

# TOWN OF CLARKSON

# ZONING CODE

## TABLE OF CONTENTS

<b>PART 1. INTRODUCTORY PROVISIONS.....</b>	<b>1</b>
ARTICLE 10. ESTABLISHMENT .....	2
ARTICLE 11. ZONING MAP .....	5
ARTICLE 12. REVIEW BODIES & CODE ENFORCEMENT.....	6
ARTICLE 13. TERMINOLOGY .....	12
<b>PART 2. DISTRICT &amp; USE REGULATIONS.....</b>	<b>37</b>
ARTICLE 20. RESIDENTIAL DISTRICTS .....	38
ARTICLE 21. MIXED USE DISTRICTS .....	43
ARTICLE 22. SPECIAL PURPOSE DISTRICTS .....	50
ARTICLE 23. ADDITIONAL USE REGULATIONS.....	54
ARTICLE 24. SUPPLEMENTAL REGULATIONS .....	85
<b>PART 3. DEVELOPMENT STANDARDS .....</b>	<b>92</b>
ARTICLE 30. CIRCULATION, ACCESS, & PARKING .....	93
ARTICLE 31. LANDSCAPING, SCREENING, & BUFFERING .....	104
ARTICLE 32. OUTDOOR LIGHTING .....	110
ARTICLE 33. NONRESIDENTIAL DESIGN STANDARDS .....	115
<b>PART 4. ADMINISTRATIVE &amp; REVIEW PROCEDURES .....</b>	<b>120</b>
ARTICLE 40. GENERAL APPLICATION PROCEDURES.....	121
ARTICLE 41. SPECIAL USE PERMITS .....	128
ARTICLE 42. SITE PLAN REVIEW.....	132
ARTICLE 43. NONCONFORMITIES & PENALTIES .....	138
ARTICLE 44. AMENDMENTS, VARIANCES, & APPEALS.....	140





---

# PART 1

## INTRODUCTORY PROVISIONS

---

ARTICLE 10. ESTABLISHMENT .....	2
ARTICLE 11. ZONING MAP .....	5
ARTICLE 12. REVIEW BODIES & CODE ENFORCEMENT .....	6
ARTICLE 13. TERMINOLOGY .....	12

# ARTICLE 10. ESTABLISHMENT

## §10.1 ENACTING & SUPERSEDING CLAUSE

---

The Town Board of the Town of Clarkson, County of Monroe, State of New York, hereby enacts and publishes the following Chapter establishing zoning district, use, and development regulations for the Town and providing for the enactment, administration, and amendment thereof pursuant to the provisions of NYS Town Law, Article 16.

## §10.2 TITLE

---

This Zoning Law shall be known as the "Zoning Law of the Town of Clarkson." For convenience, it is also referred to as the "zoning code" or "zoning law."

## §10.3 PURPOSE & INTENT

---

- A. Purpose.** The purpose of this Zoning Code, set forth in the text, tables, illustrations, and map that constitute this Chapter, is to promote and protect the public health, safety and general welfare.
- B. Intent.** The regulations of this Chapter are also intended to serve as a tool for implementing the vision and goals of the Town of Clarkson Comprehensive Plan, which aims to:
1. Promote the protection of people and their property;
  2. Improve the condition of the environment and preserve and protect it from degradation;
  3. Shape and improve the quality of the built environment by managing growth so as to provide for the needs of residents while maintaining and improving the overall character and ensuring a healthy environment for future generations;
  4. Enhance agricultural viability and protect the Town's agricultural land resources;
  5. Promote the availability of diverse, high-quality, affordable, and attractive places for people to live;
  6. Provide a transportation system that is safe, efficient, convenient, and environmentally responsible;
  7. Provide accessible and attractive parks and diverse recreational opportunities; and

8. Preserve and protect the cultural and public resources of the Town.

#### §10.4 APPLICABILITY

---

This Zoning Code affects every structure and use within the corporate limits of the Town of Clarkson. Except as hereinafter provided, no building, structure or premises shall be used or occupied, and no building or structure shall be erected, moved, reconstructed, extended, enlarged, altered, or demolished except in conformity with the regulations herein.

#### §10.5 EFFECTIVE DATE

---

The effective date of this Zoning Code shall be the date of filing with the Secretary of State.

#### §10.6 TRANSITIONAL PROVISIONS

---

**A. Applications Prior to Effective Date.** Accepted applications that were submitted after the adoption date, but prior to the effective date of this Zoning Code, as determined by NYS Secretary of State filing procedures, shall be reviewed wholly under the terms of this Zoning Code.

**B. Permits Granted Prior to Effective Date.**

1. Any building, development, or structure for which a building permit was issued before the effective date of this Chapter may be completed in conformance with the issued building permit and other applicable permits and conditions.
2. If construction has not commenced by the effective date of this Chapter, then the building, development or structure must be constructed, completed and occupied only in strict compliance with the standards of this Zoning Code.

**C. Continuance of Violations.**

1. Any violation of the previous Zoning Code will continue to be a violation under this Zoning Code and be subject to penalties and enforcement as provided by this Chapter and the Municipal Code of the Town of Clarkson.
2. If the use, development, construction or other activity that was a violation under the previous law complies with the express terms of this Zoning Code, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this Chapter.
3. The adoption of this Zoning Code does not affect nor prevent any pending or future prosecution of, or action to abate violations of the previous law that occurred before the effective date of this Chapter.
4. **Continuing Nonconformities.** Any nonconformity under the previous Zoning Code will also be nonconformity under this Zoning Code, as long as the situation that resulted in the nonconforming status under the previous



regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning law, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

## §10.7 COMPLIANCE WITH OTHER APPLICABLE REGULATIONS

---

- A. The provisions of this Zoning Code are the minimum requirements deemed necessary to carry out the Zoning Code's stated purpose and intent.
- B. In addition to the requirements of the Zoning Code, all uses and development must comply with all other applicable town, county, state, and federal laws and regulations.
- C. All references in the Zoning Code to other town, county, state, and federal laws and regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for towns to enforce county, state, or federal laws and regulations.

## §10.8 CONFLICTING PROVISIONS

---

- A. **Conflict with County, State, or Federal Laws and Regulations.** If the provisions of this Zoning Code are inconsistent with those of the county, state, or federal government, the more restrictive provision will control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- B. **Conflict with other Town Regulations.** If the provisions of this Zoning Code are inconsistent with one another, or if they conflict with provisions found in other adopted laws, ordinances, or regulations of the Town, the more restrictive provision will control. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- C. **Conflict with Private Agreements and Covenants.** This Zoning Code is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this Zoning Code impose a greater restriction than imposed by a private agreement, the provisions of this Zoning Code will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this Zoning Code, the provisions of the private agreement will control. The Town does not enforce or maintain a record of private agreements.

## §10.9 SEVERABILITY

---

If any portion of this Zoning Code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Zoning Code, and in no way affects the validity of the remainder of the Zoning Code.

# ARTICLE 11.

## ZONING MAP

### § 11.1 OFFICIAL ZONING MAP

---

- A. The location and boundaries of the zoning districts established by this Chapter are shown on the map designated "Official Zoning Map of the Town of Clarkson," bearing the date of adoption of this Chapter and as revised from time to time. For convenience the Official Zoning Map of the Town may also be referred to as the "zoning map."
- B. The zoning map is hereby established, adopted, and attached to this Chapter and shall be as much a part hereof as if fully set forth and described herein.

### § 11.2 KEEPING OF THE MAP

---

- A. The zoning map shall be duly certified in the manner prescribed by the State of New York relating to Town zoning and shall be maintained by the Clerk of the Town of Clarkson.
- B. When duly certified, including any amendments thereto, the zoning map shall be filed with the Town Clerk and with the Town of Clarkson Code Enforcement Officer, Planning Board, Zoning Board of Appeals, and Building Department.
- C. The Town Clerk shall also file the zoning map, and any amendments thereto, with Monroe County and the Secretary of State as required by NYS Law.
- D. A copy of the zoning map indicating the latest amendments shall be kept in the offices of the Town Clerk for the use and benefit of the public.

### § 11.3 DISTRICT BOUNDARIES

---

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways, or railroad rights-of-way; or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. In all cases where a district boundary line is located not farther than 10 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- D. In the event that none of the above rules are applicable, the location of such boundary, unless the same is indicated by dimension on the map, shall be determined by the Zoning Board of Appeals.

# ARTICLE 12.

## REVIEW BODIES & CODE ENFORCEMENT

### § 12.1 TOWN BOARD

---

- A. **Establishment.** For the purpose of promoting the health, safety, morals, or the general welfare of the community, the Town Board is hereby empowered under NYS Town Law to regulate and administer the provisions of this Chapter.
- B. **Powers and Duties.** The Town Board shall have all the powers and duties prescribed by NYS Town Law and this Chapter. The Town Board shall be responsible for final action regarding the following:
  - 1. Amendments to the Zoning Map (re-zoning);
  - 2. Amendments to the text of this Chapter; and
  - 3. Planned Unit Development Districts.

### § 12.2 PLANNING BOARD

---

This Section will replace the existing Town Code Chapter 27 (Planning Board).

- A. **Establishment.** The Planning Board is established under the provisions of NYS Town Law, and by this Article.
- B. **Membership and Appropriations.**
  - 1. The Planning Board shall consist of five members appointed by the Town Board.
  - 2. Removal of members, alternates, and vacancies shall be addressed as provided for in the NYS Town Law.
  - 3. The Planning Board may employ clerks, experts, and secretaries as necessary, subject to appropriations made by the Town Board.
- C. **Terms of Office.**
  - 1. In order to provide the people of the Town of Clarkson a more frequent opportunity to serve on such an important Board in the Town of Clarkson, which Board affects the lives and property of many residents, the Town Board has determined to exercise the authority given to it under the laws of the State of New York to amend the Town Law to reduce the duration of the terms during which a Planning Board member holds office. It is the intent of this article to supersede the provisions of § 271, Subdivisions 4 and 5, of the New York State Town Law.



2. Any person appointed as a member of the Planning Board by the Town Board of the Town of Clarkson after the effective date of this article shall serve for a term ending on the third December 31 from the date of appointment.

**D. Board Member Training.** Members of the board shall receive training each year to satisfy the requirements set forth in NYS Town Law.

**E. Meetings.**

1. The Planning Board shall adopt rules for the conduct of its business consistent with statute and this Chapter.
2. The Chair of the Planning Board, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by NYS Town Law and the Civil Practice Law and Rules.
3. The Planning Board may seek recommendations from other boards, commissions, or agencies as it deems appropriate.
4. Hearings and meetings shall be public, and decisions shall be voted upon at public sessions. The Planning Board may otherwise hold executive sessions in accordance with the NYS Open Meeting Law.

**F. Minutes.** The duly designated secretary or clerk shall keep minutes of all proceedings before the Planning Board.

**G. Power and Duties.** Pursuant to this Chapter and NYS Town Law, the Planning Board is hereby authorized and empowered to perform the following:

1. **Review Authority.** The Planning Board shall be responsible for reviewing and making recommendations regarding the following:
  - a. Amendments to the Zoning Map (re-zoning);
  - b. Amendments to the text of this Chapter; and
  - c. Planned Development Districts.

**H. Final Authority.** The Planning Board shall be responsible for final action regarding applications for the following:

1. Site Plan Review; and
2. Special Use Permits;

**I. General Authority.** The Planning Board may exercise additional powers as directed by the Town Board and as may be described elsewhere in the Code of the Town of Clarkson, this Chapter, and as permitted by NYS Town Law.

§ 12.3

ZONING BOARD OF APPEALS

This Section will replace the existing Town Code Chapter 39 (Zoning Board of Appeals)

- A. Establishment.** The Zoning Board of Appeals (ZBA) is established under the provisions of NYS Town Law, and by this Article.
- B. Membership and Appointments.**
  - 1. The ZBA shall consist of five members to be appointed by the Supervisor subject to the approval of the Town Board of Trustees.
  - 2. Removal of members, alternates, and vacancies shall be addressed as provided for in the NYS Town Law.
  - 3. Town Board may appoint clerks, secretaries, or other employees serving at its pleasure to assist the ZBA.
- C. Board Member Training.** Members of the board shall receive training each year to satisfy the requirements set forth in NYS Town Law.
- D. Meetings.**
  - 1. The ZBA shall adopt rules for the conduct of its business consistent with statute and this Chapter.
  - 2. The Chair of the ZBA, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by NYS Town Law and the Civil Practice Law and Rules.
  - 3. The ZBA may seek recommendations from the Planning Board and other agencies as it deems appropriate.
  - 4. Hearings shall be public, and decisions shall be voted upon at public sessions. The ZBA may otherwise hold executive sessions in accordance with the NYS Open Meeting Law.
  - 5. Every decision of the Board shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case.
- E. Minutes.** The duly designated secretary or clerk shall keep minutes of all proceedings before the ZBA.
- F. Voting.** The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the CEO or to decide in favor of the appellant on any matter upon which it is required to pass under the terms of this Chapter or to affect any variation of this Chapter, except in the case of re-hearing as authorized by the NYS Town Law Section 16-267-A.
- G. Powers and Duties.** The ZBA shall have all the powers and duties prescribed by NYS Town Law, and by this Article.

1. **Final Authority.** The ZBA shall be responsible for final action regarding the following:
  - a. Variances;
  - b. Administrative appeals;
  - c. Sign permits; and
  - d. Interpretation of any provision of this Chapter.
2. **General Authority.** The ZBA may exercise additional powers as directed by the Town Board and as may be described elsewhere in this Chapter and as permitted by NYS Law.

## § 12.4

### CODE ENFORCEMENT OFFICER (CEO)

---

- A. **Administration.** The duty of administering and enforcing the provisions of this Chapter is hereby conferred upon the CEO, who shall have such powers as are conferred upon him/her by this Chapter and as reasonably may be implied therefrom. The CEO shall have such other and further duties as may be assigned by the Town Board pursuant to this Chapter or otherwise.
- B. **Violations and Written Orders.** Where the CEO, in the course of his/her duties, determines that any plans, buildings or premises are in violation of the provisions of this Chapter, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall comply with the provisions of this Chapter.
- C. **Revocation of Permits.** On the serving of notice and failure to comply with the time limits specified in such notice by the CEO to the owner in any violation of any of the provisions of this Chapter, any permit(s) previously issued for such buildings or use shall be held null and void. A new permit(s) shall be required for any further use of such building or premises.
- D. **Inspection and Review.** It shall be the duty of the CEO, or his/her duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Chapter.
- E. **Building Permits.** The CEO is hereby empowered to issue a building permit for any plans regarding the construction or alteration of any building or structures or part of any building, or the change in the use of any land or building or part thereof, where he/she shall determine that such plans are not in violation of the provisions of this Chapter and Chapter 52 and all other zoning approvals required by the Chapter have been obtained.
- F. **Special Use Permits.** Upon written direction of the Planning Board, the CEO is hereby empowered to issue any special use permit provided for by this Chapter.
- G. **Records.** The CEO shall maintain a permanent record of all matters considered and all action taken by him/her. Such records shall form a part of the records of his/her office and shall be compatible with Town Office records and available for the use of the Town Board and other officials of the Town. The records to be maintained shall include an individual permanent file for each application for a permit provided for by this Chapter, established at the time the application is made. Said file shall



contain one copy of the application and all supporting documents, maps, and plans; notations regarding pertinent dates and fees, and the like; one copy of the decision of the reviewing board in acting on the application, as applicable; and the date the permit applied for was issued or denied by the Code Enforcement Officer.

**H. Stop Work Orders.**

1. Whenever the CEO has reasonable grounds to believe that work on any building, structure, or premises, irrespective of the zoning area, is being prosecuted in violation of the provisions of the Town Code, building codes, ordinances, rules or regulations, or not in conformity with the provisions of an application, plans, or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, notification shall be given to the owner of the property or the owner's agent to suspend all work. The CEO, Town Clerk, and Supervisor are authorized to provide such notification.
2. Any person, corporation, or agency issued a stop work order shall forthwith stop such work and suspend all building activities until the stop order has been rescinded.
3. The order and notice shall be in writing and shall state the conditions under which the work may be resumed.
4. The order and notice may be served upon a person or corporation to which it is directed whether by delivering it personally or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail to the permittee or their designee.

**I. Right of Entry.**

1. The CEO and all his/her duly authorized assistants shall be entitled to enter any building or premises (which includes the internal premises such as basement, etc.) for the purpose of inspection, observation, measurement, testing and records examination in performing his/her duties set forth in this Chapter, and for the further purpose of ascertaining whether the provisions of this Chapter are being met and all requirements are being complied with.
2. Persons or occupants of premises to be entered shall allow the CEO and/or his/her assistants ready access at all reasonable times to all parts of the premises to carry out the actions specified herein.
3. The CEO or any of his/her duly authorized assistants seeking to enter private property pursuant to the provisions of this Chapter may enter such property on the consent of the owner or occupant. In the event such consent is denied or if said CEO or assistant determines that it is preferable to obtain a search warrant without first seeking such consent, said CEO or assistant shall be entitled to obtain a search warrant pursuant to the applicable provisions of law from a court of competent jurisdiction to compel the owner or occupant to permit immediate entry and inspection.
4. Notwithstanding the provisions contained in the immediately preceding paragraph, in the event an emergency situation exists, said CEO and/or

assistants shall be entitled to immediately enter upon any private property for the purposes set forth in this Chapter either with or without a search warrant.

# ARTICLE 13.

## TERMINOLOGY

### § 13.1 WORD USAGE AND INTERPRETATION

---

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future tense, and the plural includes the singular, unless the natural construction of the term indicates otherwise.

- A. Words used in the singular include the plural. The reverse is also true.
- B. Words used in the present tense include the future tense. The reverse is also true.
- C. The words "must," "will," "shall" and "may not" are mandatory.
- D. The word "may" is permissive, and "should" is advisory, not mandatory or required.
- E. The word "occupied" shall include "designed, arranged, or intended to be occupied."
- F. The word "used" shall include the words "arranged," "designed" or "intended to be used."
- G. The word "person" shall mean a person, firm or corporation or the plural of those words.
- H. The word "lot" shall include the word "plot" or "parcel."
- I. The word "buildings" includes the word "structure."
- J. When used with numbers, "up to X," "not more than X" and "a maximum of X" all include X.

### § 13.2 FRACTIONS

---

The following rules apply to fractional number unless otherwise expressly stated.

- A. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to two required trees.
- B. **Maximum Limits.** When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to 2 (allowed dwelling units).



§ 13.3

DEFINITIONS

The following definitions shall be used in interpreting this Zoning Code.

# Aa

**ABANDONMENT** — To stop the use of property. When the use of a property has ceased and the property has been vacant for 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

**ABSTENTION** — When a voting member of a board gives up his or her right to vote on an issue.

**ACCESSORY DWELLING UNIT (ADU)** — A second subordinate dwelling unit that is:

- A. Contained with the existing primary single-family dwelling unit;
- B. An addition to the existing primary single-family dwelling unit;
- C. An adaptive reuse of an existing attached or detached accessory structure such as a barn, carriage house, or garage on the same parcel as the primary dwelling unit; or
- D. Designed into new construction of a single-family dwelling unit.

**ACCESSORY USES OR STRUCTURES** — Those uses or structures which are clearly subordinate to the principal use of a building located on the same lot and which serve a purpose customarily incidental to the use in conformance with the style, type, and finish of the principal structure.

**ACTION** — Any project or physical activity, such as construction or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board or official of the Town of Clarkson.

**ADDITION** — An extension or increase in area or height of a building.

**ADJACENT** — Having a common boundary or edge; abutting; touching.

**ADULT USE AND ENTERTAINMENT** — The term "adult use and entertainment" and related terms shall be as defined and regulated in §23.6 of this Chapter.

**AGRI-BUSINESS** — Any business catering exclusively to agricultural production, which may include, but is not limited to, supplying services or goods (such as feed or supplies) to producers of marketable agricultural products like greenhouses, nurseries, and farm cooperatives.

**AGRICULTURAL OPERATION OR USE** — The use of land, buildings, structures, 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 or a hobby, and including greenhouse, nursery, timber operations, compost, mulch, or other organic biomass crops, beekeeping,

commercial horse boarding/equine operations, and other agricultural uses as defined in NYS Agriculture and Markets Law Article 25-AA, Section 301.

**AGRICULTURAL AND FOOD PROCESSING OR PACKAGING PLANTS** — Facilities which transform and process livestock and agricultural products into products for eventual consumption and package the processed goods for distribution to wholesalers or retailers.

**ALLEY** — A thoroughfare not more than 20 feet wide which affords only a secondary means of access to abutting property.

**ALTERATION** — Any change, rearrangement or addition to or removal from a building or facade other than repairs and modification in building equipment systems (i.e. heating, cooling, electrical, etc.).

**ALTERATION, STRUCTURAL** — Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

**ANIMAL** — Any vertebrate member of the animal kingdom, excluding man.

**ANIMAL HOSPITAL** — An establishment operated by a licensed veterinarian solely for the practice of veterinary medicine.

**ANTENNA** — Any device or equipment of any nature or kind, the primary purpose of which is used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes and omnidirectional antennas, such as whip antennas. Such waves shall include cellular, paging and personal communication services (PCS).

**APARTMENT** — A dwelling unit in a multiple-family dwelling or mixed occupancy building.

**APPEAL** — A request by an interested party for reconsideration of a decision.

**APPLICANT** — A person filing an application in accordance with this Zoning Code who is:

- A. The owner or lessee of property;
- B. A party who has contracted to purchase property contingent upon that party's ability to acquire the necessary approvals required for that action in accordance with this Zoning Code, and who presents written authorization from the property owner to file an application with the Town; or
- C. The agent of either of the above who presents written authorization from the property owner to file an application with the Town.

**APPROPRIATE** — Consistent, compatible with, or fitting, to the context of the site and desired future development condition of the neighborhood.

**APPROVAL** — Favorable decision to an application that indicates acceptance and the terms of the application are satisfactory. Includes both approval and approval with conditions.



**ARCHITECTURAL FEATURE** — Any portion of the outer surface of a structure, including the kind, color and texture of the building material, the type and style of all windows, doors, lights, walls, fences, awnings, canopies, screens, sculptures, decoration, roof shape and materials, and other fixtures appurtenant to a structure. Also referred to as, "architectural detail."

**AUTOMOTIVE SALES** — The sales or leasing of new or used automobiles, motorcycles, trucks, and recreational vehicles, which includes storage and any incidental maintenance.

**AUTOMOTIVE SERVICE OR REPAIR SHOP** — Establishments used or intended for use of one or any combination of the following activities. Vehicle dismantling for the resale of salvaged parts, including tires, is not included in this definition (see Junkyard).

- A. Retail selling and installing of liquids, coolants, or lubricants where substantial disassembly is not required.
- B. Engine tune-ups, body work, frame straightening, painting, electrical work, transmission repair, or any other repair services not specifically listed.

**AWNING** — A permanent or retractable overhanging shelter which projects from the face of, and is completely supported by, a building.

## Bb

**BASEMENT OR CELLAR** — That space of a building that is partly below grade which has more than 1/2 its height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building. A basement or cellar shall be considered a story if the vertical distance between the surface of the floor and the ceiling next above it is at least seven feet six inches.

**BED AND BREAKFAST** — An owner-occupied residence wherein lodging and meals are provided to transient guests for compensation.

**BEDROOM OR SLEEPING ROOM** — A fully enclosed portion of a building designed or intended to be used for sleeping purposes, excluding bathroom, closets, hallways, and service porches.

**BERM** — A person-made earthen mound (usually from two to six feet in height) designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

**BREWERY** — An enclosed building for the manufacture, processing, bottling, and packaging of malt liquors, such as beer, ale, or ciders, but not to include distilled liquors, and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

**BUFFER** — A unit of land, together with a specified type and amount of planting thereon, which may be required to eliminate or minimize conflicts between land uses.

**BUILDING** — A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

**BUILDING AREA** — The area taken on a horizontal plane at the main grade level of the building, exclusive of storage space, open porches, terraces and steps and, in respect to dwellings, also exclusive of attached or built-in garages.

**BUILDING CODE** — The New York State Uniform Fire Prevention and Building Code.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the existing grade at the front of the building to the highest point of the roof for flat or mansard roofs and to the average height of pitched, gable, hip and gambrel roofs.

**BUILDING LINE, FRONT** — The line of that face of the building nearest the street line. This face includes covered porches, whether enclosed or unenclosed, but does not include steps. If there are street lines on two or more sides of the building (e.g. corner lots), the building shall be considered to have two front building lines.

**BUILDING PERMIT** — A permit issued by the Code Enforcement Officer or other Building Official to enable the construction or alteration of a building to begin. The permit shall only be issued after the proper documentation and information have been submitted and necessary approvals have been granted.

**BULK** — The size and scale of buildings and non-building uses and the physical relationship of their size and scale in relation to the lot on which they are located. Bulk requirements include building height, building footprint, and lot coverage.

## Cc

**CALIPER** — A horticultural method of measuring the diameter of nursery stock for trees less than four inches in diameter, the measurement should be taken at six inches above ground level. For trees greater than four inches in diameter up to and including 12 inches, the caliper measurement must be taken at 12 inches above the ground level. For trees greater than 12 inches in diameter, the trunk is measured at breast height (diameter at breast height or DBH), which is 4.5 feet above the ground.

**CANOPY** — Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather. The term "canopy" shall not include the term "marquee."

**CAR WASH** — Any building or premises, or portion thereof, where the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

**CARPORT** — An open-sided roofed automobile shelter, either freestanding or formed by extension of a roof from the side of a building, in which case it shall be deemed part of the structure to which it is attached. In either case, a carport shall not be deemed a garage.

**CERTIFICATE OF COMPLIANCE** — A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or of a parcel of land with no buildings. Said certificate shall acknowledge compliance with all requirements of this chapter.



**CERTIFICATE OF OCCUPANCY** — A certificate issued by the Building Inspector upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the Uniform Code.

**CHARGING STATION** — A site with electrical ports, outlets, or electric vehicle supply equipment (EVSE) that supplies electrical power for charging one or more plug-in hybrid or electric vehicles. A charging station may be provided in an approved parking area.

**CLEARING, LAND** — The destruction or removal of trees, shrubbery, or other natural vegetation from a plot of land by physical, mechanical, chemical, or other means. Clearing shall not include mowing, landscape maintenance or pruning consistent with accepted horticultural and arboricultural practices.

**CLUB, COMMUNITY OR SERVICE** — The premises and buildings used by a local, international, national or state organization or by a bona fide local civic association catering exclusively to members and their guests primarily for a patriotic, fraternal, benevolent, social, educational, religious or political purpose. The club shall not be used in whole or in part for the conduct of any business or enterprise for profit, but this shall not be construed as preventing the utilization of a club for benefits or performances for a recognized charity, nor for the meeting of other organizations or for educational and cultural purposes.

**CODE ENFORCEMENT OFFICER OR "CEO"** — The administrative officer appointed from time to time as provided under the Civil Service Law of the State of New York, currently classified as Building Inspector III, charged with the responsibility of this chapter as well as other provisions of the Code of the Town of Clarkson.

**COMMERCIAL USE** — The purchase, sale, or transaction involving the disposition of any article, substance, commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit and also including renting of rooms, business offices, and sales display rooms and premises.

**COMMUNITY CENTER** — A meeting hall or place of assembly intended for use for recreational programming and a gathering place for residents of the Town.

**COMPATIBLE** —

- A. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure;
- B. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more structures;
- C. Having a pleasing or congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

**CONIFEROUS** — A plant with foliage that persists and remains green year-round. Also known as "evergreen."

**CONTRACTOR STORAGE YARD OR SHOP** — A facility used for the provision of general contracting services associated with businesses including, but not limited to, general construction and landscaping trades, which may include office and workshop areas and areas for the storage of equipment and/or materials used in association with the contractor's business.

**CORNICE** — Any horizontal decorative molding that crowns a building, such as the top edge of a façade or over an external door or window.

**CURB** — A stone or concrete boundary usually marking the edge of a roadway or paved area.

**CURBCUT** — A dip in a sidewalk and curb that enables a vehicle to drive to a driveway, garage, parking lot, loading dock or drive-through.

**CUSTOMARY HOUSEHOLD PET** — Animals accustomed to living in or about the habitation of man, including, but not limited to, cats and dogs.

**CULTURAL FACILITY** — A use that is open to the public and provides cultural services and facilities including, but not limited to, libraries, museums, aquariums, zoos, botanical gardens, and historical societies.

## Dd

**DANCE, ART, PHOTO, OR MUSIC STUDIO** — Establishments or work space dedicated to artists, artisans, musicians, dancers, or other individuals practicing or teaching one of the fine or performing arts or skilled in an applied art or craft. Incidental retail sales of work produced on the premises or related to the studio may be included in the business's permitted function. This definition excludes all adult oriented uses.

**DAY CARE, ADULT** — The provision of care to individuals over the age of 18 for periods less than twenty-four (24) consecutive hours, but not including educational institutions, provided that such day care conforms to all applicable licensing and/or registration requirements of New York State.

**DAY CARE, YOUTH** — Any program or facility caring for children for more than three hours per day per child in which child day care is provided by a licensed child day care provider except those programs operating as a school-age child care program as defined by §390 of the Social Services Law of the State of New York. (Ref: NYS Social Services Law)

**DECIBEL (DB)** — A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure intensity of sound are calibrated in decibels.

**DECIDUOUS** — A plant with foliage that is shed annually.

**DENSITY** — A unit of measurement; "density" means the number of dwelling units per acre of land.

**DEVELOPMENT** — Any person-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance of farm roads and agricultural practices.

**DIGITAL SIGN** — Any computer-programmable sign capable of displaying words, symbols, figures or graphic images that can be altered or rearranged by remote or automatic means without altering the face or surface of the sign. Typically, these signs utilize LEDs (or light-emitting diodes) or plasma or LCD technology to produce the character and graphics of the display.



**DISTILLERY** — An enclosed building for the manufacture, processing, bottling, and packaging of distilled liquors, such as vodka, gin, whiskey, or tequila, duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, that shall include operations that may include tasting rooms.

**DISTRICT** — A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

**DRINKING ESTABLISHMENT** — An establishment serving alcoholic beverages for on-site consumption as the principal use, including bars, cocktail lounges, pubs, saloons, and taverns.

**DRIVE-THROUGH FACILITIES** — A building or use, which by design of physical facilities a product is sold to, or a service performed for, customers while they are in or near their motor vehicles, including but not limited to fast-food restaurants, drive-up bank tellers, film-processing service booths, etc.

