

ARTICLE III PERMITS AND PROCEDURES

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SECTION 300 - PURPOSE

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

SECTION 301 - APPLICATION PROCEDURES FOR BUILDING PERMITS

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

must be submitted with the completed application:

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

- K. Application for or acceptance of any permit issued or requested pursuant to this Ordinance constitutes agreement and consent by the person making the application or accepting the permit to allow the Code Enforcement Officer to enter the premises at any time to conduct inspections as required by this Ordinance. Refusal to allow the Code Enforcement Officer to conduct said inspections of the premises and their records related to such permit or required to be maintained by this Ordinance shall constitute sufficient justification for the immediate revocation or suspension of said permit. In addition, should the Code Enforcement Officer deem it necessary, an application may be made to any court of competent jurisdiction to obtain a warrant authorizing an inspection of the premises in question.
- L. The Code Enforcement Officer shall have the authority to revoke permits that have been issued as follows:
 - 1. Where it is found that there have been false statements or representations as to a material fact in the application, plans or specifications upon which the permit was granted.
 - 2. Where it is found that the permit was issued in error and should not have been issued in accordance with the applicable laws, codes, rules, regulations or orders.
 - 3. Where the person to whom the permit has been issued fails or refuses to comply with a stop-work order issued by the Code Enforcement Officer.
 - 4. In the event of a violation of this Ordinance, the Code Enforcement Officer may, in addition to the other penalties provided for herein, suspend said permit until such time as the violation is corrected. Should the Code Enforcement Officer determine that the violation constitutes a distinct hazard to life or public safety, he may order the premises secured immediately until said violation is abated.

SECTION 302 - APPLICATION PROCEDURES FOR SPECIAL PERMITS

- A. The Planning Board is empowered to issue special permits for those uses described in Article VII of this Ordinance. Site plan review, as fully described in Article IX, shall be conducted by the Planning Board as part of the special permit process. No special permit may be issued until site plan approval has been granted. Refer to Article X of this Ordinance for the policy, administration and interpretation of special permits.
- B. Pre-application Conference - An informal discussion, at the discretion of the Planning Board, may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board.
- C. Permitted Uses - Special permit uses shall be deemed to be permitted uses in their respective zoning districts, subject to the satisfaction of the requirements and standards set forth in Article VII and Article X of this Ordinance, and all other applicable requirements of this Ordinance. All special permit uses are hereby declared to possess unique characteristics and each specific use shall be considered as an individual case.
- D. Authorization - A special permit shall authorize only one particular special use. The special permit shall expire if the use ceases for more than one (1) year for any reason. *(Rev. 8/19/2008)*

- E. Violations and Compliance - No person shall be issued a special permit for a property where there is an existing violation of this Ordinance. Before any special permit is issued, the Planning Board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provision and arrangement has been made concerning the general findings stated in Section 1004 of this Ordinance.
- F. Issuance and Renewal - Special permits shall be issued for a period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be reviewed and renewed by the Planning Board annually, based on the Code Enforcement Officer's inspection report and written statement that the permittee is in complete compliance with the terms and conditions of the original special permit.
- G. Fees - Upon filing an application for a special permit, the applicant shall pay the appropriate application fee. There is a non-refundable fee for the renewal of a special permit, plus any direct costs related to verifying conformance to permit conditions. There is a non-refundable fee for Special Use Permits requested to be transferred to a new owner/applicant equal to the annual renewal fee of the special permit plus any direct costs related to verifying conformance to permit conditions. *(Rev. 8/19/2008)*
- H. Modification - Applications for modification to a Special Use Permit shall be made in writing to the Planning Board.
- I. Transfer – A Special Use Permit may be transferred to a new owner/applicant, provided a Site Plan Review is conducted by the Planning Board and they determine that the use covered on the Special Use Permit shall continue as specified on the originally issued permit under the new owner/applicant and there are no other issues identified. *(Rev. 8/19/2008)*

SECTION 303 - APPLICATION PROCEDURES FOR BLASTING PERMITS

- A. It shall be unlawful to engage in blasting operations or any other activity in which explosives are used in the Town of Clarendon without having secured a blasting permit from the Code Enforcement Officer. It is the intention of this provision that explosives not be stored in the Town of Clarendon.
- B. The permit shall be applied for and issued in the name of the owner of the work area upon which such blasting operations shall be conducted, and the application for such permit shall state the purpose, nature, and extent of the proposed blasting operations, as well as the location of the affected area.
- C. The applicant shall state upon such application the period of time for which he wishes such a permit to be issued.
- D. The permit period shall coordinate with the expiration date of any other state, federal or local permit which may be held by the applicant which are relevant to or associated with the applicant's blasting operations. Suspension or revocation of any permit issued hereunder shall not entitle the applicant to a refund of any part of the permit fee paid.
- E. Upon receipt of a complete application for a blasting permit, the Code Enforcement Officer shall refer the application to the Planning Board for review. A public hearing may be held at the discretion of the Planning Board. The Planning Board shall consider all evidence presented for its consideration and shall instruct the Code Enforcement Officer to issue or deny a permit, stating specifically its reasons for approval, disapproval, or modification of the permit.

