

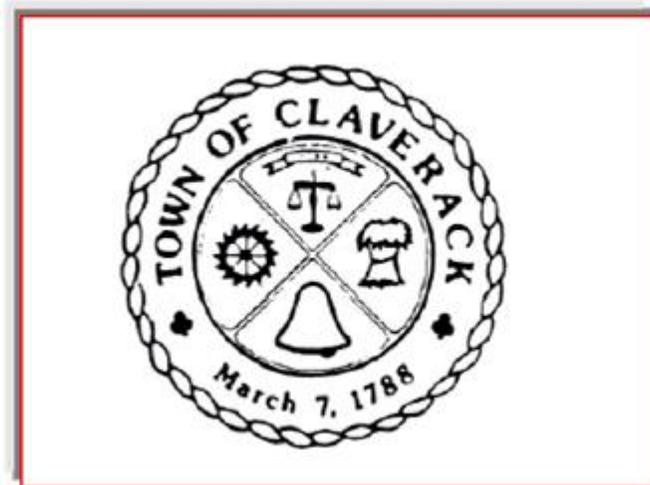
# TOWN OF CLAVERACK

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## Zoning Law

As adopted 12/10/2015

## TOWN OF CLAVERACK ZONING LAW LEGISLATIVE HISTORY INFORMATION

Town of Claverack Zoning ordinance – Adopted 1972.

Town of Claverack Zoning Law – Adopted by Local Law No. 1 for 1997

(Zoning Ordinance of 1972, as amended; Local Law No. 2 for the year 1989; Local Law No. 2 for the year 1990; Local Law No. 4 for the year 1990; Local Law No. 3 for the year 1991; Local Law No. 5 for the year 1991; Local Law No. 6 for the year 1991; Local Law No. 1 for the year 1992; and Local Law No. 2 for the year 1994, repealed).

Town of Claverack Zoning Law as Amended by Local law No. 4 for 1997.

Town of Claverack Zoning law as Amended by Local Law No. 3 for 1999.

Town of Claverack Zoning law as Amended by Local Law No. 8 for 2003.

Town of Claverack Zoning law as Amended by Local Law No. 9 for 2003.

Town of Claverack Zoning law as Amended by Local Law No. 10 for 2003.

Town of Claverack Zoning law as Amended by Local Law No. 2 for 2004.

Town of Claverack Zoning law as Amended by Local Law No. 2 for 2006.

Town of Claverack Zoning law as Amended by Local Law No. 3 for 2006.

Town of Claverack Zoning law as Amended by Local Law No. 4 for 2012.

Town of Claverack Zoning law as Amended by Local Law No. 1 for 2014.

Town of Claverack Zoning law as Amended by Local Law No. 2 for 2014.

Town of Claverack Zoning law as Amended by Local Law No. 3 for 2015.

### PLEASE NOTE:

Other regulations concerning land use in the Town of Claverack include Town Driveway Specifications and Town of Claverack Land Subdivision Regulations. Compliance with New the York State Environmental Quality Review Act, New York State Department of Environmental Conservation, United States Army Corps of Engineers, New York State Department of Health, and Columbia County Health Department laws, rules and regulations are required where applicable. The following laws are also referenced within this Zoning Law:

NY Town 271 – Planning Board general

NY Town 274-a – Site Plan Review

NY Town 274-b – Special Use Permit

NYS Town 276 – Subdivisions

Partial funding for development of this Zoning Law was received from the New York State Hudson River Valley Greenway.

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## Chapter 1 - TITLE AND PURPOSE

### § 1.1. Title

This law regulates the location, construction, alteration, use and development of buildings, structures, and land within the Town of Claverack outside the limits of the incorporated Village of Philmont; and divides the Town into The zoning districts detailed in Section 4. This law also provides for enforcement, fines and penalties for the violation of its provisions.

### § 1.2. Short Title

This Law shall be known and may be cited as the Town of Claverack Zoning Law.

### § 1.3. Declaration of Purpose

This Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law to protect and promote public health, safety, comfort, convenience, economy, aesthetics, character, and general welfare of the community, and for the following additional purposes:

- A. To guide and regulate the orderly growth, development and redevelopment of the Town in accordance with the Town of Claverack Comprehensive Plan, as it may be amended from time to time, and with the long-term objectives, principles, and standards established in that Plan deemed beneficial to the interests and welfare of the people.
- B. To protect and maintain Claverack's rural character which is influenced by active farms, woodlands, quiet country roads, small villages and hamlets, and a clean environment.
- C. To preserve scenic views, open spaces, natural resources and the overall environmental quality of the Town including wetlands, floodplains and other water bodies, steeply sloped areas, and prime agricultural soils.
- D. To promote development patterns that encourage new development in an around the existing hamlets and Village of Philmont, and to promote the Hamlet of Claverack as a commercial and community center.
- E. To secure safety from fire, panic, flood and other dangers, to provide adequate light, air and convenience of access, and to prevent environmental pollution.
- F. To prevent overcrowding of land or buildings, and to avoid undue congestion of population.

- G. To lessen and, where possible, to prevent traffic congestion on public streets and highways and to promote pedestrian opportunities.
- H. To conserve the value of buildings and to enhance the value of land throughout the municipality.
- I. To allow for small business development including those based on agriculture that respects Claverack's small-town character and heritage.
- J. To protect historic structures and archeological sites.
- K. To provide housing opportunities for citizens of all ages and income levels.
- L. To conserve lands suitable and necessary for agriculture.
- M. To ensure that infrastructure such as water, sewer and roads are built and maintained in a way that is consistent with community values as expressed in the Claverack Comprehensive Plan.

## Chapter 2 - DEFINITIONS

### § 2.1. Scope and Meaning of Certain Words and Terms

- A. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural the singular.
- B. The word PERSON includes a profit or non-profit corporation, company, partnership or individual.
- C. The word SHALL is mandatory, and not directory; the word "MAY" is permissive.
- D. The word LOT includes the word "PLOT" and the word "LAND".
- E. The word STRUCTURE includes the word "BUILDING".
- F. The word USE refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available

or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.

- G. The word USED refers to the actual fact that a lot or land, building or structure, or part thereof is being occupied or maintained for a particular use.

§ 2.2. ACCESSORY APARTMENT. A separate living unit created within a single family home or approved accessory building and occupied by either a family member or a non-family long-term tenant, not a transient tenant. May also refer to a separate living unit created at the site of a business, within or attached to the principal building and occupied by a caretaker.

§ 2.3. ACCESSORY HAM RADIO EQUIPMENT/ANTENNA: A device used by amateur radio operators to transmit and/or receive radio communications with other amateur radio operators for public services, recreation and self-training.

§ 2.4. ACCESSORY SOLAR PANELS (FREE STANDING): A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

§ 2.5. ACCESSORY USE, BUILDING OR STRUCTURE. A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term accessory building may include a private garage, garden shed, a private playhouse, and a private greenhouse.

§ 2.6. ACCESSORY WIND TURBINE: See Wind Turbine.

§ 2.7. ADULT BOOKSTORE: A business or establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct.

§ 2.8. ADULT ENTERTAINMENT USE: For the purposes of this by-law, Adult Entertainment Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater/Media Center, Adult Paraphernalia Store, Adult Video Store, Adult Live Nudity Establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement.

§ 2.9. ADULT LIVE NUDITY ESTABLISHMENTS: Any business or establishment which provides live entertainment for its patrons, which includes the display of full or partial nudity related to sexual conduct or excitement.

§ 2.10. ADULT MOTION PICTURE THEATRE/MEDIA CENTER: A business or establishment used for presenting media distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement.

§ 2.11. ADULT PARAPHERNALIA STORE: A business or establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

§ 2.12. ADULT VIDEO STORE: A business or establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement.

§ 2.13. AGRICULTURE. The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, camelids, or goats, or any mutations of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees, and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

§ 2.14. AGRICULTURE - ANIMAL HUSBANDRY. The harboring of more than five (5) animals of any species with the exception of the keeping of animals as household pets such as cats and dogs.

§ 2.15. AGRICULTURE - CROP PRODUCTION. The cultivation of the soil for food products or other useful or valuable growths of the field or garden for personal use, business, or gainful operation.

§ 2.16. AGRICULTURAL TOURISM. Agricultural uses, such as farms, ranches, and vineyards that, through promotion and advertising, facilities, and activities seek to attract visitors, guests, and vacationers. Agricultural tourism includes but is not limited to dude ranches, u-pick operations, and hay mazes.

§ 2.17. AGRONOMIC RATE. The rate of nitrogen addition designed to provide the amount of nitrogen needed by the crop or vegetation grown on the land, and to minimize the amount of nitrogen that passes below the root zone of the crop or vegetation grown on the land to ground water.

§ 2.18. AIRCRAFT REPAIR OR RESTORATION. An establishment that engages in the repair and/or restoration of modern, classic or antique aircraft. The facility operator must employ only F.A.A. certified mechanics and shall submit documentation of such to the fixed based operator of the Columbia County Airport.

§ 2.19. AIRPORT & ANCILLARY USES. A facility where aircraft can land and take off. Ancillary uses shall include hangers for aircraft storage, whether owned or leased, refueling facilities, tie down areas and sales and service of aircraft and products accessory to aircraft or

those required by pilots and/or owners. The sale, installation and repair of electronic equipment shall be included.

§ 2.20. ALTERATION. As applied to a building or structure, a change or re-arrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or moving from one location or position to another; the term "alter" in its various modes and tenses and its participle form, refers to the making of an alteration.

§ 2.21. ANIMAL FEEDING OPERATION. A lot or facility, other than an aquatic animal production facility, where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

§ 2.22. ARCHAEOLOGY. The science or study of the material remains of past life or activities and the physical site, location, or context in which they are found.

§ 2.23. ASSEMBLY FACILITY. An establishment that is not involved in the manufacturing, from raw materials, of any product or component product, which combines components into a completed assembly or sub-assembly.

§ 2.24. ASSISTED LIVING: Means an entity which provides or arranges for housing, on-site monitoring, and personal care services and/or home care services (either directly or indirectly), in a home-like setting to five or more adult residents unrelated to the assisted living provider. Such assistance includes daily food service, twenty-four hour on-site monitoring, case management services, and the development of an individualized service plan for each resident. Note: Derived from NY Public Health law 4651.

§ 2.25. AUCTION HOUSE: A place of business where auctions are conducted.

§ 2.26. AUDITORIUM/MEETING HALL. An enclosed facility used for and providing business, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

§ 2.27. AUTOMOBILE LAUNDRY. A structure or building designed for the washing, waxing, simonizing, or similar treatment of automotive vehicles as its principal function. A filling station having portable washing equipment shall not be deemed to be an automobile laundry where such use is an accessory service to the principal service of the filling station.

§ 2.28. AUTOMOBILE LEASE/RENTAL FACILITY. A facility where vehicles are leased or rented on either a short or long term basis. This use shall include all areas, whether enclosed or open where such vehicles are stored. No repair services other than necessary washing and cleaning or fueling shall be performed on the premises.

§ 2.29. AVERAGE DENSITY: The number of dwelling units allowed per parcel of land averaged over an entire parcel of land (see 6.3.1).

§ 2.30. BANK. An establishment for the custody, loan, exchange, or issuance of money, for the extension of credit, and for facilitating the financial transactions.

§ 2.31. BASEMENT. A story partly underground but having less than half of its clear height below finished grade.

§ 2.32. BED AND BREAKFAST INN. An owner-occupied dwelling unit that contains no more than four (4) guest rooms where lodging, with or without meals, is provided for compensation.

§ 2.33. BILLBOARD. A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally sold, offered or existing upon such lot.

§ 2.34. BOWLING ALLEY. An establishment whose primary business is the management of bowling lanes.

§ 2.35. BUFFER. Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances. Also a transition area that acts as a buffer between two land uses of different intensity and compatibility.

§ 2.36. BUILDING. A structure with a roof supported by columns or walls and having a horizontal area of more than 50 square feet.

§ 2.37. BUILDING INSPECTOR / CODE ENFORCEMENT OFFICER / ZONING ENFORCEMENT OFFICER. The administrative officer or officers of the Town designated to administer and enforce the New York State Uniform Fire Prevention and Building Code, and Zoning Law which in part includes issuance of building permits and certificates of occupancy.

§ 2.38. BUS SHELTER. A small, roofed structure, having from one to three walls, located near a street, and designed primarily for the protection and convenience of bus passengers.

§ 2.39. CABIN. Any structure designed primarily for seasonal use.

§ 2.40. CAMP GROUND. Any lot, or adjoining lots if under the control of one person or business, including buildings and other structures on such lot, on which are located five or more campsites, tents, tent houses, trailers, cabins, camp cottages, vehicles, including recreational vehicles, or other structures intended for temporary or seasonal overnight occupancy. Excluded from this definition is the use of the yard of an existing occupied residence for occasional and irregular overnight camping by (i) family members of guests of the resident or (ii) groups (such as scouts), being hosted by the resident.

§ 2.41. CARETAKER/OWNER DWELLING: A small house on the grounds of an estate, farm or park, used by a caretaker or gatekeeper or used as a guest house.

§ 2.42. CELLAR. A story partly underground and having one-half or more of its clear height below finished grade.

§ 2.43. CEMETERY. Property used for the interring of the dead.

§ 2.44. CHILD DAY CARE CENTER: Child day care center means a program or facility which is not a residence in which child day care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise, except those programs providing care as a school-age child care program as defined in NYCRR 413. The name, description or form of the entity which operates a child day care center does not affect its status as a child day care center.

§ 2.45. CHURCH. A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

§ 2.46. CLUB, COUNTRY. A club for golfing, tennis, swimming, hunting, fishing, horseback riding or similar sports.

§ 2.47. COLLEGE. An educational institution authorized by the state to award associate or higher degrees.

§ 2.48. COMMON OWNERSHIP. Ownership of one or more lots by more than one individual in any form of ownership.

§ 2.49. COMPREHENSIVE PLAN. A long-range plan adopted as per NYS Town Law 272-a and intended to guide the growth and development of a community or region for a set period of time and which includes inventory and analytic sections, vision, goals, and recommended actions.

§ 2.50. CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). An animal feeding operation that would be required to obtain a State Pollution Discharge Elimination System (SPDES) General Permit based upon the numbers and types of animals and/or method of animal waste discharge.

§ 2.51. CONCERT, EXHIBITION OR FESTIVAL. An outdoor program of vocal or instrumental music; an outdoor show or display for entertainment or competition; an outdoor occasion or event for celebration including cultural performances, entertainment or exhibitions, that shall involve an assemblage or gathering of more than 1,000 persons on any parcel or parcels of property within the Town, or any assemblage or gathering of more than 500 persons on any parcel or parcels of property within the Town which continues or can be reasonably expected to continue for more than eight consecutive hours. This does not include a private party hosted at a private residence and not open to the general public for attendance, which is considered to be an accessory use to the private residence.

§ 2.52. CONSERVATION EASEMENT. An easement, covenant, restriction or other interest in real property, created pursuant to the provisions of Article 49, Title 3 of the New York State Environmental Conservation Law which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of real property.

§ 2.53. CONSERVATION SUBDIVISION. – A residential subdivision wherein the number and arrangement of dwellings that would result under a given conventional subdivision plan are allowed to be situated on the same parcel in a flexible manner, and where lot size, street frontage, and other bulk dimensions are allowed to be varied in order to preserve in perpetuity a significant amount of the land in its natural or agricultural state. For purposes of these regulations, a “cluster development” as authorized by Section 278 New York State Town Law is referred to herein as a conservation subdivision.

§ 2.54. CONTAMINATION. The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

§ 2.55. CONVENIENCE STORE/FILLING STATION. A building or lot or part thereof supplying or selling gasoline or equivalent fuel for motor vehicle at retail; direct from pumps and storage tanks. This may include the offering for sale of food products, household items, and other goods associated with the convenience store and having a gross floor area of no more than 3,000 square feet.

§ 2.56. CONVERSION. A change in the use of land or a structure.

§ 2.57. COURIER or DELIVERY SERVICES: A person or company other than the United States Postal Service employed to deliver messages, packages, and mail.

§ 2.58. COURT. An open, unoccupied space, other than a yard, on the same lot with a building or group of buildings, which is bounded on two (2) or more sides by such building or buildings. An offset to a court shall be deemed a separate court for the purpose of determining its required dimensions. A court may have an inner and outer court.

§ 2.59. DAY – Unless otherwise noted, the number of days refers to calendar days.

§ 2.60. DAY CARE CENTER: A specialized program or facility, not based in a residence, that provides care for children from infants through school age either as a substitute for or an extension of home care.

§ 2.61. DEICING COMPOUNDS. Any bulk quantities of chloride compounds and/or other deicing compounds (e.g. urea or calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

§ 2.62. DENSITY. The number of dwelling units per unit of land.

§ 2.63. DISPOSAL. The abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or aqueous carried waste into or onto land or a surface water body.

§ 2.64. DRY CLEANING OR LAUNDRY FACILITY: A commercial establishment that operates for the primary purpose of laundering or dry cleaning clothing and other fabrics. Dry cleaning utilizes a process that involves the use of dry cleaning solvents. Dry cleaning facilities do not include uniform rental companies, linen supply companies, hospitals, hotels or resorts.

§ 2.65. DWELLING. A building arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises. One or more rooms with provisions for cooking, living, sanitary, and sleeping facilities arranged for the use of one family.

§ 2.66. DWELLING, MULTIPLE. A building or portion thereof containing three or more dwelling units.

§ 2.67. DWELLING, SINGLE-FAMILY DETACHED. A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

§ 2.68. DWELLING, TWO-FAMILY. A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an un-pierced wall extending from ground to roof or an un-pierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

§ 2.69. EASEMENT. A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

§ 2.70. EATING ESTABLISHMENT. Retail establishments selling food and drink for consumption on the premises, including lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption.

§ 2.71. FAMILY. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit.

§ 2.72. FAMILY DAY CARE: Family day care home means a residence in which child day care is provided on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise. The name, description or form of the entity which operates a family day care home does not affect its status as a family day care home. It must comply with NYS Regulations NYCRR 413.

§ 2.73. FARM, NEW. A proposed agricultural operation on land that has not been actively farmed for at least 5 years.

§ 2.74. FARM STAND. A booth or stall located on or off a farm from which produce and products produced on a farm are sold to the general public.

§ 2.75. FARM WORKER HOUSING, PERMANENT. A dwelling used as a year-round residence on an active farm for workers who spend more than 51% of their labor hours working on that farm. See Section 14.12 Regulations for Farm Worker Housing.

§ 2.76. FENCE. A barrier designed either to limit access to a land area or to screen such area from view, or both. Fences within 10-feet of a property line shall not exceed six (6) feet in height. Fences around pools shall not exceed eight (8) feet in height.

§ 2.77. FERTILIZERS. Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium which is applied to the ground to increase nutrients from plants.

§ 2.78. FLAT LAND POND: A pond which is dug out, created for agricultural or recreation purposes, in which the water source is groundwater or rain runoff as well. A permit from NYSDEC may be necessary for some ponds.

§ 2.79. FLOODPLAIN. See definitions from the current Town of Claverack Flood Damage Prevention Law. The '100 year floodplain' referred to in the text is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

§ 2.80. FOOTCANDLE. The unit of illumination produced by a candle when the foot is taken as a unit of length.

§ 2.81. FORESTRY: The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or the performing of forest services.

§ 2.82. FREESTANDING. Something that is not attached to a principal or accessory structure.

§ 2.83. FRONTAGE. That side of a lot abutting on a street; the front lot line. The lot frontage at the street line should be the same as the minimum lot width requirement with the exception of lots fronting a cul-de-sac in which case the minimum lot frontage shall be 60 feet and the minimum lot width shall be the same as for any other lot in that district.

§ 2.84. FRONT YARD. A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

§ 2.85. FULLY SHIELDED (FULL CUTOFF) LUMINAIRE: A luminaire emitting no light above the horizontal plane.

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

§ 2.87. GARAGE, PARKING. A building, not a private garage, used for the commercial storage of automobiles, or trucks, and not used for making repairs thereto.

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

§ 2.89. GARAGE SALE: The sale or offering for sale of new, used or secondhand items of personal property at any one (1) residential premises not to exceed two (2) consecutive days. A garage sale is allowable as a permitted use. This includes all sales in residential areas entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" "estate sale" or any similar casual sale of tangible personal property. These are limited to personal sales and are not permitted to be reoccurring commercial operations occurring more than 2 times per year.

§ 2.90. GLARE. Intense and blinding light. Causes visual discomfort or disability.

§ 2.91. GREENHOUSE/COMMERCIAL. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale. No illumination or glare shall extend beyond the property lines or disturb the vision of passing motorists.

§ 2.92. GREENSPACE. That area of a lot or parcel of land that shall remain undeveloped for conservation, preservation, recreation, landscaping or park use.

§ 2.93. GROUNDWATER. Water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

§ 2.94. GROUP FAMILY DAY CARE: Group family day care means a residence in which child day care is provided on a regular basis for more than three hours per day per child for seven to 12 children for compensation or otherwise. Such home must be operated by a provider and have at least one assistant present during the hours that care is provided. The name, description or form of the entity which operates a group family day care home does not affect its status as a group family day care home. It must comply with NYS Regulations NYCRR 413.

§ 2.95. HAZARDOUS SUBSTANCE. Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed

of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.

§ 2.96. HAZARDOUS WASTE. A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalies with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or fails the Toxicity Characteristic Leaching Procedure (TCLP).

§ 2.97. HEIGHT OF STRUCTURE OR BUILDING. The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure.

§ 2.98. HOME OCCUPATION. Any gainful occupation conducted within a dwelling or structures as permitted by this zoning law, to be conducted by the residents thereof and persons employed by the resident, in a nature that is clearly secondary to the residential use, and that does not change the residential character of the property. The following are not to be considered home occupations, mini or self storage, vehicle repair or service shops, construction material storage, business which entail the harboring, training, breeding or raising of dogs, cats or other animals on the premises. A home occupation use is deemed automatically revoked if use is ceased or been suspended for a period of six calendar months. See Section 15.3.11.

§ 2.99. HOMEOWNERS ASSOCIATION: A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space and other facilities.

§ 2.100. HOSPITAL. An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

§ 2.101. IMPERVIOUS SURFACE. Any man-made material, such as pavement used in parking lots or driveways or any building or other structure on a lot, that does not allow surface water to penetrate into the soil.

§ 2.102. JUNKYARD: The use of any land for the temporary or permanent storage of garbage, rubbish, clutter, litter, debris, junk appliances, junk furniture, junk material, or more than two junk vehicles regardless of the intended future use of materials.

§ 2.103. KENNELS: where four or more cats, dogs or small domestic animals are kept for profit, breeding, sale or hire.

§ 2.104. LANDSCAPE LIGHTING: Luminaries mounted in or at grade (but not more than 3 feet above grade) and used solely for landscape rather than any area lighting.

§ 2.105. LIMO/TAXI SERVICES: A limousine or car rental service provides any of various chauffeured passenger vehicles which are booked in advance. A taxi service offers a vehicle, with a driver, that can be hired on the spot.

§ 2.106. LOT. A parcel of land occupied or used by or capable of being occupied or used by one main building with its accessory buildings and the required open spaces.

§ 2.107. LOT AREA. The total horizontal area included within LOT LINES.

§ 2.108. LOT, CORNER. A lot at the junction of and fronting on two or more intersecting streets.

§ 2.109. LOT COVERAGE. The percentage of the area of the lot covered by main and accessory buildings, drives and parking lots.

§ 2.110. LOT, INTERIOR. Any lot other than a corner lot.

§ 2.111. LOT LINE. Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed a side lot line. 2.2.109 LOT LINE, FRONT. The street right-of-way line at the front of a lot where access is obtained.

§ 2.112. LOT LINE, REAR. The lot line opposite to the front lot line.

§ 2.113. LOT, THROUGH. A lot extending from one street to another.

§ 2.114. LOT WIDTH. The dimension measured from side lot line to side lot line, along a line parallel to the front lot line at the required minimum front yard depth.

§ 2.115. LUMINAIRE (light fixture): A complete lighting unit consisting of one or more electric lamps, the lamp holder, any reflector or lens, ballast (if any), and any other components and accessories.

§ 2.116. MANUFACTURED HOME. A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning, and electrical systems. Does not include a recreational vehicle. See also Mobile Home.

§ 2.117. MANURE. Shall mean animal feces and urine.

§ 2.118. MEDICAL ARTS CLINIC: A building that contains establishments dispensing health services.

§ 2.119. MEMBERSHIP CLUB, NON-PROFIT: A private club that may have a closed membership consisting of a group of person who have come together on a formal basis with the object of promoting the interests of the group's members.

§ 2.120. MICROBREWERY/FARM DISTILLERY/BREWERY/DISTILLERY: An existing and established farm facility that desires to add the use of preparations of handcrafted natural beer or where alcoholic drinks are to be made by distillation. A microbrewerey produces less than 15,000 barrels (17,600 hectoliters) per year.

§ 2.121. MIGRANT FARM LABOR OR SEASONAL FARM WORKER HOUSING. A dwelling for migrant labor on a farm not to be used for permanent residence. See Section 14.12 of this Law.

§ 2.122. MINERAL. Any naturally formed, usually inorganic, solid material located on or below the surface of the earth including but not limited to architectural stone, gem stones, limestone, granite, ore, bluestone, clay, gravel and sand. Peat and topsoil are also considered to be minerals.

§ 2.123. MINOR SITE PLAN. A use or combination of uses on a lot or a series of adjoining lots that requires either site plan review, a special exception permit, or both, and that does not exceed any of the criteria of Section 16. All projects that do not meet these criteria shall be considered a major project and shall be required to follow the Full Site Plan Review of Section 16.

§ 2.124. MOBILE HOME: A residential dwelling that was fabricated in an off-site manufacturing facility, designed to be a permanent residence, and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards (HUD).

§ 2.125. MOBILE HOME LOT. A mobile home lot is a designated site of specific total land area which is located within a mobile home park for the accommodation of one mobile home.

§ 2.126. MOBILE HOME PARK. A mobile home park is any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings and for occupancy for more than ninety (90) consecutive days.

§ 2.127. MODERATELY PRICED HOUSING. Dwelling units inhabited by households whose annual income is within 80% to 120% of the Columbia County median income, with adjustments for households size, as defined and periodically updated by the United States Department of Housing and Urban Development, and the annual rental cost does not exceed 30% of said income, or for homeowners, the annual cost of the sum of principal, interest, taxes and insurance (PITI) and common charges, as applicable, does not exceed 30% of said income.

§ 2.128. MODULAR HOME: A permanent structure intended for residential use, manufactured off-site and delivered on-site in pieces but not meant to be transportable in the future.

§ 2.129. MOTEL. A building, or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units with related office, and with or without restaurant facilities, designed primarily for travelers, and provided with accessory off-street parking facilities. This shall not be construed to include parking areas for house trailers or mobile homes. A dwelling unit is permitted for a manager or caretaker.

§ 2.130. MOTOR VEHICLE: The following definitions shall apply to this term:

- (1) Motor Vehicle - every vehicle designed to be operated or driven upon public roads and roadways, which is propelled by any power other than muscular power.
- (2) Property Owner - shall be defined as the person, persons or entity on record with the municipality as the real property owner.
- (3) Owner - shall be defined as the person, persons or entity that has legal title to the motor vehicle.
- (4) Licensed and Permitted – shall be inclusive of all necessary regulatory permits for operation; State and local municipal permits.
- (5) Storage – a motor vehicle parked or placed upon property.

§ 2.131. MOTORCYCLE, ATV, AUTO TRACKS OR COURSES: Tracks or courses, public, commercial, or private which are utilized for any operation of motorized recreational vehicles.

§ 2.132. MULTI-USE COMMERCIAL STRUCTURE. A single structure which was designed for and occupied by more than one commercial use including office, retail, service, and residential uses. The minimum lot size required for this type of use shall be computed by adding 10,000 sq. ft. for each use within the structure to the minimum lot size required within the zone. There shall be no more than four individual uses within a multi-use structure.

§ 2.133. MULTI-USE INDUSTRIAL STRUCTURE. A single structure which was designed for and occupied by more than one industrial use. The minimum lot size required for this type of use shall be computed by adding 10,000 sq. ft. for each use within the structure to the minimum lot size required within the zone. There shall be no more than four individual uses within a multi-use structure.

§ 2.134. NON-CONFORMING STRUCTURE. A structure lawfully existing at the effective date of this Law or any amendment thereto affecting such structure, which does not conform to the Table of Dimensional Regulations of this Law for the District in which it is situated, irrespective of the use of such structure.

§ 2.135. NON-CONFORMING USE. Any use of a building, structure, lot or land, or part thereof, lawfully existing at the effective date of this Law or any amendment thereto affecting such use, which does not conform to the Table of Use Regulations of this Law for the District in which it is situated.

§ 2.136. NON-NUISANCE INDUSTRY. An industry that is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, and which does not include any outdoor processing of materials or open accessory storage yard unless completely enclosed by a solid wall or fence not less than six (6) feet in height.

§ 2.137. NURSERY SCHOOL/DAY CARE. A building or structure, together with its lot and its accessory used as an organized instructional facility for five (5) or more enrolled children other than the children of the resident family, and not furnishing sleeping quarters except for the resident family.

§ 2.138. NURSING HOME. A facility providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing, and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility. Note: Derived from NY Public Health Law 2801.

§ 2.139. OBTRUSIVE LIGHT: Spill light that causes glare, annoyance, discomfort, or loss of visual ability. Light Pollution.

§ 2.140. OFFICES: BUSINESS, PROFESSIONAL. A room, group of rooms or building used primarily for conducting the affairs of a business, service, industry, government, profession, or like activity, as designated by the NYS Department of Education maintained for the conduct of that activity; may include ancillary services such as cafeterias and lounges.

§ 2.141. OFFICE MACHINERY REPAIR SERVICE: The performance of skilled work in the repair, maintenance and services of a variety of office machines and equipment.

§ 2.142. ON-SITE CONSUMPTION. The use of petroleum to heat or cool a residential or nonresidential structure or to operate machinery necessary for agricultural activities. On-site consumption does not include the on-site use of petroleum for processing or manufacturing activities or the sale or distribution of petroleum for or into vehicles, except vehicles used for agricultural operations on that site.

§ 2.143. OPEN SPACE. An area that is intended to provide for environmental, scenic, agricultural, or recreational purposes. It includes any land, water, or submerged land that is provided for, preserved for, or used for park or recreational purposes; conservation of land or other natural resources; cultural, historic, or scenic purposes; that assists in the shaping of the character, direction, and timing of community development; or wetlands. May included, but not be limited to bikeways, outdoor recreation areas, wooded areas, greenways, and water courses. The computation of open space shall not include driveways, parking lots, or other surfaces designed or intended for motorized vehicular traffic, or to buildings.