**DRIVEWAY** — A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a "driveway."

**DRY-CLEANING OUTLETS** — Facilities that provide drop-off and pickup of garments and other textile items for dry cleaning services off-site. (Actual dry-cleaning services are not performed on site.) Dry cleaning outlets do not include any coin-operated facilities.

**DUST** — Fine, dry, pulverized particles of any material or a fine powder of any kind.

**DWELLING** — A detached building designed or used exclusively as living quarters for one or more persons or families; the term shall not be deemed to include motel, hotel, boarding or rooming house, recreation vehicle, tourist home or tent.

**DWELLING, MULTI-FAMILY** — A building designed or used as living quarters by three or more families living independently of each other within the same lot. May include apartment buildings, townhouses, or row houses.

**DWELLING, SINGLE-FAMILY** — A building containing one dwelling unit and designed or used exclusively for occupancy by one family.

**DWELLING, TWO-FAMILY** — A building designed and used exclusively for occupancy for two families living independently of each other and which is separated from lot lines or other buildings by open space on all sides.

**DWELLING UNIT** — One room, or a group of rooms joined to each other and not regularly locked in the interior, located in a dwelling, designed and maintained as a unified living quarter, occupied by an individual or a family, containing integrated facilities used for living, sleeping, cooking, eating and sanitation.

**DWELLING UNIT, UPPER FLOOR** — A dwelling unit located within a mixed-use or multi-story building on any floor other than the ground floor.

## Ee

**EASEMENT** — Any authorization by a property owner for the permanent use by another, for a specified purpose, of any designated portion of a lot.

**EATING ESTABLISHMENT** — Any establishment, however designated, at which food is sold for consumption on the premises to patrons and equipped with seating facilities and where the taking of food and drink from said building is incidental. A snack bar refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be an "eating establishment."

**EAVE** — The projecting lower edges of a roof overhanging the wall of a building.

**EDUCATIONAL INSTITUTION** — Parochial, nursery, private and public school, college, university and accessory uses operated under the Education Law of the State of New York and governed by the NYS Department of Education and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishments which are not so governed.

**EFFECTIVELY SCREENED** — When barriers of sufficient height and opacity are provided so as to reduce the transmission of sound and light into adjacent properties to the point where the adjacent property owner is not disturbed thereby.

**EFFICIENCY APARTMENT** — A dwelling unit without a separate distinct room for sleeping.

**ESTABLISHMENT** — An economic unit where business is conducted or services or industrial operations are performed.

**EXCAVATION** — The process of the removal of sand, gravel, stone, soil (including topsoil) or other natural deposits by stripping, digging or other means.

## Ff

**FAÇADE** — The face of a building.

**FAÇADE, PRIMARY or FRONT** — The principal face of a building that looks onto a street, right-of-way, or open space. Buildings on corner lots shall be considered to have two primary or front facades.

**FAMILY** — Two or more individuals related by blood, marriage, operation of law, or adoption, or any number of individuals not related by blood, marriage or adoption living, sleeping, cooking and eating on the same premises and maintaining a common household unit.

**FAMILY SUPPORT CENTER** — A facility which conducts one or more of the following uses within an enclosed building to directly support persons and households in need:

**A.** Thrift store



- B. Food pantry, excluding food banks and soup kitchens
- C. Collection and distribution of seasonal items like "toys for tots," clothing, and school supplies
- D. Mobile food pantry

The facility shall be operated by a charitable organization which is determined to be tax exempt by the IRS pursuant to Section 501(c)(3) of the Internal Revenue Code.

**FARM** — A unit of land having more than five acres and used for cultivation, pasture or other customary agricultural purposes, but not including the raising of fur-bearing animals.

**FARM ANIMAL** — Any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in NYS Environmental Conservation Law which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.

**FAST FOOD RESTAURANT** — A business for counter service of food in a packaged form where the patron has the option to consume the packaged food on or off the premises.

**FENCE** — A constructed vertical structure, barrier, or partition of any material or combination of materials permitted herein, erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering. The provisions of §24.6 of this Chapter shall apply to all fences within the Town of Clarkson.

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODPLAIN OR SPECIAL FLOOD HAZARD AREA** — The area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.

**FLOOR AREA** — The sum of the horizontal area of the floors of a building and its accessory buildings on the same lot, excluding unfinished basements or floor areas not devoted to habitable use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

**FLOOR AREA, MINIMUM** — That area computed for the floors in the dwelling above the lot grade line. The second floor in each case qualifying for living quarters shall have access thereto by a permanent built-in stairway.

**FLOOR AREA, GROSS** — The sum of the gross horizontal areas of several floors of a building or buildings, measured from the inside faces of exterior walls or from the centerline of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, "gross floor area" shall not include areas used principally for nonpublic

purposes, such as storage, restroom, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

**FLOOR AREA, HABITABLE** — The floor area of rooms in a dwelling unit used for bedrooms, living rooms, dining rooms and kitchens.

**FOOD BANK** — A facility that collects, warehouses, and distributes food to hunger relief organizations, such as food pantries. Food is not distributed directly to those in need from a food bank.

**FOOD PANTRY** — A facility to collect, store, package, and distribute food, such as fresh produce, perishables, canned goods, or food staples, directly to persons and households in need. The facility shall primarily distribute food but may also include toiletries and hygienic items, diapers, pet food, clothing, and incidental household items. Food pantries shall exclude food banks and soup kitchens. On-site preparation of food is not permitted. The facility shall be operated by a charitable organization which is determined to be tax exempt by the IRS pursuant to Section 501(c)(3) of the Internal Revenue Code.

**FOOTCANDLE** — A measure of illumination on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

**FRONTAGE** — The extent of a building or a lot along one public or private street as defined herein.

**FUNERAL HOME** — A building used for the preparation of the deceased for cremation or burial and the display of the deceased and ceremonies connected therewith before burial or cremation. This shall not include crematory facilities.

## Gg

**GARAGE, ATTACHED** — A garage having a common wall or a portion thereof with a principal residential building and used for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

**GARAGE, PRIVATE** — An enclosed space for the storage of motor vehicles, provided that no business, occupation or service is conducted for profit therein.

**GARAGE, DETACHED** — A building used as an accessory use to a principal residential building for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

**GASOLINE STATION** — Any building or land or any part thereof used for sale of motor fuel, oil and motor vehicle accessories and which may include a food store or mart and facilities for fueling, charging, lubricating, washing or servicing vehicles, but not including painting or body repairs. Includes facilities not selling gasoline but specializing in oil and other automobile fluid changes.

**GRADE** — The elevation established for the purposes of regulating the number of stories and the height of buildings. Grade shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.



**GRADE, FINISHED** — The elevation of the surface of the ground adjoining the building at the completion of a project regulated by this Zoning Code. Height measurements shall be based from the "finished grade." Where the finished grade is below the level of the existing grade, the existing grade shall be used for this purpose.

**GRADE, STREET** — The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

**GREEN SPACE** — Retained mature vegetation as well as landscaped areas, excluding stormwater management facilities.

**GROOMING SHOP** — Provision of bathing and trimming services for small animals on a commercial basis. This classification includes boarding for a maximum period of 48 hours.

**GYM OR HEALTH CLUB** — An establishment providing indoor recreation or instruction to patrons for health, exercise, or educational purposes.

## Hh

**HAZARDOUS MATERIAL** — Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

**HEDGE** — Any group of shrubs planted in line or in groups that forms a compact, dense, living barrier that protects, shields, separates, or demarcates an area from view.

**HEIGHT, BUILDING** The vertical distance measured from the elevation of the finished grade level to the highest point of the roof.

**HOME OCCUPATION, RESIDENTIAL** — An accessory nonresidential use conducted within or administered from a portion of a permitted dwelling or its accessory building that only includes uses that are clearly secondary to the principal residential use and is otherwise compliant with the applicable regulations of this Chapter (see §23.15 for home occupation requirements). Single sales events such as garage sales, yard sales, and other similar sales are not considered a home occupation for the purposes of this Chapter.

**HOME OCCUPATION, AGRICULTURAL** — A secondary nonresidential use conducted for gain or profit within a structure on an agricultural property and is otherwise compliant with the applicable regulations of this Chapter (see §23.15 for home occupation requirements). Single sales events such as garage sales, yard sales, and other similar sales are not considered a home occupation for the purposes of this Chapter.

## Ii

**IMPERVIOUS SURFACE** — A structure or surface with a low capacity for infiltration, including but not limited to buildings and roofed areas, structures, parking areas, loading areas, driveways, roads, sidewalks, and any areas of concrete, asphalt, or significantly compacted material which prevents water from absorption.

**IMPROVEMENT** — Any building, structure, bridge, work of art, area, parking facility, public facility, utility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property or any part of such addition.

**INDUSTRIAL** — Activity including resource extraction, manufacturing, processing, packaging, warehousing, storage, distribution, shipping and other related uses.

**INDUSTRIAL PARK** — A collection of sites under common management with coordinated access, amenities, and connections for the location of various industries, which may or may not be related to one another.

**INTERIOR PROJECT ROAD** — A road wholly within a single residential development, whether dedicated or not, which is designed solely to provide access to the residences therein.

## Jj

## Kk

**KENNEL** — Any building or lot on which four or more domesticated animals are housed, groomed, bred, boarded, trained, or sold.

## Ll

**LANDSCAPING** — The use of native plant materials including, but not limited to, ground covers, shrubs, and trees. Landscaping also involves the placement, preservation and maintenance of said plant materials in conjunction with associated improvements such as fences, walls, lighting, earth mounding and structures (principal or accessory).

**LANDSCAPING PLAN** — A plan, drawn to scale, showing dimensions and details for landscaping or revegetating an area.

**LAUNDROMAT** — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an multi-family building or hotel.

**LICENSE** — Any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule.

**LIGHT INDUSTRIAL USE** — Research and development, material handling, processing, the manufacturing, compounding, processing, packaging, storage, service industry



business, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, where input, output is wholly conducted within an enclosed building and meet the other performance standards of the district.

**LOADING AREA** — An off-street area containing one or more loading spaces where goods are loaded onto and unloaded from vehicles.

**LOADING SPACE** — An off-street space exclusive of passageways, driveways, ramps, columns and other areas that is used for the temporary parking of a commercial vehicle while loading or unloading deliveries, merchandise or materials.

**LODGING** — A single building or group of buildings containing guest rooms primarily designed for the accommodation of transient travelers. Lodging facilities may also provide additional services to guests, such as food and beverages, limited recreational facilities, conference rooms, and laundry. Hotels and motels are considered lodging.

**LOT** — Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate as a condition of the issuance of a building permit for a building on such land.

**LOT, CORNER** — A lot located at the junction of and fronting on two or more intersecting streets. All "corner lots" shall be deemed to have two front yards, two rear yards, and no side yard.

**LOT COVERAGE** — The percentage of the lot area covered by the combined area of the principal and accessory buildings. This definition includes all and impermeable surfaces such as driveways, swimming pools, decks, parking areas and parking lots, excluding patios, terraces and pedestrian walkways.

**LOT LINE** — The property line bounding a lot.

- A. Front — In the case of a lot abutting upon only one street, the line separating the lot from the street right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.
- B. Rear — The lot line, which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.
- C. Street — A lot line separating the lot from a street.

**LOT SIZE** — The total area within the property lines, excluding any portion lying within the boundaries of a public street or future street right-of-way.

**LOT WIDTH** — The mean horizontal distance between the side lot lines, measured at right angles to the lot depth.

**LUMBERYARD** — A facility or area where building materials such as lumber, plywood, drywall, paneling, cement blocks, bricks, tiles and other building products are stored and sold at retail. Lumber yards may provide for the sale of associated products such

as tools and fasteners. The manufacture or fabrication of lumber products, the storage or sale of firewood or a sawmill are not included.

## Mm

**MAJOR ROAD** – A road within the Town of Clarkson that is owned by Monroe County or the State of New York.

**MOBILE HOME** — A structure that is transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

**MOBILE HOME PARK** — A parcel of land under single ownership on which two or more manufactured homes are occupied as residences or which is planned and improved for the placement of two or more manufactured homes for non-transient residential use.

**MANUFACTURING** — Any factory, shop, yard warehouse, mill or other nonresidential premises utilized in whole or in part for the processing, preparation, production, containerizing, storage or distribution of goods, wares, commodities, parts, materials, electricity and the like. The processing, preparation and production activities customarily deal with person-made or raw materials and other manufactured items which are altered, restored or improved by the utilization of biological, chemical or physical actions, tools, instruments, machines or other such similar natural, scientific or technological means. "Manufacturing" shall not include the handling of any waste products and materials. Manufacturing processes and treatments include but are not limited to such operations as mixing, crushing, cutting, grinding and polishing; casting, molding and stamping; alloying and refining; assaying, cleaning, coating and printing; and assembling and finishing.

**MECHANICAL EQUIPMENT** — Equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**MINOR ROAD** – A locally owned road, or all roads that are not owned by Monroe County or New York State.

**MIXED USE** — A development or redevelopment that allows for a mixture of uses in a single building or on a single lot including, but not limited to, two or more of the following: residential, commercial and industrial.

**MOBILE FOOD PANTRY** — Deliveries of bulk food and perishable food by a food bank to a food pantry for immediate distribution by the food pantry. Truckloads of food are distribute to people in pre-packed boxed or displayed on folding tables like a farmer's market.

**MOTOR VEHICLE** — Any device in, upon or by which any person or property is or may be transported except such as is operated exclusively by human power. This includes, but is not limited to, cars, trucks, four-wheelers, dirt bikes, or motorcycles.

**MUNICIPAL USE OR STRUCTURE** — A building, structure, lot, or other property occupied by a public authority, such as a local governmental agency.



## Nn

**NONCONFORMING BUILDING OR STRUCTURE** — A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this Chapter.

**NONCONFORMING LOT** — A lot in any district where the owner or owners of said lot do not own any adjoining property, which together would create one or more conforming lots and which does not conform with the minimum width, depth and area dimensions specified for the district in which said lot is located.

**NONCONFORMING USE** — An established use of a building or structure or of land existing at the effective date of this chapter which does not conform to the use requirements of the district in which it is located.

**NONRESIDENTIAL USE** — All uses of land and buildings except single-family dwellings, two-family dwellings, multi-family dwellings, and mobile home parks.

**NURSING HOME** — A facility regulated by the state, providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons, in addition to lodging.

**NYS UNIFORM CODE(S)** — The New York State Uniform Fire Prevention and Building Code, which shall include all subunits (Residential Code, Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code, Energy Code, and Property Maintenance Code) as currently in effect and as hereafter amended from time to time. The Uniform Code may also be referred to as the "NYS Building Code."

## Oo

**ODOR** — Stimulus affecting the olfactory nerves. An odor shall be considered offensive, noxious, or a nuisance when foul smelling airborne emissions are sufficiently concentrated to cause physical discomfort to and/or interfere with the comfortable enjoyment of life or property for those inhabiting adjacent areas.

**OFF-STREET PARKING** — A parking facility established with an approved surface off of the public right-of-way and meeting all other restrictions of this chapter.

**OFFICE, ADMINISTRATIVE OR PROFESSIONAL** — The use of a building or structure for the operation of day-to-day activities that are related to record keeping, billing, personnel, and logistics, within an organization. This shall also include financial institutions. This shall not include medical professionals.

**OFFICE, MEDICAL** — The use of a building or structure by licensed health care professionals, including but not limited to physicians, dentists, physicians' assistants, radiologists, dermatologists, and nurses, for the treatment of persons on an outpatient basis only.

**OPEN-STYLE FENCE OR HEDGE** — A fence or hedge through which a person can view motion.



**OPEN SPACE** — Any area or area(s) that are undeveloped or restricted from development, provide access to light, air, and/or water, and hold some environmental, aesthetic, economic, and/or recreational value. This may include, but is not limited to, privately or publicly owned parkland and recreational facilities, farmland, woodlots, wetlands, lakes, ponds, local habitats, environmentally sensitive areas, and otherwise undeveloped lands. Open space shall not be deemed to include driveways, roadways or parking areas.

**OUTDOOR SALES OR DISPLAY** — The outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products. It does not include damaged vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products.

**OUTDOOR STORAGE** — The storage of items, merchandise, materials, equipment, or vehicles outside of an enclosed structure for more than four consecutive days that are not being displayed for sale.

**OWNER** — An individual, firm, association, organization, partnership, trust, corporation, or company holding title to the property.

## Pp

**PARAPET WALL** — That portion of a building wall that rises above the level of the roof.

**PARKING AREA OR LOT** — An off-street area containing one or more parking spaces where motor vehicles are stored for the purpose of temporary, daily or overnight parking, with passageways and driveways appurtenant thereto.

**PARKING SPACE** — An off-street space used for the temporary location of one licensed motor vehicle, not including access driveway(s).

**PAVED SURFACE** — Ground surface covered with cobblestones, fired clay bricks, concrete precast paver units, poured concrete with or without decorative surface materials, blacktop, oil and stone, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

**PEDESTRIAN-SCALED** — Refers to a pedestrian friendly development approach that seeks to provide the following:

- A. Clear, comfortable pedestrian connections and access to commercial and residential areas as well as sidewalk networks and transit stops;
- B. Combination of land design practices including compact development, mixed use development, traffic calming, designated pedestrian circulation systems and amenities, and a mix of housing types;
- C. Buildings, structures, lighting, and other site features built to a scale that is inviting and comfortable to pedestrians and non-motorists and includes architectural detailing to increase visual interest.

**PERFORMANCE BOND** — A bond, letter of credit, cash or securities posted by the developer and accepted by the Town Board, to guarantee that the developer will construct or deconstruct, or cause to be constructed or deconstructed, within one year all required improvements set by the Planning Board as conditions under site plan approval.

**PERMIT** — A document issued by the proper authority authorizing the applicant to undertake certain activities.

**PERSON** — Any individual, firm, trust, partnership, public or private association or corporation.

**PERSONAL SERVICE STORE** — Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pick-ups, shoe shine parlors, and other similar establishments. Retail sales shall be allowed as incidental uses in personal service establishments.

**PLANNING BOARD** — The officially designated Planning Board for the Town, as established by the Town Board in accordance with NYS Town Law.

**PLAYGROUND** — A publicly or privately owned area for recreational use primarily by children.

**POND** — Any open area man-made body of water, water area, detention pond, retention basin, stone quarry, dammed area or agricultural liquid waste holding pond over 30 inches deep.

**PORCH** — An unenclosed and unscreened roofed permanent projection in which the roof is supported by piers, posts, or columns attached to the entrance of a principal building.

**PRINCIPAL BUILDING OR USE** — The primary use of the building or land on or a part of a single lot. All buildings that are part of a farm operation shall be considered principal buildings including a residence that is also located on a parcel with farm structures.

**PRINTING OR PUBLISHING OPERATION** — A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

**PROFESSIONAL** — An individual or agency providing guidance and/or services relating to a discipline that requires special education, training, skill, or licensure, such as an engineer, architect, planner, or attorney.

**PROPERTY LINE** — A line bounding a lot. Also known as a "lot line."

**PUBLIC PARK OR PLAYGROUND** — An area of land, with or without buildings and structures, intended for outdoor active or passive recreational use by the general public.



## Rr

**RECREATION FACILITY** — A place, area, structure, or other facility used by persons in the community to carry out recreational activities.

**RECREATION FACILITY, INDOOR** — An establishment providing for recreational or entertainment activities in a completely enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed recreational uses. Included in this definition shall be indoor arcades, movies, pools, courts, or other facilities where patrons are engaged in and/or spectating sport or game activities.

**RECREATION FACILITY, OUTDOOR** — An establishment providing for recreational or entertainment activities in an open or partially enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the recreational uses. Included in this definition shall be outdoor pools, fields, courts, or other such facilities where patrons are engaged in and/or spectating sport or game activities.

**RECREATIONAL VEHICLE** — A trailer or self-propelled motor vehicle structure without permanent foundation, which can be towed, hauled or driven, and is primarily designed as temporary living accommodation for recreation, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

**RECUSAL** — Abstention from voting on a decision because of a possible conflict of interest.

**RELIGIOUS INSTITUTION** — A place for worship, includes churches, temples, synagogues, mosques, parish houses, convents, seminaries and retreat houses.

**RESEARCH AND DEVELOPMENT FACILITY OR LABORATORY** — A building or groups of buildings in which are located facilities for scientific research, investigation, materials testing, or experimentation, but not facilities for the manufacture or sale of products.

**RESIDENTIAL CONVERSION** — The conversion of the use of a building from nonresidential to residential use or the structural alteration of an existing residential structure to increase or decrease the number of residential units in the structure.

**RESIDENTIAL USE** — Includes single-family dwellings, two-family dwellings, and multi-family dwellings.

**RESERVOIR SPACE** — Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or other required parking spaces.

**RETAIL STORE** — An establishment for the sale of goods, articles or consumer services individually or in small quantities directly to the consumer. Retail store or service shall not be interpreted to include the following: drive-up service, gasoline station, automotive service or repair shop, new or used automotive sales, and trailer or mobile home sales and service.



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

**RIGHT-OF-WAY** — The boundary of a road, street, highway, or expressway owned and maintained by any federal, state, county, or local municipal entity.

**ROOFLINE** — In the case of a flat roof, the uppermost line of the roof of a building; in the case of a pitched roof, the lower edge of the eave; or in the case of an extended facade or parapet, the uppermost height of said facade or parapet, provided that the facade or parapet extends around the entire perimeter of the building at the same elevation.

## Ss

**SELF-SERVICE STORAGE FACILITY** — A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users. The facility shall not be staffed to provide assistance with assembling or loading materials. A warehouse operated for a specific commercial or industrial establishment shall not be considered a self-service storage facility.

**SEQRA** — New York State Environmental Quality Review Act.

**SERVICE AREA** — Includes those parts of any lot, which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage, and collection of wastes and provisions for maintenance.

**SETBACK** — The least required horizontal distance between property line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.

**SETBACK, FRONT** — A setback between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front setback shall be measured between the front line of the building and the street line.

**SETBACK, REAR** — A setback between the rear lot line and rear line of a building extended to the side lot lines of the lot. The depth of the rear setback shall be measured between the rear lot line and the rear line of the building.

**SETBACK, SIDE** — The setback to any property line other than a street or rear lot line.

**SETBACK REGULATIONS** — The requirement that a building be set back a certain distance from the street or lot line.

**SHOPPING CENTER** — A group of three or more stores, shops or similar businesses offering a variety of goods and services, occupying adjoining structures, whether attached or detached, having a common interrelated parking, loading and site circulation system with consolidated access to public roads. Also known as "malls," "retail centers," and "plazas."

**SHORT-TERM RENTAL** — A dwelling unit that is rented, in whole or part, by the owner or occupant of the dwelling to any person or entity for a period of less than 30 consecutive nights.

**SIGN** — A name, identification, description, including non-commercial content, display, illustration, usually including alphabetic or numeric characters, which is affixed to or painted upon or represented directly or indirectly upon a building, structure, or piece of land or affixed to the inside or outside of a door or window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization or business.

**SIGN FACE** — The surface of the sign upon, against or through which the message of the sign is exhibited.

**SIGN HEIGHT** — The vertical distance from the uppermost point used in measuring the area of the sign to the ground immediately below such point or to the level of the upper surface of the nearest curb or a street or alley (other than a structurally elevated roadway) whichever measurement permits the greatest elevation of the sign.

**SINGLE-FAMILY DWELLING, ATTACHED** — One-family dwelling units on separate parcels that share a common wall. See also townhome.

**SITE** — A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Town limit that is proposed for development in accord with the provisions of this Zoning Code and is in a single ownership or has multiple owners, all of whom join in an application for development.

**SITE PLAN** — A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Code Enforcement Officer or the Planning Board.

**SITE PLAN REVIEW** — Authority delegated to the Planning Board by the Town Board, which enables the Planning Board to approve, approve with conditions or disapprove the site plans for all buildings or uses where site plan review is required.

**SOLAR ENERGY SYSTEM, ACCESSORY** — A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet.

**SOLAR PANEL** — A device or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

**SPECIAL USE OR SPECIALLY PERMITTED USE** — A specifically designed use that would not be appropriate by-right, but which, if controlled as to number, area, location, character, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.



**STOP-WORK ORDER** — A written document issued by an enforcement official, which requires the cessation of an activity, usually construction.

**STORY** — Part of a building which is between one floor level and the next higher floor level or, if there is no floor above it, then the ceiling above it.

**STREET** — A public or private way, which affords the principal means of access to abutting properties.

**STREET LINE** — The right-of-way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center of the street. Also referred to as "right-of-way line."

**STREET RIGHT-OF-WAY** — A strip of land used for public or private passageways and designed for the conveyance of persons and/or vehicles from one point to another.

**STREETSCAPE** — The scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, planting, street hardware, and miscellaneous structures.

**STRUCTURE** — A combination of materials to form a construction for use, occupancy or ornamentation, including but not limited to buildings, mobile homes, towers, flagpoles, swing sets, antennas, satellite dishes, or gas or liquid storage tanks, that are principally above ground.

**SUBDIVISION** — An area of land divided by owners or agents, either by lots or by metes and bounds, into lots or parcels two or more in number for the purpose of conveyance, transfer, improvement or sale of one or more.

**SWIMMING POOL** — Any constructed body of water or structure to contain water and any accessory equipment pertaining thereto, designed to be used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Portable wading pools, two feet or deeper, shall be considered "swimming pools."

## Tt

**TELECOMMUNICATIONS FACILITIES** — Towers and/or antennas and uninhabitable accessory structures used in connection with the provision of cellular telephone service, personal communication services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services (also referred to as "facilities" or "equipment"). Examples of such structures include utility or transmission equipment storage sheds or cabinets. Includes any structure, including dish antennas, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to, broadcast, shortwave, citizens band, FM or television signals, or wind-driven devices, such as energy converters and wind speed and/or direction indicators.

**TELECOMMUNICATIONS TOWER** — A structure on which transmitting and/or receiving antenna are located. This includes but is not limited to freestanding towers, guyed towers, monopoles and similar structures. It is a structure intended for transmitting



and/or receiving telecommunications but excluding those either for fire, police or other dispatch communications or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar communications.

**TEMPORARY STORAGE UNIT** – A fully enclosable and transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

**TENANT** — Any person who occupies or has a leasehold interest in a rental unit under a lawful agreement, whether oral or written, express or implied.

**THRIFT STORE** — A retail establishment selling secondhand goods donated by members of the public which are displayed and stored within an enclosed building. The establishment shall be operated by a charitable organization which is determined to be tax exempt by the IRS pursuant to Section 501(c)(3) of the Internal Revenue Code.

**TOPSOIL** — Soil material which is rich in organic matter and capable of supporting plant life.

**TOWNHOME** — A one-family dwelling unit which is part of a group of two or more such units separated by a common party wall, having no doors, windows, or other provisions for human passage or visibility.

**TOWN BOARD** — The elected legislative body of the Town of Clarkson

**TOWN CLERK** — The Town Clerk of the Town of Clarkson

**TOWN CODE** — The local laws, ordinances, rules, certain resolutions, and regulations of the Town that are collectively known as the "Code of the Town of Clarkson."

**TOWN HALL OR TOWN OFFICE** — The building in which the Town Clerk of Clarkson is located.

**TOWN OF CLARKSON COMPREHENSIVE PLAN** — The most recently adopted Comprehensive Plan by the Town of Clarkson Town Board, as provided for by NYS General Municipal Law.

**TRADE SHOP** — A workshop of any person employed in a skilled trade, in which the items fabricated and created on the premises are also sold from the premises with other retail items. This definition shall include, but shall not be limited to woodworking, carpentry, upholstery, printing and copying, and machine printing.

**TRAILER** — Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in this section, except motor vehicle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

**TRAILER, CAMPING** — A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

**TREELINE** – The edge of a habitat or wooded area at which trees are capable of growing.

## Uu

**UNLICENSED VEHICLE** — Any motor vehicle that is without a current registration of the State of New York or any other state and properly issued and attached license plates of the State of New York or any other state thereto.

**USE** — The specific purpose for which land, building, or structure is designed, intended, arranged, used or maintained.

**USE, CHANGE OF** — Any change in the type or nature of occupancy of a building or land, except the following:

- A. A change in the volume of use without any physical extension of sales and/or service area.
- B. An expansion or substitution of accessory or incidental uses in connection with the established principal use, except that in no case shall such an accessory or incidental use dominate in area or purpose the principal lawful use.
- C. A change in ownership.
- D. A change to a generically similar use as determined by the CEO.

**USE, PERMITTED** — Any use specifically allowed in the district, excluding illegal uses and nonconforming uses.

**USE, PROHIBITED** — A use of a building, structure, lot or part thereof which is not listed as a permitted, specially permitted, or accessory use.

**USE, SPECIALLY PERMITTED** — A particular land use which may be allowable, but because of its unique characteristics requires individual consideration in each case and may be subject to additional conditions imposed to assure that the proposed use is in harmony with the requirements of this Chapter and will not adversely affect the neighborhood or vicinity if such conditions are met. Also referred to as a "specially permitted use."

**UTILITIES** — All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

## Vv

## Ww

**WALKWAY OR SIDEWALK** — A passage or path designated for pedestrian activity or walking.

**WAREHOUSE** — A building, typically enclosed, designed or used for the storage of commodities; Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

**WETLANDS**— Areas designated as freshwater wetlands by the New York State Department of Environmental Conservation or the Army Corps of Engineers, as prescribed by law.

**WINERY** — An enclosed building for the manufacture, processing, bottling, and packaging of wine as defined by and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

## Xx

## Yy

**YARD** — An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

**YARD, FRONT** — A yard between the front lot line and the front line of a building extended to the side lot lines of the lot.

**YARD, REAR** — A yard between the rear lot line and rear line of a building extended to the side lot lines of the lot.

**YARD, SIDE** — The area between the side building line and the related side lot line and between the front yard and the rear yard.

## Zz

**ZONING BOARD OF APPEALS** — The officially established Zoning Board of Appeals of the Town of Clarkson with the duties and responsibilities identified in this Chapter. Also referred to as "Zoning Board" or "Board of Appeals."

**ZONING DISTRICT** — A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

**ZONING PERMIT** — A document signed by the Code Enforcement Officer or designated agent of the Town Board, as required by this chapter, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building.