- F. Permits shall be issued by the Code Enforcement Officer, provided all of the requirements set forth in this Section have been complied with by the applicant.
- G. The applicant shall pay, prior to the issuance of a permit, the appropriate fee as established by the Town Board.
- H. Blasting permits shall be issued for a period of seventy-two (72) hours, six (6) months, one (1) year, or three (3) years. Blasting permits may be renewed by the Code Enforcement Officer after review and approval by the Planning Board.
- I. Violation of any provision of this Section during the current permit period may be sufficient reason for denial of a permit renewal application. Any blasting conducted by the applicant within the Town of Clarendon without having previously obtained a permit shall be considered during the application review process. Renewal of the permit upon its termination shall follow the same procedures as those required in this section for the issuance of the original permit.
- J. No permit to blast within the Town of Clarendon shall be issued until the applicant has posted and filed with the Town Clerk an insurance policy issued by an insurance company authorized to do business in the State of New York providing general and comprehensive liability coverage in the principal amount of at least one million (\$1,000,000) dollars, the exact amount to be approved by the Town Engineer or Consulting Engineer, to cover the specific blasting project as stated in the Blasting Permit Application. The insurance policy shall name the Town of Clarendon as additionally insured so as to provide for the payment of any damage arising from the permitted blasting. The Town may also require that the applicant execute and deliver to the Town an indemnity agreement indemnifying the Town of Clarendon from any and all claims arising out of the permitted blasting. The blasting permit shall automatically terminate should the bond or insurance policy be canceled or otherwise terminated.
- K. Prior to issuance of a blasting permit, the applicant shall provide the Code Enforcement Officer with a copy of the current license of the blaster as issued by the State of New York. Such license shall be filed in the office of the Code Enforcement Officer and shall be available for public inspection. The applicant shall also provide the Code Enforcement Officer with any amendments, changes or revisions of such license. Should the blasters license at any time expire or be revoked or suspended, no further blasting shall occur until a current license is filed with the Code Enforcement Officer.
- L. Any person, firm or corporation, whether granted a permit pursuant to the provisions of this section or not, who commits or permits any acts in violation of any of the provisions of this section, shall be deemed to have committed an offense, and shall be liable for any associated penalties. Each week a violation continues or is permitted to exist shall constitute a separate violation as stated in Section 105 of this Ordinance.

SECTION 304 - APPLICATION PROCEDURES FOR OPERATING PERMITS

- A. The Code Enforcement Officer is hereby empowered to issue operating permits. Parties, who propose to undertake the types of activities or operate the types of buildings listed below, shall be required to obtain an operating permit prior to commencing such operation. An application

for an Operating Permit shall be provided by the Code Enforcement Officer and shall contain sufficient information to permit determination that quantity, materials, and activities conform to the requirements of the Uniform Code. No permit may be issued until a site plan has been submitted to and approved by the Planning Board. *(Rev 12 19 2017)*

1. Manufacturing, storing or handling hazardous materials in quantities exceeding those listed on tables 2703.1.1(1, 2,3,4) of the Fire Code of New York State (see Title 19 NTCRR Part 1225).
 2. Hazardous Processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling.
 3. Use of pyrotechnic devices in assembly occupancies.
 4. Building containing one or more areas of public assembly with an occupant load of 100 persons or more.
 5. Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Town Board by resolution.
 6. Carnivals, fairs and other special events excluding one and two family occasions.
- B. Applications for Operating Permits – All applications must be filed with the Code Enforcement Officer prior to commencing such operation. An application shall contain sufficient information to permit a determination that activities conform to the requirements of the Uniform Code. Pre-application Conference – An informal discussion, at the discretion of the Code Enforcement Officer may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board. An inspection shall be conducted by the Code Enforcement Officer prior to the issuance of any Operating Permit. A single operating permit may apply to more than one hazardous activity. *(rev 12/19/2017)*
- C. Violations and Compliance – No Operating Permit shall be issued for a property where there is an existing violation of this ordinance. Where activities fail to comply with the conditions set forth on the permit, or with applicable provisions of the Uniform Code, such permit shall be revoked or suspended.
- D. Issuance and Renewal – Operating permits may be issued for a maximum period of one (1) year and shall be subject to periodic site inspections and review. Permits shall be renewed by the Code Enforcement Officer only upon verification that the permit is in compliance with the terms and conditions of the original Operating Permit.
- E. Fees – Upon filing the application for an Operating Permit, the applicant shall pay the appropriate application fee, as determined by the Town Board. There is a non-refundable fee, as determined by the Town Board, for Operating Permit renewal, plus any direct costs related to verifying conformance to permit conditions.
(Rev. 6/19/2007)

