab asphalt shingles.

E. Configurations

- 1) Two wall materials may be combined horizontally on one facade. The heavier material must be below.
- 2) Roof pitch may not vary within a development.

F. Techniques

All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.

**229-98 LOT COVERAGE**

All principal buildings, accessory structures, and impervious surfaces located on a Major Arterial District property may not exceed seventy-five percent (75%) of the gross area of the lot. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example: via a permanent easement recorded in the deed) the lot coverage requirements may be increased to eighty-five percent of the lot (85%).

<i>Article 12</i>	<b>INDUSTRIAL BUSINESS PARK</b>	<b>I</b>
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**229-99 INTENT**

- A. The purpose of this zoning district classification is to direct and encourage the growth of light manufacturing and assembly operations in appropriate areas of Town. The Town must have areas available for business development and expansions in order to provide a balanced tax base for future growth.
- B. The intent of these provisions is to facilitate convenient access, minimize traffic congestion, and reduce visual clutter within this district.
- C. Industrial Business Parks are located in three general areas of Town. They are located along Roll Road at Harris Hill Road, County Road between Heise and Strickler Roads, and Wehrle Drive between Harris Hill and Shisler Roads.

**229-100 PERMITTED USES**

- A. Permitted Uses shall be as follows:

Commercial uses, excluding any residential uses	Community facilities
Light Manufacturing	Assembly Operations
Permitted in-fill uses in existing structures	Mini-Storage/Personal Storage Facilities
Telecommunication Towers (see Ch.173)	Lumber Yards
Landscape Supply Operations	Research and Development Operations
Public utility facilities	Warehousing

- B. Exclusions: Uses listed above which involve outdoor storage of merchandise, equipment, or hazardous materials.
- C. Uses not specifically enumerated as Permitted Uses or Special Exception Uses in the Industrial Business Park Zone are prohibited unless otherwise determined by the Town Board. The Town Board, prior to making such determination shall hold a public hearing on the proposed use.

**229-101 USES PERMITTED WITH SPECIAL EXCEPTION USE PERMIT**

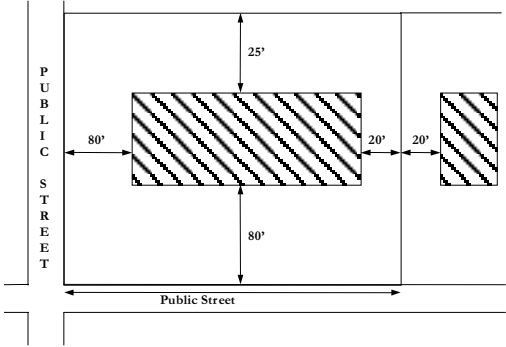
Motor vehicle, equipment and implement sales and service  
Hazardous materials storage  
Commercial garages  
Collision shops  
Adult Entertainment Uses  
Fuel Storage and Supply Operations  
Mining/Excavating Operations (see Ch. 93)

**229-102 DEVELOPMENT AND DESIGN PROVISIONS**

- A. Minimum Lot Size: No lot shall contain less than forty three thousand five hundred sixty (43,560) square feet.

<i>Article 12</i>	<b>INDUSTRIAL BUSINESS PARK</b>	<b>I</b>
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- B. Lot of Record: No lot shall have less than one hundred twenty-five feet (125') of public road frontage, nor be less than two hundred feet (200') in depth.
- C. Lot Width (min): 125 feet
- D. Lot Depth (min): 200 feet
- E. Front Setback (min): 80 feet
- F. Side Setback (min): 20 feet
- G. Rear Setback (min): 25 feet
- H. Setback to Adjoining Residential Zone(min): 100 ft.
- I. Arcades, awnings, and open porches shall be permitted to encroach a maximum of twelve feet (12') into front setbacks and side setbacks. Where residential zones abut an industrial zone the setbacks must be one hundred feet (100') minimum.



- J. Accessory structures must meet all of the required front, side, and rear yard setbacks.
- K. Corner lots must have at least two hundred feet (200') of public road frontage along both streets.
- L. Building Height:
  - 1) The vertical distance from the mean elevation of the finished grade relative to the frontage street, to the ridgeline of the structure.
    - a) All uses - Maximum 45 ft.
  - 2) Exceptions:
    - a) Roof equipment not intended for human occupancy and which is necessary to the structure upon which it is placed.
  - 3) Transmission and Receiving Towers, (total height from ground level to top of tower) intervening buildings are included in total tower height
- M. Building Size:
  - No principal building shall contain less than two thousand square feet (2,000 sq. ft.) of ground floor area.

**229-103 ADDITIONAL PARKING AND LOADING REQUIREMENTS**

- A. Off-street loading requirements shall be as follows:
  - 1) Less than 5,000 square feet: None
  - 2) 5,000-20,000 square feet: 1
  - 3) Over 20,000 square feet: 2 plus 1 for each additional 30,000 square feet.

<i>Article 12</i>	INDUSTRIAL BUSINESS PARK	I
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- B. Parking may occur within the side or rear setbacks of the principal building. Parking within required setback areas must be a minimum of five feet (5') from any property line. Adjacent parking lots and rear service lanes of lots shall have internal vehicular access. There shall be a minimum forty-five foot (45') greenbelt from any parking area to a residentially zoned property line.

**229-104 ARCHITECTURAL STANDARDS**

- A. All walls **visible** from a public right-of-way shall be clad with the same material required for the front of the building (see A. Materials below). Approved metal paneling may not exceed 40% of any facade of a structure visible from a ROW.
- B. All walls **not visible** from a public right-of-way may be constructed of cinder blocks or approved metal paneling but shall match the overall color scheme of the rest of the building.
- C. Materials.
  - 1. Walls shall be clad in stone, brick, marble, approved metal paneling, cast concrete, vinyl siding, drivit, and hardiboard or other cement paneling.
  - 2. Pitched roofs shall be clad in wood shingles, slate, sheet metal, corrugated metal, or asphalt shingles.
- D. Configurations
  - 1. Two wall materials may be combined horizontally on one facade. The heavier material must be below.
  - 2. Roof pitch may not vary within a development, except for architectural accents such as small cupolas or dormers.
- E. Techniques
  - All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.

**229-105 LOT COVERAGE**

All principal buildings and accessory structures located on an Industrial Business Park property may not exceed seventy-five percent (75%) of the gross area of the lot. Where a property owner has shared access and shared parking arrangements with adjoining property owners in perpetuity (for example: via a permanent easement recorded in the deed) the lot coverage requirements may be increased to eighty-five percent of the lot (85%).

<i>Article 13</i>	OPEN SPACE DESIGN DEVELOPMENT OVERLAY	OSD
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**229-106 PURPOSE**

Open Space Design Development (OSDD) overlay district or clustering shall be a subdivision plat or plats in which the applicable zoning law is modified to provide an alternative permitted method for the layout, configuration and design of: lots; buildings and structures; roads; utility lines and other infrastructure; parks; and landscaping in order to preserve the natural and scenic qualities of open lands. Private roads to service clustered lots may be approved as a part of the final plat and lots along such private roads may be platted as legal lots. Such private roads must provide adequate access to existing public roads. The Town Board may consider a reduction in minimum lot sizes down to and including lots to accommodate up to four (4) units with zero lot line setbacks (4-unit structures)

Open Space Design Development in the Town of Clarence shall require the final approval of the Town Board, upon the review and recommendations of the Planning Board, pursuant to the administration of Chapter 193, the Subdivision Regulations of the Town of Clarence. Open Space Design Development shall not be considered for approval unless it is determined by the Town Board that it will achieve the intent of these regulations. The Town Board, at its discretion, may direct an applicant to pursue Open Space Design Development, if in the judgment of that Board and the Planning Board, its application would benefit the Town. For example, if a standard subdivision is proposed in an area containing important lands and/or resources (e.g. greenspace, woodlands, significant views, prime farmland, etc.), the Town may direct an applicant to pursue an open space design to preserve as much of these features as possible. The Town Board may also, upon its review, find a proposed open space design development not in accordance with the purposes or requirements of this article if the proposed development has no features worth preservation.

**229-107 INTENT**

The purpose of these open space design development regulations is to enable and encourage flexibility of design and development of land in such a manner as to:

- A. Preserve open space and protect important natural resources and sensitive lands
- B. Promote the most appropriate use of land
- C. Allow for a variety of lot sizes and housing types without increasing the overall density as permitted by the underlying zoning district
- D. Allow for residential development that is in harmony with the rural character and scenic quality of the Town
- E. Encourage creativity and adaptability in the layout of residential lots
- F. Facilitate the adequate and economical provision of streets and utilities

<i>Article 13</i>	OPEN SPACE DESIGN DEVELOPMENT OVERLAY	OSD
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**229-108 REGULATIONS GOVERNING OPEN SPACE DESIGN DEVELOPMENT**

Open Space Design Development may include single-family dwellings, in accordance with the following regulations and standards:

- A. The area proposed for open space design development shall be in single ownership or under unified control throughout the review process, inclusive of the filing of the map cover in the Erie County Clerk’s Office.
  
- B. Unless otherwise provided in this chapter, the following regulations shall apply to all open space design developments:
  - 1) Open Space Design Development shall only be considered where public sewer districts have been established.
  - 2) Open Space Design Development shall only apply to any major subdivision of not less than five acres (5 ac.) in land area.
  - 3) Having achieved all goals identified in this chapter, the minimum lot size may be reduced to no less than five thousand square feet (5,000 sq. ft.) for detached housing units and up to four-unit, one or two-story attached housing units may be allowed, provided that any and all such area that is not designed to serve as residential areas, roads or other public purposes, be set aside and restricted on the subdivision plat for use by inhabitants as common open space, parkland or recreational purposes of an active or passive nature.
  - 4) The required minimum habitable floor area may be reduced to one thousand square feet (1,000 sq. ft.) for a one-story structure and one thousand two hundred square feet (1,200 sq. ft.) for a two-story structure.
  - 5) Maximum height of buildings shall not exceed two (2) stories or thirty-five feet (35’) for single-family units.
  - 6) The permitted number of dwelling units shall in no case exceed the number of units that could be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of this chapter, applicable to the district or districts in which the land is situated. An aerial photograph may be required to assist in the density determination. However, prior to determining the number of dwelling units and/or building lots, the parcel to be developed shall be adjusted as follows:
    - a) Lands utilized by public utilities or structures or recorded easements of rights-of-way shall be subtracted from the total gross area.
    - b) Water bodies, marsh areas, wetlands, wetland buffers, woodlands, gorges, rock outcroppings, caverns, poorly drained, alluvial, and unstable soils and floodplains shall be subtracted from the total gross area.
    - c) Any other areas deemed unfavorable (unusable/unbuildable) by the Planning Board because of topographic, geologic or hydrological characteristics, slopes in excess of 15%, and lands deemed important to preserve and protect existing views and character shall be subtracted from the total gross area.

<i>Article 13</i>	<b>OPEN SPACE DESIGN DEVELOPMENT OVERLAY</b>	<b>OSD</b>
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- d) For the purpose of providing land for streets, after deductions have been made in accordance with subsection 6 (i), (ii) and (iii) above, 10% of the remaining area shall be subtracted from the total gross area. (Road frontage clusters will not require this subtraction).
  - e) The adjusted total gross area of the parcel, as determined in Subsection 6(i), (ii), (iii) and (iv) above, shall then be used to compute the maximum number of dwelling units and/or building lots permitted.
  - f) 15% of the adjusted total gross area shall be set aside or preserved and maintained as open space. The land subtracted out in calculations 6(i), (ii), (iii) and (iv) cannot be included in the open space requirement.
  - g) Overall, the minimum amount of open space preservation shall be no less than fifty percent (50%) of the gross acreage of the parcel or parcels to be developed.
- 7) Natural features such as streams, rock outcrops, marshlands, trees and shrubs shall be preserved and incorporated into the landscaping of the development. In addition, open vistas, visible from existing public roads shall be preserved.
  - 8) The recreation/open space fee required pursuant to the subdivision and fee laws of the Town of Clarence shall still be applicable. Open space, greenspace or recreation areas in the OSDD shall be privately owned. The Town Board may recommend the dedication of land to the Town of Clarence, in lieu of these fees, if the subdivision is located in an area where a proposed park, playground or other recreation or public site is desired by the Town.
  - 9) Final designs shall incorporate connectivity to surrounding areas and be developed with walkways, sidewalks and/or trails that provide access to public areas and the town's pedestrian trail system. Such connectivity shall be developed as a part of the project. If circumstances dictate that connectivity be provided at a future time, final plats shall identify those areas for future connections to the trail system or other public lands.
  - 10) Common open space and recreation lands shall be deeded to a Homeowners' Association, or individual that will be responsible for the continued ownership, use and maintenance of said lands. Such deeds shall be reviewed by the Town Attorney and approved by the Town Board.
  - 11) Private roads shall be built to minimum standards approved by the Town Board and provided by the Town Engineering Department. Community parking areas may be required by the Town Board during subdivision review.
  - 12) The underlying zoning requirements for lot coverage and setback requirements for all lots in an OSDD shall be waived. Minimum setbacks from each residential structure shall be twenty feet (20').
  - 13) If not specifically addressed in this chapter, all other underlying zoning regulations shall apply.

