

**TOWN OF CLERMONT, NY**  
**ZONING LAW**

Chapter 140 of the Town of Clermont Code

Revised and Adopted: May 5, 2025

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# Zoning Law

TOWN OF CLERMONT, NEW YORK

## LEGISLATIVE HISTORY

Town of Clermont Zoning Law as amended by Local Law No. 1 for 2007

Town of Clermont Zoning Law as amended by Local Law No. 2 for 2007

Town of Clermont Zoning Law as amended by Local Law No. 3 for 2009

Town of Clermont Zoning Law as amended by Local Law No. 4 for 2009

Town of Clermont Zoning Law as amended by Local Law No. 5 for 2009

Town of Clermont Zoning Law as amended by Local Law No. 6 for 2009

Town of Clermont Zoning Law as amended by Local Law No. 2 for 2025

## ARTICLE I – GENERAL

### 1.0 SCOPE

A Local Law regulating the location, design, construction, alteration, occupancy, and use of structure or buildings and the use of land in the Town of Clermont, New York, dividing the Town into districts.

### 1.1 SHORT TITLE

These regulations shall be known as the Zoning Law of the Town of Clermont, hereinafter referred to as "Local Law".

### 1.2 EFFECTIVE DATE

This Local Law shall take effect upon its filing in the office of the New York State Secretary of State.

### 1.3 AUTHORITY

This Local Law is enacted by the Town Board of the Town of Clermont, New York pursuant to Chapter 62, Articles 9 and 16 of the Town Law and Article 2 of the Municipal Home Rule Law and all amendments thereto, and pursuant to all plans as well as the comprehensive plan as adopted by the Town Board. This Local Law is intended to amend and supersede the previous and existing Town of Clermont Zoning Local Law as of the effective date of this Law. To the extent that any provisions of this Local Law are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, Sections 261 through 268, 274-a and 281, the Town Board of the Town of Clermont hereby declares its intent to supersede those Sections of Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, Section 10.

## PURPOSES

### 1.4 PURPOSES

This law is enacted to protect and promote the health, safety, general welfare, comfort, convenience, economy and aesthetics of the Town of Clermont for the following purposes:

- A. To promote the orderly physical development of the Town of Clermont;
- B. To conserve the natural and cultural resources and the rural character of the Town by encouraging development in the most appropriate locations and by strictly limiting building and land use in areas where it would conflict with the Town's character, pattern and scale of settlement;
- C. To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as the Roe Jan Kill corridor, the Hudson River shoreline and other stream corridors, scenic view sheds, steep slopes, erodible soils, wetlands, floodplains, ground and surface water supplies, and active farmlands;
- D. To preserve, protect and enhance the agricultural nature and viability of the Town and to avoid regulating agricultural uses in a manner that unreasonably restricts farm structure, farm operations or farming practices;
- E. To encourage the most appropriate use of land and buildings in the community in order to enhance the pride in and value of property;
- F. To integrate different housing types and different kinds of land uses in traditional hamlet centers in order to encourage social and economic interaction and activity;
- G. To provide a range of affordable housing opportunities for all segments of the local population with due consideration for regional housing needs;
- H. To protect residences, businesses and public places from nuisances, odors, noise, pollution, and other unsightly, obtrusive, and offensive land uses and activities;
- I. To locate buildings and land uses in a manner that is convenient to residents and visitors, and provides freedom for landowners to make economic use of their land, provided that such uses are not harmful to neighboring properties or the environment or the economy;
- J. To reduce traffic congestion by establishing a pattern of settlement and circulation that provides alternative routes of travel and alternative modes of transportation;
- K. To encourage the conservation of energy and the appropriate use of solar or other renewable energy sources; and,
- L. To regulate building density in order to concentrate population in appropriate locations while allowing reasonable privacy for residences, ensure access to light and air, conserve open space, facilitate the prevention and fighting of fires, minimize the cost of municipal services, and accomplish all other purposes of this Law.

### 1.5 INTERPRETATION OF PROVISIONS

All provisions of this Local Law shall be construed broadly to fulfill the purposes stated above. Whenever the provisions of this Law are at variance with the requirements of other lawfully adopted rules, regulations, or local laws, the rule, regulation or local law with the most restrictive provisions or that impose the higher standards shall govern.

## PLANNING BOARD

### 1.6 PLANNING BOARD

#### A. GENERAL PROVISIONS

Pursuant to New York State Town Law Section 271, the Town of Clermont has created a Planning Board with all the powers and to perform all the duties prescribed by New York State statute and by this Local Law including the review and approval or denial of site plans and land subdivisions.

1. The Town Board shall appoint a Planning Board consisting of seven (7) members, shall designate its chair and deputy chair and may also provide for compensation to be paid to said members, experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding in all the appropriations that may be made by the Town Board for such Planning Board. No member of the Town Board or Zoning Board of Appeals and no Town employee shall be eligible for membership on such Planning Board.
2. Members shall serve terms of seven (7) years. Such terms shall expire at the end of the calendar year. Any current members with terms that do not expire at the end of the calendar years shall serve until the end of the calendar year in which their terms are due to expire. At the expiration of any member term, such member may be reappointed or a new member may be appointed to a term which shall be equal to the number of members on the board.
3. The Town Board shall have the power to remove any member of the Planning Board for cause and after a public hearing. Such cause may include failure of a member to gain a minimum level of training or minimum meeting attendance as established by the Town Board. If a vacancy occurs for any reason other than expiration of the term, the vacancy may be filled by the Town Board for the period of the unexpired term.
4. The Town Board may designate an alternate member to substitute for a member when such member is unable to participate on an application or matter before the Planning Board. Such alternate member shall have all the powers and responsibilities of a Board member for the term defined by the Board.
5. The Town Board may include on the planning board one or more members each of who derives ten thousand dollars or more annual gross income from agricultural pursuits in the Town.
6. The Town Board may compensate members of the Planning Board on a per meeting basis at a rate to be established by the Town Board.

#### B. CONDUCT OF BUSINESS

1. The Planning Board shall follow all rules, procedures and forms established by the Town in order to fulfill its responsibilities under this Law.
2. All meetings of the Planning Board shall be held at the call of the Chair and at such other times as a majority of the Board may determine. All meetings of the Board shall be open to the public. Such chair, or in his or her absence, the acting Chair, may administer oaths and compel the attendance of witnesses. A concurring vote of a majority of all the members shall be necessary to take action on any matter before it.
3. The Planning Board shall keep minutes of its proceedings showing the vote of each member on every decision. If a member is absent or fails to vote, the minutes shall so indicate. Every decision or official action of the Planning Board shall be a public record and shall be filed in the office of the Town Clerk within five business days.
4. The Planning Board may review and make recommendations on a proposed comprehensive plan or

## ZONING BOARD OF APPEALS

amendment thereto. In addition the Planning Board shall have full power and authority to make investigations, maps, reports, and recommendations in connection with planning and development of the Town providing any expenditure does not exceed the appropriation provided.

5. The Planning Board shall have the authority to review and approve, approve with conditions, or deny all site plans and subdivisions and any other land use permits as provided by the authority of the Town Board.

### 1.7 ZONING BOARD OF APPEALS

#### A. GENERAL PROVISIONS

Pursuant to New York State Town Law Section 267, the Town of Clermont has created a Zoning Board of Appeals with all the duties prescribed by New York State statute and by this Local Law including the review and approval or denial of special use permits, zoning variances, and appeals for interpretation of this Local Law.

1. The Town Board shall appoint a Board of Appeals consisting of five members, shall designate its chair and deputy chair and may also provide for compensation to be paid to said members, experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding in all the appropriations that may be made by the Town Board for such Board of Appeals. No member of the Town Board or Planning Board and no Town employee shall be eligible for membership on such Board of Appeals.
2. Members shall serve terms of five years. Such terms shall expire at the end of the calendar year. Any current members with terms that do not expire at the end of the calendar years shall serve until the end of the calendar year in which their terms are due to expire. At the expiration of any member term, such member may be reappointed or a new member may be appointed to a term which shall be equal to the number of members on the Board.
3. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after a public hearing. Such cause may include failure of a member to gain a minimum level of training or minimum meeting attendance as established by the Town Board. If a vacancy occurs for any reason other than expiration of the term, the vacancy may be filled by the Town Board for the period of the unexpired term.
4. The Town Board may designate an alternate member to substitute for a member when such member is unable to participate on an application or matter before the Board. Such alternate member shall have all the powers and responsibilities of a Board member for the term defined by the Board.
5. The Town Board may compensate members of the Zoning Board of Appeals on a per meeting basis at a rate to be established by the Town Board.

#### B. CONDUCT OF BUSINESS

1. The Zoning Board of Appeals shall follow all rules, procedures and forms established by the Town in order to fulfill its responsibilities under this Law.
2. All meetings of the Zoning Board of Appeals shall be held at the call of the Chair and at such other times as a majority of the Board may determine. The Chair or in his or her absence, the acting Chair may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. A concurring vote of a majority of all the members shall be necessary to take action on any matter before it.
3. The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each



## ZONING BOARD OF APPEALS

member on every decision. If a member is absent or fails to vote, the minutes shall so indicate. Every rule and regulation, every amendment or repeal thereof, and every order, requirement, decision, interpretation or determination of the Zoning Board of Appeals shall be a public record and shall be filed in the office of the Town Clerk within five business days.

4. The Zoning Board of Appeals shall decide upon any appeal within sixty-two days after conducting a properly noticed hearing. This time for a decision may be extended by mutual consent of the applicant and the board.

### C. GENERAL POWERS & POWERS OF INTERPRETATION

1. The Zoning Board of Appeals shall perform all duties and powers prescribed by the Laws of New York State and by this Local Law in connection with appeals to review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of this Local Law, generally the Zoning Officer or Building Inspector. An appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeal must be taken within 60 days after the filing in the Town Clerk's office of such order, requirement, decision, interpretation or determination and such appeal must specify the grounds thereof and the relief sought.
2. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Zoning Officer. In so doing, the Zoning Board of Appeals shall have all the powers of the administrative official from whose order, requirement, decision, interpretation, or determination the appeal is taken.
3. The Zoning Board of Appeals shall also perform duties and powers granted to it by Local Law adopted by the Town Board for reviewing and deciding Special Permit Uses.

### D. APPEALS FOR VARIANCE

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Officer, shall have the power to grant use and area variances as defined here.
2. The Zoning Board of Appeals, in granting a use or an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
3. The Zoning Board of Appeals, in granting a use or an area variance, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the intent and purpose of the zoning law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
4. Use Variance. No use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
  - a. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

## FEES

- b. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
  - c. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and,
  - d. that the alleged hardship has not been self-created.
5. Area Variance. In making a determination for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
- a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - c. whether the requested area variance is substantial;
  - d. whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood district; and,
  - e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - f. Area variance: Timeframe for satisfaction for all requirements of municipal boards, and all involved county, state and federal agencies is one (1) year maximum after approval by governing board, unless extension is granted prior to expiration by the Zoning Board of Appeals.

### **1.8 FEES**

A fee for permit applications and services shall be charged. All fees shall be set by the Town Board and a fee schedule shall be available at the Town offices.

### **1.9 SEVERABILITY**

In the event any provision of this Local Law be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole, or any other part thereof, other than the part so declared to be unconstitutional or invalid.

### **1.10 EFFECTIVE DATE**

This Local Law shall take effect upon its filing in the office of the Secretary of State.

### **1.11 SUNSET PROVISION**

Subdivision approval: Timeframe for satisfaction for all requirements of municipal boards, and all involved county, state and federal agencies is five (5) years maximum after the filing of the map, unless extension is granted prior to expiration.

## ARTICLE II – DEFINITIONS

For the purpose of the Local Law, the scope and meaning of certain terms or words used herein shall be interpreted as follows:

1. Unless the context clearly indicates the contrary, words used in the present tense include the future; the singular number includes the plural and the plural singular.
2. The word "PERSON" includes a profit or non-profit corporation, company, partnership or individual.
3. The word "SHALL" is mandatory; the word "MAY" is permissive.
4. The word "LOT" includes the word "PLOT" and the word "LAND".
5. The word "STRUCTURE" includes the word "BUILDING".
6. The word "USE" refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, intended, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention of design of using the same.
7. The word "USED" refers to the actual fact that a lot or land, building or structure, or part thereof, is being occupied or maintained for a particular use.

### 2.0 DEFINITIONS OF WORDS AND TERMS

ACCESSORY DWELLING UNIT: See “Dwelling, Accessory Dwelling Unit”.

ACCESSORY USE OR STRUCTURE: A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

ADULT ENTERTAINMENT: Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, phonographic records, prerecorded magnetic tape, digital and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word "nude", "naked", "topless", "bottomless" "sexy" or any other word or picture, symbol or representation having like meaning or implication is used in any advertisement.

AGRICULTURE: Any activity connected with the raising of crops, livestock or production of livestock products, including but not limited to field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, furs, maple sap, Christmas trees, agriculture products and woody bio-mass. This shall encompass any activity or use now permitted by law, engaged in by or on behalf of a farmer in connection with farming including, but not limited to; housing for farm workers; stables and other tourist activities; the collection, transportation, distribution and storage of animal and poultry waste; storage, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of fertilizers and limes, and legally permitted insecticides, herbicides, and fungicides; construction of farm structures and facilities, including farm wineries and other on-farm processing;

## DEFINITIONS OF WORDS AND TERMS

construction and maintenance of fences and other enclosures; and the use and/or maintenance of relaxed pastures, idle or fallow land woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agriculture practices. Agriculture shall also include the processing and wholesale and retail marketing, including U-pick sales, of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products so long as a substantial portion of the annual gross sales of the farm stand have been grown on said farm.

**AGRICULTURAL OR FARM OPERATIONS:** The land and on farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, timber processing, managing and harvesting of a farm woodland, and compost, mulch or other biomass crops. Such farm operation may consist of one (1) or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**ALLOWABLE DENSITY:** The maximum number of multi-family structures permitted on a parcel of land.

**ANIMAL HOSPITAL:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to hospital use. No outside kennels will be permitted.

**APARTMENT:** A dwelling unit contained within a two-family or multi-family dwelling.

**AUCTION HALL:** A structure in which public sales are held for items which are displayed and sold to the highest or best bidder.

**BATTERY ENERGY STORAGE SYSTEM:** A facility with one or more devices, assembled together, capable of storing bulk energy in order to supply electricity at a future time. Not intended to include or apply to a stand-alone 12-volt car battery or electric motor vehicles.

**BREW PUB or BREWERY:** A light industrial establishment primarily designed and licensed to craft and brew alcoholic beverages such as malts for on-site consumption with or without restaurant food service. May also include wholesale distribution of beverages produced on the premises, as well as ancillary retail sales on the premises. The gross floor area footprint devoted to beverage production shall not exceed 4,000 s.f. in non-industrial districts.

**BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

**CAMP AND CAMPGROUND:** Use of a parcel of land for location of two or more tents, shelters, or other accommodations along with common and customary recreation, food service and administration facilities of a design and character suitable for seasonal or other more or less temporary purposes, including day camp or overnight camp, but not including a mobile or manufactured home park, hotel, motel, or resort.

**CANNABIS RETAIL DISPENSARY -** A licensed facility, fixed or mobile, operated in accordance with New York State laws, where cannabis and cannabis products are offered for retail sale. Does not include consumption areas.

## DEFINITIONS OF WORDS AND TERMS

**CANNABIS CONSUMPTION ESTABLISHMENT** - A commercial space, licensed by the State of New York, that authorizes adults to consume marijuana products on location. (Also known as cannabis cafes, cannabis lounges, etc.)

**CANNABIS CULTIVATION:** A licensed facility, operated in accordance with New York State Cannabis Law, where the agricultural production practices of soil preparation, planting, micropropagation-tissue culture, growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license and permit holders are conducted, whether indoors or outdoors.

**CANNABIS PRODUCT MANUFACTURING:** A licensed commercial facility operated in accordance with New York State Cannabis Law, engaged in the manufacturing of cannabis into cannabis products.

**CANNABIS TESTING LABORATORY:** A licensed commercial facility operated in accordance with New York State Cannabis Law to test cannabis and cannabis products.

**CANNABIS WHOLESALER:** A licensed commercial facility operated in accordance with New York State Cannabis Law, engaged in purchasing, processing, transporting, and selling cannabis and cannabis products to certain other categories of cannabis license and permit holders.

**CEMETERY:** A place used for the interment of the dead subject to any specific conditions defined for cemeteries in Section 4.32 of this Local Law.

**CHILD DAY CARE:** A use where professional child day care services are offered and operated by an individual, organization or agency licensed by the New York State Department of Social Services or through other applicable State regulations. Such use must be a "day care home" where services may be provided as an accessory use within a residence for up to ten (10) children when no more than four (4) children are two (2) years of age or up to twelve (12) children all over the age of two (2) years old, or a "day care center" where services are provided as a primary use or as an accessory use to a residence for seven (7) or more children of any age for more than three (3) hours a day but less than twenty-four (24) hours a day.

**CHURCH OR PLACE OF WORSHIP:** A place used for regular public worship by members or representatives of a bona fide religious sect or organization as recognized by State law.

**CLINIC:** An establishment where patients are admitted for examinations and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

**CLUB:** An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of the club.

**CLUSTER DEVELOPMENT:** A subdivision plat or plats where applicable bulk, setback or area requirements of the zoning code are modified to provide an alternative method for layout, configuration or design of lots, buildings, structures, roads, utility lines, other infrastructure, parks or landscaping in order to preserve natural or scenic qualities of open lands.

**COLUMBIA COUNTY DEPARTMENT OF HEALTH:** Board of Health approval is required on all minor and major subdivisions. Approval/signoff block shall be provided on all minor and major subdivision plats. Approval from the Columbia County Department of Health shall be applied for and granted prior to

## DEFINITIONS OF WORDS AND TERMS

final signoff by Planning Board. (Reference Subdivision Regulations, Town of Clermont Code Chapter 130, Adopted May 5, 2025, Article VI, sections 2 and 3.)

**COMMERCIAL:** The use of land, buildings or structures for the purpose of buying, selling or leasing commodities or services.

**COMMERCIAL VEHICLE:** Any vehicle in excess of twenty (20) feet in length carrying a valid commercial New York State registration license plate, which is used for the transportation of persons, animals or goods, primarily for profit, or carries a permanently affixed business identification sign exceeding one (1) square foot in area; or any vehicle used for earthmoving or construction purposes.

**CONFERENCE CENTER:** An establishment used for the holding of conventions, seminars, workshops or similar activities, including dining and lodging facilities for the use of participants, as well as compatible accessory facilities such as recreation, administrative, maintenance, storage, and parking. Separate and distinct from Event Venue.

**CONTRACTOR STORAGE YARD:** Any exterior space, whether accessory to another use or not, used for the storage or keeping of raw materials, construction materials, construction equipment, machinery or vehicles in use by a contractor in the business of general contracting, construction, electrical, plumbing, heating, air conditioning, landscaping, landscaping maintenance, excavation, woodworking, masonry or similar trades.

**COVERAGE:** The percentage of a lot covered by the buildings and structures on that lot.

**CUL-DE-SAC:** Dead end streets shall not be created to provide access to residential lots except in situations where, in the view of the Planning Board, a through street cannot reasonably be provided due to the physical characteristics of the subdivision parcel and adjoining parcels or where a feasible planned connection to adjoining properties can be shown. Where a dead end street is authorized, either as a permanent dead-end-street or as a temporary dead-end street pending completion of a through road network, not more than twelve (12) residential lots may gain access from such dead-end street. Where needed or desirable, the Planning Board may require the reservation of an easement to provide for the continuation of the road and/or pedestrian traffic and utilities to the next street. (Reference Subdivision Regulations, Town of Clermont Code Chapter 130, Adopted May 5, 2025, Article V, section 2, letter F.)

**CULTURAL FACILITY:** Any place designed or used primarily for the presentation to the general public of live theater, dance performances, musical concerts, cinema, lectures, exhibits or various art forms or exhibits of cultural, academic or scientific material specifically not including adult entertainment as defined elsewhere in this code.

**DRIVEWAYS:** A passage designed for motor vehicles to access a property from a road. Except for the portion of the driveway which must cross the front yard property line to access the parcel, driveways shall comply with all required yard setbacks as if they were a structure. See also: "Driveway, Common".

**DRIVEWAY, COMMON:** A driveway which provides shared access to two or more separate lots simultaneously, often in conjunction with a shared access or easement agreement which allows one or both property owners to utilize portions of the others' land for egress. For the purposes of this code, common driveways do not need to meet the setback requirements for structures along a shared property line.

## DEFINITIONS OF WORDS AND TERMS

**DWELLING, ACCESSORY DWELLING UNIT:** A residential dwelling unit, constructed on a permanent foundation, located on the same lot as a single-family unit or a multifamily structure, providing complete independent living facilities for one or more persons with a separate private entrance doorway, living, kitchen and bathroom facilities. ADU's may be a detached structure, a unit that is part of an accessory structure such as a detached garage, or a unit that is part of an expanded or remodeled single family or multi-family dwelling.

**DWELLING, CONDOMINIUM:** A residential structure in which each individual dwelling unit is held in separate private ownership and all floor space, facilities and outdoor areas used in common by all residences are owned, administered and maintained by a corporation created pursuant to applicable State regulations and statutes.

**DWELLING, GROUP HOME:** A single family-scale residential structure designed or adapted for providing occupancy and supervised assisted living for persons with disabilities, complex medical or health needs, with a separate bedrooms for tenants, certified by the state.

**DWELLING, LIMITED MULTI-FAMILY:** A residential building designed for or occupied by three to four families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, MIXED USE:** A separate and complete dwelling unit that is incidental and subordinate to an existing, approved non-residential use and is located within the primary structure of that use. Where permitted, three or more such units on a single parcel of land shall require Planning Board site plan approval.

**DWELLING, MULTI-FAMILY:** A residential building designed for or occupied by five or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, MULTIFAMILY CONVERSION:** A pre-existing single family residential building, legally existing and conforming to this zoning code on or before the date of its adoption, which is renovated and/or expanded to convert it into a multifamily dwelling of up to, but not exceeding, four dwelling units.

**DWELLING, SINGLE-FAMILY:** A detached residential dwelling unit designed for and occupied by one family only.

**DWELLING, SENIOR HOUSING:** A residential facility that provides private independent or assisted living quarters for residents age 55 and over, each of whom often share communal spaces such as a common living room, dining, kitchen, laundry and outdoor space, designed to blend into the residential character of neighboring homes.

**DWELLING, TWO FAMILY:** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**DWELLING, TWO SINGLE FAMILY DWELLING UNITS ON ONE LOT:** A permitted use and condition where two separate single family dwelling units may be permitted on the same lot provided that all of the conditions of Article IV, Section 4.21 can be met.