---

# PART 2

## DISTRICT & USE REGULATIONS

---

ARTICLE 20. RESIDENTIAL DISTRICTS .....	38
ARTICLE 21. MIXED USE DISTRICTS .....	43
ARTICLE 22. SPECIAL PURPOSE DISTRICTS .....	50
ARTICLE 23. ADDITIONAL USE REGULATIONS.....	54
ARTICLE 24. SUPPLEMENTAL REGULATIONS .....	85

# ARTICLE 20.

## RESIDENTIAL DISTRICTS

### §20.1 DISTRICTS ESTABLISHED

The residential districts of the Town of Clarkson are listed in the following table. When this zoning law refers to residential or "R" zoning districts it is referring to one of the following:

DISTRICT NAME	ABBREVIATION & MAP SYMBOL
<i>Agricultural Residential</i>	AR
<i>Residential Suburban - 20,000 sf</i>	RS-20
<i>Residential Suburban - 10,000 sf</i>	RS-10

### §20.2 REVIEWS REQUIRED

No building, structure, or lot shall hereafter be erected, altered, or demolished within a residential district without obtaining the following approvals, as applicable:

- A. Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article 41 of this Chapter.
- B. Site Plan Review.** Site plan review shall be required as provided for in Article 42 of this Chapter. This shall include, but is not limited to, new construction, alteration, or demolition of structures.

**§20.3****AGRICULTURAL RESIDENTIAL (AR)**

**A. Purpose.** The purpose of the AR District is to achieve the goal of the Town of Clarkson Comprehensive Plan to protect the Town's agricultural land and resources. This District is intended to preserve predominately agricultural areas from encroaching non-farm development, while maintaining residential living options in a rural setting. The continuation of commercial agricultural and its associated operations is of primary importance in this District, and the Town seeks to prevent scattered non-agricultural growth in these areas to ensure the long-term economic viability of farming in Clarkson. Additionally, the AR District provides residential opportunities such that they are compatible with the existing agricultural character. Best management practices and regulations consistent with NYS Agriculture and Markets Law or any other state or federal regulation or guideline will be adhered to.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BUILDING HEIGHT	ADDITIONAL REGULATIONS
Permitted Uses								
Principal Uses								
Single-Family Dwelling	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	10 / 30 ft <sup>1</sup>	25%	35 ft	\$24.14
Agricultural Operations	5 acres	250 ft	100 ft	35 ft	60 ft	25%	35 ft <sup>3</sup>	
Educational Institution	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Farm Market or Stand	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Municipal Structure or Use	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Nursery or Garden Store	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Public Park or Playground	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Religious Institutions	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Accessory Uses								
Accessory Structure or Use	*	*	*	15 ft	15 ft	*	20 ft	\$23.5
Pond	2 acres	150 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	*	*	\$23.19
Residential Ground- or Roof- Mounted Solar Array	*	*	*	*	*	*	*	\$23.22
Keeping of Farm Animals	5 acres	200 ft	-	30 ft	30 ft	*	*	\$23.16
Keeping of Chickens	3 acres	200 ft	-	30 ft	30 ft	*	*	\$23.16
Keeping of Bees	2 acres	200 ft	-	30 ft	30 ft	*	*	\$23.16
Specially Permitted Uses								
Principal Uses								
Agri-business	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	
Bed & Breakfast	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	10 / 30 ft <sup>1</sup>	25%	35 ft	\$23.9
Day Care Facility, Child, or Adult	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	10 / 30 ft <sup>1</sup>	25%	35 ft	\$23.12
Home Occupation, Residential	*	*	*	*	*	*	*	\$23.15
Home Occupation, Agricultural	*	*	*	*	*	*	*	\$23.15
Recreation Facility, Outdoor	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	40 ft	25%	35 ft	\$23.20
Short Term Rental	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	10 / 30 ft <sup>1</sup>	25%	35 ft	\$23.21
Telecommunications Facility	2 acres	200 ft	100 ft	75 ft	75 ft	25%	40 ft	\$23.24
Two-Family Dwelling	2 acres	200 ft	40 / 75 ft <sup>4</sup>	25 ft	10 / 30 ft <sup>1</sup>	25%	35 ft	\$24.14
Wind Energy System	See Ch. 136 for Wind Energy System Regulations.							
Accessory Uses								
Accessory Dwelling Unit	*	*	*	15 ft	15 ft	*	*	\$23.4

- NOTES:**
- (1) The larger requirement is to a dwelling or attached garage; the smaller requirement is to other structures.
  - (2) Lot coverage requirements will be determined through Site Plan Review.
  - (3) The maximum building height shall not apply to barns, silos, water towers or tanks, windmills, or other farm buildings or structures on active farmlands.
  - (4) The larger requirements are for lots fronting a major road, the smaller requirement is for lots fronting a minor road.
- \* - Refer to primary use for bulk and dimensional requirements.



**§20.4****RESIDENTIAL SUBURBAN – 20,000 SF (RS-20)**

**A. Purpose.** The purpose of RS-20 district is to support the vision and goals contained within the Town of Clarkson Comprehensive Plan through the development of new and enhancement of existing single-family neighborhoods. The intent of this District is to permit the construction of single-family detached units that do not compromise the existing residential character of the established neighborhoods. Future development and investment should promote traditional residential development patterns; generally consisting of owner-occupied, single-family detached homes, unobstructed front yards, and pedestrian-scaled streetscapes (e.g., with sidewalks, street lighting, street trees, etc.).

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BUILDING HEIGHT	ADDITIONAL REGULATIONS
Permitted Uses								
Principal Uses								
Single-Family Dwelling	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	\$24.14
Agricultural Operations	5 acres	200 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Municipal Use or Structure	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Public Park or Playground	1 acre	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Religious Institutions	1 acre	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Accessory Uses								
Accessory Structure or Use	*	*	*	10 ft	10 ft	*	20 ft	\$23.5
Keeping of Chickens	3 acres	100 ft	-	30 ft	30 ft	*	*	\$23.16
Keeping of Bees	2 acres	100 ft	-	30 ft	30 ft	*	*	\$23.16
Keeping of Farm Animals	5 acres	100 ft	-	30 ft	30 ft	*	*	\$23.16
Residential Ground- or Roof-Mounted Solar Array	*	*	*	*	*	*	*	\$23.22
Specially Permitted Uses								
Principal Uses								
Animal Hospital or Grooming Shop	1 acre	100 ft	40 / 75 ft³	10 ft	10 / 30 ft³	30%	35 ft	\$23.7
Bed & Breakfast	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	\$23.12
Community Center, Library, or Cultural Facility	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Club, Community or Service	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Day Care Facility, Child or Adult	20,000 sf	100 ft	40 / 75ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Educational Institution	1 acre	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Family Support Center	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	30%	35 ft	
Golf Courses	50 acres	150 ft	40 / 75 ft³	25 ft	40 ft	30%	35 ft	
Hospitals and Nursing Homes	20,000 sf	100 ft	40 / 75ft³	10 ft	10 / 30 ft¹	30%	35 ft	

\*TABLE CONTINUED ON FOLLOWING PAGE\*

- NOTES:** (1) The larger requirement is to a dwelling or attached garage; the smaller requirement is to other structures.  
 (2) Lot coverage requirements will be determined through Site Plan Review.  
 (3) The larger requirements is for lots fronting a major road, the smaller requirement is for lots fronting a minor road.  
 \* – Refer to primary use for bulk and dimensional requirements.

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BUILDING HEIGHT	ADDITIONAL REGULATIONS
Specially Permitted Uses								
Principal Uses								
Home Occupation, Residential	*	*	*	*	*	*	*	§23.15
Home Occupation, Agricultural	*	*	*	*	*	*	*	§23.15
Kennel	1 acre	100 ft	40 / 75 ft <sup>3</sup>	30 ft	30 ft	30%	35 ft	§23.7
Short Term Rental	20,000 sf	100 ft	40 / 75 ft <sup>3</sup>	10 ft	10 / 30 ft <sup>1</sup>	30%	35 ft	§23.21
Telecommunications Facility	2 acres	150 ft	100 ft	75 ft	75 ft	30%	40 ft	§23.24
Tree Nurseries and Commercial Green Houses	1 acre	100 ft	40/ 75 ft <sup>3</sup>	10 ft	10 / 30 ft <sup>1</sup>	30%	35 ft	
Two-Family Dwelling	20,000 sf	100 ft	40 / 75 ft <sup>3</sup>	10 ft	10 / 30 ft <sup>1</sup>	30%	35 ft	§24.14
Wind Energy System	See Ch. 136 for Wind Energy System Regulations.							
Accessory Uses								
Accessory Dwelling Unit	*	*	*	10 ft	10 ft	*	*	§23.4

- NOTES:** (1) The larger requirement is to a dwelling or attached garage; the smaller requirement is to other structures.  
(2) Lot coverage requirements will be determined through Site Plan Review.  
(3) The larger requirements is for lots fronting a major road, the smaller requirement is for lots fronting a minor road.  
\* - Refer to primary use for bulk and dimensional requirements.



**§20.5**

**RESIDENTIAL SUBURBAN – 10,000 SF (RS-10)**

**A. Purpose.** The purpose of the RS-10 District is to implement the vision and goals contained in the Town of Clarkson Comprehensive Plan for the residential areas surrounding Clarkson Corners. These neighborhoods are generally characterized by single-family homes on lots of a half acre or less with unobstructed front yards and a traditional residential character. The intent of the RS-10 District is to encourage investment and stability in the neighborhoods adjacent to Clarkson Corners, while accommodating growth opportunities that respect the surrounding rural area.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BUILDING HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE	REAR			
Permitted Uses								
Principal Uses								
Single-Family Dwelling	10,000 sf	75 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	§24.14
Municipal Use or Structure	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	
Public Park or Playground	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	
Religious Institutions	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	
Accessory Uses								
Accessory Structure or Use	*	*	*	10 ft	10 ft	*	20 ft	§23.5
Keeping of Chickens	3 acres	75 ft	-	30 ft	30 ft	*	*	§23.16
Keeping of Bees	2 acres	75 ft	-	30 ft	30 ft	*	*	§23.16
Residential Ground- or Roof-Mounted Solar Array	*	*	*	*	*	*	*	§23.22
Specially Permitted Uses								
Principal Uses								
Bed & Breakfast	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	§23.9
Day Care Facility, Child, or Adult	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	§23.12
Educational Institution	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	
Home Occupation, Residential	*	*	*	*	*	*	*	§23.15
Multi-Family Dwelling, up to 4 units	20,000 sf	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	40 ft	§23.17
Multi-Family Dwelling, over 4 units	1 acre	100 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	40 ft	§23.17
Short Term Rental	20,000 sf	75 ft	25 ft	10 ft	10 / 30 ft¹	40%	35 ft	§23.21
Telecommunications Facility	2 acres	150 ft	100 ft	75 ft	75 ft	40%	40 ft	§23.24
Two-Family Dwelling⁴	10,000 sf	75 ft	40 / 75 ft³	10 ft	10 / 30 ft¹	40%	35 ft	§24.14
Accessory Uses								
Accessory Dwelling Unit	*	*	*	10 ft	10 ft	*	*	§23.4

- NOTES:** (1) The larger requirement is to a dwelling or attached garage; the smaller requirement is to other structures.  
 (2) Lot coverage requirements will be determined through Site Plan Review.  
 (3) The larger requirement is for lots fronting a major road, the smaller requirement is for lots fronting a minor road.  
 (4) New construction only; two-family development by conversion is prohibited.  
 \* - Refer to primary use for bulk and dimensional requirements.



# ARTICLE 21.

## MIXED USE DISTRICTS

### § 21.1 DISTRICTS ESTABLISHED

The mixed use districts of the Town of Clarkson are listed in the following table. When this zoning law refers to mixed use or "MU" zoning districts, it is referring to one of the following:

DISTRICT NAME	ABBREVIATION & MAP SYMBOL
<i>Mixed Use Residential</i>	<b>MU-R</b>
<i>Mixed Use Corridor</i>	<b>MU-C</b>
<i>Mixed Use Office</i>	<b>MU-O</b>
<i>Mixed Use Industrial</i>	<b>MU-I</b>

### § 21.2 REVIEWS REQUIRED

No building, structure, or lot shall hereafter be erected, altered, or demolished within a mixed use district without obtaining the following approvals, as applicable:

- A. Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article 41 of this Chapter.
- B. Site Plan Review.** Site plan review shall be required as provided for in Article 42 of this Chapter. This shall include, but is not limited to, new construction, alteration, or demolition of structures.

### § 21.3 MIXED USE RESIDENTIAL (MU-R)

- A. Purpose.** The purpose of the MU-R District is to support the vision and development goals of the Town of Clarkson Comprehensive Plan for the Town's several identified activity centers. This District shall support development that enhances existing historic character and fosters new development that is reflective of traditional and historic commercial development patterns. More specifically, the MU-R District is intended to foster the development of a small-scale, mixed use residential, commercial, and civic activity centers that serves the community in a manner consistent a pedestrian-oriented and traditional character of a commercial and civic center of a rural community.

**B. Uses and Bulk / Dimensional Requirements**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Principal Uses								
Animal Hospital or Grooming Shop	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.7
Brewery, Winery, or Distillery	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.10
Community Center, Library, or Cultural Facility	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.12
Dance, Art, Photo, or Music Studio	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Day Care Facility, Child or Adult	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Eating or Drinking Establishment	30,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Educational Institution	30,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Financial Institution	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Gym or Health Club	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Laundromat or Dry-Cleaning Outlet	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Lodging	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Medical Office or Clinic	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%		
Mix of Uses in Single Structure or Lot	*	*	*	*	*	*	*	
Municipal Use or Structure	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Office, Administrative or Professional	15,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Public Park or Playground	15,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Recreation Facility, Indoor	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Retail or Personal Service Store	15,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Religious Institutions	15,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Single Family Dwelling	10,000 sf	50 ft	40 ft	10 ft	10 ft	75%	45 ft	
Upper Floor Dwelling Unit	*	*	40 ft	*	*	*	*	
Accessory Uses								
Accessory Structure or Use	*	*	40 ft	10 / 20 ft	10 / 20 ft	*	*	§23.5
C/IA/M Ground- or Roof Mounted Solar Array	*	*	75/ 100 ft¹	75 ft	75 ft	*	12 ft²	§23.22
Temporary Storage Unit	15,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.23
Specially Permitted Uses								
Principal Uses								
Bed & Breakfast	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.9
Event Center	1 acre	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.14
Gasoline or Charging Station	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Hospice, Nursing Home, or Assisted Living Facility	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	
Multi-Family Dwelling, up to 4 units	30,000 sf	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.17
Multi-Family Dwelling, over 4 units	1 acre	100 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.17
Short Term Rental	20,000 sf	75 ft	40 ft	10 / 20 ft	10 / 20 ft	75%	45 ft	§23.21
Two-Family Dwelling	15,000 sf	75 ft	40 ft	10 ft	10 ft	75%	45 ft	§24.14
Accessory Uses								
Drive Through Facility	*	*	*	*	*	*	*	§23.13
Home Occupation, Residential	*	*	*	*	*	*	*	§23.15
Outdoor Sales, Display, or Storage Area	*	*	*	*	*	*	*	§23.18
Outdoor Assembly or Seating Area	*	*	*	*	*	*	*	§23.18

**NOTE:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.

(2) The height restriction applies to ground-mounted solar arrays.

\* – Refer to primary use for bulk and dimensional requirements.



## § 21.4

## MIXED USE CORRIDOR (MU-C)

**A. Purpose.** The purpose of the MU-C District is to support the provision of a broad range of commercial goods and services that serve residents, farmers, and the greater Clarkson community in accordance with the Town's Comprehensive Plan. Uses in this District should strengthen the economic vitality of Clarkson without detracting from its rural character. The mixing of uses in the MU-C District is encouraged. Future development and investment in the MU-C District shall observe the following:

1. Building appearance, including architectural treatments, palettes, and the general design of all buildings and grounds, is of such quality and design as to enhance the character of the commercial corridor.
2. Sound planning, landscape, and buffering management practices are utilized to enhance the separation and compatibility of adjacent commercial, residential, and agricultural uses and all other nearby properties.
3. Access management practices are utilized to ensure a sustainable land use development pattern and that safe, predictable, and efficient vehicular travel patterns are maintained.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Principal Uses								
Animal Hospital or Grooming Shop	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	\$23.7
Building Materials Supply²	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	\$23.10
Brewery, Winery, or Distillery	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Community Center, Library, or Cultural Facility	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Dance, Art, Photo, or Music Studio	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	\$23.12
Day Care Facility, Child or Adult	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Eating or Drinking Establishment	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Educational Institution	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	\$23.12
Farm Implement Dealer	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	
Financial Institution	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Gym or Health Club	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	\$23.12
Laundromat or Dry-Cleaning Outlet	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Lodging	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	
Machinery / Tool Stores²	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	\$23.12
Medical Office or Clinic	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Mix of Uses in Single Structure or Lot	*	*	*	*	*	*	*	
Trades Shop	1 acre	100 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	\$23.12

\*TABLE CONTINUED ON FOLLOWING PAGE\*

- NOTES:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
 (2) If conducted entirely within an enclosed building.  
 \* - Refer to primary use for bulk and dimensional requirements.



**WORKING DRAFT – AUGUST 25, 2025**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Municipal Use or Structure	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Nursery or Garden Store	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	
Office, Administrative or Professional	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Public Park or Playground	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Recreation Facility, Indoor	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Religious Institutions	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Retail or Personal Service Store	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	
Accessory Uses								
Accessory Structure or Use	*	*	*	15 / 25 ft	20 / 30 ft	*	*	§23.5
C/IA/M Ground- or Roof Mounted Solar Array	*	*	75/ 100 ft¹	75 ft	75 ft	*	12 ft³	§23.22
Temporary Storage Unit	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	§23.23
Specially Permitted Uses								
Principal Uses								
Automotive Sales, Service, or Repair Shop	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	§23.8
Bed & Breakfast	25,000 sf	100 ft	70 ft	30 / 40 ft	30 / 40 ft	60%	40 ft	§23.9
Car Wash	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	§23.11
Funeral Home	25,000 sf	100 ft	70 ft	20 / 30 ft	30 / 40 ft	60%	40 ft	
Gasoline or Charging Station	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	§23.14
Hospice, Nursing Home, or Assisted Living Facility	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	
Kennel	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	§23.7
Recreation Facility, Outdoor	1 acre	150 ft	70 ft	30 / 40 ft	30 / 50 ft	60%	40 ft	§23.20
Accessory Uses								
Drive Through Facility	*	*	*	*	*	*	*	§23.13
Home Occupation, Residential	*	*	*	*	*	*	*	§23.15
Home Occupation, Agricultural	*	*	*	*	*	*	*	§23.15
Outdoor Sales, Display, or Storage Area	*	*	*	*	*	*	*	§23.18
Outdoor Assembly or Seating Area	*	*	*	*	*	*	*	§23.18

- NOTES:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
(2) If conducted entirely within an enclosed building.  
(3) The height restriction applies to ground-mounted solar arrays.  
\* – Refer to primary use for bulk and dimensional requirements.

## § 21.5

## MIXED USE OFFICE (MU-O)

**A. Purpose.** The purpose and intent of the MU-O District is to implement the future land use vision and goals of the Town of Clarkson Comprehensive Plan. The application of the MU-O shall maintain and enhance the District as a location for the provision of medical and professional offices, services, and a variety of residential uses in close proximity. Future development in the MU-O District should enhance the character and walkability of the areas through streetscaping and landscaping improvements – building off of the walkable and dense development pattern of the Village of Brockport to the south, and providing continuous pedestrian connections to the public right-of-way. Any proposed development shall not detract from the desired character of the streetscape and quality of life for adjacent neighborhoods, using landscaping and screening, and other mitigating site design elements as appropriate.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Principal Uses								
Dance, Art, Photo, or Music Studio	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	\$23.12
Day Care Facility, Child or Adult	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Educational Institution	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Financial Institution	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Mix of Uses in Single Structure or Lot	*	*	*	*	*	*	*	
Municipal Use or Structure	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Office, Administrative, Professional, or Medical	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Public Park or Playground	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Religious Institutions	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Accessory Uses								
Accessory Structure or Use	*	*	*	5 / 15 ft	15 / 20 ft	*	*	\$23.5
C/IA/M Ground- or Roof Mounted Solar Array	*	*	75/ 100 ft¹	75 ft	75 ft	*	12 ft²	\$23.22
Specialty Permitted Uses								
Principal Uses								
Animal Hospital or Grooming Shop	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	\$23.7
Brewery, Winery, or Distillery	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	\$23.10
Eating or Drinking Establishment	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Gym or Health Club	1 acre	150 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Hospice, Nursing Home, or Assisted Living Facility	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Lodging	1 acre	150 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	60 ft	
Multi-Family Dwelling, up to 4 units	30,000 sf	100 ft	40 ft	20 ft	30 ft	65%	45 ft	\$23.17
Multi-Family Dwelling, over 4 units	1 acre	100 ft	40 ft	25 ft	30 ft	65%	45 ft	\$23.17
Retail or Personal Service Store	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	
Recreation Facility, Indoor	20,000 sf	100 ft	40 ft	10 / 20 ft	20 / 30 ft	65%	45 ft	

- NOTE:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
 (2) The height restriction applies to ground-mounted solar arrays.  
 \* – Refer to primary use for bulk and dimensional requirements.



## § 21.6

## MIXED USE INDUSTRIAL (MU-I)

**A. Purpose.** The purpose of the MU-I District is to provide for increased economic development opportunity where the provision of low-impact commercial and light industrial uses is desired. The intent of the MU-I District is to permit the continuation and protection of low intensity, enclosed industrial uses in combination with limited commercial uses. Light Industrial uses allowable within this District shall be operated within an enclosed building and employ techniques to minimize negative impacts (including, but not limited to traffic, parking, glare, noise, dust, odor, etc.) on adjacent non-industrial uses, especially established residential districts and environmentally sensitive areas. The architectural treatment and general appearance of all buildings and grounds shall be of such quality and design as to be a visual asset to the area in which they are located as well as adjacent properties.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Principal Uses								
Agricultural and Food Processing or Packaging Plant	5 acres	200 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Automotive Sales, Service, or Repair Shop	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	\$23.8
Building Materials Supply	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Contractor Storage Yard or Shop	2 acres	150 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Farm Implement Dealer	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Gym or Health Club	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Machinery / Tool Stores²	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Manufacturing, Production, Processing, Packaging, or Assembly Facility²	5 acres	200 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Mix of Uses in Single Structure or Lot	*	*	*	*	*	*	*	
Municipal Use or Structure	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Nursery or Garden Store	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Office, Administrative, or Professional	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Printing or Publishing Operation	2 acres	150 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Religious Institutions	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Self Service Storage Facility	2 acres	150 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Trades Shop	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Warehouse, for storage or distribution of goods²	5 acres	200 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	

**NOTES:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
 (2) If conducted entirely within an enclosed building.

**\*TABLE CONTINUED ON FOLLOWING PAGE\***



USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BLDG HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Accessory Uses								
Accessory Structure or Use	*	*	*	20 / 30 ft	30 / 40 ft	*	*	§23.5
C/I/A/M Ground- or Roof Mounted Solar Array	*	*	75/ 100 ft¹	75 ft	75 ft	*	12 ft³	§23.22
Temporary Storage Unit	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.23
Specially Permitted Uses								
Principal Uses								
Animal Hospital or Grooming Shop	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.7
Adult Use & Entertainment Establishment	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.6
Car Wash	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.11
Gasoline or Charging Station	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.14
Hospice, Nursing Home, or Assisted Living Facility	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Kennel	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	§23.7
Lumberyard	2 acres	150 ft	100 ft	50 / 100 ft	50 / 100 ft	65%	45 ft	
Recreation Facility, Indoor	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	65%	45 ft	
Accessory Uses								
Drive Through Facility	*	*	*	*	*	*	*	§23.13
Outdoor Sales, Display, or Storage Area	*	*	*	*	*	*	*	§23.18

- NOTES:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
(2) If conducted entirely within an enclosed building.  
(3) The height restriction applies to ground-mounted solar arrays.  
\* – Refer to primary use for bulk and dimensional requirements.

# ARTICLE 22.

## SPECIAL PURPOSE DISTRICTS

### § 22.1 DISTRICTS ESTABLISHED

The special purpose districts of the Village of Watkins Glen are listed in the following table.

DISTRICT NAME	ABBREVIATION & MAP SYMBOL
<i>Recreation Conservation</i>	RC
<i>Mobile Home</i>	MH
<i>Historic Overlay</i>	HO
<i>Solar Energy System Overlay</i>	SESO

### § 22.2 REVIEWS REQUIRED

No building, structure, or lot shall hereafter be erected, altered, or demolished within the Town of Clarkson without obtaining the following approvals, as applicable:

- A. **Special Use Permit.** A special use permit shall be required as indicated in this Article and as provided for by Article 41 of this Chapter.
- B. **Site Plan Review.** Site plan review shall be required as provided for in Article 42 of this Chapter. This shall include, but is not limited to, new construction, alteration, or demolition of structures.

### § 22.3 RECREATION CONSERVATION (RC)

- A. **Purpose.** The purpose of the RC District is to preserve and enhance the Town's open spaces and recreational areas by protecting these natural amenities and restricting development that would not respect these environmentally sensitive areas and would not conform to the Town of Clarkson Comprehensive Plan. The RC District is intended to apply to private and publicly owned or accessible parks, squares, recreational areas, natural wildlife areas, and water resources.

**B. Uses and Bulk / Dimensional Requirements.**

USES	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM SETBACKS			MAX LOT COVERAGE	MAX BUILDING HEIGHT	ADDITIONAL REGULATIONS
			FRONT	SIDE¹	REAR¹			
Permitted Uses								
Principal Uses								
Agricultural Operations	5 acres	200 ft	100 ft	20 ft	50 ft	20%	35 ft	
Camping Trailer Park²	5 acres	200 ft	100 ft	20 ft	50 ft	20%	35 ft	
Game Farms and Fishing Areas	5 acres	200 ft	100 ft	20 ft	50 ft	20%	35 ft	
Municipal Use or Structure	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	
Picnic Grounds	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	
Public Park or Playground	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	
Riding Stables and Trail Areas	2 acres	150 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	
Single-Family Dwelling³	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	§24.14
Snowmobile Trails	*	*	*	*	*	*	*	
Accessory Uses								
C/IA/M Ground- or Roof Mounted Solar Array	*	*	75/ 100 ft¹	75 ft	75 ft	*	12 ft⁵	§23.22
Temporary Storage Unit	2 acres	200 ft	100 ft	20 ft	50 ft	20%	35 ft	§23.23
Specially Permitted Uses								
Principal Uses								
Gun and Archery Clubs and Ranges	5 acres	200 ft	100 ft	20 ft	50 ft	20%	35 ft	
Recreation Facility, Outdoor	1 acre	100 ft	50 ft	20 / 30 ft	30 / 40 ft	20%	35 ft	§23.20
Telecommunications Facility	2 acres	150 ft	100 ft	75 ft	75 ft	20%	40 ft	§23.24
Accessory Uses								
Outdoor Assembly or Seating Area	*	*	*	*	*	*	*	§23.18

- NOTE:** (1) The first number is the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.  
(2) Subject to the provisions of the Camping Trailer Park Ordinance of the Town of Clarkson.  
(3) Only for the occupancy of resident-managers and/or the property owner.  
(4) Lot coverage requirements will be determined through Site Plan Review.  
(5) The height restriction applies to ground-mounted solar arrays.  
\* – Refer to primary use for bulk and dimensional requirements.



## § 22.4 MOBILE HOME (MH)

---

- A. Purpose.** The Mobile Home District is established to permit the development of mobile home parks within the Town of Clarkson. It is deemed desirable to limit the number of mobile homes to 10% of the total dwelling units within the Town. During periods of mobile home development activity, the ratio may, at any one time, be as high as 15%. However, once the fifteen-percent limit is reached, no additional permits will be issued until the overall ratio is reduced back to 10% or less.
- B. Applicable Regulations.** Refer to Chapter 94 – Mobile Home Parks and Trailer Parks.

## § 22.5 HISTORIC OVERLAY (HO)

---

- A. Purpose.** Inasmuch as the Town of Clarkson has the good fortune to have within its limits a unique concentration of homes and other structures of distinctive architectural value, and the preservation of these features for the enjoyment and education of all residents, present and future, is in the best interests of the community and supportive of the public welfare, it is the intent of the Town Board to take action to preserve these structures as active buildings for the full use and enjoyment of their owners while ensuring the maintenance of those features of the building that make them noteworthy. It is the further intent of this section to ensure that development of the immediate surroundings of the HO District does not become inimical to these interests.
- B. Applicability.** The HO District shall consist of the historic districts and properties listed on the New York State and National Registers of Historic Places and as identified on the Town's official zoning map. For the purposes of this Chapter, the HO District shall be considered an overlay district. Where the regulations of the HO District conflict with that of the underlying district, the HO District regulations shall take precedence.
- C. Permitted Uses.** This section does not in any way alter the permitted uses established by the zoning district in which the properties in question are situated.
- D. Permit Required.**
1. Upon application to the Code Enforcement Officer for a zoning permit for property within the HO District, the application will be referred by the Code Enforcement Officer to the Historic Preservation Commission. The Board may request of the applicant any additional drawings, plans or other data necessary to carry out the intent of this section. The Code Enforcement Officer shall not issue any zoning permits without the approval of the Historic Preservation Commission.
  2. The Historic Preservation Commission shall, within 35 days of receipt of all requested information and exhibits, approve, modify or disapprove the application. The grounds for said approval, modification or disapproval shall be:
    - a. For Class I buildings, the preservation and/or enhancement of those features described in the historical inventory.

- b. For Class II buildings, an architectural design and site plan that is in keeping with the architectural style of adjacent Class I buildings and will in no way detract from their value.
- 3. Setbacks for reconstruction of existing or destroyed buildings.
  - a. Where an application is made to reconstruct an existing structure or a structure previously existing which was destroyed by fire or other cause, the preexisting setback may be continued even if it less than that otherwise required unless such setback would violate a provision of the New York State building and construction law.
  - b. A permit to rebuild a structure which has been destroyed by fire or other cause must be made within one year from the time that the structure was destroyed. After one year, the applicant will be referred to the Zoning Board of Appeals.
- E. **Adjacent properties.** Applications for zoning permits on properties adjacent to the district for construction of buildings that will be visible from the district will also be referred to the Historic Preservation Commission for approval. In reviewing such applications, the Historic Preservation Commission will not necessarily concern itself with style, but rather with bulk and mass, and will employ the general criteria of Article 33. Style would be germane if, in the opinion of the Historic Preservation Commission, it were such a disparate nature as to actually work against the intent of this section.

## § 22.6

### SOLAR ENERGY SYSTEM OVERLAY

---

All applications for solar energy systems must comply with the regulations of Chapter 108: Solar Energy Systems of the Code of the Town of Clarkson.