<i>Article 14</i>	CLARENCE HOLLOW OVERLAY	CH-O
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**229-109 PURPOSE AND INTENT**

In accordance with the recommendations and policies of the Town’s comprehensive plan, the Clarence Hollow Overlay is intended to:

- A. Preserve the character of the Clarence Hollow community as a hamlet style area with mixed uses set in an historical context.
- B. Encourage and enhance the principals of Traditional Neighborhood Design, which call for a mixture of uses, improved walkability/connectivity, enhancement of neighborhood appeal, preservation of community character, etc.
- C. Continue and complement the design elements associated with the streetscape design for Main Street.
- D. Maintain and improve the traffic conditions and the walkability and pedestrian circulation of the area as development and redevelopment take place.
- E. Ensure that new buildings or building modifications are harmonious with surrounding structures in their use, scale and design
- F. Encourage the preservation of existing building and sites in a manner that maintains the historic and distinctive character of the hamlet.
- G. Minimize the removal or disruption of historic, traditional or significant structures or architectural elements in the hamlet.
- H. Allow for a mixture of uses that would allow many existing parcels of land and structures to be utilized without the need for a zoning variance.

**229-110 BOUNDARY**

General Boundary: In general, this overlay zone represents all that area situated between Winding Lane and Davison Road, including all properties that have frontage along Main Street.

**229-111 PERMITTED USES**

- A. Permitted uses: the uses permitted in the Clarence Hollow Overlay shall be the same uses as permitted in the underlying zoning districts.
- B. Accessory uses: the accessory uses permitted in the Clarence Hollow Overlay shall be the same accessory uses as permitted in the underlying zoning district(s).

**229-112 EFFECT UPON SUBDIVISION REGULATIONS**

- A. The division of lands, regardless of the zoning classification, shall be subject to Chapter 193 of the Code of the Town of Clarence (Subdivision Law). The following special regulations/requirements shall apply to all subdivisions of lands within this overlay district:
  - 1) Central Business District Area:
    - a) In dividing parcels or combining parcels, the number of curb cuts (street access /driveways) to Main Street shall be minimized or reduced where

<i>Article</i> <b>14</b>	<b>CLARENCE HOLLOW OVERLAY</b>	<b>CH-O</b>
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practical. Shared driveways and cross access connections shall be encouraged.

***229-113 SITE DESIGN REQUIREMENTS***

A. Architecture: A Community Character Protection Board shall be appointed by the Town Board to review all site plans submitted for approval within the Clarence Hollow Overlay Zone. Such Board shall be a recommending body to the Town Board/Planning Board and shall meet as required and requested by the Town Board. It is not the intent of these requirements to establish or match any particular architectural style or pattern. In general, the structures should have a hamlet style appearance and scale and meet the following standards:

- 1) Design elements should follow the Town's "Clarence Hollow Design Guidelines" (copies to be obtained from the Town).
- 2) Stoops, open colonnades, open porches, balconies, and bay windows may encroach into the front yard setback.
- 3) There shall be no building(s) that include internally illuminated signs. The color scheme of the signs should remain monotone or two-tone.
- 4) Building design materials shall include stone, brick and natural appearing materials. In concert with the residential character of the surrounding area, the use of vinyl siding shall also be allowed.
- 5) Blank concrete block walls or sheet metal at street level shall be avoided. Visually interesting activities at the sidewalk edge shall be maintained and/or established to engage pedestrian interest.
- 6) Painting: The Town strongly encourages all structures in the TND zoning district to use proper contrasts in paint schemes. Trim and foundations should be visually differentiated from the main body of the structure. Also, typically, only traditionally painted materials (such as wood) should be painted. No aluminum, vinyl, or similar hybrids shall be used in color schemes.
- 7) All rooftop units (HVAC) shall be properly screened or located so as not to be visible from the street.
- 8) If a project involves a property that has local historic significance, every effort should be made to preserve the character and integrity of the structure.
- 9) Additions to any building shall respect the original character of the property.

B. Landscaping: All landscaping shall be designed in accordance with the Streetscape Plan for Main Street in the Clarence Hollow area. A copy of these design guidelines can be obtained through the Town. For all development projects requiring site plan approval in the Central Business District area, a site plan shall be submitted for review and approval by the Town Landscape Committee and the Clarence Hollow Community Character Protection Board. The following elements shall be included in the required landscape submittal:

- 1) A site plan showing existing and proposed buildings, walks, driveways, off-street parking, freestanding walls, fences, landscaping and any other site amenities is required.

<i>Article</i> <b>14</b>	<b>CLARENCE HOLLOW OVERLAY</b>	<b>CH-O</b>
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- a. Walks - paved walkways from the existing public sidewalks in the Main Street right-of-way (R.O.W.) to the interior of the property are required. Materials may include concrete, brick, pre-cast concrete pavers or a combination of materials that are in keeping with the character of the surrounding architecture and streetscape. Asphalt walkways are not permitted.
- b. Driveways – all new driveways within the Main Street R.O.W. shall be constructed of concrete, concrete pavers, brick pavers or a combination of materials in keeping with the character of the surrounding architecture and streetscape. Asphalt driveways will not be permitted within the R.O.W. A driveway (highway access) permit is required by the N.Y.S. Department of Transportation for any new driveway within the roadway R.O.W.
- c. Screening of Off-Street Parking – All off-street parking areas shall be screened from the street. Screening should be a minimum of 42” in height, should be continuous and should conceal the parking area(s) from the street. Methods of screening many include stonewalls, picket fences, evergreen or deciduous hedges, other suitable landscape materials or a combination of materials. All screening should be located inside the applicant’s property boundary and should not encroach onto the public sidewalk. Screening should not limit a driver’s visibility of the sidewalk or street when exiting any off-street parking lot. Where the driveway intersects the street right-of-way, there should be no fence, wall, hedge or other material higher than 42” above grade for a distance of at least 15 feet on either side of the driveway.
- d. Walls - walls, which are visible from the street, may be constructed of stone, brick, stucco or a combination of masonry materials and should be in keeping with the character of the surrounding architecture. Concrete block and cast in place concrete walls are not permitted.
- e. Fences – fences which are visible from the street may be constructed of wood (or a synthetic material simulating wood), ornamental iron or other material in keeping with the character of the surrounding architecture. Picket and ornamental iron are appropriate fence treatments within the district. No corrugated metal, corrugated fiberglass, woven wire, or barbed wire fences will be permitted adjacent to the street right-of-way. A woven wire fence may be allowed if it is screened from the street by the use of an evergreen hedge or other acceptable material.

C. Other Design Requirements

1) Signage:

The Town of Clarence recognizes that signage is necessary within the Clarence Hollow area, but like other design elements there is a responsibility to make sure that such signage respects the character of the historic Hollow. The Town strives to maintain signage requirements that compromise neither the

<i>Article</i> <b>14</b>	<b>CLARENCE HOLLOW OVERLAY</b>	<b>CH-O</b>
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design qualities of the Hollow nor the ability of individual businesses to be successful. All applications for new signs shall be referred to the Community Character Protection Board, as herein established, for review and comment prior to approval by the Town of Clarence Sign Review Board as established under Chapter 181 of the Code of the Town of Clarence.

- 2) Other aesthetic requirements:
  - a. All dumpsters and loading areas shall be screened from the road by landscaping, fencing, or walls.
  - b. Lighting shall adhere to the guidelines set forth in the Clarence Hollow Design Guidelines.
  
- 3) Parking
  - a. The Town Board may reduce off-street parking requirements during the site plan review process to one (1) parking space per one thousand square feet (1,000 sq. ft.) of building space.
  - b. On-street parking may be counted as parking area for a business use if it is directly fronting the business property.
  - c. Cross-access and shared parking agreements may be used to meet the minimum parking requirements for the proposed use.

***229-114 UNDERLYING ZONING DISTRICT REGULATIONS***

Unless specifically addressed in this chapter, all other underlying zoning district regulations shall apply.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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**229-115 PURPOSE**

In order to ensure that the comfort, safety, welfare and property rights of the residents of the Town of Clarence are protected, the Town Board may authorize and direct the issuance of a Special Exception Use Permit for uses that require certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse affects to neighboring residential uses and each other. This Chapter specifies the minimum requirements, which must be met by all the uses listed in the Uses Requiring a Special Exception Use Permit section for each Zoning District in Chapter 3, to be considered by the Town Board.

**229-116 PROCEDURES**

- A. Applications to the Town Board for a permit authorizing a use indicated as a Special Exception Use shall be made directly to the said board on forms provided by the Planning and Zoning Department. The Town Board shall refer the application to the Planning Board for review and comment. The Planning Board shall submit written comments to the Town Board on the proposal within thirty (30) days of referral. The granting by the Town Board of a Special Exception Use Permit shall require the concurring votes of four (4) members of the board in favor of the applicant, after a public hearing advertised in accordance with Town procedures. Special Exception Use Permits shall not be deemed to constitute a variance, and shall not be conditioned upon an appeal from the denial of building permit or use permit by the Building Inspector. For just cause, including but not limited to negative impacts to the health, safety, welfare and property rights of the neighborhood for which the use is proposed, the Town Board has the authority to deny such Special Exception Use Permits.
- B. Each use may only be permitted in compliance with all conditions listed for the use in this chapter. The Town Board may, after public hearing, amend or add specific conditions to the recommendation from the Planning Board.

**229-117 BED AND BREAKFAST INNS**

- A. Single-family homes used as bed and breakfast inns shall have a minimum heated floor area of 1,500 square feet.
- B. Single-family homes used as bed and breakfast inns may not subdivide existing rooms into less than two hundred (200) square feet.
- C. The bed and breakfast inn shall be owner-occupied.
- D. All parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one parking space per room of lodging, plus two spaces for owner occupant.

**229-118 CEMETERIES**

- A. Shall not include embalming or cremation facilities.
- B. Walls between 1.5' and 4' are permitted.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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- C. Fences between 2.5' and 6' are permitted.
- D. Combination wall and fence is permitted. If exceeding 4' in height the portion over 4' shall be a minimum of 50% opaque.
- E. Setbacks from all street right-of-ways to a wall or grave shall be a minimum of 10ft.

**229-119 PUBLIC RECREATIONAL FACILITIES**

- A. All recreational facilities shall be treated as parks in design and landscaping. All structures associated with a recreational facility shall be located toward the perimeter of the lot.
- B. Recreational facilities shall be encouraged to be built adjoining school campuses, greenbelts, or parkways.
- C. Parking shall be located behind structures, or along the perimeter of the lot. There shall be 14 spaces per acre and/or 1 per 250 square feet of facility floor area.

**229-120 DRIVE-IN THEATERS**

- A. Minimum lot size: 3 acres

**229-121 ROOMING/BOARDING HOMES**

- A. The rooming/boarding house shall be owner-occupied.
- B. No more than 1 person or couple may inhabit a single room.
- C. All parking shall be to the rear of the home. There shall be one space per room of lodging and two spaces for the owner occupant.

**229-122 CHURCHES/CIVIC USES/COMMUNITY FACILITIES/NURSING HOMES**

- A. Churches/Civic uses shall be placed on a lot so as to front on the street, and where possible, terminate a vista.
- B. Accessory structures shall be behind a line a minimum of twenty feet (20') from the front facade of the principal structure, and if more than one, shall be arranged to create secondary gathering spaces within the lot.
- C. Parking shall be located towards the interior of the lot. Parking may not occur within a front setback or corner side setback.
- D. Front setbacks may be altered to preserve views or significant trees.

**229-123 PUBLIC SAFETY STATIONS**

- A. All public safety buildings shall be similar in architectural design to adjoining residential structures.
- B. Parking shall be to the rear of the lot.
- C. Rear portions of lots shall be screened by a wall or fence with a minimum height of 6 feet.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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**229-124 DRIVE-IN FACILITIES.**

- A. Drive-thru structure shall be setback a minimum of eighty feet (80') from any street or highway Right-of-Way line to allow adequate sight distance for exiting automobiles.
- B. Vehicles must be stacked sufficiently for traffic flow and vehicular access. A minimum of eight (8) vehicles per window shall be required.