§ 2.144. ORGANIZATION. A group of persons who have joined together for special purposes or for the promulgation of sports, arts, literature, politics, or the like.

§ 2.145. **OVERBURDEN.** All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

§ 2.146. **PARK.** A municipally or privately owned tract of land, designated for active and passive recreation.

§ 2.147. **PARKING AREA.** A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

§ 2.148. **STORAGE GARAGE:** A storage garage is a building for the storage of personal possessions which do not include toxic or hazardous materials.

§ 2.149. **PARKING SPACE.** A stall or berth which is arranged and intended for parking of one motor vehicle.

§ 2.150. **PERMITTED USE.** Those uses found in the Table of Use Regulations contained in this Law.

§ 2.151. **PERSONAL SERVICE SHOP OR STORE:** A place wherein intellectual or manual work is performed by a service provider for a customer including but not limited to a barber shop, beauty shop, tattoo parlor, or spa.

§ 2.152. **PESTICIDE.** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other form of plant or animal life or viruses, except viruses on or in living man/or other animal; and any substance or mixture of substances intended for use a plant regulator, defoliant, or desiccant. These substances include but are not limited to: herbicides, fungicides, insecticides, and rodenticides.

§ 2.153. **PETROLEUM.** Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

§ 2.154. **PILOT PLANT.** An establishment or part thereof used to test out concepts and ideas and determine physical layouts, material flows, types of equipment required, costs and secure other information prior to full scale production.

§ 2.155. **PITCH.** The slope of a roof as determined by the vertical rise in inches for every horizontal 12-inch length.

§ 2.156. **PLANNING BOARD:** The duly designated planning board of the Town with responsibilities to review and decide on subdivision, site plan and special use applications.

§ 2.157. PLANT NURSERY. An area of place where seeds and plants are grown for transplanting, for use as stocks, for budding and grafting, or for sale, either within a greenhouse or out of doors.

§ 2.158. POND WITH DAM: A pond in which a retaining berm is used. Plans for such a pond will require review by an engineer.

§ 2.159. PRIMARY CONSERVATION AREA. The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, prime agricultural soils, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

§ 2.160. PRINCIPAL BUILDING. A building or structure, or where the context so indicates, a group of buildings or structures, in which the principal use of a lot or parcel is conducted. This includes any buildings that are attached to the principal structure by a covered structure. A principal dwelling is a dwelling unit that constitutes the principal building on a lot.

§ 2.161. PRINTING or PUBLISHING FACILITY: A commercial establishment that copies or prints written, illustrations, art, or photographic materials.

§ 2.162. PROCESS WASTE. Any waste generated by industrial, commercial, or mining operations that by virtue of some use, process, or procedure no longer meets the manufacturer's original product specifications.

§ 2.163. PROHIBITED USE. All uses which are not listed as a PERMITTED, SPECIAL EXCEPTION, or ACCESSORY USE.

§ 2.164. PUBLIC LIBRARY: shall be construed to mean reference and circulating libraries and reading rooms other than professional, technical or public school library, established for free public purposes. Note: Derived from Education law 253.

§ 2.165. PUBLIC UTILITY STRUCTURES. Public utility structures and facilities, such as electric lines and poles, gas mains, water mains, and telephone and telegraph lines and poles, not including however, high voltage transmission lines and poles therefore.

§ 2.166. QUARRY/MINE. A place where rock, ore, peat, stone or similar materials as defined by 2.122 (Mineral) are excavated for off-tract use

§ 2.167. QUORUM: A majority of the full authorized membership of the Planning Board or Zoning Board of Appeals which would equal four members.

§ 2.168. RADIOACTIVE MATERIAL. Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

§ 2.169. RECREATIONAL SPORTS FACILITIES: Commercial or non-commercial outdoor recreational facilities for public or private use shall be limited to those customarily considered to be outdoor sports and activities, that involve minimal improvements or development of the sites, structures, and buildings, and may include outdoor amusement such as golf courses, shooting ranges, hunting or fishing preserves, outdoor camping, bicycling, bird watching or other nature study, hiking, rock climbing, boating, horseback riding, cross country skiing, picnicking, recreational fields, community swimming pools, driving ranges, country clubs, ice skating, and similar activities. Recreational Sports Facilities are not to include the primary use of motorized vehicles or motorized sports. Concerts/Exhibitions/Festivals are subject to Section 15.3.34.

§ 2.170. RECREATIONAL VEHICLES. Every type of motor-driven vehicle used primarily for recreational purposes and including living and/or sleeping facilities.

§ 2.171. REPAIR GARAGE: A repair shop where cars and other vehicles are serviced and repaired.

§ 2.172. RESEARCH INSTITUTE OR LABORATORY. An establishment or facility for carrying on investigation in the natural, physical or social science or engineering and development as an extension of investigation with the objective of creating end products and shall include pilot plant operations.

§ 2.173. RESTAURANT, or TAVERN, NO DRIVE-THROUGH or CURB SERVICE: An establishment where food and beverages are prepared, served and consumed, mostly within the principal building and where ordering and pickup of food may not take place from an automobile. A restaurant also includes a tavern.

§ 2.174. RETAIL STORE: A business establishment which sells goods and merchandise to consumers or other businesses at retail prices.

§ 2.175. RIDGELINE: The line formed by the meeting of the tops of sloping surfaces of land, usually at the highest elevation and which, in general, is significantly visible from public roads, facilities, and parks, and dominates the landscape.

§ 2.176. RIGHT-OF-WAY. An area defined by a boundary which provides for road construction, maintenance, improvement, and/or widening.

§ 2.177. SAW MILL, MINOR. An operation using a portable mill to produce lumber or other lumber products from raw uncut timber obtained onsite.

§ 2.178. SAWMILL, MAJOR: A permanent establishment engaged in the manufacture of lumber and lumber products obtained from raw uncut timber offsite for commercial purposes.

§ 2.179. SCALE. The relationship of a building or structure to its surroundings with regard to its size, height, bulk, and/or intensity.

§ 2.180. SCHOOL. Any building or part thereof which is designed, constructed or used for educational or instruction in any branch of knowledge.

§ 2.181. SEASONAL USE. The use of facilities for part of the year.

§ 2.182. SECONDARY CONSERVATION AREA. The area delineated in a conservation cluster subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls or hilltops.

§ 2.183. SELF STORAGE FACILITY: A commercial facility in which customers can rent space to store possessions.

§ 2.184. SENIOR HOUSING: the operator does not provide, arrange for, or coordinate personal care services or home care services on behalf of residents; and the facility does not provide case management services in a congregate care setting for residents. Nothing in this chapter shall preclude a resident of independent senior housing from personally and directly obtaining private personal care or home care services from a licensed or certified home care agency. Note: Derived from NY Public Health law 4651.

§ 2.185. SEPTAGE. The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

§ 2.186. SETBACK. The distance required between a property line and any main or accessory structure. In the event land is situated on a public highway which is a highway by use pursuant to the provisions of the New York Highway Law, the property line, for the purposes of this definition of Setback, shall be the edge of the area opened and maintained by the appropriate municipality having jurisdiction over such highway by use, as set forth in the New York Highway Law.

§ 2.187. SEWAGE. The combination of human and household waste with water which is discharged to the home plumbing system.

§ 2.188. SIGN. Any kind of billboard, sign-board, pennant, or other shape or device or display, used as an advertisement, announcement, or direction, including any text, symbol, light, marks, letters, or figures painted thereon or painted on or incorporated in the composition of an exterior surface of a building or structure.

§ 2.189. SIGN, IDENTIFICATION. A temporary or permanent sign which directs attention to a business, industry or professional activity conducted upon the property.

§ 2.190. SIGN, PROFESSIONAL OR ANNOUNCEMENT. A temporary or permanent sign which directs attention to a resident's home, a home occupation, a home professional office, or a public or semi-public building.

§ 2.191. SIGN, REAL ESTATE OR CONSTRUCTION. A sign advertising land or improvements thereto, or describing construction activity or a firm doing work related to construction activity or a firm doing work related to construction on the premises on which the sign is located.

§ 2.192. SIGN, TEMPORARY. Any non-permanent sign designed to advertise a business or event (non-profit or for-profit) for a limited amount of time. These can include a-frame, portable, banner, or signs placed in or on the ground.

§ 2.193. SIGN, TEMPORARY AGRICULTURAL. A temporary sign corresponding to the growing and sales season for agricultural products which directs attention to an agricultural business or sales location.

§ 2.194. SKATING RINK. An establishment whose primary business is the management of facilities for ice or roller skating.

§ 2.195. SLAUGHTERHOUSE: A fixed or permanent facility in which animals are slaughtered for food consumption.

§ 2.196. SLOPE. The ratio of elevation change to horizontal distance expressed as a percentage.

§ 2.197. SLUDGE. The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

§ 2.198. SOLID WASTE. Material as defined in 6 NYCRR Part 360, including any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but not including solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit. Discarded materials that are being beneficially used pursuant to 6 NYCRR Part 360-1.15 are not considered solid waste.

§ 2.199. SPECIAL EXCEPTION USE. A use for which the Planning Board may grant a permit, pursuant to the provisions of Section 15.

§ 2.200. SPILL LIGHT: Light from a lighting installation that falls outside of the boundaries of the property on which it is located. Usually results in obtrusive light.

§ 2.201. STEEP SLOPE. Any slope exceeding 15 percent.

§ 2.202. STORAGE OF FUELS: The keeping of any petroleum product in tanks for storage or distribution.

§ 2.203. **STREAM or CREEK:** A watercourse regulated by the NYS DEC as a protected stream that has a source and terminus, banks and channel through which waters flow at least periodically.

§ 2.204. **STREET.** Any Federal, State, County or Municipal highway or road, or any street shown upon a subdivision plan filed in the County Clerk's office.

§ 2.205. **STREET, SINGLE-LOADED:** A street that has access to parcels located on only one side.

§ 2.206. **STREET LINE.** The dividing line between a lot and a street right-of- way.

§ 2.207. **STRUCTURE.** Anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

§ 2.208. **SUBDIVISION, CLUSTERED:** A residential subdivision of a lot, tract or parcel of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract which is not built upon is reserved as permanently protected open space.

§ 2.209. **SUBDIVISION, MAJOR:** The division of a lot, tract or parcel of land into five (5) or more lots and any subdivision not classified as a minor. Where lands have been previously subdivided pursuant to the Town of Claverack Subdivision Law, after the date of the current Law's adoption as a minor subdivision, the previous lots created by the former subdivision, regardless of ownership shall be considered in the lot count in evaluating if the proposed subdivision is a major or minor.

§ 2.210. **SUBDIVISION, MINOR:** The division of a lot, tract or parcel of land into four (4) or less lots.

§ 2.211. **SUBDIVISION, MINOR CLASS I:** A subdivision for realignment or adjustment of interior boundary lines only. Refer to the Town of Claverack Subdivision Law for standards and procedures related to Class I subdivisions.

§ 2.212. **TAVERN.** See restaurant.

§ 2.213. **TELECOMMUNICATION TOWER OR TRANSMITTING/RECEIVING FACILITY -** A structure or location designed or intended to be used, or used to support antennae. This includes, without limitation, free-standing towers, guyed towers, monopoles, structures such as a church steeple, silo, water tower, sign or other structures intended to mitigate the visual impact of an antenna or the functional equivalent or such, while serving to support antennae. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications. (See also additional definitions in Section 15.3).

§ 2.214. TEMPORARY HOUSING. A mobile home not permanently affixed to the ground to allow for the short-term housing of family members for a period not to exceed six (6) months. See Section 15.3.

§ 2.215. THEATER: A building or part of a building used to show motion pictures or for drama, dance, musical, or other live performances.

§ 2.216. TIMBER HARVESTING: The removal of timber from areas greater than five (5) acres on any one ownership of land in any one calendar year.

§ 2.217. TRAFFIC IMPACT ANALYSIS. A study performed by professional engineers with expertise in traffic engineering principles and practice, which reviews development of a specific property and analyzes how it integrates into the existing and proposed street network and ongoing traffic.

§ 2.218. TRANSFER STATION. A facility exclusively for general public use where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for further processing, treating, transfer, or disposal. Transfer of solid waste from vehicle to vehicle for the purpose of consolidating loads as part of the initial collection process is not allowed.

§ 2.219. TRAVEL TRAILER. A travel trailer is any portable vehicle or structure which is designed to be transported on its own wheels; which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes; and which may or may not include one or all of the accommodations and facilities included in a mobile home.

§ 2.220. TRUCK TERMINAL/TRUCK TRANSFER STATION: A dock at which freight is sorted. Typically includes an office for managing freight orders, dock workers and drivers. May also refer to the headquarters of a trucking company or satellite offices where a driver may drop trailers for other drivers to pick up. It may include a building or area in which trucks, including tractor or trailer units are parked, stored, or serviced, including the transfer loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

§ 2.221. USE. The purpose for which a land or a structure is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

§ 2.222. UTILITY, PRIVATE OR PUBLIC. Any agency which, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service.

§ 2.223. VARIANCE. A modification of the regulations of this Law.

§ 2.224. VETERINARY CLINIC. A building designed and used for the diagnosis and treatment of animals and may include extended care facilities.

§ 2.225. **VIEWSCAPE:** the vista visible from one or more viewing points that encompasses a multitude of elements, both natural and man-made, and that gives the landscape its identity.

§ 2.226. **WALL.** A structure of wood, stone or other materials or combination thereof intended for defense, security, screening, or enclosure, or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

§ 2.227. **WAREHOUSE:** A place where goods are stored prior to their use, distribution or sale.

§ 2.228. **WELLHEAD PROTECTION AREA.** The surface and subsurface area surrounding a well or group of wells through which contaminants are reasonably likely to move toward and reach the water well(s).

§ 2.229. **WHOLESALE BUSINESS:** Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents, or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

§ 2.230. **WIND FARM, COMMERCIAL:** Three or more wind turbines on an individual parcel of land.

§ 2.231. **WIND TURBINE:** Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy. Associated terms include:

**Non-Commercial Wind Power Facility (NWPF):** When not used in connection with farm operation, an NWPF is defined as a single wind turbine with a generating capacity of 27.5 kW or less designed solely for on-site power consumption except that unused or excess power may be sold to an electrical utility company in accordance with the provisions of Section 66-1 of the New York State Public Service Law. When used in connection with “farm operation” as such is defined in Section 301, subdivision 11 of the New York State Agriculture and Markets Law (NYSAML), an NWPF is considered an on-farm building and is further defined as a single wind turbine designed solely for on-site power consumption as governed by the NYSAML and/or Section 66-1 of the New York State Public Service Law.

§ 2.232. **WIND POWER TOWER:** The support structure to which a nacelle and rotor blade are attached.

§ 2.233 **WIND POWER TOWER HEIGHT:** The height from original grade of the land to the highest point of any part of the wind turbine including the top of the blade when it is in the vertical position.

§ 2.234 **WIND POWER PROJECT:** All components required to collect and convert wind power to electrical energy, including the wind turbine, wind power tower, and related facilities including, but not limited to, substations, fences and other components, for which a single permit may be sought.

§ 2.235. **WOOD BOILER:** A fuel burning device that (a) is designed to burn wood; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device. A commercial-sized outdoor wood boiler is a unit with a thermal output rating greater than 250,000 British thermal units per hour (Btu/h). A residential-sized wood boiler is a unit with a thermal output rating of 250,000 Btu/h or less. An outdoor wood boiler includes those wood boilers that are partially or completely enclosed in a non-residential building.

§ 2.236. **YARD, FRONT.** An area which extends from between the nearest roofed portion of the main building and the street line and extending from side lot line to side lot line.

§ 2.237. **YARD, REAR.** An area which extends from between the nearest roofed portion of the main building and the rear lot line of the lot, and extending from side lot line to side lot line.

§ 2.238. **YARD, SIDE;** An area which extends from between the nearest roofed portion of the main building and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard or to the rear lot line where no rear yard exists.

§ 2.239. **ZONING BOARD OF APPEALS:** The officially constituted body whose principal duties are to hear appeals, and where appropriate, grant variances from the strict application of this zoning law

## Chapter 3 - APPLICATION OF REGULATIONS

### § 3.1. General

This law shall apply to all buildings, structures, lands, and uses in the Town of Claverack outside the Village of Philmont. No development activity shall occur on any property within the Town until an applicable development approval for the activity has been granted. The provisions of this Law shall be deemed to be specific. Those uses and procedures which are not included in this Zoning Law shall be prohibited.

## Chapter 4 - DISTRICTS AND DISTRICT BOUNDARIES

### § 4.1. Types of Districts

To fulfill the purposes of this Law, the Town of Claverack is divided into nine (9) different Districts and four (4) Overlay Districts as follows:

- A. Rural and Residence Districts
  - i. RC Rural Conservation District
  - ii. RR Rural Residence District
  - iii. RA Rural Agriculture District
  - iv. HR Hamlet Residential
  - v. MHP Mobile Home Park Residential
  
- B. Highway Commercial and Industrial Districts
  - i. HC Highway Commercial
  - ii. HB Hamlet Business
  - iii. HB-1 Hamlet Business – 1
  - iv. CIP Commercial Industrial Park
  
- C. Overlay Districts
  - i. M-O Mining Overlay District
  - ii. WP-O Wellhead Protection Overlay District
  - iii. AU-O Adult Use Overlay District
  - iv. FP-O Flood Damage Prevention District (pursuant to current Town of Claverack flood damage prevention law)

### § 4.2. Purpose of Districts

§ 4.2.1. Rural Conservation: The purpose of this district is to protect sensitive land areas that contribute to the environmental quality, ecological functioning, scenic rural character and recreational opportunities in the Town of Claverack. Very low density residential development outside the hamlet areas is encouraged if done in a manner that protects steep slopes (greater than 15%), forested habitats, open spaces, wetlands and floodplains.

§ 4.2.2. Rural Residence: The purpose of this district is to protect the rural character, including open space, historic and natural resources of the Town of Claverack, and to maintain existing low density residential neighborhood development patterns outside of the hamlet.

§ 4.2.3. Rural Agriculture: The purpose of this district is to protect agricultural land and to promote a development pattern that keeps agricultural land in productive use or available for future agricultural use, further to protect and maintain the rural character including open space and scenic resources, to preserve and protect lands used for the commercial production of agricultural commodities, to maintain those lands that contain prime agricultural soils and soils of statewide importance, to promote agriculture as a component of the local economy, and to maintain a critical mass of farmland as to prevent further fragmentation of the towns existing farms. In addition, it is the purpose of this district to allow low density residential development which maintains the rural nature of the Town and protects our historic resources.

§ 4.2.4. Hamlet Residential: The purpose of this district is to encourage a high density of residential development, with a mixture of housing types for our diverse population. Further, the purpose is to promote development that protects historic resources, and is consistent in appearance with the scale, dimensions, and traditional character of the individual hamlets and fosters safe pedestrian and traffic circulation consistent with a small town atmosphere.

§ 4.2.5. Mobile Home Park Residential: The purpose of these districts is to maintain the availability of this housing choice and to encourage the maintenance, landscaping, and further expansion of those parks there are as need arises.

§ 4.2.6. Highway Commercial: The purpose of this district is to encourage the location of new businesses in the Town of Claverack to create new jobs as well as to provide vital services and commodities to the community. By using appropriate design standards, the goal is to allow commercial development without compromising the rural nature of the Town as a whole. More than two uses per principal structure are allowed to promote mixed uses provided all uses are allowed pursuant to the Use Table of this law and are consistent with the Claverack Comprehensive Plan.

§ 4.2.7. Hamlet Business: The purpose of this district is to provide areas of the hamlets for commercial and residential development which bring uses to meet the needs of the community and add to the economic base of the Town. This development shall also be consistent in appearance with the character of a hamlet and shall foster safe pedestrian and traffic circulation. More than two uses per principal structure are allowed to promote mixed uses provided all uses are allowed pursuant to the Use Table of this law and are consistent with the Claverack Comprehensive Plan.

§ 4.2.8. Hamlet Business – 1: The purpose of this district is to promote mixed-use development in the hamlet by providing areas where residential housing units could be developed alongside community facilities, professional offices or small businesses. Such development should be planned so as to provide green spaces and to meet an aesthetic standard consistent with the hamlet's character.

§ 4.2.9. Commercial Industrial Park: The purpose of this district is to provide a location where a mixture of business and commercial as well as light industrial uses may be established which would not usually fit in with the rural character of the Town if not for the standards set to minimize their visual impacts. In general, the intent is to attract those businesses which will have minimal adverse environmental impacts.

§ 4.2.10. Mining Overlay District M-O: The purpose of this district is to recognize the need for a local source of gravel and sand and to support the continuance of the local mining businesses which provide it. Further purposes are to limit the environmental disruption caused by mining to specific areas of the Town in order to protect the integrity, natural resources, scenic vistas and environmental quality of those lands outside of the overlay. These districts are to be reviewed every seven years.

§ 4.2.11. Wellhead Protection Overlay District WP-O: The purpose of this district is to protect the area containing groundwater wells of great capacity.

§ 4.2.12. Flood Damage Prevention Overlay District (FP-O): The purpose of this overlay is to prevent flood damage to the land and any buildings by prohibiting development within the 100-year floodplain, and regulating uses pursuant to the current Town of Claverack flood damage prevention law).

§ 4.2.13. Adult Use Overlay District AU-O: The purpose of this overlay is to provide a place for the siting of adult businesses which would otherwise be disruptive to the character of the Town.

### § 4.3. Official Zoning Map

§ 4.3.1. The maps delineating the boundaries of the various zoning districts, together with all matters and things shown on such maps, are adopted and approved, and constitute the “official zoning map.” The official zoning map is incorporated by reference and made part of this Law. The maps shall be on file in the Office of the Town Clerk. All amendments to the official zoning map shall be kept current by the Town Clerk.

### § 4.4. Interpretation of District Boundaries on Zoning Map

§ 4.4.1. The District boundary lines, unless shown otherwise, are intended generally to follow street centerlines, railroad right-of-way boundary lines or their centerlines, other similar right-of-way lines, or lot lines or boundaries of subdivisions, or municipal boundary lines, all as shown on the Zoning Map. Such boundary shall be deemed to be automatically adjusted if a centerline or right-of-way line of such street, highway, railroad, public utility, or watercourse is moved a maximum distance of fifty feet.

§ 4.4.2. Boundaries indicated as approximately following the platted lot lines shall be construed as following such lot lines.

§ 4.4.3. Boundaries indicated as approximately following the Town of Claverack town limits shall be construed as following those town limits.

§ 4.4.4. Where the street layout actually on the ground varies from the street layout as shown on the Zoning Map, the designation shown on the mapped streets shall be applied in such a way as to carry out the Building Inspector's/Zoning Enforcement Officer's judgment as to the purpose and intent of the Zoning Map for the particular area in question.

§ 4.4.5. When the location of a District boundary line cannot be otherwise determined, the determination thereof shall be made by the Building Inspector/Zoning Enforcement Officer by scaling the distance on the Zoning Map from a line of known location to such District boundary line.

§ 4.4.6. In the case of uncertainty as to the true location of a District boundary line in a particular instance, an appeal may be taken to the Zoning Board of Appeals.

§ 4.4.7. When a District boundary line divides a lot in a single ownership at the effective date of this Law or any subsequent amendment thereto, the Zoning Board of Appeals may permit extension into one District of a lawful conforming use existing in the other District.

## Chapter 5 - USE REGULATIONS

### § 5.1 General

§ 5.1.1 No use is permitted unless it is listed as a permitted or special exception use in this Section. No building or premises shall be used in any district except as set forth in Table 1, Schedule of Use Regulations.

§ 5.1.2 No building, structure, lot, or part thereof shall be used except in conformance with Table 1 (Schedule of Use Regulations). Any lawful, existing use that does not conform to the Schedule of Use Regulations on the date of adoption of this law shall be deemed a nonconforming use. (See Section 17).

§ 5.1.3 A special Exception Use authorized by the Planning Board shall be deemed a conforming use.

§ 5.1.4 A use authorized by a use variance granted by the Board of Appeals, shall be deemed a nonconforming use.

### § 5.2 Schedule of Use Table

See Table 1 for the Schedule of Uses.

### § 5.3 Accessory Uses

§ 5.3.1 This Section applies to any secondary use of a building or other structure, or use of land that is conducted on the same lot as the principal use to which it is related and clearly incidental to, and customarily found in connection with, the principal use or structure.

§ 5.3.2 Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal structure is completed or the principal use is established. In no instance shall an accessory building or use be established on a vacant lot. Accessory buildings shall not be used for dwelling purposes except where permitted as an accessory dwelling.

§ 5.3.3 For residential lots, the location of permitted, nonresidential accessory structures is governed by the same dimensional regulations as set forth for the principal use or principal structure or structures. For buildings of 144 square feet or less, and no higher than fifteen (15) feet, the side and rear setbacks are allowed to be modified to ten (10) feet.

§ 5.3.4 The maximum lot coverage of all accessory structures shall not exceed 50 percent of the total area of the side and rear yards, provided that, in the RC, RA, RR, MHP and HR districts, the total floor area does not exceed a maximum of 2,500 square feet.

§ 5.3.4 Accessory buildings shall not exceed the height regulations of the applicable zoning district.

§ 5.3.5 The following standards shall apply to the placement of accessory buildings and uses, including garages, and off- street parking, and vehicle storage:

A. In all Districts:

- i. A private garage may be constructed as a structural part of a main building, provided that when so constructed, the garage walls shall be regarded as the walls of the main buildings in applying the front, rear, and side yard regulations of this Law.
- ii. Accessory buildings, including private garages, shall not be placed within a required setback area. Mobile homes shall not be allowed as accessory buildings.
- iii. In all districts, motor vehicles shall be stored in accordance with the following:
  1. Prohibition - The storage of more than one motor vehicle upon property within the Town is prohibited when the applicable state registration sticker, license plates and/or inspection certificate is absent or has expired. Excluded from this prohibition include:
    - a. Excluded from this prohibition are any motor vehicles enclosed in garages or other structures so they are not visible.

- b. Excluded from this prohibition are motor vehicles situated upon property owned or operated as a licensed and permitted motor vehicle repair facility provided said vehicles are not present upon the property for a period in excess of fourteen calendar days.
- c. Excluded from this prohibition are motor vehicles situated upon property owned or operated as a licensed and permitted motor vehicle sales facility provided said vehicles are in operable condition.
- d. Excluded from this prohibition are motor vehicles situated upon property owned or operated as a licensed and permitted motor vehicle wrecking or motor vehicle salvage facility.
- e. Excluded from this prohibition are motor vehicles that have a valid vehicle storage permit issued by the Building Inspector/Zoning Enforcement Officer granted upon the following criteria:
  - i. The owner of the property and vehicle have submitted an application and paid the application fee as set by resolution of the Town Board.
  - ii. The Building Inspector/Zoning Enforcement Officer has reviewed the application and inspected the vehicle and proposed site of storage, and made a finding that the condition of the vehicle and site of storage will not pose a risk to the health or safety of the public.
  - iii. The permit may be issued for a period of one year.
  - iv. The permit must be displayed upon the vehicle.
  - v. No more than two such permits are allowed.

## Chapter 6 - DIMENSIONAL REGULATIONS

### § 6.1 General

§ 6.1.1 The lot dimensions (frontage, coverage, width, setbacks and lot size) are established for each zoning district regulations as per Table 2 (Dimensional Table). These minimum requirements may be increased or decreased by other provisions of this Law including but not limited to Section 6.4.

§ 6.1.2 No building, structure, or part thereof shall be erected, structurally altered, enlarged, rebuilt, or moved except in conformity with the provisions of Table 2 (Table of Dimensional Regulations) for the District in which the building or structure is located.

§ 6.1.3 Any lawful existing building or structure that does not conform to the Dimensional Table of this Law, shall be deemed a nonconforming building or structure, irrespective of the use to which it is put.

§ 6.1.4 A building or structure or part thereof authorized as an area variance granted by the Board of Appeals, shall be deemed a conforming building or structure or part thereof.

## § 6.2 Dimension Table

See Table 2 for Dimension Table.

## § 6.3 Average Density and Monitoring Lot Splits

§ 6.3.1 Pursuant to Table 2 (Dimension Table), the Town of Claverack shall allow averaging of lot sizes to meet the density requirements in the RR, RC and RA districts. Minimum lot sizes in the RC and RA districts may be permitted to be as small as the minimum allowable for provision of water and waste treatment provided that the overall density on the parcel does not exceed one dwelling per five acres in RA and RC, and one dwelling per two acres in RR.

§ 6.3.2 Monitoring Lot Splits. The density calculated pursuant to this Law is the total and maximum development potential for a particular parcel. Once this full development potential has been reached through subdivisions, no further subdivision activity shall be allowed. The following procedures shall be followed to ensure proper monitoring of lot splits:

- A. An official parcel map indicating existing lots, parcel numbers, and land ownership shall be established by the Planning Board.
- B. The Town shall maintain a record of the estimated allotment of lots and dwelling units possible under the zoning law for each parcel under review.
- C. A property owner submitting a subdivision plan shall be required to specify on his/her plan and on any approved final plat, which lot or lots shall carry with them the right to erect or place any unused allocation of dwelling units or lots the tract may have.
- D. As allotments are used up, the official parcel map shall be updated to reflect these changes.
- E. The official map and register shall be maintained by the Planning Board upon final approval of each subdivision and copies made available for inspection by the public.

## § 6.4 Density Bonus Incentives.

§ 6.4.1 Pursuant to §261-b of the New York State Town Law, the Town of Claverack hereby establishes a program of incentives to encourage the preservation of open space, agricultural lands, moderately-priced housing, and traditional neighborhood design in accordance with its adopted Comprehensive Plan. This Section provides for incentives to landowners through a uniform set of rules and ensures that density modifications are not made solely and exclusively for the private benefit of an applicant.

§ 6.4.2 Applicability. An applicant that has submitted a residential subdivision, special exception use permit or site plan application may apply for incentives to achieve community benefits or amenities as listed in Section 6.4.3.

§ 6.4.3 Types of Incentives. No one incentive or combination of incentives shall exceed thirty percent (30%) of the total dwelling units as would otherwise be allowed from Table 2 of this law. The following residential density incentives are established:

- A. Agricultural Land Preservation Bonus. A residential density bonus may be granted for the preservation of 50% or more of a parcel as agricultural land. For every additional 10% of land set aside as open space, a five percent (5%) residential density bonus may be approved. The residential density bonus granted for the protection of agricultural land preservation shall not exceed twenty percent (20%).
- B. Multi-family Housing in Hamlet Bonus. A residential density bonus not to exceed 15% may be granted for the provision of multi-family housing developed as per Section 15.3.13 when located in the Hamlet Residential zoning districts.
- C. Moderately Priced Housing Bonus. A residential density bonus not to exceed 15% may be granted for the provision of housing units that are dedicated as moderately priced units as defined by Section 2.126 of this law.
- D. New Hamlet Design Bonus. For major subdivisions designed as a hamlet with traditional neighborhood design pursuant to Section 8.1, a residential density bonus may be granted not to exceed 25%.