**DWELLING UNIT:** One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy (rental or lease), and physically separated from any

## DEFINITIONS OF WORDS AND TERMS

other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

EAF: Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes Rules and Regulations.

EATING AND DRINKING ESTABLISHMENT: A restaurant, luncheonette or cafe which serves meals and/or beverages which may or may not be alcoholic and also a bar or other retail establishment which serves alcoholic and non-alcoholic beverages with food. An eating and drinking establishment can include take out services but does not include drive-thru facilities.

EDUCATIONAL FACILITY: A place of instruction including public or private schools, colleges, universities, or institutes offering courses authorized by applicable State regulations. This may include playgrounds, recreation, administration, maintenance, and other common facilities customary to educational uses as well as accessory use residences for staff or students.

ELECTROMAGNETIC INTERFERENCE (EMI): The interference to communication systems created by scattering of electromagnetic signals.

ELECTRIC VEHICLE CHARGING STATION - A publicly accessible area where electric vehicle supply equipment (EVSE) is provided to recharge electric and hybrid motor vehicle batteries.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance of structures, infrastructure, or other capital improvements by public utilities or municipal or other governmental agencies reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the specific use of the residents of the Town of Clermont and its public health, safety or general welfare.

EVENT VENUE: An indoor or outdoor space, operated by the owner or provided for temporary rental or management by others, where the primary use of the property is the rental for a short period of typically between 1 to 3 days for the purposes of hosting a special event such as a wedding, reception, reunion, party, music event, flea market, or similar activity, often with catering services or entertainment. Indoor and outdoor event spaces may be regulated or approved with separate conditions or performance standards. This definition is not intended to include the occasional use of private property for hosting similar non-commercial events.

FAMILY: One or more individuals occupying a dwelling unit and living as a single household unit.

FARM OPERATION: Any parcel of land used for gain in raising agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes riding academies, livery, boarding stables and kennels.

FARM OR RESIDENTIAL POND: A man-made or artificially created body of water to be used for agricultural purposes, recreation, fishing, beautification or fire protection.

FARM STAND: The use of any building, land or part thereof for the sale of produce, or other related farm wares grown, produced or created on the premises, or within the local vicinity thereto.

FARMERS MARKET: Any building, structure or place used or intended to be used by two or more



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agricultural producers for the occasional direct sale of a diversity of farm and food products, as defined by New York State Agriculture and Markets Law. Such market may also include other businesses which reasonably serve the public or make the market more convenient, efficient, profitable or successful, including, but not limited to, food service, baking, and non-food retailing.

FENCE: Any man-made structure over two (2) feet in height which is designed to limit access to, enclose or screen from view, any land.

FLAG LOT: Flag Lots are not encouraged, but may be approved as a part of a development if the following standards are met:

- (a) Flag lots shall have a minimum of (50) fifty feet of frontage on a State, County, or Town highway.
- (b) The acreage contained within the "flag" portion of the lot must meet the minimum lot size requirements without including the acreage contained within the "pole" area.
- (c) The length of the "pole" shall be reviewed and approved by the Planning Board.
- (d) Front setback requirements shall be counted only from the front edge of the "flag" portion without considering any of the "pole" area.
- (e) Side setback requirements shall be determined and set by the Planning Board when considering whether the "pole" area is likely to be used as a road through the property to access future development, other properties or other roads. These setback requirements shall be determined at the time of the creation of the proposed flag lot. Any requested changes to the approved set back requirements and/or road locations shall be reviewed and approved by the Planning Board prior to issuance of a building permit or additional construction.

FORESTRY: The use of land for the purpose of conservation and/or growing and cutting of trees for the purpose of producing commercial or non-commercial wood products such as timber or firewood.

FRONT SETBACK: See "Setback, Front".

FRONT YARD: See "Yard, Front".

FUEL STATION: An area of land, including structures thereon, that is used or designed to be used for the supply, storage and retail or wholesale sale of gasoline, oil, diesel, petroleum, heating or other fuels. Separate and distinct from Motor Vehicle Repair, Sales or Service and Electric Vehicle Charging Station.

FUNERAL HOME: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GROUP HOME: A residence that houses no more than eight (8) unrelated individuals who live as a single housekeeping unit under a common housekeeping non-profit or government management, under a plan based on an intentionally structured relationship providing organization and stability for individuals consistent with New York State Department of Social Services or other applicable rules and regulations.

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**HOME OCCUPATION:** Any occupation carried out within a residence that is customarily conducted within a dwelling or accessory structure by the residents thereof that is clearly secondary to the residential use. A **MINOR HOME OCCUPATION** is defined as a home occupation which is operated by a legal resident of the property and carried out exclusively within the interior of the residence, with no exterior evidence of business activity that would change the character of the premises as primarily a residence with the exception of any permitted signage. A **MAJOR HOME OCCUPATION** is defined as a home occupation operated by a legal resident of the property that includes any exterior evidence of the business operation that would change the character of the residential premises, including but not limited to parked company fleet vehicle(s), customer parking, trailers, equipment, the outdoor storage of goods or materials and similar elements. This shall include operations which do not primarily conduct their work within the home residence, but instead transport goods, equipment or staff to other locations to complete their work.

**KENNEL:** The keeping, breeding, boarding or training of three or more dogs over six months of age for sale for which a fee is paid or charged.

**LODGING, HOTEL:** A building, or group of buildings, containing individual living and sleeping accommodations for hire to transient guests, with more than 20 guest rooms. May optionally include accessory uses such as meeting rooms, a restaurant or bar offering meals and drinks to guests as well as the general public. This definition shall include hotels, motels, and resorts. Separate and distinct from Inn or Bed and Breakfast.

**LODGING, INN:** A building, or group of buildings, containing individual living and sleeping accommodations for hire to transient guests, with more than three and up to 20 guest rooms. May include an accessory restaurant and bar offering meals and drinks to guests as well as the general public. Separate and distinct from Hotel or Bed and Breakfast.

**LODGING, BED AND BREAKFAST:** A home occupation within a single family residence wherein rooms are rented and a single daily meal is served to overnight guests for commercial purposes. Separate and distinct from Hotel or Inn.

**LODGING, SHORT-TERM RENTAL:** A private legal residence of furnished living space rented for periods typically not exceeding 30 consecutive days to area visitors in exchange for a fee, often referred to as a “vacation rental”. Does not include Bed and Breakfasts, Inns, Hotels, Motels, ongoing month-to-month lease arrangements with tenants, or outdoor activities such as camping or glamping.

**LOT:** A lot is a parcel of land occupied or intended to be occupied by a principal building or use and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet the minimum requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street. In no case of division or combination shall any residual lot or parcel be created which reduces the size of the lot so that it is below minimum requirements of this Local Law.

**LOT COVERAGE:** That portion of a lot covered by impervious surfaces through which water can not be absorbed including all buildings and all concrete, asphalt or similar surfaces used for parking, sidewalks, drives and roads.

**LOT OF RECORD:** A lot which is part of a subdivision recorded in the Office of the Columbia County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

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**MANUFACTURED HOME:** A structure, transportable in two or more sections, that, in the traveling mode is (8) eight body feet (2.4m) or more in width and (40) forty body feet (12m) or more in length or, when erected on site, is 320 square feet (28.8m<sup>2</sup>) or more, that is built on a permanent chassis and provided with a permanent foundation and designed to be used as a dwelling, when connected to the required utilities, and that includes the plumbing, heating, air conditioning, and electrical systems contained therein. Every manufactured home shall have a manufacturer's label which certifies that, to the best of their knowledge and belief, the home is in full compliance with all applicable federal construction and safety standards. The term "manufactured" home shall not include any self-propelled recreational vehicles such as a motor home, motorized home or R.V.

**MANUFACTURED HOME PARK:** Any parcel of land which is planned and improved for the placement of two (2) or more manufactured or mobile homes which are used as single-family dwellings and for occupancy of more than ninety (90) consecutive days.

**MANUFACTURING/LIGHT INDUSTRY:** The processing, fabrication, assembly and storage of materials when conducted without generation of excessive traffic or noise, odor, glare or other nuisances perceptible at the property line.

**MEDICAL ESTABLISHMENT:** A place where medical care is provided to persons on an in-patient or out-patient basis by one or more members of the medical profession, dentists, chiropractors, osteopaths, therapists, or other licensed professionals. It includes hospital, medical clinic, nursing home, or living care facility.

**MINING:** The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or part thereof for the extraction or removal of minerals from their original location and/or the preparation, washing, cleaning, crushing, stockpiling, or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use.

**MODULAR HOME:** A structure or components thereof designed for residential occupancy, constructed by a method or system whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. Every modular home shall bear an insignia of approval issued by the New York State Secretary of State

**MOTOR VEHICLE REPAIR, SALES, and OR SERVICE:** A place authorized by applicable State regulations where new or used motor vehicles including recreational vehicles can be displayed, stored and maintained for commercial repair, sale or service. Does not include the retail sale of fuel.

**NONCONFORMING-LOT:** Any lot existing at the time of enactment of this Local Law which does not conform to the minimum size of the district or zone in which it is located.

**NONCONFORMING STRUCTURE:** Any lawfully existing structure which is in existence within a given zoning district on the effective date or any amendment thereto of this Local Law which is not in conformance with the dimensional regulations for that zoning district irrespective of the use to which it is put.

**NONCONFORMING USE:** Any lawfully existing use which is in existence within a given zoning district on the effective date of this Local Law or amendment thereto, but which is not an accessory, permissible or special permit use in that zoning district; or a use for which a variance has previously been granted.

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**NURSING HOME:** An extended or intermediate skilled care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age chronic illness or infirmity, are unable to care for themselves.

**NURSERY:** Land or greenhouses used to raise flowers, shrubs and plants and related items for sale.

**OFFICIAL TOWN MAP:** A map of the town indicating desired future streets and right-of-ways which is officially designated by the Town Board.

**OFFICE:** A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations. This includes the office of a member of a recognized profession maintained for the conduct of that profession, such as doctor, dentist, lawyers, accountants, real estate, insurance, etc.

**OPEN SPACE:** Terrain left undeveloped (conservation areas) and essentially unaltered as in their natural state. It does not include sidewalks, driveways, patios, parking areas, etc., but does include wetlands, forest, pasture, etc.

**PARKING SPACE, OFF-STREET:** For the purpose of this Local Law, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, way, alley and so that any automobile may be parked and unparked without moving another. For purpose of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be fulfilled only when actual spaces meeting the requirements to the circumstances of the case, and in accordance with all Local Laws and regulations of the Town.

**PERMANENT EASEMENT (FOR HIGHWAY PURPOSES):** A permanent easement to be exercised in, on, and over the designated property for the purposes of constructing, reconstructing, maintaining and operating a Town Highway, together with such other facilities in connection therewith as deemed necessary by the Superintendent of Highways. Such easement shall be exercised in and to all that piece or parcel of so designated property. The easement boundary metes and bounds shall be placed on the plat of record and a written easement description shall be provided to the reviewing board. No such structures shall be placed or built within the limits of the permanent easement.

**PERMITTED USE:** A specific main use of a building, structure, lot or land, or part thereof, which this Local Law provides for in a particular district as a matter of right.

**PERSONAL OR PROFESSIONAL SERVICES:** Establishments primarily engaged in providing services, with accessory retail sales, for the care of a person or his or her apparel or as provided by one or more skilled, trained or licensed professionals offering advice, assistance or training to individuals.

**PLANNED INDUSTRIAL DEVELOPMENT (PID):** A type of planned unit development (PID) dedicated primarily to manufacturing and/or light industrial uses but may include other non-residential uses permitted or permitted by special permit use in the applicable zoning district which are secondary to and compatible with the primary use or manufacturing and/or light industrial

## DEFINITIONS OF WORDS AND TERMS

**PLANNED RESIDENTIAL DEVELOPMENT (PRD):** A multi-family development that encourages imaginative site and building design, protects sensitive environmental areas and creates open space, in accordance with Article IV, Section 4.32.13 of the Zoning Code, where certain lands are set apart as open space or common land.

**PLANNED UNIT DEVELOPMENT (PUD):** A lot or contiguous lots upon which residential, commercial, cultural, manufacturing, recreational or other uses permitted or permitted by special permit use in the applicable zoning district or any combination thereof may be permitted in a flexible manner so as to achieve the goals of the Town comprehensive plan and the purposes of this Local Law.

**PROHIBITED USE:** Any use, which is not listed as a PERMITTED, SPECIAL PERMIT, or ACCESSORY USE shall be considered a prohibited use.

**REAR SETBACK:** See “Setback, Rear”.

**REAR YARD:** See “Yard, Rear”.

**RECREATION, PUBLIC FACILITIES:** A public place designed and equipped for the conduct of a sport, leisure time activities or other customary and usual recreational activities, including playgrounds and parks. Separate and distinct from Commercial Recreation.

**RECREATION, COMMERCIAL:** A commercial establishment designed for the conduct of sports, leisure time activities and other customary recreational activities including bowling, horseback riding, swimming pools and skating rinks. May include as accessory uses educational and instruction, retail sales and repair of equipment directly related to the activities provided on site as well as food and beverage services for recreation users only.

**RETAIL CONVENIENCE:** A facility involved with the retail sale of goods, personal services, or commodities, designed to promote the pleasant residential characteristics and shopping environment of a neighborhood and provide easily accessible stores and services within a given neighborhood. Separate and distinct from Fuel Station.

**RETAIL/WHOLESALE STORE:** A place where goods, wares, merchandise, substances, articles, or things are offered or kept for sale directly to the public or to businesses and institutions.

**RETAIL/WHOLESALE GROUP:** One or more attached retail/wholesale stores on a single lot.

**RESEARCH/DEVELOPMENT FACILITY:** A place used for scientific research, investigation, testing or experimentation but not for manufacturing or sale of products except as accessory to the research use.

**RIDING AND BOARDING STABLE:** Land and buildings used to house, raise or confine animals for commercial training, handling or lodging purposes including a riding academy, livery, or boarding stable but not kennels.

**RIGHT OF WAY (Town/County/State Public):** A right of way shall be considered as twenty-five (25) feet from property line to the center of a Town or County road and thirty-five (35) feet from the center of a State road.

## DEFINITIONS OF WORDS AND TERMS

**ROADS:** Roads shall be constructed according to Town of Clermont Specifications, available from the Clermont Town Clerk.

**SETBACK, FRONT:** An area defined by a minimum distance away from the road where a structure can be built, as specified in the Density Control Schedule (3.12), measured in depth from the front property line or road right-of-way a specified distance. (See Figure 2.1 “Yards and Setback Diagram”)

**SETBACK, SIDE:** An area defined by a minimum distance away from an adjacent property where a structure can be built, as specified in the Density Control Schedule (3.12), measured from the side property line a specified distance. (See Figure 2.1 “Yards and Setback Diagram”)

**SETBACK, REAR:** An area defined by a minimum distance away from an adjacent property where a structure can be built, as specified in the Density Control Schedule (3.12), measured from the rear property line a specified distance. (See Figure 2.1 “Yards and Setback Diagram”)

**SEQRA:** The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

**SHADOW FLICKER:** The alternating pattern of sun and shade caused by wind tower blades casting shadow.

**SIDE SETBACK:** See “Setback, Side”.

**SIDE YARD:** See “Yard, Side”.

**SIGNS:** Any display of lettering, numbering, logos, designs, colors, lights, or illumination visible to the public from outside of a building or from a public right-of-way, which either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to, directly or indirectly, a use conducted, events, goods, product, services, or facilities available.

**SIGN, OFF-SITE:** A sign other than an on-site sign.

**SIGN, ON-SITE:** A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site does not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**SITE PLAN:** A rendering, drawing or sketch prepared to Town specifications and containing necessary elements as set in this code which shows the arrangement, layout and design of a proposed use of a single parcel of land.

**SOLAR ENERGY GROUND EQUIPMENT:** Materials, apparatus or hardware, occupying an area less than ¼ acre, necessary to the process by which solar radiation is collected, stored, distributed and/or converted into another form of energy for the purposes of supplying heating, cooling, hot water and/or electricity. This shall only include materials, apparatus or hardware installed upon the ground and not mounted on a structure.

**SOLAR ENERGY EQUIPMENT, BUILDING INTEGRATED:** An active solar system that is an integral part of a principal or accessory building rather than a separate mechanical device replacing or substituting for an architectural component of the building. Building integrated solar energy equipment include but are

## DEFINITIONS OF WORDS AND TERMS

not limited to photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights, awnings and tile. Building integrated solar energy equipment shall occupy an area less than a ¼ acre in size for the purposes of supplying heating, cooling, hot water and/or electricity.

**SOLAR ENERGY STRUCTURAL EQUIPMENT:** Materials, apparatus or hardware, occupying an area less than ¼ acre, necessary to the process by which solar radiation is collected, stored distributed and/or converted into another form of energy for the purposes of supplying heating, cooling, hot water and/or electricity. This shall only include materials, apparatus or hardware mounted on a structure and not installed upon the ground.

**SOLAR FARM:** A collection of solar panels that are either ground mounted, structurally mounted or building integrated, which cover an area greater than ¼ acre in size or which produce energy primarily for the purpose of off-site sale or consumption. This shall include all freestanding and ground pole mounted photovoltaic and parabolic solar installations.

**SOUND PRESSURE LEVEL:** The physical intensity of sound. The measurement of sound pressure level can be measured according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or such other accepted procedures approved by the Town of Clermont Town Board.

**SPECIAL PERMIT USE:** A particular land use which is allowed subject to special requirements imposed by this Code to assure that the use is in harmony with and will not adversely affect the neighborhood. In Clermont a permit shall be approved prior to and in combination with site plan review. Timeframe for satisfaction for all requirements of municipal boards, and all involved County, State and Federal agencies is one (1) year maximum after approval by governing board, unless extension is granted prior to expiration.

**STORAGE UNIT, COMMERCIAL:** A commercial structure used for the indoor storage of personal or commercial goods, equipment or supplies and/or used for the maintenance of such equipment. This structure may include one or more separate units used by different individuals.

**STORAGE UNIT, SELF:** One or more permanent fixed-foundation buildings consisting of self-contained units that are leased or owned for the storage of goods by others for a fee. Does not include portable on-demand storage bins, pods or shipping containers.

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, privacy fences over four (4) feet in height, billboards, poster panels, driveways, roads and swimming pools.

**TOTAL HEIGHT:** The height of the tower and the furthest vertical extension of Small WECS (Refer to Article IV, Section 4.32.12, 4.d.).

**TOWNHOUSE:** one family dwelling unit in a row of at least three (3) such units in which each has its own front and rear access to the outside, no unit is placed over another, and each unit is separated from another by one or more vertical, common fire-resistant walls.

**TRAILER / TRAVEL TRAILER:** A portable vehicular structure, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motor vehicle, primarily

## DEFINITIONS OF WORDS AND TERMS

designed and constructed to provide temporary living quarters for recreational, camping or travel use. Any vehicle or structure designed and used for human living quarters, which meets all of the following qualifications:

- (a) Is not used as the permanent residence of the owner or occupant;
- (b) Is used for temporary living quarters by the owner or occupant while engaging in recreational or vacation activities;
- (c) Is towed or otherwise transported by its own or by other motor power on the public streets or highways incidental to such recreational or vacation activities.

**TELECOMMUNICATION TOWER:** A structure, including accessory buildings such as equipment sheds, on which transmitting and/or receiving antennae are located. Such antennae are a system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communication. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

**VARIANCE, USE:** Shall mean the authorization consistent with New York State Town Law Section 267-b and by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**VARIANCE, AREA:** Shall mean the authorization consistent with New York State Town Law Section 267-b and by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**WAREHOUSE:** A building used primarily for the storage of goods and materials.

**WINERY:** A light industrial establishment primarily designed and licensed to craft and brew alcoholic beverages such as wines for wholesale distribution, utilizing crops grown on the property. May also include secondary accessory areas for public visitation, touring or tasting rooms, with ancillary retail sales on the premises.

**WIND ENERGY CONVERSION SYSTEM (“WECS”):** A wind energy conversion system consisting of wind turbine, a tower, and associated control or conversion electronics, other than a “Small WECS”.

**WIND ENERGY CONVERSION SYSTEM, SMALL (“Small WECS”):** A wind energy conversion system consisting of wind turbine, a tower, and associated control or conversion electronics, which is intended to primarily reduce on-site consumption of utility power.

**WIND ENERGY FACILITY:** Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures. Public utility uses otherwise allowed under this Zoning Law do not include Wind Energy Facilities.

**WIND MEASUREMENT TOWER:** A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. Temporary towers, for no more than a two (2) year period, may be allowed as part of a Small WECS application, where the requested tower meets all height, setback and other requirements of the Zoning Law.



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**WIND TOWER:** The monopole, freestanding or guyed structure that supports a wind turbine generator, gearbox and rotor blades.