**229-125 CAR WASHES**

- A. The outlet to a car wash shall be aligned perpendicular to the street or highway line.

**229-126 MULTI-FAMILY DEVELOPMENTS**

- A. All on-site traffic access roads shall be constructed to standards as approved by the Town Board. Curb cuts for proposed entrances or exits shall not be closer than one hundred feet (100') to any existing road intersection.
- B. The density of dwelling units shall not be more than eight (8) units per acre. Each phase of development of such a project must meet the density requirements as herein established.
- C. No interior public roadway shall be closer than thirty feet (30') to any building.
- D. All multi-family developments shall front onto a street.
- E. Parking shall be to the rear or side of an apartment building.
- F. Parking which adjoins a street shall have a wall running the length of the ROW except for driveways.
- G. There shall be provided on the site of such use an area or areas devoted to the recreational use of the residents thereof. Such recreational component can be open space and shall have a total area equal to at least fifteen percent (15%) of the gross land area of the lot and shall be fully maintained by the owner of the dwellings. Part or all of such space shall be in the form of developed recreation areas to be usable for recreational purposes. The 15% dedicated for such use may be counted as a part of the total greenspace requirement for such projects.
- H. No principal building shall contain less than one thousand (1,000) square feet of usable floor space. Buildings used in whole or part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than nine hundred (900) square feet of usable living space if a one-story building used as a one-family dwelling, nor less than six hundred (600) square feet of usable first floor living space if more than one-story, provided that no such building shall contain a total of less than one thousand (1,000) square feet of usable living space if used as a one-family dwelling, and provided further that no such building shall contain a total of less than six hundred (600) square feet of usable living space for each one-bedroom family unit or apartment, seven hundred twenty (720) square feet of usable living space for each two-bedroom family unit or apartment and one thousand (1,000) square feet of usable living space for each three-bedroom family unit or apartment.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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**229-127 PRIVATE SCHOOLS**

- A. School campuses shall have the principle structure face the fronting street, which should be located along the edge of a neighborhood.
- B. Where practical, parking shall occur behind the fronting structure(s).
- C. Schools shall be appropriately designed and scaled to serve as anchors for a community, and should terminate a street or vista.
- D. Large parking areas or setbacks shall not inhibit pedestrian connections to schools for surrounding neighborhoods.
- E. If school sites do not abut a greenbelt or parkway, ball fields and play areas shall be located near the interior portions of the property.

**229-128 GASOLINE SERVICE STATIONS AND COMMERCIAL GARAGES**

- A. The architectural design of such structures shall be compatible with abutting structures with regards to building materials and roof pitch.
- B. All fuel storage tanks and fuel pumps shall be located at least twenty feet (20') from any lot line and be buried underground according to the New York State Building and Fire Prevention Code.

**229-129 RESTAURANTS, NIGHTCLUBS, AND BARS**

- A. Live music or any outdoor noise shall not be audible off the premise at decibel levels louder than normal background noise for residential areas after 11:00 p.m.
- B. Buildings shall conform to surrounding architecture.

**229-130 TRADITIONAL NEIGHBORHOOD USES IN STRUCTURES BETWEEN  
10,000 – 30,000 SQUARE FEET**

- A. Structures must be built in such a manner to be readily re-used or adapted into other uses that are allowed within the district.
- B. Properties must provide pedestrian connections to the neighborhood network of sidewalks and public or semi-public squares to encourage a more walkable community.
- C. Building facades shall be articulated to create the impression that the building is more than one structure. This can be accomplished using different facade treatments and/or varying building height every 35 to 50 feet if facade exceeds 80 feet in length.
- D. Parking must be accommodated on site. Shared parking arrangements are encouraged.
- E. All loading areas shall be to the rear of the structure. (Does not apply to multi family developments)
- F. For mixed-use structures between ten thousand and thirty thousand square feet (10,000-30,000 sq. ft.) only, the first floor shall be used for non-residential uses only.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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***229-131 RESTRICTED BUSINESS USES IN STRUCTURES OVER 10,000 SQUARE FEET OR A CUMULATIVE TOTAL OF 30,000 SQUARE FEET ON A PROPERTY. ALSO, ANY COMMERCIAL USES EXCEEDING 30,000 SQUARE FEET***

- A. The architectural style of buildings shall conform to the style that has been established in the immediate vicinity of the project site and as described in the adopted comprehensive plan.
- B. Parking must be accommodated on site. Shared parking arrangements are encouraged.
- C. All loading areas shall be to the rear of the structure. (Does not apply to multi family developments)
- D. For mixed-use structures over thirty thousand square feet (30,000 sq. ft.) only, the first floor shall be used for non-residential uses only.
- E. There shall be no more than one (1) hotel/motel unit for each two thousand five hundred square feet (2,500 sq. ft.) of site area.
- F. The following accessory uses shall be permitted in a hotel/motel site
  - 1. One restaurant/bar and/or coffee shop or cafeteria providing food and drink
  - 2. Amusement and sports facilities for the exclusive use of hotel/motel guests, including: swimming pool, children’s playground, tennis or other game courts, game or recreation rooms.
  - 3. Office and lobby, provision of which shall be mandatory for each hotel/motel.
  - 4. Meeting and/or conference rooms.

***229-132 MAJOR ARTERIAL USES EXCEEDING 50,000 SQUARE FEET IN AREA***

- A. Uses generating a significant amount of car trips a day, as determined by the Town of Clarence, shall be required to improve adjoining street or intersection infrastructure as determined by the Town Board, New York State Department of Transportation, and the Erie County Department of Public Works Division of Highways.
- B. Uses requiring an excess of twenty thousand (20,000) gallons per day of water or sewer usage shall be required to improve infrastructure capacity as determined by the Town Board or the Erie County Health Department.

***229-133 ADULT ESTABLISHMENT (Industrial Business Park District)***

- A. Buildings and establishments operated as adult uses are determined to be detrimental and harmful to the health, morals and general welfare of a community. In order to promote the health, safety morals and general welfare of the residents of the Town of Clarence, this chapter is intended to restrict adult uses to non-residential areas of the Town, and otherwise regulate their operation. Moreover, in that the operational characteristics of adult uses increase the deleterious impact on a community when such uses are concentrated, this section is intended to promote the health, safety, morals and general welfare and good order of the residents of the Town of Clarence by regulating the concentration of such uses.
- B. No such adult establishment shall be located less than one thousand feet (1,000’) from a school, church, day care center, or lot in residential use.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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- C. In addition to the general requirements for obtaining a special exception use permit, the following shall be required:
  - 1. Architectural design of a proposed building or structure which includes adult uses shall include frosted windows and similar techniques, in addition to general features compatible to the surrounding character, to discourage such uses from being visible from the exterior of the proposed structure.
  - 2. The owner of a building or premises, his agent for the purposes of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Town Clerk of the Town of Clarence prior to receiving a special exception use permit and then every year thereafter prior to January 15 of the year for which the operation is proposed for continuation:
    - a. the address of the premises
    - b. the name and address of the owner of the premises and the names and addresses of the beneficial owners if the property is a land trust
    - c. the name of the business or the establishment subject to the provisions of this article
    - d. the name(s) and address(es) of the owner, beneficial owner or the major stockholder(s) of the business or the establishment subject to the provisions of this article
    - e. the date of the initiation of the adult use
    - f. the nature of the adult use
    - g. if the premises or building is leased, a copy of said lease.
  
- D. It is a violation of this section for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Town Clerk.
  
- E. The owner, manager or agent of a registered adult use shall display in a conspicuous place on the premises of the adult use a copy of the registration filed with the Town Clerk.
  
- F. A fee as set by the Town Board shall be paid annually with the filing of the above described registration
  
- G. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, light, sign, show window or other opening.

***229-134 INDOOR STORAGE OF HAZARDOUS MATERIAL***

- A. All indoor storage of hazardous materials shall be in compliance with all state and federal regulations.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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- B. Such material shall be listed and made known with the Fire Department with jurisdiction.
- C. Structures housing such uses shall be located at least one hundred feet (100') from any lot line and two hundred feet (200') from any residential lot line.
- D. See Industrial Hazardous Waste Law (Chapter 123 of the Code of the Town of Clarence).

**229-135 OUTDOOR STORAGE OF HAZARDOUS MATERIAL**

- A. Outdoor storage shall be screened from all public right-of-ways and can occur only in a rear yard. Screening shall comply with the Landscape Ordinance (Chapter 131 of the Code of the Town of Clarence).
- B. All material shall be listed and made known with the fire department with jurisdiction.
- C. All storage areas shall be located at least two hundred feet (200') from any adjoining lot line.
- D. See Industrial Hazardous Waste Law (Chapter 123 of the Code of the Town of Clarence).

**229-136 SECONDARY LIVING UNIT**

- A. Units must be secondary to a principal dwelling unit and shall not be converted to a rental unit.
- B. Applications for a building permit shall include additional information regarding the location, ingress, egress, parking, floor plan, utility schematics, construction contracts, and other information as necessary to determine that the nature of the addition will not alter the character of the principal structure as a single-family residence.
- C. Any occupant of the living unit must be a family member, a paid employee, or a temporary guest (such as an exchange student) of the principal homeowner. Any rental agreements or monetary exchanges for overnight stays shall constitute a separate principal living unit and be deemed a two-family structure for purposes of administering this law.
- D. The unit shall never be rented as a separate living unit and proof of deed restrictions guaranteeing the single-family use of the property in perpetuity shall be required by the Building Department and shall be kept on file in that department.

**229-137 EXPANDED HOME OCCUPATIONS**

Home Occupations that exceed the thresholds as identified within the zoning law, especially as related to utilizing accessory buildings to house such operations shall require a Special Exception Use Permit.

- A. There shall be no outdoor storage of any product or materials
- B. Accessory structures shall conform to the architectural standards of the principal use.

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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- C. Under no circumstances shall a use that requires large-scale deliveries or trucks greater than three (3) tons be allowed. No uses with deliveries of a greater frequency than five (5) per day shall be allowed.

**229-138 TELECOMMUNICATION TOWERS**

All telecommunications towers that require a special exception use permit shall conform to all regulations as established in Chapter 173 (Satellite Antennas and Towers) of the Code of the Town of Clarence.

**229-139 MOTOR VEHICLE, EQUIPMENT AND IMPLEMENT SALES AND SERVICES**

- A. All buildings, structures and accessory uses shall be located at least fifty feet (50') from any lot or street line.
- B. When within two hundred feet (200') of any residential structure such operations shall be screened from the residential property by a fence, hedge or other landscaping in conformance with Chapter 131 of Code of the Town of Clarence (Landscape Ordinance).
- C. All parking areas and outdoor vehicle or equipment storage or display areas shall be paved.
- D. Display areas shall be set back at least twenty feet (20') from any highway right-of-way line.
- E. All junk wastes, discarded parts, etc. as a result of servicing motor vehicles, equipment, etc. shall be stored in an enclosed structure, so as not to be visible from adjacent lots, until properly disposed. None of these materials may be disposed of on the lot.
- F. Outdoor lighting shall be situated so as not to be directed at adjoining uses.

**229-140 BUILDING SUPPLY SALES AND STORAGE YARDS**

- A. All buildings, structures, materials storage areas shall be located at least fifty feet (50') from all lot and street lines.
- B. When located within two hundred feet (200') of a residential structure such operations shall be screened from the adjacent residential lot by a fence, hedge or other landscaping in conformance with Chapter 131 of the Code of the Town of Clarence (Landscape Ordinance).
- C. Any outdoor lighting shall be situated so as not to be directed at adjoining uses.

**229-141 PARKING FACILITIES**

All parking facilities that act as a principal use in a commercial zone must have a valid landscape plan approved by the Town's Landscape Committee under Chapter 131 of the Code of the Town of Clarence.

**229-142 LIGHT MANUFACTURING AND ASSEMBLY OPERATIONS**

Any light manufacturing operation such as the manufacture or fabrication of handcraft products, scientific instruments, power tools, computer equipment, electronics, furniture, wearing apparel and other products made primarily from fabrics may be allowed provided

<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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that such uses shall not give rise to smoke, noise, dust, or fire nuisance or hazard greater in character than the uses specifically permitted in the zoning district.

**229-143 WAREHOUSING AND DISTRIBUTION FACILITIES**

Any warehousing and distribution facility must be located in an area readily accessible to major roadways to minimize the impacts of heavy vehicle traffic on residential areas.

**229-144 FUEL STORAGE AND SUPPLY OPERATIONS**

All fuel storage and supply operations shall have a setback of one hundred feet (100') from any above ground storage tank to any residential structure or residential zoning line.