### § 6.4.4 General Provisions

- A. Where an application seeks both subdivision and special exception use/site plan approval, the project shall be considered in its entirety and incentives shall not be granted separately for both approvals.
- B. Incentives shall be granted only when the community benefits or amenities desired in 6.4.3 offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board.

- C. Such benefits shall be in addition to and not in lieu of any other improvements or amenities otherwise required pursuant to any other provisions of this Zoning Law, the subdivision regulations, the provisions of SEQRA and the provision of other applicable New York State laws including, without limitation, Article 16 of the Town Law.
- D. Where the parcel falls within two or more contiguous zoning districts, the Planning Board may approve an incentive representing the cumulative density as derived from summing of all residential lots allowed in all such districts together with the incentive density, and may authorize actual construction to take place in all or any portion of one or more such districts.
- E. Bonus units shall be similar in appearance and location to non-bonus units, shall contain on average the same number of bedrooms as the non-bonus units in the development, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality.
- F. Community benefits of 6.4.3 may be accomplished on or off site by:
  - i. Use of agricultural or other permanent conservation easements.
  - ii. Donations of land for conservation and other community benefit purposes.

§ 6.4.5 Procedures and criteria for approval of incentives.

- A. Submission of application. Applications for density incentives shall be submitted simultaneously to the Town Board and to the Planning Board. The Town Board must approve an incentive bonus prior to the granting of a preliminary plat or preliminary site plan approval by the Planning Board.
- B. Narrative statement. A narrative statement shall be submitted with the application and shall be posted on the Town of Claverack Web Site within one week of submission to the Town and Planning Board with the following information:
  - i. A description of the incentive being requested.
  - ii. A description of the community amenity or benefit being offered to the Town.
  - iii. A current estimate of the market value of the proposed benefit.
  - iv. A preliminary indication that there is adequate wastewater treatment, water supply, transportation facilities, waste disposal, and emergency service protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site

amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.

- v. An explanation as to how the amenity helps implement the physical, social or cultural policies of the Town of Claverack Comprehensive Plan.
- C. An applicant is encouraged to present its plans to the Town Board as early in the process as possible. The Town Board may schedule an informal workshop to discuss the incentive application and share information between the applicant, the appropriate reviewing board, the Town Board and the public. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration prior to the application or at any stage of the application process prior to the formal report issued by the Planning Board pursuant to subsection 6 below. Each zoning district in which incentives may be authorized shall be found by the Town Board to contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection. Further, the Town Board shall determine that there will be no significant environmentally damaging consequences and that such incentives or bonuses are compatible with the development otherwise permitted.
- D. Applications for incentive zoning shall be processed concurrently and with the same procedures applicable to subdivisions and/or special exception use/site plan approvals as set forth in this Zoning Law and the subdivision regulations of the Town of Claverack.
- E. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process before the Planning Board.
- F. The Planning Board shall submit an advisory report to the Town Board within 62 days of submission of a density incentive request. The report shall include the following:
- i. The Planning Board's recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit and incentives fit the site and how the development relates to adjacent uses and structures.
  - ii. A SEQRA Negative Declaration or Findings Statement establishing that the proposal will not have a significant impact on the environment;
  - iii. An assessment that adequate water supply, wastewater treatment, transportation, waste disposal and emergency protection facilities exists to serve the development, and that such development will not substantially and deleteriously impact upon the future development of adjoining properties;
  - iv. A statement that the benefit would not otherwise result without the granting of incentive zoning.

- G. Within 45 days of receipt of the Planning Board’s report, the Town Board shall hold a public hearing on the incentive zoning application. Notice of the hearing shall be published in the official newspaper at least ten (10) business days prior to the date of the hearing. The Town Board may provide for further notice as it deems appropriate.
- H. As required by NYS Town Law 261-b (3) (g), the Town Board shall evaluate the impact such incentives would have upon the potential development of affordable housing.
- I. The Town Board shall render its decision within 45 days of the close of the public hearing. In no case, however, shall the Town Board be compelled to approve any aspect of this incentive zoning as such approval rests within the Town Board in its sole and absolute discretion. The Town Board may approve, approve with modifications or disapprove the incentive zoning application. Failure to render a determination within said 45-day period shall be deemed to be a denial. To approve incentive zoning, the Town Board shall determine that the community benefit provides sufficient public benefit to provide the requested incentive.
- J. After the Town Board has rendered a decision, the record of decision shall be referred to the Planning Board for preliminary and/or final approval of the application with or without incentives, as prescribed by the Town Board. If the Town Board resolves to permit incentive zoning, no subsequent approval or permit or approval by any official, board or agency of the Town shall materially alter any condition imposed by the Town Board and, in the event that any permit or approval by any agency within or without the Town materially alters any such condition, the project may not proceed until and unless the Town Board approves the modification in its sole discretion.
- K. The Town Board may engage a consultant to assist in review of the application, the cost of which will be borne by the applicant pursuant to Local Law 4 of 2007 (Fees and Escrow).
- L. Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process. The applicant will pay the cost of preparing a generic environmental impact statement as prepared by the Town Board in enacting or amending this Section.

## Chapter 7 - RURAL CONSERVATION, RURAL RESIDENCE, AND RURAL AGRICULTURE DISTRICT REGULATIONS

### § 7.1 General

§ 7.1.1 General Requirements.

- A. Within the RC, RR and RA districts a building, a structure or lot shall only be used for one of the uses indicated in Table 1, Table of Use Regulations, for the specific District in which it is located on the Zoning Map, and in accordance with the particular classification of that use in that District.
- B. Further, any such building, structure or lot shall only be utilized in conformance with the provisions of Table 2, Table of Dimensional Regulations. In addition, such use shall also comply with all other applicable provisions of this Law.
- C. All requirements of the current Town of Claverack flood damage prevention law shall be followed for all lands within the regulated floodplain. In addition, no structures except farm structures shall be allowed within the 100-year floodplain within the FP-O District.
- D. The requirements of Section 7.1.4 shall be met for all development within the RC, RR, and RA districts.
- E. All requirements of this Law shall be met for all new projects unless they have been substantively commenced prior to the effective date of this Law pursuant to Section 17.

§ 7.1.2 When parcels of land are located within a certified New York State agricultural district as defined in Article 25AA of the New York State Agriculture and Markets Law, the following exemptions from provisions of this Zoning Law shall apply to land and buildings on farm operations:

- A. There shall be no height limits on agricultural structures, including but not limited to barns, silos, grain bins, and fences, as well as equipment related to such structures, as long as they are being used in a manner that is part of the farm operation.

§ 7.1.3 Buildings shall be situated in a manner that avoids the following:

- A. Slopes 25% and greater.
- B. Areas within 100 feet of a stream bank, state or federal wetland.
- C. The 100 year flood plain. Residences and all other structures, with the exception of accessory farm structures, are prohibited from the 100-year floodplain. See the current Town of Claverack Flood Damage Prevention Law.
- D. Soils identified as Prime Farmland or Soils of Statewide Importance as defined by the Columbia County Soil Survey to the maximum amount practical.

- E. Significant ecological habitats as identified by the New York State Department of Environmental Conservation.

§ 7.1.4 The Planning Board shall apply the following standards during the review of any site plan, special exception use permit or subdivision application to the maximum extent practical:

- A. Retain and reuse existing farm roads and lanes wherever possible to minimize vegetative clearing and earthwork. Preserve trees and stone walls associated with the lane.
- B. Preserve stone walls and hedgerows as they are integral to the vernacular rural landscape and are used by wildlife as habitat and travel corridors. Use stone walls and hedgerows to define property lines where appropriate.
- C. Place buildings at the edge of fields and wooded areas and not conspicuously in the middle of an open field.
- D. Use existing vegetation and topography to buffer and screen new buildings. Group buildings in clusters and situate them behind tree lines or knolls. Avoid siting buildings across the landscape in a "sprawl" pattern.
- E. Retain existing vegetation at the street edge. Limit cuts and fills associated with driveway or street construction. Screen driveways from public view, and limit clearing except in areas where adequate sight distance must be maintained. Driveways and roads should be situated at the edge of open fields. Encourage shared use of driveways. Use curves in a driveway to increase the screening of buildings.
- F. Limit clearing to selective cutting of small trees and shrubs and pruning lower branches of large trees. Do not clear extensive areas or remove mature trees on any property except those that are dead or dying and may present a hazard.
- G. Fully shield exterior light fixtures, whether mounted on poles or buildings or trees that are used to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas.
- H. Install all utilities underground, including electric, telephone, television, and other communication lines, whether main or service connections. Locate and install utilities in a manner that minimizes additional on-site clearing or disturbance.

- I. Avoid crossing steep slopes with a road or driveway. Encourage terrain adaptive design, e.g., constructing a multi-level building with access on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat.
- J. Situate subsurface sewage disposal systems and parking areas in flatter portions of the property to minimize unnecessary cut and fill grading.
- K. Locate new development so that the drainage to properties in agricultural use is not impeded or significantly altered.

## § 7.2 Conservation Subdivision Design

§ 7.2.1 Applicability. A conservation subdivision design pursuant to Section 7.2 of this law shall be required for all major subdivisions in the RC, RR, and RA districts. The Planning Board may authorize use of conservation subdivision on a voluntary basis in other districts.

§ 7.2.2 Permitted, accessory and special permit uses. Permitted, accessory and special permit uses within a conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located.

§ 7.2.3 Density. The permitted number of dwelling units in a conservation subdivision shall not exceed the number of units that would be permitted according to the density requirements of Section 6, unless a density bonus has been granted (Section 6.4). Density bonus units have to conform to the same layout requirements as all other units within the conservation subdivision.

§ 7.2.4 Dimensional standards. Within the framework of limitations set forth in this Section of the law, the Planning Board shall review all proposed modifications of lots, bulk and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this law. Lots shall be arranged in a way that preserves open space as conservation as described in this Section.

- A. A conservation subdivision must preserve at least fifty (50) percent of the tract's acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space.
- B. Minimum street frontage: 25 feet
- C. The builder or developer shall include variations in the principal building position and orientation, but shall observe, as practical, the following minimum standards: Front yard setback of 20 feet; Rear yard setback of 40 feet; Side yard setback of 15 feet separation for principal buildings; building height of 35 feet.
- D. Maximum impervious coverage. No more than 20% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or

structures unless it is within the Wellhead Protection Overlay District where no more than 15% shall be covered.

- E. Minimum lot size. The minimum lot size for developments requiring individual wells and septic systems shall be equal to that required by the New York State Department of Health to meet standards for water and septic system approvals.

#### § 7.2.5 Conservation Subdivision Process

- A. Sketch Plan. A Sketch Plan shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed subdivision or land development. This layout shall include an identification of primary and secondary conservation lands within a parcel(s), which includes those elements most highly valued by the community. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivision in conformance with the Comprehensive Plan. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the Sketch Plan shall include the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs. The sketch plan is not intended to be a highly engineered or exact document, but a general sketch illustrating the location and type of environmental features that are present on the site including:
  - i. Area having slopes of twenty (20) percent or greater.
  - ii. Wetlands, aquifer and aquifer recharge areas, if known, municipal water supply areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any.
  - iii. Agricultural lands including farmland within and adjacent to a New York State certified Agricultural District, and soils classified as being prime farmland or soils of statewide significance, if any.
  - iv. Sites where community sewer, community water, or community water and sewer are available or planned, if any.
  - v. Lands within or contiguous to a Critical Environmental Area that is designated pursuant to Part 617 (State Environmental Quality Review Act), if any.

- vi. Lands contiguous to publicly owned or designated open space areas, or privately owned and designated natural areas, if any.
  - vii. Historic structures or areas of national, state or local importance, if any.
  - viii. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any.
  - ix. General locations of vegetative cover conditions on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and the actual canopy line of existing trees and woodlands.
  - x. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any.
  - xi. Existing trails, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
  - xii. Ridge lines on the property.
  - xiii. Location of all existing streets, roads, buildings, utilities and other man-made improvements.
  - xiv. All easements and other encumbrances of property which are or have been filed of record with the Columbia County Clerk's Office.
  - xv. When a conservation easement is proposed as the method for open space preservation, it is advisable that a qualified land trust or environmental organization be consulted early in the sketch phase of the project to ensure the layout and protection terms are conducive to viable administration of such easement.
- B. A preliminary plat shall be developed after the sketch plan meeting with the Planning Board and shall incorporate the information included on the sketch plan. The submission requirements for a Preliminary Plat include the

requirements for Sketch Plans listed above and the submission requirements of the Town of Claverack Subdivision Regulations.

- C. All other procedures, time frames, and administrative requirements of the Town of Claverack Subdivision Law related to Preliminary and Final Plat Approvals shall be followed.

§ 7.2.6 Design Process for Conservation Subdivisions.

- A. Determine Lot Count as per Section 6.
- B. Step 1: Delineation of Open Space Lands. In delineating primary and secondary conservation areas, the Planning Board, together with the applicant and in consultation with a conservation agency shall work together to prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open space consistent with the Town of Claverack Comprehensive. Proposed open space lands shall be designated as follows:
  - i. Primary Conservation Areas shall be delineated comprising open water (including streams, floodplains, and wetlands), prime agricultural soils, and slopes over 20% and shall be designated on a map. Primary Conservation Areas shall be included in the required open space area to the greatest extent practical.
  - ii. Secondary Conservation Areas shall be delineated and designated on a map. Secondary Conservation Areas include special features of the property that would ordinarily be overlooked or ignored during the design process. These include, but are not limited to features such as woodlands, significant natural areas and features, stone walls, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, and trails. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, Secondary Conservation Areas shall be delineated to meet at least the minimum percentage requirements for open space lands. These features shall be clearly noted as well as the types of resources included within them on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract.

- iii. The primary and secondary conservation areas, together, constitute open space areas to be preserved, and the remaining land is the potential development areas.
  
- D. Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than 100 feet from Primary Conservation Areas and 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
  
- E. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All requirements of the Town of Claverack Specifications for Road Construction shall be met.
  
- F. Draw Lot Lines. Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.
  
- G. Design Process for hamlets. The design process for developing conservation subdivisions in or adjacent to hamlets shall be a variation on the above process, as described herein. In hamlets, where traditional streetscape are of greater importance, (D) and (E), above may be reversed, so that streets and squares are located during the second step, and house sites are located after. The first step is to identify open space lands, including both Primary and Secondary Conservation Areas.

#### § 7.2.7 Site Design Criteria

- A. Residential structures in a conservation subdivision should be located according to the following guidelines, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning Board may use its discretion to resolve such conflicts):

- i. On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;
- ii. Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;
- iii. In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses;
- iv. To avoid disturbance to the existing environmental, cultural and scenic features;
- v. To be as visually inconspicuous as practical when seen from state, county and local roads, and particularly from designated scenic routes;
- vi. Next to other residences or building lots on adjacent properties;
- vii. To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads;
- viii. On suitable soils for subsurface sewage disposal (where applicable);
- ix. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to enable new residential development to be visually absorbed by the natural landscape; and
- x. For proposed new hamlets or other traditional neighborhood design, siting standards from Section 8.1 shall be met.

B. Open space standards:

- i. The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The applicant shall also demonstrate that such features will be protected by the proposed

subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this Section.

- ii. Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to preserving wetlands and their associated upland habitats.
- iii. Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract.
- iv. Open space land shall be contiguous to create a critical mass of land available for agriculture or left in a natural state to the maximum extent practical. Open space lands may be designated as a conservation lot owned in common, or designated and included as part of one lot that is privately owned. No individual parcel of common open space shall be less than five (5) acres except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
- v. Preserved land shall be congregated into a single open space lot to the maximum extent possible. Lands preserved as open space may be communal lands.
- vi. The required open space may be used for community septic systems but such lands may not be included in a conservation easement
- vii. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground utilities.
- viii. Recreation lands such as ball fields, parks, pool areas, etc. shall not be considered part of the required open space unless such land is

open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of Claverack Subdivision Law. Golf courses shall not be considered open space lands.

### C. Other Layout Criteria

- i. The building area of lots shall not encroach upon Primary Conservation Areas and their layout shall avoid Secondary Conservation Areas to the greatest extent practical.
- ii. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping.
- iii. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- iv. Open space shall be directly accessible or viewable from as many home sites as possible.
- v. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-vegetated buffer is recommended along the road where those views or vistas are prominent or locally significant. However, native vegetation shall be maintained to create a buffer of at least 100' in depth adjacent to wetlands and surface waters, including creeks, streams, springs and ponds.
- vi. Design around and preserves sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
- vii. Provide open space that is reasonably contiguous.

- viii. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

§ 7.2.8 Streets and driveways.

- A. Common driveway access may be provided. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.
- B. Conservation subdivision streets shall meet the Town Specifications for Road Construction. Where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of Claverack Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision.
- C. From an aesthetic and speed control perspective, curving roads are preferred to avoid long straight segments. Shorter straight segments connected by 90 degree and 135 degree bends are preferred in a more formal or traditional arrangement.
- D. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
- E. Use of reverse curves should be considered for local access streets in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 mph. Further, use of single-loaded streets is encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.

§ 7.2.9 Protection of open space.

- A. All required open space shall be restricted from further subdivision through one of the following:
  - i. A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office.
  - ii. A term (temporary) conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office, provided the term is a minimum of 35 years.

- iii. A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's Office where a conservation easement has been shown not to be practicable.
- B. Open space land may be held in any form of ownership that protects its conservation values such as where the open space is owned in common by a homeowner's association (HOA). Open space may also be dedicated to the Town, County or State governments, transferred to a non-profit organization, or held in private ownership. The applicant shall provide proof that the receiving body agrees to accept the dedication. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
- i. If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
  - ii. The open space restrictions must be in perpetuity unless a term conservation easement has been agreed upon.
  - iii. If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.
  - iv. The Planning Board shall find that the HOA documents satisfy the conditions above.
  - v. The proposed association shall be established by the owner or applicant and shall be operating before the sale of any dwelling units in the development.
  - vi. Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.

- vii. The association, or the owner, shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
  - viii. The association, or the owner, shall have adequate resources to administer, maintain, and operate such common facilities.
- C. The conservation easement, declaration of covenants or deed restriction shall permanently restrict development of the open space unless a term easement has been agreed upon, and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:
- i. The conservation organization is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
  - ii. The conveyance contains appropriate provisions for proper reverting or retransfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.
  - iii. A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
  - iv. The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision unless a term easement has been agreed upon, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

§ 7.2.10 Maintenance Standards.

- A. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
- B. Failure to adequately maintain any improvements located on the undivided open space in reasonable condition is a violation of the zoning law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of

properties within the development, and shall, if unpaid, become a tax lien on such property.

§ 7.2.11 Sewage treatment systems. Sanitary sewage disposal systems of either an individual or community nature may be located within or extend into required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12 a of New York State Town Law.

7.2.12 Future Subdivisions. When an applicant includes only a portion of landowner's entire tract, a sketch layout according to this Section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this Section. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

## Chapter 8 - HAMLET RESIDENTIAL DISTRICT REGULATIONS

### § 8.1 Development Standards for all Minor and Major Subdivisions in the HR District.

§ 8.1.1 All requirements of this Section shall be met for all new projects unless they have been substantively commenced prior to the effective date of this Law pursuant to Section 17.

§ 8.1.2 All lots shall include frontage abutting a street or plaza and all principal buildings shall be oriented to the street.

§ 8.1.3 Front porches shall be provided on at least 50% of all dwelling units within a subdivision.

§ 8.1.4 New blocks shall have an average length not exceeding 400 feet, with no block exceeding 1,000 feet in length.

§ 8.1.5 Residential areas shall be designed in a generally gridded pattern of blocks and interconnecting streets.

§ 8.1.6 Blank walls. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages or storage areas, face the street.

§ 8.1.7 Front façade orientation. The front façade of the building shall be parallel to the street on which said building fronts.

§ 8.1.8 Conversion of a residential structure to a commercial use shall be permitted only provided the residential nature and character of the façade is maintained.

§ 8.1.9 Buildings shall define the streetscape through the use of setbacks along the build-to-line for each new block. There shall be a uniform build-to line that shall establish the front yard setback for the lots on the block for new neighborhoods. The function of the build-to line is to form a distinct street edge and define the border between the public space of the street and the private space of the individual lot. A minimum of 80% of all buildings on the block shall conform to the build-to line with the remaining 20% allowed to vary by being setback farther but no greater than 75% of the distance from the right-of-way to the build-to-line. Buildings shall be allowed to come forward of the build-to line by no greater than 25% of the distance between the right-of-way and the build-to-line.

§ 8.1.10 Plans shall incorporate a 3 to 5 foot wide sidewalk separated from the street curb or edge by a 3 to 6 foot wide planting strip. The proposed sidewalk shall transition to existing walkways where required. Shade trees shall be planted within the planting strip. The Planning Board may waive this requirement if construction of sidewalks is not appropriate due to short length or inability to connect now or in the future with other hamlet pathways.

§ 8.1.11 Lot size diversity. A variety of lot sizes should be encouraged to eliminate the appearance of a standardized subdivision and to facilitate housing diversity and choice that meets the projected requirements of people with different housing needs.

§ 8.1.12 In major subdivisions, building mass, design, and floor plans shall be such to create visual differences between principal buildings, and new construction shall be consistent with the traditional character of Claverack. Monotony and similarity shall be minimized through use of changes in façade planes, use of porches, changes in location of entry way, varying the width of the unit, and varying roof orientation, roof styles, building orientation, and trim detailing. The Planning Board may require the submission of architectural renderings to ensure this objective is achieved.

§ 8.1.13. Duplex and multi-family structures shall be designed to look like a single family dwelling to the maximum extent possible.

## Chapter 9 - MOBILE HOME PARK RESIDENTIAL DISTRICT REGULATIONS

### § 9.1 Mobile Home Park, Licensed

§ 9.1.1 Application Date: Each application shall be accompanied by three complete sets of plans which are prepared by a surveyor, engineer or other qualified person. The plans shall be

drawn to a scale of 20, 40, or 50 feet to one inch; shall include the date, north point, and scale; and shall furnish the following information:

A. Legal Data

- i. The name and address of the applicant; the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.
- ii. The location and description of the land that is proposed to be used as a mobile home park.
- iii. The number of lots to be provided in such park

B. Physical Features

- i. Contours at two foot intervals.
- ii. Location of water courses, marshes, and areas subject to flooding.
- iii. Wooded areas.

C. Existing Development

- i. A location map which shows all land within three hundred (300) feet of the proposed park and all structures on the land which abuts the proposed park.
- ii. The location, names and widths of all adjacent streets.
- iii. The location of all water lines and utilities within and adjacent to the proposed site.

D. Proposed Development

- i. The location and widths of all entrances, exits, streets and highways.
- ii. The location, size and arrangement of each mobile home lot within the park.
- iii. The method and plan for electric lighting.
- iv. The location and plan of all proposed structures and improvements.

- v. Any proposed grading and plans for landscaping.
- vi. Any proposed storm water drainage.
- vii. Any proposed utilities.
- viii. Any public improvements proposed by the Town in or adjoining the proposed park.
- ix. Existing Zoning.

E. Requirements for Mobile Home Parks:

i. Site

1. The park shall be located in areas where grades and soil conditions are suitable for use in mobile home sites.
2. The park shall be located on a well-drained site which is properly graded to insure good drainage and to be free from stagnant pools of water at all times.
3. The park shall be free from heavy or dense growth of brush and woods.
4. The park shall be at least 12 acres in size, with not less than 300 feet frontage on a public road.

ii. Mobile Home Lot

1. Mobile home parks shall have clearly marked off mobile home lots.
2. The total number of mobile home lots in a mobile home park shall not exceed one for each 12,500 square feet of gross lot area.
3. Each mobile home lot shall have a total area of not less than 7,500 square feet with a minimum dimension of sixty (60) feet.

iii. Mobile Home

1. No mobile home shall be parked or otherwise located nearer than a distance of:
  - a. At least fifty (50) feet from any home park property line of the mobile home park.
  - b. At least eighty (80) feet from the right-of-way line of public street or highway.
  - c. At least twenty-five (25) feet from the nearest edge of any roadway located outside the park boundaries.
2. Only one mobile home shall be permitted to occupy any one mobile home lot.

iv. Mobile Home Stand

1. Each mobile home lot shall have a mobile home stand which will provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures, and the retention of the home on the lot in a stable condition.
2. The stand shall be of sufficient size to fit the dimensions of the anticipated mobile home and their appurtenant structures or appendages.
3. The stand shall be constructed of a minimum 6-inch reinforced concrete slab and adequate for the support of the maximum anticipated loads.
4. The stand shall be suitably graded to permit rapid surface drainage.

v. Accessibility

1. Each mobile home park shall be easily accessible from an existing public highway or street; provided, however, that no mobile home lot or other facility shall have access directly to such public highway or street.
2. Where a mobile home park has more than sixteen (16) mobile homes, two (2) points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed four (4).
  - a. Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the

park, and to minimize friction with the free movement of traffic on a public highway or street.

- b. All entrances and exits shall be at right angles to the existing public highway or street. All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.
3. Each park shall have improved streets to provide for the convenient access to all mobile home lots and other important facilities within the park. Streets shall be improved to at least meet municipal subdivision regulation specifications. No parking shall be allowed on such streets.
4. An improved driveway shall be provided for each mobile home lot. This driveway shall have a minimum width of nine (9) feet.

vi. Parking

1. Two off street parking spaces shall be provided on each mobile home lot. The parking spaces shall be of similar construction and grading as the mobile home stand. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet.
2. Additional off-street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles:
  - a. There shall be one such parking space for each 3 mobile home lots within the park.
  - b. Such parking space shall be provided in bays which shall provide for adequate maneuvering space.
  - c. There shall be a designated storage area for recreational vehicles.

vii. Utilities and Service Facilities

1. The following utilities and service facilities shall be provided in each mobile home park which shall be in accordance with the regulations and requirements of the Columbia County Department of Health, the New York State Department of Health, and the Sanitary Code of New York State.

- a. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home lots and buildings within the park to meet the requirements of the park. Each mobile home lot shall be provided with proper water connections.
- b. Each mobile home lot shall be provided with a sewer, which shall be connected to the mobile home situated on the lot, to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.
- c. Metal garbage cans with tight fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. The cans shall be located no further than two hundred (200) feet from any mobile home lot. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that such cans shall not overflow.
- d. Other service buildings shall be provided as deemed necessary for the normal operation of the park, however, such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.
- e. Each mobile home lot shall be provided with weatherproof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.

viii. Open Space

- 1. Each mobile home park shall provide common open space for the use by the occupants of such park.
- 2. Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least ten (10) percent of the gross land area of the park.

ix. Landscaping

1. Lawn and ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways, roads and parking areas.
2. Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the mobile homes and other facilities.
  - a. Screen planting shall be provided to screen objectionable views. Views which shall be screened include recreational vehicle storage area, other nonresidential uses, and garbage storage and collection areas.
  - b. Other planting shall be provided along those areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the dwelling units, but shall not obstruct sight distance at access roads.
  - c. Screen planting shall also be provided along all interior property lines to protect adjacent properties in Residential Districts.

## Chapter 10 - HIGHWAY COMMERCIAL, HAMLET BUSINESS, HAMLET BUSINESS 1 AND COMMERCIAL INDUSTRIAL PARK DISTRICTS - GENERAL REGULATIONS

### § 10.1 General

§ 10.1.1 Within any Highway Commercial, Hamlet Business, Hamlet Business -1, and Commercial Industrial Park Districts, a building, structure or lot shall only be used for the uses indicated in Table 1, Table of Use Regulations, for the specific District in which it is located on the Zoning Map, and in accordance with the particular classification of that use in that District. Further, any such building, structure or lot shall only be utilized in conformance with the provisions of Table 2, Table of Dimensional Regulations. In addition, such use shall also comply with all other applicable provisions of this Law. All requirements of this Section shall be met for all new projects unless they have been substantively commenced prior to the effective date of this Law pursuant to Section 17.

- A. Site Plan Review for Highway Commercial, Hamlet Business, Hamlet Business -1, and Commercial Industrial Park districts. All uses in any zone, whether permitted, or permitted by special exception, require site plan review pursuant to Section 16 with the exception of established agricultural uses.

- B. Any use proposed in these districts that require a special exception permit shall also follow all relevant development standards of Section 15.3.
- C. Building footprint size shall not exceed those listed in Table 2 (Dimension Table).
- D. Multiple uses shall be allowed per parcel or per principal building in the HC, HB, HB-1 and CIP districts provided all uses are permitted and standards met according to this law.

## § 10.2 Performance Standards for Commercial Uses

§ 10.2.1 Outdoor Storage. No business/industry shall store any equipment, materials or waste except in accordance with the following standards:

- A. All exterior storage shall be located only within the rear yard.
- B. All exterior storage must be enclosed within a solid fence not less than 6' in height.
- C. All exterior storage of waste materials shall be in canisters or containers.
- D. Exterior storage of waste materials that are flammable in nature shall be stored in a manner that is approved by the Fire Chief and Code Enforcement Official of the Municipality or District where the facility is located.
- E. Exterior storage or display of products produced on site and offered for sale shall be located in either the side or rear yards and shall not cover more than 15% of the total lot area.
- F. Inoperable cars that are stored shall require screening and fencing to prevent view from public roads and adjacent land uses.

§ 10.2.2 Grounds & Building Maintenance. All structures, drives, parking areas, signs and landscaping shall be maintained in a manner so as not to fall into disrepair.

§ 10.2.3 No motor vehicles shall be dismantled, junk cars stored, or new junkyards established.

## Chapter 11 - WELLHEAD PROTECTION OVERLAY DISTRICT REGULATIONS

## § 11.1 Purpose

§ 11.1.1 The purpose and intent of establishing the Wellhead Protection Overlay District is to prevent the contamination of groundwater in the wellhead protection area adjacent to present and future public drinking water supplies.

## § 11.2 Applicability

§ 11.2.1 The Wellhead Protection Overlay District shall be considered as overlaying other existing districts as shown on the zoning map.

§ 11.2.2 Any uses not permitted in the underlying district shall not be permitted in the Wellhead Protection Overlay District.

§ 11.2.3 Any uses permitted in the underlying district shall be permitted in the Wellhead Protection Overlay District, except where the overlay district prohibits or imposes greater or additional restrictions and requirements.