# ARTICLE 23.

## ADDITIONAL USE REGULATIONS

### § 23.1 PURPOSE

---

This Article provides additional regulations for uses that are generally considered to have a higher potential for incompatibility with residential or low impact commercial uses without proper mitigation measures. The purpose of the regulations contained herein is to promote the health, safety, and general welfare of the public, while also protecting property values and the character of the immediate neighborhood and greater Clarkson community.

### § 23.2 INTENT

---

These regulations are intended to mitigate the potentially undesirable impacts of certain uses, which by reason of the nature or manner of operation, are or may become hazardous, obnoxious, or offensive owing to excessive and undue increases in the production and presence of odors, dust, smoke, fumes, noise, vibrations, refuse matter, vehicular traffic, or human activity.

### § 23.3 APPLICABILITY

---

- A. The following requirements are applicable to all uses, permitted (P) and specially permitted (SP), as noted in the use tables of Articles 20, 21, and 22 of this Chapter.
- B. Specially permitted uses must obtain a special use permit and site plan review in accordance with Articles 41 and 42.
- C. Permitted uses do not require a special use permit. However, uses permitted as-of-right must obtain site plan review approval in accordance with Article 42 and conform to the additional use requirements of this Article, where applicable.
- D. Should the additional use regulations of this Article conflict with other requirements of this Chapter, the regulations contained herein shall take precedence.

### § 23.4 ACCESSORY DWELLING UNITS (ADUS)

---

- A. **Purpose.** The purpose of regulating accessory dwelling units is to:
  - 1. Create new housing units while respecting the design and scale of low density residential neighborhoods;
  - 2. Increase the housing stock of existing neighborhoods in a manner that is less intense than multi-family dwelling alternatives;



3. Provide a broader range of affordable housing options that respond to changing family and household needs; and
4. Offer a means for residents to remain in their homes and neighborhoods while also obtaining extra income, security, companionship, and/or services.

**B. General Requirements.** Accessory dwelling units shall conform to the following.

1. Such use may only operate as an accessory use to a single-family dwelling and only where located within the primary structure within the RS-10 District. ADUs shall be permitted as a detached structure in the AR and RS-20 Districts. There shall be no more than one such use per property.
2. No such use shall be permitted on a nonconforming lot or within a nonconforming principle or accessory structure.
3. The total floor area shall not exceed 30% of the total habitable floor area of the single-family dwelling and shall not include more than one (1) bedroom.
4. The habitable floor area of an accessory dwelling unit shall conform to the requirements of §23.17.
5. All exterior entrances for accessory dwelling units located within the primary structure shall be located on the side or rear façade of the primary structure.
6. Where an accessory dwelling unit is permitted as a detached structure, the detached structure shall not be placed nearer to the front property line than the rear line or footprint of the main building or residence upon such lot.
7. No such use shall be permitted if an existing approved driveway cannot accommodate at least one off-street parking space, in addition to the parking spaces required for the single-family dwelling.
8. The construction, modification, addition, or demolition of such use shall not discernably alter the single-family residential character of the lot or structure located thereon.
9. Such use may be subject to an annual inspection by the Code Enforcement Officer to ensure compliance with the requirements of this Chapter and all other local, regional, or state laws, rules, and regulations.

**C. Owner-Occupancy Requirements.**

1. At least one of the dwellings (primary or accessory) shall be occupied by the property owner and maintained as their primary residence.
2. The property owner shall sign an affidavit before a notary public affirming that the property is their primary residence. Such an affidavit shall be submitted to the Code Enforcement Officer. Upon sale of the property, a new owner shall be required to sign and submit a new affidavit within 30 days of the close of sale.

3. The individual sale of an accessory dwelling unit apart from the single-family dwelling is strictly prohibited.

## § 23.5 ACCESSORY USES & STRUCTURES

---

**A. General Requirements.** Accessory uses and structures shall meet all of the following requirements:

1. They shall not be established or constructed until the primary use or structure is constructed.
2. They shall be clearly incidental and subordinate to the principal structure or use by height, area, extent, and purpose.
3. Front Yards. They shall not be located in any required front yard area.
4. Height, Setback & Lot Coverage. They shall be in conformance with the dimensional and bulk requirements of the zoning district in which they are located and shall not cause the rate of overall lot coverage to exceed the maximum rate permitted.
5. Architectural. They shall be finished with materials and/or siding that is consistent and compatible with the existing character of the primary structure and surrounding neighborhood.
6. Obstruction. They shall not obstruct, block, or force the enclosure of any structural opening (windows, doors, etc.), open porch, deck, or terrace, or required vehicular or pedestrian accessway.

**B. Special Requirements for residential accessory uses and structures.** Accessory uses and structures in residential districts shall also meet all of the following requirements:

1. One accessory building shall be permitted on any residential lot in the Town of Clarkson, with the following limitations and under the following conditions:
  - a. Setbacks. The placement of any such building shall conform to all setback requirements applicable to the district.
  - b. Front Yards and Side Yards. They shall not be located in any required front yard area or side yard area.
  - c. No such building shall be placed nearer to the front property line than the rear line or footprint of the main building or residence upon such lot.
  - d. No such building shall be larger than 25% of the square footage of the main building or habitable floor area of the residence upon such lot, or 2% of the lot size, whichever is larger. In no case shall the accessory building exceeded 2,500 square feet in size. Agricultural buildings on working farms are exempt.
  - e. Site Plan. If the accessory building is more than 600 square feet in area, site plan approval shall be required.

f. Height.

i. No accessory building shall:

- (a) Be higher than the main building or residence.
- (b) Exceed the maximum height permitted in the zoning district.
- (c) Exceed a height of 20 feet.

ii. The height will be determined at the location of the accessory structure.

iii. Agricultural buildings on working farms shall comply with the height requirement of the zoning district in which they are located.

g. Shipping or cargo containers, trailers, truck compartments, and similar portable storage containers are prohibited in residential districts unless a 30-day permit is issued by the Building Department for the following temporary storage purposes: fire, structural damage or moving. Such permits may be renewed for up to two 30-day periods for no more than 90 days total.

2. Each application for a building permit to construct, build or erect an accessory building shall be accompanied by plans in sufficient detail to show:

- a. A plot plan of the property showing the location of the accessory building in reference to side lines, rear lines and other buildings of the lot.
- b. Accessory building dimensions, depth and area.
- c. That the requirements of the New York State Uniform Fire Prevention and Building Code have been met.
- d. An estimate of the cost of the accessory building.
- e. A plan that shows any changes to the grading of the lot and the impacts on drainage.

**C. Residential accessory uses and structures.** The following shall be considered permissible residential accessory uses or structures for the purposes of this Chapter:

- 1. Decks, patios, terraces, seating areas, or gazebos.
- 2. Residential garages, carports, off-street parking areas and driveways
- 3. Enclosed storage structures, such as sheds.
- 4. Fences, in accordance with §140-24.6.
- 5. Playgrounds or playhouses.
- 6. Private swimming pools in accordance with Chapter 119.



7. Noncommercial nurseries, gardens, or greenhouses.
  8. Fire escapes or other such structures intended to maintain the health, safety, and welfare of residents within the dwelling and the general public.
  9. Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
  10. Dish or radio antennas no more than one meter in diameter and intended for noncommercial use. Such antennae shall not extend more than 30 inches above the roofline or exceed the maximum building height of the district, whichever is less.
  11. Personal generators, air conditioning units, and other small-scale mechanical equipment for noncommercial use, provided such equipment is located in the side or rear yard.
  12. Green infrastructure installations, such as rain barrels, rain gardens, or bioswales.
  13. Other uses and structures which the Code Enforcement Officer deems appropriate by virtue of similarity in nature, activity, and/ or extent to those already listed.
- D. Nonresidential accessory uses and structures.** The following shall be considered permissible nonresidential accessory uses or structures for the purposes of this chapter:
1. Decks, patios, terraces, or seating areas otherwise not programmed for public use as part of the primary operation. Outdoor seating and assembly areas shall be in conformance with site plan approval.
  2. Garages or carports and off-street parking and loading areas, including charging stations and EVSE, with site plan approval.
  3. Enclosed storage structures, such as sheds.
  4. Fences and walls in accordance with §140-24.6
  5. Playgrounds or playhouses.
  6. Nurseries, gardens, or greenhouses.
  7. Fire escapes or other such structures intended to maintain the health, safety, and welfare of employees, patrons, and the general public.
  8. Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use.
  9. Dish or radio antennae no more than two meters in diameter when screened from public view and adjacent residential property. Such antennae shall not extend more than five feet above the roofline or exceed the maximum building height of the district, whichever is less.

10. Generators, HV AC systems, and other mechanical equipment, provided such equipment is located, screened, and operated in accordance with the requirements of this Chapter.
11. Green infrastructure installations, such as rain barrels, rain gardens, or bioswales.
12. Pump houses, water towers and storage tanks.
13. Walkup service windows with site plan review approval.
14. Clinics, cafeterias and recreational facilities for the exclusive use of employees of the principal use, with site plan approval.
15. Other uses and structures which the Code Enforcement Officer deems appropriate by virtue of similarity in nature, activity, and/or extent to those already listed.

## § 23.6

## ADULT USE & ENTERTAINMENT ESTABLISHMENTS

---

### A. Purposes and Considerations.

1. In the execution of this article it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
2. It is further declared that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Clarkson.
3. These special regulations are itemized in this article to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

### B. Definitions. As used in this article, the following terms shall have the meanings indicated:

1. **ADULT BOOKSTORE** — An establishment having as a substantial or significant portion of its stock-in-trade any of the following: books, magazines or other periodicals; instruments, devices or paraphernalia which are designed for use in connection with specific sexual activities; films, slides and video tapes; and which establishment is customarily not open to the public generally but excludes any minor by reason of age.
2. **ADULT DRIVE-IN THEATER** — A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.

3. **ADULT ENTERTAINMENT CABARET** — A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.
  4. **ADULT MOTEL** — A motel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.
  5. **ADULT THEATER** — A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.
  6. **PEEP SHOWS** — A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally but excludes any minor by reason of age.
- C. **Location Restrictions.** The adult uses as defined in Subsection B above are to be restricted as to location in the following manner in addition to any other requirements of this Code.
1. Any of the above uses shall not be located within a three-hundred-foot radius of any park or area zoned for residential use.
  2. Any of the above uses shall not be located within a five-hundred-foot radius of any school, church or other place of religious worship, playground or playing field.
- D. **Waiver of Location Restrictions.** The restrictions enumerated in Subsection C above may be waived by the Zoning Board of Appeals if the applicant shows and the Zoning Board of Appeals finds that the following conditions have been met in addition to the following:
1. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this article will be observed;
  2. That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and
  3. That 51% or more of the property owners within the restricted area as defined in Subsection C(1) of this section have signed a petition stating that they have no objection to the establishment of one of the uses defined above.
- E. **Lot Restrictions.** No more than one of the adult uses as defined above shall be located on any lot.



**§ 23.7**

**ANIMAL HOSPITALS, GROOMING SHOPS, & KENNELS**

---

**A. General Requirements.** The following shall apply to all animal grooming shops, animal hospitals, veterinary clinics, and kennels.

1. Adjacent properties shall be adequately protected from noise, odors, and unsightly appearances as determined appropriate by the reviewing body in site plan review. Such protections may include, but are not limited to landscaped buffers, berming, and fencing.
2. A waste management plan shall be required to ensure proper upkeep of the site and disposal of animal excrement and waste.
3. All operations must apply for and secure proper licensing and registration as required by state and local law.

**B. Animal Grooming Shops.**

1. All services shall be provided within a completely enclosed building.
2. The boarding of animals shall be prohibited.
3. All buildings, structures, and accessory use areas, except off-street parking areas, shall be located at least 50 feet from any property line abutting a residential district.

**C. Animal Hospitals, Veterinary Clinics and Kennels.**

1. All services shall be provided within a completely enclosed building, with the exception of outdoor animal exercise, play, or containment areas subject to site plan review approval.
2. All buildings, structures, accessory use areas, and outdoor animal exercise, play, or containment areas, except off-street parking areas, shall be located at least 50 feet from any property line abutting a residential use or district.
3. Screening for outdoor animal exercise, play, or containment areas may be required along lot lines bordering residential uses or districts at the reviewing body's discretion.
4. All animals will be confined to the property and housed in an enclosed structure in humane conditions (i.e. protected from weather, clean, sanitary, adequate space, non-porous surfaces, well-ventilated, etc.) All animals shall be kept within a totally enclosed building between 9:00 PM and 7:00 AM.

**§ 23.8**

**AUTOMOTIVE SALES, SERVICE, & REPAIR SHOPS**

---

**A. General Requirements.**

1. All areas for the travel or storage of motor vehicles shall be hard surfaced, suitably graded and drained, and maintained in a neat and orderly manner.

2. Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall minimally consist either of fencing, evergreen shrubbery, coniferous trees, or any combination thereof that prevents the unwanted transmission of headlight glare across the property line.
  3. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
  4. Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).
  5. The retail sales of fuel at automotive service or repair shops shall not be permitted, unless an additional permit is obtained for a gasoline station in accordance with this Chapter.
  6. No outdoor storage of materials, merchandise, and equipment shall be permitted during non-business hours.
  7. No outdoor storage of unlicensed vehicles shall be permitted.
  8. All such uses shall also comply with all applicable development standards as provided in Part 5 of this Chapter.
  9. No such use shall be permitted in the Town of Clarkson within a 500 foot buffer from the property lines of an existing automotive sales, service, or repair shop.
- B. Automotive Service and Repair Shops.** Service and repair shops shall comply with the following regulations:
1. The number of vehicles that can be accommodated on site for repair and storage is to be determined by the Planning Board;
  2. Repair shops shall not be used for the storage, sale, rental or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles;
  3. All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than 48 hours; and
  4. A spill prevention plan shall be provided.

## § 23.9

## BED & BREAKFASTS

In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria and/or any other conditions as determined by the Planning Board:

- A.** Bed and Breakfast shall only be permitted as a specified use in a single-family, detached dwelling;

- B. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for Bed and Breakfast activities;
- C. The owner/operator of the Bed and Breakfast shall live full-time on the premises;
- D. Up to two nonresidents may be engaged as employees of the bed and breakfast operation;
- E. A Bed and Breakfast shall have a maximum of four guest rooms with no more than two guest rooms sharing a single bath and no more than eight adult guests at one time. For the purpose of this section, "adult" means any person over the age of 18;
- F. The maximum length of stay for any guest is 14 consecutive days;
- G. Parking shall be provided in accordance with Article 30 and may not be located in the front yard where practicable. The Planning Board shall approve the location and screening of said parking spaces; and
- H. There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood.

#### § 23.10

#### BREWERIES, WINERIES, OR DISTILLERIES

---

- A. Wineries, breweries, and distilleries located in a mixed use district shall include a retail sales and/or tasting room space that is open to the public to maintain an active storefront.
- B. When adjacent to residential uses or districts, such uses shall be buffered to minimize visual, auditory, and odor impacts in a method approved during site plan review. Such buffering may include but is not limited to landscaping, screening, and fencing.
- C. All such uses dealing with the importation, manufacture, distribution, or sale of alcohol shall obtain a license as required by the NYS Liquor Authority and operate in accordance with the regulations therein.
- D. Bars and tasting rooms shall include a minimum food preparation area and menu that satisfies the NYS Liquor Authority's minimum food requirement.
- E. A waste management plan shall be required to provide for proper upkeep of the site and disposal of refuse. All refuse containers shall be located in the rear yard and maintain a setback of at least five feet from all property lines.
- F. Where the provision of on-site refuse containers is infeasible, a shared waste management agreement may be established between adjacent uses.

#### § 23.11

#### CAR WASHES

---

- A. All washing facilities shall be completely within an enclosed building.



- B. Vacuuming facilities may be outside of the building but shall not interfere with the free flow of traffic on or off the site.
- C. Where gasoline stations are either a principal use with or an accessory use to the car wash, the requirements of the §23.14 (Gasoline and Charging Stations) shall also be adhered to.
- D. All areas for the travel or storage of motor vehicles shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
- E. Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall minimally consist either of fencing, evergreen shrubbery, coniferous trees, or any combination thereof that prevents the unwanted transmission of headlight glare across the property line.
- F. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
- G. Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).
- H. In the event a car wash is abandoned the owner shall immediately remove any outdoor vacuums, and all signs. The owner shall also provide adequate protection against unlawful entry into the building and onto the property and shall close all vehicular entrances to the property. A car wash shall be considered abandoned if it is inactive for a period of 12 consecutive months.
- I. No entrance or exit drive shall be located within 100 feet of any street intersection.
- J. At least 10 reservoir spaces, as defined herein, shall be provided for the first wash rack or wash lane and 5 additional reservoir spaces for each additional wash rack or wash lane.
- K. All such uses shall also comply with all applicable development standards as provided in Part 3 of this Chapter.

## § 23.12

## DAY CARE FACILITIES, CHILD & ADULT

---

- A. No day care shall be permitted without obtaining the proper license and registration, as required by NYS Law.
- B. All buildings, structures, and areas of organized activity dedicated to the use shall maintain a setback of at least 10 feet from all property lines.
- C. A landscaped buffer or fence of at least five feet in height shall be provided at all side and rear property lines abutting a residential use or district.
- D. Outdoor speakers and public-address or stereo systems are prohibited in residential districts.
- E. Day cares may be conducted as a home occupation, provided such use is in also in conformance with §23.15. However, the maximum number of adults and/or children under care in the residence shall not exceed eight.

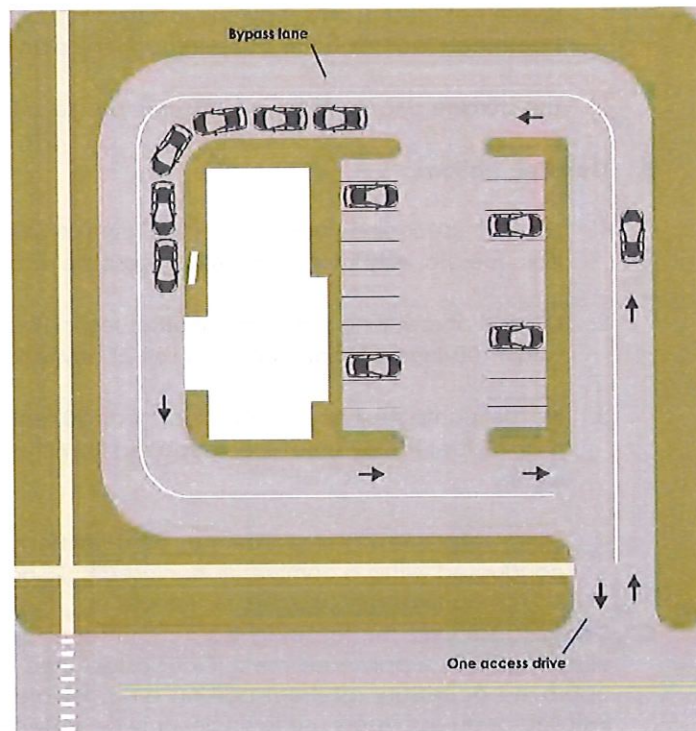
## § 23.13 DRIVE THROUGH FACILITIES

Drive-through facilities may be allowed as an accessory use to "fast food" restaurants, pharmacies, banks, and other permitted or specially permitted uses as provided for in Articles 20, 22, and 23, provided such facilities comply with the following regulations:

### A. Access Drives and Vehicular Lanes.

1. Only one access drive, or two one-way access drives, shall be permitted per street frontage.
2. Vehicular stacking/exit lanes, service areas, or windows shall not be located in the front yard.
3. All stacking/exit lanes shall be designed so that they do not interfere with off-street parking areas or vehicular and pedestrian circulation on the site. Such lanes shall be designed to reduce the impacts of traffic congestion on adjacent property and public streets.
4. Stacking lanes shall be accompanied by a bypass lane that allows vehicles to exit the stacking lane and to allow uninterrupted traffic circulation throughout the site.
5. All stacking/exit lanes and pedestrian walkways shall be delineated with landscaping, curbing, raised or decorative pavement, and/or signage that is identifiable during all seasons.

FIGURE 23.1: Drive Through Site Plan Example





**B. Speakers and Menu Boards.**

1. Speakers and any other such devices used for audio amplification shall be located a minimum of 30 feet from any adjacent residential property line and shall not be audible beyond the property line.
2. Menu boards shall not be illuminated outside of business hours.
3. To the greatest extent practicable, all speakers and menu boards shall face away from adjacent residential use(s) and public rights-of-way.

**C. Buffering and Landscaping.** All impervious surfaces, including curbing, shall maintain a setback of at least 10 feet from any abutting residential property line. Such setback areas shall be landscaped to the satisfaction of the reviewing body in site plan review.

**D. Traffic Capacity Limitations.** No drive-through shall be permitted that is anticipated to be a significant detriment to the community or to the local road network. The applicant must demonstrate that the proposed use will not alter levels of service or utilize available traffic capacity to such an extent that it cannot be adequately mitigated or otherwise create unsafe on-site or off-site traffic conditions.

**§ 23.14**

**GASOLINE & CHARGING STATIONS**

---

**A. General Requirements.** All gasoline and charging stations shall be in conformance with the following.

1. A curbed landscaped area shall be maintained along all street frontage space not used as driveway. The required landscaping and screening treatments shall be determined through site plan review.
2. The storage and/or display of vehicles for sale or for rent shall be prohibited.

**B. Gasoline Stations.**

1. No such use shall be permitted in the Town of Clarkson within a 500 foot radius from the property lines of an existing gasoline and/or charging station.
2. No part of any filling pump, lift, or other service appliance shall be erected within 100 linear feet of a property line of any residential district or use.
3. No fuel pump shall be located closer than 20 feet to any side lot line nor closer than 35 feet to any street line, measured from the outside edge of the fuel island.
4. Minor vehicle repair or service may be permitted provided all activities are conducted within a completely enclosed building.

**C. Charging Stations.** The following requirements shall apply to charging stations and electric vehicle supply equipment (EVSE) established as a primary use or part of an approved accessory off-street parking area. Private charging stations and EVSE installed as an accessory use to single- or two-family dwellings are exempt.



1. Charging stations and EVSE shall also comply with the requirements of Article 30 (Circulation, Access, and Parking), where applicable.
2. Permitted EVSE shall include Level 1, 2, and 3 charging stations.
3. Battery charging station outlets and connector devices shall be mounted to comply with local and state building and energy codes and must comply with all relevant Americans with Disabilities Act (ADA) requirements.
4. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks.
5. Cords shall be retractable or have a place to hang the connector and cord at least three (3) feet off the ground. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
6. EVSE pedestals shall be designed to minimize potential damage by accidents, vandalism and to be safe for use in inclement weather.
7. EVSE shall not encroach into the required dimensions of a parking space (length, width, and height clearances).
8. EVSE shall be maintained in all respects, including the functioning of the equipment. A phone number or other contact information shall be provided on the equipment for reporting problems with the equipment or access to it.
9. All charging stations shall provide EVSE in at least one (1) accessible parking space or 25% of the minimum number of accessible parking spaces required by the ADA, whichever is greater.

## § 23.15

## HOME OCCUPATIONS

---

**A. Residential Home Occupations.** A residential home occupation may be allowed in a principal or accessory residential structure in accordance with the following provisions:

1. Permitted residential home occupations include but shall not be limited to the following uses: lawyer, accountant, author, doctor, engineer, dentist, architect, consultant, realtor, insurance agent/broker, counselor, artist, photographer, teacher, tutor, beautician, barber, tailor, and dressmaker.
2. Prohibited home occupations include those that would generate adverse impacts to or are incompatible with the existing character of a residential district. These uses include but are not limited to the following: ambulance services, animal care services, and motorized vehicle sales or repair.
3. The home occupation shall be owned and operated by the full-time resident(s) of the dwelling and shall operate wholly within the principal building or accessory structure.

4. Not more than one persons not residing in the household shall be employed in the home occupation. Additional individuals may be employed by or associated with the home occupation in so far as they do not report to work at the home occupation site.
  5. The operation of a home occupation shall in no way change or alter the residential appearance or character of the premise or neighborhood in which it is located.
  6. There shall be no exterior display or storage of materials, good, supplies, or equipment related to the operation of the home occupation.
  7. No home occupation shall be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, or smell, electrical, magnetic or other interference, fire hazard, or any other nuisance not typically found in a residential neighborhood.
  8. Activity involving on-site retail sales is prohibited, except the sale of items that are incidental to a permitted home occupation.
  9. Deliveries on streets within residential districts shall be permitted by two-axle vehicles only.
  10. The quantity and type of solid waste and its disposal shall be the same as that of any other permitted residential use.
- B. Agricultural Home Occupations.** An agricultural home occupation may be allowed in any structure associated with an agricultural use, in accordance with the following provisions:
1. Permitted agricultural home occupations include, but shall not be limited to, the following uses: carpenter, electrician, welder, machine shop, equipment repairperson, or small engine repairperson.
  2. The use shall be conducted on a lot with a minimum area of five acres.
  3. The home occupation shall be owned and operated by the property owner and shall operate wholly within the structure.
  4. The use shall be clearly secondary to the main agricultural use and shall not change the agricultural character of the farm.
  5. There shall be no open storage of materials, goods, supplies, vehicles, or equipment which are used for, or result from, the agricultural home occupation.
  6. No use shall be noxious or offensive by reason of the hours of operation or the emission of; noise, electrical interference, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse or other objectionable emission.
  7. Activity involving on-site retail sales is prohibited, except the sale of items that are incidental to a permitted home occupation.

8. No use shall create a safety hazard for the existing residential and agricultural activities on or adjacent to the property.

## § 23.16

### KEEPING OF FARM ANIMALS, CHICKENS, & BEES

---

**A. Purpose.** The purpose of this section is to establish safeguards for the keeping of bees, chickens, and farm animals within the Town to protect the public health, safety, and welfare.

**B. Bees.**

1. No bees shall be allowed in multi-family complexes, including duplexes, without the express written consent of the owner of the building and all tenants residing therein other than the applicant.
2. All colonies must be kept in structures designed for the purpose of keeping bees and shall be of a design commonly used for the housing and keeping of bees.
  - a. Hives shall not exceed 20 cubic feet in volume.
  - b. Hives shall not be located within 30 feet of any property line.
  - c. Hives shall not be located within the front yard.
  - d. Hives shall not be located within 50 feet of a preexisting swimming pool or a preexisting kennel animal.
  - e. Hives are not permitted within 10 feet of any adjacent buildings.
  - f. To the extent possible, hive entrances shall face away from the closest neighboring property and in such a direction that the bees fly across the beekeeper's property at sufficient distance to gain a height of at least six feet at the property line.
3. A convenient on-site source of fresh water must be available at all times.
4. No bee comb or other materials may be left exposed on the property. Upon their removal from the hive, all materials must promptly be disposed of in a sealed container or placed within a bee-proof enclosure.
5. All colonies must be maintained with queens selected from stock bred for gentleness and non-swarming characteristics. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, the beekeeper must promptly re-queen the colony with another queen.

**C. Chickens.** Chickens shall be allowed on any lot in any district if they are kept and maintained under the following circumstances:

1. The minimum lot size for keeping of chickens shall be three (3) acres.



2. No more than sixteen (16) hens shall be allowed per property. The keeping of roosters shall be prohibited.
3. No chickens shall be allowed in multi-family complexes, including duplexes.
4. Keeping of chickens shall be considered an accessory use and is only permitted as incidental to lots on which the permitted principal use is single-family residential, and a single-family residence is already located on the property.
5. Chickens shall be kept for personal use only; no person shall sell eggs or meat or engage in breeding or fertilizer production for commercial purposes.
6. Coops or cages housing chickens, and outdoor enclosures, must be at least 20 feet from any door or window on the property and at least 120 feet from any door or window of any occupied structure on any adjoining property.
7. Coops, cages, and outdoor enclosures shall be located at least 100 feet from any side yard or rear yard lot line. No chickens shall be kept in the side yard or front yard areas.
8. Hens shall be provided with a covered, predator-proof coop or cages that are well ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Chickens must be kept in coops from dusk to dawn.
9. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property and to prevent predators from accessing the birds. Outdoor enclosures shall be a minimum of two square feet per hen.
10. The enclosure area must always be well drained and clean, offer access to living vegetation, be resistant to erosion by activities of the birds, and provide access to water, shelter, and feeding areas.
11. The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste. Bedding must be kept in a dry, mold-free, friable condition, and replenished, as necessary.
12. The total area of all coops or cages on a lot shall not be greater than 120 square feet for up to 16 chickens. Coops and cages, singly or in combination, shall not exceed seven feet in height. Total fenced enclosure area shall not be larger than 10% of the property's rear yard open space.
13. Chicken feed or other food used to feed the chickens shall be stored in a rat-proof, fastened container stored within a structure, which shall only be unfastened for the retrieval of food and immediately refastened thereafter.
14. The chickens shall be fed only from an approved trough. Scattering of food on the ground is prohibited.
15. Chickens shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants

of nearby buildings or properties and to comply with applicable provisions of both the New York State and Monroe County sanitary codes.

16. Chickens shall not be kept in a manner that is injurious or unhealthful to any animals being kept on the property.
17. Slaughtering of chickens is prohibited.
18. Permit required. A permit application shall be submitted to the Town of Clarkson Building Inspector for approval. Applications shall include:
  - a. A manure management plan.
  - b. Plot map of property.
  - c. Size and location of coop, cages, and enclosure.
  - d. Number of hens requested.
  - e. Two sets of plans and specifications for the proposed work.
  - f. Application fee.
19. Permits are valid for one year from the date of issue. Annual renewals shall require a mandatory inspection of cages, coops, and enclosures. Two or more violations within one calendar year of issue shall result in revocation of permit.
20. Fee. A fee schedule shall be established, and changed as needed, by resolution of the Town Board. Such fees may be charged for the issuance of permits, permit renewals and inspections.

**D. Farm Animals.**

1. Stabling of livestock or storage of manure or other material creating dust or odors shall not be permitted within 500 feet of any other residential structure or property line.
2. The housing and fencing of any animal(s) shall be located in the rear yard of the property.
3. Storage and disposal of waste shall be provided so the same shall not constitute a nuisance or potential health hazard to the public.
4. Appropriate shelter shall be provided for farm animals.
5. The Planning Board may also require screening and/or fencing for any buildings or structures located on the premises or for any corrals, runs, tracks or other open areas used by horses so that there is minimal impact on adjacent property owners. All such buildings, structures, corrals, runs, tracks, or other areas shall be maintained in a neat and clean manner.
6. Commercial stables or riding academies shall have a minimum lot size of 10 acres.

