

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

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

- 701**    **Camp Ground**
- 703**    **Excavation and Mining**
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- 729**    **Exterior Solid Fuel Heating Device(s)**
- 730**    **Alternative Energy System (Solar Powered) Utility Scale**
- 731**    **Telecommunication Facility**

**GENERAL STATEMENT** – The requirements contained in this Article shall be in addition to the provisions specified elsewhere in this Ordinance.

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

**SECTION 701 – CAMP GROUND**

- A.    Camp Grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation or recreational purposes. The removal of wheels and placement of the unit on a foundation in a camping ground is prohibited.
- B.    Minimum site area: Fifteen (15) Acres.
- C.    Not more than ten (10) travel trailers, campers, tents, recreational vehicles, or motor homes shall be permitted per acre of gross site area.
- D.    A camp ground shall be located so that no entrance or exit from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a

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residential area. A camp ground shall have a minimum of two hundred (200) feet of frontage on a public street, road, or thoroughfare.

- E. Condition of soil, ground water level, drainage, and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences and no portion of the camp grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons on the property to hazards.
- F. Management, headquarters, toilets, dumping stations, showers, coin operated laundries and other uses and structures customarily incidental to the operation of the camp ground are permitted as accessory uses in camp grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:
  - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camp ground. Such establishments shall be restricted in their use to occupants of the camp ground.
  - 2. Such establishments shall present no visible evidence from any street outside the camp ground of their commercial character which would attract customers other than occupants of the camp grounds.
  - 3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public road, street or thoroughfare and shall not be directly accessible from any public road, but shall be accessible only from a street within the camp ground.
- G. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or New York State Department of Environmental Conservation, and shall receive approval from said agencies.
- H. Streets within camp grounds shall be private, but shall be constructed with a stabilized travel-way and shall meet the following minimum stabilized travel-way width requirements:
  - 1. One Way With No Parking – 12 Feet
  - 2. One Way With Parking on One Side – 18 Feet
  - 3. Two Way With No Parking – 18 Feet
  - 4. Two Way With Parking on One Side – 27 Feet
  - 5. Two Way With Parking on Both Sides – 34 Feet
- I. Each travel trailer site shall be at least two-thousand five-hundred (2500) square feet in area and have a minimum width of forty (40) feet.
- J. A minimum of eight percent (8%) of the gross site area of the camp ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.
- K. Entrances and exits to camp grounds shall be designated for safe and convenient movement of traffic on adjacent streets. All traffic into or out of the camp grounds shall be through such entrances and exists. An adequate lighting system shall be provided for the camp grounds.
- L. All utilities shall be underground.

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

**SECTION 703 – EXCAVATION AND MINING**

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

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and not hauled off the building site. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered with fill within the first growing season following the start of such operation.

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

**D. APPLICATION PROCEDURE**

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

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all provisions of this Ordinance, the special permit may be renewed by the Planning Board for a period of one (1) year.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

**SECTION 704 – HOME OCCUPATION**

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

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

**SECTION 705 – COTTAGE INDUSTRY**

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

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

- A. Dimensional Requirements:

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

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

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

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

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

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

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



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

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

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

**SECTION 709 – MULTI-FAMILY DWELLING**

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

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minimum of 100 square feet of dedicated storage area shall be provided for each dwelling unit. Storage areas shall be located in a convenient, centrally located area within the building or elsewhere on the site, where personal belongings may be stored under lock and key and separated from the belongings of other residents. Storage floor area requirements shall be exclusive of and in addition to the habitable floor area requirements noted above.

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

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

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

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

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

**SECTION 711 – MOTOR VEHICLE REPAIR SHOP**

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

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

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

**SECTION 712 – MOTOR VEHICLE SALES**

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

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

**SECTION 713 – PROFESSIONAL OFFICE**

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

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605 of this Ordinance.

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

**SECTION 714 – PUBLIC FACILITIES**

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



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

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**SECTION 715 – RETAIL FUEL OUTLET**

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

**SECTION 716 – STORAGE FACILITY**

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

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

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

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

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accordance with all applicable State and County Health department regulations.

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

**SECTION 718 – RESTAURANT**

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

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

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

**A. PURPOSE**

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

**B. DIMENSIONAL REQUIREMENTS**

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

**C. GENERAL**

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

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

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

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

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

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

**D. OPERATIONAL REQUIREMENTS**

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

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

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

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

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

**E. SPECIAL USE PERMIT**

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

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

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

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

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

**F. VIOLATIONS AND PENALTIES**

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

**G. ACTIONS**

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

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

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

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

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

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

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

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

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

**SECTION 722 – ADULT BUSINESS**

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



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accordance with the typical driveway/roadway section.

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

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

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

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liability company shall be provided.

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

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

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

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

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

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

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

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Department standards and State and County Health Department regulations.

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

**SECTION 726 – TAVERN**

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

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

**SECTION 727 – RECREATIONAL CENTER**

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

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accordance with the typical driveway/roadway section.

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

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

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

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

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

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



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

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

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

**A. PURPOSE**

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

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

**B. AUTHORITY AND REFERENCES**

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

**C. INTENT**

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

**D. PERMIT REQUIRED**

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

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

**E. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SOLAR FARM: A marketing term for a SEF.

STATE: State of New York.

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

**F. PERMIT REQUIREMENTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**15. The SEF shall:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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SEF construction.

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

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

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

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

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

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

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

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

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

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

**H. SEF LIABILITY INSURANCE**

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

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

b) Umbrella coverage: \$10,000,000.

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

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

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

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

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

**I. MISCELLANEOUS - Fiscal Responsibility**

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

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

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

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

**J. APPLICABILITY**

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

**K. SEVERABILITY**

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

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

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

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

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

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

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

**C. DIMENSIONAL STANDARDS**

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

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

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

**D. LIGHTING AND MARKING**

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

**E. APPEARANCE AND BUFFERING**

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

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

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

**F. ACCESS AND PARKING**

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

**G. SECURITY**

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

**H. ENGINEERING AND MAINTENANCE**

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

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the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

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

**I. REMOVAL**

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