**229-145 EXCAVATIONS**

All excavations must conform to the Excavation Law (Chapter 93 of the Code of the Town of Clarence).

**229-146 MANUFACTURED HOME PARKS**

Any manufactured home park must meet the provisions set forth in the Manufactured Housing Parks Law (Chapter 135 of the Code of the Town of Clarence).

**229-147 BEAUTY SALONS**

- A. Beauty salons or parlors shall be an accessory use to the principal use of the residential or agricultural property.
- B. The operation shall be conducted only by a resident or residents of the premises and no outside help shall be employed.
- C. There shall be no outside display or advertising, except a sign as permitted through the Sign Law (Chapter 181 of the Code of the Town of Clarence).
- D. The operation shall not utilize more than twenty-five percent (25%) of the living space of the dwelling, and the usable living space remaining for dwelling purposes exclusive of the beauty salon shall meet the minimum requirements of the zoning district.
- E. The application for a beauty salon or parlor shall include a site plan showing the location of all facilities, ingress and egress, parking areas, and any other information required by the Town. The site plan must receive a recommendation from the Planning Board and be reviewed by the Town Board for its approval or disapproval.

**229-148 SHOPPING PLAZAS**

- A. There shall only be one (1) freestanding tenant directory sign per plaza in accordance with the Sign Law (Chapter 181 of the Code of the Town of Clarence).

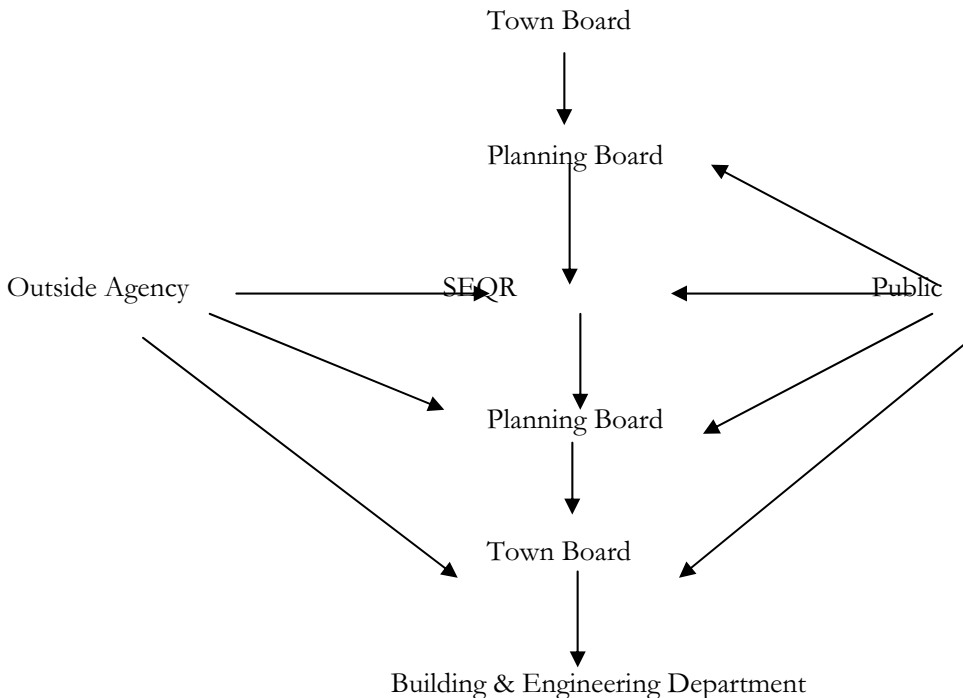
<i>Article 15</i>	<b>SPECIAL EXCEPTION USE PERMITS</b>
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**229-149 PURPOSE**

The Administration section explains the process for reviewing, enforcing and amending the provisions and requirements of this Local Law. Procedural responsibility for these actions shall reside with the Planning and Zoning Department and the Building Department.

**229-150 ZONING PERMIT PROCESS**

- A. The review process associated with the issuance of permits under the Zoning Law will take two different tracks. The first process involves uses that are permitted, as of right, in a zoning classification and would not require a formalized review process. Applicants for such permits may proceed directly to the Town of Clarence Building Department and apply for a zoning/building permit for such uses. In similar fashion, interior remodeling within a previously approved Commercial/Industrial use, that does not involve a change in use, may proceed to apply for a zoning/building permit through the Building Department.
- B. All other uses will require approval of the Town Board. Depending upon the complexity of the application, the Town Board approval process will vary. Generally, all proposed uses of previously unimproved property, applications for Special Exception Use Permits, applications for Temporary Conditional Permits, and all uses requiring Site Plan Review and Approval will be forwarded to the Planning Board for review and recommendation, before a final determination is made by the Town Board. The following flow chart identifies the typical review process for applications forwarded by the Town Board for further detailed review.



**229-151 SITE PLAN REVIEW REQUIREMENTS**

- A. Statement of Intent. The purpose of these requirements is to promote orderly development in the Town of Clarence and to ensure that uses are developed in a manner harmonious with surrounding properties. To achieve these ends and to assure compliance with all applicable requirements of this Law, all applications for permit shall be submitted on forms as required and available in the Planning and Zoning Department and the Building and Engineering Department that shall include a site plan of the property to be developed and a boundary survey stamped by a New York State licensed land surveyor.
- B. Development and Uses Requiring a Site Plan. Site plans drawn to scale shall be required for all uses and shall be included in all applications for a permit. Site plans may not be required for the following uses, as determined by the Director of Community Development, Building Inspector or designee:
- a. Accessory structures (other than for single or two-family dwelling units).
  - b. Any enlargement of a principal building by less than ten percent (10%) of its existing size provided such enlargement would not result in a requirement for additional parking or encroachment in a setback area.
  - c. A change in principal use where such change would not result in a change in lot coverage, off-street parking, access or other external site characteristics.
- C. Procedure for Preparation
- a. Site plans or any portion thereof shall be prepared by an engineer, architect, landscape architect or land surveyor who is authorized by the State of New York to practice as such.
  - b. Site plans shall be prepared to a scale as deemed appropriate by the Town Department with jurisdiction.
  - c. A site plan may be prepared in one or more sheets to show clearly the information required by this section and to facilitate the review and approval of the site plan.
  - d. All horizontal dimensions shown on the site plan shall be in feet and; decimal fractions of a foot to the closest one hundredth of a foot (0.00), and all bearings in degrees, minutes and seconds.
  - e. Every site plan shall show the name and address of the owner or developer, the north arrow, the date, the scale of the drawing, and the number of sheets. An application form requesting an action from the Town shall be made available to any applicant and completed with the submission of a site plan for review. All applicable review fees (Chapter 99 of the Code of the Town of Clarence) must be paid along with the application.
  - f. Seven copies of the site plan shall be submitted to the Planning and Zoning Office for review for projects requiring Planning Board review. The Director of Community Development or his designee may request additional copies for outside agency review during the State Environmental Quality Review process.
- D. Required Information on Site Plans for Concept Plan Review:

- 1) Location of the tract on an insert map at a scale of not less than one inch equal to two thousand feet (1" = 2,000') indicating the scale, the north-point, and such information as the names and numbers of adjoining roads, streams, subdivisions, or other landmarks, sufficient to clearly identify the location of the property.
- 2) A boundary survey of the tract by bearings and distances certified by a licensed land surveyor or engineer. The owner of the property must give written authorization for the project, if different from the applicant, to the Planning and Zoning Department. Include land title, deed description, and any real estate contracts involving any lands to be included in the project scope including any deed restrictions.
- 3) The proposed location, general use, number of floors, height and floor area for each building; and, where applicable, the number, size and type of dwelling units. Indicate the present use of all adjoining properties, including building footprints within five hundred feet (500') of the project site.
- 4) All existing property lines; existing streets and easements, their names, numbers and widths; the location and size of existing sanitary and storm sewers, gas lines, water mains, culverts, and other utilities and their easements; existing buildings; existing watercourses; and any other prominent physical features on or adjoining the tract.
- 5) Show the current zoning classification and zoning district boundaries on adjoining properties. Note any proposed changes in zoning.
- 6) A topographical survey that shows floodplains, wetlands, soils existing streams and ditches with base flood elevations, existing elevations, and proposed elevations clearly illustrated. Contour lines should be no greater than one-foot (1') intervals.
- 7) All off-street loading spaces, parking and walkways indicating the type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided. Also show any areas that may be used for future parking expansion, if needed.
- 8) The location of wooded areas on the property and the location of trees and wooded areas that will be retained. Spotted tree surveys shall be required for any tree over six inches (6") in diameter as measured at diameter breast height (DBH). Trees shall be identified by species type.

#### E. Required Information on Site Plans for Development Plan Review

- 1) The location, character, size, height and orientation of proposed signs and outdoor lighting systems.
- 2) A detailed landscape plan that identifies all plant species by number and type that includes both pre-construction and post construction vegetation.
- 3) Design plans are to be submitted in an organized plan set with a title sheet to include project name, project location map, engineering/architectural firm name, engineering/architectural firm contact information, submittal date, list of drawings and owner/developer contact information. All drawing sheets to have original stamps and signatures.
- 4) Legal boundary survey stamped and signed by a New York State Licensed Land Surveyor showing entire development parcel and adjacent properties within 200

feet including reputed owner information for all immediately adjacent properties.

- 5) Site layout plan and detail sheets to include, but not be limited to, proposed building location(s) with dimensions to property lines, all setbacks, paved areas, parking layout, sidewalk locations, berms, exterior lighting and all associated site details. The following information must be provided on the site plan for Building Department review – landscaping (see Town of Clarence Landscape Ordinance), zoning, occupancy classification, construction type, building height, building area, proposed fire protection systems, frontage/area modification(s) (see chapter 5 of Building Code), finished floor elevation(s) and a basic floor plan including fire walls, fire barriers, fire partitions, stairways and exits.
- 6) Storm drainage and grading plans, profiles and detail sheets to include, but not be limited to, location of existing and proposed drainage structures (all structures to be numbered), length, size, slope, and material of proposed storm sewer piping, pipe inverts at all structures and end sections, high water elevation within storm water retention/detention basins, perimeter yard drainage with inlets at all property line intersections, storm drainage easements, proposed spot elevations, proposed elevation contours at 1 foot intervals, detention/retention basin cross sections, proposed perimeter swales with swale centerline elevations and all associated storm drainage and grading construction details.
- 7) Utility plans, profiles and detail sheets to include, but not be limited to, location of all existing and proposed utilities and their respective size and material (water mains and services, sanitary sewers, storm sewers, gas mains, cable, telephone electricity lines), proposed backflow prevention device, proposed utility poles and all associated construction details.
- 8) Erosion and sedimentation control plans and detail sheets to include, but not be limited to, location of silt fencing, location of straw sediment traps, stabilized construction entrance, topsoil stockpile areas, limits of stripping, limits of grading, maintenance schedule and all associated construction details.
- 9) Engineer's Report explaining the project in detail including, but not limited to existing site drainage condition hydrographs, proposed site drainage conditions hydrographs, storm water detention requirement calculations, detention basin design criteria including controlled discharge calculations and storm drainage pipe sizing calculations including perimeter yard drainage. The Engineer's Report must have original stamp and signature of a Professional Engineer licensed in the State of New York.
- 10) A traffic control plan must be submitted that shows the location of all access drives within 1,000' of the proposed site. All proposed traffic control devices shall be shown on a site layout plan that includes safe pedestrian corridors throughout the site.

#### F. Compliance with Other Requirements and Agencies.

All features and elements of the site plan shall in all respects conform to all applicable provisions and standards of the General Statutes of the State of New York; the Laws of the Town of Clarence and Erie County; and the standards and requirements of the New York State Department of Transportation and the New York State Department of Health. Proof of all appropriate permits for utilities and

other improvements must be submitted to the Town before development plan approval may be granted.

**229-152 PROCEDURE FOR PROCESSING PERMITS**

- A. Applications for single and two-family home building permits shall be submitted to the Building Inspector for review and issuance of a permit if it is determined that a project does not require additional review or is ministerial in nature. If the Building Inspector determines that the project will require discretionary approval of the Town Board, the application will be forwarded to the Planning and Zoning Office to further the review process.
- B. The Director of Community Development, or his/her designee, shall review all site plans and boundary surveys submitted to the Planning and Zoning Office. The Director of Community Development, or his designee, shall verify the completeness and compliance of such plans and may circulate the plans to the relevant regional and Town agencies and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended. The reviewing agencies and officials may include, but need not be limited to:

-District Fire Chief via Fire Advisory Committee

-Town Engineer

-Erie County Water Authority

-Traffic Safety Committee

-Erie County Health Department

-Erie County Department of Environment and Planning

-Erie County Highway Department

-New York State Department of Transportation

-New York State Department of Environmental Conservation

-U.S. Soil Conservation Services, District Office

-Municipal Review Committee

- C. Once the Director of Community Development or his/her designee deems the plans to be complete in information provided and in compliance with all identified provisions, the item will be placed on the next agenda of the Town Board for review and consideration. At the Town Board's discretion, the plan may be referred to the Planning Board for review. The initial review by the Town Board shall identify if the proposal is

consistent with the adopted Master Plan and the design is generally acceptable. The Town Board shall identify any specific concerns related to architectural style, landscape buffering and general use prior to forwarding the application for further review.