§ 11.2.4 In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

## § 11.3 Prohibited Uses and Activities in Wellhead Protection Overlay (WP-O) District

§ 11.3.1 The following are specifically prohibited in the Wellhead Protection Overlay District in order to safeguard groundwater resources that serve as public drinking water supplies:

- A. Any use or activity that involves the on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes, including aqueous-carried waste, except for sewage, animal manure and associated bedding material, and agricultural use of food processing wastes where the waste is applied at or below agronomic rates.
- B. Any use or activity that involves the storage of petroleum except for on-site consumption using a NYS DEC approved container.
- C. Surface land application of septage, sewage, sludge, or human excreta except where permitted by NYSDEC for agricultural use. Where such application is permitted, the landowner shall provide to the Town a copy of all correspondence between the landowner/applicant and the applicable federal, state or local regulatory agencies and a copy of all applicable federal, state and local permits.
- D. Disposal of snow or sand that contains deicing compounds and that has been transported from areas outside the Wellhead Protection Overlay District.

- E. Storage for other than residential uses of coal, bulk chemicals, deicing compounds, hazardous substances, hazardous waste.
- F. Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation and pursuant to all applicable NYS DEC regulations.
- G. Storage of manure, except for the primary purpose of agricultural use in compliance with applicable NYS Agriculture and Markets laws.
- H. Construction of a concentrated animal feeding operation in portions of the Wellhead Protection Overlay District located outside of a county approved local agricultural district created pursuant to New York State Agriculture and Markets Law.
- I. Construction of municipal or industrial sewage treatment facilities with disposal of primary or secondary effluent.
- J. Excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use, except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use.
- K. Drilling of wells used for oil, gas, gas storage, solution mining, brine disposal, and geothermal resources. An exception is made for geothermal technology used for single family dwellings.

## § 11.4 Mitigating Measures

§ 11.4.1 Any proposed use on a lot in a WHPO district shall have a system of stormwater management and treatment which will recharge to groundwater an amount of stormwater as nearly equal as practical to the site's pre-development annual recharge volume. (See below and Section 14.9).

## § 11.5 Site Plan Review Requirements for Wellhead Protection Overlay

§ 11.5.1 Uses Requiring Site Plan Review. Any proposed use or activity wholly or partially within the Wellhead Protection Overlay District shall be required to have site plan approval by the Planning Board prior to issuance of a building permit or certificate of occupancy except for: modification of an existing one or two family dwelling or related accessory structure; or agricultural uses located within a county approved local agricultural district created pursuant to New York State Agriculture and Markets Law.

§ 11.5.2 Site Plan Submittal Requirements. In addition to the information listed in Section 16 for a site plan submittal, the following additional information (if applicable) shall be provided for a proposed use or activity located partially or wholly within the Wellhead Protection Overlay District:

- A. A location map of the proposed use or activity and relation to the Wellhead Protection Overlay District boundaries.
- B. A map and report detailing the proposed conveyance, storage, distribution, generation, use, and/or treatment of any process wastes, aqueous-carried wastes (except sewage), petroleum, hazardous substances, hazardous wastes, solid waste, pesticides, herbicides, radioactive material, and/or incidental wastes.
- C. A map and report detailing the proposed conveyance, storage, distribution, generation, use, treatment, and/or disposal of any storm water and sewage. If applicable, a Storm Water Management and Erosion Control Plan shall be developed and submitted.
- D. A list of all process wastes, aqueous-carried wastes (except sewage), petroleum, hazardous substances, hazardous wastes, solid waste, and radioactive material to be used, generated, and/or stored on the premises.
- E. A description of all pollution control measures and activities proposed to prevent on-site disposal and potential contamination of groundwater or surface water, including spill response activities.
- F. A statement as to the degree of threat to groundwater and surface water quality that could result if the control measures failed.
- G. A description of the provisions for the off-site disposal of solid waste, petroleum, radioactive material, hazardous substances, hazardous waste, process wastes, and/or aqueous-carried waste (except sewage).
- H. A description of the proposed means of water supply, including if applicable an estimate of the total daily groundwater withdrawal rate.
- I. Copies of any permits and applications made to any other governmental agencies.
- J. Additional information or material that may be requested by the Planning Board in order to evaluate the site plan.

§ 11.5.3 Review and Approval Criteria. The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application pursuant to this Section. The application shall not be approved unless the Planning Board determines that the applicant has met all of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

- A. The proposed use or activity must comply with the regulations and requirements set forth regarding the Wellhead Protection Overlay District.
- B. Adequate provisions must be made for the collection and disposal of all storm water that runs off proposed roads, parking areas, roofs, and other surfaces such that it will not have an adverse impact on abutting or downstream properties.
- C. Filling, excavation and earth moving activity must be kept to a minimum. Natural vegetation must be preserved and protected wherever possible. Soil erosion and sedimentation of watercourses and water bodies must be minimized.
- D. The proposed use or activity must be located or designed in such a manner that it will not adversely impact the quantity of groundwater available to public water supply wells or other wells.
- E. The proposed use or activity must be designed with adequate control measures to prevent the on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process waste, including aqueous-carried waste (except sewage). The adequacy of the proposed control measures must be evaluated in terms of their simplicity, reliability, and feasibility, as well as the degree of threat to public water supply wells and other wells in the event that the control measures failed.
- F. All handling and storage of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes must meet the standards of the New York Department of Environmental Conservation, and/or all applicable state or federal agencies.
- G. The proposed use or activity must provide adequate provisions for the safe off-site disposal of solid waste, hazardous waste, process waste, and other wastes generated. All waste must be disposed of at a licensed disposal facility having adequate capacity to accept the use's wastes.
- H. In the event of an on-site disposal (i.e. spill) of potential contaminants, the proposed use or activity must have adequate spill response and containment plans in place to minimize groundwater or surface water contamination.

- I. To the maximum extent practicable, the annual recharge volume from the post-development site should reasonably approximate the annual recharge volume from the pre-development (existing) site based upon soil types or on-site soil evaluations by a professional. The term maximum extent practicable means that: (1) the applicant has made a complete evaluation of all possible applicable infiltration measures, including environmentally sensitive site design that minimizes land disturbance and impervious surfaces, low impact development (green infrastructure: see NYSDEC manual) techniques, and structural stormwater best management practices; and (2) if the post-development recharge does not at least approximate the annual recharge from pre-development conditions, the applicant has demonstrated that he is implementing the highest practicable method for infiltrating stormwater.

§ 11.5.4 Modifications - The Planning Board may require changes or additions to the site plan as a condition of approval to safeguard groundwater resources. No building permit and no certificate of occupancy shall be issued unless and until such conditions have been fully met or performed. All improvements to the site shall be completed in strict conformance with the site plan as approved.

## Chapter 12 - MINING OVERLAY DISTRICT REGULATIONS

### § 12.1 Mining

§ 12.1.1 Mining of shale, gravel, sand, clay and topsoil is allowed only as a special exception use in the Mining District Overlay Zone as shown in the Town of Claverack Zoning Map. Mining of these materials is a prohibited use outside of the Mining Overlay District.

§ 12.1.2 Mining of peat and humus allowed only as a special exception both within and outside of the Mining Overlay Zone as shown on the Town of Claverack Zoning Map. Such mining operations shall be subject to the requirements outlined below. Furthermore, permits for this type of mining operation shall be limited to two (2) years duration with one possible extension at the discretion of the Planning Board.

§ 12.1.3 For Mines subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, the following requirements apply:

- A. Local Town roads that are used to ingress and egress from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
  - a. If ingress and egress is via a Town road at all times the applicant shall be required to possess and maintain a road repair bond for a minimum of \$3,000.

- b. The Planning Board may set conditions/restrictions regarding access at their discretion based on actual on-site conditions of roadway.
- B. The application shall contain the following information for the Board to review and consider:
  - a. The appropriate depth of the buffer area from the area of operation and adjoining property lines (75ft. minimum).
  - b. Appropriate barriers that may be needed to restrict access to the site.
  - c. Measures that will be implemented to control fugitive dust from migrating off-site.
  - d. Hours of operation that would be reasonable for the area that the mine is proposed.
  - e. Measures to mitigate any other impact that may arise as a result of the mining operation.
  - f. Copies of all documentation between applicant and DEC, specifically including but not limited to: the mining application, mining plan, reclamation plan, reclamation bond(s), environmental impact statement(s), engineering reports, and renewal application(s).
  - g. Any other information deemed relevant in the consideration process by the Board.
- C. At all times, the applicant shall maintain a valid, in force DEC Mining Permit. Any expirations, renewals, modifications or changes to the DEC Mining Permit are subject to further review and renewal of the Special Exception permit by the Planning Board.
- D. At all times, the applicant shall be required to operate in compliance with the DEC Mining Permit.
- E. At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by DEC.
- F. The Town Building Inspector and/or ZEO shall have the right to inspect all or any part of the mine or mining operation, except that the owner, agent or person in

charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.

§ 12.1.4 For mines not subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711 (excavation of less than 1,000 tons or 750 cubic yards within a period of 12 successive calendar months), the following requirements apply.

- A. Local Town roads that are used to ingress and egress from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
  - a. If ingress and egress is via Town road at all times the applicant shall be required to possess and maintain a road repair bond for a minimum of \$3,000.
  - b. The Board may set conditions and restrictions regarding access at their discretion based on actual on-site conditions of roadway.
- B. The application shall contain the following information for the Board to review and consider:
  - a. The appropriate depth of the buffer area from the area of operation and adjoining property lines (75ft. minimum).
  - b. Appropriate barriers that may be needed to restrict access to the site.
  - c. Measures that will be implemented to control fugitive dust from migrating off-site.
  - d. Hours of operation that would be reasonable for the area that the mine is proposed.
  - e. Measures to mitigate any other impact that may arise as a result of the mining operation.
  - f. A mining plan setting forth in reasonable detail the proposed mine site, length of operation and type and quantity of materials to be removed.
  - g. A reclamation plan to provide for restoration of the proposed site.

- h. A reclamation bond or other suitable financial security in an amount determined suitable in the discretion of the Board to ensure compliance with the reclamation plan.
  
- C. The Town Building Inspector and/or ZEO shall have the right to inspect all or any part of the mine or mining operation, except that the owner, agent or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.

## Chapter 13 - ADULT USE OVERLAY DISTRICT REGULATIONS

### § 13.1 Statement of Purpose.

The purpose of this Section, as per the Town of Claverack Comprehensive Plan, is to address and mitigate the secondary effects of adult entertainment. In the execution of these provisions, the Town of Claverack recognizes that there are some adult uses which, due to their very nature, have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods and other sensitive land uses. The objectionable characteristics of these uses are further heightened by their concentration within an area thereby having deleterious effects on adjacent areas. It has been acknowledged by communities across the nation that State and local governments have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable secondary effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods and important natural and human resources of the town, to deter the spread of blight and to protect minors from objectionable characteristics of these adult uses by restricting their proximity to churches, schools, nursery schools, day-care centers, educational institutions, parks, historic and scenic resources, civic and cultural facilities and residential areas. It is not the intent of this Section neither to impose a limitation on the content of any adult entertainment nor to deny access by adults to such uses.

### § 13.2 Siting Requirements

§ 13.2.1 Adult Entertainment Businesses or establishments or accessory uses as defined in this law are allowed in the Adult Use Overlay District upon the granting of a site plan approval and special exception use permit by the Planning Board. All Adult Entertainment Uses shall comply with the following requirements:

- A. No adult entertainment establishment shall be located within the following designated areas:

- i. Within 500 feet from the nearest boundary line of any residential zoning district;
- ii. Within 1000 feet from the nearest property line of any public or private school, any municipal building open to the general public; any church or other religious facility; any public park or recreation area and any principal or accessory private recreational facility use or club; and any group day care center, family day care center, nursing home and hospital.
- iii. Within 1000 feet from the nearest property line of any other adult entertainment establishment.
- iv. Not more than one (1) adult entertainment use or adult business uses shall be located in the same building or upon the same lot or parcel of land.
- v. Adult entertainment uses shall be on a minimum parcel size of five (5) acres and have a maximum building footprint of 5,000 square feet.
- vi. All adult entertainment uses shall have a 250' front setback. 13.2.2
- vii. The distances specified above shall be measured by a straight line at a 90 degree angle from the nearest property line of the premises on which the adult entertainment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day care center, family day care center, nursing home, hospital or any other adult entertainment use, as the case may be.

§ 13.2.2 Additional Siting Requirements.

- A. Screening (minimum height of 6 feet) of the building containing an adult entertainment use and/or the accessory uses from all adjacent roads and all parking lots shall be provided for. Such screening may be a forever-live vegetated buffer, or stockade/weave fencing. Such stockade or weave fencing will be built and maintained at all times.
- B. An adult entertainment use shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.

- C. The appearance of buildings for adult uses shall be consistent with the appearance of buildings in the adjacent area, and not employ unusual color or building design that would attract attention to the premises.
- D. There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right of way or abutting property.

### § 13.2.3 Sign Requirements

- A. Sign content shall identify the name of the establishment only. Only one free standing or mounted on the building wall identification sign shall be allowed for an adult use and shall not be larger than 12 square feet. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited.
- B. No adult entertainment business or establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate, be animated or contain reflective or fluorescent elements.
- C. No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult motion picture theater/media center, adult paraphernalia store, adult live nudity establishment or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment use establishment.

## § 13.3 Site Plan and Special Exception Permit Submission and Approval

§ 13.3.1 All applicants must have an approved Site Plan and Special Exception Use Permit from the Planning Board.

§ 13.3.1 A site plan shall be prepared and submitted to the Town of Claverack Planning Board in accordance with Section 16 of the Town of Claverack Zoning Law. The site plan shall also show when appropriate, the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family day care center, nursing home and hospital, municipal building, any principal or accessory private recreational facility or club and any other adult entertainment establishment(s).

§ 13.3.1 All applications for an adult use in the Adult Use Overlay District shall include the following information:

- A. Names and addresses of the legal owner(s) of the Adult Entertainment Use.
- B. Name and addresses of all persons having a fee, equity and/or security interest in such establishment. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or

beneficial interest in the entity must be listed in order that the reviewing board will know who are the persons who will actually own and control the establishment.

- C. In approving a site plan or a Special Exception Use Permit, the Planning Board may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. Conditions of approval may include but are not limited to the following:
- i. Street, side or rear setbacks greater than the minimum required by the current zoning ordinance.
  - ii. Screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
  - iii. Modification of the exterior features or appearances of the structure.
  - iv. Regulation of number, design and location of access drives or other traffic features.
  - v. Site plan approval conditions imposed by the Planning Board.

§ 13.3.4 Any use or combination of uses which either have greater than twenty-five percent (25%) of the subject establishment's inventory stock; or twenty-five percent (25%) of the subject premise's gross floor area, or 200 square feet, whichever is greater devoted to materials for sale or rent distinguished by or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement.

## Chapter 14 - DEVELOPMENT AND DESIGN STANDARDS

### § 14.1 Height

§ 14.1.1 Nothing herein contained shall restrict the height of a church spire, cupola, dome, belfry, clock tower, flagpole, barn, silo, or similar structure.

§ 14.1.2 No building or structure erected pursuant to Section 14.1 to a height in excess of the height limit for the District in which it is situated shall:

- A. Be used for residence or tenancy purposes
- B. Have any sign, name-plate display, or advertising device of any kind whatsoever inscribed upon or attached to such building or structure.

## § 14.2. Yards

§ 14.2.1 Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

## § 14.3 Spacing between Buildings

§ 14.3.1 For multiple buildings on a lot, a horizontal distance of not less than 35 feet or two-thirds (2/3) the height of the higher building, whichever is the greater, shall be maintained between all main buildings; and between main buildings and major detached accessory buildings or groups of accessory buildings, such as a garage compound, having a ground coverage equal to that of a main building.

§ 14.3.2 The above requirement need not exceed 35 feet when the top of one building is less than eight (8) feet above the level of the first floor of the other building.

## § 14.4 Sign Regulations

§ 14.4.1 Purpose. The intent of the following design standards is to recognize the importance of integrating signage with the overall design of a building and its surrounding landscape. It is important to control the placement, size, type and number of signs allowed within a district. It is furthermore required that signs are properly maintained. Signage should convey a simple straightforward message to identify businesses and/or to assist pedestrians and vehicular traffic in locating their destination. All signage shall follow the regulations set forth in Section 14.4 of the Town of Claverack Zoning Law and no sign shall be erected or installed prior to issuance of a sign permit by the Building Inspector. The purpose of this Section is to establish sign regulations which are intended to:

- A. Assure the implementation of community design standards consistent with the Comprehensive Plan.
- B. Promote the community's appearance by regulating the design, character, location, scale, color illumination and maintenance of signs.
- C. Reduce possible traffic and safety hazards through good signage
- D. Protect the general public health, safety, welfare, view sheds and other aesthetic values of the community.
- E. Promote signs that identify uses and premises without confusion.
- F. Avoid traffic and/or safety hazards to motorist, bicyclist and pedestrians caused by visual distractions and obstructions, or to impede their access.

#### § 14.4.2 Applicability

- A. Signs regulated – Requirements of Section 14.4 of the Town of Claverack Zoning Law shall apply to all signs in all zoning districts. Refer to Table 4 for all sign dimension requirements.
- B. Each principal business building shall be permitted one main sign.
- C. Buildings that house more than one business may have a multi-business directory sign. Each individual business in the multi-business building will be allowed one building mounted sign to mark its individual entrance.

§ 14.4.3 Prohibited Signs - All signs not expressly allowed by this Section of the Town of Claverack Zoning Law shall be prohibited. Examples of prohibited signs include, but are not limited to the following:

- A. Animated and/or moving signs, and variable intensity, blinking, or flashing signs or signs that emit a varying intensity of light or color or neon signs.
- B. Abandoned signs.
- C. Obscene signs, as obscenity is defined by New York State Law.
- D. A sign painted on, attached to, or suspended from, a billboard, a car, truck, boat, other vehicle, or other movable object that is parked for longer than necessary for on-site delivery or pick-up operations within a public right-of-way, or located on private property but conspicuously visible from a public right-of-way; except a sign painted directly upon, magnetically affixed to, or permanently affixed to the body or other integral part of a vehicle that is smaller than a single door panel.
- E. A sign burned, cut or otherwise marked or affixed to a rock, tree or other natural feature.
- F. Permanent sale or come-on signs
- G. Any on premise sign that is associated with a use that no longer occupies the premises on which it is located.
- H. Permanent balloon or other inflated device signs.

- I. Outdoor, portable electric signs, except as permitted under the provisions of temporary signs.
- J. Bench signs.
- K. Signs painted on fences or roofs.
- L. Movable signs, except for holiday seasons, grand openings, and other special events as permitted under the provisions of temporary signs.
- M. Portable signs or A-frame signs, except as allowed under the provisions of temporary signs.

§ 14.4.4 Exempt Signs - The following signs shall be exempt from the provisions in Section 14.4 of the Town of Claverack Zoning Law

- A. Official flags of the United States, the State of New York or County of Columbia or Town of Claverack.
- B. Signs within a structure and not visible from the outside.
- C. Official notices of any court or public body or officer or any other sign required by law.
- D. Notices posted by a utility or other quasi-public agent in the performance of a public duty or by any person giving due legal notice.
- E. Any public safety sign, notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.
- F. Real estate signs for residential sales.
- G. Real estate signs for the initial sale, rental or lease of commercial and industrial premises.

§ 14.4.5 General Sign Standards

- A. Avoid hard to read and/or overly intricate typefaces.

- B. Sign colors and materials should be selected to contribute to legibility and design integrity. Day-glo colors must be avoided
- C. Use a brief message: The fewer the words, the more effective the sign.
- D. Use significant contrast between the background and letter or symbol colors: If there is little contrast between the brightness or hue of the message of a sign and its background, it will be difficult to read.
- E. Avoid too many different colors on a sign.
- F. Place signs to indicate the location of access to a business: Signs should be placed at or near the entrance to a building or site to indicate the most direct access to the business.
- G. Place signs consistent with the proportions of scale of building elements within the façade.
- H. Place wall signs to establish rhythm across the façade, scale and proportion where such elements are weak. In many buildings that have a monolithic or plain façade, signs can establish or continue appropriate design rhythm, scale and proportion.
- I. Avoid signs with strange shapes: Signs that are unnecessarily narrow or oddly shaped can restrict the legibility of the message.
- J. The area of a sign shall be determined by the smallest rectangle that encompasses all of the letters or symbols that make up the sign together with the area of any background of a different color or material than the general finish of the building, whether painted or applied. The area calculation shall include all aggregate signage proposed, both front and back of a two sided sign.
- K. In no case shall any signs be so located that they constitute a hazard to vehicular traffic.
- L. The outlining by direct illumination of all or part of a building such as a gable, roof, wall, side, or corner is prohibited, except during the Christmas season. This shall not be construed to prohibit the decorative lighting of religious and public buildings.

- M. Temporary or permanent signs resting on, or attached to, vehicles shall not be used as a means to circumvent the provisions of this Law.
- N. No flashing or moving signs are allowed in any district, except for time and temperature signs which are allowed in HB1, HC and CIP districts. No roof top signs shall be permitted in any District.
- O. Illumination of signs shall be accomplished by means of shielded light sources and in such a manner that no glare shall extend beyond the property lines or disturb the vision of passing motorists. All illuminated signs shall be turned off when the businesses being identified are closed.
- P. No sign shall be so located as to detract from or obstruct public view of historic buildings.
- Q. Billboards are prohibited in all Districts, except that the municipality may establish special public information centers wherein approved directional signs for businesses may be located. Any billboard or any flashing or moving sign are non-permitted uses and wherever located shall be removed.
- R. No sign permitted in this Law shall be erected or installed prior to the issuance of a sign permit by the Building Inspector.

§ 14.4.6 Applicability

- A. Signs regulated – Requirements of Section 14.4 of the Town of Claverack Zoning Law shall apply to all signs in all zoning districts. Any new sign associated with an application that also requires site plan review and/or special exception use approvals shall be reviewed and approved by the Planning Board concurrently with those processes.

§ 14.4.7 Schedule of Permitted Signs - The schedule of permitted signs as per tables 3 and 4 shall apply, according to the District in which the lot is located on the Zoning Map, whether such lot be used for a permitted use or for a special exception use.

§ 14.4.8 Residential Identification Signs

- A. A residential identification sign which depicts the name of the resident(s) or property shall be permitted. Such sign shall conform to the standards of Table 3 and to the following standards:
  - i. May be double-sided.
  - ii. Must be permanently installed.

§ 14.4.8 Professional Signs and Announcement Signs - Supplemental Regulations

- A. A professional sign or announcement sign for a home professional office or home occupation shall bear only the name and profession or occupation of the resident and shall conform to the standards of Table 3.
- B. Such signs may be double-faced.
- C. No flashing or animated lights.

§ 14.4.10 Business and Highway Commercial District Identification Signs - Supplemental Regulations.

- A. Identification signs may be interior lighted with non-glaring lights, or may be illuminated by shielded floodlights; provided, however, that red and green lights shall be setback at least 75 feet from the point of intersection of the street lines at a street corner, and further provided that intermittent or flashing lights shall not be used on or in any sign. Moving or animated signs are prohibited.
- B. LED and/or electronic signs are permissible in HB1, HC and CIP districts as long as the message does not flash or move and the sign meets all other requirements for the district.

§ 14.4.11 Real Estate and Construction Signs

- A. Real estate and construction signs shall be setback at least 5 feet. Such signs shall have a maximum area of eight (8) square feet and shall not be illuminated.
- B. Temporary directional signs indicating the location of a real estate subdivision shall be permitted as variances, under the provision of Section 14.4 for a period of one (1) year.

§ 14.4.12 Temporary Signs – as set forth below are exempt from the permitting and fee requirements set forth herein.

- A. Temporary, non-illuminated signs pertaining to and displayed during campaigns, drives, or events of civic, philanthropic, educational or religious institutions, shall be allowed provided that such signs are not erected more than thirty (30) days prior to the event and are removed not later than one week after the event. The signs shall not exceed twelve (12) square feet in size and shall not exceed five (5) feet in height measured from the ground level to the top of the sign. An exception to the time limit shall be made for temporary signs on the property of a religious or community service organization which relate to church or charitable activities.

- B. Temporary signs for tag or garage sales not exceeding twelve (12) square feet in area and shall not exceed five (5) feet in height measured from the ground level to the top of the sign shall be allowed provided such signs contain the name of the seller and the date of the sale, are displayed for no more than seven (7) days before the sale, and are removed the day after the sale.
  
- C. Temporary Agricultural signs shall be setback a minimum of 15 feet. Such signs shall have a maximum area of twelve (12) square feet in size and shall not exceed five (5) feet in height measured from the ground level to the top of the sign and shall not be illuminated.
  
- D. Temporary Agricultural Signs shall only advertise agricultural products and/or agricultural businesses, and such signs shall only be temporary in nature corresponding to the agricultural growing season for the product or products advertised or sold by the business thereon.
  
- E. All other temporary signs shall be on-premise and shall not be erected for more than 30 calendar days per year, shall not exceed twelve (12) square feet in size and shall not exceed five (5) feet in height measured from the ground level to the top of the sign. There shall be no more than one (1) sign per parcel.
  
- F. On-premise temporary signs giving information pertaining to construction taking place on the property for which a permit has been issued may remain throughout construction but shall be removed upon issuance of a certificate of occupancy. A company doing work for which no permit is necessary may put up a sign on the property for no more than thirty (30) days. These signs shall not exceed twelve (12) square feet in size and shall not exceed five (5) feet in height measured from the ground level to the top of the sign. There shall be no more than one sign per construction entrance.

§ 14.4.13 Construction Materials and Attachment

- A. All signs other than temporary signs conforming in all respects of Section 14.4.12 of the Town of Claverack Zoning Law shall be constructed of durable material.
  
- B. All signs shall be permanently attached to the ground, a building or other structure by direct attachment to a rigid wall, frame or structure except as allowed for certain temporary signs in accordance with Section 14.4.

§ 14.4.14 Maintenance

- A. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes and in conformance with Section 14.4 of the Town of Claverack Zoning Law at all times.
- B. All materials used in sign construction shall be maintained in such a manner as to be free from fading, peeling, chipping and other states of general deterioration.

§ 14.4.15 Revocation. A sign certificate is revocable if the sign is abandoned or allowed to become unsafe or dangerous, or is otherwise condemned. The owner(s) shall maintain the sign in safe condition at all times and shall remove the sign if abandoned.

## § 14.5 Building Design Standards and Guidelines

§ 14.5.1 Purpose. The intent of the following design standards is to ensure that new housing and businesses in the hamlets, and the Town of Claverack as a whole, preserve and enhance the essential character of the Town. The purpose is also to ensure that development is consistent with the adopted Town of Claverack Comprehensive Plan which establishes critical goals of preserving the town's rural and historic character, the small town atmosphere in an around the existing hamlets, a pedestrian-friendly hamlet center, and scenic vistas, open spaces, natural resources, and the overall environment. The standards established in this Section are for the purpose of promoting quality development that is attractive, convenient and compatible with surrounding uses and historic buildings in the Town. They provide a framework within which the designer of the development is free to be creative and innovative while recognizing the Town's rural, agricultural, scenic and historic qualities. It is not the intent of this Section to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the given zoning district and to ensure the compatibility of new structures within the existing neighborhood.

§ 14.5.2 Applicability. The standards shall be required and apply to all commercial, industrial, institutional and multi-family residential projects requiring site plan approval pursuant to the Schedule of Use Table (Section 5.2). These standards are in addition to all requirements of the New York State Uniform Fire Prevention and Building Code and other sections of the Zoning Law. Illustrations are included that show examples of application of these standards and are included for information purposes as a reader aid.

- A. Context and Compatibility. These standards establish an expectation that new development is similar in context and is compatible with the character of the Town. Context and compatibility with respected neighborhood buildings can be judged by the following major points of comparison:
  - i. Roof shapes, slopes and cornices are consistent with the prevalent types in the area.
  - ii. Rhythm of building spacing along the street and overall scale are not interrupted.

- iii. Proportions for facades and window openings are in harmony with the traditional types within the district.
- iv. Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area.

B. Building Placement.

- i. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, side walls or storage areas, face the street. Blank walls for commercial applications facing the street are prohibited but may be allowed at the discretion of the Planning Board if the wall faces another blank wall.
- ii. The front façade of the building shall be parallel to the main street unless traditional orientation of buildings on that street differs for the majority of buildings.

C. Building Scale.

- i. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from the all exposed (public) vantage points.
- ii. In order to minimize the apparent scale of buildings greater than 40' in width, facades facing the main street should be broken by periodic setbacks, façade breaks, and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas, window bays, separate entrances and entry treatments, or the use of sections that may project or be recessed may also be used.

D. Building Façades.

- i. Exterior materials of new construction shall be compatible with those traditionally used in the Town and may include wood or wood-simulated (clapboard, board and batten or shingles, vinyl, red common brick, natural stone, and man-made or processed masonry materials if they simulate brick or stone and have the texture and architectural features sufficiently similar to that of the natural material to be compatible). Primary façade materials such as stucco sprayed-on textured surface finishes, modular metal panels, and concrete blocks are permitted if scale, placement, landscaping and context are compatible with the district.

- ii. When more than one structure is proposed on any given parcel or lot, a variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.

E. Roof Types and Materials.

- i. All roofs shall be pitched with a minimum pitch of 5” vertical rise for each 12” horizontal run and have a roof overhang of traditional proportions on all structures. Flat or mansard roofs are permitted only if scale, placement, and context are compatible with the district.
- ii. Peaked or slope roof dormers and cupolas are encouraged.
- iii. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements that define the front entrance to all buildings are encouraged.

F. Windows

- i. The spacing, pattern and detailing of windows and window openings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with adjacent buildings, including historic buildings, where possible.
- ii. The relationship of the width of windows to the height of windows in a building shall be visually compatible with adjacent buildings.

G. Utility Structures.

- i. Utility hardware and structures located on roofs, the ground, or buildings shall be screened from public view with materials harmonious with the building, specified as to color to blend with their surroundings, or located so it is not visible year round from any public road, public lands, or adjacent residential properties. An exception may be made for solar panels mounted flat on south-sloping roofs.

H. Trademarked Architecture - Trademarked architectural styles that identify a specific company by building features are prohibited. In order to protect the public health, safety and welfare of Claverack, this provision is intended to preserve Claverack’s unique rural and small town character and to contribute to the revitalization of its hamlets as established as critical goals in the Town of Claverack Comprehensive Plan.