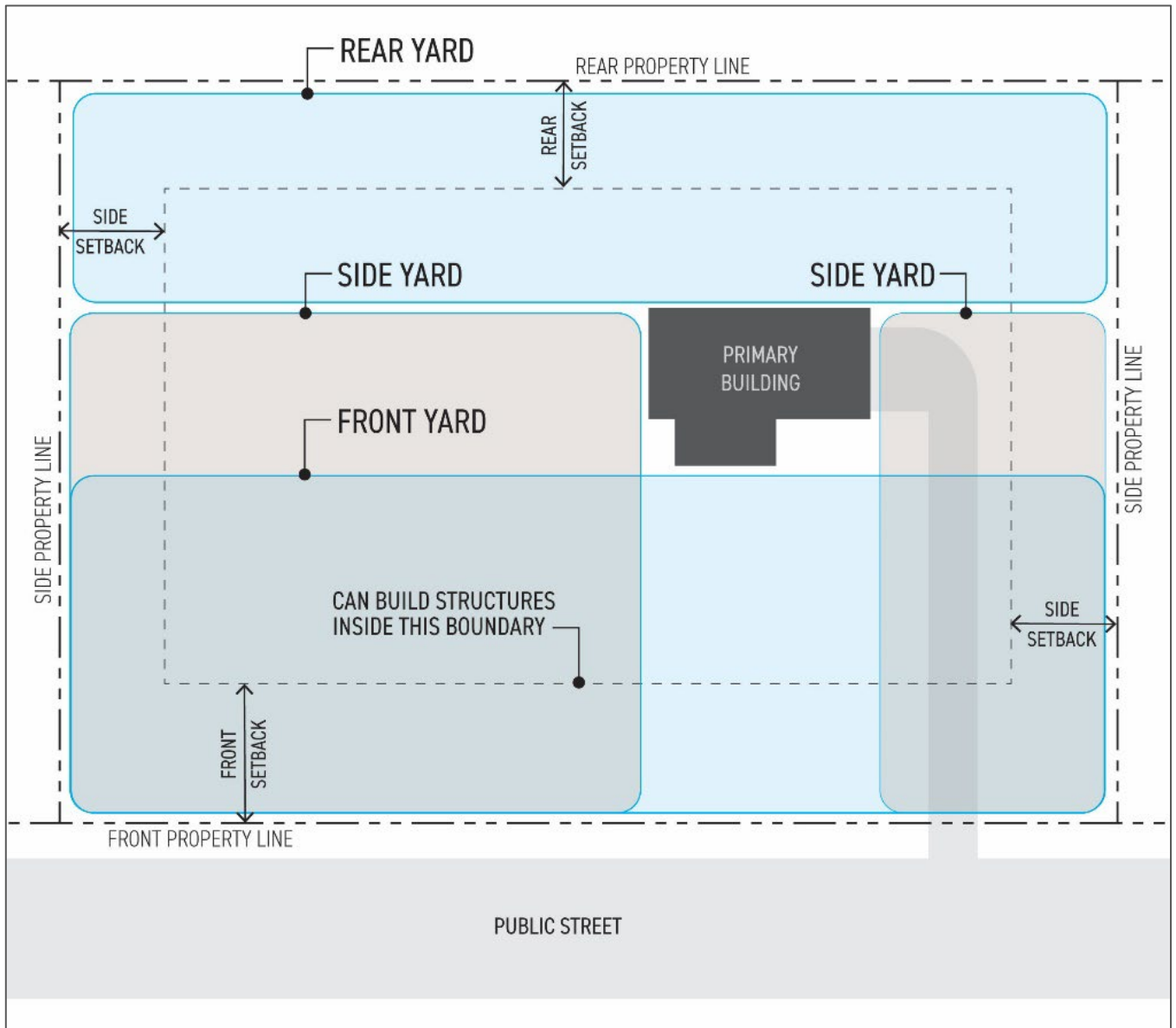
**YARD, FRONT:** An open space which extends across the full width of the lot, and extends in depth from the front property line or road right-of way back to the front facade of the primary building.. In the case of a corner lot, both yards abutting streets will be considered front yards–New structures are not permitted to be constructed within the front yard, except as may be provided by exception in Article IV, Section 4.5. Separate and distinct from “Setback, Front”. (See Figure 2.1 “Yards and Setback Diagram”)

**YARD, REAR:** An open space which extends the full width of the lot, and extends in depth from the rear property line to the rear facade of the primary building. Separate and distinct from “Setback, Rear”. (See Figure 2.1 “Yards and Setback Diagram”)

**YARD, REQUIRED:** The areas within a lot, defined by distances from the front, side and rear property lines in the Density Control Schedule (3.12), where no structures are permitted to be constructed. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot. See also: “Setback, Front”; “Setback, Side; and “Setback, Rear.”

**YARD, SIDE:** An open space which extends in depth from the front property line or road right-of way back to the rear yard, and extends in width from the side property line to the side facade of the primary building. Separate and distinct from “Setback, Side”. (See Figure 2.1 “Yards and Setback Diagram”)

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**Figure 2.1**  
*Yards and Setbacks Diagram*

## **ARTICLE III - ESTABLISHMENT OF DISTRICTS**

### **3.0 DISTRICTS**

In order to carry out the purpose of this Local Law described in Article I, the Town of Clermont is divided into zoning districts as shown on a map entitled "Zoning Map Town of Clermont" adopted on November 7, 2011 by Local Law 4-2011 and as defined in this section. Land uses permitted or permitted as special uses in each and every district are attached in a Schedule of Uses herein (see Article 3.11) and are subject to the Density Control Schedule (see Article 3.12). Definitions for such uses are found in Article II of this Law.

#### **3.1 RESIDENTIAL AGRICULTURAL (RA)**

The Residential-Agricultural district contains the majority of prime farms and farmlands in Clermont which require protection against incompatible uses which might destroy the favorable agricultural community. The principal permitted uses are farming, related agricultural activities and a low density of residential use. Other types of uses are permitted only in special instance where they cannot interfere with the agricultural activities or where they cannot be better accommodated in other areas of the Town.

#### **3.2 LOW DENSITY RESIDENTIAL (LDR)**

These are the areas that should have a low intensity of use, with a recommended residential density of one family per five (5) acres. The criteria used in selecting the land areas to be devoted to this district are the lack of roads or road networks within the area; the topography of the land, whether steep or swampy; the availability or unsuitability of the land for sewage drainage fields, and the remoteness of the land from population concentrations.

#### **3.3 HAMLET (H)**

This is to provide areas in or adjacent to the existing hamlets with a density of family living and businesses that are normally found in small towns. The maximum residential density allowed in the Hamlet district is as listed in the Density Control Schedule (Article 3.12), provided that all dwellings can meet state and county health code requirements for on-site or off-site septic and water systems. The intent of this district is to retain the hamlet character while permitting diversified residential, commercial, and mixed-use development. This district is designed to encourage the adaptive re-use of existing buildings and the construction of new buildings that are in scale with and compatible with the existing buildings in the community. Permitted principal uses include one and two family dwellings, professional offices, retail stores, churches, medical clinic or doctor's offices, bank, etc.

#### **3.4 FLOOD AREA OVERZONE (FAO)**

This area describes the land within the Town adjoining a river, stream, watercourse, or lake that is subject to periodic flooding, as defined by the Federal Flood Insurance Administration. The purpose of the FAO is to protect the health, safety and welfare of the inhabitants of the Town of Clermont from the hazards due to periodic flooding including the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for, insurance and flood control projects.

The Flood Area Overzone is designed to be "superimposed" on the other zoning districts. The dimensional requirements and the use regulations of each of these districts would pertain to those areas overlapped by the FAO.

### **3.5 ROE JAN CORRIDOR (RJC)**

This area has been designed to protect one of Clermont's greatest natural resources. This district runs the length of the Roe Jan Kill within the boundaries of the Town and extends five hundred (500) feet from the creek bank. It is limited primarily to single-family residential building and certain commercial uses only when complementary to the unique resource values of this district. All such uses are on lots with a minimum of five (5) acres and a minimum of four hundred fifty (450) feet of stream frontage.

### **3.6 PLANNED INDUSTRIAL DISTRICT (PID)**

This district provides for the establishment of a planned and landscaped mercantile and/or manufacturing area in the form of a floating zone. In the Town of Clermont, any such district shall be a minimum of nine (9) acres, and shall be situated along public streets or roads; the PID shall be designed and planned as a harmonious unit. The specific location and boundaries shall be determined by amendment to the zoning map by the Town Board, in accordance with the requirements and procedures set forth in this Article.

### **3.7 RESIDENTIAL/LIMITED BUSINESS (RLB)**

This area provides for a combination of residential and limited business uses and connects the hamlet areas, with a recommended density of one (1) acre. The criteria used in establishing this area is the close proximity to the hamlet areas and/or urban centers, the availability of adequate roadways to handle the anticipated traffic of these business uses.

### **3.8 RESIDENTIAL/LIMITED BUSINESS (3 ACRES) (RLB/3)**

This area, similar in design to the RLB shall run the full length of Route 9G, and have a boundary on the LDR and RA areas east and west. The recommended density of this area is three (3) acres due to the topographical design, soil types and drainage abilities of the area.

### **3.9 ZONING MAP**

The districts mentioned in Article III are bound as shown on a map entitled "Zoning Map Town of Clermont", adopted by the Town Board and certified by the Town Clerk and which, with all explanatory matter thereon, is hereby made a part of this Local Law.

### **3.10 INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the previously mentioned districts as shown on the zoning map, the Zoning Board of Appeals shall decide. The following guidance is provided:

1. Where district boundaries are indicated as approximately following the center of streets and highways, street lines, or highway right of way lines, street lines, or highway right of lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are indicated that they are approximately parallel to center lines or street lines of streets, the center lines or right of way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the said zoning map.

## SCHEDULE OF USES

4. Where the boundary of the district follows a railroad line, such boundary shall be deemed located in the middle of the main track of said railroad line.
5. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Clermont unless otherwise indicated.
6. When a district boundary line divides a lot in a single ownership at the effective date of this Local Law or any subsequent amendment thereto, the Board of Appeals may permit extension into one district.

### **3.11 SCHEDULE OF USES**

Any use not listed in Table 3.1 – Schedule of Uses as a Permitted or Special Permitted use shall be considered a Prohibited Use.

SCHEDULE OF USES

**TABLE 3.1 – Schedule of Uses**

Legend: ● = Permitted by Right; ◐ = Site Plan Review; ⊙ = Special Permit and Site Plan Review;  
○ = Town Board Approval and Site Plan Review; [blank] = Not permitted

Land Use	RA	H	RLB3	LDR	RLB	RJC	PID
Accessory use	●	●	●	●	●	●	●
Adult entertainment							●
Agriculture	●	●	●	●	●	●	●
Agricultural, Farm stand	●	●	●	●	●	●	
Animal hospital	◐	◐	◐	◐	◐	◐	●
Auction Hall	⊙	⊙	⊙	⊙	⊙	⊙	●
Battery energy storage system							◐
Brewpub or brewery	⊙	⊙	⊙		⊙	⊙	
Camp and campground	⊙	⊙	⊙	⊙	⊙	⊙	
Cannabis cultivation, indoor	◐						◐
Cannabis consumption establishment <sup>2</sup>							
Cannabis retail dispensary <sup>2</sup>							
Cannabis product manufacturing							
Cannabis testing laboratory							
Cannabis wholesaler							
Cemetery (See § 4.32.1)	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Child day care	⊙	◐	◐	⊙	◐	⊙	●
Church/place of worship	◐	◐	◐	◐	◐	◐	◐
Club	⊙	◐	◐	⊙	◐		●
Cluster development	◐	◐	◐	◐	◐	◐	
Conference center	⊙	◐	◐	⊙	◐		
Contractor storage yard (See § 4.16)	◐	●	●	◐	●	◐	●
Cultural facility	⊙	◐	◐	⊙	◐	⊙	●
Dwelling, Accessory dwelling unit (See § 4.18)	●	●	●	●	●	●	
Dwelling, Single family	●	●	●	●	●	●	
Dwelling, Two family	◐	◐	◐	◐	◐	◐	
Dwelling, Limited multi-family	◐	◐	◐	⊙	◐	⊙	
Dwelling, Multi-family (See § 4.32.8)	⊙	⊙	⊙	⊙	⊙	⊙	
Dwelling, Multi-family conversion (See § 4.20)	◐	◐	◐	◐	◐	◐	
Dwelling, Condominium/townhouse		⊙	⊙		⊙		

SCHEDULE OF USES

**TABLE 3.1 – Schedule of Uses**

Legend: ● = Permitted by Right; ◐ = Site Plan Review; ⊙ = Special Permit and Site Plan Review;  
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Land Use	RA	H	RLB3	LDR	RLB	RJC	PID
Dwelling, two single family dwelling units on one lot (See § 4.21)	●	●	●	●	●		
Dwelling, Senior housing	◐	◐	◐	◐	◐	◐	
Dwelling, Group home	◐	◐	◐	◐	◐	◐	●
Dwelling, Manufactured home (See § 4.32.6)	●	●	●	●	●	●	
Dwelling, Manufactured home park (See § 4.32.7)	○						
Dwelling, Mixed use	◐	●	●		●		
Dwelling, Mixed use; (3 or more dwelling units)	◐	◐	◐		◐		
Eating and drinking establishment	⊙	◐	⊙	⊙	◐	⊙	●
Educational facility	⊙	◐	⊙	⊙	◐	⊙	●
Electric vehicle charging station (See § 4.32.15)	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Essential services	◐	◐	◐	◐	◐	◐	●
Event Venue (See § 4.32.14)	⊙	⊙	⊙	⊙	⊙	⊙	
Farmers Market	●	●	●	●	●	●	
Forestry	●	●	●	●	●	●	●
Fuel station		⊙	⊙		⊙		●
Funeral home	⊙	⊙	⊙		⊙		
Home occupation, Minor (See § 4.22)	●	●	●	●	●	●	
Home occupation, Major (See § 4.23)	◐	◐	◐	◐	◐	◐	
Kennel (See § 4.32.5)			⊙		⊙		
Lodging, Hotel							
Lodging, Inn	⊙	●	◐	◐	◐	⊙	
Lodging, Bed and breakfast	⊙	●	◐	◐	◐	⊙	
Lodging, Short-term rental (See § 4.19)	●	●	●	●	●	●	
Manufacturing / Light industry	⊙	⊙	⊙		⊙		●
Medical establishment (See § 4.32.4)	⊙	⊙	⊙		⊙		
Mining (See § 4.32.3)	○					○	
Motor vehicle repair, sales, service	⊙		⊙		⊙		●
Nursery and greenhouse	◐	◐	◐	◐	◐		◐
Nursing home	⊙		◐	⊙	◐	⊙	
Office	⊙	◐	◐	⊙	◐		●

SCHEDULE OF USES

**TABLE 3.1 – Schedule of Uses**

Legend: ● = Permitted by Right; ① = Site Plan Review; ⊙ = Special Permit and Site Plan Review; ○ = Town Board Approval and Site Plan Review; [blank] = Not permitted							
Land Use	RA	H	RLB3	LDR	RLB	RJC	PID
Personal or professional service		①	①		①		●
Planned Industrial Development (PID) (See § 4.26)	○	○	○	○	○		
Planned Residential Development (PRD) (See § 4.32.13)	⊙	⊙	⊙		⊙		
Planned Unit Development (PUD) (See § 4.25)	○	○	○	○	○		○
Recreation, Public facilities	●	●	●	●	●	●	●
Recreation, Commercial (See § 4.32.9)	⊙	⊙	⊙	⊙	⊙	⊙	
Retail convenience (See § 4.32.2)		⊙	⊙		⊙		●
Retail/wholesale store		①	①		①		
Retail/wholesale group		⊙	⊙		⊙		●
Research/development facility		⊙	⊙		⊙		●
Riding and boarding stable	①		①	①	①		
Wind Energy Conversion System, Small (Small WECS) (See § 4.32.12)	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Wind Energy Conversion System (WECS)							
Solar Farm (See § 4.32.11)	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Solar energy ground equipment (See § 4.32.11)	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Solar energy structural equipment and Building Integrated Solar Equipment (See § 4.32.11)	●	●	●	●	●	●	●
Storage unit, Commercial	①	①	①	①	①		①
Storage unit, Self			⊙		⊙		
Telecommunication tower (See § 4.32.10)	⊙		⊙	⊙	⊙		●
Warehouse							●
Winery	①	①	①	①	①	①	

Z = The town has currently opted-out of these cannabis-related uses as per Local Law #1 of 2021



**3.12 DENSITY CONTROL SCHEDULE**

No building shall be erected, moved, altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in accordance the dimensional requirements listed in Table 3.2 – Density Control Schedule and all of the provisions of this Local Law for the district in which such building or land is located.

- A. Additional dimensional requirements including lot coverage, height, and floor space are defined in Article IV of this Local Law.
- B. For development within Flood Area or Planned Industrial Districts, refer to the supplemental regulations of Article IV for additional requirements.
- C. Driveways are an accessory structure and shall comply with the minimum side yard setback distances for accessory structures, except in the case of a common (shared) driveway between two properties, which shall not have any required setback along the shared property line.
- D. For purposes of this section those parcels in the RA district that are one (1) acre in size and in common ownership shall be permitted to remain one (1) acre lots.

**Table 3.2 - Density Control Schedule**

	RA	H	RLB-3	LDR	RLB	RJC
<b>PRINCIPAL BUILDING</b>						
Minimum Lot Area (Acres)	2	1	3	5	1	5
Minimum Lot Width at Front Yard Setback (Feet)	150	100	200	400	150	150 <sup>1</sup>
Maximum Dwelling Units/Acre		4				
Minimum Front Setback (Feet) <sup>2</sup>	50	25	75	75	50	50
Minimum Side Setback (Feet) <sup>2</sup>	30	20	50	50	20	50
Minimum Rear Setback (Feet) <sup>2</sup>	50	25	75	100	30	50
Maximum Building Height (Feet)	35	35	35	35	35	35
Maximum Height WECS	150 (199 <sup>4</sup> )	150	150	150	150	150
<b>ACCESSORY STRUCTURE<sup>3</sup></b>						
Minimum Front Setback <sup>3</sup>	n/a					
Minimum Side Setback (Feet)	10	10 <sup>5</sup>	10	10	10	10
Minimum Rear Setback (Feet)	10	10 <sup>5</sup>	10	10	10	10

**Notes:**

<sup>1</sup> Roe Jan Corridor must also have 450 feet of stream frontage.

<sup>2</sup> Setbacks are to be measured from the property lines in the case of a deeded highway. Front yard setback shall be measured from the road edge in the case of a user road.

<sup>3</sup> Setbacks for accessory structures require that accessory structures shall not be located within a front yard, unless waived under section 4.5.

<sup>4</sup> Agricultural structures only

<sup>5</sup> Side and rear setbacks for accessory structures in the Hamlet (H) district may be reduced to 5 feet if no larger than 144 s.f. and 12 feet tall.

## ARTICLE IV - GENERAL REGULATIONS

### 4.1 APPLICATION OF REGULATIONS

Except as hereinafter provided no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein.

All uses shall be in conformance with the Schedule of Uses and Density Control Schedule found in this Local Law including provisions for site plan, special permit, or Town Board review and approval as defined in the Schedule of Uses.

### 4.2 LOTS

- A. Lots which abut on more than one street shall provide the required front yard setbacks along every street.
- B. All structures, whether attached to the principal structure or not, and whether open or enclosed; including porches, carports, balconies, or platforms above normal grade level, shall not project into any minimum front, side or rear yard.
- C. In any district, notwithstanding limitations imposed by other provisions of this Local Law, a single lot at the effective date of adoption of this Local Law may be built upon, as long as it meets approval by the County Department of Public Health. Such a lot must be in separate ownership, and not of continuous frontage with other such lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width of the lot shall conform to the regulations for the district in which the lot is located.
- D. If two or more lots or combination of lots and portions of lots with continuous frontage are in single ownership at the time of the passage or amendment of this Local Law, and if all or part of the lots do not meet the requirements for lot width and area as established by this Local Law, the land involved shall be considered to be an individual parcel for the purpose of this Local Law and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Local Law, except if each and every parcel created that is below the requirements is purchased by the owner or owners of the adjoining properties to increase the size of said owner or owners property.
- E. No new lot may be created within the Town of Clermont which does not meet the minimum lot area or minimum lot width as specified in the Density Control Schedule, except as provided below:
  - (1) Lots which are newly created for the sole purpose of locating public utility infrastructure such as electrical substations, radio antennas, communication towers and similar facilities not intended for human occupancy beyond necessary maintenance and repair.

### 4.3 LOT COVERAGE

- A. Refer to the Density Control Schedule in Section 3.12 for all lot coverage requirements.
  - 1. In Planned Unit Development or Planned Industrial Development individual lots may exceed this requirement as defined by the Town Board, but the overall PUD or PID project may not.

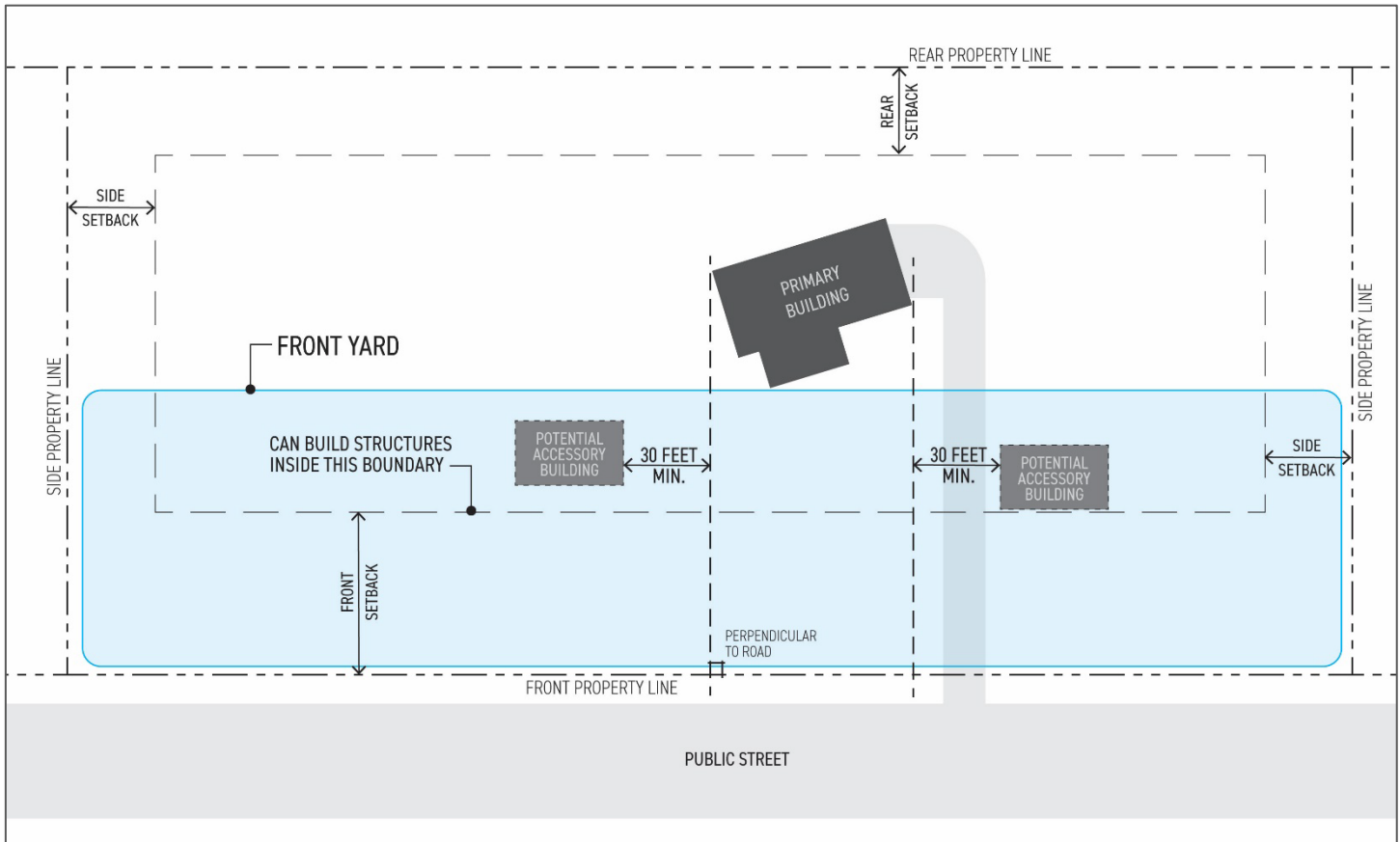
**4.4 HEIGHT REGULATIONS**

- A. Refer to the Density Control Schedule in Section 3.12 for height requirements.
- B. In all districts, structures shall not exceed thirty-five (35) feet in height above average ground level unless approved by the Zoning Board of Appeals.
- C. The thirty-five foot (35') maximum height limitations shall not apply to telecommunication towers, Small WECS, church spires, belfries, monuments, tanks, water and elevator bulkheads, smokestacks, solar heating equipment, satellite dishes, silos, barns and other farm structures, and flagpoles except as specifically defined elsewhere in this Local Law.