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

- A. To provide for the proper protection of the land and the community by ensuring that any reclamation of land shall use only clean and uncontaminated materials for the purpose of filling and also to ensure that the filling does not impede the natural flow of surface water in a natural drainage course or cause the diversion of surface water into neighboring properties no

Land Reclamation (Fill) Permit shall be issued unless a site plan has been submitted to and approved by the Planning Board.

- B. Items specifically exempt from the provisions of this section: Customary excavation, storage and filling associated in connection with the routine construction of buildings, structures, retaining walls, fences, private drives, parking lots, public improvements and public and private utilities approved by the Town of Clarendon; A cemetery excavating for a grave, headstone or monument and removing or storing the surplus dirt or material resulting from such excavation; Excavation and fill associated with the routine construction of single-family or two family dwellings approved by the Town of Clarendon; Customary excavation, storage and filling associated in connection with an approved farm operation provided all fill material used originates from the farm property.
- C. The Code Enforcement Officer is hereby empowered to issue a Land Reclamation (Fill) Permit provided a reclamation plan has been submitted to and approved by the Planning Board.
- D. The applicant shall file with the Building Department of the Town of Clarendon, an application, in duplicate, including the name of the landowner together with a comprehensive plan drawn to a scale detailing the location of property and the location and extent of the proposed reclamation/fill area. In addition the following information shall be included in the reclamation plan:
 - 1. Verification that the location of the Land Reclamation (Fill) project being proposed is not a regulated activity by the U.S. Army Corps of Engineers or the New York State Department of Environmental Conservation (DEC). The Orleans County Soil and Water Conservation District can assist you in this assessment.
 - 2. The amount of fill material intended to be deposited to the site as well as the amount of time required to complete the fill process.
 - 3. Exact conditions, profiles and cross sections of property before reclamation/fill and those proposed after reclamation/fill. *Note:* The maximum level of fill above existing grade shall be eight (8) feet unless otherwise approved by the Planning Board as part of the reclamation plan review.
 - 4. A proposed siltation and erosion control plan designed to ensure proper surface drainage during and after completion of the proposed fill process.
 - 5. Grades of all creeks or drainage ditches at fifty-foot intervals for a minimum distance of five hundred (500) feet beyond the parcel of land covered by the permit.
 - 6. The location of all existing buildings on said property.
 - 7. Elevation contours shall be at two (2) foot intervals shot on a fifty (50) foot grid throughout proposed fill area with a one hundred (100) foot overlap to surrounding property at intervals of fifty (50) feet.
 - 8. All existing utilities adjacent to and on said property and the proposed protection or treatment thereof.
 - 9. Such plans must be prepared by an engineer or land surveyor duly licensed to practice in the State of New York.

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

in the State of New York in a sum equal to ten thousand dollars (\$10,000) for each acre or fractional part thereof covered by the permit, which bond shall be approved by the Town Board and which bond shall guarantee faithful performance of the work in accordance with this and all ordinances of the Town of Clarendon and the plans and specifications filed with the application for the permit. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Code Enforcement Officer certifying that all provisions of this chapter and the conditions of the permit issued thereunder have been fully complied with.

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

(Rev. 4/19/2011)

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

- A. The Code Enforcement Officer is empowered to issue Zoning permits for any permitted use or permitted accessory use in their respective zoning districts that is not governed by the issuance of a Building permit, Special permit, or Operating permit. Site plan review, as fully described in Article IX, shall be conducted by the Planning Board as part of the Zoning permit process. No permit may be issued until a site plan has been submitted to and approved by the Planning Board.
- B. Pre-application Conference - An informal discussion, at the discretion of the Planning Board, may be held between the applicant and the Planning Board regarding the necessary documents and data required for the sketch plan. This meeting may occur at a Planning Board meeting or otherwise at the convenience of the Planning Board.
- C. Authorization - The Zoning permit shall expire if the use ceases for more than one (1) year for any reason.

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