- I. Drive-Through Windows. - Drive-through windows are acceptable if they are located in the rear of the building, out of sight from public streets and screened from view of adjacent residential properties.
- J. Trash Storage - Trash storage and recycling areas shall be completely enclosed and screened from public view and adjoining buildings in a manner compatible with the architectural treatment of the principle structure.
- K. Building Footprint Requirements - In order for the scale of buildings to be consistent with the districts within Claverack, no single building shall have a footprint exceeding the square footage listed in Table 2 (Dimension Regulations). The footprint may exceed the square footage in the discretion of the board, pursuant to the special exception review and criteria of Section 15 and 16 including but not limited to if the facades of larger buildings are articulated to appear as multiple buildings or the building is sited in a manner so that the development is not visible to the public.
- L. Relationship of Buildings to Site
  - i. The site shall be planned to provide for planting as required in Section 14.6 (Landscaping), safe pedestrian and bicycle movement where applicable and the minimal amount of parking areas appropriate for the use. Convenient access to and from adjacent uses shall be provided for when applicable.
  - ii. All buildings shall be sited in as compact a form as possible to protect on-site environmentally sensitive features and to integrate buildings with each other and with adjacent buildings.
  - iii. Newly installed utility services and service revisions shall be underground.
- M. Relationship of Building and Site to Adjoining Area.
  - i. Proposals for non-residential uses adjacent to a residential district or residential or agricultural uses shall be reviewed with regard to the impact of the development on that adjacent district or use. Screening and/or buffering shall be provided to protect adjacent uses.
  - ii. The Planning Board shall encourage the use of a combination of common materials, landscaping, buffers, screens and visual interruptions in order to create attractive transitions between buildings and adjacent sites.

## § 14.6 Landscape, Buffering and Site Treatment

§ 14.6.1 General Design Standards - These standards are in addition to those set forth in the section titled Building Design Standards and Guidelines.

- A. Landscaping shall be a critical component of the site plan and integrate the various areas of site design. Existing vegetation, hedgerows, and woodlots should be preserved as much as possible by minimizing clearing and grading in new developments especially along wetlands and in stream corridors. Existing isolated tree stock 6 or more inches in diameter at breast height, and all trees 16 or more inches in diameter at breast height shall be protected and preserved to the maximum extent practical.
- B. New development should be landscaped to provide visual interest in all four seasons by including deciduous trees, conifers, perennials and bulbs. Landscape plantings of shrubs, ground cover, and shade and evergreen trees, and other materials such as rocks, water, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity within the community.
- C. The landscaping of a site should blend in with the scale and appearance of neighboring uses and shall be in character with that generally prevailing in the community. Landscaping shall be used to create boundaries and transitions between areas of differing development intensities, as well as to separate areas of incompatible land uses.
- D. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and roads.
- E. Green space shall be designed as an integral part of the overall site design and shall be appropriately maintained. Establish green space on the site so it is connected to landscape patterns on adjacent properties in order to maintain any existing potential for future greenways and trails.
- F. Where possible, design landscaping to maximize energy conservation, by shading the southern exposures and shielding the northern ones.
- G. Berms, if used, shall emulate natural landforms of local terrain, and should be as wide as the mature branch spread of the tree species planted on them.
- H. Deciduous trees should have a minimum caliper of 2 inches. Evergreens shall have a minimum height of 6 feet at time of planting.

- I. Where needed, landscaping will be protected by curbs, tree guards, or other devices, and shall be maintained so as not to create hazardous conditions.
- J. Full year-round screening of unsightly site elements such as storage units, service yards, dumpsters, porta-pottys, piles of materials and gravel pits shall be accomplished by use of walls, fencing, planting, or a combination of these. An earth berm topped by one or two rows of identical, evenly spaced evergreens is not acceptable.

§ 14.6.2 Street Trees and Sidewalks - This Section applies to all developments which are subject to site plan review.

- A. Street trees should be selected based on their salt tolerance, and should be placed in planting strips close to the road and to each other to create a park-like canopy. They should be located between the pedestrian walkway and the road to form a protective row that makes pedestrians feel safely separated from traffic.
- B. Street trees should be a variety of native species with broad canopies, should have a minimum caliper of 2 1/2 inches at time of planting, and should be spaced a maximum of 30 feet on center, with exact spacing to be evaluated on a site-specific basis depending upon species selected and mature canopy spread. In locations where healthy and mature shade trees currently exist, these should be maintained and the requirement for new tree planting may be waived or modified.
- C. Street trees should be maintained by the property owner. Any tree that dies or is removed within 3 years of planting shall be replaced with a tree the same size.
- D. Sidewalks shall be required in the Hamlet Residential, Hamlet Business, Hamlet Business 1 districts or any newly constructed hamlet. In the commercial districts, sidewalks shall be four to five feet wide and constructed of concrete. In the Hamlet Residential district sidewalks shall be constructed as detailed in Section 8.1.10. Any new sidewalk shall be connected to existing sidewalks. Sidewalks shall comply with all applicable requirements of the American with Disabilities Act. In all other districts, the Planning Board may require a sidewalk but could allow for dirt paths, cinder or blacktop construction. The Planning Board may waive this requirement if it construction of sidewalks is not appropriate due to short length or inability to connect now or in the future with other hamlet pathways.

## § 14.7 Parking

§ 14.7.1 Amount and location. The minimal amount of parking appropriate for the use shall be provided for.

- A. Parking shall be located to the rear or sides of buildings with the exception of limited handicapped spaces which may be located in the front yard. All parking located with the side or rear yards shall be located a minimum of 10' from any property line. If necessary due to specific site conditions, topography, one row of parking may be placed between the principal building and the public street only if topography or a year round buffer of sufficient density to substantially limit the view of the parking lot is used to screen the lot.
- B. Parking for handicapped in the front yard must meet the required 40' setback.
- C. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas that serve low-impact parking needs.
- D. All parking areas will be accessible only from a driveway leading from an existing State or County Road or a service road located within the complex.
- E. Minimum Space Requirements - The following standards will be deemed as the minimum acceptable amount of parking within the HB, HB1, HC, and CIP districts:
  - i. USE
    - 1. Business, professional or government offices - One space per 300 sq. ft. of gross floor area
    - 2. Service businesses - One space per 300 sq. ft. dedicated for business purposes
    - 3. Hotel or Motel - One space per guest room plus one space for each two employees per shift
    - 4. Manufacturing or industrial uses, including offices on the same site - One space per 400 sq. ft. of gross floor space or 3 spaces per each 4 employees per shift
    - 5. Laboratories & Research Institutes - One space per 400 sq. ft. of gross floor space or 3 spaces per each 4 employees per shift

6. Retail Sales - One space per 150 sq. ft. devoted to sales area plus one space per employee per shift

7. Nursing Home or Health Related Facility - One space per employee per shift plus one space for each four bed spaces in the facility

8. Other permitted uses - As deemed necessary by the Planning Board during the site plan review

F. Off-Street Loading - Each facility or use that requires off-street loading facilities as an integral part of their operation shall provide such loading facilities in accordance with the following minimum standards.

G. Use Requirements - All commercial and industrial uses including service businesses, industrial or manufacturing plants, courier or delivery services, warehouses, truck terminals and wholesale businesses shall provide loading berths in the quantity as specified below:

i. Gross Floor Area of 5,000 - 10,000 sq. ft. - 1 Loading Berth Required

ii. Gross Floor Area of 10,001 - 20,000 sq. ft. - 2 Loading Berths Required

iii. Gross Floor Area of 20,001 - 40,000 sq. ft. - 3 Loading Berths Required

iv. Gross Floor Area of 40,001 - 60,000 sq. ft. - 4 Loading Berths Required

v. Each 20,000 sq. ft. over 60,000 1 additional Loading Berth Required

vi. Facilities less than 5,000 sq. ft., that require loading facilities shall provide suitable receiving areas located at the rear of the structure.

H. All above-ground loading facilities shall be oriented to preserve auditory privacy between adjacent buildings, and shall be screened from public view as much as necessary to avoid unsightliness.

§ 14.7.2 Parking design - Size of Parking Spaces - Each parking space shall be at least ten (10) feet wide and twenty (20) feet long or as follows:

<u>Angle</u>	<u>Stall Length</u>	<u>Min. Stall Width</u>	<u>Aisle Width</u>
90	19'	9'	24'
60	18'10"	9'	16'
45	17'4"	9'	14'

- A. A parking facility with a capacity of six (6) spaces or more shall be stabilized with crushed stone, blacktop, or similar surface approved by the Planning Board. Reduction of impervious surfaces through the use of interlocking pavers or similar technology is strongly recommended.
- B. The maximum finished grade for parking areas shall not exceed three percent (3%). The maximum grade of access drives shall be twelve percent (12%)
- C. Curbing may be required to assure proper drainage, delineate the parking area and driveway access.
- D. There shall be adequate provisions for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined driveway locations, and in no case shall there be permitted unrestricted access along the length of the street upon which the parking area abuts.
- E. Where the Planning Board allows parking in the front yard of a property in the HC, HB, HB1 and CIP districts, a berm, masonry wall, solid fence or evergreen hedge at least 30 inches in height at the time of planting shall be installed to screen the view of any parking area from a street. Where existing vegetation adequately screens views, the Planning Board may allow same to substitute for new screening, provided notes are added to any plan indicating that the existing vegetation shall not be removed and that continued maintenance of same shall be required as a condition of approval.

§ 14.7.3 Landscaping of Parking Lots.

- A. Landscaping shall be integrated into parking areas to visually break up large expanses of paving and provide shade. All off-street parking areas, including all paved areas for off-street parking, drives, aisles, standing zones and other vehicular use areas, shall have a minimum landscape area equal to 20% of the paved parking area. Landscaping shall be placed at parking entryways and at parking end islands and shall help to define vehicular access and pedestrian movement. Landscaping shall consist of a mix of grass, vegetative ground cover, shrubs, trees and other landscaping materials. Where necessary, landscaping shall be protected from vehicular encroachment by raised curbing. Landscaping shall not block sight lines. The following principles of off-street parking lot design shall be considered in developing a landscape plan. The determination of which principles to apply rests with the Planning Board. Generally, these will apply to any parking area greater than 2,500 square feet or greater than 6 spaces.
- B. Use a variety of tree species to provide visual interest where all plant material used to landscape parking lots is to be maintained at all times in a living and growing condition.

- C. To reduce the visual impact of the parking lot, provide a 20 foot wide landscape strip around the perimeter of the lot, to be planted with a mix of trees and shrubs.
- D. Break up the blacktop and reduce stormwater runoff by using paving bricks, pavers, or textured surfaces for crosswalks.
- E. Reduce visual impacts by breaking up large parking lots into smaller parking areas with a significant number of shade and evergreen trees planted in islands. Avoid more than 10 parking spaces in a continuous row and more than 60 spaces in any single area defined by landscaping. Islands shall be least 6 feet wide by 15 feet deep. For parking lots of thirty or more cars, interior landscaped areas are recommended at a minimum of one deciduous shade tree for every six parking spaces. For parking lots of ten or fewer cars, interior landscaping may not be required if the Planning Board determines there is adequate perimeter landscaping.
- F. Lighting should complement the landscaping and architectural features on the site and should avoid excessive glare or unnecessary light. Refer to Section 14.8.
- G. Where appropriate, provide pedestrian amenities such as walkways, benches, shade, human scale lighting, and bicycle racks.
- H. Appropriate areas for snow storage shall be integrated into the landscape and stormwater management plans.
- I. Whenever a parking lot of 6 spaces or more is located within sight of a residence it shall be screened from view of that residence using screening that is in character with the surrounding area and does not interfere with scenic vistas as currently seen from public roads.

§ 14.7.4 Lighting of Parking Lots. Parking areas shall have lighting pursuant to Section 14.8, below, and should be 5' outside the paved lot area on pedestals 30" above pavement.

## § 14.8 Lighting

§ 14.8.1 Intent and Purpose. The intent and purpose of this Section is to provide standards for outdoor lighting to maintain and protect the scenic character of the Town, to encourage conservation of energy and non-renewable resources while providing safety, utility and security, and to ensure that development fits into its natural and rural surroundings as established in the Town of Claverack Comprehensive Plan.

§ 14.8.2 Applicability and Submission of plans. The standards apply to any approval involving outdoor lighting fixtures part of Subdivision, Special exception use permit and/or Site Plan review processes. For regulations pertaining to signage, see Section 14.4. The plan submitted to the Planning Board shall contain the following:

- A. Drawings indicating the location, height, orientation, type of light fixture and proposed wattage and a photometric distribution data sheet.
- B. Location and use of adjoining properties, and those nearby that may be affected by the proposed lighting plan.
- C. Description of the lights, catalog cut sheets and drawings (including sections where required).
- D. Statement of the proposed hours and days of the week when the lights will be on and when they will be turned off.
- E. Additional information that the Planning Board or Code Enforcement Officer determines is necessary.

§ 14.8.3 Lamp or Fixture Substitution. Should any outdoor lighting fixture or the type of light source therein be changed after approval has been issued, a change request shall be submitted to the Planning Board for revised approval.

§ 14.8.4 General Requirements.

- A. General Standards. All outdoor lights and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare off the property. The Town requires that the minimum lighting levels be used to attain efficient and effective use of outdoor lighting. The latest recommended levels for outdoor lighting set by the Illuminating Engineer Society shall be considered. Up-lighting is discouraged, with the exception of flags. Wherever practical, lighting of all objects, buildings, parking lots etc. shall be contained within the property. The height of the poles shall not exceed 20 feet unless justified.
- B. Nonconforming Outdoor Lighting. No replacement or installation of new lights shall be permitted unless in conformance with this Section.
- C. Prohibitions. The following forms of lighting are not allowed:
  - i. Roof mounted area lighting.

- ii. Searchlights for advertising.
- iii. Unshielded wall pack type fixtures.
- iv. Neon roping or trimming.

D. Exemptions. The following forms of lighting are exempt from the requirements of these regulations:

- i. Temporary lighting for circus, fair, carnival, religious, historic, or civic use.
- ii. Construction or emergency lighting provided such lighting is temporary.
- iii. Temporary holiday lighting for no more than 3 months a year.
- iv. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- v. Exit signs and other illumination required by building codes.
- vi. Lighting for stairs and ramps, as required by the building code.
- vii. Football, baseball, and softball field lighting; only with permit from the authority recognizing that steps have been taken to minimize glare and light trespass, and utilize sensible curfews.
- viii. Low voltage landscape lighting, but such lighting should be shielded in such a way as to eliminate glare and light trespass. 80

E. Shielding. All outdoor fixtures greater than or equal to 2000 lumens shall be shielded using cutoff light devices. Floodlighting is discouraged, and if used, must be shielded to prevent direct glare for drivers and pedestrians and light trespass beyond the property line.

F. Light Trespass. Light trespass from a property shall be designed not to exceed 0.15 footcandles at the property line.

G. Spacing. The space between fixtures should be designed as appropriate for the use.

- H. All non-essential lighting shall be turned off after business hours, leaving only the minimum level necessary for site security or the character of the area.
- I. Electrical feeds. Wherever possible, electrical feeds to lighting fixtures and standards shall be run underground.
- J. Recreational facilities. Lighting for sports fields, tennis courts and similar outdoor recreational facilities may take into consideration the requirements of each sport. Lighting for parking, walkways and buildings at recreational facilities shall comply with all other requirements of this Section. Proposed lighting levels shall consider the recommendations of the IES.
- K. Street lights. Street lights shall be provided in the hamlet districts and in other locations as deemed necessary by the Planning Board, in accordance with the following standards:
  - i. Street lighting shall comply with the conditions of this Section.
  - ii. Street lighting height should be compatible with the character of the neighborhood.
  - iii. Street lighting shall be provided on one or both sides of all streets at intervals which may differ and which shall be consistent with the character of the neighborhood.
  - iv. Lighting posts and fixtures for streetlights shall be of consistent architectural style.
  - v. Street lighting shall be located based upon the composition of the buildings and landscaping, and the light distribution required.
  - vi. Existing street lighting, including municipal lighting, shall be brought into conformance with the provisions of this Section when fixture or light source replacements are made or when funding becomes available to undertake a comprehensive lighting replacement program.

Recommended Outdoor lighting types. See table below.

Incandescent	White light	Time clock control or sensor activated	Energy inefficient least expensive
Fluorescent	White	Residential lighting, walkways, entrances	Adequate color, energy efficient, inexpensive
Metal Halide	White light	Parking, Streets, Walkways	Excellent visual clarity
High Pressure sodium	Poor Color Rendering	Parking, Roadways	Only where light distribution most important

Note: LED (light-emitting diodes). The technology for LEDs is rapidly advancing, so currently available lights may become obsolete quickly. However, their very long life, broad application and best energy efficiency will most likely make them the dominant lighting choice in the near future.

§ 14.8.5 Illuminance and Uniformity. A design should ensure a smooth transition from bright areas to those with subdued lighting. Light levels shall be maintained at levels specified in the design, not to exceed IES recommended practices. All externally lighted signs shall use fully shielded and downward directed fixtures. All internally lighted signs shall be constructed with an opaque background and translucent text and symbols or colored (non-white, off-white, light gray, cream or yellow) background and generally lighter than the symbols in order to reduce light illuminance or glare. No internally lighted sign shall be illuminated to greater than 350 foot lamberts, and directly lighted signs shall not exceed 20 footcandles.

## § 14.9 Ecological Considerations and Drainage

§ 14.9.1 The proposed development shall result in minimal adverse impact upon areas of environmental concern including, but not limited to wetlands, floodplains, streams, steep slopes, critical plant or animal habitats and other sensitive environmental areas as determined by the Planning Board or as identified during the SEQR review process.

§ 14.9.2 Any activity that is proposed within 100 feet of a stream or creek or its banks shall be subject to review and site plan approval by the Planning Board. No alteration, whether by excavation, filing, grading, clearing, draining or similar disturbance shall be made that affects the water level or flow of a stream without review as to the effect of such alteration on recharge, existing drainage patterns, stream water quality, and aquatic ecosystems associated with such stream. The reviewing board will ensure that any activity is conducted in a manner that minimizes potential environmental impacts to the stream and may impose setbacks or prohibition of vegetation removal within 100' of the stream bank where required. Where the applicant must obtain a stream disturbance or discharge permit from the NYS DEC, reviewing board approval shall be conditioned on the agency's approval.

§ 14.9.3 All requirements, procedures, and standards of the current Town of Claverack Flood Damage Prevention Local Law shall be met for all areas identified by the Federal Emergency Management Agency on Flood Insurance Maps. The Planning Board shall prohibit construction or removal of vegetation within the 100 year floodplain if stream, topography and flooding history indicate a high risk of flooding potential.

§ 14.9.4 The proposed development shall provide for proper stormwater management that preserves existing drainage patterns and protects other properties. Stormwater runoff rates after development shall not exceed the rate that existed prior to the site being developed. Erosion and stormwater control practices shall be designed and constructed in accordance with the Stormwater Design Manual of the New York State Department of Environmental Conservation (SPDES), with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations. All nonresidential land disturbances of 1 acre or larger or residential land disturbances of 2 acres or more shall conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollution Discharge Elimination System (SPDES) General Permit for Construction Activities, or as amended or revised.

§ 14.9.5 The project shall incorporate Low Impact Development Standards to the maximum extent practical. These shall include use of bioretention facilities, dry wells, filter/buffer strips and other multifunctional landscape areas, Grassed swales, bioretention swales, and wet swales, rain barrels, cisterns, and infiltration trenches.

#### § 14.10 Traffic Patterns

§ 14.10.1 Access drives should be limited to one per parcel unless a traffic impact analysis or unique circumstances justify additional curb cuts.

§ 14.10.2 Road widths, entrance drives, access aisles and parking areas should be the minimum necessary to provide safe access. For commercial uses, the Planning Board may require shared access drives between two adjacent parcels, cross-access between parking lots, and shared parking lots to minimize curb cuts and the amount of impervious surfaces.

§ 14.10.3 Pedestrian and bicycle circulation shall be developed to the greatest extent possible within the hamlet districts HR, HB, and HB1. Paved pedestrian walks shall be provided along the lines of most intense use within the development and between adjacent uses wherever possible.

#### § 14.11 Flood Prevention

§ 14.11.1 All requirements of the current Town of Claverack Flood Damage Prevention Law shall be followed. In addition, residences and all other structures, with the exception of accessory farm structures, are prohibited from the 100-year floodplain.

## § 14.12 Regulations for Farm Worker Housing

Applicability: Dwellings for both seasonal (migrant) farm workers, as well as year-round farm workers who are employed more than 51% of the time by an active farm operation where the housing is located.

§ 14.12.1 All new farm worker housing shall require a minor site plan review pursuant to Section 16.5 of the Zoning Law. However, if, at the Sketch Plan Conference, the Planning Board deems the application meets the requirements for a small project (see section 16.3.7), they may at their discretion accept the information submitted at the Sketch Plan Conference as a completed application.

§ 14.12.2 Modular or stick-built structures may be used on a farm for farm workers as an accessory use to the farm operation. In that circumstance, such structures do not need to meet the density requirements of the Town of Claverack. Up to two single-wide or double-wide mobile homes (also known as “manufactured homes”) may also be used for housing farm workers who are not partners or owners of the farm.

§ 14.12.3 All water and septic system requirements of Columbia County or the NYS Department of Health shall be met.

§ 14.12.4 Structures for farm worker housing shall be setback a minimum of one hundred (100) feet from all side and rear property lines, and fifty (50) feet from public roads rights-of-way.

§ 14.12.5 All dwellings shall meet the Uniform Building and Fire Codes of New York State.

§ 14.12.6 No dwelling designated for farm workers shall be rented out, or sold to be used on the premises, to anyone who is not a farm worker.

§ 14.12.7 Any mobile home used for farm worker housing shall be removed from the premises within six (6) months of cessation of a farm operation, or when such housing is no longer needed for farm workers.

§ 14.12.8 No structure for farm worker housing may be sold separately from the entire farm unless one or more lots are created, without the necessity of a variance, which meet all requirements of this law, including density, dimensions, the Town of Claverack subdivision regulations for single family residences, and the Columbia County of Health regulations for water and septic systems.

§ 14.12.9 Whenever possible, converting existent farm structures to housing for farm workers should be considered, understanding that all building codes must be followed.

## Chapter 15 - SPECIAL EXCEPTION USE REGULATIONS

## § 15.1 Delegation of Authority

The Planning Board is hereby authorized to act on proposed special exception uses which are specifically provided for in this Law. Such action may include approval, conditional approval, or disapproval based on the standards set forth in this Section and according to the administrative procedures of Section 15 and 16.

## § 15.2 General Standards for Special Exception Uses

§ 15.2.1 For every such special exception use the Planning Board shall determine that:

- A. Such use will be in harmony with and promote the general purposes and intent of this Law.
- B. The plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.
- C. The proposed use will not prevent the orderly and reasonable use of adjacent properties in adjacent use Districts.
- D. The site is particularly suitable for the location of such use in the community.
- E. The characteristics of the proposed use are not such that its proposed location would be unsuitably near to a church, school, theater, recreational area or other place of public assembly.
- F. The proposed use, particularly in the case of a non-nuisance industry, conforms with the Zoning Law definition of the special exception use where such definition exists or with the generally accepted definition of such use where it does not exist in the Law.
- G. Access facilities are adequate for the estimated traffic from public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion; and further those vehicular entrances and exits shall be clearly visible from the street and not be within 75 feet of the intersection of street lines at a street intersection except under unusual circumstances.
- H. All proposed curb cuts have been approved by the street or highway agency which has jurisdiction.
- I. There are off-street parking and truck loading spaces in adequate number for the anticipated number of occupants, both employees and patrons or visitors; and further

that the layout for the spaces and driveways is convenient and conducive to safe operation.

- J. Adequate buffer yards and screening are provided where necessary to protect adjacent properties and land uses. Any materials or products that are stored or used in conjunction with the special exception use must meet the required lot line setbacks for that zone.
- K. Adequate provisions will be made for the collection and disposal and stormwater runoff from the site, and of sanitary sewage, refuse, or other waste, whether liquid, solid, gaseous or of other character.
- L. The proposed use recognizes and provides for the further specific conditions and safeguards required for particular uses in Section 15.3, if any.
- M. Agricultural, environmental, and historical resources are protected to the maximum extent practical.
- N. All general design standards of Section 14 shall be adhered to.
- O. All restrictions, regulations, or approvals issued by the Planning Board as part of a Special Exception Use permit shall remain with the land use regardless of ownership.

§ 15.2.2 A building permit associated with an approved Special Exception Use Permit shall be obtained within 90 days of Planning Board approval and shall automatically expire if construction or use under the permit is not started within 90 days of issuance and completed within one (1) year. Extensions of these periods may be granted by the Planning Board where good cause is shown.

### § 15.3 Individual Standards for Special Exception Uses

In addition to the general objectives set forth above, the following requirements shall apply to special exception uses. No authorization for a building permit shall be granted by the Planning Board for any use listed in this Section, unless the Board shall specifically find that, in addition to meeting all the general standards set forth in Section 15.2, the proposed special exception use also meets the special conditions and safeguards required in this Section.

#### § 15.3.1 Accessory Apartments

This Section applies to any accessory dwelling unit that is located in a building that is not attached to the principal dwelling or within a principal dwelling.

- A. Number Permitted. Only one accessory dwelling unit is permitted per lot. An accessory dwelling unit shall not contain more than two bedrooms.
- B. Location. Separate detached garages and separate accessory units are not permitted on the same lot. Accessory units may be created as a second story within detached garages.
- C. Scale. The gross floor area of an accessory dwelling unit shall not exceed 50 percent of the principal building's floor area. The building footprint of the accessory dwelling unit shall not exceed 40 percent of the building footprint of the principal residence. The "building footprint" shall include porches but shall not include patios.
- D. Building Design of Accessory Dwelling Unit in Accessory Structure. In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the accessory dwelling unit shall have a roof pitch, siding, and window proportions identical to that of the principal dwelling. An accessory dwelling shall not exceed two stories or the height of the principal dwelling unit, whichever is less. No exterior stairway to the second floor is permitted at the front or side of the building.
- E. Occupancy. The total number of occupants in the accessory dwelling unit shall comply with the occupancy standards of the building code.
- F. The property owner must occupy either the principle dwelling or the secondary dwelling as the permanent residence. The property owner may receive rent for whichever one of the dwelling units he does not occupy. For purposes of this Section, "property owner" means the title holder and/or contract purchaser of the lot, and "owner occupancy" means that a property owner, as reflected in the title records, makes his/her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.
- G. The accessory dwelling may not be sold separately from the principal structure on the parcel.
- H. Parking. The number and design of parking spaces are established in Parking in Section 14.7, Development Standards, of this law. Parking spaces shall be located in the rear yard and behind the principal building.
- I. Utilities. The accessory dwelling shall be connected to the central water and sewer system of the principal dwelling.

### § 15.3.2 Animal Agriculture in Hamlet Residential and Highway Commercial Districts

All livestock agricultural uses in the HC and HR districts shall meet the following:

- A. Site Plan application submission requirements for animal agriculture in these districts shall include:
  - i. Location of all structures, barns, manure storage areas, ponds, equipment sheds, silos, and pastures to be included in the area used for agricultural purposes.
  - ii. Description of all fencing to be used.
  - iii. Location and ownership identification and address for all adjacent lands as shown on the latest tax records.
  - iv. Description of any farm road or access to fields, pastures and barnyards.
  - v. Location of any wetland, stream, floodplain, vernal pool, or other water body on the parcel.
  - vi. Description of methods to remove or manage manure waste from animals.
  - vii. Description of agricultural operation and kind and number of animals to be raised.
  
- B. The Planning Board shall ensure that:
  - i. Adequate acreage exists for proper care and feeding of animals as per Table 5.
  - ii. Adequate methods are in place for addressing manure management.
  - iii. Buffers are established by the agricultural operator to ensure that noise or odors from the agricultural operation are minimized.
  - iv. Setbacks from property lines and wetlands, streams, and floodplains are established.

- C. The agricultural operator shall provide a minimum of fifty (50) foot buffer between all buildings and structures used to store feed, other materials or manure from adjacent properties to minimize impacts of noise or odor. Such buffers may consist of plant screening, woodlands, vegetated berms, fences, or natural topographic features. A minimum of one hundred (100) feet shall be provided between any area or structure used for the storage of animal wastes and wetlands and waterways.
- D. All livestock shall be fenced. No animal shall have direct access to a jurisdictional wetland, impoundment, stream, spring or well on the lot on which the livestock is located.
- E. No roosters shall be allowed in the HR district.

### § 15.3.3 Auditorium Meeting Hall

- A. No building or structure shall be located within 50 feet of any property line except that an additional 200 feet shall be required if the district property line bounds a residential district boundary line.
- B. Lot coverage shall not exceed 20 per cent

### § 15.3.4 Filling Station: See Convenience Store

### § 15.3.5 Bus Shelter

- A. The shelter shall be so located that there is ample room to permit the bus to leave the traveled roadway conveniently for picking up or discharging passengers.
- B. The only advertising display on such structure shall be one (1) sign not exceeding two (2) square feet in area.

### § 15.3.6 Campgrounds

- A. No camping ground shall be located within 1,000 feet of the boundary line of any property used for public school purposes, or of any lot, piece or parcel of land maintained as a public park in the Town of Claverack.
- B. Any camping site within the campground shall contain not less than 1,600 square feet and shall not be less than 40 feet on its shortest dimension. No two temporary dwellings shall be so located that they are within 20 feet of each other. No camp site shall be located within 50 feet of any public highway or public street line or within 50 feet of any adjacent property line. All units shall be consecutively numbered with the number conspicuously posted on each camp site.

- C. A sufficient supply of pure drinking water shall be provided for each camp site.
  
- D. Sanitary facilities. Camps must be kept in a clean and sanitary condition and free of physical or fire hazards at all times and must in all respects conform to the provisions of Chapter I, Part 7, of the New York State Sanitary Code entitled "Temporary Residences," which chapter and part are hereby incorporated herein by reference as though set forth herein at length.
  
- E. All camping grounds shall be provided with toilets, showers, slop sinks, and other sanitary facilities which shall conform to the following requirements:
  - i. The toilet and other sanitary facilities for males and females shall be separate buildings or, if in the same building, shall be separated by a sound-proof wall.
  
  - ii. Toilet facilities shall consist of not less than one flush toilet for every ten camp sites, one urinal for every ten camp sites, one shower with individual dressing accommodations for every ten camp sites, and one lavatory for every five camp sites.
  
  - iii. There shall be provided in a separate compartment not less than one slop sink or other similar facility with an adequate supply of hot running water.
  
  - iv. Service buildings housing the toilet and sanitary facilities shall be permanent structures complying with all applicable statutes and ordinances regulating building, electrical codes and plumbing and sanitary systems, and shall be located not closer than 10 feet or farther than 200 feet from any camp site.
  
- F. Service buildings shall be well lighted at all times, shall be well ventilated with screened openings, shall be constructed of such material as will permit repeated cleaning and washings, and shall be heated to at least 68 degrees at all times when temperatures may go below that degree. The floors of such service buildings shall be of water-impervious material.
  
- G. All service buildings and the grounds of the sites shall be kept in a clean, sanitary condition, and kept free of any and all conditions that will menace the health of any occupant or the public or constitute a nuisance.
  
- H. Disposal of sewage, etc. All sewage and other water-carried wastes shall be disposed of according to existing sanitary codes. Unless a municipal sewage system is available, the camping grounds must provide for disposal into a private system

which includes a sanitary means of disposal, the operation of which creates neither a nuisance nor a menace to health.