- D. The Planning and Zoning Office must receive the complete plan with checklist at least ten (10) days prior to the Planning Board's next meeting date to place it on their agenda.

**229-153 CONCEPT PLAN REVIEW AND RECOMMENDATION**

If a proposed action is forwarded by the Town Board, the Planning Board shall review the application and make a recommendation. The Planning Board shall have up to forty-five (45) days from their first meeting date to make such recommendation. Alternatively, the Planning Board could request additional information of the applicant in order to aid them in their review of the application. If no recommendation is made during said forty-five (45) day period (except as herein provided) the application shall forthwith be forwarded to the Town Board without a recommendation.

**229-154 TOWN BOARD REVIEW AND CONSIDERATION**

Concept plan approval will require Town Board approval only if re-zoning of land is required as a part of the application or if major changes as identified by the Planning Board are incorporated into the concept recommendation by the Planning Board. A concept plan approval issued by the Planning Board or Town Board shall become null and void after two years if no action to further the review process has occurred.

**229-155 GENERAL SITE PLAN PERFORMANCE CRITERIA**

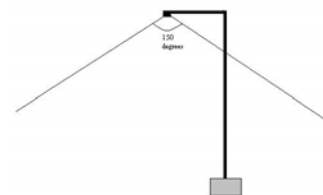
All development proposals referred to the Planning Board for site plan review shall be assessed against the following criteria.

- A. Site Design. When reviewing a site plan, the structure(s) and the landscape should be viewed as a whole. All elements of the site plan shall be designed to function as a system, which enhances the aesthetic quality of the site as well as to uses on neighboring sites. A well functioning site is one where the processes taking place on site occur without damage or inconvenience to property or persons both on and off site.
- B. Vehicular and Pedestrian Traffic.
  - 1) There shall be adequate arrangement of safe vehicular traffic access and circulation
  - 2) Pedestrian and automobile conflicts shall be minimized as much as practical.
  - 3) All roads and sidewalks shall be constructed to the standards adopted by the Town Board.
- C. Parking
  - 1) The parking requirements as described in Chapter 2 of this law shall be adhered to.
  - 2) Design Requirements:

1. Parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous movements.
  2. Every parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or obstruction.
  3. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
  4. Parking areas shall be graded and surfaced with material that will provide adequate protection against potholes, erosion, and dust and in a manner that will not conflict with the proposed means of snow storage and/or removal.
  5. The parking area shall be adequately defined for the proposed use by landscaping, curbing or similar devices. Parking space lines, signs and other traffic control devices shall be provided to meet the intentions of this law.
  6. Parking areas shall be properly maintained in all respects.
- 3) Parking areas from adjoining properties may be designed for common access, joint use and maintenance if there is written agreement between the property owners and the Planning Board determines that it would be beneficial to both uses and that there would be no deleterious effect on the overall traffic circulation patterns.

D. Lighting.

- 1) Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. A detailed lighting plan showing proposed locations of all light standards and the specifications of the light intensity shall be noted on the plans. Lighting standards shall be of a type approved by the Planning Board and Town Board. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. No lighting fixtures in excess of one hundred (100) watts shall be installed without specific approval of the Town Board.
- 2) The following design standards shall be followed on all site development plans:
  1. The style of the light and light standard should be consistent with the architectural style of the principal building.
  2. The maximum height of freestanding lights shall not exceed the height of the principal building or twenty feet (20'), whichever is greater.
  3. All lights should be shielded to restrict the maximum apex angle of the cone of



illumination to one hundred fifty (150) degrees.

4. Where lights along the property line will be visible to adjacent residents, the lights should be appropriately shielded.
5. Spot light type fixtures attached to buildings shall be avoided.
6. Freestanding lights should be located and protected to avoid being easily damaged by vehicles.
7. Lighting shall be located along street, parking areas, at intersections and where various types of circulation systems merge, intersect or split.
8. Pathways, stairways, sloping or rising paths, buildings entrances and exits should be illuminated.
9. Lighting should be provided where buildings are set back or offset.
10. The following intensity in foot candles shall be used to guide final design:

- 3) Parking lots – an average of one (1) foot candles
- 4) Intersections – a maximum of two (2) foot candles
- 5) Maximum at property lines – five-tenths (.5) foot candles
- 6) Residential areas—average of five-tenths (.5) foot-candles

**229-156 DEVELOPMENT PLAN REVIEW AND RECOMMENDATION**

- A. Upon receiving concept plan approval, an applicant may proceed to the development plan approval stage. For consideration of Development Plan Approval, an applicant must submit required documentation to the Planning and Zoning Department.
- B. The Planning and Zoning Department shall distribute the submitted application for review and comment to all involved Town Departments and Regulatory Agencies. Upon receipt of all required information, as determined by the Planning Board, an application may be placed on the next available agenda of the Planning Board.
- C. The Planning Board shall act on the Development Plans as submitted and forward a recommendation for final action to the Town Board.
- D. The Town Board shall determine whether or not to approve the application as to architectural style and functional plan. In approving an application, the Town Board may attach fair and reasonable conditions, which protect the public health and safety of the community and ensure compatibility to the existing character of the neighborhood. The applicant/petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Board.
- E. The Town Board may approve the plan if it has evaluated an application and determined that:
  1. The use meets all required specifications of the Zoning Law, and
  2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed.

Conditions, if any, placed on the plan by the Town Board shall be adequate to meet this requirement.

3. The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the plan would be contrary to one or more of these findings) shall rest entirely with the landowner.
4. If the use or development for which the plan is submitted is a conditional use, the Town Board may approve the plan with the approval of the conditional use permit. In no case, however, may a plan be approved for a use or development, which requires the issuance of a conditional use permit without the conditional use permit having first been issued.
5. A project approval shall be null and void, if after two years from receiving development plan approval from the Town Board, action to commence construction has not occurred.
6. A building permit issued by the Town of Clarence Building Inspector shall expire one (1) year after the date of issuance.
7. The establishment of a vested right on a piece of property for a plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Law.

### **229-157 ZONING PERMIT**

No building, sign or other structure (except as otherwise provided for in this Law) shall be erected, moved, extended or enlarged or structurally altered (exemption: internal alterations and renovations which do not alter the footprint or height of a structure), nor shall the use conducted within the building change, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Director of Community Development, Building Inspector or designee has issued a zoning permit for such work in accordance with a fee schedule established by the Town Board.

#### **A. Expiration of Zoning Permit**

Any zoning permit issued in accordance with this Law will lapse and become invalid after twelve (12) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

#### **B. Records**

1. The Planning and Zoning Office shall maintain a record of all zoning permits, authorized by the Town Board, on file at the Planning and Zoning office, and copies shall be made available on request to interested parties.
2. The Building Department shall maintain a record of all building permits issued by the Building Department and copies shall be made available on request to interested parties.

C. Conditions for Approval

Zoning permits issued on the basis of dimensional plans approved by the Building Inspector, or designee, authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction, which differs from that authorized shall be deemed a violation of this Law and shall be punishable as indicated in this Law.

D. Zoning Permit Not Required

Notwithstanding any other provisions of this Law, no zoning permit is necessary for the following uses:

- 1) Silos, corn cribs and other similar agriculture accessory uses (exclusive of barns).
- 2) Electric power, telephone, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public easement for utilities.
- 3) Interior alterations of less than \$10,000 in value that do not affect the integrity of the structure.
- 4) Routine maintenance and improvements including roofing, window replacement, siding replacement, etc. that does not expand the exterior dimensions of a structure.
- 5) Mailboxes, newspaper boxes, birdhouses, flagpoles, pump covers, and doghouses.
- 6) Uncovered decks on residential properties.

E. Establishing Setbacks

When establishing measurements to meet the required front yards and structure setbacks, the measurement shall be taken from the property line to the building foundation line. In the case of a corner lot, both yards shall be considered front yards and shall meet the appropriate setback.

F. Attached Garage Provisions

A private garage or other accessory structure that is connected to a dwelling or structure becomes a part of the principal building rather than an accessory building and shall be included when determining required setbacks from adjacent lot and street lines. For zoning purposes, a garage shall not be required to have a setback distance from the principal building. A garage may not be erected in a required front yard.

G. Additional Setback Provisions

In determining the yard requirements of a lot; decks, porches, carports, chimneys or other similar attached structures are considered a part of the principal building. Setbacks are determined from the foundation, exclusive of overhangs.

H. Height Exceptions

Maximum height requirements as set forth in specific zoning districts do not apply to silos, other such agricultural uses, flagpoles, and church steeples.

I. Fees

A fee, as determined by the Town Board, shall be paid for each zoning permit issued. Costs of hearings, notices, postings, etc. shall be added to this fee.

**229-158 CERTIFICATE OF OCCUPANCY**

A. No land shall be occupied or used and no building or structure shall be occupied or used, sewage system used, or changes made in the use until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the buildings or proposed use thereof complies with the provisions of this Law. The Building Inspector shall refer all requests for all change in use as herein described to the Town Board for approval prior to issuing a permit. A change in use shall include any change from nonresidential to residential use, any change which increases the number of dwelling units in a building or structure, any changes from agriculture or residential use to a business use, any change from a business, commercial or industrial use to a different business, commercial or industrial use or the reuse or reopening of any building or premises after the same has been closed for one (1) year or more.

B. A record of all certificates of occupancy shall be kept on file in the office of the Town of Clarence Building Department and copies shall be furnished, on request, to all interested parties. If a certificate of occupancy is denied, the reason for such denial shall be specified in writing and provided to the applicant.

**229-159 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this Law occurs, or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis thereof shall be filed with the Planning and Zoning Office or the Building and Engineering Office. Authorized representatives, so appointed by the Town Board, shall properly record such complaint, immediately investigate, and take action as provided by this Law.

**229-160 ENFORCEMENT**

A. If the Director of Community Development, Building Inspector, or the Zoning Code Enforcement Officer finds that any of the provisions of the Law are being violated, he/she or his/her designee shall follow the procedures set forth in the Town of Clarence Prosecution Manual. Such provisions call for a notification, in writing, to the owner of the property upon which such violation is located, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He/she shall order discontinuance of illegal uses of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes and discontinuance of any illegal work being done. The Director of Community Development, Building Inspector or designee shall take any other action authorized by this Law to ensure its compliance.

B. Additional written notices of violation may be sent by the Director of Community Development, Building Inspector, or designee at his/her discretion. The final written notice (such final notice may be the initial written notice) shall state the action, which

the Director of Community Development, Building Inspector or designee intends to take if the violation is not corrected. Upon failure of the property owner to correct any violation of this Law, the enforcement officer will cause to be issued an appearance ticket for local justice court action.

**229-161 PENALTIES**

- A. Any person, firm or corporation convicted of violating the provisions of this Law shall, upon conviction, be guilty of a violation and shall be fined an amount not to exceed two hundred fifty dollars (\$250) and/or imprisoned for a period not to exceed thirty (30) days. Each day of violation shall be considered a separate offense, provided that the violation of this Law is not corrected within thirty (30) days after notice of said violation is given.
- B. The town shall have the authority to seek civil penalties or small claims actions under Article 18 of the Uniform Justice Act, Town Law Section 135(1), and 268.
- C. Any taxpayer of the Town of Clarence may seek citizen enforcement remedy under section 268(2) of the Town Law for unlawful construction or use of any building, structure or land, or any illegal subdivision.
- D. Any property owner in violation of this Law or other local laws regarding land use, including, but not limited to Chapters 8, 67, 69, 75, 79, 87, 93, 101, 107, 121, 123, 131, 135, 147, 173, 177, 181, 185, 187, 189, 193, 196, 209, and 217 of the Code of the Town of Clarence shall not be able to obtain a zoning permit under this Law until the outstanding violation is corrected, unless the permit sought is to correct said violation.
- E. In addition to the other remedies cited in this Law for the enforcement of its provisions, and pursuant to New York State Law, the regulations and standards in this Law may be enforced via prosecution standards as adopted by the Town of Clarence.