## § 23.17 MULTI-FAMILY DWELLINGS

---

- A. Purpose.** It is the intent of the Town of Clarkson to permit, where appropriate, the construction and development of multiple-family units in the Town. At the same time, the Town does not desire the large-scale development of these units to the extent that large areas of the Town become so devoted to such use that single-family residences would appear out of place. Accordingly, special use permits shall be considered only upon application for a specific proposal.
- B. General Requirements.**
1. In accordance with the intent of this section, no project proposal shall be considered for a special use permit if the number of multi-family units of the proposed development, taken together with all the existing and previously approved multi-family units, will exceed 30% of the total number of dwelling units of all types, both existing and approved, in the Town of Clarkson. Similarly, the multi-family units, as calculated above, shall not exceed 50% of the total dwelling units within the RS-10 District.
    - a. For the purposes of this calculation, townhomes or attached single-family dwellings shall not be considered multi-family units.
  2. No project proposal will be considered unless adequate public water supply and sanitary sewers are available.
  3. No single proposal outside of a planned unit development shall encompass over 300 multiple-family units.
  4. The maximum number of dwelling units per gross acre, which acreage includes interior project roads and parking areas, depends upon the specific structural style used. Those multiple residences constructed as a linear series of noncommunicating units with no common hallways or entrances shall be limited to 10 such dwelling units per acre. Apartments constructed in the so-called "garden apartment" style, where units are above one another and have common hallways and/or entrances, shall be limited to 15 such dwelling units per acre.
  5. Floor area. Minimum floor areas, exclusive of common areas such as halls, foyers, and basement utility areas, shall be as follows:
    - a. Efficiency apartments: 450 square feet each
    - b. One-bedroom apartments: 600 square feet each
    - c. Two-bedroom apartments: 750 square feet each
    - d. Three-bedroom apartments: 900 square feet each
- C. By Conversion.** The conversion of an existing single-family residential building to a multi-family dwelling is subject to Site Plan Review by the Planning Board in accordance with Article 42 of this Chapter. Any such conversion shall be required to comply with the following regulations:



1. No dwelling unit conversion shall be permitted in a structure with less than 1,000 square feet of gross floor area.
2. All dwelling units and structures resulting from conversion shall comply with the standards set forth in the NYS Uniform Code. Said standards shall take precedence to this Chapter should there be a conflict.
3. Any alterations made to the exterior of the building due to the unit conversion shall be completed in such a way to preserve the single- or two-family residential character.
4. No dwelling unit conversion shall be permitted unless the dwelling, following such conversion, can comply with all off-street parking requirements of this Chapter. Landscaping and screening of off-street parking areas shall be provided as determined necessary in site plan review.
5. Conversions of dwellings that decrease the number of units or combine units shall be required to ensure the discontinued dwelling unit is permanently and fully integrated into a legal dwelling unit with unimpeded access throughout the legal unit.

**D. New Construction.** Development applications for newly constructed multi-family dwelling units shall be subject to Site Plan Review by the Planning Board in accordance with Article XX of this Chapter. In addition to the landscaping (Article 31), signage (§ 140-24.13), lighting (Article 32), and parking (Article 30) regulations of this Chapter, newly constructed multi-family dwellings are subject to the following specified use requirements:

1. When adjacent to an existing residential neighborhood building designs are required to take the form of single- or two-family dwellings in a manner that is visually compatible with the architectural detailing of the Town's traditional residential character.
2. Buildings shall not have uninterrupted or undefined continuous wall or roof planes in excess of 50 feet. Varied roof heights, projecting bays, gables, recesses, and porches shall be used to visually divide larger building facades to produce a scale that is compatible with and complimentary to adjacent residential development.
3. Buildings shall maintain a distance of at least 20 feet from other structures on the lot.
4. Detached garages shall be located in the side or rear yard only.
5. Where garages are erected to serve multi-family dwellings, all of the exterior walls thereof shall be constructed of or faced with materials similar to those used in the facing of the main building.
6. Buildings shall be laid out so that the primary entrances face the street. Each entrance shall be connected by sidewalk to the Town's public sidewalk system, where applicable.

7. Developments of 10 or more units shall provide recreational open space at a standard of 400 square feet per dwelling unit. Each recreation area shall be developed with both passive and active recreation facilities, including the installation of appropriate playground or leisure equipment. Where compliance with the minimum open space area is infeasible due to lot size or other physical restriction, the reviewing board may waive or modify this requirement.

## § 23.18

### OUTDOOR ASSEMBLY, SEATING, SALES, DISPLAY, & STORAGE AREAS

---

These standards shall apply to all outdoor accessory use activities, except for those associated with a single-, two-, or multi-family dwelling up to four units.

#### A. General Requirements.

1. No area shall block windows, entrances, exits, pedestrian or vehicular access, sidewalks, fire lanes, or other travel lanes.
2. No area shall exceed 30% of the gross floor area of the primary use.
3. All areas shall remain clean and free of trash or debris at all times.
4. The use of such areas shall be clearly ancillary to the primary use. Businesses and operators not directly associated with the primary use of the property are not permitted to occupy such space.
5. Any noise generated should adhere to the regulations outlined in Chapter 96 of the Code of the Town of Clarkson.

#### B. Assembly, Seating, Sales, and Display Area Requirements.

1. All areas shall be located adjacent to the wall of the primary structure and shall not extend more than 20 feet from said wall or beyond any public right-of-way or property line, unless otherwise approved through site plan review.
2. No outdoor assembly, seating, sales, or display area shall be used for storage purposes.
3. Seating and all items for sales or display shall be removed, enclosed, screened, and/or otherwise secured during non-business hours.

#### C. Storage Area Requirements.

1. No area shall be permitted in any front yard or within any public right-of-way.
2. All areas shall be fully screened from public view and from adjacent residential uses or districts using landscaping, berming, fencing, or any combination thereof to the satisfaction of the reviewing body.
3. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property.



4. Outside storage areas shall not exceed eight feet in height. Where located within the MU-I District and at least 150 feet from the public right-of-way, the height of storage shall not exceed 15 feet.
5. No waste materials or substances shall be deposited on any premises in or adjacent to the Town of Clarkson. No dump sites or any type of industrial or commercial waste are allowed.
6. All materials or waste which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.
7. The storage of materials shall be limited to those necessary for and specific to the operation of the use, such as items for sale at a retail store or building materials for a construction company.
8. Where more than five commercial vehicles are to be parked overnight or otherwise stored on-site, the parking area for such vehicles shall be in the rear yard and screened from the view of adjacent property and rights-of-way. The nature and extent of such screening shall be approved as part of site plan review.

## § 23.19 PONDS

---

- A. **Purpose.** It is the purpose of this section to define and regulate all open water ponds in the Town in order to protect the environment, protect the rights of others to natural water flows and to prevent health and safety hazards that may occur by reason of the existence of ponds.
- B. **Applicability.** This section shall apply to all open water ponds within the Town of Clarkson. An open water pond shall include any man-made body of water, water area, retention basin, stone quarry, dammed area or agricultural liquid waste holding pond over 30 inches deep.
- C. **Exemptions.**
  1. Ponds constructed as part of active agricultural operations are exempt from this section, provided such ponds are in compliance with the Soil Conservation Service of the United States Department of Agriculture, NYS Department of Agriculture and Markets, and the Department of Environmental Conservation, including obtaining any and all required permits.
  2. Natural ponds left in their natural state are exempt from this section.
- D. **Regulations.**
  1. Open water ponds shall be subject to site plan review and approval by the Planning Board.
  2. Complete compliance with the Soil Conservation Service of the United States Department of Agriculture and the Department of Environmental Conservation and all required permits shall be received prior to site plan approval.



3. All ponds must be maintained so as to assure that they do not become offensive to neighboring properties by reason of stagnation, algae, mosquito-breeding and similar conditions.
4. No pond can interfere with or impede the natural flow of water nor adversely impact any floodplain or wetland area.
5. Open water ponds shall be not less than 50 feet from all property boundaries and not less than 150 feet from any public right-of-way.
6. To protect adjacent properties the Planning Board may require a stormwater plan in accordance with Chapter 110, Stormwater Management, of the Code of the Town of Clarkson
7. Landscape buffering with plantings or fencing may be required.
8. Retention basins designed to allow runoff shall comply with the Town's site design and development criteria (Chapter 116, Subdivision and Development of Land).

## § 23.20 RECREATION FACILITIES, OUTDOOR

---

### A. General Requirements.

1. Adequate toilet facilities for employees and customers shall be provided on site.
2. Operating hours shall be limited to the hours between 10:00 a.m. through 10:00 p.m. Sunday through Thursday and 10:00 a.m. through 11:00 p.m. on Friday and Saturday.

### B. Miniature Golf Courses. A miniature golf course shall be fenced with a fence having a minimum height of four feet.

### C. Outdoor Commercial Pools, Spas and Hot Tubs.

1. Outdoor pools, spas and hot tubs shall be located in the rear yard not closer than 50 feet to the side or rear property lines.
2. Additional regulations or conditions may be required by the Planning Board such as plantings, fencing and limiting hours or days of operation.
3. The owner shall obtain all applicable permits required by the New York State Board of Health and maintain the operation in compliance with all state and Town regulations.

## § 23.21 SHORT TERM RENTALS (STRS)

---

- A. Purpose.** The Town of Clarkson, while a community that welcomes visitors, recognizes that the overconcentration of STRs may cause disruption to the peace, quiet and enjoyment of Clarkson residents. To respect the property rights and interests of all residents of the Town, the following requirements seek to achieve a

balance between those who wish to offer their homes and properties as STRs and those who choose not to do so. The following STR requirements for the Town are intended to safeguard the public health, safety, and welfare by regulating and controlling the location, use, occupancy, oversight, and maintenance of STR properties.

**B. Operational Requirements.**

1. No STR shall be permitted on any property that is in violation of this Zoning Code or the NYS Uniform Fire Prevention and Building Code.
2. Such uses must be able to accommodate the minimum off-street parking requirements on-site.
3. Off-street parking shall not be permitted in the front yard, unless as part of an approved, designated driveway. All parking areas shall be screened from adjacent properties and the public right-of-way in a manner approved through site plan review.
4. All STRs shall comply with Chapter 96 (Noise) of the Code of the Town of Clarkson.

**C. Occupancy.**

1. The maximum occupancy of an STR shall be limited to two adults per bedroom or eight adults, whichever is less.
2. STRs shall be rented exclusively for lodging purposes. Renters may not host events, weddings, parties, or other gatherings that would cause occupancy of the property to exceed the maximum number of guests.
3. There shall be no more than one employee not living on the property reporting for work.

**D. Local Contact.**

1. Each STR operation shall have a designated 24-hour local contact.
2. Such contact shall be an authorized agent of the property owner and/or STR operator and shall be responsible for responding to and remedying any issues, complaints, or other conflicts associated with the STR property.
3. The designated individual must be able to be present at the location of the STR within 30 minutes of notification of any issues, complaints, or conflicts.

**§ 23.22**

**SOLAR ENERGY SYSTEMS, ACCESSORY**

All solar energy systems shall conform to the requirements of Chapter 108, Solar Energy Systems, of the Code of the Town of Clarkson.

## § 23.23 TEMPORARY STORAGE UNITS

---

- A. Purpose.** The following regulation has been adopted to ensure that placement of enclosed temporary storage units does not negatively impact the residential character of the neighborhoods in which they are placed, as well as to promote the health, safety, and welfare of the Town of Clarkson
- B. Registration Required.** It shall be unlawful for any person or entity to place or permit the placement of an enclosed temporary storage unit on property located within any residential zoning district without registering such unit with the Code Enforcement Officer.
- C. Eligible Registrants.** Only the property owner may register a unit. A renter, lessee, or other legal resident may register a unit if they have the written permission of the property owner.
- D. Placement of Units.**
1. Units shall only be placed in the driveway, or if access exists, at the side or rear of the lot. The unit may not be placed in the front yard.
  2. Units may not be placed on lots with no principal building or residential unit.
  3. Units shall be set back at least five feet from any lot line.
  4. Approval from the Zoning Office shall be required if the location of a unit meets either of these conditions:
    - a. There is no driveway; or
    - b. The location is on a corner lot.
  5. Placement may not limit visibility of vehicles or pedestrians.
- E. Allowable Number of Units.** Only one enclosed temporary storage unit may be placed upon any residential lot at one time.
- F. Unit Size.** Units shall not have a footprint exceeding 130 square feet or a height of more than eight feet.
- G. Duration.** The enclosed temporary storage unit shall be located at such address for a maximum of 30 consecutive days, including the days of delivery and removal. The registration may be extended an additional 15 days upon request to and approval by the Code Enforcement Officer.
- H. Maximum Number of Registrations.** Each lot is limited to a maximum of four registrations per calendar year, and a minimum of 15 days shall elapse between the end of one registration and the beginning of another.
- I. Maintenance.** The registrant shall be responsible for ensuring that the enclosed temporary storage unit is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, or other holes or breaks at all times.



- J. Prohibited Materials and Uses.** Solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, goods for property other than that at the residential property where the enclosed temporary storage unit is located or any other illegal or hazardous material or use is prohibited.
- K. Inspection.** Upon reasonable notice to the registrant, the Code Enforcement Officer may inspect the contents of any enclosed temporary storage unit at any reasonable time to ensure that it is not being used in a manner prohibited by the aforementioned Subsections I and J.
- L. Registration Requirements.** Prior to the initial delivery of the enclosed temporary storage unit, the owner shall register said unit with the Code Enforcement Officer. The registration form shall contain:
1. The name of the registrant to whom the enclosed temporary storage unit is supplied;
  2. The registrant's property status: owner, renter, lessee, etc.;
  3. The address at which the enclosed temporary storage unit will be placed;
  4. The delivery date and removal date;
  5. The active Building Permit number, if applicable;
  6. A sketch depicting the location and the placement of the enclosed temporary storage unit on the lot; and
  7. Signature of the parcel owner or other legal occupant with the written permission of the parcel owner.

## § 23.24

### TELECOMMUNICATIONS FACILITIES

---

- A. Enabling authority.** The Zoning Board of Appeals is hereby authorized to review and approve, approve with modifications or disapprove special use permits for telecommunications towers.
- B. Definitions.** As used in this section, the following terms shall have the meanings indicated:
1. **ACCESSORY FACILITY** — An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.
  2. **ANTENNA** — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radionavigation, radio, television and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.
  3. **SPECIAL USE (A.K.A. CONDITIONAL USE)** — A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other

uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Zoning Board of Appeals.

4. **TELECOMMUNICATION TOWER** — A structure on which transmitting and/or receiving antenna(e) are located.

**C. Purpose.** The purpose of this section 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 esthetic character of the Town with special attention to the Historical Overlay District and residentially zoned districts.

**D. Application of Special Use Regulations.**

1. No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
2. These regulations shall apply to all property in the Town of Clarkson with each zoning classification in the Town of Clarkson being subject to the rules and regulations set forth herein and in the table which is attached hereto and made a part of this chapter.
3. Exceptions to these regulations are limited to new uses which are accessory to residential uses and lawful or approved uses existing prior to the effective date of these regulations.
4. 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.

**E. Special Use Standards.**

**1. Site Plan Review.**

- a. An applicant shall be required to submit a site plan to the Planning Board per Article 42.
- b. In addition to other site plan requirements, an application for a communications tower shall include the following additional information:
  - i. The location of all structures, trees exceeding four inches in diameter (measured at a height of four feet off the ground) and other significant and/or unusual features on the site and on any other adjacent property within 20 feet of the property line.
  - ii. All information prepared by the manufacturer of the antenna or tower, or the applicant for which a special use permit is being sought, including but not limited to the following:
    - (a) Make and model of tower to be erected.

(b) Manufacturer's design data for installation instructions and construction plans.

(c) Applicant's proposed tower maintenance and inspection procedures and records system.

(d) Anticlimb devices for the tower and any guy wires.

- c. The application for special use permit shall include a copy of the site plan and any relevant documents which have been submitted to the Planning Board. The application for special use permit 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 vegetations clearing required.
- d. Additionally, the application shall 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 Zoning Board of Appeals may require submittal of a more detailed visual analysis based on the results of the visual EAF.

**2. Shared Use.**

- a. 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 preexisting 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 preexisting structures as an alternative to a new construction.
- b. 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.

3. **Setbacks.** Towers and antennae shall be set back a minimum of the height of the tower and any antennae or other fixture on top of the tower plus 25 feet. All other structures, including guy wire anchors and accessory facilities shall observe required setbacks within the affected zone. Additional setbacks may be required by the Zoning Board of Appeals to contain on-site substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.



4. **General Requirements.**

- a. **Visibility.** All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. The area to be served by the tower and the technology utilized by the applicant shall be relevant considerations in this determination.
- b. **Height.** As part of the application, the Zoning Board of Appeals shall be empowered to vary the restrictions of this chapter as to height using the standards for area variances set forth in this chapter and the New York State Town Law.
- c. **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 treeline and painted gray, green or black below the surrounding treeline unless other standards are required by the FAA. All towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- d. **Accessory facilities** shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5. **Existing vegetation.** Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special use permit. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

6. **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 10 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.

7. **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 10 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.

8. **Removal and bond for removal.**

- a. In the event that a communication tower is no longer used for the purpose specified in the application or the communication facility ceases

operations for a period of 90 days, such tower, structures and facilities shall be dismantled and removed from the site within 30 days of receipt of a written notice from the Building Inspector and/or Code Enforcement Officer.

- b. Prior to the issuance of a building permit, the owner and operator of a communications tower shall provide the Town with a surety bond or other financial security acceptable to the Town Attorney to assure that the funds are available to dismantle such tower, remove any debris and to restore the site to a state acceptable to the Zoning Board of Appeals. The estimate shall be prepared by the applicant's licensed engineer, verified by the Town Engineer (or the engineer hired by the Town to evaluate the application, if different from the Town Engineer) and approved, as to form, by the Town Attorney. The amount of such bond shall be approved by the Zoning Board of Appeals.
9. **Town review fees.** In addition to the application fee, the applicant shall be responsible for any and all expert fees which are incurred by the Town in the review of the application, including review by engineers and consultants employed by the Town. As security for this, an applicant shall deposit the sum of \$2,000 with the Town at the time of application. Any part of said deposit which is not used by the Town will be refunded to the applicant at the time a certificate of occupancy is issued. No certificate of occupancy or certification of completion or compliance shall be issued until all unpaid fees have been paid.
- F. **Radio emissions.** Radio emissions from any towers and/or antennas attached to it shall conform to applicable Federal Communications Commission regulations on emissions. The Zoning Board of Appeals shall request proof of compliance with these standards. No certificate of occupancy or certificate of compliance shall be issued by the Building Inspector or Code Enforcement Officer without satisfactory proof of compliance with this requirement.
- G. When an applicant wishes to make a change to an existing tower and the applicant contends that the modification does not substantially change the physical dimensions within the meaning of Section 6409 of the 2012 Middle Class Tax Relief and Job Creation Act, the following procedure shall apply:
  1. The application shall be submitted to the Building Inspector, accompanied by the required fee and deposit.
  2. The Building Inspector shall forward the application to the following:
    - a. The Town Engineer for a written report regarding any structural changes or concerns.
    - b. The RF engineer selected by the Town Board for a written report with respect to the justification submitted by the applicant.
  3. Upon receipt of the two written reports, if, in the opinion of the Building Inspector, there is no substantial change being proposed, and upon the payment of any building permit fees and balances due for engineering, the Building Inspector shall issue the requested permit.

4. Upon receipt of the two written reports, if, in the opinion of the Building Inspector, there is a substantial change being proposed, the Building Inspector shall refer the application to the Zoning Board of Appeals for modification of the special use permit and the Planning Board for site plan approval.
  5. Anyone aggrieved by the Building Inspector's decision under Subsection G(3) or (4) above shall have the right to appeal the decision to the Zoning Board of Appeals, which appeal may be concurrent with the application for modification of the special use permit.
- H. Authority to impose conditions. The Zoning Board 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 permit.



# ARTICLE 24.

## SUPPLEMENTAL REGULATIONS

### § 24.1 STRUCTURE REQUIREMENTS

---

- A. No building, structure or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved or altered unless in conformity with the applicable regulations of this Chapter.
- B. No building or structure shall hereafter be erected or altered to be less than one full story in height, nor shall any building be used as a dwelling unless it is one full story or more in height, as defined in this Chapter.
- C. No building shall be erected upon any lot unless such lot is located upon a public street or highway, except that, in accordance with Article 44, the Zoning Board of Appeals may make such variance or exception as may seem advisable under the circumstances in accordance with the provisions of that section.

### § 24.2 LOT AND YARD REQUIREMENTS

---

- A. No lot shall be reduced in size if, as a result thereof, its area or any of its dimensions or open spaces shall be smaller than required by this Chapter.
- B. Any required yard shall be entirely open and unoccupied by buildings other than:
  - 1. Entrance porch or steps not over eight feet deep in a front yard.
  - 2. Porches or terraces in side or rear yards, provided that they are not covered nor enclosed and are no closer to the lot lines than required by the applicable setback restrictions.
  - 3. Detached accessory buildings occupying not over 25% of a required rear yard and setback as required by this Chapter.
- C. No part of any yard or open space required for any building shall be included as part of the yard or open space required for another building.
- D. **Corner lots.** Both sides abutting a street, road or highway shall be considered front yards and shall be subject to the front setback requirement. Both sides not abutting a street, road or highway shall be considered to be rear yards and shall be subject to the rear setback requirement.
- E. Measurement of lot width. In order to accommodate various road designs and configurations, the minimum lot width required shall be measured at the minimum front setback distance required under this chapter and shall be no less than the minimum lot width for a distance of 40 feet extending back from the minimum front setback line.

### § 24.3 USES PROHIBITED IN ALL DISTRICTS

---

- A. No use, activity or occupation shall be permitted in any district of the Town which causes odors, gases, excessive smoke, fumes, vibration or other objectionable effects which carry beyond the premises on which such use, activity or occupation is conducted.
- B. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York State Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- C. The use of bituminous or soft coal and other excessive smoke-producing fuels is prohibited in all districts of the Town.
- D. Soil-stripping and the sale or disposition of topsoil except for use on the premises from which it comes is prohibited, except insofar as it is necessary and incidental to sand and gravel operations or lawful excavations for cellars and other structures.
- E. The storing or dumping of refuse, waste material or other substances is prohibited in all districts within the Town, except for the purpose of filling in to establish grade, for which a permit must be obtained from the Planning Board by the owner. The permit shall require that the fill is of clean, noncombustible matter, containing no garbage, refuse, offal or deleterious matter of any nature, and that the material shall be immediately leveled off and covered with at least one foot of clean, nondeleterious topsoil, followed by either immediate placement of a hard surface or immediate reseeded pasture or other fast-growing surface vegetation until growth of the same is established, or such other temporary measures as necessary to check erosion until weather permits more permanent measures. Said Board may impose other reasonable provisions and shall ensure that the operation shall be hazard- and nuisance-free and may require the posting of a surety company bond as a condition. All permits so issued shall expire one year following the date of issuance and may be renewed under the same procedures as the original. A suitable fee may be charged according to a schedule established by the Board, and all permits are valid only insofar as the conditions under which they may be issued are maintained.
- F. No materials of any kind shall be stored in any district of the Town, except for the construction of structures to be actually erected upon the premises where such materials are stored within one year from the beginning of such storage and except for farm produce and farm machinery. However, a special permit therefor may be obtained from the Town Board in accordance with the same procedures as in Subsection E above.

### § 24.4 GENERAL FIRE, SAFETY, & SANITARY REGULATIONS

---

- A. No building, except a silo or church steeple, shall be constructed either over three stories or 40 feet in height, unless built of noncombustible materials.
- B. If the use of any lot or building involves the disposal of sewage or wastewater, an adequate sanitary disposal system for the same shall be installed in accordance with regulations of the Monroe County Department of Health and with such other regulations as may be adopted and amended by the Town Board. Said system shall be at all times maintained on such lot or in lawful connection therewith. The



minimum lot area otherwise required shall be increased where necessary to the extent required to safely provide such disposal system.

- C. The construction or placement of outhouses and privies is prohibited in any district of the Town.

## § 24.5

### SITE OBSTRUCTIONS

---

No obstruction to the view of traffic approaching a street intersection may be placed or permitted to remain within the triangle formed by the intersecting street lines and points 75 feet from the intersection of said street lines when either street is a major road, and points 50 feet from said intersection when neither street is a major road.

## § 24.6

### FENCES

---

- A. All fences must be erected within the private property lines, and no fence shall be erected as to encroach upon a public right-of-way or public sidewalk.
- B. All fences shall be constructed so that the finished side faces outward from the premises with the backers and/or support facing inward toward the property owner's side of the fence.
- C. All fences shall be maintained in a safe, sound, and upright condition.
- D. The use of motor vehicle, farm implements, parts, components, body parts, tires or trailers as a fence or support of a fence is prohibited.
- E. Barbed wire, electricity, or similar materials or devices may not be used in conjunction with or as part of any fence. The provisions of this subsection shall not apply to fences on premises used exclusively for a permitted agricultural use as set forth in this Chapter.
- F. It is the intent of this chapter to include any artificially mounded or bermed area under the fence as part of the height of the fence.
- G. Open fences along front lot lines or alongside lot sides between the front setback line and the highway right-of-way shall not be higher than three feet above the adjacent ground level.
- H. In determining the height of a split rail fence, the distance to the top of the horizontal rail shall govern and posts shall be no more than one foot higher.
- I. No fence in a rear or side yard in a residential district shall be erected, altered or reconstructed to a height exceeding six feet above adjacent ground level.
- J. Fences in mixed use and industrial districts shall be as approved by the Planning Board as part of Site Plan Review. For fences in mixed use or industrial districts being built or modified after site plan approval and not provided for on the site plan, the property owner must apply for a special use permit in accordance with Article 41 if the proposed fence exceeds the maximums set forth above.
- K. Open fences for the purpose of enclosing farmland, horses, cattle and other farm animals shall not exceed eight feet in height above ground level.



- L. No fence shall be erected in a delineated area of special flood hazard, except for farm fences, if it can be demonstrated that such farm fence would not restrict the flow of floodwaters nor have any impact on any buildings.
- M. No fence which obstructs the view of traffic approaching a street intersection may be placed or permitted to remain within the triangle formed by the intersecting street lines and points 75 feet from the intersection of said street lines when either street is a major road and points 50 feet from said intersection when neither street is a major road.
- N. Closed fences shall not be permitted along any front lot line or along side lot lines between the front setback line and the highway right-of-way.
- O. Open fences allowed herein shall be decorative, such as picket, split rail or board fences.
- P. Wire fences including chain link fences, shall be prohibited between the front setback line and the highway right-of-way.

#### § 24.7 EXEMPTION FOR PUBLIC PROPERTY

---

Land which is owned by fire districts, public school districts, the Town of Clarkson, the County of Monroe, the State of New York or the United States of America may be used for the governmental purposes which are permitted under the laws which govern said entities and shall be exempt from regulation under this chapter.

#### § 24.8 INSTALLATION OF UTILITY OR COMMUNICATIONS FACILITIES

---

- A. Except in the case of telecommunications towers, which are regulated by §23.24 of this Chapter, the Zoning Board of Appeals may, on application therefor, issue a special permit for the construction and maintenance of a public or private utility or communications structure as it shall deem essential to the public welfare and shall impose such conditions as may be found necessary in the public interest and may modify or vary the restrictions of this chapter to height, size and location of structures applying to the district where such installation is to be located. Such permit shall be issued only after a public hearing and findings by the Zoning Board of Appeals that:
  - 1. The proposed installation will not be detrimental to adjacent property.
  - 2. The proposed installation will not, by reason of its location or nature, create a hazard of any nature to the public or any adjacent owner or occupant.
  - 3. The proposed installation will not interfere with the lawful enjoyment of the public highways or adjacent property in any unreasonable manner.
- B. Any such permit granted hereunder may be revoked by the Zoning Board of Appeals after due hearing on not less than 10 days' notice to the person holding such permit in the event that the use thereof violates any of the conditions or restrictions imposed by the Zoning Board of Appeals upon the issuance of said permit or if it shall have become a nuisance. Except for such revocation, any such permit heretofore granted shall be deemed to be indefinitely extended.

## § 24.9 AGRICULTURAL USES

---

None of the provisions of this chapter shall be construed or administered to prevent the normal activities, pursuits, occupations or transactions customarily carried on by farmers in this area in operating farms or agricultural premises owned or occupied by them. However, those provisions of this chapter relating to the size of lots and subdivision of lands, setback of buildings and uses, clear vision at intersections, signs, permits and enforcement and such provisions as prevent commercial or industrial uses in residential or other districts which are not customarily carried on or associated with the occupation of farming shall be applicable to farms and agricultural premises and those engaged in farming.

## § 24.10 REGULATIONS APPLICABLE TO ALL RESIDENTIAL DISTRICTS

---

- A. Customary household pets shall be allowed in all residential districts. Keeping of bees, chickens, and farm animals is permitted in some districts, per the regulations of §23.16.
- B. The finished grade of a lot or the residential portion thereof shall have a minimum slope of 2% and a maximum slope of 7% away from the dwelling wall to ensure adequate surface and ground water drainage. Side and rear slopes will be subject to approval by the Building Inspector and Town Engineer.
- C. No basement shall be used for dwelling purposes. No basement shall be used for dwelling purposes unless there is above-grade habitable space.

## § 24.11 SWIMMING POOLS

---

Private swimming pools are subject to the provisions of Chapter 110, Swimming Pools or the provisions of the New York State Building Code, whichever, in the opinion of the Building Inspector, provides the greater level of safety.

## § 24.12 STORAGE OF VEHICLES, CAMPERS, TRAILERS AND BOATS

---

Unless a stricter regulation for a specific district applies, no motor vehicles, trailers, campers or boats shall be stored or parked for more than 15 days on a residential lot outside of existing buildings thereon, except in back of the actual front setback of the principal dwelling and within the permitted side and rear setbacks applicable to the buildings on said lot.

## § 24.13 SIGNS

---

- A. **Purpose.** The purpose of this Section is to establish standards for the fabrication, erection, and use of signs, symbols, markings, and advertising devices within the Town. These standards are designed to protect and promote the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.



**B. Objectives.** It is further the intent of this Section to achieve the following objectives:

1. Ensure right to free speech as protected under the Constitution;
2. Protect property values, create a more attractive economic and business climate, protect traditional Town character, and maintain a desirable appearance of the community;
3. Provide structures and uses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
4. Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way;
5. Reduce the adverse effects of signage on the desirable aesthetic of the Town and on the general environment of the community; and
6. Enforce and encourage the objectives and goals of the Town's Comprehensive Plan.