- I. Garbage receptacles. Each camping ground shall provide equipment sufficient to prevent littering of the grounds, in or around the grounds with rubbish, garbage and refuse, and must provide metal depositories with tight-fitting covers at convenient locations throughout the grounds. Such depositories shall be located so that no camp site will be more than 100 feet from a depository collected daily.
- J. Electric service and connections. All such connections and service outlets shall be weatherproof and shall be of the type approved by the New York Board of Fire Underwriters.
- K. Curb cuts. The applicant should obtain curb cuts from the appropriate department: the Department of Transportation, State, County or Town Highway Department.

#### § 15.3.7 Caretaker/Owner Dwelling

- A. Applicability: This section applies to any secondary dwelling unit that is not attached to the principal dwelling on a lot, and is not an “Accessory Apartment” as in 15.3.
- B. Number permitted: Only one secondary dwelling is permitted per lot. The lot, however, must be large enough to meet the density standards for 2 dwellings for that district.
- C. Location: The secondary dwelling must meet all setbacks for the district.
- D. Scale: The gross floor area of the secondary dwelling may not exceed 1600 square feet.
- E. Building design: The secondary dwelling must be similar to the primary dwelling in terms of roof pitch, siding, and window proportions, and shall not exceed two stories or the height of the principal dwelling, whichever is less.
- F. Occupancy. The total number of occupants in the accessory dwelling shall comply with the occupancy standards of the building code.
- G. The property owner must occupy either the principle dwelling or the accessory dwelling as the permanent residence. The property owner may receive rent for whichever one of the dwelling units he does not occupy. For purposes of this

Section, “property owner” means the title holder and/or contract purchaser of the lot, and “owner occupancy” means that a property owner, as reflected in the title records, makes his/her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.

- H. The secondary dwelling may not be sold separately from the principle structure on the parcel unless the land on which it stands is subdivided from the land on which the principle dwelling stands by the procedures written in this zoning code and the Subdivision Law of the Town of Claverack.
  
- I. Utilities. The secondary dwelling may be connected to the central water and sewer system of the principal dwelling or may have a separate system installed. However, to be sold separately, the secondary dwelling must have a water and sewer system that is separate from that of the principal dwelling.

#### § 15.3.8 Membership Club, Non-Profit

- A. All buildings and structures shall be at least 50 feet from any property line.
  
- B. Lot coverage shall not exceed 20 percent.

#### § 15.3.9 Convenience Store/Filling Station

This Section applies to gas station, repair garage, or joint or multiple use with gas station, convenience store, or repair garage.

- A. The lot area shall be not less than 20,000 square feet, and shall have a minimum frontage along the principal street or highway of at least 150 feet.
  
- B. No church, school, library, playground, or similar place of public assembly shall be within 500 feet of the site except in the Hamlet areas where density precludes such spacing.
  
- C. All pumps and lubricating and other devices shall be located at least 25 feet from any adjoining building, structure, or street line.
  
- D. Canopies shall not exceed 16 feet in height or the height of the principal building, whichever is less. Canopies shall be architecturally integrated with the principal building and all other accessory structures on the site through the use of the same or compatible materials, colors, and roof pitch. Canopy lights in gas stations shall be recessed.

- E. All automobile servicing and repair activities must be carried on within an enclosed building or screened with fencing, or vegetation.
- F. Storage of vehicle parts, refuse, and temporary storage of vehicles during repair are permitted only in the rear yard.
- G. Entrance or exit driveways shall be in accordance with the Town Driveway Law. Such driveways shall be so laid out as to avoid the necessity of any vehicle backing across any right-of-way.
- H. The area devoted to the outdoor storage of motor vehicles or parts thereof, or to purposes of dismantling, shall be screened from view of persons on adjacent street by enclosing such area within a solid fence eight (8) feet high, or such area shall be located inside a building. Outside of the fenced area, not more than five (5) motor vehicles shall be stored outdoors overnight, not including vehicles waiting for owner pick-up within 24 hours.
- I. Outdoor storage of other than motor vehicles shall be prohibited at all times. Premises shall not be used for the sale, rent or display of trailers, mobile homes, boats, or other similar vehicles.

#### § 15.3.10 Funeral Home

- A. Off street parking areas and similar service areas or buildings shall be setback at least 20 feet from all lot lines.

#### § 15.3.11. Home Occupations

- A. General - Home occupations are permitted as provided in the use table, only after the appropriate review and approval indicated therein.
  - i. The home occupation must be incidental to the use of a dwelling unit for residential purposes.
  - ii. The home occupation must be conducted by the resident or residents of the property.
  - iii. No alteration of the residential appearance of the premises is allowed to accommodate the home occupation.
  - iv. In no case shall a home occupation be open to the public at times earlier than 8:00 A.M. nor later than 8:00 P.M.

- v. There shall be no outside evidence of the home occupation except that one unanimated, non-illuminated, flat or window sign having an area of not more than two (2) square feet shall be permitted on the street front of the lot on which the building is located.
- vi. Electrical or mechanical equipment that creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit or that creates noise not normally associated with residential uses is prohibited.
- vii. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced in conjunction with the home occupation.
- viii. There shall be no significant impacts to traffic, parking or off-street parking caused by the home occupation.
- ix. Specialized vehicles, where permitted herein, are non-typical residential character vehicles including but not limited to large commercial motor vehicles, large equipment and machinery, and equipment trailers. Such vehicles where allowed are to be for the use of the home occupation. Personal use vehicles like those typically found at a residence, such as automobiles, pick-up trucks and like vehicles are not to be characterized as specialized vehicles for purposes of these regulations.
- x. There is no limitation of the number of home occupations allowed at any one residence as long as the other pertinent regulations are followed.
- xi. Inventory and supplies shall not occupy more than 50% of the area permitted to be used as a Home Occupation.

B. Home Occupation Level One (HO1) - may be conducted only if they comply with all of the following conditions:

- i. The home occupation may only be conducted in the primary dwelling / residential unit.
- ii. Only the person or persons who occupy the dwelling and one (1) additional person may be employed in the home occupation.

- iii. No more than fifteen percent (15%) of the total floor area of the dwelling unit may be used in connection with a home occupation. Floor area requirements refer only to heated and habitable rooms within the dwelling unit.
  - iv. There shall be no exterior storage of materials to be used in conjunction with a home occupation.
  - v. No accessory structure(s) may be used for the home occupation.
  - vi. There shall be no specialized vehicles upon the property utilized for the home occupation.
- C. Home Occupation Level Two (HO2) - HO2 operations may be conducted only if they comply with all of the following conditions:
- i. The home occupation may only be conducted in the primary dwelling/residential unit.
  - ii. Only the person or persons who occupy the dwelling and one (1) additional person may be employed in the home occupation.
  - iii. No more than 15% of the total floor area of the dwelling unit may be used in connection with the home occupation. Floor area requirements refer only to heated and habitable rooms within the dwelling unit.
  - iv. Exterior storage of materials to be used in conjunction with the home occupation must be screened or stored in a manner such that the materials are not visible from the public way or adjacent properties. An accessory structure that meets the requirements of Section 5.3 may be used for such storage purposes.
  - v. One (1) specialized vehicle may be stored on the premises, if screened or stored so as not to be visible from the public way or adjacent properties. An accessory structure that meets the requirements of Section 5.3 may be used for such storage purposes.
  - vi. Adequate parking shall be provided for all home occupants, employees and customers so as not to cause parking congestion or a visual disturbance to the character of the neighborhood.

§ 15.3.12 Kennels

- A. In considering the application for a special exception use permit for a kennel, the Planning Board shall consider the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect proximate uses, aesthetic impact and safety of the animals sheltered in order to ensure the health, safety and general welfare of the community.
- B. Animal waste shall be disposed of in a manner acceptable to the Columbia County Department of Health.
- C. Crematoria or land burial of animals in association with a kennel shall be prohibited.
- D. The minimum lot area required shall be 2 acres plus 500 square feet per animal to be boarded.
- E. All facilities associated directly with the kennel, whether indoors or outdoors, shall be setback a minimum of 200 feet from any property line.
- F. The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts on adjacent uses which may include the use of sound proofing.
- G. The Planning Board may require screening of outdoor runs from view.

#### § 15.3.13 Medical Arts building

- A. There shall be proper disposal of all wastes associated with medical uses pursuant to New York State Department of Health and all other applicable County, State and federal laws.

#### § 15.3.14 Multiple Dwelling

- A. For developments of 40 or more dwelling units, a divided ingress/egress driveway with a landscaped median for all entrances from public streets shall be provided.
- B. There shall be a maximum of four dwelling units per acre in a multi-family development provided adequate public water and sewerage or on-site facilities exist or can be permitted.
- C. Common open space areas are required.

- D. Each dwelling unit shall have appurtenant private open space, such as a private porch, a deck, balcony, patio, atrium, or other outdoor private area. The private open space shall be contiguous with the unit in a single area.
- E. Multifamily buildings shall not exceed 100 feet in length.
- F. A multifamily building that is located within 200 feet of a single-family dwelling unit shall not exceed the maximum height permitted in that district.
- G. At least 80% of the ground area along the road frontage shall be occupied by multifamily dwelling units that are oriented to the street.
- H. Windows, porches, and entryways shall comprise at least 30 percent of the length of the front elevation on each floor.
- I. Multi-family buildings must have at least 50 feet of road frontage and shall be articulated at intervals of not more than 50 feet. Articulation shall include at least two of the following: horizontal projections or offsets, projecting entryways such as stoops, balconies, or porches, changes in roof elevations, roof dormers, or gables.
- J. Utility lines shall be located underground. Outdoor area lighting shall be provided for security. Such lighting shall be shielded to direct light downward and not into dwelling units on or adjacent to the site.

#### § 15.3.15 Day Care Center

- A. The lot area shall be not less than (1) acre.
- B. All buildings, structures, and areas of organized activity such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.
- C. Off-street parking areas shall be not less than 50 feet from any property line.
- D. Public address systems are prohibited.
- E. Only one (1) identification sign shall be permitted as per Table 4.
- F. Landscaping and fencing shall be provided as required by the Planning Board.

#### § 15.3.16 Nursing Home

- A. The lot area shall be not less than one (1) acre, and shall have a minimum frontage of 150 feet along the principal bounding street.
- B. All buildings and structures shall be not less than 50 feet from any property line.
- C. Lot coverage shall not exceed 50 percent.

#### § 15.3.17 Pond with Dam

- A. The Planning Board shall require all ponds with a dam to have siting and constructing plans reviewed by a qualified engineer licensed in New York State. The Planning Board may require installation of a dry hydrant, to be provided by the fire department, and/or a cistern to be used for firefighting purposes.

#### § 15.3.18 Saw Mill

- A. Minor sawmills:
  - i. Shall only be conducted as an accessory use to an actively farmed or residential parcel and shall occupy no more than one (1) acre.
  - ii. The hours of operation shall be limited to between 8:00 AM and 7:00 PM.
  - iii. No sawmill activity or storage shall be within 100 feet from the stream edge or any wetland as defined by state or federal law.
  - iv. All sawmill by-products shall be routinely disposed of. No storage of logs, lumber, sawdust, bark, scrap wood, or equipment of any kind shall be permitted within any yard setback area.
  - v. The timber source must be on the same site as the portable sawmill.
- B. Major Sawmill:
  - i. Except in the CIP, the hours of operation of any major sawmill shall be limited to between 8:00 AM and 7:00 PM.
  - ii. Vehicular access to the sawmill shall be via a minimum twelve (12) foot wide access drive that includes a fifty (50) foot paved apron adjacent to the street, beyond which the access drive can have a stone surface.

- iii. All aspects of the sawmill operation (except access drives) shall be setback no less than two hundred (200) feet from all property lines, and five hundred (500) feet from any residentially-zoned and used property. The Planning Board may require a visual screen comprised of evergreen trees to be planted along any site boundary line that abuts one or more residential lots.
- iv. No trucks shall be specifically associated with the sawmill, nor stored at the sawmill site.
- v. All sawmill by-products shall be routinely disposed of.

#### § 15.3.19 Self-storage facility

- A. No security fencing, security gate, or other obstruction to vehicle access shall be permitted in the required front yard or in any required transitional yard.
- B. No door opening for any rental unit shall be constructed facing any residential use. Door openings for rental units shall face the interior of the site unless impracticable.
- C. The roof shape and materials shall be pitched and compatible with the design and materials of neighboring buildings and shall meet all design and site requirements for the district.
- D. Views of the storage facility from any public road shall be fully screened.
- E. All parking shall be located in the rear yard. The Planning Board may permit parking in the side yard if the parking is adequately screened from the public road and property line.
- F. Storage units shall not be used for the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses.
- G. No activities such as miscellaneous or garage sales shall be conducted on the premises.
- H. All storage shall be conducted in an enclosed building.

- I. An on-site office for a manager is allowed accessory to the storage use.
- J. Electrically charged, barbed wire or razor wire fencing is not permitted. Fencing shall not be permitted in a required front yard.
- K. Spacing between storage structures shall be a minimum of 20 feet and emergency access shall be provided to at least three (3) sides of all structures.
- L. A lighting plan shall be submitted for review and approval by the Planning Board.

#### § 15.3.20 Slaughterhouse

- A. No person shall operate a slaughterhouse or custom processing facility unless that person has first obtained any and all required State or Federal licenses or permits, including USDA certification, where required.
- B. However, the processing of a person's own animals including transportation in intrastate commerce of the animal's products is allowed without special certification if they are exclusively for use by the owner or members of the owner's household, non-paying guests or employees. This is a permitted accessory use in the RA, RC, RR and HC districts.
- C. The butchering or processing of any wild game taken by permit issued by the New York State Department of Environmental Conservation is a permitted accessory use in all districts of the Town.
- D. All slaughterhouses shall meet the following conditions:
  - i. The slaughter of animals shall take place inside a closed building in a confined area to prevent the transmission of sound associated with the slaughter to the outside. The maximum area for the keeping or slaughtering of animals shall not exceed sixty percent of the individual lot or parcel site.
  - ii. Parking for all traffic utilizing the business shall be provided for on-site and off public roads.
  - iii. The main entrance to the facility must be located on a state highway or county road.

- iv. Disposal of waste shall be in accordance with all applicable state and county laws and regulations. The facility must have all necessary federal and state permits and approvals and comply with all health and safety regulations. This is meant to include, but is not limited to all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides, and bones.
- v. No feedlot shall be allowed on-site.
- vi. Live animals may be held on the site for no more than twenty-four hours.
- vii. All loading and unloading areas shall be screened from view from adjacent properties and public streets. All exterior storage areas shall be fenced and fully screened from adjacent property and public streets.
- viii. Animals shall be enclosed in gated enclosures with a minimum height of six feet. Fencing shall be sufficient to provide adequate screening and contain animals securely on the property at all times.

#### § 15.3.21 Solar Panels, Accessory

##### A. Requirements for Roof Mounted System:

- i. An engineer or architect report verifying roof will support the system load.
- ii. Electrical schematic showing main system components and where they are physically located.
- iii. Description of cable routing from the solar array to the DC disconnect.
- iv. Simple plot plan showing which building on the property is being used.

##### B. Requirements for Pole Mount or Remote Mount System:

- i. Electrical schematic showing main system components and where they are physically located, including batteries (if included in the installation).
- ii. DC disconnect to be located externally (and labeled) as near the utility meter as possible.

- iii. If DC disconnect cannot be located within six feet of the utility meter, a label at the meter will indicate the location of the external disconnect, which shall also be labeled.
- iv. Remote arrays should also have a DC disconnect at the location of the array. Some remote arrays may be roof mounted on a different building than the one using the power from the array.
- v. Description of cable routing from the PV array to the exterior DC disconnect on the building using the power.
- vi. Scaled drawing showing location of buried cables.
- vii. Plot plan showing where property lines are in relation to the pole mount or remote system. All buildings on the property shall be shown.
- viii. A setback of 20' as per this Section 5.3.3 shall also be met for all pole or remote mounted solar systems.
- ix. Screening shall be provided between any ground mounted solar panel(s) and public byways, and between the solar panel(s) and adjacent properties to the maximum extent practical.
- x. General: Installation will comply with the Building Code of New York State and the National Electric Code. Labels shall be permanent type. Additional information may be requested for unusual installations. The above information is intended to permit a complete plan review in order to determine compliance with Building Code and Zoning Law issues.

#### § 15.3.22 Storage of fuels

- A. All underground and above ground storage facilities for fuel, including but not limited to gas, diesel, natural gas, propane, and fuel oil shall meet all County, State and federal requirements.

#### § 15.3.23 Storage of Fuel or Other Liquids in Tanks, Commercial

- A. Any such installation of flammable liquids or gas shall be in conformance with the applicable recommendations of the National Board of Fire Underwriters and in compliance of New York State Building Code, and all other State, County and federal requirements.

- B. The recommendations of the local fire chief having jurisdiction shall also be considered prior to approval of such a use.
- C. All such uses shall be located on sites large enough to contain the impact of any potential accident that might result from their existence without damage to adjacent properties.
- D. No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.

§ 15.3.24 Telecommunications Towers, Or Transmitting/Receiving Facility

- A. Definitions. For the purposes of Telecommunications Towers or Transmitting/Receiving Facility, the following additional definitions shall apply:
  - i. Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio-navigation, radio, television, wireless and microwave communications.
  - ii. Co-location - The use of the same telecommunications tower or structure to carry two or more antennae for provision of transmitting/receiving telecommunications signals.
  - iii. FCC - Federal Communications Commission. The federal agency responsible for regulating telecommunications in the United States.
  - iv. Telecommunications - The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.
- B. Purpose - The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of Claverack; to provide standards for the safe provision of telecommunications services consistent with applicable federal and state regulations; to protect the natural features and aesthetic character of the town by minimizing the total number of telecommunication towers through the encouragement of co-location on future and existing towers and through use of buildings and other structures; by careful siting of telecommunication facilities; and by thorough town review of such facilities. These regulations are not intended to prohibit or have the effect of prohibiting the provision of wireless communication services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with federal regulations.

### C. Application of Special Exception Regulations

- i. No telecommunication tower or transmitting/receiving facility, except those approved prior to the effective date of this Section and those specifically exempted below, shall be used unless in conformity with these regulations.
- ii. No telecommunication tower or transmitting/receiving facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations and the provisions of Zoning Law.
- iii. No existing structure shall be modified to serve as a telecommunication tower or transmitting/receiving facility unless in conformity with these regulations and the provisions of Zoning Law.
- iv. Specifically exempted are the following wireless telecommunication facilities: police, fire, ambulance and other emergency dispatch, citizens band radio, personal equipment for domestic household radio and television use, and amateur radio towers used exclusively by a federally licensed amateur radio operator.

### D. Siting Preferences

- i. An Applicant for a telecommunication tower or transmitting/ receiving facility shall locate and erect the same in accordance with the following priorities, with one (1) being the highest priority and five (5) being the lowest priority.
  1. Co-location on an existing telecommunication tower
  2. Location on a site with an existing telecommunication tower
  3. Location on an existing tall building or structure
  4. Location in Highway Commercial, Commercial-Industrial Park
  5. Location in other town zones with the exception of Hamlet Residence, Hamlet Business, Hamlet Business 1, and Mobile Home Park districts from which they are excluded.
- ii. Applicants for a telecommunication site with a priority lower than (1) herein shall indicate why location of a site with a higher priority is not possible.

### E. Notice of Application and Public Hearing

- i. In addition to the notice requirements of Section 16.13 of the Zoning Law, in order to keep neighboring property owners and municipalities informed and to facilitate the possible co-use of existing telecommunications towers or other structures, an applicant who proposes a new telecommunication tower or transmitting/receiving facility shall notify in writing the legislative body of each municipality that borders the Town of Claverack and shall notify in

writing the Columbia County Planning Board of the submission of an application to the Town of Claverack Planning Board. The applicant shall also notify all property owners within 2,600 feet of the boundaries of the property or properties upon which a tower is to be located of the submission of an application to the Town of Claverack Planning Board. Such notification shall include the exact location of the proposed telecommunication tower or transmitting/receiving facility and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use, and the date, time and place for the public hearing before the Planning Board. Such notification in all cases shall be made by the applicant, by certified mail, return receipt requested. The original return receipts from this notification shall be submitted to the Planning Board at or before the public hearing on the application. All other provisions of Section 16 shall also be complied with.

- F. Application for Co-Location - In addition to the application and public hearing procedure of the Zoning Law, an applicant proposing to co-locate on an existing telecommunication tower or other structure shall be required to submit:
- i. Documentation of intent from the owner of the existing structure to allow shared use. Co-location shall not be deemed a second use on the same property.
  - ii. In addition to the site plan requirements of the Zoning Law, the applicant shall show all guy wires and anchors. Any methods used to screen, conceal or camouflage the modification of the existing structure shall be indicated on the site plan.
  - iii. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.
  - iv. Instead of a long form Environmental Assessment Form, the applicant shall submit a completed short Environmental Assessment Form (EAF) with a completed visual EAF addendum, signed by the applicant and owner.
  - v. A copy of the Federal Communications Commission (FCC) license for the proposed telecommunication facility.
- G. Location of a New Telecommunication Tower on a Site with an Existing Telecommunication Tower

- i. The location of a new telecommunication tower on a site with an existing telecommunication tower shall not be considered a second use of the property.
- ii. In addition to the regular application for a permit, the applicant shall be required to present to the Planning Board a report inventorying all existing telecommunication facilities and structures within 8 miles of the proposed construction site. The report shall outline opportunities for shared use of existing facilities and structures as an alternative to sharing of the proposed tower site. The report shall set forth all efforts to secure siting on existing facilities and structures, as well as documentation of the physical, technical and/or financial reasons why co-location is not practical in each case. Written requests for such co-location and responses received to those requests shall be submitted to the Planning Board.
- iii. The applicant must provide documentation from the owner of the existing tower site of said owner's consent to shared use of the site.
- iv. The application for the new telecommunication tower on an existing site will also be subject to the requirements of Section 15.3.23
- v. Permission for the replacement of an existing antenna with one that is the same height and size shall be handled by the Code enforcement Officer.

H. Application for a New Tower at a Location not used for a Telecommunications Facility or for Shared Use of a Site with an Existing Telecommunications Tower.

- i. The Planning Board may consider a new telecommunication tower on a site not developed with a tower or other structure when the applicant demonstrates that co-location on an existing telecommunication tower or structure, or shared use of a site with an existing telecommunication tower is not feasible or impractical.
- ii. The applicant shall be required to present a report inventorying all existing tall structures and existing or approved sites within 8 miles of the boundaries of the proposed construction site. The report shall outline opportunities for co-location and shared use of existing facilities, structures, or sites as an alternative to the proposed new tower site. The report shall set forth all efforts to secure co-location and shared use on or at existing facilities, structures, and sites as well as documentation of the physical, technical and/or financial reasons why co-location or shared usage is not practical or feasible in each case. Written requests for co-location or shared use, and responses to those requests shall be included in the applicant's submission to the Planning Board.

- iii. The applicant shall design a proposed new telecommunication tower to accommodate, by co-location, the reasonably foreseeable future demand for reception and transmitting facilities. As part of the application for a new telecommunications tower, the applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for co-location upon the proposed tower by other telecommunication providers in the future. The letter shall commit the new tower owner, the property owner, and his/her/their successors in interest to:
  - 1. Respond within 90 days to a request for information from a potential co-location applicant.
  - 2. Negotiate in good faith concerning future requests for co-location of the new tower by other telecommunication providers.
  - 3. Allow co-location on the new tower if another telecommunication provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a co-location without causing electromagnetic interference.
- iv. In addition to the site plan requirements of the Zoning Law, the site plan shall show all existing and proposed tower(s), guy wires, anchors and supports, documentation of the proposed intent of the tower and justification for any site clearing required.
- v. The applicant shall submit a completed short form EAF, a complete visual EAF, visual EAF addenda, signed by the applicant and owner.
- vi. The applicant shall also submit a copy of its FCC license.
- vii. The applicant shall submit a report certified to the Town of Claverack by a licensed engineer(s) that the proposed tower is structurally sound and will be in compliance with FCC guidelines for electromagnetic emissions.

I. Lot Size and Setbacks for all Newly Constructed Telecommunications Towers

- i. Lot size of parcels containing a tower shall be determined by the greater of the minimum lot size as provided in the Zoning Law for parcels in the zoning district where the proposed tower is located, or the amount of land required to meet the setback requirements set forth herein.
  - ii. Telecommunication towers shall comply with all existing setback requirements of the Town of Claverack Zoning Law for the zoning district in which it is situated, or shall be located with a minimum setback from any property boundary equal to one and one-half times the height of the tower to be used or constructed, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
- J. Visual Impact Assessment - The Planning Board may require the applicant for a telecommunication tower or transmitting/ receiving facility to undertake a visual impact assessment which may include, but is not necessarily limited to:
- i. A zone of visibility map with indicated locations from which the tower may be seen.
  - ii. Pictorial representations of before and after views from key viewpoints both inside and outside the town including, but not limited to, state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers.
  - iii. Assessment of alternative tower designs and color schemes.
  - iv. Assessment of the visual impact of the tower base, guy wires, accessory buildings, and overhead utility lines from abutting properties and streets.
  - v. The Board, at its discretion, may require use of a balloon to test the visual impact of a proposed tower. In such a case, the applicant shall arrange to fly, or raise upon a temporary mast, a three-foot diameter, brightly colored balloon at the maximum height of the proposed tower, at the applicant's expense. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant at seven and fourteen days in advance of the initial date in the newspaper of record for the Town of Claverack.
  - vi. The applicant shall inform the Town Board and the Planning Board in writing of the dates and times of the test at least fourteen days in advance. The balloon shall be flown for at least eight consecutive hours sometime

between sunrise and sunset of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday. The applicant shall submit, as part of the application, proof of the publication of notice as required herein.

K. New Tower Design - Alternative designs shall be considered for all new towers, including lattice, guyed, and single-pole (monopole) structures. The design of a proposed new tower shall comply with the following:

- i. Any new tower shall be designed to accommodate future shared use by at least one other telecommunication provider with antenna arrays equal to or greater than the applicant's.
- ii. Unless specifically required by other federal or state regulations, a tower shall have a finish, either painted or unpainted, that minimizes its degree of visual impact.
- iii. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend with the natural surroundings.
- iv. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose including, but not limited to, company name, phone numbers, banners, and streamers.
- v. Unless required by Federal Aviation Agency requirements, no night lighting of a tower is permitted, except for manually operated lights for use only when personnel are on site.
- vi. A new tower shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on it. The applicant shall provide a detailed explanation for the requested tower height as part of the application.

L. Site Requirements for all Telecommunications Towers or Transmitting/Receiving Facility.

- i. Existing on site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter measured at a height four feet off the ground shall take place prior to the approval of the special permit.

- ii. The Board at its discretion may require the applicant to provide landscaping and plantings to screen portions of the tower and accessory structures from view.
  - iii. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
  - iv. Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number of required spaces based upon the recommendation from the applicant. No parking spaces shall be located in any required yard setback area.
  - v. The tower and any accessory structures shall be adequately enclosed by a gated fence, the design and height of which shall be approved by the Planning Board and not necessarily restricted by height requirements in the Zoning Law. Use of razor wire is not permitted in such a fence.
  - vi. There shall be no signs on the site except the following: a sign no greater than two square feet indicating the name of the telecommunication tower's owner(s) and operator(s) and a twenty-four hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other similar warning signs may be posted on the fence. All signs shall also conform to any other applicable governmental regulations.
  - vii. Telecommunication tower owners shall allow for installation of antennae on the tower for use by emergency services. Space on the tower for placement of the Town of Claverack Emergency Service Antennae shall be provided at no cost to the emergency service provider for initial installation, and will continue to be free of charge for the life of the tower. However, all costs related to the antennae itself shall be incurred by the emergency service provider.
- M. Use of Consultants - The Planning Board shall have the right to retain consultants to review all aspects of an application for a telecommunication tower or transmitting/receiving facility, and to provide expert testimony at any meetings of the Board in which the application is discussed. Consultants shall be qualified, licensed professionals with a record of service to municipalities in one or more of the following fields, as appropriate: telecommunications engineering; structural engineering; monitoring of electromagnetic fields; other areas of expertise as determined by the Board. Applicants shall grant permission for these consultants to

conduct any necessary site visits or obtain permission from the owner of the proposed site for any such visits.

- i. All reasonable expenses for consultants retained by the Board shall be borne by the applicant. An applicant shall deposit with the town funds sufficient to reimburse the town for these costs. The initial deposit shall be \$7,500. These funds shall accompany the filing of an application and the town shall maintain a separate escrow account for all such funds. The town's consultants shall bill or invoice the town no less frequently than monthly for services rendered in reviewing the application, providing testimony as necessary and monitoring tower output for compliance with FCC regulations. If at any time during the review process, this escrow account falls below a balance of \$500, additional funds must be submitted to the town before any further action or consideration is permitted on the application. If at the conclusion of the review and initial monitoring process the cost of consultant services is more than the amount available in escrow, the applicant shall pay the difference prior to issuance of a special exception permit. In the event that the amount in escrow is greater than the total final consulting fees, the difference shall be promptly refunded to the applicant. At the conclusion of the review process, the applicant shall receive a full, itemized explanation of how funds in the escrow account were disbursed.

#### N. Monitoring and Evaluation of Compliance

- i. Initial monitoring. In order to determine that any telecommunication tower or transmitting/receiving facility constructed with the approval of this Board is in compliance with FCC regulations on electromagnetic emissions, the applicant shall, after granting of the permit and within thirty days of the initiation of transmissions from that facility, pay for an independent consultant, hired by the Town of Claverack, to monitor electromagnetic frequency radiation around the tower site. The consultant shall use the most current, industry-standard protocols in its monitoring. The consultant will prepare a report of the monitoring results and submit copies to the Town Board, the Planning Board, the Zoning Enforcement Officer, the Town Clerk and the applicant.
- ii. Ongoing monitoring. After initial monitoring, the applicant shall pay for an independent consultant, hired by the town, to conduct annual monitoring tests of electromagnetic frequency radiation from the facility to assure that emissions are in compliance with current FCC regulations. The consultant will use the most current, industry-standard protocols in its monitoring. The consultant will prepare a report of the monitoring results and submit copies to the Town Board, the Planning Board, the Zoning Enforcement Officer, the Town Clerk and the applicant. As a condition of any permit granted under this law, the applicant will give access to the site for purposes of monitoring.

Failure to grant such access or to pay for the monitoring tests shall result in a revocation of the special exception permit.