**4.5 FRONT YARD EXCEPTION**

- A. The area and bulk requirements in this code do not permit structures to be built within the front yard or within the front setback of a property. In order to provide some reasonable flexibility in the case of properties where the primary structure is further from the road than the front setback requires, the Code Enforcement Officer may approve construction of accessory structures within the front yard area, provided that:
  - (1) the accessory structure must be at least 30 feet in lateral distance, parallel to the road, from the primary structure that it would not obstruct the view of the primary structure from the road. See Figure 4.1; and,
  - (2) the accessory structure is still complying with the minimum front and side yard setbacks.
- B. Applicants seeking this exception shall bring to the Code Enforcement Officer a reasonably detailed sketch showing the dimensional locations of the primary house, road, driveway, other existing accessory outbuildings and the proposed location and size of the new accessory structure. An officially engineered drawing or survey is not necessary unless requested by the C.E.O to confirm setback compliance.

## REQUIRED FLOOR SPACE



**Figure 4.1**

*Front Yard Exception – Illustration showing where proposed accessory buildings may be approved within the Front Yard area, while not within the Front Setback.*

### 4.6 REQUIRED FLOOR SPACE

In all districts, there shall be a required minimum of seven hundred (700) square feet of floor space per single family dwelling unit except for accessory apartments which shall be smaller than the unit they are accessory to while remaining in compliance with all applicable State building code requirements. This measurement of floor space shall not include the basement. This measurement does not apply to apartment units. No single commercial building or structure may exceed twenty thousand (20,000) square feet of lot coverage.

### 4.7 NONCONFORMING USE

The lawful use of any building or land existing at the time of the enactment of this Local Law may be continued although such use does not conform to the provisions of this Local Law.

#### A. DISCONTINUANCE

When any existing nonconforming use of land or buildings has been discontinued for one (1) year, the land and buildings shall thereafter be used only in conformity to this Local Law, except that the Zoning Board of Appeals after a public hearing may permit the resumption of said nonconforming use, unless the duration is extended as provided for under Article I, Sections 1.6B or 1.7C. The only exception to this would be where the land and buildings had formerly been used for agriculture.

## OBNOXIOUS USE

### B. CONSTRUCTION APPROVED PRIOR TO ADOPTION OF OR AMENDMENT TO THIS LOCAL LAW

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months (or one (1) year) of the date of the permit, and which entire building shall be completed according to such plans within one (1) year (or two years) from the date of this Local Law.

### C. CHANGES

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification. The only exception to this would be where the land and buildings had formerly been used for agriculture.

### D. CESSATION OF PRE-EXISTING AUTOMOBILE OR JUNK YARDS

Notwithstanding any other provisions of this Local Law, any nonconforming automobile wrecking yard or junk yard in existence at the date of enactment of this Local Law shall at the expiration of three (3) years from such date become a prohibited and unlawful use and shall be discontinued.

### E. EXPANSION

Any nonconforming use may be expanded up to one hundred (100) percent of the existing size at the time of the adoption of this Local Law as a special permit use by the Zoning Board of Appeals upon the recommendation by the Planning Board. For the purpose of this section, the following shall be taken into consideration when determining the "existing size" of a nonconforming use or building:

- (1) The percentage of lot area covered or utilized by the nonconforming building or use at the time of adoption of this Local Law;
- (2) The capacity of the nonconforming use at the time or adoption of this Local Law.

### F. DESTRUCTION

Any nonconforming structure or structures housing a nonconforming use, if destroyed in whole or part by a fire, explosion, or act of God, may be rebuilt or restored to occupy the same space on the same lot and not to exceed the same height of the original structure.

## 4.8 OBNOXIOUS USE

Any use that may be obnoxious or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited. The New York State Department of Environmental Conservation air and water quality standards shall apply as a minimum, excepting provisions which are common agricultural practices.

**4.9 FLOOD AREA OVERZONE**

**A. GENERAL**

The areas of the municipality which are subject to periodic inundation as described by the Flood Hazard Boundary map issued by the Federal Flood Insurance Administration and as delineated on the Zoning Map are designated as a Flood Area Overzone for the purposes of protecting human life and preserving the environmental resources of the Roeliff Jansen Kill, preventing material losses, and reducing the cost of public rescue and relief efforts occasioned by the unwise occupancy of areas subject to floods. In order to accomplish its purposes, this Local Law uses the following methods with regard to the flood hazard:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood height or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural flood plains, storm channels and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase hazards to other lands; and
- (6) Within the Flood Area Overzone, no person shall erect, construct, enlarge, alter, repair, improve, or move or commence such activity as mining, dredging, filling, grading, paving, excavation, or drilling without first obtaining a zoning permit from the Zoning Enforcement Officer.

**B. ZONING ENFORCEMENT OFFICER FLOOD HAZARD AREA DUTIES**

The Zoning enforcement Officer shall review all zoning permit applications for activities with the Flood Hazard Area and shall not issue a permit unless the following requirements are met:

**1. RESIDENTIAL CONSTRUCTION**

New construction or substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation.

**2. NONRESIDENTIAL CONSTRUCTION**

New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities that are below the base flood level, the walls will be substantially impermeable, be flood proofed so structure is water tight to the passage of water and capability of resisting effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

**3. ANCHORING**

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

## FLOOD AREA OVERZONE

All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- a. Over-the-top ties shall be provided at each end of the manufactured home with two additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long require one additional tie per side;
  - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four additional ties per side;
  - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and,
  - d. Additions to the manufactured home shall be similarly anchored.
4. CONSTRUCTION MATERIALS AND METHODS
- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. UTILITIES
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
  - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. SUBDIVISION PROPOSALS
- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
  - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least five (5) acres.
7. USES PERMITTED AND DENSITY CONTROL

In addition to the above requirements, the uses permitted and the density and bulk regulations of the underlying district shall apply in determining if the requirements of this zoning Local Law are met.

FOR THE PURPOSE OF THE DETERMINATION OF THE ADMINISTRATION OF THIS SECTION, THE ZONING ENFORCEMENT OFFICER/BUILDING INSPECTOR SHALL REQUIRE THE APPLICANT TO FURNISH THE FOLLOWING INFORMATION:

## SIGNS

- a. Elevation in relation to mean sea level, of the lowest floor (including the basement) of all structures.
- b. Elevation in relation to mean sea level to which any non-residential structure has been flood proofed, if any.
- c. Certification by a registered professional engineer or architect that any non-residential flood proofed structure meets the flood proofing criteria in Section "NON-RESIDENTIAL CONSTRUCTION" previously mentioned.
- d. Description of the extent to which any water course will be altered or relocated as a result of proposed development.

### 8. VARIANCES

Notwithstanding, the Zoning Board of Appeals after Planning Board review and upon a finding that an area described by an application submitted by an owner or his agent within a Flood Plain Zoning District is safe from flooding may permit such area within the Flood Plain District to be used in accordance with the regulations (including use, area, bulk and or height) specified for the underlying district of the overzone. An applicant applying for such permission shall produce sufficient evidence that the area covered by the application is now actually safe from flooding and may include engineering surveys and reports. Evidences shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended Use.

### 4.10 SIGNS

Signs may be erected and maintained only when in compliance with the following:

- A. **Intent.** The Town of Clermont finds that signs are a necessary means of communication that can benefit and detract from the Town's community and neighborhood character and should conform to the following provisions. At no time should these provisions be interpreted to regulate any aspect of the content of any sign.
- B. **Exceptions.** The following types of signs are allowable without any Town approval except that any such sign shall not exceed the maximum dimensional, height, or area requirements of this section relevant to the applicable zoning district.
  - (1) Election Signs. All signs advertising a candidate for public office or any other public balloting initiative are exempt from these regulations. Such signs must be displayed only on private property and may be displayed no sooner than 30 days prior to the relevant election and no later than 10 days after said election.
  - (2) Temporary on Premises Signs. Any property owner is permitted to erect a single, temporary, non-illuminated sign on said property advertising the sale or lease of merchandise or a special event. Such sign shall be removed within three (3) days after the sale, lease or event.
  - (3) Locational, Street Address and Public Safety Signs. Any property owner is permitted to erect one non-illuminated sign identifying the property name or residents of the property and the official street address. Other signs offering information necessary for public safety including by example customary posted or non trespassing signs, private drive, parking, or exit/entrance signs along with other signs required pursuant to any governmental function, law or regulation are also exempt.



## SIGNS

- (4) Other. When not associated with a commercial activity, all historical or memorial markers as well as flags, insignia or emblems of any government or religious organization and any religious holiday decorations are also exempt.
  - (5) Landmark Signs. Any older sign of artistic or historic merit or of uniqueness to the Town, each of which must be recognized by the Town Board or the Town Historian, is entirely exempt from this section including all dimensional, height, and area requirements.
  - (6) Non-Conforming Signs. A non-conforming sign lawfully existing at the effective date of this section may continue with the exception of signs exceeding three (3) times the allowable sign area. Such signs, commonly referred to as billboards must conform to this section within ten (10) years of the effective date of this section.
- C. **Measurement of Sign Area.** Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the sign surface. For a sign painted on or applied to a building, the area shall be considered to include the smallest rectangle or other shape which encompasses all lettering, numbering, designs, logos or lights together with any background of a different color than the finish material of the building. The area of supporting framework such as brackets or posts shall not be included in the area if such framework is incidental to the display. When a sign has two (2) or more faces or is composed of multiple signs each with a face, the sum of the areas of all the faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from each other. In this latter case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.
- D. **Measurement of Height.** The height of any sign shall be measured from the highest point of the sign to the surface of ground prior to construction of the sign or to the surface of the nearest public road whichever is lower.
- E. **Off Premises Signs.** Signs displaying information on uses, events, goods, products, services or facilities offered at locations other than on the tax lot where the sign is located are prohibited with the exception of general directory or directional signs which may be approved subject to a special use permit. General directory or directional signs shall be no larger in area than twenty-four (24) square feet and shall include only the name(s) of the establishment and basic directional information in lettering no higher than five (5) inches.
- F. **Home Occupation Signs.** One non-illuminated sign per home occupation is permitted which is no larger than four (4) square feet per side, indicating the business name. Home occupation signs may also optionally include additional information such as the address, business phone number, website, or description of business.
- (1) Such sign should be placed as close as possible to the intersection of the driveway and the public road or should be affixed flat to the building.
  - (2) Only one home occupation sign is permitted per property.
  - (3) Home occupation signs may only be located on the property where the home occupation is conducted.
- G. **For Sale and For Rent Signs.** No more than two (2) non-illuminated signs advertising the sale or rental of a property may be erected and maintained on said property by the owner or broker or any person with

## FENCES

legal interest in the sale or rental or such property provided that:

- (1) The size of any such sign shall be no more than six square feet; and,
- (2) Up to two additional, non-illuminated signs may be erected or maintained if said property abuts more than one public right-of-way.

### H. General Provisions for All Signs

1. All signs, except Landmark Signs, General Directory and Directional Signs, Home Occupation Signs, and For Sale/For Rent Signs as provided in Subsections B, E, F & G of this Section, shall conform to the following performance standards:

Speed Limit (mph) on road nearest sign	45+ mph	35-44	Less than 35
Maximum sign height in feet	16	12	10
Total Maximum Sign Area In Square Feet	24	20	16

2. Construction and Maintenance. Any sign must be constructed of durable materials maintained in good condition and not allowed to become dilapidated. Signs painted or attached to buildings shall be preferred to free standing signs.
3. Obstruction of Public Right-Of-Way. Signs attached to a structure shall not project more than three (3) feet from the structure. No sign shall extend over a public right-of-way or public sidewalk and no sign shall obstruct views from any public right-of-way to any other public right-of-way.
4. Illumination. Signs designed with internal illumination are discouraged. Mobile, internally-illuminated signs with moveable letters are strictly prohibited in residential districts and are subject to site plan approval in all other districts. Sign illumination shall only be with a steady, stationary, shielded light sources directed onto the sign without causing glare onto adjoining properties or onto any public right-of-way. Flashing signs or signs with moving lights are prohibited. No sign shall be illuminated between the hours of 11pm and 6am unless the premise is open for general business during such hours.
5. Building permits shall be required for all signs except those described in Subsection B of this section. Any building permit shall conform to the requirements of this section.

### 4.11 FENCES

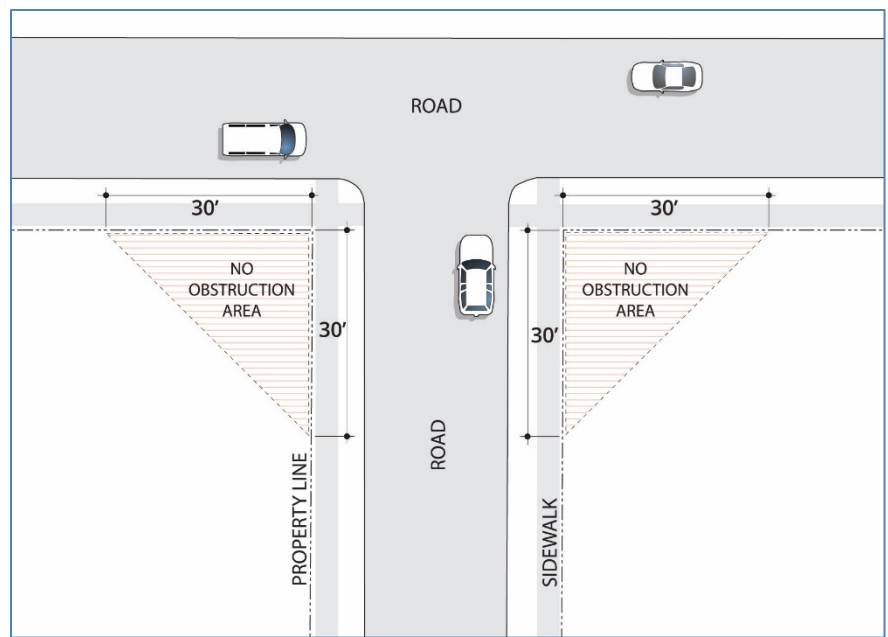
- A. **Installation and Maintenance Standards.** All fences shall be constructed and installed in accordance with the generally accepted standards of good workmanship and any applicable manufacturer's specifications. All fences shall be maintained in a structurally sound condition, and components or finishes that become deteriorated shall be repaired or replaced promptly.
- B. **Prohibited Materials.** Except in the case of fences erected solely for agricultural purposes, the use of

## OFF-STREET LOADING

barbed wire, broken glass, electrification or any other material or device intended to cause injury is prohibited. No fence intended as a permanent structure shall be constructed of canvas, cloth, wire mesh, chicken wire, snow fencing or any other material of a nonstructural nature.

- C. **Placement of Support Structures.** A fence so designed as to be structurally supported by posts, cross members or rails on one (1) side only (including but not limited to picket or stockade fences) shall be erected with the posts, cross members or rails on the inner (property owner's) side facing interior to the property owner's lot.
- D. **Height Restrictions.** The maximum height of any and all parts of a fence, including supporting structures, shall not exceed eight (8) feet, provided, however, that at all street intersections, no fence or other obstruction to vision (other, than an existing structure, post, column or tree) exceeding three (3) feet in height shall be erected, installed or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines thirty (30) feet distant from their point of intersection, as illustrated in Figure 4.2.

**Figure 4.2**  
*Intersection Obstructions*



- E. **Setback Requirements.** No minimum distance shall be required between a fence and a lot line, unless such distance is specified elsewhere in this Local Law. However, it is required that any fence be installed interior from the lot line with adequate setback to provide for maintenance and lawn or field mowing.
- F. **Exception.** These fence regulations shall not apply to agricultural fencing or temporary, safety fencing erected during construction activities approved by the Town. For purposes of this section, the term "agricultural fencing" shall include, any fence constructed on a farm operation or constructed to enclose a residential garden.

### 4.12 OFF-STREET LOADING

Off-street loading shall be spaced logically and conveniently located to be used and accessible to such vehicles when required off-street parking spaces are filled and shall be provided for all commercial and industrial uses.

## OFF-STREET PARKING

Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking spaces.

### 4.13 OFF-STREET PARKING

Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged. Public off-street parking or legally shared use of private off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements when provided for this purpose within a distance appropriate to the proposed use but not exceeding five hundred (500) feet. Adequate space should be allowed for required ingress and egress to parking spaces and driveways for residents and for accessibility to each individual parking space.

When development of any use is phased, off street parking provisions may be pro-rated and phased with such development. The Zoning Enforcement Officer shall enforce such provisions.

Where a combination of uses is on a lot, the required minimum spaces shall be the sum for all uses.

Parking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long. In all cases the majority of off street parking shall be preferable towards the side or rear yard in relation to the street. Screening such as plantings, fencing or landscaping may be required to buffer parking of five or more spaces from adjoining lots, adjoining land uses, and any public rights of way. Any lighting shall be designed to reflect away from any public street or right of way and from all adjacent property.

Directional signs to parking may be erected consistent with the sign standards elsewhere in this chapter.

#### MINIMUM OFF-STREET PARKING SPACES REQUIRED

- 2 for each dwelling unit plus 1 per additional room rented.
- 1 for every 300 gross square feet of non-residential uses except as noted below:
- 1 for every 200 gross square feet of retail, personal or professional services.
- 1 for every 100 gross square feet of eating or drinking establishment, health club or similar high traffic service.
- 1 for every 200 gross square feet of medical establishment.
- 1 for every 500 gross square feet of manufacturing or warehouse.
- 1 for every 300 gross square feet of government, conference, club, church, or similar place of assembly
- 1 per guest room plus 1 per 500 gross square feet of motel, hotel or lodging.
- 1 per 3.5 seats in assembly rooms plus 1 per faculty member for all educational uses.

### 4.14 OUTDOOR STORAGE

In all districts, there shall be no outdoor storage which is in public view. More specifically, such storage is prohibited within the front yard setback or the side yard setbacks applicable to accessory uses.

## STORAGE CONTAINERS

The outdoor storage of any camping or travel trailer, any motor boat, or any unlicensed or unregistered motor vehicle visible from a public street, public right-of-way, recreation area, park or similar public areas shall be prohibited, except that:

1. One unlicensed or unregistered motor vehicle may be stored but not used for any purpose on an occupied lot (or on an adjacent unoccupied lot, if both lots are under common ownership).
2. One camping or travel trailer may be stored but not used for any purpose on an occupied lot (or on an adjacent unoccupied lot, if both lots are under common ownership). Said camping or travel trailer shall not exceed forty (40) feet in length.
3. No more than one motor boat may be stored in the open or outdoors on a lot (or on an adjacent lot, if both lots are under common ownership) in any residential or hamlet district.

### 4.15 STORAGE CONTAINERS

A. Large storage containers, including portable on-demand storage units, shipping containers and similar devices may be kept temporarily on-site on residential properties in all zoning districts to provide transitional storage needed to complete a move, construction, renovation, repairs or similar effort, provided it complies with the following:

- (1) Storage containers which are unscreened from view from abutting neighbors may be placed on the property for a period not to exceed 180 days, unless a 60-day extension is requested and granted from the Zoning Board of Appeals.
- (2) Storage containers which are adequately screened from view from abutting neighbors may be placed on the property for a period of up to one year, unless a 90-day extension is requested and granted from the Zoning Board of Appeals.
- (3) The above limitations do not apply to commercial properties or active agricultural farming operations.

### 4.16 CONTRACTORS STORAGE YARD

- A. There shall be no commercial sale of equipment, parts, sand, gravel, pipe, aggregate, or any other building supplies, with the exception of building materials and supplies transported by the owner or an employee of the contractor's yard and delivered to a customer as part of his or her contracting business;
- B. Materials used in association with the contractor's yard may be temporarily stored within the yard and only within the yard;
- C. No rental of equipment shall occur from the contractor's yard; and,
- D. The contractor's yard may be required to be screened as directed by the Planning Board. Preferred screening materials include a dense assortment of natural conifer and evergreen plantings with a recommended minimum height of six feet when planted, or fencing of a type and height as determined by the board.

### 4.17 FARM OR RESIDENTIAL POND

Farm or residential ponds shall be an allowed accessory use in all districts with approval from the Town Zoning Administrator, provided there is compliance with the following:

## ACCESSORY DWELLING UNITS

- A. Ponds must meet all setback requirements for zoning district.
- B. Ponds with any slide slope in excess of 30° shall be fenced in accordance with the New York State Uniform Fire Prevention and Building Code swimming pool fencing requirements.
- C. Any permits required by NYSDEC or Army Corp have been obtained. The following types of permits may be required depending on the design and construction of the waterbody. Applicants are advised to check with the NYSDEC Regional Permit Administrator and Army Corp of Engineers for specific requirements:
  - (1) Stream Protection Permit. Stream protection permit may be required for the disturbance to the bed or banks of a protected stream, as identified by their stream classification.
  - (2) Freshwater Wetland Permit. Freshwater wetland permit may be required for excavation or fill within 100 feet of a freshwater wetland regulated by NYSDEC, as identified on official NYSDEC Freshwater Wetland Maps.
  - (3) Dam Safety Permit. A Dam safety permit may be required for construction of an impoundment (dam) structure depending on the height structure or impounding capacity.
  - (4) Mined Land Reclamation Permit. A mined land reclamation permit may be required for excavating and moving off-site more than 1000 tons of soil and materials.
  - (5) Other Approvals. Other approvals may be required for specific conditions, such as the presence of protected resources.

### 4.18 ACCESSORY DWELLING UNITS

- A. **Findings.** The Town Board of the Town of Clermont finds that the region has been experiencing a significant housing shortage, with home prices and rents increasing to levels which are unaffordable to households of middle income levels; and,

It is very important that we meet the local housing needs for our aging residents who wish to age-in-place here in Clermont, as well as our younger generations who fill an important employment role in local businesses; and,

The creation of legal Accessory Dwelling Units (ADU's) can directly increase the supply of more affordable housing stock within Clermont, provide homeowners with supplementary income, and create a living arrangement where persons can provide family members with semi-independent care, support and companionship locally;

Therefore, Accessory Dwelling Units are an effective tool to mitigating the current housing problems and providing other benefits to residents.