**229-162 NON-CONFORMING USES**

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Law (or any amendment subsequent thereto) that do not conform to this Law. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Section. Many nonconformities may continue, but the provisions of this Section are designed to curtail substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located and the intent of this Law.

- A. Every structure or use not conforming to the regulations of the district in which it is located at the time of adoption of this Law, shall be a nonconforming use.
- B. A nonconforming structure or use may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located.
- C. A nonconforming use of a structure or land that has ceased for a consecutive period of twelve (12) consecutive months may not be altered rebuilt or resumed unless in conformity with this Law.

- D. A nonconforming use may be continued subsequent to adoption of this Law but the structure shall not be enlarged in a fashion that increases its nonconformity.
- E. A nonconforming use may be extended throughout any part(s) of a building, manifestly arranged or designed for such use at the time of adoption of this Law.
- F. Nothing in this Law shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming structure declared unsafe by a duly designated official.
- G. Nothing in this Law shall be deemed to prevent, with proper permit, the reconstruction of a nonconforming structure to its original configuration when destroyed by fire or Act of God and with review and approval by the Zoning board of Appeals.
- H. Whenever an area is transferred from a district of one classification to a district of a different classification, or amendments are adopted which change permitted uses or other regulatory measures governing such, the above regulations shall apply to nonconforming uses created by such transfer.
- I. The Planned Unit Residential District (PURD) zoning classification shall be identified as a pre-existing zoning classification. PURD projects have been previously approved as to design and land use by the Clarence Town Board. Amendments to these pre-existing districts may be made by the Town Board in accordance with procedures as outlined in Section 7.17 of this Law, Zoning Code/Map Amendments. Any amendments to a pre-existing PURD district must be consistent with the adopted Master Plan and residential design requirements in the Town of Clarence Subdivision Law.

### **229-163 ZONING BOARD OF APPEALS**

The Zoning Board of Appeals (ZBA) shall have the authority to hear and decide appeals from any order, decision, determination, or interpretation made pursuant to or regarding these regulations. The Zoning Board of Appeals shall have the authority to hear and decide applications for variances from the requirements of these regulations.

#### A. Membership in ZBA.

1. The Zoning Board of Appeals shall consist of five (5) members and one (1) alternate member, appointed by the Town Board. The alternate member, while attending any meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member. Members shall be compensated at a rate as determined by the Town Board
2. The terms of office of the members of the Zoning Board of Appeals shall be for overlapping terms of five (5) years.
3. Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible, after such vacancy occurs, by the Town Board, and such appointment shall only be for the period of the unexpired term. Members may be removed for cause by the Town Board and upon written charges and after public hearing.
4. The Town Board shall appoint a Chairperson and Vice Chairperson of the Zoning Board of Appeals from the membership of the same board.

B. Meetings, Hearings and Procedures of the ZBA.

1. All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and by New York State Town Law and rules of procedure adopted by the Zoning Board of Appeals. Such rules of procedures may be amended by the Zoning Board of Appeals membership.
2. Any rules of procedure adopted by the Zoning Board of Appeals shall be kept on file at the Planning and Zoning Office and shall be made available to the public upon request.
3. Permanent records shall be kept on file for all proceedings of the Zoning Board of Appeals at the Planning and Zoning Office and shall be made available to the public upon request.

C. Staff.

The Director of Community Development or his/her designee shall serve as staff to the Zoning Board of Appeals and shall provide technical assistance to the Zoning Board of Appeals as requested.

D. Initiation of Appeals and Variances

1. An appeal may be initiated by any aggrieved party or by any officer, department or board of the Town of Clarence.
2. An application for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

E. Administrative Review, Appeals and Interpretation

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Director of Community Development or designee, Building Inspector or designee, or Town Board regarding any portion of this Law and apply such interpretation to particular fact situations. In addition, the Director of Community Development or designee, Building Inspector or designee or Town Board may ask the Zoning Board of Appeals to interpret any portion of the Zoning Law.

1. The Zoning Board of Appeals may, after having held a public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed or make an interpretation of the Zoning Law.
2. The Zoning Board of Appeals shall have all the powers of the Director of Community Development, Building Inspector or designee or Town Board in making any order, requirement, decision, interpretation or determination with reference to an appeal or petition.

3. An appeal may be made by any person who has received a ruling from the Director of Community Development or designee, Building Inspector or designee. An appeal to the Zoning Board of Appeals shall be made within forty-five (45) days of the decision, order, determination, or interpretation made by the Zoning Enforcement Officer. The Zoning Enforcement Officer may make an appeal to the Zoning Board of Appeals at any time.

#### F. Variances

When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Law, the Zoning Board of Appeals shall have the power to vary or modify any of the regulations or provisions of this Law relating to the construction or alteration of buildings or structures or the use of land.

1. A “use variance” shall mean the authorization by the zoning board of appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited by the applicable zoning regulations.

a). No such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

(1). The applicant cannot earn a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2). That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3). That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4). That the alleged hardship has not been self-created.

b). The board of appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

2. An “area variance” shall mean the authorization by the zoning board of appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

a). In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood

community by such grant. In making such determination the board shall also consider:

- (1). Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2). Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3). Whether the requested area variance is substantial;
- (4). Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5). Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

3. The Zoning Board of Appeals, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Law. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Law and shall be punishable as prescribed in this Law.

4. Unless otherwise authorized by the Board of Appeals and included in its decision to grant a variance, any order of the Board of Appeals in granting a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained within one (1) year from the date of its decision.

**229-164 PLANNING BOARD**

A Planning Board is established to review projects and make recommendations to the Town Board on matters referred by the Town Board, including but not limited to Concept Plans, Development Plans, Temporary Conditional Permits, Special Exception Use Permits and long range planning and land use issues.

**A. Membership.**

The Planning Board shall consist of seven full members and one alternate member. The Town Board shall appoint the members of the Planning Board on a staggered term basis in conformance with Town Law. The Planning Board Alternate shall be appointed on an annual basis. The alternate member, while attending any meeting of the Board and serving in the absence of any regular member, shall have and may exercise all of the powers and duties of a regular member. Members shall be compensated at a rate as determined by the Town Board.

**B. Vacancies.**

Vacancies occurring for any reason other than expiration of term shall be filled by appointment of the Town Board and shall be for the period of the unexpired term.

C. Executive Committee.

The Town Board shall appoint a Chairperson, Vice Chairperson and Second Vice Chairperson from the membership of the Planning Board. Collectively, such members shall constitute the Planning Board Executive Committee.

D. Meetings, Hearings and Procedures of the Planning Board.

All meetings and hearings of the Planning Board and the Planning Board Executive Committee shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and by New York State Town Law and rules and procedures established by the Planning Board. Such rules and procedures may be amended by the Planning Board membership.

1. Any rules of procedure adopted by the Planning Board shall be kept on file at the Planning and Zoning Office and shall be made available to the public upon request.
2. Permanent records shall be kept on file in the Planning and Zoning Office for all proceedings of the Town Planning Board and shall be made available to the public upon request.

E. Administrative Review.

The Planning Board, for matters associated with the Zoning Local Law, shall be a recommending Board to the Town Board. In addition to Concept and Development Plan reviews, the Planning Board shall make recommendations on all Special Exception Use Permit applications and Temporary Conditional Permit applications when directed by the Town Board. The Planning Board shall attach reasonable safeguards and conditions to uses, which might otherwise produce deleterious effects on the environment, neighborhood character, and/or the Town resident's health, safety and welfare.

F. Staff.

The Director of Community Development and Assistant Director of Community Development shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

**229-165 ZONING CODE/MAP AMENDMENTS**

The purpose of this section is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. The zoning law shall act as an implementing tool for the town's adopted comprehensive plan and all regulations and amendments must be in conformance with the adopted plan.

A. Authority

Upon compliance with the provisions of this Section, the Town Board shall have the authority to amend or repeal the text of these regulations and the classification of any parcel of land, as indicated on the Zoning Map.

**B. Initiation**

Any amendment may be initiated by:

1. The Town Board or Planning Board on its own resolution;
2. A local government agency of the Town of Clarence; or
3. By any other person legally or equitably owning property within the zoning jurisdiction of the Town of Clarence, in accordance with the procedures set forth herein.

**C. Filing of Petitions; Determination of Completeness**

For a re-classification of property proposed by any person or entity other than the Planning Board or Town Board or for petition to change the text of this Law, such petition shall be on an application form prescribed by the Town Board and accompanied by the fee established by the Town Board. Said application form and fee shall be filed with the Planning and Zoning Office.

**D. Content of Application**

1. Each noncontiguous parcel of land for which rezoning is requested shall be deemed as a separate application, and said application fee shall accompany each application. For the purpose of this paragraph, land located and adjacent on either side to the rear and all property directly across any street or public right-of-way from the subject property shall be deemed to be contiguous.
2. Each application for a rezoning of land shall be accompanied by two (2) copies of a map, drawn to scale, with the following information either shown on the map or accompanying it:
  - a). The subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, stream or other feature easily identifiable on the ground. In addition, all property lines, which abut the property, and property owners' names and addresses of all contiguous properties shall be furnished.
  - b). If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection, and in addition, the name of the subdivision and the plat addition, the names and addresses of all adjoining property owners (as indicated on the most up-to-date tax listings) shall be furnished.
  - c). A survey of the property(ies) proposed for rezoning shall accompany the map.
  - d). The present and proposed zoning classification of the lot(s) in question.
  - e). The property identification number(s) of the lot(s) in question
3. An application for a change in the text of the Law shall be made in duplicate, on an application form provided by the Town Board. The application shall contain a reference to

the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

#### E. Planning Board Review and Recommendations

Once a petition for rezoning is complete, the Director of Community Development shall refer the petition to the Town Board. The Town Board, prior to taking any action shall refer the petition to the Planning Board for review and recommendation to the Town Board. The Planning Board shall have a maximum of forty-five (45) days from the date they first meet to make such recommendation unless an agreement between the applicant and the Planning Board stipulates additional time for review. If a recommendation is not made during said time period, the application shall be forwarded to the Town Board without a recommendation from the Planning Board.

1. If a recommendation is made to the Town Board by the Planning Board concerning a petition for rezoning, said recommendation shall be as follows:
  - a). Grant the rezoning as requested, or
  - b). Grant the rezoning with a reduction of the area requested, or
  - c). Grant the rezoning to a more restrictive general zoning district or districts, or
  - d). Grant the rezoning in conjunction with a change in the text of this Law, or
  - e). Recommend that the application be denied.
2. If a recommendation is made to the Town Board by the Planning Board concerning a petition to amend the text of this Law, it shall be as follows:
  - a. Adoption of the amendment as written, or
  - b. Adoption of the amendment as revised by the Planning Board, or
  - c. Rejection of the amendment.

#### F. Submittal and Review Periods

In order for an amendment to the Zoning Law text or map to be made in accordance with this Section, a public hearing must first be held by the Town Board. Notification of the public hearing shall be as follows:

1. A notice shall be published in a newspaper having general circulation in the town, to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
2. A notice of a proposed Zoning Map change shall be sent by first class mail by the Planning and Zoning Office to the affected property and to all contiguous property owners and other owners within five hundred feet (500') of the property proposed for amendment.

#### G. Town Board Review and Consideration

1. In case of protest against an amendment, duly signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto, either in the rear thereof or on either side thereof,

extending one hundred (100) feet there from or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of four-fifths (4/5) of the Town Board.

2. Once the public hearing has been conducted and the Town Board shall render a decision on the petition. The decision of the Town Board shall be in the form of any of the various options listed in this section. Alternatively, the Town Board may send the application back to the Planning Board for further study and consideration. The petitioner shall have the right to withdraw his petition at any time prior to the final decision being rendered by the Town Board. The Town Board shall have the authority to call for additional public hearings on any amended petition brought before them. The forty-five (45) day Planning Board review period shall be in effect after the close of the first and any subsequent public hearings called for by the Town Board on a particular amendment.

#### H. Notification of Decision

Once a public hearing has been held and closed, and a final determination made by the Town Board, said decision shall be sent by first class mail by the Director of Community Development to the applicant and any persons at or before the public hearing who have indicated in writing to the Director of Community Development that they would like the decision mailed to them, within five (5) working days following the date of said decision. Similarly, notice shall be sent to the applicant in the same manner if the Town Board makes a decision to re-submit the petition to the Planning Board for further review.

#### I. Re-Submission of Petition

1. The Town Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial.
2. The Town Board may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:
  - a). There has been a significant change in the zoning district classification of an adjacent piece of property; or
  - b). The Town Board has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
  - c). Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or

**229-166 INTENT**

For the purpose of interpreting this Law, certain words, concepts, and ideas are defined herein and appear within the text of the Law. Except as defined herein, all other words used in this Law shall have their everyday dictionary definition.