- iii. Excessive Emissions. Should the monitoring of electromagnetic frequency radiation from a telecommunication facility site reveal the emissions exceed FCC guidelines, the owners of facilities utilizing the site shall be so notified by the Zoning Enforcement Officer. The owners of the facilities shall submit to the Town Board, the Planning Board, and the Zoning Enforcement Officer a plan for the reduction of emissions to a level in compliance with FCC guidelines within ten working days of receipt of the notice of noncompliance. The plan shall describe how emissions will be reduced to the FCC standard within fifteen days of the initial receipt of the notice of non-compliance. Failure to accomplish this reduction within the time frame specified above shall be a violation of the special permit and subject to revocation of the special permit.
- iv. Structural Inspection. The owner(s) of a telecommunication tower or transmitting/receiving facility shall pay for an independent consultant (a licensed professional structural engineer), hired by the town, to conduct inspections of the tower's structural integrity and safety. Towers shall be inspected every five years after the date of completion of the telecommunication tower or transmitting/receiving facility. The independent consultant shall prepare a report of the results of the inspection and submit copies to the Town Board, the Planning Board, the Building Inspector, the Town Clerk and the applicant.
- v. Unsafe Structure. Should the structural inspection reveal any defects in the telecommunications tower or transmitting/receiving facility that, in the opinion of the independent consultant, render it unsafe, the owner(s) of the tower and/or facility shall, within ten business days of receipt of the notification of the unsafe condition(s), submit a plan to remediate the condition(s) to the Town Board, the Planning Board, and the Building Inspector. The owner(s) of the tower and/or facility shall apply for a building permit and construction pursuant to the plan shall begin within ten calendar days of submission of the remediation plan and shall be completed as soon as is reasonably possible. Failure to comply with the provisions of this clause shall be a violation of the special permit and subject to penalties and fines as a zoning violation.
- vi. Removal Requirements - Any telecommunication tower or transmitting/receiving facility that ceases to operate for a period of one year shall be removed at the expense of the applicant or his, hers, or its successors. Cessation of operation for the purposes herein is defined as not performing the normal functions associated with telecommunications and its

equipment on a continuous and ongoing basis for a period of one year. At that time, the telecommunications tower or transmitting/receiving facility shall be removed and a plan for the removal or reuse of accessory structures shall be presented to the Planning Board for its approval.

- vii. Performance Guarantees - The applicant, as a condition of the granting of a special exception permit, shall post a performance bond in a reasonable amount and form as determined by the Planning Board. This bond shall be in force to cover the costs of the remediation of any damage to the landscape that occurs during the clearing of the site for construction and to cover the cost of the removal of the telecommunications tower or transmitting/receiving facility, and remediation of the landscape should the telecommunications tower or transmitting/receiving facility cease to operate.
- viii. Insurance - A telecommunication tower or transmitting/receiving facility and structures and facilities associated with them shall be insured by the owner(s) against damage to persons or property in an amount to be determined by the Planning Board. The owner(s) shall provide a certificate of insurance to the Town Board on an annual basis.
- ix. Permit Expiration and Renewal - Notwithstanding anything to the contrary in this Zoning Law, any special exception permit granted under this Section shall lapse if the applicant fails to begin construction on the telecommunication tower or transmitting/receiving facility and associated structures and facilities within a two-year period dating from the issuance of the special exception permit.
- x. All special exception permits granted under this Section shall be granted for five years. The Planning Board shall renew a special exception permit for additional five-year periods if the Board, upon receipt of an application filed prior to the expiration of any five-year period, determines that the telecommunications tower or transmitting/receiving facility and its associated facilities and structures remain in compliance with all terms and conditions of the Zoning Law and all conditions placed upon the original special exception permit when granted.

#### § 15.3.25 Temporary Building Permits

- A. The Planning Board may grant a temporary building permit for a period not to exceed one (1) year for a nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery, a real estate office or model houses located on or near a tract of land where individual properties are being offered for sale, provided that:

- i Such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building, structure or use or to convert it to a conforming use upon the expiration of the permit.
- ii Such permit shall be subject to such reasonable conditions as the Planning Board shall determine to be necessary to protect the public health, safety or general welfare.
- iii Such permit may be renewed annually, at the direction of the Planning Board, for not more than two (2) additional years.

§ 15.3.26 Temporary Housing (Mobile Home)

- A. Temporary housing (mobile home) is permitted in all residential districts to allow for temporary housing of family members for a period not to exceed six (6) months in the following instances:
  - i. Temporary residence in times of natural disaster (no SE required).
  - ii. Temporary residence for health reasons (situations involving constant monitoring, supervision or quarantine).
  - iii. Temporary residence while awaiting construction of a permanent residence.
- B. When it becomes apparent that temporary housing is no longer necessary because permanent housing has been constructed or secured, or because a health problem no longer exists, the Board shall send written notice to the permit holder that the temporary housing shall be removed within ten (10) calendar days from the receipt of such notice. Otherwise, all temporary housing shall be removed within 48 hours from the expiration date of the permit.
- C. The following conditions must be met before the temporary housing may be placed on site:
  - i. Written notice must be sent to all residents within four hundred (400) feet of the applicant's property lines.
  - ii. A sketch describing all residential structures and public buildings within four hundred (400) feet of the applicant's property as well as describing the proposed location of the temporary housing (including distances from the adjacent property lines) must be shown to all involved residents.

- iii. The water and sewer systems must be approved by the Columbia County Department of Health.
  - iv. The mobile home shall not be permanently affixed to the ground, nor shall its wheels be removed.
  - v. No rent or monetary consideration may be collected with regard to temporary housing.
- D. Violations of the above provisions shall be grounds for revocation of the Special Exception Use. Extensions of the use may be granted for additional six (6) month periods upon approval of the Board.
- E. No more than two (2) six month extensions may be granted for temporary housing in times of natural disaster or for temporary housing while awaiting the construction of permanent residence.
- F. There shall be extensions granted for temporary housing that is necessary for health reasons, in the Planning Board's discretion.

#### § 15.3.27 Timber Harvesting

- A. A special exception use permit is required for any commercial logging activity proposing harvesting of more than 50 standard cords of wood or 50,000 board feet of timber as measured by international “1/4” log rule in any one year.
- B. All commercial timber harvesting shall comply with the most current Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Building Inspector.
- C. The timber harvesting operation shall be conducted in accordance with an approved timber harvesting plan. The timber harvesting plan shall be developed by a New York State Cooperating Consultant Forester, or a professional forester with active membership in the Society of American Foresters or the Association of Consulting Foresters. Such plan shall contain a minimum of the following information:
- i. Location of haul roads, skid trails, landings, and staging areas.

- ii. Limits of harvesting operation and buffer zones to be provided along streams, property boundaries, and public roads.
  - iii. Description of the harvesting activity; i.e. clearcutting, diameter limit cutting, thinning, selection cutting, including the dates between which such harvesting activity will occur.
  - iv. Erosion control plan.
  - v. Reclamation plan.
- D. Permits, where appropriate, will be secured by the applicant prior to any clearing for access to a public road, stream crossing, or wetlands disturbance. The Town of Claverack Highway Superintendent shall approve all access.
- E. The Planning Board may seek advice from the Columbia County Soil and Water Conservation District in relation to logging road layout and stream disturbances.
- F. Loading areas, which must be located in the same zone as the operation, shall be smoothed to remove all ruts and debris. Wood and soil waste materials shall be buried or removed to a point out of sight of any road or adjacent property. A fifty-foot buffer zone shall be required between any logging area or landing site and any public road or adjacent property.
- G. No commercial logging operations or removal of products shall take place between the hours of 8:00 p.m. and 6:00 a.m.
- H. The Zoning Enforcement Officer shall have the authority to order the suspension of logging operations if, in his opinion, conditions created by spring thaw, adverse weather or any other cause make soil erosion probable.
- I. The Town Highway Superintendent shall have the authority to:
  - i. Order the suspension of logging operations if it is determined that conditions created by the spring thaw, adverse weather or other cause may likely damage a public road.
  - ii. Restrict the weight of logging trucks in accordance with the capabilities or condition of roads, bridges and culverts.

- iii. Require the repair of roads, bridges and culverts damaged as a result of a logging operation.
  
- J. All streams shall be crossed in accordance with the provisions of New York State Environmental Conservation Law, Article 15, and all other applicable state and federal laws.
  
- K. There shall be no skidding in any stream channel except at approved stream crossings.
  
- L. Haul and skid trails shall be maintained and abandoned in a manner that will prevent erosion.
  
- M. The logger shall clean up any debris or deposits of any kind on public roads and shall repair or pay the cost of repair of any damage done to roads, curbs, utility lines and any other property resulting from the logging operation.
  
- N. The Zoning Enforcement Officer shall require that, prior to completion of the operation, a report be filed by the forester indicating what measures have been taken in order to restore the property and prevent erosion.
  
- O. The term of this permit shall be for one year. However, since the operation may be adversely affected or delayed by unusual circumstances of weather or other occurrences, a one-year extension may be granted by the Zoning Enforcement Officer. Any additional extensions shall require application to the Planning Board.
  
- P. The Planning Board shall have the right to add any additional conditions including restoration of damaged roads, deemed necessary to protect the health, welfare and safety of the residents of the Town of Claverack.
  
- Q. Any logging operation in existence at the time of the enactment of this chapter may continue without interruption, provided that application is made within thirty (30) days of said enactment for a special exception use permit under the provisions of this chapter and that such permit be granted by the Planning Board.

#### § 15.3.28 Truck Terminal, Truck Transfer Station

- A. The lot area shall be not less than 20 acres and have a minimum frontage along a State or County highway of at least 150 feet. No more than 50 percent of the site shall be devoted to the use. The remaining 50 percent shall be maintained as a natural transition or buffer area.

- B. No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- C. All entrance and exit driveways shall be approved by the County Highway Engineer or the District Engineer of the State Department of Transportation depending on whose jurisdiction the highway is located therein.
- D. All fuel pumps lubricating and other devices shall be located at least 50 feet from any building, or structure.
- E. No repair work shall be performed outdoors.
- F. All fuel, oil, gasoline or similar substances shall be stored underground and at least 200 feet from any and all lot lines, and installed and maintained in accordance with the standards of the New York State Department of Environmental Conservation and the National Board of Fire Underwriters.
- G. All dismantled automobiles, trucks, tractors, trailers and similar equipment, and parts and accessories thereof shall be stored within a building.
- H. All parking areas for operating vehicles shall be paved, curbed and drained in accordance with General Specification. Such areas shall be at least 100 feet from any Residential District boundary and at least 100 feet from any property line. No vehicle shall park or stand outside such paved parking area.
- I. Screening shall include planting of evergreen bushes or trees in addition to a fence so that truck motor noise and the sound of overnight operation of refrigeration units will tend to be muffled.

#### § 15.3.29 Utility

- A. Easements shall be provided for.
- B. Structures shall conform to all dimensional and other requirements, except lot area requirements, of the zoning district in which the structures are located.
- C. The design of structures shall conform as closely as possible to the character of the area or neighborhood in which it is located, so that the use and value of adjacent properties will not be adversely affected.

- D. Fences that are not easily climbed and other safety devices shall be installed and maintained around electric and gas substations and sewage treatment plants in order to make the facilities inaccessible to the general public.
- E. The Planning Board may require buffer yards and screening.

#### § 15.3.30 Veterinary Clinic

- A. Adjacent properties shall be adequately protected from noise, odors and unsightly appearance.
- B. All buildings, structures, and accessory use areas except off-street parking, shall be at least 50 feet from any property line.

#### § 15.3.31 Warehouse

- A. No more than one principal building shall be permitted on a lot.
- B. The warehouse building shall be setback no less than 100 feet from any lot line.
- C. Outdoor storage and display shall not be permitted in connection with a warehouse.
- D. No sales to the general public shall be permitted.
- E. One business identification sign shall be permitted, and the sign face shall be in accordance with the standards set forth in Section 14.4.
- F. The applicant shall submit a list of the goods and materials to be warehoused on the property. The Planning Board shall consider the nature of the materials, including potential flammable/hazardous nature of same, and may impose restrictions on the storage of said materials, or prohibit same.
- G. Parking, landscaping, and lighting shall conform to the site and design standards for the district as set forth in Section 14

#### § 15.3.32 Wind Turbine

- A. Non-Commercial Wind Power Facilities (NWPF) units per parcel:
  - i. Non-farm Uses (Residential and Commercial): Up to two NWPFs and their towers may be allowed on a single parcel of property provided that the

applicant can demonstrate to the satisfaction of the Planning Board that all of the following criteria are met:

1. that each NWPF meets all standards and requirements set forth in this law; and
2. that the aggregate effect of multiple NWPFs on noise, visual disruption, electromagnetic interference, stray voltage, and other adverse environmental effects meets all standards and requirements of this law for a single NWPF unit; and
3. that when electrical output from NWPF used for non-farm operation consistently results in net-metering of more than 110% of need, then in that case no additional NWPF may be installed on that property.

ii. On-Farm Uses: When NWPF's are proposed for use as part of a farm operation, multiple NWPF's and their towers shall be allowed provided the following criteria are met:

1. that each on-farm NWPF shall meets all standards and requirements set forth in this law; and
2. that the aggregate effect of multiple NWPFs on noise, visual disruption, electromagnetic interference, stray voltage, and other adverse environmental effects meets all standards and requirements of this law for a single NWPF unit; and
3. that when electrical output from NWPF used for farm operation consistently results in net-metering of more than 110% of need, then in that case no additional NWPF may be installed on that property.

- B. Wind Power Tower Height: The maximum wind power tower height shall be 150 feet. The minimum distance between the end of the rotor blades and ground surface shall be 150 feet measured to the end of the blade when vertical.
- C. Guy Wires: Anchor points for any guy wires for a wind power tower shall be located within the property upon which the NWPF is located and not on or across any above-ground transmission or distribution lines.
- D. Over-speed Controls: All NWPF shall be equipped with automatic over-speed controls. Conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- E. Set-back: All wind power towers shall be setback from all adjoining property lines not owned by the applicant, and from all utility lines and rights of way, a minimum distance of 100% of the wind power tower height. Any change to the minimum

setback shall be approved by the Town of Claverack Zoning Board of Appeals through an area variance.

- F. Noise: The maximum noise level generated by NWPF shall not exceed 40 decibels as measured at all adjoining property lines or rights of way. Manufacturing standards shall be met.
- G. Visual Disruption:
- i. The NWPF and its tower and blades shall be painted a non-reflective, unobtrusive color that blends all components into the surrounding landscape and sky to the greatest extent possible, and shall incorporate non-reflective surfaces to minimize glare and all other visual disruption.
  - ii. No lighting shall be allowed on the wind power tower at a height greater than 12 feet above grade, except to comply with Federal Aviation Administration requirements.
  - iii. No advertising or commercial logos or insignias, except the manufacturer's nameplate, shall be permitted on the NWPF or tower.
  - iv. No flags or banners shall be placed on the NWPF or tower.
  - v. The siting of NWPF and tower within a parcel and relative to adjacent properties should minimally impact the viewscape of habitable structures located on adjacent properties and the viewscape from public thoroughfares within a radius of one mile.
  - vi. All electrical transmission lines associated with the wind power project shall be installed underground in accordance with National Electrical Code Standards except for connections to a public utility company's transmission poles, towers, and lines. The Town may modify this standard if the project terrain is unsuitable due to environmental or ecological constraints.
- H. Compliance with Building Code of New York State: A Building Permit shall be required prior to construction. Wind power facilities shall conform to applicable industry standards. Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories or an equivalent third party. A professional engineer shall certify, as part of the building permit application, that the foundation and tower design of the wind power facilities are within accepted professional standards, given local soil and climate conditions. All tower structures shall be designed and constructed to be in compliance with

pertinent provisions of the New York State Uniform Building and Fire Prevention Code.

- I. Compliance with Other Regulatory Agencies: All NWPF shall comply with all laws and regulations, including any installation approvals, established by Columbia County, New York State, and the Federal government, including their regulatory agencies (e.g. FAA).
- J. Electrical Utility Notice: No NWPF shall be installed until evidence has been presented to the Planning Board that the servicing utility company has been informed of the applicant's intent to install an interconnected, customer-owned NWPF. Off-grid NWPF shall be exempt from this requirement.
- K. Electromagnetic Interference and Stray Voltage: The NWPF shall be operated such that no disruptive electromagnetic interference or stray voltage is caused. The NWPF shall not interfere with microwave, cellular, or television/radio transmission/reception on adjacent or nearby properties. If harmful interference is caused, the NWPF owner shall promptly mitigate the harmful disruption or damage, or cease operation of the NWPF.
- L. Abandonment of Use: A NWPF that is not in use converting wind energy into electrical energy for on-site consumption for twelve successive months may be deemed abandoned by the Building Inspector or Code Enforcement Officer. Upon receipt of a Notice of Abandonment issued by the Building Inspector or Code Enforcement Officer, the NWPF owner shall have 30 days to provide credible evidence to the Building Inspector or Code Enforcement Officer that use of the NWPF has not been abandoned. If the Building Inspector or Code Enforcement Officer finds that credible evidence has not been presented, the NWPF owner shall have 12 months from the date of the finding to restore the NWPF to operation. If the NWPF remains not in use at the conclusion of that 12 month period, the Town shall have authority to revoke the special exception use permit, and if the owner does not dismantle the NWPF and tower within a period stated in the revocation notice, to enter the owner's property and cause the NWPF and tower to be dismantled at the owner's expense. As a condition of special exception use permit and site plan approval, the owner shall agree to these provisions.
- M. Resale of the NWPF: There shall be no resale of the NWPF and tower for use in the approved location except as part of the conveyance of the parcel on which it is located.
- N. Discontinuation of Approval: Any NWPF that has not begun to be constructed within one (1) year of the date on which the building permit was issued shall apply to the Planning Board for an extension of approval. Upon issuance of an extension, any building permit received shall also be extended.

- O. **Decision Criteria and Guidance:** The Planning Board shall issue a special exception use permit pursuant to Section 15 of the Town of Claverack Zoning Law only if the proposed NWPF and tower and their location meet all of the standards and requirements set forth in this Section, and where applicable, subject to the review of the project pursuant to the New York State Environmental Quality Review Act (SEQRA) and any conditions placed on the project by that review. Failure to meet any such standard or requirement, or failure to adequately mitigate potential impacts, shall be sufficient for denial of the special exception use permit. The Planning Board may impose reasonable conditions to avoid or mitigate potential impacts.
- P. **Application Materials:** A complete application for a special exception use permit and site plan review for installation and operation of a NWPF shall include, but is not limited to an original, signed application plus nine copies of the following:
- i. Name, mailing address, and telephone number of the applicant and property owner. If the applicant is not the property owner, the application shall include authorization from the property owner for the applicant to act in his behalf.
  - ii. Address and location of the property on which the proposed NWPF will be located, including tax map section, block, and lot number.
  - iii. A description of the wind power project, including:
    1. the make, model, manufacturer's specifications, generating capacity, noise decibel data in dBA and dBC with the methods used to determine these measurements, and photograph of each proposed NWPF and wind power tower;
    2. the maximum wind power tower height, length of rotor blades, number of rotor blades, and minimum height above ground of the end of the rotor blades;
    3. the structure(s) for which the NWFP will provide electrical power and the actual or anticipated electrical needs of those structures as documented by utility bills for the twelve months preceding application, or an architect's estimate, or similar facts;
    4. the total number of NWPF and towers to be installed;

5. the size of the lot on which the NWFP(s) and towers will be installed, the zoning designation of the site and adjacent properties, and whether that site is within a New York State Agricultural District;
  6. a sketch plan in sufficient detail to illustrate the property lines, size of lot, and location of the proposed NWFP(s) and tower(s) including guy wires and anchors, if any; location of other existing structures and uses on the lot; distance between the proposed NWPF(s) and other structures and uses on the lot; elevation of the proposed NWPF(s); location of electrical transmission lines if present or proposed and the distance from the NWPF(s) to those lines; access routes to the proposed NWPF(s); distance from the NWPF to property lines; and setback distance equal to the wind power tower height drawn in circles on the plot plan with each proposed NWPF at the center;
  7. an Environmental Assessment Form (EAF) and Visual EAF Addendum must be submitted in accordance with SEQRA 6 NYCRR Part 617. The Planning Board may require the Long Form EAF if it believes the additional information is necessary given the specifics of the application and proposed location. NWPFs proposed for use on farm operations shall be considered a Type II action and therefore are exempt from SEQRA provisions.
  8. names and addresses of owners of all abutting properties, and of all properties located within 500 feet of the lot upon which the NWPF(s) will be located.
  9. for NWPFs proposed for non-farm use, an agricultural data statement is required if the proposed NWPF will be located within an agricultural district containing a farm operation or on a property with boundaries within 500 feet of a farm operation located in a New York State Agricultural District.
- iv. The wind power project application shall include all proposed phases of installation and operation. Special exception use permit approval shall be based on the total planned project in order to assess all potential project impacts. The Planning Board shall consider project applications incomplete where there is reason to believe the application applies to only a segment of the total project. In such situations, the Planning Board shall return the application to the applicant with a letter stating the basis for its determination.
  - v. The Planning Board may require a visual assessment that includes, but is not limited to, a balloon test and visual simulations of the NWPF and tower from specified vantage points—and shall conduct a site visit—to assess the visual impacts of the proposed NWPF and tower.

- vi. The Planning Board may obtain advisory opinions about the wind power project application from town, Columbia County, New York State, and Federal officials, agencies, and designated consultants including but not limited to acoustic, visual impact consultant, planner, counsel and any other expert reasonably required by the Planning Board.
- vii. Costs for all reports, assessments, simulations, tests, expert consultants, or other information required by the Planning Board shall be borne by the applicant and paid before a special exception use permit is issued.

### § 15.3.33 Wood Boilers

- A. All new outdoor wood boilers including those that are partially or completely enclosed in a nonresidential building shall meet all requirements of NYS ECL Part 247 (Outdoor Wood Boilers).
- B. Commercial-sized outdoor wood boilers shall only be allowed in the HC district.
- C. All outdoor wood boilers used for residential purposes shall apply for and receive a special exception permit prior to issuance of a building permit.
- D. In addition to all requirements of ECL Part 247, the following requirements shall be met:
  - i. The outdoor wood boiler is equipped with a properly functioning spark arrester;
  - ii. The outdoor wood boiler (excluding the chimney stack) is sufficiently screened so that the same is substantially invisible when viewing the property from the road or roads to which the property is adjacent;
  - iii. The outdoor wood boiler is located in the rear yard or portion of the lot upon which the outdoor wood boiler is located;
  - iv. The outdoor wood boiler is not located within 1000 feet of parks maintained or operated by the Town of Claverack or any schools. This shall not include foot or bicycle paths unless the same are wholly located within a park maintained or operated by the Town of Claverack.

- E. Notwithstanding any of the above, in no event shall the emissions of the outdoor wood boiler exceed any mandatory emissions standard promulgated by any agency, division, department or office of the Federal or New York State Government.
- F. All outdoor wood boilers in existence prior to the enactment of this Zoning Law shall be allowed to continue operation. All existing outdoor wood boilers that do not meet these requirements shall be considered a nonconforming use. For any outdoor wood boiler installed prior to the date of enactment of this law, a permit must be obtained within 10 years of this law's adoption. It shall be a violation for any person to operate an outdoor wood boiler for which a building permit has expired under this Section.
- G. Seasonal Restrictions. Notwithstanding anything herein, no person shall operate an outdoor wood boiler from May 15th to September 15th.
- H. Suspension of permit - A permit issued pursuant to this law may be suspended as the Building Inspector may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Claverack if:
  - i Emissions from the outdoor wood boiler that exceeds standards established in ECL Part 247.
  - ii The outdoor wood boiler creates a nuisance or otherwise violates an applicable local (including county), state or federal law, ordinance, statute, rule or regulation. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur.

#### § 15.3.34 Concerts, Exhibitions or Festivals

- A The applicant must notify the relevant Fire Departments, Police Agencies, Columbia County Health Department and Emergency Management Agencies and shall provide, in writing, documentation showing compliance with all requirements from these entities.
- B The applicant shall provide in writing, documentation showing adequate measures have been taken in connection with fire protection, crowd security, police protection, public safety, traffic regulation, parking, sanitary facilities, adequate water supply, garbage disposal, emergency evacuation plan, first aid and site cleanup.
- C The Planning Board is authorized to regulate hours for the event.

- D The Planning Board shall have the authority to require a bond posted for the adequate performance by the applicant of the conditions of any permit.
- E There shall be no fireworks, pyrotechnic displays or incendiary devices permitted.
- F The exact date(s) and hours of the event will be provided.
- G The estimated attendance will be provided.
- H The expected number of automobiles and other vehicles intended to utilize the property will be provided.
- I A site plan shall include the layout of any parking area(s) for automobiles and other vehicles, and the means of ingress and egress to said parking area(s). Such parking area(s) shall provide one parking space for every four persons in attendance. The site plan shall also provide measures such as fencing or signage in the discretion of the Planning Board to prevent access or trespass to neighboring properties.
- J A site plan shall include the type, number, location, and providers of all toilets, washing facilities, water supply, food preparation, food service facilities, and solid waste collection locations in compliance with applicable department of health rules or regulations.
- K If a person or persons other than the organizer will be engaged in the sale and distribution of food and beverages, the name(s) and address(s) of such person(s) shall be submitted, if and when determined.
- L A medical services plan specifying the number and qualifications of first aid station personnel and other medical facilities to be available for emergency treatment of any persons that might require immediate medical or nursing attention.
- M A public safety plan, including the precautions to be utilized for fire protection and a map specifying the location of fire lanes and water supply for fire control; accessibility of fire and emergency equipment whether any private security guards or police will be engaged and, if so, the number thereof and the duties to be performed by such persons.
- N All structures to be built or utilized, whether temporary or permanent, must be detailed in the site plan, and must comply with all applicable NYS Fire Prevention and Building Codes as administered by the Town of Claverack Building Department.

- O A statement specifying whether any camping or housing facilities are to be available and, if so, a plan showing the intended number, dimensions and location of the same.
- P A statement that no soot, cinders, smoke, noxious acids, fumes, gases or unusual odors shall be permitted to unreasonably emanate beyond the property line.
- Q A statement that no excessive or unusually loud sound which disturbs, injures or endangers the comfort, health, peace or safety of a reasonable person of normal sensibilities shall be permitted to be made or caused to be made or continued so as to be unreasonably audible beyond the property line of the site. The Planning Board shall in its discretion, based upon the nature of the event and the location and parcel size, set the maximum decibel levels that shall be permitted, as well as the allowable hours of the event, and any event activities.
- R A statement must be provided specifying the terms and conditions of the agreement between the property owner and any operator or promoter of the event which describes the responsibilities of the site owner and the operator or promoter.
- S Demonstration that the large assembly will not materially alter the capability, in the future, to use the property upon which the large assembly is to be held for uses designated under the property's zoning district.
- T The applicant shall execute a written authorization permitting officials of the Town, County and State, or their designated agents, including fire personnel and police to enter the premises and conduct inspections before, during and after such event.
- U The applicant shall obtain adequate insurance to be reviewed and approved by the attorney for the Town. The Planning Board shall require the applicant to name the Town as an additional insured for any such approved use.
  - i Such insurance shall be for a minimum of one million dollars (\$1,000,000.00) for bodily injury or death and not less than one million dollars (\$1,000,000.00) for property damage.
  - ii The Planning Board shall further have the authority to require insurance at greater levels upon a determination that such minimum amounts are insufficient based upon the size and/or scope of the event.
  - iii Failure of the applicant to keep such policy in effect will result in automatic revocation of the permit.

- V There shall be no more than two events held at any one site during the course of any calendar year.
- W The maximum duration for each such event shall be part or all of three calendar days.
- X The Planning Board shall have the authority to deny the request for a use permit in the case where the applicant has previously held such event and did not adequately comply with the requirements of the use permit issued for such previous event.
- Y Any use permit granted as provided for herein, due to the particular nature of the event, conditions applied by the Planning Board to the owner/operator or promoter of the event, and the specificity of the controls over the event, shall be specific to that particular event only and shall not run with the land.
- Z No application for a use permit shall be made greater than one year from the proposed date for such activity.
- AA The applicant shall provide the name of an individual who is determined by the Board to be responsible as the person in charge of the use and who shall be on the property or available while the property is occupied or in use for such event.
- BB The applicant shall provide satisfactory proof to the Planning Board that there will be removal of all structures erected for use during such event within 72 hours after conclusion of such event.
- CC Nothing set forth herein shall be construed to waive the requirements of sections 15 and 16 of the Town of Claverack Zoning Law, which shall be applicable hereto.
- DD Notwithstanding anything set forth in this section to the contrary, any event conducted or sponsored by the Town or any fire company in the Town for the benefit of the community shall be exempt from these regulations, shall be considered a permitted use and shall not require site plan approval.
- EE Violations and Penalties: Any person or corporation, whether as owner, contractor, lessee, agent or employee, who violates any of the provisions of this section, or fails to apply for a permit when a permit is required or who fails to comply with an order or regulation made hereunder or with regard to any conditions imposed for any use or building permit hereunder or who erects, alters, moves or uses any buildings or land in violation of any statements or drawings submitted by him and approved pursuant to this section shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not to exceed 15 days or both, for a first offense, for conviction of a second offense committed within a five-

year period by a fine not exceeding \$2,500 or imprisonment not to exceed 15 days, or both, and for conviction of a third violation within a five year period by a fine not exceeding \$5,000 or imprisonment not to exceed 15 days, or both. Each and every week any such violation continues after the allotted period of time for the removal or correction shall be deemed a separate and distinct violation without the necessity of the Building Department or Code Enforcement Officer sending any further notices in this regard.

## Chapter 16 - SITE PLAN AND SPECIAL EXCEPTION PROCEDURES

### § 16.1 Authority

Pursuant to the powers granted in Section 274-a & 274-b of Town Law, the Town Board of the Town of Claverack hereby authorizes the Planning Board to review and approve, approve with conditions, or disapprove Special Exception Uses and Site Plan Approvals within the town as designated in accordance with the procedures and standards set forth in this law.

### § 16.2 Purpose

The purpose of this Section is to provide regulations governing the applicability, submission requirements, standards for review and design, and due process for site plan and Special Exception Use permit review and approval. The intent is to ensure that the development and use of individual parcels of land do not have an adverse effect on adjacent lands or on the character of the community. Such regulations are designed to protect the community from traffic congestion and conflicts, noise, odor, other forms of pollution, inappropriate design, flooding, and excessive soil erosion, so as to ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed, and that its impacts can be mitigated by compliance with reasonable conditions. The regulations are also designed to ensure that new development conforms to the Town's planning goals and objectives as expressed in its Comprehensive Plan. Because uses that require a special exception permit also need site plan review, these procedures are integrated together in this Section.

### § 16.3 Applicability of Site Plans and Special Exception Use Permits

§ 16.3.1 All Special Exception Uses cited in the Table of Use Requirements as “SE” shall be subject to review and approval of a Special Exception Use permit by the Planning Board, in accordance with the standards and procedures set forth in this Section.