- B. **Purpose and Objectives.** It is the purpose of this chapter to provide a reasonable framework for the review, approval, construction and use of Accessory Dwelling Units within the Town of Clermont, NY, in accordance with applicable New York State regulations.
- C. **Applicability.** The requirements of this section shall apply to all accessory apartments proposed, modified or constructed after the effective date of this local law. Accessory apartments existing as of the effective date of this local law shall be exempt from these regulations, however, future modifications to an accessory apartment which require the issuance of a Building Permit after the effective date of this local law shall be required to comply with this local law.
- D. **Permitted Locations.** Accessory Dwelling Units shall be permitted by right in:

- (1) All zoning districts which permit single-family residential uses;
- (2) All zoning districts which permit two-family or multiple-family residential uses;
- (3) All properties which have a lawfully pre-existing residential use.

**E. Number of Dwelling Units**

- (1) One accessory dwelling unit is permitted per residentially zoned single-family property.

**F. Area and Bulk Requirements**

- (1) An accessory dwelling unit constructed as a new accessory structure shall comply with all of the applicable setback and height restrictions of the district in which it is created.
- (2) An accessory dwelling unit may be constructed wholly within a conforming accessory structure, lawfully existing as of the date of this chapter, notwithstanding any setback or height restrictions.
- (3) Accessory dwelling units may be created on any lot that meets the minimum lot size required for a single-family dwelling. Attached and internal accessory dwelling units may be built on any lot with a single family dwelling that is a pre-existing non-conforming lot, provided the accessory dwelling unit can still meet the dimensional requirements for height, setbacks, and lot coverage.
- (4) Accessory dwelling units are not permitted to be constructed within the front yard, except as may be provided in Section 4.5.

**G. Standards**

- (1) An Accessory Apartment must be serviced by a sewage disposal system approved by the Columbia County Board of Health, and have potable water. If both the Accessory Apartment and the Primary Residence are to be served by the same septic and water system, the applicant must demonstrate that there is sufficient capacity for both such uses.
- (2) The accessory dwelling unit shall meet all applicable state and county building and fire codes applicable to a single-family home, as well as code requirements under Town law before a building permit or certificate of occupancy may be issued.
- (3) The accessory dwelling unit shall include a fully independent kitchen, bathroom, sleeping and living area which is separate and distinct from the primary residence;
- (4) The accessory dwelling unit shall have access in and out of the dwelling area which is separate and independent from the primary residence access;
- (5) No additional off-street parking is required for construction of an accessory dwelling unit. If the construction of the new dwelling necessitate the removal of existing residential off-street parking space(s), those spaces must be replaced on-site if required for the primary residence by the underlying zoning.
- (6) Accessory dwelling units may be constructed of manufactured or modular home construction in any districts where manufactured or modular construction is permitted.
- (7) An accessory dwelling unit may be created through new construction, conversion of an existing structure, addition to an existing structure, or conversion of a legally existing single-family house into an accessory dwelling while simultaneously constructing a new primary dwelling on the site.
- (8) Accessory dwelling units created under this chapter are intended to remain as accessory to the primary residential use and shall not be subsequently subdivided or sold as separate properties.

## SHORT-TERM RENTALS

- (9) It is recommended, but not required, that new ADU's attempt to be ADA accessible, ADA "accessible-ready" or include Universal Design considerations in their design when possible. This provision is voluntary, and information regarding ADA and Universal Design is available at the town office.

### H. Applications and Approvals

- (1) Applications for accessory dwelling units shall be reviewed and approved through a non-discretionary, ministerial review, without required notice or public hearing. Newly constructed detached accessory dwelling units shall be reviewed and approved as per any accessory structure within its corresponding zoning district.
- (2) No individual shall reside, utilize or occupy an Accessory Apartment without a Certificate of Occupancy issued by the Town of Clermont.
- (3) The building permit fee for an accessory dwelling unit shall be reduced by 50%.

## 4.19 SHORT-TERM RENTALS

A. **Findings.** The Town Board of the Town of Clermont finds that it is in the interest of public health, safety, welfare and economic development that short-term rentals be permitted within the town under reasonable conditions and safeguards to protect neighboring properties and the community from potential nuisances. The ability to operate a short-term rental within our community is a privilege, not a right. In order to continue allowing short-term rental operations by responsible owners while protecting community welfare, it is necessary to establish a reasonable permitting process whereby the Town of Clermont may revoke permission to operate such rentals in the event of repeated violations, or impose fines on unpermitted operations. The application fees, renewal fees and fines shall be as determined by the Town Board and provided in the Fee Schedule.

### B. Permitting Requirements

- (1) No property within the Town of Clermont shall be used or rented as a short-term rental without a Short-term Rental Permit issued by the Code Enforcement Officer.
- (2) Short-term Rental Permits are non-transferable and shall expire upon any change of ownership of the property.
- (3) Short-term rentals shall be permitted in all zoning districts as specified in the Schedule of Uses in Article III.
- (4) All property owners who wish to operate a short term rental shall have a grace period of not more than 6 months from the date of this code adoption to obtain a Short-term Rental Permit without penalty for unpermitted operation. Existing short-term rental properties operating within the town prior to the date of adoption of this code shall obtain a permit within the same 6-month period or must cease to operate the rental until a valid permit is issued.

### C. Applications for Permit

- (1) Applications for a Short-term Rental Permit can be obtained at the Town Hall, and submitted to the Code Enforcement Officer for approval.



## SHORT-TERM RENTALS

- (2) Application for permits shall be accompanied by a permit fee, as set by the Town Board in its Schedule of Fees. Renewal of permits shall be accompanied by a nominal renewal fee. The Town Board may update this Schedule of Fees periodically.
- (3) Contact Person. All short-term rental applications are encouraged to include the identification and contact info for a local contact person, other than the property owner, who lives locally and is available for the purpose of promptly responding to any complaints regarding the rental condition, operation or conduct of guests when the owner cannot be reached. It shall be the responsibility of the owner to update this contact information as needed.
- (4) Fire & Safety. All short-term rental property owners are strongly encouraged to ensure the following basic fire and safety precautions are provided for the rental:
  - (a) Operational smoke and fire alarms are properly installed on all floors;
  - (b) A minimum of one fully charged fire extinguisher is readily accessible on all floors;
  - (c) The 911 street address of the property is readily visible from the road;
  - (d) A printed contact list of emergency numbers, including the owners and designated Contact Person, is provided near the front door.
  - (e) A printed copy, or relevant summary of, the Town Noise Control Regulations is provided near the front door.
- (5) The Code Enforcement Officer shall keep a record of all approved Short-term Rental Permits and any violations of this section associated with the property owners.
- (6) Short-term Rental Permits shall be valid for a period of 1 year, unless revoked or there is a change of property ownership. Short-term Rental Permits which are due to expire should be renewed promptly to ensure continued rental operation and avoid fines.

**D. Performance Standards.** The following performance standards shall apply to all short-term rentals within the Town of Clermont. Violations of these standards may result in the temporary or permanent revocation of the Short-term Rental Permit as specified in Section E.

- (1) Short-term rental guests shall not violate the Town Noise Control Regulations.
- (2) All garbage and recycling shall be stored in secured containers next to the home, until such day when scheduled pickup is arranged and it may be left out next to the road.
- (3) Any rental agreement between the owner and guests shall include a listing of the performance standards listed above.

**E. Violations and Revocations**

- (1) In the event of a complaint or violation regarding a short-term rental operation, the Code Enforcement Officer shall contact the Owner or designated Contact Person for the property and request that they respond to the complaint and visit the residence to resolve any issues promptly. The Code Enforcement Officer may also, at their availability and discretion, visit the property to investigate or confirm any complaints, violations or remedies.

## SHORT-TERM RENTALS

- (2) In the event of a confirmed first violation of any of the performance standards above, the Code Enforcement Officer shall issue a written warning to the property owner, describing the violation and any steps that could be taken to avoid the problem in the future.
- (3) In the event of a confirmed second violation, the Code Enforcement Officer shall issue a written Compliance Order in accordance with Section 5.14 of this code.
- (4) In the event of a confirmed third violation, the Code Enforcement Officer shall issue a written Compliance Order in accordance with Section 5.14 of this code and shall refer the violation(s) to the Zoning Board of Appeals for a determination on any suspensions (or revocations) of the Short-term Rental Permit, including a description of the violation(s) and any documentation of facts or statements which may be available. The property owner shall be informed of this referral in the order.
  - (a) Upon receipt of a referral of violation from the Code Enforcement Officer, the Zoning Board of Appeals shall set an agenda item and schedule a meeting/hearing within 60 days of receipt to discuss the matter and make a determination. The property owner, and interested parties including those who may have issued the complaint, shall be notified of this meeting by the Code Enforcement Officer.
  - (b) The Zoning Board of Appeals, after discussion and consideration of the referral, shall make a determination within 90 days of the violation referral on whether to suspend (or revoke) the permit.
- (5) Short-term Rental Permits which have been suspended shall not be renewed again for the same property owner for a period of six months from the date of suspension, after which point they may renew their permits and any subsequent violations shall be counted as at least a second violation, with no warning period.
- (6) Short-term Rental Permits which have been suspended twice in a three-year period may be revoked by a decision of the Zoning Board of Appeals.
- (7) Short-term Rental Permits which have been revoked shall not be issued again for the same property owner for a period of one year from the date of revocation, after which point they may re-apply for their permits and any subsequent violations shall be counted as at least a second violation, with no warning period.
- (8) Short-term Rental Permits which have been revoked twice, within any time frame, for the same property owner may not be re-issued.
- (9) Property owners who are found to be in violation of operating a short-term rental without a valid permit shall be issued a written Compliance Order in accordance with Section 5.14 of this code and shall be imposed a civil penalty/fine, as listed in the Schedule of Fees set by the Town Board for unpermitted short-term rental operation.
- (10) In investigating any complaint or potential violations, the Code Enforcement Officer shall not rely solely on the testimony of one neighbor, but shall rely on available evidence including but not limited to any video recordings, police logs and reports, collaborating neighbor testimony and their own observations in making a determination if the reported complaint can be confirmed as valid.

**4.20 DWELLING, MULTI-FAMILY CONVERSION**

- A. Conversion of existing one-family residences to two or multi-family residences shall be allowed with site plan review in all districts except for the PID district, as specified in the Schedule of Uses in Article III. Both residences must meet specified criteria.
- B. This use shall apply to conversion of existing residences which exist as a one-family residence as of the date of adoption of this Local Law and it shall not apply to new construction of accessory dwelling units, two-family or multi-family dwellings. New construction of buildings as accessory dwelling units, two-family or multifamily structures shall be governed by those regulations for the specific use allowed in the table of use regulations.
- C. The required minimum lot area for conversions of existing residences shall remain that for the original single-family residence. The conversion may include interior renovations or exterior additions to the original single-family residence, provided any addition(s) meets the area, bulk, setback and height requirements of the zoning district.
- D. All proposed dwelling units on the property must be serviced by a sewage disposal system approved by the Columbia County Board of Health, and have adequate potable water. If the newly created dwelling units are to be served by the existing on-site septic and water system, the applicant must demonstrate that there is sufficient capacity for all proposed units, or provide additional capacity, as approved by the Columbia County Health Department before approvals are granted. The premises shall be in compliance with the New York State Uniform Fire Prevention and Building Codes before the issuance of a Certificate of Occupancy/Compliance.
- E. The Planning Board may require additional off-street parking to be provided, as well as associated screening and refuge storage areas. In the review of these applications, the Planning Board and applicant shall attempt to minimize any exterior changes which would unnecessarily undermine the property's original character as a single-family structure.

**4.21 TWO SINGLE FAMILY DWELLING UNITS ON ONE LOT**

Only one single family dwelling unit shall be permitted on the same lot within the Town of Clermont, except as provided below.

- A. The Code Enforcement Officer may issue a permit for the construction and occupancy of up to two single family dwelling units on the same lot in any zoning district which permits a single family dwelling, provided that all of the following conditions can be met:
  - (1) The lot must be of sufficient size and configuration such that the minimum lot size requirement can be met for both dwellings, with all structures on the property complying with the minimum setbacks. Variances may not be obtained to achieve this condition;
  - (2) The residences, driveways, well and septic systems on the lots shall be arranged in such a manner that, in the event of future subdivision of the property, all of the dimensional requirements set forth in the zoning and subdivision regulations including frontage will be met by both residences to create two separate single family lots with independent septic and well systems.
  - (3) The two separate dwelling units may share a common driveway, provided that there is a sufficiently workable plan to provide a separate driveway in the future in the event the property is subdivided and separate driveways are needed.

## HOME OCCUPATION, MINOR

- (4) The design and construction of the septic system(s) on the lot are approved by the Columbia County Department of Health for both residences. Both dwelling units may share a common well and/or septic system, provided that the systems are adequate for the combined uses.
- B. The applicant must demonstrate to the Code Enforcement Officer how the property and related improvements can meet the conditions above.
- C. No future subdivision of a lot on which two dwelling units have been located, pursuant to this provision, shall be created, unless all newly created lots will meet all setback, area, and frontage requirements contained in this chapter and individual driveways are provided meeting the setback requirements or a binding access easement agreement has been established. The existence of inadequate setbacks or distance separation between the residences, or insufficient area or density or frontage, shall not be a basis for the granting of a variance to permit a subdivision of the property.

### 4.22 HOME OCCUPATION, MINOR

- A. Home Occupations are separated into two categories, “Minor” and “Major” as defined in Article II, and are permitted in each zoning district as specified in Article III, 3.11 Schedule of Uses. (Refer to Section 4.23 for the requirements for Major Home Occupations.) The requirements for Minor Home Occupations are as follows:
- (1) There shall be no exterior storage, display or stockpiling of goods, materials, equipment, vehicles, parking of company or customer vehicles, or similar outside evidence of commercial activity which would alter the residential character of the home.
  - (2) Minor home occupations are permitted one (1) “Home Occupation Sign” per property displayed as specified in the Sign Code. There shall be no other commercial displays, signs, advertising, banners, lighting effects or projections displayed on the property.
  - (3) Such home occupation shall not change the residential character of the property nor create any changes with regard to noise, parking, traffic, odor, smoke, vibration, dust, heat or glare.
  - (4) The home occupation shall always be secondary to the main residential use, utilizing not more than 40% of the total floor area of the residence or its accessory buildings at any given time.

### 4.23 HOME OCCUPATION, MAJOR

1. There shall be no external storage of vehicles, trailers, equipment, goods or materials for more than five (5) consecutive days in any given month unless such storage is permanently screened by either vegetation or fencing as directed by the Planning Board to screen it from adjacent properties and help preserve the residential character of the property.
2. Major home occupations are permitted one (1) “Home Occupation Sign” per property displayed as specified in the Sign Code. There shall be no other commercial displays, signs, advertising, banners, lighting effects or projections displayed on the property.
3. Such home occupation shall not change the residential character of the residence nor create a nuisance in particular in regard to noise, parking, traffic, odor, smoke, vibration, dust, heat or glare.

## RIDING AND BOARDING STABLE

4. The home occupation shall always be secondary to the main residential use, utilizing not more than 40% of the total floor area of the residence or its accessory buildings at any given time.

### 4.24 RIDING AND BOARDING STABLE

1. All structures (including corrals) shall be located at least twenty five (25) feet from any property line as well as any shoreline.
2. Any lighting shall be so arranged so as to not cause a glare on adjacent properties.
3. No manure shall be stored within two hundred fifty (250) feet of any neighboring property.

### 4.25 PLANNED UNIT DEVELOPMENT (PUD)

Planned Unit Development may be accomplished through an amendment to the existing zoning Local Law for each specific project. All procedural requirements for adoption of an amendment would apply. Any subsequent use change from such PUD amendment shall be subject to a new review.

Proposals for Planned Unit Development shall be submitted to the Town Board. The Town Board shall refer the proposal to the Planning Board immediately upon receipt. The Planning Board shall have no more than sixty-two (62) days to review and submit comments on such a plan. The material accompanying the proposal shall contain the following:

Required concept site plan shall show all buildings, parking areas, signs and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required. However, elevations for all signs shall be provided. In addition, the site plans shall show the adjacent building outlines and other outstanding features within two hundred (200) feet or as required by the Planning Board.

The Planning Board and Town Board shall review the plan and study whether or not the development will result in the following:

1. A choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and long term asset to the town.
2. Open space and recreation areas. The Town would like to encourage open space type planning.
3. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
4. An efficient use of land resulting in smaller network of utilities and streets.
5. An environment in harmony with surrounding development.
6. A more desirable environment than would be possible through the strict application of other sections of this Local Law.
7. Creation of new hamlets when needed to prevent the sprawl of the residential areas.

Also, the area of land to be developed shall not be less than twenty five (25) acres and must contain a minimum

## PLANNED INDUSTRIAL DISTRICT (PID)

of two hundred (200) feet of continuous frontage on a public way along which it is located. The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located. Differences may be that a Planned Unit Development, dwelling units may be multi-family. Commercial uses designed only to service the project may be permitted.

The average density of the entire Planned Unit Development shall not exceed one (1) dwelling unit per 20,000 square feet. Off lot water and/or sewer must be provided if lot sizes are less than one (1) acre; and at least fifty percent (50%) of the development must remain as open space for common usage. Lot size, width, front yard depth and side yard requirements may be waived; however, these will be evaluated individually on their own merit.

The zoning amendment by the Town Board would change the district classification to accommodate the Planned Unit Development proposal. Just as in any other zoning district, the uses should be described, as well as densities, heights, setback requirements and any supplemental procedures and standards.

At the time of the zoning amendment the Town Board will specify a time period before which any or all defined phase or phases of development must occur. Such time periods shall address necessary plat or site plan filings with the Town and the County as well as commencement of on site work. Failure to meet any time period so defined shall nullify relevant and required site plan approval from the Planning Board. The Town Board may, at the request of the applicant, extend any such time periods for no more than six months.

With a proper zoning amendment, any PUD will require site plan review and approval from the Planning Board. All public hearings associated with this rezoning application shall be directly noticed via Registered U.S. Mail by the applicant to the owners of all property within 500 feet of the application parcel in addition to other required advertising notices. The Planning Board may require the applicant to set up an escrow account to cover the costs associated with the professional review of an application as authorized in Article V, 5.15.

### **4.26 PLANNED INDUSTRIAL DISTRICT (PID)**

#### **A. PURPOSE:**

The Planned Industrial districts are planned and landscaped manufacturing areas. They are intended to encourage an orderly concentration of industrial facilities in selected areas of the Town and they would assure that such uses will be compatible with, and will not adversely affect, abutting properties and the surrounding community.

Planned Industrial Development (PID) may be accomplished through an amendment to the existing zoning Local Law for each specific project. All procedural requirements for adoption of an amendment would apply. Any subsequent use change from such PID amendment shall be subject to a new review. Proposals for Planned Industrial Development shall be submitted to the Town Board. The Town Board shall refer the proposal to the Planning Board immediately upon receipt. The Planning Board shall have no more than sixty-two (62) days to review and submit comments on such a plan. The material accompanying the proposal shall contain the following:

Required concept site plan shall show all buildings, parking areas, signs and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required. However, elevations for all signs shall be provided. In addition, the site plans shall show the adjacent building outlines and other outstanding features within two hundred (200) feet or as required by the Planning Board.

## PLANNED INDUSTRIAL DISTRICT (PID)

The Town Board may approve a PID in the Town of Clermont, providing the requirements of this section are met and the PID is designed and planned as a harmonious unit. That is, a unit which- meets the required design and/or performance standards, insures compatibility between the immediate surrounding land uses, and which is an asset to the neighborhood and the Town. The PID may be employed, particularly, in locations where, from the point of view of an overall development concept, land preservation and conservation decisions, or maintenance of a rural or historical flavor, may determine a sensitive use of land.

### B. PID ESTABLISHMENT PROCEDURES:

In Planned Industrial Districts, land and buildings may be used for the purposes as authorized by the Town Board in accordance with the following procedures:

Application for the establishment, expansion or change in use of a PID shall be made to the Town Board. The Town Board shall refer the application to the Town Planning Board for consideration. The zoning amendment by the Town Board would change the district classification to accommodate the Planned Industrial Development proposal. Just as in any other zoning district, the uses should be described, as well as densities, heights, setback requirements and any supplemental procedures and standards.

At the time of the zoning amendment the Town Board will specify a time period before which any or all defined phase or phases of development must occur. Such time periods shall address necessary plat or site plan filings with the Town and the County as well as commencement of on-site work. Failure to meet any time period so defined shall nullify relevant and required site plan approval from the Planning Board. The Town Board may, at the request of the applicant, extend any such time periods for no more than six months.

With a proper zoning amendment, any PID will require site plan review and approval from the Planning Board. The Planning Board may require the applicant to set up an escrow account to cover the costs associated with the professional review of an application as authorized in Article V, 5.15.

The tract of land for a project must be at least nine (9) acres in size, must front on a state or county road and may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In the case of multiple ownership, the approved plan shall be binding on all owners.

The fee for an application for establishment of a PID is listed on the schedule of fees, available from the Town Clerk.

All approved plans shall be binding on all successors of the applicants.

The proposal for PID shall generally be submitted and reviewed with the Planning Board and the Town Board in three stages, as follows:

#### 1. PRELIMINARY PROPOSAL

This submission is intended to permit initial review and evaluation of the design and development concept and to secure agreement and/or approval of the general concept. Submission of the following type of information is required:

A written statement of the proposal, sketch plan, sketches, diagrams and other materials as may be requested to clarify or explain the design or other aspect of the proposal to include:

- a. Location of various allowed uses and the approximate square footage of each;
- b. General outline of vehicle circulation systems, parking areas and all existing rights-of-way and easements;
- c. The overall drainage systems, and sediment and erosion control plans; and
- d. If grades exceed three percent (3%), a topographic map showing contour intervals of not more than five (5) feet.

## 2. MARKET STATEMENT

Submission of an economic statement describing the potential demand for the services offered or products produced by the proposed project is required. The statement shall include facts and information describing the type of activity to be conducted on the premises, the type of products or services produced or offered, and the potential customers of the products or services.