**229-167 INTERPRETATION**

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular.
- C. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- D. The word "lot" includes the word "plot" or "parcel" or "tract"
- E. The word "shall" is always mandatory and not merely discretionary.
- F. The word "structure" shall include the word "building."
- G. The words "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. "
- H. The word "Zoning Map," or "Clarence Zoning Map," shall mean the Official Zoning Map of Clarence, New York.
- I. Any word denoting gender includes the female and the male.
- J. The term "Town Board" shall mean the "Town Board of Clarence, New York."
- K. The term "Planning Board" shall mean the "Planning Board of Clarence, New York."
- L. The term "Board of Appeals" shall mean the "Zoning Board of Appeals (ZBA) of the Town of Clarence, New York."
- M. The term "Zoning Enforcement Officer" shall mean any "Code Enforcement Officer" as appointed by the Clarence Town Board.
- N. The term "Planning Department" shall mean the Planning and Zoning Department of the Town of Clarence, New York.

**229-168 DEFINITIONS**

Accessory Building

A subordinate structure to the principal building or use on a lot that may include, but not be limited to, private garages, greenhouses, storage buildings and the like.

Adult Retail

Any establishment which sells, rents, leases, displays, distributes, purchases, or trades in materials distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. This definition shall not include materials related to the medical profession. This definition shall include an adult bookstore, adult entertainment cabaret, adult mini-motion picture theatre, and adult motion picture theatre.

Adult Uses

Any use, that includes specified anatomical areas and specified sexual activities.

Agriculture Operation (Customary)

The raising or production for compensation, of crops, livestock, poultry, dairy products, fish or other wildlife, trees and other similar pursuits. Tree growing and harvesting, animal husbandry, horticulture operations, forestry operations; and the sale, at wholesale or retail, of farm products upon the premises where the same are grown or produced shall be considered agriculture operations.

Agricultural Support Structures

Shall include, but not be limited to, barns, silos, sheds, coops, shops, commodity buildings, machine or equipment storage buildings, greenhouses, stables, riding rings or arenas, exercise tracks, runs, dry lots, stalls, paddocks, pens, corrals or fences, windmills, water supply ponds, farm stands, manure storage facilities, wineries or vineyards, maple sugaring facilities or other storage buildings, out buildings or enclosures.

Alterations

To change or rearrange any exterior structural part of the existing facilities of a building or structure, by enlarging the building or structure, whether by extending any side or increasing the height thereof, or to move the same from one location or position to another. It shall not be considered an alteration if there is no expansion of exterior dimensions. For instance, replacement of windows, doors, siding, roofing, etc., as well as interior alterations shall not be considered an alteration for the purposes of this law.

Anatomical Area(s)

Anatomical areas shall include:

- a. Less than completely and opaquely covered genitals, pubic regions, or female breast below a point immediately above the top of the areola.
- b. Human male genitals in a discernibly turgid state even if completely covered.

# Article 17

# DEFINITIONS

## Apartment Building

A building arranged, intended or designed to be occupied by three or more families independently of each other. Includes Multiple Family Dwelling(s).

## Area, Floor

The total floor area less permanent concourses, stair halls, lobbies, elevator shafts, areas permanently devoted to warehousing, and rooms housing equipment servicing the entire building.

## Area, Living

Usable living space, exclusive of porches, entries, garages, and terraces, determined by the sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls.

## Assisted Living Facility

See Nursing Home

## Automotive Sales

Any building, premises, or land, in or upon which the occupant offers motor vehicles for sale or lease including recreational vehicles, motor homes, farm and construction vehicles, or any part thereof.

## Automotive Service Stations

Any building, premises, and land, or portion thereof, used or occupied for the sale or supply of gasoline or motor vehicle fuels, oils or lubricants, or for the polishing, greasing, washing, and routine servicing and maintaining of motor vehicles

## Basement

A story partly below grade but having at least one-half of its height (measured from floor to ceiling) below the average adjoining grade.

## Basement, Walk-Out

A story partly below grade but having at least one-half of its height (measured from floor to ceiling) above the average adjoining grade with full door access to the exterior of the home.

## Bed and Breakfast Inn

A use that takes place within a building that consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to the breakfast meal, available only to guests. The homeowner shall reside on-site and employment shall not exceed two (2) full-time employees not including the owner(s).

## Boarder

A person unrelated to the owner of the premises that may rent living space in an existing living unit but not create an additional living unit.

# Article 17

# DEFINITIONS

## Boarding House

An owner-occupied living unit that rents living area of the unit to a boarder.

## Building

Any structure having a roof supported by columns or by walls, which is used or occupied for the shelter of enclosure of animals, persons, or property. Unless specified, the term includes both principal and accessory buildings.

## Build Out

The completed construction of all phases of a development as allowed by all Local Laws and Regulations. The scale of build out can be from a single lot to the entire Town.

## Build to Line

The line along the front of a property where construction shall begin. A build to line runs parallel to the front property line and is established to create an even building facade line on a street.

## Building Area

The total area, taken on a horizontal plane at grade level, occupied or to be occupied by the principal building and all necessary buildings, excluding chimneys, uncovered porches, patios, terraces, steps and open areas.

## Building Department

The arm of local government responsible for the enforcement of the New York State Fire Prevention and Building Code as well as all of the Town's local land use laws regarding building and construction of all principal and accessory structures.

## Building Height

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest average point of the roof.

## Building Line

The line formed by the facades of buildings, which creates a frame defining the public realm. Respecting building lines means to place walls or landscaping in such a manner as to continue the frame where there is an absence of buildings.

## Building Inspector

The person appointed by the Town Board to enforce the regulations in the New York State Fire Prevention and Building Code as well as all the Town's local land use laws regarding building and construction of all principal and accessory structures.

# Article 17

# DEFINITIONS

## Building Permit

A permit obtained from the Town of Clarence Building Department which sets the inspection schedule and construction techniques for a project.

## Caliper

The measurement of the size in inches of a tree's trunk diameter usually taken between one foot (1') and four and one-half feet (4.5') above the ground elevation. One-foot (1') measurement to be used for new trees to be planted and four and one-half feet (4.5') to be used for existing trees on a site or trees to be removed.

## Carrying Capacity

The amount of traffic which can be accommodated on a street without reducing the service level of the street as defined by the New York State Department of Transportation or street design standards of the Town of Clarence Subdivision Law. Carrying capacity is determined by the amount of traffic per lane per hour.

## Certificate of Occupancy (CO)

A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Zoning Law and all other applicable regulations.

## Child Care Centers

A place where daytime care is provided to six (6) or more children and not the legal wards or foster children of the attendant adult within an occupied residence. Day Care Facility and Nursery School shall be included in this definition.

## Commercial Use

All retail sales establishments, office uses (medical, financial), service industry uses (restaurants, hotels/motels/inns), wholesale businesses, and general business (automotive repair).

## Community Facility

A building or parcel of land used specifically for a governmental purpose or non-profit institution including unincorporated community groups. Facilities may include churches, parks, governmental offices, golf courses, nature preserves, public or private schools, recreational trails, and cemeteries.

## Concept Plan

A preliminary sketch plan of a plot of land intended to obtain a permit according to this Zoning Law. A concept plan may include drainage, setbacks, what utilities are available to the site, the proposed building construction type, and show existing buildings and drives within 500' of the site.

## Corner Lot

Any lot at an intersection of two separate public or private road right-of-ways. Such lots shall be considered to have two front yards from those public or private road right-of-ways to the closest point of the principal building.

# Article 17

# DEFINITIONS

## Customary Home Occupation

Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display. When observed from beyond the lot on which it is located, the home occupation does not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

## Detached and Attached single family home

Attached housing does not provide for an open yard on all sides of the home (perimeter yard). Any group of attached housing containing more than two (2) dwelling units on a single lot is multi-family. Attached housing with each house on its own deeded lot (zero lot line) is not multi-family. Detached housing must have a perimeter yard and be located on a single deeded lot (exception: see Temporary Conditional Use Permits of the General Provisions). A modular home is included in this definition but manufactured housing is not.

## Development Plan

A set of detailed plans used in the construction of a project that has been derived from an applicant's approved concept plan. Information may include all of the items needed by all review agencies in order to issue permits under this Law for such development.

## Diameter Breast Height (DBH)

The diameter of a tree species at approximately four (4.5') above ground level.

## Director of Community Development

The person appointed by the Town Board to administer this Official Zoning Law as well as make recommendations on local land use policy. This position is the department head for the Planning and Zoning Office.

## Dog Kennel

A structure used for the harboring of dogs for compensation.

## Drip Line

An imaginary vertical line extending from the outer most portion of the tree canopy to the ground.

## Drive-in facility

A commercial establishment designed to permit customers to remain in their automobiles while being accommodated.

## Driveway

A private roadway utilized for providing access from a public road to a permitted use.

# Article 17

# DEFINITIONS

## Duplex

A structure containing two (2) dwelling units located on a single lot.

## Dwelling Unit or Living Unit

A building designed or used exclusively as the living facilities for one family.

## Encroachment

The overlap of a structure into a dedicated setback area. Areas may include dedicated yard areas, an easement, or a highway Right of Way.

## Entertainment Use

Any establishment which provides active recreational opportunities such as miniature golf, batting cages, carnival games, waterslides, or passive recreation such as movie theaters.

## Erect

To construct, build, reconstruct, rebuild, or excavate for a building or structure.

## Expanded Home Occupation

A customary home occupation that meets all requirements except as to utilizing an accessory structure on the premises for business purposes.

## Facades

The vertical surface of a building, which is set along a frontage line. The elevation of a facade is the vertical surface area. Facades are subject to visual definition by building height and setback lines.

## Family

One or more genetically or lawfully related persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group of unrelated persons occupying a boarding house, lodging house, club, fraternity, or hotel.

## Farm

Any parcel of land containing at least five acres which is used for economic gain in the raising of agriculture products, livestock, poultry, dairy products, and tree farms including related accessory structures.

## Flat Roof

Refers to the silhouette formed by a roofline. Flat rooflines infer a roof with no pitch. The actual roof structure is required to have a slope for drainage purposes. This is separate from the roofline, which can be stepped; flat in appearance through architectural elements such as cornices, mansards, and parapets; or pitched as with residential homes.

# Article 17

# DEFINITIONS

## Frontage

The distance between lot lines along a public or private highway right-of-way.

## Garage

An accessory structure that is primarily used to store automobiles and personal belongings.

## Grade

Grade shall mean the elevation of the land or land level at a specific point.

## Grading Area

The grading area includes any area of land around a newly constructed building that affects surface water patterns. This area will be determined on a permit-by-permit basis through the Building & Engineering Department at site plan review.

## Greenbelt

A greenbelt is a buffer area between new construction and other properties consisting of various forms of vegetation. This area is mainly used for aesthetic mitigation for existing or future adjoining uses.

## Group Home

Group residence for those requiring full-time assisted living as well as supervision.

## Hazardous Waste

Any substance meeting the definition of that term under Section 27-1101 of the New York State Environmental Conservation Law or any regulations promulgated thereunder.

## Housing Types

The style of living unit that may include multi-story, single-story, attached, detached, owner-occupied, or rented, located on a private yard or common land of various sizes.

## Hotel

A principal building containing a group of living units designed to be used or which are used or rented for sleeping purposes by guests and where only a common kitchen and dining area is provided by the property managers.

## Impervious Cover

All areas covered by buildings, pavement (not including ungrouted pavers for sidewalks), gravel, rooftops of stored merchandise (i.e.: cars and manufactured housing displays, even if located on grass surfaces), and any material that prevents water from infiltrating the surface layer of the soil. Wooden slatted decks and pool surfaces are exempt for the purposes of lot coverage calculations.

# Article 17

# DEFINITIONS

## Infill Development

New development within an existing sewer district on vacant or idle land or within a vacant building.

## Interconnected

Refers to streets, which provide through access to other streets. Interconnected means the existence of a grid or grid pattern that may include curvilinear street layouts.

## Irregularly Shaped Lots

Lots which are located on corners or at intersections which create lots with three sides or lots with more than four sides, with corner angles greater or less than 90 degrees. The front yard of such lots shall be determined with respect to adjacent homes, and the maintenance of street vistas.

## Junkyard

Any lot, land, or structure, or part thereof, used primarily for the collection, storage, and sale of waste paper, rags, scrap metal or other discarded material; for the collection, dismantling, storage of machinery or inoperative and/or unregistered motor vehicles; or for the sale of parts thereof.

## Landscaped Area

The area of a lot that does not have buildings, structures, or impervious surfaces covering the surface of land.