**C. Permit Required.** No advertising sign or billboard of any description shall be erected at any place in the Town of Clarkson without a sign permit by the Zoning Board of Appeals, except the following:

1. One nonilluminated announcement or professional sign not over two square feet in area and not over one foot in height for each professional office professional, administrative, or medical offices in any district.
2. One nonilluminated sign advertising the sale, lease or rental of the premises upon which the sign is located, which shall not exceed six square feet in area in any district.
3. One nonilluminated customary builder's sign placed on the premises where construction, repair or renovation is in progress, which sign shall not exceed six square feet in area.

**D. Temporary Signs.**

1. An application may be made to the building inspector for a permit to erect one temporary, nonilluminated sign, with dimensions greater than six square feet but not to exceed 40 square feet, advertising the sale or lease of real property.
2. Permits for temporary signs shall be valid for a period not to exceed one year from the date of application.
3. Permits are specific to the property, not to the bearer of the permit.
4. The cost of said permit shall be established by resolution of the Town Board.
5. In the event that the building inspector denies the application, the applicant may apply to the Zoning Board of Appeals for a sign permit.



6. Temporary nonilluminated signs for local events erected by and for nonprofit organizations, such as churches, American Legion, Boy Scouts, etc., advertising suppers, banquets, benefits, fund-raising sales, etc., may be erected for a forty-day period without a permit in any district; provided, however, that said sign will not constitute a traffic hazard and shall be removed within 48 hours after the advertised event.

**E. Sign Dimensions.**

1. No sign shall be newly erected in the Town which has a surface area in excess of 40 square feet. In the case of a multi-faced sign, both sides of the sign are considered in determining the total sign area.
2. No sign shall be newly erected in the Town which has a height in excess of 14 feet. The height shall be taken as the vertical distance from the uppermost portion of the sign to the ground.

**F. Prohibited Signs.**

1. Digital signs shall be prohibited in the Town of Clarkson.

## § 24.14 MINIMUM HABITABLE FLOOR AREA

Single- and two-family dwelling units shall have the following minimum habitable floor area:

STORIES	MIN HABITABLE FLOOR AREA (SQUARE FT)
One Story	960 sf
One and a Half (1.5) Stories	864 sf / 504 sf <sup>1</sup>
Two Stories	640 sf / <del>story</del> 640 sf <sup>1</sup>

**NOTE:** (1) The first number is the requirement for the first story, the second number is the requirement for the second story.

---

# PART 3

## DEVELOPMENT

## STANDARDS

---

ARTICLE 30. CIRCULATION, ACCESS & PARKING .....93

ARTICLE 31. LANDSCAPING, SCREENING & BUFFERING ..... 104

ARTICLE 32. OUTDOOR LIGHTING ..... 110

ARTICLE 33. NONRESIDENTIAL DESIGN STANDARDS ..... 115

# ARTICLE 30.

## CIRCULATION, ACCESS & PARKING

### §30.1 INTENT & PURPOSE

---

The purpose of this Article and intent of its regulations is to achieve the following objectives:

- A. Ensure there are adequate amounts of off-street parking and loading facilities to serve the use(s) and users of the property;
- B. Protect the users of adjacent properties from nuisances caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles;
- C. Reduce congestion on the primary street networks of the Town;
- D. Minimize further expansion of impervious surfaces within the Town and reduce loss of green space;
- E. Provide safe traveling conditions and off-street accommodations for motorists, pedestrians, and bicyclists; and
- F. Ensure safe, well-planned multi-modal access is provided to all properties while minimizing potential vehicular, pedestrian, and bicyclist conflicts.

### §30.2 APPLICABILITY

---

- A. **Uses Subject to Regulation.** All nonresidential, mixed-use, and multi-family development should meet the requirements of this Article. No building or zoning permit shall be issued for any use that does not conform to the requirements herein.
- B. **Residential Uses.** Single-, two-, and multi-family properties up to four units shall be exempt from the requirements of this Article, except for §30.3.
- C. **Vehicle Reference.** The term "vehicle," as used in this Article, shall include, but not be limited to automobiles, motorcycles, trucks, recreational vehicles, campers and trailers, including recreational and boat trailers.
- D. **Off-Street Parking Space Reference.** Areas that may be considered as off-street parking space include any private garage, carport or other area available for parking other than a street, entrance or exit lane, vehicle, pedestrian, or bicycle accessway, or driveway.
- E. **Owner Responsibility.** The provision and maintenance of private off-street parking areas is a continuing obligation of the property owner.



- F. **New Construction.** No site plan shall be approved and no permit shall be issued for the erection or occupancy of a building or structure unless the use conforms to the requirements of this Article.
- G. **Site Plan Review.** For any off-street parking facility as required by this Article, a layout plan showing entrances, drives and parking stalls, landscaping, and snow storage and removal provisions shall be submitted as part of site plan review.
- H. **Increase in Intensity of Use.** An increase in the intensity of use of a building or premises shall mean the addition of dwelling units, gross floor area, occupancy or any other unit of measurement used as a basis for determining required parking and loading areas. Additional parking and loading spaces, as required, shall be provided for any such increases in an existing use.
- I. **Change in Use.** When the use of any building or premises is changed to a different use; parking and loading spaces, as required, shall be provided for the different use.
- J. **Existing Parking and Loading Areas.** Off-street parking and loading areas in existence on the effective date of this article shall not be reduced below the requirements for an equivalent new building or use. In no case shall it be necessary to continue parking and loading spaces in excess of those required by this article.
- K. **Nonconforming Parking and Loading Areas.** A building, use or occupancy lawfully existing at the time this article or any amendment thereto becomes effective, but which does not conform with the off-street parking and loading requirements, may be occupied or continued without such spaces being provided. Any such spaces that may be provided thereafter shall comply with the requirements of this article. If an existing building, use or occupancy is altered so that there is an increase in the number of dwelling units, seating capacity, employees or floor area, or if the use is changed to one requiring more off-street parking and loading spaces, the number of such spaces shall be provided at least equal to the number required for the increased area of the building or use in accordance with all provisions of this Article.

### §30.3

### RESIDENTIAL PARKING REQUIREMENTS

- A. **Regulations for Residential Uses.** The requirements of this section shall apply to all single-, and two-family uses.
  - 1. The minimum number of parking spaces shall be provided in accordance with §30.4 B.
  - 2. Parking may be permitted in the front yard area, provided all vehicles are located on an approved driveway as required in §30.11 E.
  - 3. Parking is prohibited on grass areas and yard space that is not hard-surfaced and properly designated for such use.
- B. **Parking of Recreational Vehicles.** Parking of personal seasonal vehicles, boats, trailers, or recreational vehicles is permitted, provided such vehicles:
  - 1. Are registered and licensed;
  - 2. Are not used for living purposes;

3. Are not parked within the front yard setback;
  4. Are parked on an approved surface; and
  5. Do not obstruct vehicular, pedestrian, or bicyclist vision and access.
- C. Maximum Vehicle Weight.** No portion of a residential property located in a residential district shall be occupied at any time by any vehicle having a maximum gross load weight in excess of five tons unless said vehicle is stored and kept entirely within an enclosed structure when on the premises.

## §30.4

### OFF-STREET PARKING SPACE REQUIREMENTS

#### A. Number of Parking Spaces.

1. The requirement for a single use (e.g. a retail store) shall be determined directly from this section, unless otherwise noted within this Chapter.
2. The requirements for a combination of uses (e.g. a retail store with an office building) shall be determined by establishing the requirement for each single use and adding them together, unless otherwise noted herein.
3. For uses not specifically listed, the requirement shall be the same as for the most similar listed use as determined by the Code Enforcement Officer.

- B. Parking Minimums.** The minimum number of off-street parking spaces per use shall be in conformance with the following:

LAND USE	MINIMUM SPACES
<b>Residential</b>	
Single-or Two-Family Dwelling	2 per unit
Multi-Family Dwelling	1.5 per unit
Upper Floor Residential Unit	1.5 per unit
Bed & Breakfast	1 per room
Hospice, Nursing Home, or Assisted Living	0.5 per bed + 0.5 per employee <sup>1</sup>
<b>Commercial / Industrial</b>	
Retail Operation	3 per 1,000 sf of gross floor area
Service Operation	2 per 1,000 sf of gross floor area
Industrial Operation	1 per employee <sup>1</sup>
Office or Clinic	1.5 per employee <sup>1</sup>
Restaurant or Bar	4 per 1,000 sf of gross floor area
Recreation or Entertainment Facility	0.25 per maximum occupancy
Lodging	1 per guestroom + 0.5 per employee <sup>1</sup>
Other Commercial Use	3 per 1,000 square feet
<b>Other</b>	
Place of Worship or Public Assembly	0.25 per maximum occupancy
School	1 per classroom + 1 per employee <sup>1</sup>
Licensed Daycare Facility	1 per classroom + 1 per employee <sup>1</sup>
Home Occupation	As required for dwelling <sup>2</sup>

- NOTES:**
- (1) Based on the maximum shift.
  - (2) No more than 2 additional spaces shall be allowed.

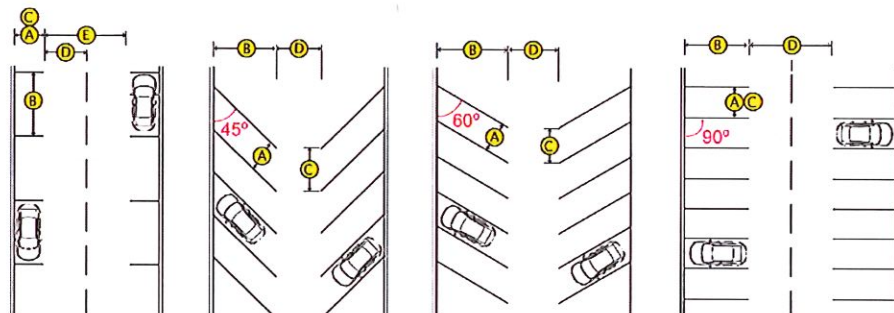


- C. **Parking Maximums.** The maximum number of parking spaces allowable for any use shall not exceed 120% of the minimum requirement, except through the submission of a parking demand analysis in accordance with §30.9(A) and site plan approval.
- D. Should the minimum parking space requirement result in a fractional number of spaces based on the previous calculations, the requirement shall be rounded to the next highest whole number.
- E. Where no requirement is designated, and the use is not comparable to any of the listed uses, parking requirements shall be determined by the Code Enforcement Officer based upon the capacity of the facility and its associated uses. The Code Enforcement Officer may consult with any Town board, department, agency, and/or official it deems advisable. The Code Enforcement Officer may also engage the services of engineers, planners, or other professionals to aid in their determination. The applicant shall reimburse all costs incurred by the Code Enforcement Officer for such professional services to the Town.
- F. The Planning Board may require additional off-street parking spaces in excess of those required by this Article as part of site plan review if such additional spaces are deemed necessary to protect the health, safety, and general welfare of the public.
- G. The recurrent parking of any vehicle on the right-of-way of a street or highway or the impeding of traffic or creation of traffic hazards by the same shall be prima facie evidence of the inadequacy of off-street parking on the premises or in connection therewith, and the Code Enforcement Officer may require additional off-street parking spaces to be provided by the offending property owner.

## §30.5

## PARKING LOT DESIGN STANDARDS

- A. The size off off-street parking spaces and aisles shall conform to the following dimensional standards:



Stall Angle	STALL WIDTH (A)	STALL LENGTH (B)	SKEW WIDTH (C)	DRIVE AISLE WIDTH (D)		
	MIN	MIN	MIN	ONE-WAY MIN	TWO-WAY MIN	MAX
0 °	9 ft	18 ft	9 ft	11 ft	22 ft	24 ft
45 °	9 ft	20 ft	13 ft	12 ft	22 ft	24 ft
60 °	9 ft	21 ft	11 ft	14 ft	22 ft	28 ft
90 °	9 ft	18 ft	9 ft	11 ft	22 ft	24 ft



**§30.6****LOCATION OF SPACES**

- A. All parking spaces and loading spaces shall be on the same lot as the use they are intended to serve unless otherwise specified in this Chapter.
- B. Parking areas shall not be located within 20 feet of a residential district.
- C. Loading areas shall not be located within 30 feet of a residential district.
- D. Parking and loading areas may not be located within 20 feet of street frontage.
- E. Off-street parking and loading spaces in the MU-H, MU-C, and MU-O Districts shall be prohibited in the front yard area, with the exception of a single bay of convenience parking approved as part of site plan review. Spaces located within other commercial or industrial districts may be located in any yard area.
- F. Off-street parking spaces in residential districts may be provided in any yard except the front yard. However, parking in the front yard shall only be allowed on single-family and two-family lots on an approved, hard-surfaced driveway compliant with this Article.
- G. Loading spaces and delivery areas, such as loading docks, shall be located so as not to be visible from the street or public right-of-way. If not practical, landscaping and buffering to screen such areas shall be provided to the extent required in site plan review.

**§30.7****LOADING SPACE REQUIREMENTS**

- A. **Applicability.** Whenever the normal operation of any use requires that goods, merchandise, or equipment be routinely delivered to or shipped from that use, off-street loading areas must be provided in accordance with this section.
- B. **Minimum Spaces Required.** Loading spaces shall be provided for uses in accordance with the table below.

GROSS FLOOR AREA (SF)	MINIMUM SPACES	MINIMUM SIZE
<i>Less than 5,000</i>	0	0
<i>5,000 to 10,000</i>	1	12 by 25 ft
<i>10,000 to 30,000</i>	1	14 by 50 ft
<i>Each additional 15,000</i>	+1	14 by 50 ft

- C. **Deliveries.** Where loading spaces are located within 100 feet of a residential use or district there shall be no deliveries between the hours of 10:00PM and 7:00AM EST.

**§30.8**

**DESIGN REQUIREMENTS**

---

All off-street parking and loading areas, including their vehicular access drives and pedestrian, and bicyclist connections, shall conform to the following:

**A. Paving Materials.**

1. Acceptable surfacing materials shall be those capable of being kept in a smooth, well-graded condition, free of snow and debris. This includes concrete, asphalt, blacktop, brick, or other such properly engineered paving material with approval by the Planning Board. The use of pervious paving material is highly encouraged.
2. Prohibited surfacing treatments include dirt, gravel, pavement millings, or loose stone. Exceptions to this provision may be made where deemed appropriate and necessary by the Planning Board.
3. All areas shall be constructed to withstand the loads to be imposed by the vehicles for which the parking or loading area is intended.
4. To prevent the unnecessary paving of lands, emergency fire lanes or other areas and access drives not intended for daily use may be left unpaved and maintained as grass or sod stone with review board approval. Such areas and drives shall remain unobstructed and in navigable condition to ensure vehicular accessibility at all times.

**B. Markings.**

1. Parking and loading spaces shall be properly marked with clear and permanent painted strips of at least four inches in width.
2. Areas designated for pedestrian and/or bicyclist access and use shall also be clearly delineated in this manner, unless otherwise separated by curbing or some other physical barrier.

**C. Landscaping and Screening.** All off-street parking and loading areas shall be landscaped and screened in accordance with Article 31.

**D. Lighting.** The exterior lighting of parking and loading areas shall be in conformance with the provisions of Article 32.

**E. Snow Storage.** All parking and loading areas must include a dedicated area for the placement and storage of snow.

**F. Stormwater Management.** All parking and loading areas and their access driveways shall be graded so as to provide for the proper mitigation of storm water and runoff.

**G. Electric Vehicle Charging Stations.** Off-street parking and loading spaces may include charging stations for use by electric vehicles in accordance with §23.14.

**§30.9**

**ALTERNATIVE PARKING ARRANGEMENTS**

---

**A. Parking Demand Analysis.**

1. The number of parking spaces required for any use may be adjusted with the completion of a parking demand analysis by an engineer or other duly licensed professional hired by the applicant using the Institute of Traffic Engineers (ITE) Parking General Manual and approval by the Planning Board.
2. A parking demand analysis may be required where shared parking is proposed to determine the sharing factor or where a reduced number of off-street parking spaces is proposed.
3. Such analysis shall include, at a minimum:
  - a. The names and addresses of the owner(s) and tenant(s) that will be using the parking;
  - b. An estimate of the number of spaces needed to accommodate the proposed use(s);
  - c. A summary and map of the proposed location and configuration of spaces (on-site, public lots, on-street, joint, shared, etc.);
  - d. A market study and/or other supporting information and rationale behind the requested number of parking spaces; and
  - e. An analysis of existing parking conditions in the surrounding area, to include a radius of at least 1,000 feet.
4. The Planning Board may waive a parking demand analysis and the requirements thereof in whole or in part in accordance with §40.4(G).

**B. Joint or Shared Parking and Loading Spaces.**

1. Where two or more uses are located on the same lot or located on separate lots, an applicant may propose the use of joint or shared parking and/or loading spaces.
2. Such arrangements may be authorized by the Planning Board as part of development plan review, provided the following conditions are met:
  - a. The parking area is located within 1,000 feet of the building(s) or use(s) it is intended to serve.
  - b. The loading area is within 100 feet of the building(s) or use(s) it is intended to serve.
  - c. The minimum number of spaces provided is at least that of the use with the greatest requirement or otherwise compliant with an approved parking demand analysis.



- d. It is proven that the uses have different peak hour demands, or the total demand at peak times is adequately served by the total number of spaces proposed.
  - e. A Joint or Shared Access Agreement is executed documenting all uses and property owners. Such agreement shall be reflected in a deed, lease, contract, easement or other appropriate legal document.
  - f. A Maintenance Agreement is executed documenting the responsibility of each user and/or property owner in the maintenance and upkeep of such parking and/or loading areas.
3. Applicants seeking authorization of such arrangement shall submit written documentation justifying their requests, including:
- a. The names and addresses of the owner(s) and tenant(s) that will be using the parking and/or loading spaces.
  - b. A description of the uses involved, including their minimum individual parking and/or loading requirements determined by this Article.
  - c. The location, design, and number of parking and/or loading spaces that are proposed, including the number to be shared and/or reserved for a certain use, where applicable.
  - d. A parking demand analysis in accordance with Subsection A above to determine the appropriate sharing factor. To be approved, this analysis must show that the uses have differing peak parking or loading times or that users overlap in visiting more than one use during peak times and that the proposed spaces will be adequate for the anticipated demands of each use.
  - e. The required access and maintenance agreements as outlined Subsection C (2).
4. Joint or shared parking and loading areas shall provide for cross access with clearly delineated vehicular drive aisles. Separation of joint or shared parking areas by a wall, guard rail, or other structure preventing vehicular access shall be prohibited, unless otherwise approved by the Planning Board.

## **§30.10**

## **BICYCLE & PEDESTRIAN ACCOMMODATIONS**

---

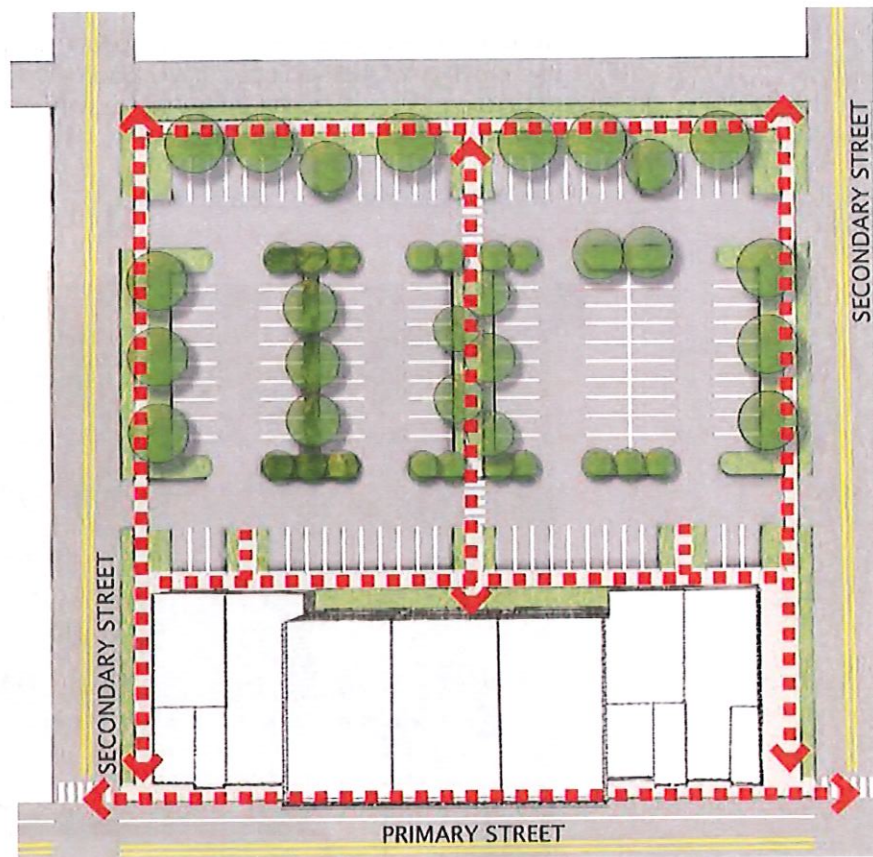
### **A. Bicycle Parking.**

- 1. Bicycle parking may be required of all nonresidential development at a rate of at least 10% of vehicle parking requirements at the discretion of the Planning Board. A maximum of five bicycle parking spacings shall be required.
- 2. This requirement shall not apply to properties within zoning districts where there are publicly provided or shared bicycle parking facilities within 1,000 feet of the use.

**B. Pedestrian Connectivity.**

1. Off-street parking areas of five or more spaces shall include a clearly identified pedestrian pathway from the parking spaces to building entrances and uses on site.
2. Pedestrian connections to the public sidewalk shall also be required, where applicable. **See Figure 30.1.**

**FIGURE 30.1:** Pedestrian Sidewalk Network



3. Pedestrian paths shall be a minimum of six feet wide. Pedestrian paths shall be distinguished from the parking area by striping, grading or other protective device.
4. Pedestrian paths shall be located so the pedestrian has a short and efficient walking route.
5. Abutting land uses and buildings on a site shall be connected by a pedestrian path.
6. Pedestrian paths connecting off-street parking spaces to a building or use entrance shall be provided at a ratio of one pedestrian path for every four parking rows or 140 feet of parking lot width, whichever is greater.



## §30.11 ACCESS MANAGEMENT

- A. Access Required.** All off-street parking and loading spaces shall have direct access to a public street or alley.
- B. Joint or Shared Access.**
  1. To promote more efficient traffic flow and traffic safety and minimize the number of curbcuts, every effort shall be made to provide shared means of ingress and egress to developed and developing properties.
  2. Where deemed necessary and appropriate, the Planning Board may require the provision of shared access drives and/or cross-easement agreements for rear access lanes to adjacent properties which minimize curbcuts along the primary roadway. See Figure 30.2.

**FIGURE 30.2:** Vehicular Cross Access



- C. Delineation.** Access from streets to parking and loading areas shall be clearly defined. All curbcuts shall be delineated with raised curbing.
- D. Driveway Separation.** No access driveway shall be located closer than 125 feet to the intersection of public streets or another driveway. This minimum separation may be increased or decreased with review body approval or where otherwise required by the Monroe County or New York State Departments of Transportation.



- E. Driveway Dimensions.** The size and dimension of driveways shall conform to the standards indicated in the following table.

LAND USE	REQUIRED WIDTH (FT)	
	MIN	MAX
<i>Single-, Two-, or Multi-Family, up to 4 Units</i>	12 ft	20 ft
<i>Multi-Family, over 4 Units</i>	20 ft	20 ft
<i>Nonresidential, One-Way Access</i>	12 ft	16 ft
<i>Nonresidential, Two-Way Access</i>	20 ft	24 ft

**F. Conformance with Local and State Regulations.**

1. All curbcuts and street openings shall conform to the requirements of Chapter 112 (Streets and Sidewalks) of the Town of Clarkson Code and the Town's Design and Construction Standards.
2. All exit or entrance drives connecting a parking and loading spaces to the street shall be approved by the Town of Clarkson Superintendent of Highways, as well as the Monroe County and New York State Departments of Transportation, where involved.
3. Reference should be made to the New York State Department of Transportation Access Management Guidelines and regulations to determine the most appropriate access management strategy, including shared access and spacing of curbcuts.
4. All driveways, curbcuts, and street openings shall be in conformance with the Fire Code of New York State and all other applicable state regulations.

# ARTICLE 31.

## LANDSCAPING, SCREENING & BUFFERING

### § 31.1 PURPOSE & INTENT

---

- A. Purpose.** The Town of Clarkson recognizes the value of trees and landscaping and that the preservation and enhancement of these resources is necessary to protect the health, safety and welfare of residents. Landscaping is considered an integral part of site design, offering shade and habitat, impeding soil erosion, providing water absorption and retention to inhibit excess runoff and flooding, enhancing air quality, offering a natural barrier to noise, enhancing property values, and providing scenic beauty. Landscaping emphasis shall be placed on providing features that enhance the overall aesthetics of development and the character of the Town.
- B. Intent.** The following standards are intended to assure an acceptable degree of landscaping, screening, and buffering between land uses, particularly between residential and nonresidential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community, and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
1. Encourage the landscaping of developments and to dissuade the unnecessary clearing and disturbing of land so as to preserve the natural and existing growth of flora and to replace removed flora or plant new flora indigenous to the region.
  2. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
  3. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
  4. Provide natural buffers that reduce glare and noise, and protect wetlands, stream corridors and other significant environmental features.
  5. Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.
  6. Enhance the overall environmental and aesthetic quality of the community in order to provide a healthful and pleasant atmosphere for Town residents and visitors.

### § 31.2 APPLICABILITY

---

All nonresidential and multi-family development that is otherwise subject to site plan review shall meet the requirements of this Article.

### § 31.3 LANDSCAPING PLAN

---

- A. The Planning Board may determine that the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:
1. A title block with the name of the project, the name of the person preparing the plan, a scale, North arrow and date.
  2. All existing, significant plant materials on the site.
  3. Existing and proposed structures.
  4. Topographical contours at two-foot intervals.
  5. Drainage patterns.
  6. Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be protected or removed.
  7. Landscaping of parking areas, access aisles, entrances, common open areas, recreation areas, and perimeter buffer areas.
  8. Other information as may be required by the Code Enforcement Officer and/or the Planning Board.
- B. Relief from any landscape plan requirements that are deemed unnecessary may be granted by the Planning Board.

### § 31.4 GENERAL REQUIREMENTS

---

- A. **Existing Site Features.** Existing unique, cultural, or natural site features, such as stone walls, shall be incorporated into landscaping plans to the maximum extent feasible. Sites that possess significant ecological properties such as aquifers, public water supply watersheds, wetlands, and streams whose degradation would negatively affect other properties should be developed in a manner that will effectively prevent the possibility of such degradation.
- B. **Completion of Work.** The issuance of a Certificate of Occupancy shall require completion of lot grading, seeding and required landscaping, or posting of a performance guaranty acceptable to the Code Enforcement Officer. If the applicant cannot perform the work due to seasonable impracticalities, all landscaping work shall be completed by June 30th of the year following the issuance of the Certificate of Occupancy.
- C. **Pedestrian Access.** Pedestrian access to sidewalks or buildings shall be considered in the design of all landscaped areas.
- D. **Existing Trees.** Existing healthy trees with a minimum 12-inch caliper should be identified on site plans and preserved. Said preserved trees shall be credited against the requirements of these regulations in accordance with their size and location.



## § 31.5 PLANT SPECIFICATION

### A. Appropriate Species.

1. Plant and landscape materials shall be compatible with soil conditions on-site and the regional climate. Native plant species are encouraged.
2. All grasses, trees, and plant material shall be in accordance with those appropriate for the Town of Clarkson's Plant Hardiness Zone as defined by the United States Department of Agriculture.
3. Under no circumstance shall any site include plant material that is considered by the NYSDEC to be a prohibited and regulated invasive species per NYS Law 6 CRR-NY V C 575.

- B. Minimum Plant Size.** Unless otherwise specifically stated elsewhere in this section, all plant materials shall meet the minimum size standards set forth in Table 31-1 below.

TABLE 31-1: MINIMUM PLANT SIZE IN BUFFER

PLANT MATERIAL	SIDE OR REAR YARDS	ALL OTHER AREAS
<b>TREES</b>		
Deciduous	1 ½ inch caliper	2 inch caliper
Evergreen	4 feet (height)	5 feet (height)
<b>SHRUBS</b>		
Deciduous	15 inches (height)	24 inches (height)
Evergreen	12 inches (height)	18 inches (height)

## § 31.6 LANDSCAPING STANDARDS

### A. Lawn Area.

1. Grass areas shall be planted in a species well adapted to localized growing conditions in Monroe County, New York. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
2. In areas where other than solid sod or grass seed is used, over-seeding shall be sown for immediate effect and protection until coverage is otherwise achieved.
3. Replacement or over-seeding mixes shall match or compliment the original installation.

- B. Perimeter Landscaping.** Landscaping shall be required along the perimeter of projects, or within the required setbacks, and shall be provided except where driveways or other openings may be required. The Planning Board may consider alternatives to the location of landscaping materials, based on the existing character of the neighborhood. For large development projects such as shopping centers, perimeter landscaping shall apply to the full perimeter of the project, and not to internal property lines. The linear feet guidelines in Subsections B(1) and B(2)

are to be used to calculate the number of required plantings; they do not require that plantings be uniformly spaced. Rather, grouping of plants consistent with accepted landscape practice is encouraged. Specific requirements are as follows:

1. At least one tree for each 40 linear feet of the perimeter of the lot; and
2. At least one shrub for each 10 linear feet of the perimeter of the lot.

**C. Building Foundations.** Building foundations shall be planted with ornamental plant material, such as ornamental trees, flowering shrubs, perennials, and ground covers. The arrangement of said landscaping shall be arranged along the front façade as well as any facades visible from the public right-of-way. Trees and shrubs shall be provided according to the following requirements:

1. At least one tree for each 30 linear feet of the perimeter of the building; and
2. At least one shrub for each five linear feet of the perimeter of the building.

**D. Parking Areas.** Parking lots containing five or more spaces should be internally landscaped and provide the following:

1. A landscaped buffer at least 10 feet in width provided between a parking lot and the public rights of way;
2. A landscaped island or median for every 10 spaces, planted with at least one tree no smaller than two inch caliper (trunk diameter at four foot height). Large and medium shade trees (no less than eight feet in height at maturity) are recommended. Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended in parking areas;
3. Islands and medians a minimum of eight feet wide at the shortest side to protect plant materials and ensure proper growth (see Figure 31.1);
4. Islands utilized to separate parking stalls into groupings of not more than 20 spaces between islands (see Figure 31.1); and
5. Parking lots broken up into "rooms" of no more than 40 spaces, separated by landscaped islands or pedestrian accessways or sidewalks. See Figure 31.1.