## 3. INTERIM PROPOSAL

This proposal is intended to permit further review, including any revision based upon prior review, or otherwise proposed by the developer. Submission of the following type of information is required:

- a. Preliminary site development plan, general buildings plans, and other information as may be requested;
- b. Proposed construction sequence for buildings, parking, landscaping and proposed buffering;

## 4. FINAL PROPOSAL

The following information is required:

- a. Proof of land ownership or lease. Application(s) must show evidence of a full ownership interest in the land such as legal title to the land or the execution of a binding sales agreement or lease.
- b. Site plan developed in detail to describe the character and scope of the proposal completely. This information shall include:

A plan of the site and surrounding areas drawn to a scale of not more than one hundred (100) feet to the inch, accurately dimensioned, showing the following:

- (1) Location of existing and proposed land use areas, lots, yard lines, buildings, structures, parking, loading and docking areas, and access roads and streets, community facilities, topography, drainage, public utility systems, and expected flow of traffic in and out of the area.
- (2) A more detailed plan of the site drawn to a scale of twenty (20) feet or less to the inch showing the following:
  - (a) The use and height of each proposed building or structure, the number of parking spaces in each proposed parking area, proposed landscaping throughout the project, and



pedestrian walkways.

- (b) Construction sequence and time schedule for completion of each phase for building, parking and landscaped areas.
- (3) In addition, the developer may be required to furnish any other such drawings and specifications for a further understanding of the project that the Board may request. In reaching its final decision on the proposed development, the Planning Board shall consider, among other things:
- (a) The need for the proposed use in-the proposed location;
  - (b) The existing character of the neighborhood in which the use would be located;
  - (c) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property;
  - (d) The land use plan and the comprehensive plan of the Town.
  - (e) The adequacy and location of roads within the district to be used, access roads to the proposed district from arterial highways and whether or not adequate roads or highways are available to protect nearby residential property;
  - (f) The locations, layout and adequacy of parking, loading and unloading facilities;
  - (g) The general traffic conditions in or near the property to be used;
  - (h) Whether or not sewerage and water facilities (whether public, or privately maintained), have been approved by the Columbia County Health Department;
  - (i) The highway plans of the county or state;
  - (j) Whether the PID complies with the intent of these regulations;
  - (k) Any other factors which may prevent the, orderly growth of the Town or would adversely affect the completion of the development of the Town.

Prior to Town Board approval, the Planning Board shall make a recommendation to approve, approve with modifications, or disapprove such application and shall report its decision to the Town Board. If the Planning Board fails to report within a period of 45 days, from the date of receipt of the final plan or such longer time as may be agreed upon by it and the Town Board, the Town Board may act without such report.

Before the Town Board grants approval of the final site plan, the applicant(s) shall file with the Town Clerk a performance bond of an amount adequate to cover the completion of site improvements required by these regulations or by the Town Board of facilities which may become a public responsibility. Any such bond shall comply with the requirements of Section 277 of the Town Law and shall be satisfactory to the Town Board and Town Engineer as to the form, sufficiency, manner of execution and surety.

The Town Board shall hold a public hearing on the application with the same notice as required by law for amendment to this Local Law, and shall be directly noticed via Registered U.S. Mail by the applicant to the owners of all property within 500 feet of the application parcel in addition to other required advertising notices. It shall give notice of the hearing to any required Municipal, County or State Agency in the manner prescribed by law. After the public hearing, the Town Board may approve the application, approve it subject to modifications or disapprove the application. If the application is approved, or approved subject to

modifications, the PID shall be established and this Zoning Law and the Zoning Map shall be considered modified to permit establishment of the development in accordance with the plans approved as part of the application and in accordance with any additional standards and conditions specified by the Town Board.

C. TIME LIMIT

Within twelve (12) months of the approval or approval with modifications of the application for a PID by the Town Board, building permits shall have been issued and construction shall be underway on the PID. Otherwise, the zoning for PID shall revert, after public hearing, to the zoning classification which existed prior to the granting of the PID. At the request of the applicant, the twelve (12) month period may be extended by the Town Board for no more than an additional twelve (12) months.

Should the construction of any phase of the project exceed the date scheduled for completion of that phase, by more than nine (9) months, the Town Board may, after a public hearing, declare the PID to be null and void and the land area covered by such a district to revert to the previous zoning district. Upon written request of the applicant and after a public hearing, the Town Board may grant a three (3) month extension beyond the nine (9) month deadline provided the applicant shows good cause for such extension.

D. ZONING MAP

An approved PID shall be shown on the Zoning Map with a reference to the records of the Town Board where the approved standards and plans may be seen.

1. Performance Standards. Approval of uses within a PID is contingent upon compliance with all the following performance standards. Any application for a building permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein.

2. Definition of Elements

No land or building in any PID which shall be used or occupied for manufacturing purposes shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as "dangerous or objectionable elements").

3. Determination of Enforcement Location

The determination of the existence of any dangerous and objectionable elements shall be made at:

- a. The point or points where such elements shall be most apparent for fire and explosion hazards, for radio-activity and electrical disturbances, for smoke and other forms of air pollution;
- b. At the property lines of the use creating such elements for noise, vibration; for glare, and for odors, wherever the effect is greatest.

4. Standards to be Enforced

- a. Fire and Explosion Hazards. All activities involving and all storage of, flammable and

## PLANNED INDUSTRIAL DISTRICT (PID)

explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire fighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and Local Laws and regulations shall also apply.

- b. Radioactivity or Electrical Disturbance. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment. All applicable federal regulations shall be complied with.
- c. Noise. No noise which is objectionable due to volume, intermittent, beat frequency or shrillness shall be perceptible beyond the property where it originates. Decibel limits may be set as a condition of any activity consistent with applicable standards set by OSHA or by New York State.
- d. Vibration. No vibration shall be permitted which is detectable without instruments at the points of measurement specified in Subsection 3.
- e. Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, or otherwise, so as to be visible at the points of measurement specified in Subsection 3. This restriction shall not apply to signs otherwise permitted by the provisions of this Local Law.
- f. Smoke. No emission shall be permitted from any chimney or otherwise, visible grey smoke of a shade equal to or darker than No.2' on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile reduction of a standard Ringlemann Chart as issued by the United States Bureau of Mines).
- g. Odors. No emission shall be permitted of odorous gasses or other odorous matter in such quantities to be readily detectable at the property line of the zone lot from which they are emitted without instruments.
- h. Other Forms of Air Pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animal, vegetation, or other forms of property, or which can cause any excessive soiling.

### E. DESIGN STANDARDS FOR PLANNED INDUSTRIAL DISTRICT

Approval of the PID final site plan is contingent upon compliance with all the following design requirements and with any additional standards and conditions the Town Board may stipulate.

#### 1. Area and Width Requirements for Total Project:

Any proposed PID located within the Town of Clermont must contain a minimum of nine (9) continuous acres of land within the project and must contain a minimum of two hundred (200) feet of continuous frontage on a state or county public road.

#### 2. Lot Requirements within the PID:

Minimum Lot Area - 3 acres per use

PLANNED INDUSTRIAL DISTRICT (PID)

Minimum Lot Road Frontage - 200 feet

Minimum Setback of any building or use other than parking from any abutting district - 150-feet

3. Minimum setback of any building or use other than parking from the right-of-way of any adjacent highway - 100 feet Total Floor Space:

In a PID, all open space, parking, and loading requirements must be met. A maximum of 40% of the total land area within the PID may be devoted to Floor Space. Floor Space shall be any floor area covered or surrounded by a structure but not including cellar area.

4. Access:

A PID shall have direct ingress and egress to the public way on which it is located. Such ingress and egress must also be approved by the New York State Department of Transportation or Highway Department having the authority. Ordinary streets may be planned within the context of the PID concept to provide for ingress and egress to parking areas or industrial facilities and constituting a part of the project area maintained by the owners of the area.

Specific location for ingress and egress of traffic between the highway and the parking areas shall be provided. The minimizing of traffic hazards shall be considered in the design of such access points. No entrance or exit point shall be within seventy five (75) feet of an intersection or of an abutting district. No undue traffic shall be allowed on any residential street.

5. Sewer and Water Requirements:

The Columbia County Health Department and, when necessary, the New York State Department of Environmental Conservation shall approve all sewerage and water systems which will service the PID.

6. Distance from Residential Districts:

No building or use other than parking shall be permitted within one hundred fifty (150) feet of the boundary line of any district.

7. Height Requirements:

Buildings shall be restricted to a maximum height of thirty five (35) feet.

8. Open Space Requirements:

Each PID shall provide at least twenty percent (20%) open space uses, as a basic element in the planned and landscaped development area. Open space uses are defined as being those uses which do not involve any overage of land with structures, parking lots and vehicular right-of-ways.

Open space uses may consist of buffer strips or landscaped areas and parking islands.

A detailed landscape plan shall be submitted with the final site plan showing the location, size and species of all proposed plant materials.

Required planting shall be properly maintained by the owner(s) of the area.

a. BUFFERING

A buffer strip at least thirty (30) feet in width shall be provided along any PID line abutting any other district, at least ten (10) feet of which shall be coniferous evergreen planting a minimum of six (6) feet in height. Details of this buffer and plantings along with maintenance standards will be shown or noted on any approved site plan.

A strip of land at least fifteen (15) feet in width and which is immediately adjacent to the right-of-way of any street abutting the district shall be planted or sodded in grass. Any shrubs and bushes in such area shall be maintained at no more than three (3) feet in height.

No buildings, including accessory buildings, interior streets and driveways, parking areas, or play areas may be located in buffer areas, except for necessary ingress and egress driveways.

b. LANDSCAPING

All areas of the development not occupied by structures, parking, driveways, or walkways, or storage shall be landscaped attractively with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.

The landscaping in such areas shall be designed so as not to obstruct necessary sight distance and traffic flow, shall offer adjacent residential properties a degree of visual and audio screening, shall maintain the character and integrity of the neighborhood, and shall promote excellence of development.

All landscaped areas are to be kept free of signs or advertising matter at all times.

For any planting or landscaping that is required by the Town Board, the applicant(s) shall submit a planting schedule and shall agree to a two (2) year growing season replacement agreement (commencing from the date of project occupancy) to insure "live" landscape materials.

9. Storage Facilities:

Any outdoor storage or refuse area shall be fenced or screened from view and must be approved by the Town Board as to location and design. All such structures must be located on the rear one-half of the property.

10. Parking Requirements:

Specifications: The parking layout shall reflect a well conceived parking/customer access plan which utilizes appropriate channelization and movement control devices.

Required off-street facilities may be enclosed in a structure or may be open. The minimum paved width of an ingress and egress to parking spaces shall be:

- For parallel side parking - sixteen (16) feet
- For forty five (45) degree singular side parking - twenty (20) feet

- For ninety (90) degree perpendicular side parking - twenty four (24) feet

The requirements for parking spaces as set forth in Section 4.13 of this zoning Local Law shall apply.

11. Loading Facilities:

Provisions for handling of all freight shall be on those sides of any building which do not face any street or any proposed street. Furthermore, loading docks or areas, trash pick up points, and truck delivery routes shall be restricted on locations that are separate from customer traveled areas. Off-street loading requirements shall comply with the requirements set forth in Section 4.12 of the Town of Clermont Zoning Local Law.

**4.27 ENERGY INCENTIVES <Reserved>**

**4.28 NATIVE AND INVASIVE PLANT SPECIES**

In the review of proposed site plans and other development proposals by the Planning Board, the board shall recommend new proposed landscaping introduced to the site meet the following criteria in order to protect the local natural environment and support native ecological systems:

- A. New landscaping introduced to the site is recommended to consist of vegetation and plantings which are generally native to this region, and among the list of Recommended Landscape Plant Materials prepared by the Town of Clermont Climate Smart Committee.
- B. New landscaping shall not include invasive plants species, as identified in the New York State Prohibited and Regulated Invasive Plants document, dated September 10, 2014, or updated thereafter.

**4.29 EXTERIOR EQUIPMENT AND SYSTEMS**

The installation of exterior equipment and systems such as heat pump condenser systems, geothermal systems and fields, propane tanks, oil storage tanks, and power generators shall be inspected by the Code Enforcement Officer and must comply with all relevant building codes for distance separations from buildings, property lines and other equipment or systems such as wells and septic systems. In addition, the following requirements apply:

- A. Exterior generators:
  - (1) Screening and Buffering: Exterior generators shall be located and oriented where possible to minimize the direction of exhaust and noise toward adjacent residences. The use of fencing in combination with coniferous landscaping may be required to buffer and absorb exhaust noise while still permitting sufficient operating air-flow clearances around the equipment.

**4.30 SITE PLAN REVIEW**

**A. INTENT AND GENERAL ADMINISTRATION**

The intent of site plan approval is to determine the compliance of a proposed land use with the intent and purposes of this Local Law and the Town of Clermont's plans, and to evaluate if any land use may cause a conflict with existing land uses or with the natural site conditions or community character of

Clermont.

The Planning Board shall review and approve, approve with conditions or disapprove all site plans required by this Law for the uses listed in Article III of this Law. The Planning Board may, where appropriate, require that site plans be prepared by a licensed architect, engineer, landscape architect or surveyor. Such requirement shall be based on the complexity of the site features and of the proposed structure or structures or land use.

The Planning Board shall have the authority to impose such reasonable conditions and restriction as are directly related to and incidental to a proposed site plan.

The Planning Board is empowered to, when reasonable, waive any requirements for the approval, approval with conditions or disapproval of submitted site plans. Any such waiver, which shall be subject to appropriate conditions set forth herein, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety and general welfare of the public or inappropriate to a particular site plan.

The Planning Board may consider all site plan elements defined within New York State Town Law Section 274-a including but not limited to: parking, means of access, screening and landscaping, signs, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses and other additional elements which may be relevant to a particular site plan in the interest of the public health, safety and general welfare.

**B. PRE-APPLICATION CONFERENCE**

The applicant may request an informal pre-application conference with the Planning Board. This meeting will be used to discuss the general nature of the proposal, review the site plan requirements, and identify any potential problems or concerns in advance of formal site plan submission. It is recommended that the applicant bring to this meeting any sketches, photos or other media which would assist in understanding the proposal. There shall be no fee associated with this initial stage of the review process.

**C. SUBMISSION OF SITE PLAN**

A site plan shall be submitted to the Planning Board for review and shall include the following information:

1. Title of drawing, including name and address of applicant.
2. Proposed site plan generally, showing locations of buildings and structures, parking areas, drives, landscaping, proposed open spaces, recreation areas, setback and ingress and egress.
3. Existing natural features such as watercourses, water bodies, wetlands, wooded areas. Features to be retained or disturbed should be noted.
4. Location of proposed land uses and their areas in acres and location, as well as the proposed use and dimensions of all buildings.
5. Location of all existing and proposed site improvements, including streets, drives, drains, culverts, retaining walls, fences and easements, whether public or private.
6. Description and locations of sewage and water systems consistent with County Health Department or other applicable requirements.
7. Location and proposed development of buffer areas and other landscaping.
8. Location of all parking and loading areas, with ingress and egress.
9. Location, design and size of all signs and lighting structures.

10. Approximate locations and dimensions of areas proposed for parks, playgrounds, or open spaces.
11. Grading and erosion control plan including provisions for storm water management.

In addition to the above materials submitted, the applicant shall make payment on the required site plan application fees as specified in the Town of Clermont Fee Schedule.

**D. SITE PLAN REVIEW CRITERIA**

The Planning Board review of a site plan shall include those items previously noted and to the following considerations:

1. Adequacy and arrangement of vehicular and pedestrian traffic access and circulation.
2. Location, arrangement and sufficiency of off street parking and loading.
3. Location, arrangement, size and design of buildings, lighting and signs.
4. Relationship of various uses to one another and their scale.
5. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise deterring buffer between adjacent land uses and adjoining lands. It is recommended that all new landscaping introduced to the site consist of vegetation and plantings which are generally native to this region, as described in 4.28 Native and Invasive Plant Species.
6. Adequacy of storm water and sanitary disposal.
7. Adequacy of structures, roadways and landscaping in areas susceptible to flooding, ponding and/or erosion.
8. Compatibility of development with natural features of the site and its surroundings.
9. Adequacy of open space for recreation or retention of natural areas such as habitats, wetlands and wooded areas.

In the review of a site plan, the Planning Board may consult with other Town, County or public officials, professional advisors or other persons knowledgeable of the site, its surroundings, or of matters relevant to the site plan. The Planning Board may require the applicant to set up an escrow account to cover the costs associated with the professional review of an application as authorized in Article V, 5.15.

**E. SITE PLAN REVIEW PROCEDURES**

**Pre-Application Conference.** A prospective applicant may, at his or her option, request an informal pre-application conference with the Planning Board for the purpose of discussing the relevant standards for approval and any potential problems or issues in advance of a formal site plan review application.

**Application.** Application for review of a site plan shall be made to the Planning Board who shall make a written determination as to whether a site plan application is complete within 15 days of receipt of the application. If the application is complete, the applicant may be placed on the Planning Board agenda for formal review.

**Public Hearing.** A public hearing on any site plan with a complete application shall be held within sixty-two (62) days of receipt of such application. Such hearing shall comply with all New York State statutory provisions including the Open Meetings Law. This time may be extended by mutual consent of the Applicant and Planning Board.



## SPECIAL PERMITS

**Decision.** The Planning Board shall make its decision on the application within sixty-two (62) days of the closing date of the public hearing, which time may be extended by mutual consent of the Applicant and the Planning Board. The decision shall be filed in the office of the Town Clerk within five (5) business days and a copy thereof mailed to the Applicant.

**Endorsement.** Upon approval, the Planning Board shall endorse its approval with or without conditions on a copy of the approved Site Plan and shall forward that to the Building Inspector. With disapproval, the Planning Board shall inform the Building Inspector in writing.

### 4.31 SPECIAL PERMITS

#### A. GENERAL PROVISIONS

The special permit uses shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements of this Local Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case. Such uses are generally permitted in special instances where they cannot interfere with agricultural activities or where they cannot be better accommodated in other areas of the Town.

#### B. REQUIRED PLAN

A plan for the proposed development of a site for a permitted special use shall be submitted to the Zoning Board of Appeals with an application for a special permit and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this Local Law. All special permit uses shall also require site plan review except when otherwise noted in this Local Law.

#### C. EXPIRATION

A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six months for any reason, and a new permit shall be prepared for continuance of a special permit use.

#### D. EXISTING VIOLATIONS

No permit shall be issued by the Zoning Board of Appeals for a special use for a property where there is an existing violation of this Local Law.

#### E. STANDARDS APPLICABLE TO ALL SPECIAL PERMIT USES

1. For every such special permit use, the Zoning Board of Appeals shall determine that:
2. Such a use will be in harmony with the surrounding and adjacent neighborhoods and promote the general purposes and intent of this Local Law as stated in Article I.
3. The lot is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof.
4. The proposed use will not prevent the orderly and reasonable use of adjacent properties in adjacent use districts.
5. The site is particularly suitable for the location of such use in the community.
6. The characteristics of the proposed use are not such that its proposed location would be unsuitable to be near a church, school, theater, recreational area or other place of public assembly.

## SPECIAL PERMIT USES

7. The proposed use conforms with the Local Law definition of the special permit use where such definition exists or with the generally accepted definition of such use where it does not exist in this Local Law.
8. Access facilities are adequate for the estimated traffic from the public streets and sidewalks so as to assure the public safety and to avoid traffic congestion; and further that vehicular entrances and exits shall be clearly visible from the street and not be within seventy five (75) feet of the intersection of street lines at a street intersection except under unusual circumstances.
9. All proposed curb cuts have been approved by the street or highway agency which has jurisdiction.
10. There is off-street parking and truck loading spaces in adequate number of the anticipated number of occupants, both employees and patrons or visitors; and further that the layout for the spaces and driveways is convenient and conducive to safe operations.
11. Adequate buffer yards and screening are provided where necessary to protect adjacent properties and land uses.
12. Adequate provisions will be made for the collection and disposal of storm water runoff from the site, and of sanitary sewage, refuse, or other waste, whether liquid, solid, gaseous or of other character. All water and/or sewerage systems shall be approved by the Columbia County Health Department and/or the New York State Department of Environmental Conservation and/or other governing agencies as necessary.

### **F. ADDITIONS AND ENLARGEMENTS**

Any use for which a special permit use is granted by the Zoning Board of Appeals shall be deemed a use permitted in the district in which located, except that for addition or enlargement of such use, a separate special use permit shall be required for each addition or enlargement.

### **4.32 SPECIAL PERMIT USES**

In addition to the above general provisions for special permits, the following uses shall also comply with their own specific standards:

#### **4.32.1 CEMETERIES**

No burial or memorial monument shall be located within twenty-five (25) feet of any property line provided that all such monuments shall be less than four (4) feet in height. Any monument that is higher than four (4) feet must be located at least fifty (50) feet from any property line. In addition, there shall be evergreen plantings to screen the view from adjacent properties.

#### **4.32.2 RETAIL CONVENIENCE**

1. The floor space of the building of such a facility shall not exceed four thousand (4000) square feet of retail floor space.
2. All such buildings shall be at least one hundred (100) feet from the rear and side property lines; the required front yard setbacks for the zone in which the structure is located shall apply.
3. Any lighting shall be arranged so as not to cause glare on adjacent properties.

4. There shall be no outdoor storage permitted for convenience commercial facilities.

#### 4.32.3 MINING, REMOVAL AND FILLING OF LANDS

The use of land for excavation, removal, filling or depositing of any type of earth material, topsoil, gravel or rock (as allowed by Part 360 of DEC Regulations) is hereby only allowed by approval of the Town Board. The approval may only be issued upon prior Site Plan Review by the Planning Board. In addition to meeting the below requirements, the granting of any approval for any mining operations for which more than one thousand (1,000) tons of minerals will be removed from the earth within twelve (12) successive calendar months will be contingent upon the applicant obtaining a mining permit from the New York State Department of Environmental Conservation.

1. In granting any such approvals the reviewing boards may impose reasonable conditions protective of health, safety, and welfare in the community. Without limiting the generality of the foregoing limitation, such conditions may include limitation of removal in respect to all or any of the following:
  - a. Extent of time;
  - b. Area and depth of excavation;
  - c. steepness of slopes excavated;
  - d. Distance between edge of excavation and neighboring properties or ways;
  - e. Temporary or permanent drainage in a manner to be approved by the Town Road Supervisor;
  - f. The posting of security or bond in a dollar amount to be determined by the Town Board to be sufficient to guarantee fulfillment of conditions imposed;
  - g. The replacement of not less than six (6) inches of topsoil over the whole of any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision; or,

In the case of continuing clay-pit or sand or gravel operations in one general locus (but not in the case of continuing cut-stone or of continuing crushed rock removal operations at one general locus) recovering finished out banks with not less than six (6) inches of topsoil.