## Large, Medium, and Small Maturing Trees

Tree height categories. Large Maturing trees grow to a minimum height of 40 ft. Medium Maturing trees grow to a minimum of 20 ft. Small Maturing trees grow to a minimum of 10 ft.

## Light Assembly, Industrial

Light assembly includes all operations involving the creation of whole products from parts and all industrial processes of less intensity than such operations. No light assembly industrial use shall emit noise or odor, which alters or impacts adjacent property, or discharge gas or liquid waste into the environment, which impacts adjacent property. Light assembly uses shall be conducted indoors and any accompanying storage shall be indoors or screened from all abutting property lines and non-industrial uses.

## Living Unit

See Dwelling Unit.

## Loading Space, Off-Street

An area of land off the public right-of-way where it is appropriate for unloading and/or loading goods for an approved use.

## Lot

A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

# Article 17

# DEFINITIONS

## Lot Coverage

The area of an existing lot that is utilized or covered with buildings and structures.

## Lot of Record

Any vacant lot which individually or as a part of a subdivision has been recorded in the County Clerk's Office and for which proof can be given that the lot was intended for development prior to adoption of this law.

## Machine Shop

A workshop that is mechanized to size and assemble pieces of machinery.

## Maintained Easement

A recorded right of way made of crushed gravel, pavement, or graded and cleared of brush, so as to permit access by all vehicles.

## Manufactured Housing

A residential dwelling unit that is constructed in accordance with the standards set forth in the New York State Fire Prevention and Building Code and is composed of one or more components, each of which was assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. The unit is also situated on land that is leased by a licensed Manufactured Home Park owner.

## Manufacturing Operation

Any facility that assembles, fabricates, processes, or packages products, from raw materials or component parts, for sale and distribution to wholesale and retail establishments or other industries. Does not include operations involving hazardous materials.

## Mechanical Equipment

All HVAC (heating, ventilation, and air conditioning), pool filters, and other outdoor plumbing equipment located on the roof of a building or outside a home or building.

## Medical Office

Offices used for medical treatments or the practice of medicine.

## Mixed Use

The presence of residential and nonresidential uses within the same complex or same building. Mixed use can also refer to different categories of nonresidential uses such as institutional, retail, and office within the same complex of building. The advantage of mixed uses is the promotion of architectural compatibility, and pedestrian scaled environments.

## Mobile Home

A transportable single-family dwelling which may be towed on its own running gear and which is affixed to real estate, used for non-transient residential purposes and which is recognized and approved as a mobile home by the New York State Fire Prevention and Building Code.

## Modular Home

A dwelling unit, which is constructed in compliance with the New York State Fire Prevention and Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

## Motel

A hotel designed to accommodate motorists.

## Multiple-Family Dwelling Unit

Three or more attached single-family dwelling units located on a lot of record.

## Non-Conforming Uses

Any use lawfully being made of any land, building, or structure which on the effective date of these regulations or on the effective date of any amendment thereto, rendering such use illegal within a district, which does not comply with all the regulations of this ordinance or any amendments thereto.

## Nursing Home, Retirement

A licensed facility that provides support services to three (3) or more elderly or disabled adults who need assistance in meeting their daily basic needs.

## Off Street Parking

Parking which occurs on a lot and not on a street or other public right of way.

## Open Space or Open Area

Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained, would enhance the present or potential value of abutting or surrounding lands or would maintain or enhance the conservation of natural resources.

## Parcel

Any subdivision of land within the Town of Clarence.

## Parks

An area of land devoted to active or passive recreational pursuits.

# Article 17

# DEFINITIONS

## Parking facilities

Any grounds or structures used primarily for the storage of automobiles.

## Patio Homes

A detached single-family home that is single-story measuring under 2,400 square feet in area that has two bedrooms or less and is located on a lot that is either commonly owned or measures less than what is required in the Residential Single-Family Zoning District.

## Permitted uses

Any use of land or buildings that is allowed as a vested right in a zoning district without any additional review or approvals by the Town Board.

## Planned Unit Residential District (PURD)

A pre-existing zoning classification allowing flexible land use and design regulations as approved by the Clarence Town Board. This zoning classification was originally created by the Town Board on 7/10/1974. This district has been repealed by the adoption of this Law.

## Planning and Zoning Department

The office of local government that is charged with developing the long range goals of the community, recommending proper land use policy, and administering all local land use regulations.

## Planning Board

The Planning Board of the Town of Clarence.

## Playground

An area of land devoted for active recreational pursuits that may contain articles of play equipment.

## Principal Building

A building where the main or principal use of the lot is conducted.

## Private Drive

A privately owned road right-of-way that may limit access to the owner(s).

## Professional Offices

Offices which offer professional or consulting services such as legal, engineering, architectural, accounting or other similar services, but not including medical.

## Public Hearing

A meeting advertised in the local printed media, concerning items including, but limited to, adopted laws, ordinances, or special and temporary permits, which require public input.

# Article 17

# DEFINITIONS

## Public Safety Station

Police stations, fire halls, and emergency vehicle stations including any substations of such organizations.

## Public Service Facility

See Community Facility

## Public Street

Any right of way used for vehicular and pedestrian traffic that is permanently maintained by the Town, County or State and is open to all traffic.

## Public Utility Facility

Any structure needed by a public utility for the maintenance and facilitation of that public utility. Facilities may include, but not be limited to the following, any substation, power pole, and utility box. This definition does not include telecommunications towers and satellite antennas, which are regulated under a separate law (Chapter 173 of the Code of the Town of Clarence).

## Quadrangles

A rectangular area, such as a courtyard, enclosed by buildings.

## Quarry, Sand Pit, Gravel Pit, Top Soil Stripping

A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot in preparation for the construction of a building for which application for a building permit has been made.

## Recreational Facility, (Public and Private)

A publicly or privately owned and operated facility involved with recreational activities, for municipal, commercial, or accessory residential purposes, including but not limited to swimming pools, tennis courts, basketball courts, athletic fields, playgrounds, half-pikes, golf courses or other similar facility or use. Swimming pools require separate permits issued by the Building and Engineering Department to follow New York State Regulations.

## Recreational Vehicle

Shall include motor homes, truck campers, boats and camping trailers less than forty-eight (48) feet in length and/or less than seven hundred twenty (720) square feet of interior floor area.

## Research and Development Operations

Any principal use that involves scientific research of product development in any field except those that involve hazardous substances, which are handled under Chapter 123 of the Code of the Town of Clarence.

## Restaurant/Bar

A commercial establishment that prepares and serves food and/or alcoholic beverages to the public.

## Retention and Detention Ponds

Engineered facilities for delaying or storing storm water runoff from a site. Retention delays the flow off a site to prevent flooding. Detention stores water on a site to allow time for pollutants to precipitate out of the runoff. This cleans the water before it is allowed to flow to nearby drinking sources.

## Riding Academy

Any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch, or similar establishment.

## Right Of Way (R-O-W)

An area of land dedicated to infrastructure, including but not limited to, streets, sewer lines, water lines, electric lines, and gas lines.

## Rooming House

See Boarding House.

## Secondary living unit

An additional living unit added to a single-family home that is for a family member of the owner occupant.

## Setbacks

The mandatory distance between a frontage line and a facade or a lot line and a building wall.

## Shopfront

A business or retail use. The facade of a shopfront is aligned directly on the frontage line with the entrance at grade. This is typical for sidewalk retail. Shopfronts often have awnings or a colonnade. A transition line should separate the signage from the facade below.

## Significant Impact

Any impact that would deteriorate the public health, safety and general welfare of the community. General welfare may include community character and other quality of life issues that are deemed important to that community, including but not limited to, all those issues reviewed under New York State's Environmental Quality Review Act (SEQRA).

## Site Plan

A diagram drawn to scale showing the development plans for a lot.

## Site Survey

A map developed by a land surveyor licensed in the State of New York accurately depicting the distances and measurements of all existing and proposed structures on a lot including all legal boundary lines with distances and bearings.

## Special Exception Use Permit

An authorization of a particular land use, that is permitted in a specific zoning district, subject to the requirements imposed by this local law to assure that the proposed use is in harmony with this zoning law and will not adversely affect a neighborhood if such requirements are met.

## Stable

A building or part of a building used to house horses or cattle.

## Story

The portion of a building included between the surface of any floor and the ceiling above it.

## Storm Water Runoff

Rain, that falls onto impervious surfaces and is not absorbed into the ground immediately. Storm water runoff carries pollutants off of paved surfaces into streams and rivers, and causes flooding by speeding up the rate of water flow into streams and rivers.

## Street Orientation

The direction of the architectural front facade of a building in relation to the street.

## Street Vista

A view framed by buildings at the termination of the axis of a thoroughfare.

## Street Yard

The area of land along the front property line parallel to a R-O-W reserved for tree planting and landscaping.

## Subdivision

The division of any parcel into two or more parcels.

## Sustainable

Having the ability to accommodate and maintain population growth and economic expansion through intelligent design.

## Temporary Structures

Buildings placed on a lot for a specific purpose, which are to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classroom or office space, construction trailers and guard houses, manufactured housing placed on a lot for temporary housing while principal home renovations are done, and produce stands. This law establishes the duration permitted for a temporary structure.

## Temporary Conditional Use Permit

A permit issued by the Town Board allowing a use, which is not permitted within a zoning district, to continue as long as certain criteria are being met by the applicant.

## Theatre

A building or part thereof devoted to showing movies or theatrical productions on a paid admission basis.

## Tourist Home

See Bed and Breakfast Inn

## Townhouse, Attached

A dwelling unit that is owner-occupied and shares a common wall with at least one other owner-occupied unit in a multiple-family structure. The unit is situated on land that is commonly owned and maintained by a Homeowner's Association.

## Trails

Recreational paths for walking, jogging, or bicycling within parkways or greenbelts. Trails are informal in design and may run through natural settings.

## Transitional Yard

The area of a property running along the side or rear yard of a nonresidential lot when it abuts a residential lot, used as a buffer. Transitional yards are planted with trees and landscaping to reduce noise, and other impacts on less intense property uses.

## Tree and Root Protection Area

An area of land designated by a local official or board that insures the protection of existing mature trees during site construction. Such areas may be enclosed by temporary fencing for delineation purposes and must include all drip lines.

## Usable Land

Land that is not protected by State or Federal Environmental Law, not covered with water, or subject to flooding. Also, land not encumbered by any utility, conservation, or access easement including public and private highway right-of-ways.

## Variance, Area

A modification of the dimensional requirements of a lot involving a permitted use in the district in which it is located.

## Variance, Use

An exception granted to utilize land for a use not permitted in the district in which it is located.

## Vested Right

The right to undertake and complete a development and use the property under the terms and conditions of an approved site survey plan.

## Vocational Center

A teaching or learning business where classes are held, which may be affiliated with a university or college.

## Watershed

An area of land that drains into a stream or river used for drinking water. The watershed delineates the boundaries of the Watershed District, which sets development standards for impervious surface areas and water quality.

## Wetlands

All lands and submerged lands, commonly called marshes, swamps, sloughs, bogs, and flats, which support aquatic vegetation. These areas are transitional zones that occur between terrestrial upland systems and deepwater aquatic systems, and are part of a continuous gradient between both. Wetlands provides flood control, surface and groundwater protection, wildlife habitat, open space, and water resources. Regulated wetlands are identified by the United States Army Corps of Engineers or the New York State Department of Environmental Conservation.

## Wetland Buffer

Abutting areas that surround and protect a wetlands from adverse impacts to its function and values.

## Woodlands

Land that is covered with woody vegetation.

## Yard

An area of land immediately adjacent to a building. Yards are broken into front, rear, and side. Front yards extend from the architectural front of a building to the fronting street or R-0W. Side yards extend from the sides of a building to a street R-O-W or property line. Rear yards extend from the back of a building to a property line or R-O-W.

## Zero Lot Line

No distance from a structure to a property line creating no yard area.

# Article 17

## DEFINITIONS

### Zoning Board of Appeals (ZBA)

The Zoning Board of Appeals of the Town of Clarence. As defined by Town Law Section 267, the jurisdiction of the board shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official(s) charged with the enforcement of this law.

### Zoning Enforcement Officer

For purposes of this law the Zoning Enforcement Officer may be the Director of Community Development, Assistant Director of Community Development, Zoning Code Enforcement Officer, or any Building Inspector.

### Zoning Map of the Town of Clarence

The official map that illustrates the zoning district boundaries described in this law. The official map shall be maintained current by the Town's Planning and Zoning Department and remain derived from the adopted comprehensive plan of the Town.

### Zoning Permit

Written permission issued by the Town of Clarence for the use of property, construction, or enlargement of a structure, or the grading or excavation of a site in preparation of construction or for the installation of underground utilities.