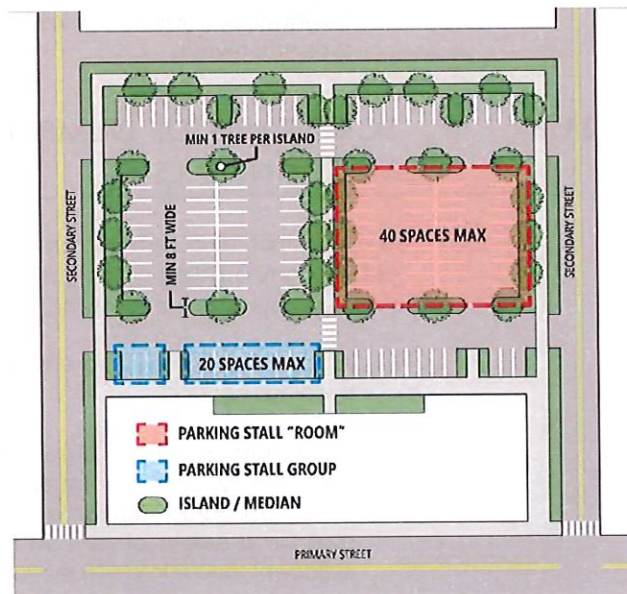


FIGURE 31.1: Parking Area Design & Landscaping



**E. Screening Requirements.**

1. A fence without landscaping shall not be considered a buffer.
2. A landscaped barrier at least 10 feet in width shall be provided to screen vehicular activity from adjacent properties. If there is insufficient space to accommodate a 10-foot landscaped area, the Planning Board may allow screening to consist of a wall, fence, berm, hedge, or other plant materials or combinations thereof no less than five feet in height.

**§ 31.7 LANDSCAPING MAINTENANCE**

---

It shall be the responsibility of the property owner and/or lessee to maintain the quality of all plant material, non-plant landscaping, and irrigation systems used in conjunction with the landscaping.

- A. Maintenance shall include, but not be limited to; watering, weeding, mowing (including trimming at the base of fencing), fertilizing, mulching, proper pruning, and removal and replacement of dead or diseased trees and shrubs on a regular basis.
- B. All landscaping and plant material that is missing, dead, decaying, or injured as of September 30th shall be replaced by June 30th of the following year at the owner's expense. The replacement shall be of the same species and size unless otherwise approved by the Code Enforcement Officer.
- C. Irrigation systems shall be designed to minimize spray on buildings, neighboring properties, roads or sidewalks; maintained in proper operating condition and conserve water to the greatest extent feasible through proper watering techniques.
- D. Improper maintenance shall be determined through periodic inspection by the Code Enforcement Officer. The Code Enforcement Officer may require a review and status report of plantings by a professional landscaper, arborist, or engineer. All reasonable costs for review and determination shall be at the expense of the property owner.

**§ 31.8 SCREENING OF DUMPSTERS, SERVICE AREAS, & MECHANICALS**

---

In any district, all dumpsters, service areas or mechanical units used or intended to be used for any building or land use other than one-family and two-family dwelling units, shall be subject to the following:

- A. All dumpsters, service areas and mechanicals must be located behind the front building line; and
- B. All dumpsters, service areas and mechanicals shall be screened from view with either a wall, a solid fence or a combination of fencing and evergreens creating a solid visual barrier from adjacent properties and the public right-of-way. Said barrier shall be a height of at least five feet above grade level on all sides where the adjacent land is in a residential district or a residential use.



§ 31.9

BUFFERING OF NONRESIDENTIAL USES

---

Where any nonresidential use abuts a residential use or district, including off-street parking areas, a landscaped buffer of at least ten feet in width shall be provided. Such buffer shall include one or any combination of the following screening as approved in site plan review. The requirements may be modified by the Planning Board if deemed necessary to fulfil the purpose and intent of these regulations.

- A. A landscaped earthen berm a minimum of two feet high plus plantings a minimum of two feet high (a total of four feet high).
- B. A decorative concrete or masonry wall.
- C. A wood, vinyl, tubular steel, or similar fence compatible with the character of the area in which the fence is to be placed. Fences or walls used to meet screening requirements shall display a finished face toward adjacent streets and properties.
- D. A compact hedge or other live vegetative barrier.

# ARTICLE 32.

## OUTDOOR LIGHTING

### § 32.1 PURPOSE & INTENT

---

The purpose of this Article is to provide regulations for outdoor lighting to achieve the following objectives:

- A. Allow for the provision of outdoor lighting as needed for visibility, security and as an accent to architectural and/or landscape features.
- B. Permit the use of exterior lighting that does not exceed the minimum levels specified in the International Dark Sky Association and the Illuminating Engineering Society of North America recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.
- C. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.
- D. Curtail light pollution, reduce skyglow and improve the nighttime environment.
- E. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.
- F. Conserve energy and resources to the greatest extent possible.

### § 32.2 APPLICABILITY

---

- A. **Uses Subject to Regulation.** These regulations shall apply to all outdoor lighting on any property utilized for the following purposes:
  - 1. Nonresidential uses, including industrial uses;
  - 2. Mixed-uses, whether located on the same site or within the same structure; and
  - 3. Multi-family dwellings over four units.
- B. **Site Plan Review.** For uses which require a site plan review, the Planning Board may require a lighting site plan to be submitted showing the location, number, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other uses shall conform to the general requirements contained herein.

### § 32.3 GENERAL REQUIREMENTS

---

- A. Average levels of illumination for all building, landscaping, and parking shall not exceed the levels set forth and shall not encroach or trespass upon adjacent properties and shall be so arranged as to prevent direct glare onto any adjacent property or highway. Illumination design should establish a hierarchy of lighting to insure a smooth transition from bright areas to those with subdued lighting.
- B. Exterior lighting fixtures on commercial, industrial, institutional, and multi-family properties shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level, taking into account levels for the closest IESNA activity.
- C. Lighting, except as required for security, shall be extinguished during non-operating hours in order to minimize the indiscriminate use of illumination. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

### § 32.4 SPECIFIC REQUIREMENTS / STANDARDS

---

- A. **Lighting Fixtures.** All light fixtures are subject to the following standards:
  - 1. All exterior lighting fixtures shall be dark sky compliant.
  - 2. Street and commercial lighting fixtures throughout residential districts should be distinctive and pedestrian-scaled at a minimum of 10 feet but no more than 15 feet in height. Parking lots light fixtures should not exceed 20 feet in height.
  - 3. Lighting fixtures should be compatible with the architectural style and other features of adjacent buildings.
  - 4. Lighting fixtures should be of a consistent architectural style and utilize a design that allows light trespass to be fully shielded or fully cutoff.
- B. **Parking Lots.** Parking lots shall not exceed light levels necessary for safety and for locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating offsite light spillage. Parking and circulation lighting fixtures are required to have ninety-degree cutoff type luminaire(s) to prevent light above the fixture. A lighting plan shall be required for all lighting with parking of over five vehicles or site application greater than 20,000 square feet.
- C. **Wall Pack Units.** Wall-pack units are required to be opaque shielded or have optics that provide a cutoff angle of 70° or less.
- D. **Spot or Flood Type Lighting.** Spot or flood type lighting attached to a structure shall not exceed 20 feet in height and have cutoff angle shields of 70° or more.
- E. **Canopy and Roof Overhang.** Lights installed on canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the canopy or



overhang. Lights shall not be mounted on the sides or top of the canopy or overhang.

- F. Outdoor Signs.** Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign and shall be shielded or directed in such a way that the light illuminates the sign only. Internal illumination of a sign shall be concealed behind opaque, translucent, or other similar types of glass or plastic. Signs may be externally illuminated using incandescent or florescent sources and/or metal halide sources. Such sources not exceeding 150 watts may be used for exterior sign illumination by a special permit.
- G. Security Cameras.** Facilities which employ security cameras may employ appropriate lighting to ensure proper function during all times when such cameras are in use.

## § 32.5 LIGHT TRESPASS

---

- A.** Light trespass shall be limited to the following:
  - 1. In all zoning districts, at the pavement edge of adjoining public roads: a maximum of 0.5 footcandle, except for site access points where a maximum of one footcandle at the pavement edge is permitted.
  - 2. Residential districts and where an adjacent property is in a residential district: a maximum of 0.2 footcandle 25 feet beyond the property line or at the dwelling unit, whichever is less.
  - 3. Nonresidential districts. Light trespass shall be based upon adjoining uses and light levels to insure that IESNA standards are not exceeded.

## § 32.6 EXEMPTIONS

---

The following types of outdoor lighting are exempt from this regulation unless otherwise specified:

- A.** Street lighting installed by the Town, Monroe County Department of Transportation, or the NYS Department of Transportation.
- B.** Low-voltage lighting as defined by the National Electric Code (NEC).
- C.** Holiday lighting.
- D.** Temporary construction and emergency lighting needed by police, emergency or highway crews, provided the light is extinguished upon completion of the work.
- E.** Hazard warning lights required by a federal or state regulatory agency, except that all fixtures used must be as close as possible to the federally required minimum output.
- F.** Lighting associated with farm or agricultural operations. However, farm or agricultural operations within 100 feet of an adjacent residential dwelling shall be shielded to prevent light trespass onto the adjoining property.

§ 32.7

NONCONFORMING LIGHTING

---

All outdoor lighting lawfully existing prior to the effective date of this chapter shall be deemed conforming to this section except that:

- A. No installation of new luminaries (e.g., fixture and bulbs) shall be permitted unless in conformance to this section.
- B. All outdoor lighting that, in the opinion of the Code Enforcement Officer, is causing a glare on adjoining roadways or properties shall be required to submit lighting details to the Code Enforcement Officer showing that the existing lighting meets the requirements of this section or how such lighting will be brought into conformance. Any outdoor lighting fixture, with the exception of incandescent fixtures up to one-hundred-fifty-watt intensity per light source, shall be shielded from above in such a manner that:
  - 1. The edge of the shield is below the light source.
  - 2. Direct rays of the light source are confined to the property boundaries.
  - 3. Direct rays are prevented from escaping toward the sky.
- C. For the purpose of these provisions, "light source" includes any refractor, reflector or globe.
- D. To address safety issues and/or complaints a review and report by the New York State Department of Transportation and/or Utilities company study and report or engineering plan or study may be required of all lighting for all sites by the Planning Board as part of site plan review or by the Code Enforcement Officer for enforcement.

§ 32.8

PROHIBITED LIGHTING

---

The following types of outdoor lighting shall be prohibited within the Town, unless otherwise specified:

- A. Blinking, flashing, strobe or search lights.
- B. Exposed strip lighting used to illuminate building facades or signs.
- C. Any light that may be confused with or construed as a traffic control device.
- D. Roof-mounted lighting.
- E. Mercury vapor lighting.

## § 32.9 TEMPORARY LIGHTING

---

- A. Temporary lighting shall be for a period of less than seven days for the following:
  - 1. Civic uses.
  - 2. Carnival, fair, circus.
- B. Construction or emergency lighting shall be discontinued immediately upon completion of construction work or abatement of the emergency necessitating lighting.
- C. Lighting associated with agricultural operations within an established New York State Agricultural District shall be exempt from these provisions.

## § 32.10 LIGHTING PLAN SUBMITTAL REQUIREMENTS

---

- A. All development applications subject to the site plan review with outdoor lighting components shall include a lighting plan in accordance with this section.
- B. A lighting plan shall be provided showing conformity with standards contained in this section. Such plan shall indicate the location, type of lamp, luminaire, mounting height, source lumens, illuminance, and glare control options, if any, for each light source and area. Illuminance may be plotted by using manufacturer's photometric charts or the Planning Board may require ISO footcandle drawings to examine the interaction of all lighting on the site. Any additional documentation necessary to show conformance to the standards set forth in this section.
- C. Additions or changes to an approved lighting plan shall be considered under site plan review and a public hearing may be held at the option of the Planning Board.
- D. All other uses documentation as required and determined by the Code Enforcement Officer to show conformance with the standards set forth in this section.



# ARTICLE 33.

## NONRESIDENTIAL DESIGN STANDARDS

### § 33.1 PURPOSE & INTENT

---

- A. Purpose.** The purpose of these design guidelines and standards is to describe the desired future development pattern, form, massing, site layout and architectural detailing for nonresidential development within the Town of Clarkson. Given the varied character of the Town, there is a need for clear standards that meet the goals and objectives of the community while still allowing for flexibility and creativity. These standards will provide the necessary regulatory guidance and framework for high-quality development while still allowing flexible design alternatives.
- B. Intent.** The application of these design standards and guidelines should seek to achieve the following objectives:
1. Create inviting, attractive buildings, sites, open spaces, and streetscapes.
  2. Require that future private development positively contribute to the public realm and ensure compatibility with surrounding developments so as not to detract from the overall streetscape and character of the area.
  3. Utilize good site planning techniques that provide visual interest and accommodate multimodal travel such as varying building massing, emphasizing street corners, highlighting points of entry, and integrating site circulation and access between uses.
  4. Encourage the development of buildings consistent with the goals of the Leadership in Energy and Environmental Design (LEED) program.
  5. Ensure that new development building and site design does not negatively impact adjacent residential uses, respecting their existing scale and character.

### § 33.2 APPLICABILITY

---

The following standards and guidelines shall apply to all nonresidential, multi-family (over 4 units), and mixed-use development within the Town; excluding industrial development.

### § 33.3 SITE PLANNING STANDARDS

---

Site planning standards primarily address the organization of a project's components on the site or parcel that it is located. They are intended to address the location of buildings and site features such as parking lots, open space, and service areas, as well as the organization of circulation patterns for vehicles and pedestrians.

- A. **Site Layout.** The layout of all improvements must be designed to generally follow the existing topography of the site. The layout of roads, walkways and building footprints must be aligned with existing contours where practical, with limited connecting streets or walkways aligned perpendicular to existing slopes.
- B. **Sense of Entry.** Intersections create natural opportunities for gateways, which can be enhanced through a combination of landscaping, welcome/identity signage, framed views, and focal points. Signage and focal points, if included, must be used in ways that complement rather than obstruct or detract from important views.
- C. **Views.** The Town's rural viewsheds play an especially large role in shaping the character of the community. Existing view corridors should be respected and protected. New construction and landscaping must take into account how views may be affected. Protecting views experienced from points of entry to the Town and along major roadways is important. The Planning Board shall help determine the significance of a view corridor or viewshed as part of site plan review.
- D. **Projects with Multiple Buildings.**
  - 1. Projects with multiple buildings, such as plazas with out-lot or outparcel development, shall be sited with pedestrian connections between structures, parking areas, and adjacent uses.
  - 2. Multiple structures shall be placed in a fashion that creates a well-organized, accessible, and functional site. The Town encourages site layouts that create a unique sense of place and do not result in large parking lots lacking landscaping or pedestrian accommodations.

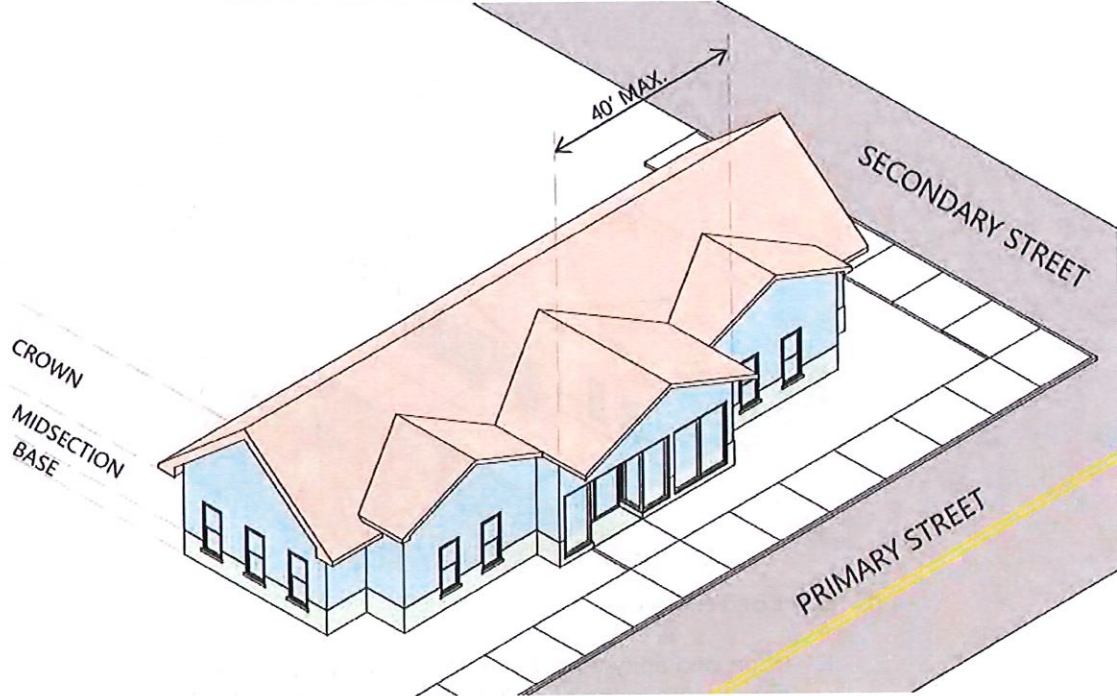
## § 33.4 ARCHITECTURAL STANDARDS

---

- A. **Building Form and Massing.**
  - 1. A single, large, dominant building mass shall be avoided.
  - 2. No façade shall have a blank, uninterrupted length exceeding 40 feet without including architectural features such as columns, pilasters, piers, or changes in plane, in texture or masonry pattern, storefronts and entry treatments, or equivalent design element that subdivides the wall into visually interesting proportions (see Figure 33.1).
  - 3. Buildings situated at street corners should "wrap" the corner by continuing facade design elements on all street elevations (see Figure 33.1).



FIGURE 33.1. Building Orientation & Massing



**B. Architectural Design.**

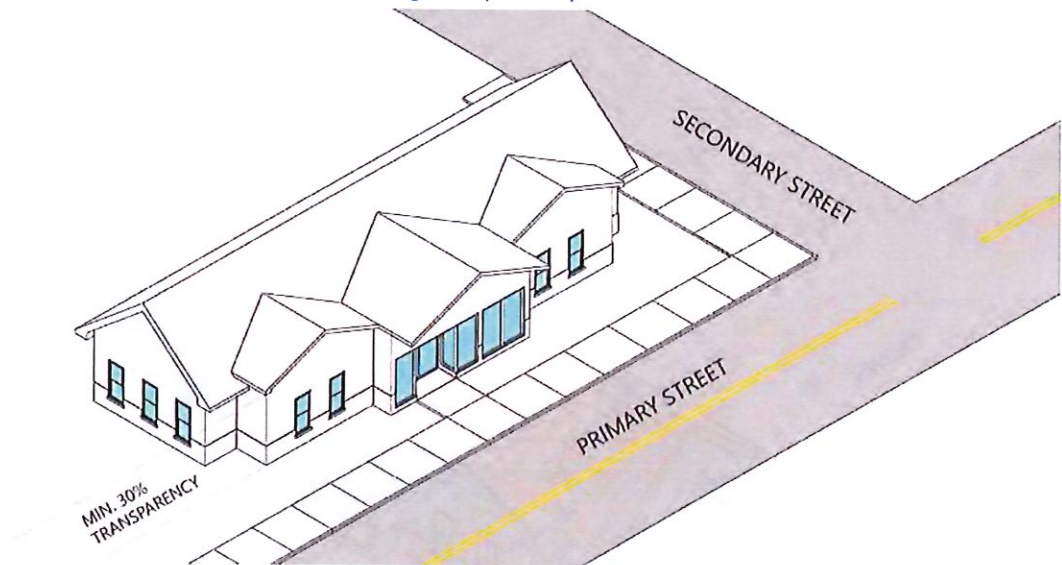
1. All structures shall have a visible roofline. Elements that define the roof and the upper quartile of the façade shall incorporate design details that provide an added level of articulation to the architectural expression of the building.
2. The choice of design elements and their scale, height, proportion, and mass should draw from design cues provided by the rural character of the Town.
3. Buildings designed to advertise or promote a uniform corporate image in a manner that may render the building undesirable or unable to reasonably accommodate future uses shall be prohibited.
4. All buildings shall exhibit a clearly defined base, mid-section, and crown. This can be accomplished using a combination of architectural details, materials, textures, and colors (see Figure 33.1 above).

**C. Windows.**

1. Windows shall be of a scale, proportion, and coverage appropriate to the overall style of architecture of the building.
2. Window openings should be trimmed with an appropriate material (brick, stone, wood, wood-like, cementitious board, vinyl) to provide added definition and interest to the overall façade.
3. All primary facades, or those fronting public streets and rights-of-way, shall observe a minimum transparency requirement of 30% in the area between two and eight feet above ground level (see Figure 33.2).



FIGURE 33.2. Building Transparency



**D. Doors and Entryways.**

1. Doors and entryways shall be of a scale, proportion, and coverage appropriate to the overall style of architecture of the building.
2. Commercial and mixed-use buildings shall have a transparent primary entryway that will be considered as part of the overall transparency requirement for the building frontage.
3. Entryways shall be detailed and identifiable by the general public through the use of decorative trim, moldings, overhangs, and other defining architectural features such that its purpose as the primary entrance is evident from the street. The same treatment is encouraged for all secondary entryways near parking locations.

**E. High Quality Materials.**

1. Along street frontages, all exterior building walls and structures shall be constructed with durable materials such as masonry, stone, brick, finishing wood, stucco (EIFS) and glass.
2. Finishes that are intended or designed to reflect light and glare, as well as vertical aluminum or metal siding shall not be permitted.
3. No more than three exterior wall materials should be used on any one side of a building.
4. Material changes at the outside corners or in a plane should be avoided.
5. Concrete finishes or pre-cast concrete panels that are not exposed aggregate, hammered, embossed, imprinted, sandblasted, or covered with a cement-based acrylic coating shall not be used as exterior building materials and shall be prohibited on all exterior walls.

6. Standard masonry block walls shall be prohibited on exterior walls containing primary entryways and walls facing a street or drive.
7. Decorative masonry materials such as split face and textured finished blocks shall be considered an acceptable alternative to stone, brick, finishing wood, stucco (EIFS) or glass.

**F. Green Infrastructure and Building Design.**

1. Alternative energy sources, such as rooftop solar panels or shingles, are encouraged and should be incorporated into the design of the building so as not to detract from the overall design.
2. Developers and builders are encouraged to utilize roofing materials that reflect sunlight (e.g. lighter colors) or incorporate vegetated roofing on at least 50% of the roof area. Methods such as these decrease heating and cooling needs on a building by reflecting sunlight rather than absorbing it.

**§ 33.5**

**TRANSITIONS BETWEEN NONRESIDENTIAL & RESIDENTIAL USES**

---

- A. Applicability.** All nonresidential uses and multi-family dwellings shall employ similar building and site design standards to ensure compatibility with adjacent residential development. These requirements shall be in addition to the design standards and guidelines of this Article and requirements set forth by this Chapter for landscaping, screening, and buffering of uses.
- B. Requirements.** To the maximum extent practicable, nonresidential and multi-family development shall incorporate at least two of the following techniques when developed adjacent to an existing residential use:
1. Similar building front setback;
  2. Similar building height;
  3. Similar roof form; or
  4. Similar exterior materials.
- C. Waiver of Requirements.** During site plan review, the Planning Board may waive the requirements of this section if it is determined that the application of such criteria is not necessary to protect the character and quality of life of the neighborhood as well as public health, safety, and welfare.

---

# PART 4

## ADMINISTRATIVE & REVIEW PROCEDURES

---

ARTICLE 40. GENERAL APPLICATION PROCEDURES.....	121
ARTICLE 41. SPECIAL USE PERMITS .....	128
ARTICLE 42. SITE PLAN REVIEW.....	132
ARTICLE 43. NONCONFORMITIES & PENALTIES.....	138
ARTICLE 44. AMENDMENTS, VARIANCES, & APPEALS.....	140



# ARTICLE 40.

## GENERAL APPLICATION PROCEDURES

### §40.1 PURPOSE & APPLICABILITY

---

- A. Purpose.** This Article is intended to provide the general procedures, requirements, and review criteria for all development and permit applications submitted to the Town.
- B. Applicability.** The provisions of this Section apply to all the articles in this Part (Part 4) unless otherwise stated.
- C. Review Body.** For the purposes of this Chapter the terms "reviewing body," "review body," or "decision-making body" shall refer to any Town board, commission, committee, or agent with review and/or approval authority as enacted under this Chapter.
- D. Properties in Violation Prohibited.**
  - 1. No applications that include a building, structure, property, or use that is in violation of this zoning code, other laws of the Town of Clarkson, or NYS laws, rules, and/or regulations shall be accepted or processed.
  - 2. Applications which, in whole or in part, include a proposal to rectify violations on such property may be considered in accordance with this zoning code.

### §40.2 PRE-DEVELOPMENT MEETING

---

- A. Purpose.** The purpose of a pre-development meeting is to provide the applicant with the opportunity to seek nonbinding, advisory direction from the Town to better prepare the applicant and project application for the development review process. This process is optional and has no bearing on action on a formal application.
- B. Conference Recommended.** It is recommended that applicants request a pre-development meeting prior to entering the formal application review process to discuss the nature of the proposed application and to determine the best course of action for submittal. Meetings may be held with the CEO and/or the appropriate application review body during a scheduled public meeting.
- C. Advisory Opinion.** In no way shall any comments or feedback provided by the Town during a pre-application meeting be construed as an indication of decision or be legally binding in any way.

- D. **Application Material.** Materials presented during the pre-application meeting may be incomplete and/or conceptual in design. A formal, complete application is required to be considered for approval prior to action.

## §40.3

### GENERAL APPLICATION PROCEDURES

---

A. **Submittal.** All applications considered under this Chapter shall:

1. Be submitted to and processed by the Town's Code Enforcement Officer or other duly designated Town official.
2. Require the signature of the owner(s) of the subject property. Where there are multiple land owners, a written consent agreement among all land owners must be included. Tenants may submit applications with written consent of the property owner(s).
3. Be provided in the required number and form, including at least 15 hard copies and one electronic copy (digital PDF) upon request. Site plan applications shall include at least two stamped hard copies of all maps and site plans at the size and scale requested by the Code Enforcement Officer. Electronic copies of application materials may be required upon request.
4. Include all application fees as established by § 140-40.8 and as may be required elsewhere in this Chapter.

B. **Deadlines.** Applications shall be submitted prior to the meeting at which the applicant wishes to be considered, in accordance with the meeting schedule and filing deadlines, set by resolution of the Town Board. Such schedule may be amended from time to time as deemed necessary by the reviewing body.

C. **Acceptance and Processing.**

1. Within 30 days of an application being filed, the Town's Building Department shall determine whether to accept the application as ready for processing or reject the application as not ready for processing.
2. An application is considered accepted and ready for processing only if it is submitted in the appropriate number and form, is facially complete, includes all required materials, and is accompanied by the required fee.
3. The acceptance of an application by the Town shall in no way be interpreted as a determination of the completeness, adequacy, or accuracy of application materials, but rather serve as an acknowledgement to the receipt of required fee and application materials in the correct number and form.
4. If an application is determined to be not ready for processing, a paper or electronic written notice shall be provided to the applicant.
5. No further processing of unaccepted applications will occur. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.



**D. Applicant Responsibilities.**

1. The applicant and/or their agent is expected to attend all meetings at which the application is to be discussed.
2. In all cases, the burden is on the applicant to show that their application complies with the Town of Clarkson local laws and regulations, and any other applicable NYS laws, rules, and regulations.

**§40.4**

**REVIEW BODY ACTION**

---

**A. Initiation of Review.** The review process(es) provided herein shall begin within 30 days of application acceptance by the Town's Building Department. The review and decision period does not begin until such time that the Town's Building Department notifies the applicant that the application is ready for processing and the materials submitted are acceptable for review.

**B. Public Hearing.** Where required by this Chapter and NYS Law, the reviewing body shall hold at least one public hearing prior to the issuance of a decision.

**C. State Environmental Quality Review (SEQR).** Where required by NYS Law, the review body shall complete all required documentation and procedures in accordance with the State Environmental Quality Review Act (SEQRA).

**D. Issuance of Decision.**

1. Within 62 days following the close of the public hearing the reviewing body shall issue a decision to approve, approve with conditions or modifications, or deny the proposed application.
2. Prior to issuing a decision on an accepted application, the reviewing body shall determine by resolution the application to be complete, noting any waived or additional application materials.
3. Where County referral is required, no decision shall be issued by the reviewing body until the referral process is complete.
4. The time period in which a decision must be rendered on the application may be extended by mutual consent of the applicant and the reviewing body.

**E. Written Decision.**

1. A written decision shall be provided by the Town explaining the rationale and findings of the reviewing body based upon the standards and review criteria contained in this Chapter. The written decision shall also make note of any conditions or modifications of the approval, where applicable.
2. A copy of the decision shall be promptly filed with the Town Building Department and sent to the applicant.

**F. Findings.** The findings of the review body may be based on evidence submitted or the personal knowledge of the review body to show that:



1. It has made an intelligent review of the question.
  2. It has considered all the information or evidence.
  3. It has heard all parties in question.
  4. Any intimate knowledge it has of the subject under question has been considered.
  5. It has made a personal inspection of the parcel in question and from this examination certain findings were ascertained.
- G. Waiving Application Requirements.** A reviewing body is authorized to waive or modify, in whole or in part, required application material if in their opinion one or more of the following apply:
1. Any such material, or part thereof, is not requisite in the consideration of impact to public health, safety, or general welfare;
  2. Any such material is inappropriate or irrelevant to the proposal;
  3. Any such material is deemed unnecessary for an adequate, informed review.
- H. Additional Application Requirements.** A reviewing body may require the applicant to provide additional application material if it is found to be necessary for a complete, adequate, and informed review.

## §40.5

## REFERRALS

---

- A. Internal Referral.** The reviewing body may refer any application to another Town board, committee, department, or official for review, comment, and advisement. Within 30 days of referral the receiving body shall submit its recommendation in writing with a summary of findings to the reviewing body.
- B. Professional Referral.**
1. The reviewing body may seek the opinion of any engineering, architectural, historical, planning, technical, environmental, legal consultant or attorney, or other expert or professional to aid in the review of an application.
  2. The applicant shall reimburse the Town for any costs incurred as part of such professional review in accordance with §140-40.7.
- C. County Referral.** The Town shall refer applications to the Monroe County Planning and Development Department pursuant to NYS GML 239-m and in accordance with any planning referral agreements between the Town and County.
- D. Other Local, Regional, and State Referrals.** Referrals to other local, regional, and state agencies shall also be made in accordance with Town, County, and NYS Law.