2. No such permit shall be issued except upon written application therefore to the Town Board and until after a public hearing on such application.
3. Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such a permit is sought, the names of all adjoining owners as found in the most recent tax list, and the approximate locations of existing public and private ways nearest such land.
4. Notice of said public hearing shall be given by publication in a newspaper published or of general circulation in Clermont, and shall be directly noticed via Registered U.S. Mail by the applicant to the owners of all property within 500 feet of the application parcel in addition to other required advertising notices ten (10) days at least before the date of such hearing.
5. A copy of any permit granted hereunder by the Town Board stating all of the conditions imposed,

if any, shall be mailed forthwith by the Board, to the parties in interest and to the Zoning Enforcement Officer.

6. A copy of the denial by the Town Board of any such application stating the reasons for such denial shall be mailed forthwith by the Board, to the parties in interest and to the Zoning Enforcement Officer.
7. Earth Removal exceptions are as follows:
  - a. The foregoing regulations shall be deemed not to prohibit such removal of soil, loam, sand, clay, sand, barrow, gravel or stone as may be incidental to and necessitated by any building construction for which a building permit has been lawfully issued under the Zoning Local Law of the Town of Clermont, New York, prior to such earth materials removal.
  - b. The foregoing regulations shall also be deemed not to prohibit such removal from any lot or way of earth materials so far as may be necessitated by the construction or installation of utilities or other engineering works on such lot or in such way, or as may be necessitated in constructing ways, provided the layout lines and grades of such works have been duly approved by the Planning Board prior to such removal.

#### **4.32.4 MEDICAL ESTABLISHMENT, COMMERCIAL RESIDENCES**

1. No building shall be located within one hundred (100) feet of any property line.
2. Primary access to such use shall not be a minor street or any other street designed to serve primarily as access to abutting residential properties.
3. Off-street parking areas and outdoor storage areas shall be screened from adjacent residential properties.
4. Any lighting shall be so arranged as to not cause glare on adjacent properties.

#### **4.32.5 KENNELS**

1. All animal housing and related structures shall be at least two hundred fifty (250) feet from any property line.

#### **4.32.6 TRAILERS AND MOBILE HOMES**

1. No occupied or unoccupied trailer or mobile home shall be parked or occupied in the Town of Clermont outside of an approved manufactured home park for more than forty eight (48) hours.
2. As an exception to Section 1 above, a permit may be issued for the parking and occupying a trailer or mobile home on land owned by the occupant or occupants during the construction of a house thereon for a period not to exceed one hundred eighty (180) days. However, if material progress with house construction work ceases for a consecutive period of forty five (45) days, such permit shall become void.
3. Also as an exception to Section 1 above, this does not apply to existing individual mobile homes

already in existence prior to the adoption of this Local Law. Such existing mobile homes may be replaced on their present sites with mobile homes that must conform to the provisions of this Article.

4. The under portion of the mobile home shall be properly enclosed within sixty (60) days with fire resistant materials.
5. No camp or travel trailer as defined herein shall be parked or occupied within the Town of Clermont for more than two (2) weeks except by the property owner for recreational purposes.

#### **4.32.7 MANUFACTURED HOME PARKS**

1. License Requirements:

It shall be unlawful within the Town of Clermont for any person or persons to construct or operate a manufactured home park without first securing a written license from the Town Board and complying with the regulations of this Article. Any manufactured home park must have frontage on a state or county highway.

2. Application; Fee; Renewal:

- a. The application for such annual license or the renewal thereof shall be filed with the Town Clerk and shall be accompanied by a fee as per schedule. Thereafter, such manufactured home park shall be assessed on the tax rolls of the Town against the manufactured home park owners in accordance with Chapter 102 of the New York State Real Property Tax Law.
- b. The application for a license or renewal thereof shall be made on forms prescribed by the Town and shall include the name and address of the owner of the tract. (If the applicant is a person other than the owner, a duly verified statement by the owner that the applicant is authorized by him/her to construct or maintain the manufactured home park shall accompany the application.) Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.
- c. A license or renewal shall not be issued until the park or park sites have first been checked by the Zoning Enforcement Officer for verification that the park or park site complies with the regulations of this Article. If the Town Board finds that all conditions of this Local Law have been met, they shall approve issuance of a license by the Town Clerk.

3. Application For a Manufactured Home Park License:

Any applicant for a manufactured home park license shall state that he, as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed park and shall furnish the following information:

- a. Boundaries of plot areas
- b. Entrances, exits and walkways
- c. Manufactured home sites or lots
- d. Method and plan of sewage disposal

## MANUFACTURED HOME PARKS

- e. Method and plan of garbage and refuse disposal
- f. Water supply
- g. Electric lighting
- h. Owners and operators name and addresses

### 4. Park Plan

- a. A manufactured home park shall have an area of not less than ten acres and shall be adequate to facilitate a minimum of twenty (20) manufactured homes. The term "facilitate" shall mean that a minimum of 20 spaces shall be ready for immediate occupancy and hookup without further approval of sewerage and water installations.
- b. No manufactured home lot or office or service building shall be closer to the street line or other property line than (50) feet. Margins along all property lines of the manufactured home park shall be planted and maintained with at least two (2) rows of evergreen trees staggered and spaced not more than sixteen (16) feet apart. The minimum height of the plantings shall be no less than six (6) feet.
- c. A manufactured home park shall be located on a well-drained site suitable for the purpose, with all roads constructed to meet the specifications of the Town Board.
- d. Individual manufactured home lots shall have an area of not less than ten thousand (10,000) square feet.
- e. A minimum of 10 percent (10%) of the total park area shall be set aside and used for open space or recreational area for the park. Such land shall be suitable for such use and shall be maintained by the owner of the park in a neat and usable condition for the residents of the manufactured home park. Setbacks from streets and property lines required in "b" above shall not be deemed to be part of the required recreation or open space areas.
- f. No manufactured home shall be placed closer to any other manufactured home than thirty (30) feet. No carport, covered patio, or similar addition, whether enclosed or not, shall be placed closer to any manufactured home lot line than ten (10) feet.
- g. Parking spaces shall be provided at the rate of at least two (2) car spaces for each manufactured home plus an additional car space for each two lots for visitors. Parking spaces shall be not less than two hundred (200) square feet per space in area.

### 5. Additional Provisions:

Each manufactured home park shall provide conveniences, services and utilities, including water supply, sewage disposal and garbage disposal, commensurate with the following:

#### a. Water Supply:

There shall be a sufficient supply of pure, healthful drinking water approved by the Columbia County Department of Health. If the water is from a private source, testing will occur, as required by the Columbia County Department of Health at the expense of the license. Proof

## MANUFACTURED HOME PARKS

of tests will be submitted with license.

b. Sewage Disposal:

Waste from each manufactured home shall be wasted into a public sewer system in a manner approved by the Columbia County Department of Health or into a private sewer system and disposal plant or septic tank approved by the same department.

c. Refuse Disposal:

Adequate refuse receptacles with tight fitting covers shall be provided for each manufactured home. These receptacles shall be kept in sanitary condition and emptied weekly by the licensee or his agent.

d. Storage:

Storage space within a building shall be provided in an amount equal to at least eighty (80) square feet for each manufactured home lot in the manufactured home park, and shall be located at the rear of the lot.

e. Maintenance:

The under portion of the manufactured home shall be properly enclosed within sixty (60) days, with fire resistant material. All service buildings and the grounds of the camp or park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or will constitute a nuisance.

f. Registration:

The licensee shall keep a record of all occupants of the park, noting names and addresses of each occupant, license number of all units and state issuing such license, if licensed. The licensee shall keep a copy of the register available for inspection at any reasonable time by any authorized person and shall not destroy such a registry until the expiration of twelve (12) months from the date of registration. It is mandatory that a copy of this registry be given to fire and emergency rescue departments in the Town.

g. Inspection:

Before any park commences operation, the Zoning Enforcement Officer, shall make an inspection of the premises to determine that all requirements of this Article shall have been complied with and shall issue a Certificate of Occupancy/Compliance. No use shall be permitted until such certificate(s) have been issued.

h. Revocation or Suspension of License:

The Town Board and/or its designated representative(s) shall have the authority to enter and inspect for health, sanitary and other provision of this Article, any facility licensed hereunder, at any reasonable time. If, upon inspection, it is found that the licenses has violated any provision of this Article, the Town Board has the power to suspend *such* license and order the manufactured home park removed or the manufactured home park closed, after notice and an opportunity to be heard.

i. Snow Removal:

Roads shall be kept passable and free of snow and ice by the licensee.

## MULTI-FAMILY DWELLING

### j. Numbering of Manufactured Homes:

All manufactured home lots shall be numbered. The numbers shall be a minimum of four (4) inches in height, Arabic writing, made of reflective material and shall be prominently displayed on the manufactured home where it is most visible from the interior access roads.

All streets are to be named and marked on signs as approved by the Planning Board.

Manufactured homes in a manufactured home park shall be placed on an engineering designed and constructed slab of non-porous material.

### k. All manufactured homes shall be securely anchored.

l. No additional living space shall be added to any manufactured home in a manufactured home park.

m. It is required that manufactured homes have peaked roofs to prevent the build up of heavy snow.

### 6. Nonconforming Manufactured Home Parks

Manufactured homes presently located in nonconforming manufactured home parks may be replaced on existing lots within said manufactured home parks; however, any expansion of or addition to said manufactured home park must conform to the regulations provided in this chapter.

## 4.32.8 MULTI-FAMILY DWELLING

1. The required minimum lot area for a multi-family dwelling shall be the minimum lot area required for a single family dwelling in the zoning district in which the dwelling is to be located.
2. A minimum of two (2) parking spaces per dwelling unit is required. Location of parking will be determined by the Planning Board during site plan review process.
3. Access to and from public right of ways will be determined by the Planning Board at site plan review.
4. Driveways and parking spaces will be constructed and maintained to guarantee access for emergency vehicles.
5. Lighting will be determined by the Planning Board at site plan review.
6. Water and sewage systems shall be certified by the Columbia County Health Department as complying with the New York State Sanitary Code.
7. Adequate and sanitary provisions for external storage of household garbage shall be provided.
8. Access to the rear of structures for fire fighting equipment shall be determined by the Planning Board at site plan review. Review of the construction drawings and structure layout will be done by the Town Fire Chief as a part of site plan review as well.

## 4.32.9 RECREATION, COMMERCIAL

- A. No structure shall be located within one hundred (100) feet of any property line.
- B. Primary access to the site shall be directly from a primary public road, and shall not be accessed



## TELECOMMUNICATION TOWER

from a secondary road which serves as access to abutting residential properties.

- C. All activities of such use shall be contained on the site at sufficient distance from the boundaries, and shall be laid out as to not adversely affect surrounding properties and to assure that there is no danger to surrounding properties.
- D. Off-street parking areas and outdoor storage areas shall be screened from adjacent residential properties.
- E. Any lighting shall be so arranged as to not cause glare on adjacent properties.

### 4.32.10 TELECOMMUNICATION TOWER

#### 1. Purpose:

The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town, to provide standards for the safe provision of telecommunications consistent with applicable Federal and State regulations, and to protect the natural features and aesthetic character of the Town.

These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

#### 2. Application of Special Use Regulations:

- a. No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of site plan approval and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
- b. These regulations shall apply to all property within the Town.
- c. Exceptions to these regulations are limited to (i) new uses which are accessory to residential uses and (ii) lawful or approved uses existing prior to the effective date of these regulations.
- d. Where these regulations conflict with other laws and regulations of the Town, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

#### 3. Standards:

- a. Site Plan - An applicant shall be required to submit a site plan as described in the administration section of this code. The site plan shall show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required.
- b. Additionally, the Town shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Town may require submittal of a more detailed visual analysis based on the results of the Visual

## TELECOMMUNICATION TOWER

EAF.

- c. Shared Use - At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction:
  - i. An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.
  - ii. In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
- d. Setbacks - Towers and antennae shall comply with all existing setbacks within the affected zone. Additional setbacks may be required to contain on site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- e. Visibility - All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free-standing structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- f. Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit use. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
- g. Screening - Deciduous Or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and

accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

- h. Access and Parking - A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.

4. Authority to Impose Conditions:

The Town shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan.

- a. Removal upon Abandonment: Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use.

**4.32.11 SOLAR ENERGY**

1. **Applicability.** The Town Board of the Town of Clermont recognizes that solar energy and solar access are necessary to encourage the conservation of energy and the appropriate use of solar and other renewable energy resources. Facilitating the use of solar energy collectors is necessary to further energy saving and conservation. Regulating the placement, construction and operation of solar energy equipment is a matter of public importance concerning issues of aesthetics, lighting and public safety, health and welfare.
  - a. The requirements of this section shall apply to all solar energy ground equipment, solar energy structural equipment, building integrated solar equipment, and solar farms proposed, modified or constructed after the effective date of this local law. Solar energy ground equipment and/or solar energy structural equipment existing as of the effective date of this local law shall be exempt from these regulations, however, future modifications to solar energy ground equipment and/or solar energy structural equipment which require the issuance of a building permit after the effective date of this local law shall be required to comply with this local law. The applicant shall be responsible for maintaining all planted screening while the solar equipment is in place.
2. **Application.** An application for a special use permit for solar energy ground equipment or solar farm, and any application for a building permit for solar energy structural equipment shall meet all requirements set forth in Sections 4.31 and 4.32 of the Town of Clermont Zoning Code, and shall include:
  - a. Certification from a New York State Licensed Engineer that: (a) the solar energy ground equipment and/or solar energy structural equipment is sufficiently installed and anchored to prevent flotation, collapse or lateral movement; and (b) the design and installation of the solar energy ground equipment and/or solar energy structural equipment meets any and all applicable provisions of New York State laws, regulations and codes including, but not limited to, Building Code, Residential Code, National Electric Code, Fire Code, Plumbing Code, Mechanical Code,

Fuel Gas Code, Energy Conservation Code and Property Maintenance Code.

- b. Applicant shall demonstrate that the proposed construction, alteration or modification meets all applicable provisions of New York State laws, regulations and codes including, but not limited to, the Building Code, Residential Code, National Electric Code, Fire Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Energy Conservation Construction Code and Property Maintenance Code.
  - c. Dimensions of all solar energy equipment and a scaled plot plan showing the location of any existing structures and the solar energy equipment to be constructed.
  - d. Such other reasonable information as may be requested by the Zoning Board of Appeals in review of the application.
3. **Development Standards for Solar Energy Ground Equipment.** All Solar energy equipment proposed for on-site consumption of electricity and occupying an area less than 1/4 acre in size shall comply with the following standards. Additionally, solar energy equipment shall also comply with all the requirements established by other sections of this Zoning Law that are not in conflict with the requirements contained in this section.
- a. Applicant shall demonstrate that all solar energy ground equipment meets all set back requirements and is located greater than 20 feet; from all adjacent property boundary lines.
  - b. Solar energy equipment shall be located in a manner so as to minimize blockage of the view shed of neighboring parcels and shall, when practicable, include appropriate screening from adjoining properties and roads.
  - c. Any support structures designed and/or constructed to position, hold and/or otherwise support any ground mounted solar energy equipment shall not cause the top edge of the solar panel to be higher than twenty (20) feet off the ground.
  - d. Solar energy ground equipment installed as part of an integrated solar fence shall be reviewed and approved through the Site Plan Approval process, instead of by Special Permit. Such fence shall meet the standards of Section 4.11 Fences, except that no solar panel fence may be erected in any front yard area.
  - e. If solar energy equipment ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove all such equipment by no later than 90 days after the end of the twelve-month period.
  - f. Compliance with any and all applicable provisions of New York State laws, regulations and codes in relation to the design and construction of the solar energy equipment, including but not limited to, the Building Code, National Electric Code, Residential Code, Fire Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Energy Conservation Code and Property Maintenance Code.
4. **Development Standards for Solar Farms.** All proposed Solar Farms, as defined in Article II Section B of the Zoning Code, shall comply with the following standards. Solar Farms shall be treated as a Principal Use on a particular property, however, Solar Farms may be permitted as a Second Principal Use provided it complies with the requirements of the Town of Clermont Zoning Law. Additionally, Solar Farms shall also comply with all the requirements established by other sections of this Zoning

Law that are not in conflict with the requirements contained in this section.

- a. All hardware, apparatus and equipment associated with a Solar Farm shall have a minimum front yard setback of one hundred (100) feet, to be measured from the road edge in the case of a user road and to be measured from the property line in the case of a deeded highway.
- b. All hardware, apparatus and equipment associated with a Solar Farm shall have a minimum side yard setback and rear yard setback of fifty (50) feet or the minimum setback for the zoning district in which the Solar Farm is proposed, whichever is greater.
- c. Any support structures designed and/or constructed to position, hold and/or otherwise support any ground mounted solar energy equipment shall not cause the top edge of the solar panel to be higher than twenty (20) feet off the ground.
- d. The maximum acreage that a Solar Farm may occupy is 10 acres in any zoning district within the Town of Clermont.
- e. The applicant shall demonstrate sufficient screening, including undergrowth and overgrowth, of the hardware, apparatus and equipment associated with a Solar Farm so as to obscure view of a Solar Farm in all seasons from all abutting properties and public roadways. Plantings shall include plants, trees, bushes, and other vegetation suitable so as to accomplish the requisite screening of the solar farm from abutting properties and public roadways. The applicant shall provide a complete landscaping plan with its application for a special use permit, setting forth the type, size, number and placement of all plants, trees, bushes and other vegetation. The applicant shall be responsible for maintaining all planted screening while the solar equipment is in place.
- f. The Planning Board and/or Zoning Board of Appeals may require additional setback, screening, or other requirements beyond the minimums set forth in this section, if in their sole discretion, a site visit indicates it is necessary by reason of the location and/or topography of the site upon which the Solar Farm is proposed.
- g. Authority to Impose Conditions. The Town shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed solar farm special use or site plan. Such conditions may include provisions for dismantling and removal of solar equipment and accessory facilities upon abandonment of use.

**5. Enforcement: Penalties and Remedies for Violations.**

- a. The Town of Clermont Building Inspector shall enforce this section.
- b. Any person owning, controlling or managing any building, structure or land who shall undertake to construct and/or operate solar energy ground equipment, solar energy structural equipment, building integrated solar energy equipment and/or a Solar Farm in violation of this section or in noncompliance with the terms and conditions of any permit issued pursuant to this section or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than three hundred fifty (\$350,00) dollars or to imprisonment for a period of not more than six (6) months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of three hundred fifty (\$350.00) dollars for each violation and each week said

violation continues shall be deemed a separate violation.

- c. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.
- d. The penalties established by this section may be changed by the Town Board by resolution adopted after a duly-noticed public hearing.

#### **4.32.12 WIND ENERGY CONVERSION SYSTEM, SMALL (Small WECS)**

1. **Applicability.** Effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS) is desirable; but must be balanced against the rights of neighboring landowners to peaceably enjoy their property. This section regulates the placement construction and operation of Small WECS, which is the only allowable WECS, in the Town of Clermont; and specifically addresses issues of aesthetics, lighting, public safety, health and welfare as related to Small WECS.

- a. The requirements of this section shall apply to all Small WECS proposed, operated, modified or constructed after the effective date of this local law.
- b. Small WECS for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this local law shall not be required to meet the requirements of this local law; provided, however, that:
  - (1) Any such preexisting Small WECS which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this local law prior to recommencing production of energy.
  - (2) No modification or alteration to an existing Small WECS shall be allowed without full compliance with this local law.
  - (3) Any Wind Measurement Tower existing on the effective date of this local law shall be removed no later than twenty-four (24) months after said effective date, unless a special use permit for said Small WECS is obtained.

#### **2. Permits**

- a. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Clermont except in compliance with this Zoning Law.
- b. No WECS, other than a Small WECS, shall be constructed, reconstructed, modified, or operated in the Town of Clermont. No Wind Measurement Tower that is in conjunction with a Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Clermont, except as part of an application for a Small WECS.
- c. No Small WECS shall be constructed, reconstructed, modified, or operated in the Town of

Clermont unless in conformity with these regulations and after the issuance of a special use permit pursuant to Article IV General Regulations, Section 4.31 Special Permits and Section 4.32 Special Permit Uses of the Town of Clermont Zoning Law.

- d. These regulations shall apply to all areas of the Town of Clermont.
- e. Exemptions:
  - (1) No special use permit or other approval shall be required under this Zoning Law for one (1) Small WECS utilized solely for agricultural operations in a State or county agricultural district, as long as the Wind Tower and Wind Measurement Tower is set back at least a distance equal to the total height of the Wind tower and Wind Measurement Tower plus 10 feet from all buildings, overhead utility lines, deeded rights of way, public roads, and property boundary lines.
  - (2) The proposed construction of an additional Small WECS upon a parcel to be utilized solely for agricultural operations in a state or county agricultural district shall require the submission of an application to the Zoning Board of Appeals for a special use permit in accordance with the provisions of the Zoning Law and the Agriculture and Markets Law of the State of New York.
  - (3) Prior to the construction of a Small WECS under this exemption, the property owner or a designated agent shall submit a sketch plan and building permit application to the Zoning Board of Appeals to demonstrate the location of boundaries, dimensions of the parcel of land involved, existing features of the site including land and water areas, water or sewer systems, utility lines, and the approximate location of all existing structures on or immediately adjacent to the site, the proposed location of any Small WECS, and compliance with the setback requirements.
  - (4) An applicant applying for exemption under this section may be further required to furnish the Zoning Board of Appeals with a description of the project and a narrative of the intended of the intended use of the proposed Small WECS, including any anticipated changes to the existing topography and natural features of the parcel to accommodate the changes, a list of safety measures to prevent unauthorized climbing on the tower, prescribed requirements for the automatic braking, governing, or feathering of the system to prevent uncontrolled rotation of the rotor blades and turbine components, and any other requested in the sound discretion of the Zoning Board of Appeals.
- f. Notwithstanding the requirements of this Section, replacement in kind or modification of a Small WECS may occur without Zoning Board approval when:
  - (1) There will be no increase in total height;
  - (2) No change in the location of the Small WECS;
  - (3) No additional lighting or change in facility color; and
  - (4) No increase in noise produced by the Small WECS.

3. **Applications.** Applications for Small WECS special use permits shall include:

WIND ENERGY CONVERSION SYSTEM, SMALL (Small WECS)

- a. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the applicant authorizing the agent to represent the applicant is required.
  - b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:
    - (1) confirming that the property owner is familiar with the proposed applications; and
    - (2) authorizing the submission of the application.
  - c. Address of the proposed tower site, including tax map section, block and lot number.
  - d. Engineering certification that the design, installation and construction of the footings and the Small WECS is in conformity with all local, state and/or federal building codes, rules and regulations.
  - e. Engineering certification that the proposed total height does not exceed the height recommended by the manufacture or distributor of the system.
  - f. Engineering certified line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.
  - g. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
  - h. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
  - i. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
  - j. A plot plan showing property lines, location, type and dimensions of all existing and proposed major structures on the property, as well as adjacent property lines, deeded rights of way, overhead utility lines, and structures located within two times the total height of the proposed tower location.
  - k. The location on a plot plan of the proposed Small WECS, including any guy wires, anchors, foundations, and any equipment associated with the Small WECS.
4. **Development Standards.** All Small WECS shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Zoning Law that are not in conflict with the requirements contained in this section.
- a. A system shall be located on a lot a minimum of one (1) acre in size.