## §40.6 PUBLIC HEARINGS & NOTICES

---

### A. Conducting Public Hearings.

1. The reviewing body shall schedule, notice, and conduct a public hearing for applications as required by this Chapter and NYS Law.
2. The reviewing body may review multiple applications (e.g. special use permit and site plan review) for a single property, use, or development concurrently and may conduct concurrent or joint public hearings, if desired.
3. A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuation is set for specified date and time and that date and time is announced during the public hearing.
4. If a public hearing is tabled, deferred or postponed for an indefinite period of time from the date of the originally scheduled public hearing, new public notice must be given before the rescheduled public hearing.
5. If the applicant requests a postponement, the applicant must pay all costs of re-notification.

### B. Public Hearing Notices.

1. Newspaper. Whenever the provisions of this Chapter require, notice must be published at least 10 days in advance of such hearing in a newspaper of general circulation within the Town.
2. Mail. Whenever the provisions of this Chapter require, notice may be sent by mail. Such notice should:
  - a. Be based on the latest property ownership information available from the Real Property Assessment Records. When required notices have been properly addressed and deposited in the U.S. mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.
  - b. Follow the minimum distance requirement for mailed notices to nearby property owners as set by NYS Law. Where the provisions of this Chapter may be in conflict, the greater requirement shall apply.
3. Online Notice. Notice may also be posted to the official website and/or social media accounts of the Town.

## §40.7 FEES

---

- A. Fee Schedule Established.** A schedule of fees for all permits, applications, deposits, and copies shall be provided in a Fee Schedule, set by resolution of the Town Board. Such schedule may be amended from time to time as deemed necessary by the Town Board.



**B. Consultant Fees.**

1. A review body may refer an application presented to them for professional engineering, architectural, historical, planning, technical, environmental, landscaping, or legal consultation, or attorney, as shall be deemed reasonably necessary to enable an adequate, informed review.
2. The amount of a consultant fee shall be determined and approved by the Town Board. Consultants shall estimate their fees based on the services to be rendered on behalf of the Town from a review of the application, including such documents, maps, plans, specifications, drawings and the like as may be a part thereof.
3. The consultant will be retained pursuant to the procurement policy of the Town. The applicant shall make an escrow deposit with the Town, equal to the amount of the fees so determined. This escrow deposit shall be utilized to pay the cost of the special consultant's fees involved. The application shall not be deemed complete until such time as said escrow deposit has been made. If during the review the need for further specialist consultation is deemed reasonably necessary by the Board, the same cost estimate and escrow deposit procedure shall be followed.

**§40.8 ZONING PERMIT**

---

- A. Once all required reviews and approvals of this Chapter have been obtained and compliance with all standards herein is verified by Town Development Staff, the applicant shall be granted a zoning permit by the Code Enforcement Officer.
- B. The issuance of a zoning permit shall be independent of and in no way indicate approval of a building permit or certificate of occupancy. The authorization and issuance of a building permit shall be at the discretion of the Code Enforcement Officer as provided in §52.5 of the Town of Clarkson Code.
- C. Such permit shall expire 90 days after the issuance thereof unless construction shall have been commenced within said period, and it shall expire 18 months after the date of issue in any event.

**§40.9 CERTIFICATES OF OCCUPANCY**

---

- A. **Requirement.** No building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Code Enforcement Officer shall have issued a certificate of occupancy stating that such building, structure or part thereof and the proposed occupancy or use thereof are found to be in conformity with the provisions of all applicable state and local laws and conditions of approval of any approvals authorized by this Chapter.
- B. **Issuance.** Within five days after notification that a building or structure or premises is ready for occupancy or use, it shall be the duty of the Code Enforcement Officer to make a final inspection thereof and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform to the provisions of all applicable state and local laws.



- C. **Refusal.** If the Code Enforcement Officer, after such final inspection, refuses to issue a certificate of occupancy, the Code Enforcement Officer shall state such refusal, in writing, with the cause and immediately thereupon mail notice of such refusal to the applicant to the address indicated on the application.
- D. Upon transfer of title to a new owner or execution and recording of a mortgage upon said building, or said building becoming vacant, no two-family dwelling, multi-family dwelling, or nonresidential building shall be occupied in whole or in part until the issuance of a certificate of occupancy by the Code Enforcement Officer that said dwelling conforms in all respects to the requirements of this Chapter. The Code Enforcement Officer may, on the request of the owner or certified agent, issue a temporary certificate of occupancy in their discretion.

#### §40.10 CERTIFICATE OF LEGAL PREEXISTING NONCONFORMANCE

---

- A. Upon written request from the owner of the premises, a certificate of legal preexisting nonconformance for any structure or premises lawfully existing or used at the time this Chapter takes effect shall be issued by the Code Enforcement Officer certifying that the continuance of such use is permissible under the provisions of Article 43 of this Chapter.
- B. The certificate shall specifically state wherein the nonconforming use or structure differs from the provisions of this Chapter.

#### §40.11 TEMPORARY PERMIT

---

- A. The Planning Board, in its discretion, may grant temporary nonconforming permits for a period not exceeding six months for use or occupancy for a nonconforming use designated in such permit within any district. Such temporary permits shall be limited as to time and may be extended for not more than one six-month period. Upon the expiration of such temporary permit and any extension thereof, the nonconforming use permitted thereby shall thereupon cease.
- B. A temporary certificate of occupancy may be issued by the Code Enforcement Officer for a period not exceeding six months during alterations or partial occupancy of the building pending its completion, provided that such temporary certificate shall include such conditions and safeguards as will protect the safety of the occupants and the public.

# ARTICLE 41.

## SPECIAL USE PERMITS

### § 41.1 PURPOSE & INTENT

---

- A. **Purpose.** The purpose of this Article is to regulate special uses, which by nature of their operation, may have a higher potential for incompatibility with adjacent uses or otherwise unique characteristics which require a case-by-case review of their location, design, configuration, and impacts on the surrounding area.
- B. **Intent.** The standards of this Article are intended to provide for the individual review and approval of such uses to ensure compatibility of the use in its proposed location and mitigate any potential adverse impacts the use may have on the district or neighborhood.

### § 41.2 APPLICABILITY

---

- A. **Permit Required.** A special use permit shall be obtained for all uses as noted in the district tables of Part 2 of this Chapter prior to their establishment or operation.
- B. **Additional Use Regulations.** In addition to the general district and development requirements of this Chapter, specially permitted uses shall also conform to the requirements of Articles 23 and 24, where applicable.

### § 41.3 REVIEW PROCEDURE

---

- A. **Authorized Review Body.** Special use permit applications shall be reviewed and decided upon by the Planning Board.
- B. **Application Processing.** Special use permit applications shall be submitted and processed in accordance with Article 40 of this Chapter.
- C. **Public Hearings.** The Planning Board shall hold a public hearing for all special use permit applications prior to issuance of decision in accordance with § 140-40.6.
- D. **Referrals.** All internal, professional, and required referrals shall be made in accordance with § 140-40.5.
- E. **Coordinated Reviews.** Where site plan review is also required, the requirements of Article 42 shall also apply. Where applicable, duplicate application materials may be combined to satisfy submittal requirements. In the event that the special use permit is denied, the site plan decision shall be null and void.

## § 41.4 APPLICATION REQUIREMENTS

---

A special use permit application shall include the following, as applicable:

- A. A site plan denoting the location of the subject property and all structures thereon, as well as all property, uses, and structures within 300 feet of the proposed use.
- B. A description of the proposed use and nature of its operation, including:
  - 1. A business plan, vision, or model, and/or summary of products, goods, and services to be sold or provided;
  - 2. The proposed hours of operation;
  - 3. The number of employees at maximum shift;
  - 4. The maximum seat capacity;
  - 5. The timing and manner of any and all anticipated deliveries;
  - 6. A recycling and waste management plan; and
  - 7. The nature and type of all mechanical equipment provided and/or required.
- C. An interior floor plan, including, but not limited to, the arrangement of seats, kitchen and/or bar size and location, storage areas, bathroom facilities, and location of machines or other mechanical equipment.
- D. A narrative describing how the proposed use will satisfy the review criteria of § 140-41.5.
- E. All SEQR Documentation as required by NYS Law.
- F. Where site plan review is also required, the application materials of Article 42 shall also apply.

## § 41.5 REVIEW CRITERIA

---

- A. **General Criteria.** In reaching a decision, the Planning Board shall consider and shall determine, either from its own knowledge and investigation or from testimony or other information submitted to it, written findings on whether the proposed use:
  - 1. Will be generally consistent with the goals of the Town Comprehensive Plan and other adopted plans and studies;
  - 2. Will meet all relevant standards, guidelines, and requirements set forth in this zoning code, including any applicable additional use regulations of Article 23;
  - 3. Will be an economically viable use of the property and/or will not cause there to be any significant decrease in the future economic viability of the property;
  - 4. Will be compatible with existing uses adjacent to and near the property;



5. Will provide adequate measures (such as landscaping and screening) to mitigate potential adverse impacts on surrounding property and preserve or enhance the character of the Town;
  6. Will not have an undue burden or effect on the orderly development and character of the neighborhood or upon the development and conduct of other lawful uses in the vicinity;
  7. Will not be a nuisance to adjacent residents and property in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, traffic, crowds, parking of automobiles, unsightliness, contamination or other similar conditions;
  8. Will not cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts such as significant erosion and/or sedimentation, slope destruction, flooding or ponding of water, or degradation of water quality;
  9. Will not destroy or adversely impact significant historic and/or cultural resource sites; and
  10. Will not otherwise be detrimental to the convenience and general health, safety, or welfare of the public.
- B. **Standard for Review.** Failure to meet one or more of the above criteria may result in denial of an application.

## § 41.6

### SPECIAL USE PERMIT TIME LIMITATIONS

---

- A. **Purpose.** The Planning Board may impose limitations on the time period for which the special use permit is granted if, in their opinion, the temporary issuance of such permit is necessary to verify the appropriateness and compatibility of the use as proposed.
- B. **Duration.** The duration of a special use permit shall of a set period of time determined by the Planning Board to provide the applicant with a reasonable return on investment and allow for adequate observation of the use in standard operation.
- C. **Renewal of Permit.**
1. Special uses that have been issued a time limited permit and intend to continue operation thereafter shall be required to reapply for special use permit approval at least 30 days prior to the initial permit's expiration date.
  2. Renewal applications shall be submitted, processed, reviewed, and decided upon in accordance with the provisions of this Article.
  3. In granting special use permit renewal, the Planning Board may remove or modify the conditions and time limitation of the initial permit, as deemed necessary or appropriate.

**D. Denial.** The Planning Board may deny a renewal of a special use permit when any of the following apply:

1. The petitioner has failed to comply with one or more of the conditions of the prior approval;
2. Substantial new issues regarding the permit conditions during the operation of the use have arisen;
3. The general requirements of this Chapter have not been met; or
4. There are changes in the area or neighborhood that would be incompatible with the special use.

#### § 41.7 TRANSFER OF PERMITS

---

Special use permit approval shall be issued to the property. Therefore, where a change of owner, operator, or occupant occurs, the issuance of a new special use permit shall not be required.

#### § 41.8 REAPPLICATION FOR DENIED SPECIAL USE PERMITS

---

A reapplication for a special use permit request which has been previously denied shall not be considered unless substantial revisions have been completed from the original application previously denied, as determined by the Town Planning Board.

# ARTICLE 42.

## SITE PLAN REVIEW

Remove site plan review  
references within Chapter 116  
(Subdivision)

### § 42.1 PURPOSE & INTENT

- A. The purpose of this Article is to define the site plan review procedures for development actions proposed throughout the Town to preserve and enhance the physical form of the Town, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improve the overall visual and aesthetic quality of the Town, and increase the capability of this Chapter to adapt to a variety of unique circumstances.
- B. The intent of site plan review is to evaluate site plans and require changes consistent with minimizing conflicts which may result between the site layout and design of proposed uses and natural site conditions and features and/or existing or planned adjacent uses.
- C. Site plan review also serves the purpose of ensuring applications comply with clearly defined planning goals and policies such as are provided in the Town's Comprehensive Plan and other land use plans and studies.
- D. These regulations provide site plan review application submission requirements and evaluation criteria to allow the reviewing body to make a fair and informed decision as to whether the development, as proposed, is in compliance with concern for the health, safety and welfare of the environment, Town residents, and adjacent uses.

### § 42.2 REVIEW REQUIRED

Prior to the issuance of a building permit, site plan approval shall be obtained as noted herein.

ACTION	EXEMPT	MINOR	MAJOR
<b>CONSTRUCTION/EXPANSION/ALTERATION</b>			
<b>Primary Use or Structure</b>			
Single- or Two-Family Dwelling			•
Multi-Family Dwelling or Nonresidential Use, Up to 1,000 sf			•
Multi-Family Dwelling or Nonresidential Use, Over 1,000 sf			•
<b>Accessory Use or Structure<sup>1,2</sup></b>			
Single- or Two-Family Use, Up to 250 sf	•		
Single- or Two-Family Use, Over 250 sf		•	
Multi-Family Dwelling or Nonresidential Use		•	
Accessory Dwelling Unit		•	•
<b>*Continued on next page*</b>			



ACTION	EXEMPT	MINOR	MAJOR
<b>Landscaping, Exterior Lighting, Mechanical Equipment, or Stormwater Infrastructure</b>			
Single- or Two-Family Dwelling	•		
Multi-Family Dwelling or Nonresidential Use		•	
<b>Off-Street Parking / Loading Area</b>			
10 Spaces or Fewer		•	
Over 10 Spaces			•
<b>Driveways</b>			
Single- or Two-Family Dwelling	•		
Multi-family Dwelling		•	
Joint or Shared (Residential or Nonresidential)		•	
Nonresidential, Within Existing Curbcut	•		
Nonresidential, Within New or Altered Curbcut			•
<b>Other</b>			
Solar Energy System (Accessory Use or Structure)		•	
Parks or Playgrounds (Public Use)		•	
Pools or Playgrounds (Residential Use)	•		
Telecommunications Equipment			•
<b>OTHER ACTIONS</b>			
Ordinary Repair, Maintenance, or Replacement In-Kind	•		
Interior Alteration	•		
Change of Use			•
Amendment to Approved Site Plan		•	
Planned Unit Development (Article 44)			•
Action Involving Modification of Utility Infrastructure			•
Land Clearing over 1 Acre in Area			•

- NOTES:**
- (1) Accessory use or structure includes decks, patios, porches, garages, sheds, etc. For full list see §140-23.5.
  - (2) Fences and walls shall be exempt from site plan review, provided such fence or wall conforms to the requirements of §140-24.6.

## § 42.3 REVIEW PROCEDURES

### A. Authorized Review Body.

1. Minor site plan applications shall be reviewed and decided upon administratively by the Town Engineer.
2. The Town Engineer may refer any minor site plan application to the Planning Board if it is found that the approval requires a discretionary or more significant review to determine the appropriateness of such proposal. Upon referral by the Town Engineer, the Planning Board shall assume review and decision authority.
3. Major site plan applications shall be reviewed and decided upon by the Planning Board.

- B. Application Processing.** Site plan applications shall be submitted and processed in accordance with Article 40 of this Chapter.

**C. Public Hearings.**

1. A public hearing shall be required for all major site plan applications.
2. The Planning Board may hold a public hearing on minor site plan applications, if deemed necessary.

**D. Referrals.** All referrals shall be made in accordance with §140-40.5.

**E. Coordinated Reviews.** Where a special use permit is also required, the requirements of Article 41 shall also apply. Where applicable, duplicate application materials may be combined to satisfy submittal requirements. In the event that the site plan application is denied, the special use permit decision shall be null and void.

**F. Action on Approval of Site Plan.** An approval endorsement shall be affixed by the Chairperson of the Planning Board on a copy of the approved site plan. A copy of the endorsed site plan shall be filed with the CEO.

**§ 42.4**

**APPLICATION REQUIREMENTS**

---

**A. Minor Site Plan Application Material.** A minor site plan application shall include the following materials, as deemed applicable by the reviewing body. The reviewing body may require some or all application materials be prepared by competent, duly licensed professionals.

1. Application form, including the name, address, and signature of the applicant, property owner, and developer.
2. Description or narrative of all proposed uses and structures.
3. A site plan drawn at a scale of one-quarter inch equals 1 foot or such other scale as the reviewing body may deem appropriate, on standard 24 inch by 36 inch sheets, with continuation on 8 ½ inch by 11 inch sheets as necessary for written information. Such site plan include the following:
  - a. Scale, north arrow, and date.
  - b. The location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 500 feet of the property in question.
  - c. The location and use of all existing and proposed structures on the property in question, including all building and lot dimensions.
  - d. The location and proposed impacts to environmental features, including, but not limited to, open spaces, woodlands, watercourses, wetlands, floodplains, and watersheds.
  - e. The location and dimensions of existing and proposed landscaping, screening, walls, and fences, including information regarding the type of materials.

- f. The location and dimensions of existing and proposed public and private streets, off-street parking areas, access drives, driveways, sidewalks, ramps, curbs, and paths.
  - g. The location of all existing and proposed topography as revealed by contours or key elevations, including final site grading.
  - h. A waste and trash management plan including the type, size, location, appearance, and operation of permanent trash receptacles.
  - i. The type, size, location, appearance, and operation of all outdoor mechanical equipment.
  - j. The location, height, intensity, bulb type, and light color of all exterior lighting fixtures.
  - k. The location, height, size, material, and design of all existing and proposed signs.
  - l. The location all new or modified downspouts or stormwater systems, including the configuration of a system for stormwater drainage or green infrastructure.
  - m. The location of existing and proposed utility systems including sewage or septic, water supply, telephone, cable, electric, internet, and fiber.
  - n. Exterior building elevations (existing and proposed) for all sides showing the location and size of all windows, doors, trim, architectural details and indicating the type of all materials to be used.
  - o. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
  - p. Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
  - q. Identification of any state or county permits required for the project and record of application for and approval status of such permits.
  - r. A schedule for completion of each construction phase, where applicable.
  - s. All NYS SEQR documentation as required by law.
- B. Major Site Plan Application Materials.** An application for major site plan review shall include the following materials, as applicable. Such materials shall be prepared by competent, duly licensed professionals duly, unless otherwise permitted by the reviewing body.
- 1. All required minor site plan application materials.
  - 2. A site plan showing the location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 500 feet of the property in question.



3. A certified land survey.
4. Soil logs, test well, percolation test results, and/or stormwater runoff calculations.
5. A natural resource inventory and/or tree survey.
6. A detailed traffic study.

## § 42.5 REVIEW CRITERIA

---

The Planning Board shall review the site plan and supporting data taking into consideration the following:

- A. Conformance with this Chapter and the Town's Comprehensive Plan.
- B. Compatibility of proposed uses to adjacent uses, considering building and site orientation, design, and transitional and/or buffering treatments.
- C. Quality of building design and materials, including facades, signs, and site layouts, and compatibility with the desired character of the district and/or neighborhood.
- D. Adequacy and arrangement of vehicular traffic and circulation, including intersections, road widths, traffic controls, traffic-calming measures, and accessibility to fire and emergency vehicles.
- E. Adequacy and arrangement of pedestrian and bicyclist access and circulation, including separation from vehicular traffic and connections provided internally and externally to the site.
- F. Adequacy of off-street parking, loading, and vehicular access management provisions.
- G. Adequacy of landscaping and screening provisions.
- H. Adequacy of outdoor lighting while preventing light trespass onto adjacent properties.
- I. Preservation and protection of natural site features and areas, such as wildlife habitat, wetland, and woodland areas. Adequacy of open space areas for passive and/or active recreation.
- J. Adequacy of stormwater, drainage, and erosion management plans.
- K. Adequacy of municipal facilities to serve the proposal including, but not limited to, streets, electric service, water supply and wastewater treatment systems, storm water control systems, and fire protection.
- L. Adequacy of proposed waste and trash management plan.
- M. Adequacy of snow storage and/or proposed snow removal plan.
- N. Encouragement of the most appropriate use of land and utilization of the site.

- O. Potential for adverse effects to the functioning, economic stability, prosperity, and health, safety, or general welfare of nearby property owners and the community.

## § 42.6

### MODIFICATIONS TO SITE PLANS

---

- A. **Required Changes.** The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Modifications requiring a variance shall not be permitted without approval by the Zoning Board of Appeals. Should the Planning Board require changes or additional facilities, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.
- B. **Applicant Proposed Changes.** Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

## § 42.7

### SITE PLAN TERMINATION

---

- A. **Validity.** Site plan approval shall be valid for a period of two years from the date thereof for the purpose of obtaining building permits. Failure to secure, without subsequent revocation or termination, a building permit during this period, or revocation or termination of a building permit subsequent to this period, shall cause the Site Plan Approval to become null and void.
- B. **Extension.** Upon application, the Planning Board may extend this period to not more than five years from the date of final site plan approval.
- C. **New Application.** Nothing herein shall prohibit a new application for site plan approval following such termination in accordance with the requirements of this Chapter.

# ARTICLE 43.

## NONCONFORMITIES & PENALTIES

### § 43.1 NONCONFORMING USES

---

- A. It is recognized that there exist certain structures and uses which were lawfully established prior to the passage of this Chapter or amendments thereto and which are now made to be in violation of this Chapter. It is the intent of this Chapter to permit such nonconforming uses to continue until they are removed, but not to encourage their survival. Such structures and uses may be changed only in the direction of reducing their degree of nonconformity to this chapter.
- B. Where the question of direction of change is at issue, the matter will be determined by the Zoning Board of Appeals, which will consider in its deliberations the anticipated changes in the visual appearance of the premises, the traffic volume, the population concentration, the type and volume of emissions from the property and other such relevant data to determine whether the proposed use is more appropriate to the district than the existing nonconforming use.
- C. Should any nonconforming structure or use be wholly or partially destroyed by any means to the extent of more than 75% of its replacement cost at the time of destruction, it shall not be reconstructed or used except in conformity with this Chapter.
- D. The failure to exercise a nonconforming use for a period of one year or more terminates the right to exercise such nonconforming use of the structure or premises, and, thereafter, structures and premises shall be used only in conformity with this Chapter.
- E. Nothing in this Chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the date of adoption or amendment of this Chapter and upon which actual construction has been diligently carried on.
- F. Normal nonstructural repairs and maintenance may be performed upon a nonconforming structure or a structure containing a nonconforming use. Any major repairs required to restore the structure to a safe condition, as determined by a duly authorized public official, shall be made only in conformity with this chapter.
- G. Notwithstanding any of the above provisions, new farm buildings for the housing of farm animals, produce and farm machinery only may be erected on any farm existing at the date of this Chapter or amendments thereto, provided that any such building erected hereafter shall be located not less than 100 feet from the nearest lot line of any adjoining owner.



## § 43.2 PENALTIES

---

- A. A violation of this Chapter is hereby declared to be an offense, punishable by the following penalties:
1. For a conviction of a first offense, a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both;
  2. For conviction of a second offense, both of which were committed within a period of five years, a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and
  3. For conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.
- B. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C. A person shall be subject to the penalties imposed by this Section in any case where an order to remove any violation of any of the provisions of this Chapter has been caused to be served by the Town Board upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or upon the architect, builder, contractor or anyone who commits or assists in any such violation and where such person shall fail to comply with such order within 10 days after the service thereof. Each day's continued violation shall constitute a separate additional violation and shall be punishable hereunder.
- D. In addition to the foregoing remedies, the Town may institute any appropriate action or proceeding permitted by law to prevent, correct or restrain any violation of this Chapter.

# ARTICLE 44.

## AMENDMENTS, VARIANCES, & APPEALS

### § 44.1 AMENDMENTS & REZONINGS

---

#### A. Authority to File.

1. Pursuant to NYS General Town Law and the Town of Clarkson Code and all applicable provisions of this Chapter, this Chapter may be amended, supplemented, and repealed.
2. Amendments to the text or map of this zoning code may be initiated by the Town Board, Planning Board, or by a petition by property owners as provided by NYS General Town Law.

#### B. Authorized Review Bodies.

1. The Planning Board shall serve in an advisory role to the review of proposed amendments and issue a recommendation of decision to the Town Board.
2. The Town Board shall review and issue the final decision on all proposed amendments.

#### C. Public Hearing. A public hearing shall be held by the Town Board for all proposed amendments.

#### D. Referrals. All referrals shall be made in accordance with §140-40.5.

#### E. Review Procedure.

1. Each application shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations.
2. If the Planning Board fails to report within a period of 62 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
3. After receiving the report of the Planning Board, the Town Board shall issue a decision on the proposed amendment within 62 days. The Town Board may also return the application to the Planning Board for further consideration, together with a written explanation of the reasons for doing so.
4. The Town Board may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with NYS Law. In the case of a valid protest petition, approval requires a three-fourths vote of the members of the Town Board.

5. If the Town Board approves the amendment, supplement, change or modification to the zoning code or zoning map, as applicable, shall be amended after publication and filing with the Town Clerk, County Clerk, and Secretary of State as required by NYS Law.
- F. Review Criteria.** In reviewing and making decisions on zoning amendments, the reviewing body may consider the following criteria, as applicable:
1. Whether the proposed amendment corrects an error or inconsistency in the zoning code or meets the challenge of a changing condition;
  2. Whether the proposed amendment is in substantial conformance with the adopted plans and policies of the municipality;
  3. Whether the proposed amendment is in the best interests of the municipality as a whole;
  4. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by any requested re-zoning;
  5. Whether any re-zoning will substantially harm the public health, safety or general welfare or the value of nearby properties;
  6. Whether any re-zoning is compatible with the zoning and use of adjacent property;
  7. Whether the property in question is suitable for the uses and development to which it has been restricted under the existing zoning regulations; and
  8. Whether the gain, if any, to the public health, safety and general welfare due to denial of the application outweighs that of the hardship imposed upon the landowner, if any, as a result of denial of the application.

## § 44.2 APPEALS

---

- A. Applicability.** Appeals may be made where it is alleged there has been an error in interpretation of any zoning code provisions or in any order, requirement, decision, or determination made by the CEO or other administrative officials under the Town Code.
- B. Right to Appeal.** Appeals may be filed by any person aggrieved by an administrative decision of the CEO or other agent duly designated to the administration and enforcement of this Chapter.
- C. Stay Upon Appeal.** An appeal shall stay all proceedings in furtherance of the appealed action, unless the CEO certifies to the Zoning Board of Appeals that a stay would, in their opinion, cause imminent peril to life or property. Then the proceedings shall not be stayed otherwise than by a restraining order granted by the Zoning Board of Appeals or by a court of record on application, to the CEO.
- D. Authorized Review Body.** Appeals shall be reviewed by the Zoning Board of Appeals (ZBA).



**E. Application Processing.**

1. Appeal applications shall be submitted, processed, and reviewed in accordance with Article 40 of this Chapter.
2. Appeal applications must be filed within 30 days of the date of the decision being appealed.
3. Every appeal application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.

**F. Public Hearing Required.**

1. A public hearing shall be held by the ZBA prior to issuing a decision.
2. A motion for the ZBA to hold a rehearing to review any order, decision or determination not previously reheard, may be made by any member of the ZBA. A unanimous vote of all members of the ZBA then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

**G. Referrals.** All referrals shall be made in accordance with § 140-40.5.

**H. Issuance of Decision.**

1. In exercising the appeal power, the ZBA has all the powers of the Town official or agent from whom the appeal is taken.
2. The ZBA may reverse the appeal or affirm the appeal, in whole or in part, or modify the decision being appealed.
3. In acting on the appeal the ZBA must grant to the decision or action a presumption of correctness, placing the burden of persuasion of error on the appellant.

## **§ 44.3 VARIANCE PROCEDURE**

---

**A. Applicability.** The Zoning Board of Appeals (ZBA) shall have the power, on appeal from the decision or determination of any administrative official charged with enforcement of this Chapter, to reverse or affirm, wholly or partly, or modify an order, requirement, decision, interpretation, or determination by the granting of either use variances or area variances as authorized by NYS Town Law. The variance procedures may not be used to:

1. Waive, modify or otherwise vary any of the review and approval procedures of this Article; or
2. Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized review board or commission.

- B. Transferability.** Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.
- C. Authorized Review Body.** Appeals shall be reviewed by the Zoning Board of Appeals (ZBA).
- D. Burden of Proof.** The applicant seeking the variance shall have the burden of presenting sufficient evidence to allow the ZBA to reach a conclusion as set forth below as well as the burden of persuasion on those items.
- E. Application Processing.**
  - 1. Variance applications shall be submitted, processed, and reviewed in accordance with Article 40 of this Chapter.
  - 2. Every variance application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.
- F. Public Hearing Required.** A public hearing shall be held by the ZBA prior to issuing a decision.
- G. Referrals.** All referrals shall be made in accordance with § 140-40.5.

#### § 44.4

#### USE VARIANCES

---

- A. Authorization.** A use variance authorizes the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter. A finding of unnecessary hardship is required to properly grant a use variance.
- B. Review Criteria.** The ZBA shall not grant a use variance without the applicant having shown that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, per NYS Town Law, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located the following conditions exist:
  - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - 2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - 3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - 4. That the alleged hardship has not been self-created.
- C. Minimum Variance Allowable.** The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## § 44.5 AREA VARIANCES

---

- A. Authorization.** An area variance authorizes the use of land that is not allowed by the dimensional or physical requirements set forth in this Chapter. An area variance is one that does not involve a use that is otherwise prohibited by this Chapter.
- B. Review Criteria.** In making its determination, the ZBA 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 the following as required by NYS Town Law:
1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  3. Whether the requested area variance is substantial in relation to the requirement;
  4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.
- C. Minimum Variance Allowable.** The ZBA, in the granting of area variances, 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.

## § 44.6 ARTICLE 78 PROCEEDING

---

- A.** Any person or persons, jointly or severally aggrieved by any decision of the ZBA or other such review body charged with the administration and enforcement of this Chapter may apply to the NYS Supreme Court for review by a proceeding under Article 78 of the Civil Practice Laws and Rules.
- B.** Such proceeding shall be instituted within 30 days after the filing of the review body's decision in the office of the Town Clerk.
- C.** Costs shall not be charged to the Town unless it shall appear to the Court that it acted in gross negligence or in bad faith or with malice in making its decision.