WIND ENERGY CONVERSION SYSTEM, SMALL (Small WECS)

- b. Only one (1) Small WECS per legal lot shall be allowed, unless it can be demonstrated that an additional Small WECS is necessary to meet the on-site consumption of utility provided electricity.
- c. Small WECS shall be used primarily to reduce the on-site consumption of utility-provided electricity.
- d. Total heights shall be limited as follows:
  - (1) Eighty (80) feet or less on parcels between one (1) and two (2) acres.
  - (2) One hundred fifty (150) feet or less on parcels of three (3) or more acres; one hundred and ninety-nine (199) feet for agricultural purposes.
  - (3) The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installation close to airports.
- e. Maximum turbine output will not be limited to kilowatt amount. Instead, an applicant shall:
  - (1) submit proof of the energy consumption for the preceding two (2) years for the property in which the placement of a Small WECS is being considered; and
  - (2) the applicant's engineer for the Small WECS shall certify to the information on the total potential output of the Small WECS; and
  - (3) the applicant shall provide a ten (10) year projection of the anticipated electrical needs for the property in which the placement of a Small WECS is being considered which shall be supported by written documentation; and
- f. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- g. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails).
- h. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration (FAA). The applicant shall be permitted a maintenance light on a fixed switch to be located no higher than eight (8) feet from ground level.
- i. All on-site electrical wires associated with the system shall be installed underground or on previously existing appropriate structures except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Zoning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- j. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the property owner and/or system operator shall promptly mitigate the harmful interference or cease operation of the

system.

- k. At least one (1) sign, no larger than one (1) x two (2) feet, shall be posted on the tower at a height of five (5) feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system's generator housing in an unobtrusive manner.
  - l. Wind and Wind Measurement Towers shall be constructed to provide one (1) of the following means of access control, or other appropriate method of access:
    - (1) Tower climbing apparatus located no closer than eight (8) feet from the ground.
    - (2) A locked anti-climb device installed on the tower.
    - (3) A locked, protective fence at least six (6) feet in height that encloses the tower.
  - m. Anchor points for any guy wires for a system tower shall be not less than twenty-five (25) feet from the property line or highway right-of-way and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six (6) feet high or sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.
  - n. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
  - o. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least thirty (30) feet from the ground.
  - p. All Small WECS structure shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
  - q. All Small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacture to be an independently arrived standard.
5. **Setback Requirements.** A Small WECS shall be located at least a distance equal to the total height of the Wind Tower or Wind Measurement tower plus 10 feet from all buildings, overhead utility lines, deeded rights of way, public roads, and property boundary lines.
  6. **Shadow Flicker Duration.** Shadow flicker for all sensitive areas/locations within the project area shall be limited to thirty (30) hours per year and shall not exceed thirty (30) hours per year and shall not exceed thirty (30) minutes per day.
  7. **Noise.** A Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed sixty (60) decibels (dBA), as measured by an unweighted meter at the property line.
  8. **Abandonment of Use.** A Small WECS which is not used for twelve (12) successive months

shall be deemed abandoned and shall be repaired or dismantled and removed from the property within twenty-four (24) additional months at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any special use permit shall constitute grounds for the revocation of the permit by the Town of Clermont Zoning Board.

- a. In the event the applicant fails to dismantle and remove the Small WECS and the Town commences legal action to enforce the above paragraph, the applicant shall reimburse the Town for its reasonable attorney's fees and court costs.
  - b. If all reasonable attorney's fees and court costs are not paid by the applicant, the same may be added to the tax bill for the property as a special assessment jurisdiction.
9. **Maintenance.** All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.
10. **Variances.** The Zoning Board of Appeals, in accordance with its normal procedures and Town Law §267, may grant variances for Small WECS, but in no event shall the Zoning Board of Appeals grant a variance allowing a larger WECS than permitted by this section, or a WECS primarily designed to generate electricity for off-site use or any large-scale multiple-tower wind facilities.

11. **Enforcement; Penalties and Remedies for Violations**

- a. The Town Board shall appoint such town or outside consultants as it sees fit to enforce this section.
- b. Any person owning, controlling or managing any building, structure or land who shall undertake a Small WECS in violation of this section or in noncompliance with the terms and conditions of any permit issued pursuant to this section or any order of the enforcement officer and subject to a fine of not more than three hundred fifty (\$350.00) dollars or to imprisonment for a period of not more than six (6) months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The town may institute a civil proceeding to collect civil penalties in the amount of three hundred fifty (\$350) for each violation and each week said violation continues shall be deemed a separate violation.
- c. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.
- d. The penalties established by this section may be changed by the Town Board by resolution adopted after a duly-noticed public hearing.

**4.32.13 PLANNED RESIDENTIAL DEVELOPMENT**

**A. Applicability**

1. Multi-family residential dwellings planned, designed, and constructed in such a manner as to provide affordable and safe residential housing are necessary within the Town of Clermont to meet the housing needs of Town residents. Further, that in providing for this type of residential housing, the Town of Clermont must balance the rights of neighboring landowners to peaceably enjoy their property. Further, the Town of Clermont herein finds that these regulations are necessary for health, welfare and benefit of all Town residents.
2. The requirement of this section shall apply to all Planned Residential Development projects proposed, modified or constructed after the effective date of this local law.

**B. Permits**

1. No Planned Residential Development shall be constructed, reconstructed, modified, or operated in the Town of Clermont without obtaining a special use permit from the Town of Clermont Zoning Board.
2. Upon receipt of a special use permit from the Zoning Board, no construction, reconstruction, or modification of a Planned Residential Development shall take place until the applicant has obtained a building permit in conformity with the NYS Building Code and this Zoning Law.
3. No individual shall reside, utilize or occupy a residential dwelling within a Planned Residential Development without a Certificate of Occupancy issued by the Town of Clermont.

**C. Applications.** Applications for a special use permit for a Planned Residential Development shall include:

1. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the applicant authorizing the agent to represent the applicant is required.
2. Number of proposed residential structures, dimensions of proposed residential structures, number of stories, and square footage of all proposed residential structures, accessory buildings, and any other structures.
3. The total number of residential units or apartments to be located within each proposed residential structure.
4. The total number of bedrooms to be constructed within each residential unit or apartment.
5. A scaled certified survey map showing the location of all existing and proposed structures, parking spaces, rights-of-way and/or driveways, water and sewer facilities, as well as the location and dimensions of any areas set aside for proposed uses.
6. Such other reasonable information as may be requested by the Zoning Board in its review of the Planned Residential Development application or the Planning Board for site plan review.
7. The location and dimensions of open space and/or common areas for recreation shall be shown on the scaled survey map.

**D. Development Standards.** All Planned Development shall comply with the following standards. Additionally, Planned Residential Developments shall also comply with all the requirements established by other sections of this Zoning Law that are not in conflict with the requirements contained in this section:

## PLANNED RESIDENTIAL DEVELOPMENT

1. A single residential structure within a Planned Residential Development shall not exceed 4,000 square feet.
2. Only four (4) dwelling units or apartments shall be permitted within a single residential structure.
3. All PRD's shall be subject to the following density requirements. Allowable density is calculated as: Actual lot area divided by Minimum lot area (as specified in the table of bulk regulations) multiplied by eighty (80) percent. For example, a 10 acre parcel located in the RA zone would be defined as  $10/2 \times .80 = 4$ .
4. All residential structures within a Planned Residential Development must meet the minimum set back requirements for the zoning district in which the Planned Residential Development is being proposed, and where multiple residential structures are being proposed, the distance between said residential structures must meet the minimum set back requirements for the zoning district in which the Planned Residential Development is being proposed pursuant to the Density Control Schedule set forth in Section 3.12 of the Clermont Zoning Code.
5. Off street parking shall be provided as follows:
  - a. A minimum of two (2) spaces for each dwelling unit within a residential structure;
  - b. Parking spaces must be surfaced in a manner consistent with the neighborhood.
  - c. Parking spaces must not impede, impair and/or otherwise affect the maintenance or future development of public roadways. Parking spaces shall be designed in such a manner as to allow forward travel onto a public roadway, a design which requires or encourages the backing of an automobile onto a public roadway is prohibited.
  - d. Parking spaces must comply with all other parking design standards of the Town of Clermont as set forth in Section 4.13 of the Clermont Zoning Code.
6. All residential structures within a Planned Residential Development must be serviced by a sewage disposal system approved by the Columbia County Board of Health, and have potable water.
7. The applicant must demonstrate adequate design and provision for dealing with stormwater and drainage issues.
8. The structures, accessory structures, right-of-ways, drainage, and/or any other constructed portion of the Planned Residential Development is in compliance with the applicable provisions of the NYS Building Code.
9. The Planned Residential Development shall have a portion set aside and designed as open space and/or a common area for recreation and use by any individual residing in one of the residential dwelling units or apartments within the Planned Residential Development.
10. The grouping of structures within the Planned Residential Development shall be required at the discretion of the Zoning and Planning Boards of the Town of Clermont.
11. The Planning Board may require the applicant to set up an escrow account to cover the costs associated with the professional review of an application as authorized in Article V, 5.15.

#### 4.32.14 EVENT VENUES

- A. Event Venues are allowed only by Temporary Special Permit as approved by the Planning Board, renewed annually, in the districts specified in the Schedule of Uses 3.11 provided the use meets all the requirements of this section.
- (1) **Pre-Existing Exemption.** Where an event venue has been pre-existing the date of adoption of this section and has been regularly occurring and usually associated with such property, the Code Enforcement Officer may, upon review, determine that such use is exempt from some of the review and requirements of the special use permit, but shall still be required to comply with the permit renewals, specified number of events, notification requirements, performance standards, and fire department approvals of this section. The Code Enforcement Officer shall determine if the requirements are reasonably satisfied, or may determine that the full Special Use Permit and Site Plan Review and approval by the Planning Board shall be required. Pre-existing event venues which seek to modify or expand their current operations shall be required to obtain a new or revised Temporary Special Use Permit, Site Plan Review, as well as comply with all provisions of this section.
  - (2) The fee for the temporary permit shall be as listed in the Town Fee Schedule.
- B. **Permit Renewals.** An event venue special permit shall be renewed annually, valid for a period of one year from the date of original issue, and may be renewed upon submission by the record owner of an annual certification attesting that the use is operating in accordance with its special use permit and site plan and payment of an annual renewal fee. The special permit shall renew upon a determination by the Code Enforcement Officer that the use has been maintained in accordance with all the requirements of this section and any applicable conditions of the approval. The Code Enforcement Officer has the authority to inspect the facilities to ensure all conditions are met.
- (1) If the Code Enforcement Officer determines at any time prior to renewal that the use has not been maintained in accordance with the requirements or any applicable conditions of approval, they shall give notice of such determination to the record owner and the record owner shall submit an application to the Planning Board for approval in order to continue operation. The Planning Board shall approve, disapprove, or approve with conditions the event venue, as amended, after a public hearing is held. The Planning Board shall consider the Code Enforcement Officer's findings in evaluating whether to renew the special use permit.
  - (2) The annual renewal fee for the temporary permit shall be as listed in the Town Fee Schedule.
- C. **Number of Events.** Event venues are limited to a maximum of 12 events per calendar year.
- (1) The Planning Board, in its discretion, may allow more than 12 events per calendar year where it determines that the events shall still meet the criteria set forth in this subsection and that operation of the events remains wholly accessory to the principal use of the property and the use shall not essentially function as a commercial use where same is not permitted in the zoning district within which it is located, or does not otherwise require a separate site plan or special use approval from the Planning Board.
- D. **Notification Requirements.** It is the responsibility of the record owner to notify the following entities in advance of any events providing information on the scheduled date, start time, end time, planned attendance, and the planned use of any fireworks or pyrotechnics as follows:
- (1) Each event held must be registered with the Code Enforcement Officer via electronic mail or written letter at least 30 days prior to the scheduled event. The Code Enforcement Officer must provide confirmation and approval of the event before it can be held;

- (2) The Fire Department shall be notified via electronic mail or written letter at least 30 days prior to the scheduled event. If the use of any fireworks or pyrotechnics are anticipated, their approval must be provided by the Fire Department and confirmation provided to the Code Enforcement Officer.
- (3) All property owner neighbors within 500 feet of the event venue property shall be notified via written letter at least 14 days prior to the scheduled event;

**E. Site Requirements**

- (1) The minimum lot size for an event venue shall be no less than 5 acres.
- (2) The site of the event venue shall have at least two means of egress, at least one of which is adequate for emergency vehicles, as determined by the Planning Board in consultation with emergency responders based on its width, length, surface and ability to support the gross vehicle axle weight of emergency vehicles. The Planning Board may require the construction of improvements to ensure adequate emergency access to the site. The Planning Board may waive the requirement for two access points where one access point is determined to be adequate for emergency access based on a review of NYS Fire Code, Town Engineer input, and/or emergency service provider input.
- (3) All parking shall be located on-site and the site plan shall demonstrate there is sufficient parking area for an event. No less than one parking space shall be provided for each two attendees.
- (4) The Planning Board shall determine appropriate buffers, setbacks and screening required based on the property, surrounding terrain and neighboring properties.

**F. Performance Standards**

- (1) No outdoor amplification of music or spoken word is permitted.
- (2) The maximum number of attendees at an event venue shall be 250, exclusive of venue staff and catering or support personnel, unless otherwise limited to less by maximum capacity of the facility per code enforcement. The Planning Board may set a lower maximum number for an event venue in its discretion based on the standards set forth herein.
- (3) Events shall commence no earlier than 10:00 a.m. and shall terminate no later than 11:00 p.m. Setup and dismantling hours shall be limited to between 7:00 a.m. and 12:00 midnight. The Planning Board shall have the power to modify the commencement and termination times for a particular event venue based upon the specifics of the application before it, potential impacts including noise and traffic, and consideration of the health, safety and welfare of the neighborhood and the surrounding community.
- (4) Food service. Catering services, including the use of food trucks, are allowed to provide the food and beverages for the event. On-site preparation of food shall be subject to all applicable Board of Health permits and approvals. Alcoholic beverages may be consumed on-site provided the venue or catering service has appropriate insurance coverage and complies with local laws. Open or cash bars are allowed subject to New York State Liquor Authority rules and regulations.
- (5) Event venues shall provide adequate potable water and sanitary system(s) as determined by the County Department of Health. The applicant shall document compliance with all other applicable health and safety regulations.
- (6) No overnight accommodations shall be provided in temporary structures such as tents or recreational vehicles. An event venue which provides overnight accommodations must comply with this chapter for said use, and all other applicable codes and laws related to the regulation of said accommodations.
- (7) Event venues shall comply with all applicable town laws, including the Noise Ordinance.

**4.32.15 ELECTRIC VEHICLE CHARGING STATION**

- A. Electric vehicle supply equipment for the non-residential commercial use of providing the metered retail sale of electricity to the general public shall require a Special Permit.
- B. Electric vehicle supply equipment serving single-family private residences, tenants of multi-family residences, office employees, private company fleet vehicles, similar on-site shared uses, or standalone EV charging uses without the metered retail sale of electricity shall be considered a permitted accessory use in all zoning districts.



## ARTICLE V – ADMINISTRATION

### 5.1 DEFINITIONS

“Building Permit” shall mean a permit issued pursuant to section 5.3 of this Article. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” shall mean a certificate issued pursuant to subdivision (b) of section 5.6 of this Article.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 5.2 of this Article.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 5.14 of this Article.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 5.2 of this Article.

“Operating Permit” shall mean a permit issued pursuant to section 5.9 of this Article. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 5.5 of this Article.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 5.6 of this Article.

“Town” shall mean the Town of Clermont.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

### 5.2 CODE ENFORCEMENT OFFICER AND INSPECTORS

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary

## CODE ENFORCEMENT OFFICER AND INSPECTORS

Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

- (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints;
  - (4) to conduct inspections on the installation of equipment including but not limited to solar panels, pools, hot tubs, generators, geothermal systems, heat pump condenser systems, wood stoves, furnaces, boilers, oil tanks and propane tanks, and all other inspections required or permitted under any provision of this local law;
  - (5) to issue Stop Work Orders;
  - (6) to review and investigate complaints;
  - (7) to issue orders pursuant to subdivision (a) of section 5.14 (Violations) of this local law;
  - (8) to maintain records;
  - (9) to collect fees as set by the Town Board of this Town;
  - (10) to pursue administrative enforcement actions and proceedings;
  - (11) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
  - (12) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- B. The Code Enforcement Officer shall be appointed by resolution of the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by resolution of the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- D. One or more Inspectors may be appointed by resolution of the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- E. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town.

### 5.3 BUILDING PERMITS

A. **Building Permits Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

B. **Exemptions.** No Building Permit shall be required for work in any of the following categories:

- (1) Construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
- (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
- (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) Construction of temporary motion picture, television and theater stage sets and
- (7) Installation of window awnings supported by an exterior wall of a one- or two- family dwelling or multiple single-family dwellings (townhouses);
- (8) Installation of partitions or movable cases less than 5'-9" in height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or,
- (12) Repairs, provided that such repairs do not involve (i) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any

## BUILDING PERMITS

building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

- C. **Exemption not deemed authorization to perform non-compliant work.** The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) a description of the proposed work;
  - (2) the tax map number and the street address of the premises where the work is to be performed;
  - (3) the occupancy classification of any affected building or structure;
  - (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
  - (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. **Construction documents.** Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- F. **Issuance of Building Permits.** An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

- G. **Building Permits to be displayed.** Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. **Work to be in accordance with construction documents.** All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- I. **Time limits.** Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. **Revocation or suspension of Building Permits.** If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. **Fee.** The fee specified in or determined in accordance with the provisions set forth in Section 5.15 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

#### 5.4 CONSTRUCTION INSPECTIONS

- A. **Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.
- B. **Elements of work to be inspected.** The following elements of the construction process shall be inspected made, where applicable:
  - (1) work site prior to the issuance of a Building Permit;
  - (2) footing and foundation;
  - (3) preparation for concrete slab;
  - (4) framing;
  - (5) building systems, including underground and rough-in;
  - (6) fire resistant construction;

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- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

- C. **Inspection results.** After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. **Fee.** The fee specified in or determined in accordance with the provisions set forth in Section 5.15 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

### 5.5 STOP WORK ORDERS

- A. **Authority to issue.** The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:
- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.
- B. **Content of Stop Work Orders.** Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. **Service of Stop Work Orders.** The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by USPS certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by USPS certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

- D. **Effect of Stop Work Order.** Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
- E. **Remedy Not exclusive.** The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 14 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## 5.6 CERTIFICATES OF OCCUPANCY

- A. **Certificates of Occupancy required.** A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.
- B. **Issuance of Certificates of Occupancy.** The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:
  - (1) a written statement of structural observations and/or a final report of special inspections, and
  - (2) flood hazard certifications.
- C. **Contents of Certificates of Occupancy.** A Certificate of Occupancy shall contain the following information:
  - (1) the Building Permit number, if any;
  - (2) the date of issuance of the Building Permit, if any;
  - (3) the name, address and tax map number of the property;
  - (4) if the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;
  - (5) the use and occupancy classification of the structure;
  - (6) the type of construction of the structure;

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- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

- D. **Temporary Certificate.** The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- E. **Revocation or suspension of certificates.** If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. **Fee.** The fee specified in or determined in accordance with the provisions set forth in Section 5.15 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

### 5.7 NOTIFICATION REGARDING FIRE AND EXPLOSION

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

### 5.8 UNSAFE BUILDINGS AND STRUCTURES

Unsafe structures and equipment in the Town shall be identified and addressed in accordance with the procedures established by the Town Board by Local Law as enacted or amended from time to time.

### 5.9 OPERATING PERMITS

- A. **Operation Permits required.** Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:



## OPERATING PERMITS

- (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled “Fire Code of New York State” and incorporated by reference in 19 NYCRR section 1225.1;
- (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- (3) use of pyrotechnic devices in assembly occupancies;
- (4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- (5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Clermont Town Board. Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- B. **Applications for Operating Permits.** An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- D. **Multiple Activities.** In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- E. **Duration of Operating Permits.** Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. **Revocation or suspension of Operating Permits.** If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- G. **Fee.** The fee specified in or determined in accordance with the provisions set forth in Section 5.15 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

**5.10 FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

A. **Inspections required.** Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
- (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
- (3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

B. **Inspections permitted.** In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

C. **OFPC Inspections.** Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

- (1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- (2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- (3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not

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exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

- (4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

- D. **Fee.** The fee specified in or determined in accordance with the provisions set forth in Section 5.15 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

### 5.11 COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;
- C. If appropriate, issuing a Stop Work Order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

### 5.12 RECORD KEEPING

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
  - (1) all applications received, reviewed and approved or denied;
  - (2) all plans, specifications and construction documents approved;
  - (3) all Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
  - (4) all inspections and tests performed;
  - (5) all statements and reports issued;
  - (6) all complaints received;

- (7) all investigations conducted;
  - (8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and
  - (9) all fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto shall be retained for at least the minimum time period so required by State law and regulation.

### 5.13 PROGRAM REVIEW AND REPORTING

- A. The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 12 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

### 5.14 VIOLATIONS

- A. **Compliance Orders.** The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall:
- (1) be in writing;
  - (2) be dated and signed by the Code Enforcement Officer;
  - (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law;
  - (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity;
  - (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
  - (6) direct that compliance be achieved within the specified period of time; and,
  - (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the

## VIOLATIONS

Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by USPS certified mail return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by USPS certified mail return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

- B. **Appearance Tickets.** The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. **Civil Penalties.** In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.
- D. **Injunctive Relief.** An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.
- E. **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 5.5 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 5.5 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

**5.15 FEES**

- A. A fee schedule shall be established by the Town Board of this Town. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.
- B. The Clermont Planning Board and Zoning Board of Appeals (ZBA) shall collect all applicable fees associated with applications to the Planning Board or ZBA as listed in the fee schedule established by the Town Board. This shall also include recreation fees where applicable.
- C. All legal and engineering expenses incurred by the Town for its out-of-pocket expenses in reviewing and processing an application shall be paid by the applicant. The Town (i.e. Town Council, Planning Board or ZBA) may at its discretion require an escrow account to be set up to insure payment of these costs.

**5.16 INTERMUNICIPAL AGREEMENTS**

The Town Board of this Town may, by resolution, authorize the Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.