§ 16.3.2 All Special Exception Uses and their accessory uses shall also be subject to site plan review and approval done concurrently with the Special Exception review process.

§ 16.3.3 Property owners granted a Special Exception Use Permit must initiate the specific use for which it has been granted within 18 months of the issuance date, or it will be automatically

revoked. If the use for which a Special Exception Use Permit has been granted ceases for a continuous period of one (1) year, the permit is automatically revoked.

§ 16.3.4 In addition to those uses indicated on Table 1 as requiring site plan review and approval, and except as set forth in (16.3.6), below, the following activities shall also require site plan approval:

- A. New construction of a principal non-residential building and multiple family (three or more units) projects.
- B. Enlargement or alteration of a principal non-residential building.
- C. Expansion and change of uses. Site plan review and Special Exception Use permit approval shall also be required for any non-residential expansion, exceeding twenty five (25%) of the ground area of the use, or involving a change of use to a more intensive use, including but not limited to increased water supply, sewage disposal, stormwater runoff management, parking needs, traffic generation, or zoning compliance. An increase in intensity includes but is not limited to an increase in the amount of impervious surface area, an increase in the ratio of floor area to the total land area, and an increase in the amount of parking needed. A building permit and certificate of occupancy shall not be issued for such uses or buildings without first obtaining approval from the Planning Board.
- D. New non-residential signs.

§ 16.3.5 Exemptions. The following land use activities are exempted from the requirements of this Section:

- A. Ordinary repair or maintenance of existing structures or uses;
- B. Agricultural structures as defined under the N.Y. State Building Code Regulations, with the exception of roadside stands for the sale of agricultural products from a permanent structure. Temporary roadside stands smaller than one hundred (100) square feet are exempt;
- C. Incidental landscaping or grading not intended to be used in connection with a land use reviewable under the provisions of this law;
- D. Exterior alterations or additions to an existing residential structure which do not substantially change its nature or use;
- E. Interior alterations that do not substantially change the nature or use of an existing commercial or industrial structure.

- F. Any change in use which does not require the issuance of a certificate of occupancy pursuant to the New York State Building and Fire Code;
- G. Residential garden uses and residential, non-commercial timber cutting;
- H. Garage and lawn sales; and
- I. Legal uses and structures which have already initiated construction prior to the enactment of this law.
- J. One or two family dwellings except in MHP, HB, HB1 and HC where they are special exceptions.
- K. Residential Accessory Structures.

§ 16.3.6 Area and Use Variances.

- A. Before any use of or construction of a property, with the exception of those listed as exemptions in 16.3.5, the owner must request an application for site plan and/or special exception use permits from the Building Inspector. The Building Inspector shall determine whether the applicant needs a use or area variance and/or a site plan review with or without a review for a special exception use.
- B. Where a proposed project requires either a use or an area variance, the Building Inspector will deny the application and the applicant may submit a variance request to the ZBA pursuant to Section 18 of this law, after going through a sketch plan conference with the Planning Board.
- C. When an area or use variance is required, no final site plan or special use permit shall be approved by the Planning Board until a final decision is made by the ZBA. If the variance is approved, the applicant may proceed with the Planning Board review for site plan/special exception permits pursuant to this Section of the Law.

§ 16.3.7 A simple project may be eligible for the minor project review pursuant to Section 16.5 of this law. A simple project is one which the scale, intensity and location will result in no negative impact on the surrounding community and which is consistent with the goals of the Claverack Comprehensive Plan. The criteria considered for determining if the minor procedure can be used is as follows:

- A. A project will not cause an increase in traffic beyond two additional cars per hour.
- B. A project will not increase ambient noise levels.

- C. No more than twenty five percent (25%) of the total acreage of the parcel have slopes that are greater than fifteen percent (15%).
- D. There are no wetlands regulated by the New York State Department of Environmental Conservation (NYS DEC) or United States Army Corps of Engineers on the parcel.
- E. There are no streams regulated by the New York State Department of Environmental Conservation (NYS DEC).
- F. Facilities or structures for a new or converted non-residential use cover no more than 1,500 square foot of building footprint.
- G. Existing structures are not altered or expanded by any more than 1,000 square feet.

§ 16.3.8 Sketch Plan Conference with Applicant.

- A. Whether or not a variance is needed, if the Building Inspector determines that the applicant needs to apply to the Planning Board for site plan and/or special exception use permitting, a sketch plan conference shall take place with the Planning Board. Upon receipt of a written request for this meeting, the board(s) will notify the applicant as to the place, date and time of the meeting at which the application is to be considered. If the project requires a variance, it needs to have this preliminary review with the Planning Board so that the Planning board can give advice and recommendations on the variance to both the applicant and the ZBA. The applicant or applicants' representatives shall be present to discuss the application and review the conceptual site design (sketch) plan. The sketch plan shall be a preliminary drawing, and the Town does not expect a highly engineered or technical document to review at this early stage of the process. The Planning Board, in its sole discretion, may allow information submitted for the Sketch Plan conference to be considered as the completed application for a small project (see Section 16.3.7). In addition, the Planning Board may waive one or more of the following requirements for the sketch plan review. All requests for waivers shall be made by the applicant to the Planning Board in writing. In deciding to grant a waiver, the Planning Board shall ensure that such waiver will not negate the purposes of this zoning law and shall document in writing its justification for such a waiver. A Sketch Plan shall show the following:
  - i. An area map or high resolution aerial photograph showing the parcel under consideration, and all properties, roads, and legal easements within three hundred (300) feet of the boundaries; and

ii. A map of the site showing approximate location of:

1. Lot lines;
2. Approximate lot measurements;
3. Existing and proposed streets or other access ways;
4. Proposed location of future roadway connections between the subject parcel and adjacent parcels;
5. Location and dimensions of existing and proposed structures and paved areas;
6. Proposed ingress and egress of the site;
7. Site topography;
8. Significant natural and historic features; and
9. Any other similar descriptive data to clarify the proposed project.

B. Within five (5) business days of the sketch plan conference, the Planning Board will render a decision on whether a minor or full site plan application processes is required, in writing and with reasons for its decision. The applicant will include all sketch plan documents with the complete application presented to the Building Inspector for review prior to the first formal meeting with the Board.

## § 16.4 Application Submission for Minor and Full Site Plans

§ 16.4.1 The applicant must provide the written decision of the sketch plan review to the Building Inspector and a completed copy of the application as set forth in this Section for his review and assistance in determining its completeness before making an appointment for formal review by the Planning Board. In addition to the information required in either Section 16.5 or 16.6, the applicant shall be prepared to file the following:

- A. Eleven (11) copies of the completed site plan and/or Special Exception Use permit application on forms prescribed by the Planning Board, along with if possible one digital CD containing all application materials, within the required number of days

as set forth in the application submittal check list (available from the Town web site) prior to a scheduled regular meeting of the Planning Board; and

- B. All required submissions for site plan review and approval as set forth in Section 16.4 of this Section; and

§ 16.4.2. Upon receipt of such application materials, the Building Inspector shall, within five (5) business days of its receipt, forward the application to the Planning Board for its consideration. No building permit or certificate of occupancy shall be issued by the Building Inspector except upon authorization of, and in full conformity with, the plans approved and conditions imposed by the Planning Board.

§ 16.4.3. Required fees. A complete application for site plan and/or special permit review and approval shall be accompanied by the applicable fees and escrow deposits in accordance with the last revised fee schedule as adopted by the Town. The Planning Board may require professional review of the application by its designated private planning, engineering, legal, or other consultants, and such reviews shall be paid for by the escrow deposits. These fees shall be in accordance with the escrow provisions of the last fee schedule as adopted by the Town.

### § 16.5 Minor Site Plan Procedure for All Buildings Other than One or Two Family Dwellings and Residential Accessory Structures - Site Plan Procedure and Standards

§ 16.5.1 The following site plan provisions are intended to secure compliance with the requirements and standards set forth in this Law and with accepted professional design practice for such site improvements as grading, drainage, sidewalks, curbs, parking, landscaping, fences and driveways for minor projects in Claverack.

§ 16.5.2 Prior to issuing a Building Permit or Certificate of Occupancy for any building or structure or use, other than a single or two family dwelling or their accessory buildings or structures, the Building Inspector shall require the preparation of a site plan for review and approval by the Planning Board in accordance with the standards and procedures set forth in this Section. The following materials shall be included in the minor site plan application:

- A. Eleven (11) copies of the application for site plan review along with, if possible, one digital CD containing all application materials, shall be made, in writing, to the Planning Board that includes the following information:
  - i. The title of the drawing, including the name and address of the applicant and of the person(s) responsible for the preparation of such drawing.
  - ii. A north arrow, scale and date.
  - iii. Accurate boundaries of the parcel plotted to a scale of 1" = 40'. The scale may be altered for projects exceeding a total land area of five (5) acres.

- iv All existing watercourses.
  
- v A grading or drainage plan, showing existing or proposed contours at a minimum of two (2) foot intervals for that portion of the parcel actually proposed for development or where the existing site may be susceptible to erosion, ponding or flooding.
  
- vi The location of all buildings, parking areas and drives, truck loading areas, wells, septic systems, water and sewer lines and service, outdoor storage of equipment and materials and signage.
  
- vii A floor plan and front elevation of any building or fencing to include details of the areas to be used for offices, manufacturing areas and areas for retail/wholesale operations, including exterior display of products for sale.
  
- viii A general landscaping plan and planting schedule showing existing vegetative cover being retained as well as new plantings.
  
- ix The locations of all outdoor lighting, including lighting levels both within the site and at the site's boundaries.
  
- x A long form Environmental Assessment form completed and signed by the applicant.
  
- xi A check made payable to the Town as established by the applicable fee schedule adopted by the Town Board by Law.
  
- xii A copy of the deed to the property as most recently filed, and/or a copy of the executed contract of sale;
  
- xiii A copy of each covenant, easement, or deed restriction in effect, or intended to cover all or part of the tract;
  
- xiv Written offers of easement to the Town of Claverack or other public agencies for purposes of stormwater drainage, utility rights-of-way, etc, as needed;
  
- xv Identification of all necessary permits from federal, state, county or local agencies, approvals required from said agencies for the project's execution, and proof of special permit and/or variance approvals if applicable;

xvi As applicable, soil logs from on-site borings or test pits, percolation test results, and stormwater runoff calculations.

xvii As applicable, plans to prevent:

- 1 The pollution of surface or groundwater;
- 2 Erosion of soil both during and after construction;
- 3 Excessive runoff;
- 4 Excessive raising or lowering of the water table; and
- 5 Flooding of other properties.

xviii An Agricultural Data Statement as per NYS AML 25-aa for all applications in or within 500' of a New York State designated Agricultural District.

§ 16.5.3 The Planning Board's review of the site plan shall include, as appropriate, but not be limited to, the following:

- A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, structures and traffic controls.
- B. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- C. Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.
- D. Adequacy of drainage and storm water facilities, and plans for continued maintenance of same.
- E. Adequacy of water supply and sewage disposal facilities.

- F. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between applicant's and adjoining lands including maximum retention of existing vegetation.
- G. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- H. Adequacy of fire lanes and other emergency zones and water supply for firefighting purposes.
- I. Compatibility of building design with existing characteristics of the neighborhood.
- J. Protection of any historic or natural resources.

§ 16.5.4 All site plan building permit applications shall comply with the requirements and standards set forth in this Law and with accepted professional design practice for site improvements such as grading, drainage, sidewalks, curbs, parking, landscaping, fences and driveways as set forth in Section 14 (Design Standards). Driveways shall be located and constructed in accordance with the Law for such activity as adopted by the Town Board.

§ 16.5.5 To receive minor site plan approval, with or without conditions, the applicant shall submit eleven (11) copies of the site plan along with one digital CD containing all application materials, with final conditions to the Planning Board for stamping and signature by the chairman. These shall be accompanied by the following information:

- A Record of application for and approval status of all necessary permits from federal, state, county or local agencies.
- B An estimated project construction schedule and if a performance guaranty is required, a detailed site improvement cost estimate.
- C Proof of payment of all of the Planning Board's reimbursable costs as provided for herein.

§ 16.5.6 Reasonable costs incurred by the Planning Board for private consultation fees of a planner, engineer, attorney, architect or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, together with the cost of advertising any public hearing required. In this regard, the Planning Board may require such costs to be paid in advance, not to exceed 5% of the total project cost, and may deny an application upon failure of the applicant to make payment within sixty (60) days of the date of the original application submission.

§ 16.5.7 In the case of variance applications, the site plan shall be the subject of a preliminary review in accordance with the above procedure before action is taken by the Zoning Board of Appeals on such a variance application.

## § 16.6 General Considerations for a Special Exception Use Permit or Minor Site Plan Approval

§ 16.6.1 Before making a decision on whether to approve, approve with conditions, or disapprove a Special Exception Use permit or a Minor or Full Site Plan approval, the Planning Board shall give specific consideration to the general standards set forth in Section 14 and 15 of this Law. In permitting any Special Exception Use or approving any Site Plan, the Planning Board shall take into consideration the public health, safety, and general welfare, community character, agricultural protection, and environmental protection in addition to the comfort and convenience of the public in general in the Town and of the immediate neighborhood in particular. The Planning Board may require modifications to development proposals, submission of alternative design and layout proposals, and may attach reasonable conditions and safeguards to eliminate or minimize potential impacts as a precondition of its approval. In addition, the Planning Board shall also consider the following:

- A Traffic access.
- B Circulation. The interior circulation system shall be adequate to provide safe accessibility to all required off-street parking, and to provide for the convenience and safety of vehicular, pedestrian, and pedestrian movement within the site and in relation to adjacent areas or roads.
- C Character and appearance. The character and appearance of the proposed use, buildings, structures, outdoor signs and lighting shall be in general harmony with the character and appearance of the surrounding neighborhood and that of the Town of Claverack, and shall not adversely affect the general welfare of the inhabitants of the Town. The Planning Board may require a Visual Impact Assessment.
- D Historic and natural resources. The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site under review and in adjacent areas.
- E Level of public service. The level of services required to support the proposed activity or use is, or will be available, to meet the needs of the proposed activity or use. This consideration shall include: the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface or groundwater and the ability of the volunteer fire and emergency departments to service the site.

- F Emergency services. All proposed buildings, structures, equipment and/or material, shall be readily accessible for fire, police, and other emergency service protection.
  
- G Nuisances. The proposed use shall not be more objectionable to nearby property owners or occupants by reason of noise, fumes, vibration, or lighting than would the operations of a permitted principal use. The performance standards found in this chapter shall represent the minimum requirements to be achieved by any proposed use.
  
- H Additional safeguards and conditions. The Planning Board shall impose additional conditions and safeguards upon the special permit or site plan as may be reasonably necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.
  
- I Environmental consideration. The proposed use shall not have a significant adverse environmental impact as defined by the New York State Environmental Quality Review Act (SEQR). Such determination shall be made by the Town Planning Board or other designated lead agency;
  
- J Agricultural consideration. The proposed use shall not have a significant adverse impact on continuing agricultural operations located in or within 500' of a New York State designated Agricultural District.
  
- K In or adjacent to a residence. In addition to the above criteria, in the case of any use located in, or directly adjacent to a residence district:
  - i The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, the size of the site in relation to the use, its site layout and its relation to existing and future streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection with the use, will not be hazardous or inconvenient to, or incongruous with, said residence district, or conflict with the normal traffic of the neighborhood; and
  
  - ii The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development, and use of, adjacent land and buildings, or impair the value thereof.

- L All special exception use standards and requirements of Section 15 shall be complied with and included in the coordinated review of the site plan and special exception application.

### § 16.7 SEQRA Compliance for Minor Site Plans

- A. No application, whether a minor or full site plan review shall be approved without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and submission of an acceptable draft environmental impact statement. No application shall be deemed complete unless a negative declaration or a Draft Environmental Impact Statement has been filed as per SEQRA.

### § 16.8 Public Hearing and Notice for Minor Site Plans

§ 16.8.1 The Planning Board shall not authorize any use requiring special exception permit approval or site plan approval without first holding a public hearing at which interested parties and citizens shall have an opportunity to be heard. The public hearing shall be conducted within sixty-two (62) calendar days of the Planning Board' determination that the application is complete. A complete application includes either a Draft Environmental Impact Statement or a negative declaration as per SEQRA. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing.

§ 16.8.2 Extension of Time to Render Decision. The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

§ 16.8.3 The Planning Board shall be responsible for publication of the public hearing notice in a newspaper of general circulation in the Town at least five business (5) days before the date of such hearing. This notice shall include a general description of the proposal which is the subject of the application, and shall identify the applicant and the location of the proposal. Notice shall also be posted on the Town Web site at least five business (5) days prior to the date of the hearing.

§ 16.8.4 The Planning Board shall mail copies of the public hearing notice at least ten business (10) days prior to the public hearing, or as otherwise required to by state law to the applicant, involved agencies, and as otherwise required by SEQRA, and to all farms located in a New York State Agricultural District as identified on the Ag Data Statement provided by the applicant within five hundred (500) feet of the project. Such notice shall be by ordinary mail, and, at the discretion of the Planning Board, the Secretary of the Planning Board or the applicant, shall furnish proof of compliance with the notification procedure, all costs required and fees assessed by the Secretary of the Planning Board, to be borne by the applicant.

§ 16.8.5 If the land involved in any application lies within five hundred (500) feet of the boundary of any other municipality, the Town Clerk shall also transmit to the Municipal Clerk

of such other municipality, a copy of the official notice of public hearing thereon not later than the day after such notice appears in the official newspaper of the Town.

## § 16.9 Decision on a Minor Site Plan and/or Special Exception Use Permit

§ 16.9.1 Time of decision. Within sixty-two (62) days of the public hearing, the Planning Board shall render a decision on the site plan and/or Special Exception Use permit. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the site plan and Special Exception Use permit is recommended for approval, disapproval or approval with conditions. If the proposal is recommended for disapproval, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The Planning Board's decision must be filed with the Town Clerk within five (5) business days after such decision is rendered and a copy mailed to the applicant.

§ 16.9.2 Approval. Upon approval of the site plan and/or Special Exception Use permit and payment by the applicant of all fees and reimbursable costs pursuant to Local Law 4 of 2007 due to the Town, the Planning Board shall endorse its approval on a copy of the site plan, and shall, within five (5) business days of its decision, file along with the site plan, a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

§ 16.9.3 Approval with Conditions. The Planning Board may approve the site plan and/or Special Exception Use permit, and require that specific conditions be met. A copy of a written statement of approval containing the modifications required by the Planning Board shall be sent to the applicant by mail. The applicant shall submit a final site plan with the conditions enumerated or shown in reproducible form. Upon approval, and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk.

§ 16.9.4 Disapproval. Upon disapproval of the site plan and/or Special Exception Use permit, the decision of the Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board' reasons for disapproval.

§ 16.9.5 Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

§ 16.9.6 A. building permit associated with an approved Site Plan or Special Exception Use application shall be obtained within 90 days of Planning Board approval and shall automatically expire if construction or use under the permit is not started within 90 days of issuance and completed within 18 months. Extensions of these periods may be granted by the Planning Board where good cause is shown.

§ 16.9.7 Renewal Procedure. As a condition of approval, the Planning Board may require that special exception use permits be renewed periodically. Thirty (30) days prior to the expiration of a special exception use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special exception use permit. The Zoning Enforcement Officer shall inspect the premises to verify that the conditions of the permit have been met. Upon a finding that there are no violations and no complaints have been lodged against the applicant, the special exception use permit shall be renewed for a time period equal to the original special exception use permit approval. However, where the Zoning Enforcement Officer finds that the applicant is in noncompliance of the special exception use permit, or that complaints have been lodged against the applicant, then such renewal shall require Planning Board approval and may be granted only following due notice and hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the applicant for full compliance prior to revocation of the permit.

## § 16.10 Full Site Plans

§ 16.10.1 After the sketch plan review by the Planning Board, and subsequent review of the application for completeness by the Building Inspector, a complete application for full site plan and special exception use approval shall be made in writing to the Planning Board, and shall be accompanied by eleven (11) copies of plans along with one digital CD containing all application materials, and any descriptive matter as determined necessary by the Planning Board at the time of the sketch plan conference. Only complete applications for full site plan review shall be considered for approval. Site plans shall be prepared by a licensed professional engineer, architect, or landscape architect, and shall refer to specific data sources and shall include the following information:

- A Application form. A completed application on forms prescribed by the Planning Board;
- B Vicinity maps. A vicinity map drawn at a scale of two thousand (2,000) feet to the inch or larger that shows the relationship of the proposal to existing community facilities that will serve or influence the layout, such as roads, trails, parks, churches, firehouses, structures or areas of historic or scenic importance as identified in the Town of Claverack Comprehensive Plan or by the local historical society, and such other facilities that the Planning Board determines are appropriate. Such a sketch may be superimposed on the most recent United States Geological Survey's topographic map of the area. A Town tax map shall also show all properties, subdivisions, streets, power lines, and easements within five hundred (500) feet of all property lines of the subject parcel under consideration for site plan review;
- C Site plan. A site plan or set of plans of the entire parcel(s) under consideration drawn at a scale of forty (40) feet to the inch (one inch equals forty (40) feet) or

other appropriate scale as determined by the Planning Board on standard twenty-four-inch-by-thirty-six-inch (24" x 36") sheets, showing the following:

- i Title of drawing, including the name and address of the owner of record, applicant, and licensed professional(s) responsible for the preparation of such drawing, including seal and signature;
- ii North arrow, scale and date;
- iii Boundaries of the property with surveyed dimensions;
- iv Names of all owners of record adjacent to the applicant's property and all owners within 300 feet of the property;
- v Existing zoning district, and any overlay district boundaries, and whether it is within or adjacent to a NYS Agricultural District, a National Register District, or an identified aquifer;
- vi Acreage proposed land use on the applicant's property;
- vii Grading and drainage plan showing existing and proposed contours with intervals of two feet extending fifty (50) feet beyond the tract. If any portion of the parcel is within a one hundred-year floodplain as determined by the Federal Emergency Management Agency (FEMA), the area will be shown and base flood elevations given;
- viii Location and boundaries of all existing natural land features on the property, including rock outcrops, isolated trees twelve (12) inches or more in diameter at breast height (dbh), locations of existing vegetative and forest cover, orchards, hedgerows and other ornamental landscaping, stone walls, soil types and boundaries, active farmlands and prime agricultural soils, visually prominent agricultural landscape features, such as fields, pastures, and meadows on knolls and hilltops, woodlands along roadways, property lines, and streams, scenic vistas, steep slopes in excess of fifteen percent (15%), and water sources. Water sources include ponds, lakes, wetlands and watercourses, aquifers, aquifer recharge areas, floodplains, and drainage retention/detention areas;
- ix Location of all existing buildings, structures, signs, and agricultural lands, on adjacent property within one hundred (100) feet of the subject lot lines;

- x Location, proposed use, size, design, type of construction, exterior dimensions, height, and setback measurements of all existing and proposed buildings, structures, and signs on the applicant's property, including plans for exterior elevations at a scale of one-quarter inch (1/4") equals one (1) foot showing the structure's mass and architectural features, and indicating the type and of materials to be used. A table indicating square footage of building areas to be used for a particular use, such as retail operation, office use, warehousing, or other commercial activity, maximum number of employees, maximum seating capacity, where applicable, and number of parking spaces existing and required for the intended use. In a development of two (2) or more lots, the elevation shall be understood to be the median elevation of all principal buildings to be sited;
  
- xi Signs, including size, height, design, lighting and materials specifications (see Section 14.4);
  
- xii Traffic flow patterns within the site, entrances and exits, truck/commercial vehicle loading and service areas, curb cuts on the site and within one hundred (100) feet of the site, and all streets which are either proposed, mapped or built;
  
- xiii The location, design, and construction materials of all off-street parking areas (open and enclosed, if any), including the number of parking spaces required, and to be provided. The Planning Board shall encourage the provision of parking areas using alternative paving materials, such as paving blocks where the interstices are filled with sod, or through parking reserve areas which may not be constructed until and unless demand is evident;
  
- xiv The location, design, and construction materials of all present and proposed walkways, bicycle paths and racks, benches, ramps, outdoor storage or display areas, retaining and/or landscaping walls and fences;
  
- xv A landscape plan showing all proposed changes to existing natural land features, including size and type of plant material, and the number, size, types and locations of all trees, shrubs, and ground covers to be added. A planting schedule and a landscape maintenance plan shall be included. Trees to be saved shall be noted on site plans, and appropriate measures shall be outlined to protect the tree stock from damage during construction. Open space and recreational areas shall be identified. The location and proposed development of all buffer areas between the proposed site and adjacent properties, including existing vegetative cover and that portion that will be preserved or enhanced, shall be also indicated. The applicant's site plans shall show all live plant materials and non-plant materials, such as those described herein, to be installed on the site in order to meet the landscape requirement. The landscape plan shall also include an analysis of how the site is to be prepared for plant material installation with an emphasis on soil

quality and available depth. All playground, parking, storage, waste, and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Parking lot landscaping shall also comply with this section. Street trees and sidewalks shall comply with Section 14.6. Where conflicts exist, the more restrictive provisions apply:

- 1 Provide the location, design and construction materials of all off-street parking areas, including the number of parking spaces required. Landscaping for these areas shall be indicated on the site plan.
- 2 Provide the location, design and construction materials of all present and proposed walkways, and retaining and/or landscaping walls and fences. Connections shall be provided to adjoining parcels for future pedestrian and bicycle access where possible.
- 3 Provide a landscape plan showing all proposed changes to existing land features, and the number, size, types and locations of all trees, shrubs and ground covers to be added. A planting schedule and a landscape maintenance plan shall be included, as well as an irrigation system plan, if proposed. Green space and recreational areas shall be identified. The location and proposed treatment of all buffer areas shall be indicated.
- 4 Site plans shall specify the location, type, and size of major existing plant materials with justification as to which such materials shall be removed and which shall be retained or relocated.
- 5 Landscaping shall be installed with adequate precautions to ensure survival prior to an issuance of a Certificate of occupancy for the building or use. The Town's Code Enforcement Officer is authorized to inspect periodically all landscape treatments. Landowners shall be responsible for proper maintenance and care of all landscaping treatments. If completion of required landscape work is not practical due to seasonal or weather conditions, the applicant shall submit assurances to the Planning Board and the Town Attorney for the completion of landscaping. This assurance will include a performance bond equal to the cost of the landscaping work, and said work must be completed within a specified period of time, as determined by the Planning Board, not exceeding 6 months from the date of occupancy.

xvi The location, design and construction materials of all existing and proposed utility systems including water supply system; sewage disposal; telephone, cable and energy systems, including: electric, oil, gas, solar, or other energy system;

storm drainage system, including but not limited to: existing and proposed drain lines, culverts, catch basins, headwalls, end walls, manholes, and drainage swales;

xvii The location of fire and emergency access ways and zones, including the location of fire hydrants, or the nearest alternative water supply for fire emergencies;

xviii The location, type, and screening details for solid waste disposal facilities and containers;

xix The proposed location, height, orientation, type of illuminating device, bulb type and wattage, and photometric data of all outdoor lighting fixtures, as required in Section 14.8 of this law;

xx The location, height, size, materials, design, and illumination of all present and proposed signs, and other advertising or instructional devices, as required in Section 14.4 of this law;

xxi Estimates of noise generation;

xxii Inventory and quantity of hazardous materials anticipated for on-site storage and/or use, if applicable;

xxiii Plans for the disposal of construction and demolition waste, whether on-site or at a New York State approved solid waste management facility; and

xxiv For projects involving more than one phase, a site plan indicating the ultimate development of the entire property.

D Supporting materials. The following materials shall also be submitted:

i A copy of the deed to the property as most recently filed, and/or a copy of the executed contract of sale;

ii A copy of each covenant, easement, or deed restriction in effect, or intended to cover all or part of the tract;

iii Written offers of easement to the Town of Claverack or other public agencies for purposes of stormwater drainage, utility rights-of-way, etc, as needed;

- iv Identification of all necessary permits from federal, state, county or local agencies, approvals required from said agencies for the project's execution, and proof of special permit and/or variance approvals if applicable;
  - v As applicable, soil logs from on-site borings or test pits, percolation test results, and stormwater runoff calculations.
  - vi As applicable, plans to prevent:
    - 1 The pollution of surface or groundwater;
    - 2 Erosion of soil both during and after construction;
    - 3 Excessive runoff;
    - 4 Excessive raising or lowering of the water table; and
    - 5 Flooding of other properties.
  - vii An Agricultural Data Statement as per NYS AML 25-aa for all applications in or within 500' of a New York State designated Agricultural District.
- E Additional supporting materials. The Planning Board may require the following additional supporting materials to be submitted, depending on the size and potential degree of impact on the Town:
- i Analysis of fiscal impacts to the Town including projected tax revenues and cost of community services using a methodology in common use; and
  - ii A traffic impact study and analysis due to the proposal's location in heavy traffic areas or when traffic is expected to increase by more than one hundred 100 cars per day. Such study and analysis shall be funded by the applicant, shall be consistent with the Traffic Study Methodology Guidelines published by the New York State Department of Transportation, and shall include:
    - 1 The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
    - 2 The projected traffic flow pattern, including vehicular movements at all major intersections, likely to be affected by the proposed use of the site;

- 3 The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall be given; and
  - 4 Such other supporting materials as deemed necessary by the Planning Board.
- iii A visual impact study that illustrates and evaluates the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of visual character and intensity of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements). This study may also require an analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and grade changes; and renderings, photo-simulations, and other information to convey alterations to the existing visual environment.

### § 16.11 Agency, consultant, and Public Review for Full Site Plans and/or Special Exception Uses

§ 16.11.1 Agency and consultant review. In its review, the Planning Board may consult with the Town Building Inspector, the Town Highway Superintendent, the Conservation Advisory Board or Council if it exists, appropriate emergency services providers, other local and county officials and boards, and its designated private planning, engineering, legal, and other consultants, in addition to representatives of federal and state agencies, including, but not limited to, the State Department of Transportation, the State Health Department, the State Office of Parks, Recreation and Historic Preservation, the Secretary of State, the State Department of Environmental Conservation, the U.S. Army Corps of Engineers, US Fish and Wildlife Service, and the U.S. Department of Agriculture's Natural Resources Conservation Service.

§ 16.11.2 County Review. The Town of Claverack Planning Board shall refer for review and recommendation all Special Exception Use and Site Plan applications that fall within those areas specified under General Municipal Law, Article 12-B, Section 239-m to the Columbia County Planning Board prior to taking final action. If the Columbia County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, the Town of Claverack Planning Board may act without such report. If the Columbia County Planning Board disapproves of the proposal or recommends modification of the proposal, the Planning Board shall not act contrary to such disapproval or recommendation, except by a majority vote plus one (1) of all the members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary act. Within seven (7) business days after taking final action, the Town of Claverack Planning Board shall file a report of the final action with the Columbia County Planning Board.

## § 16.12 SEQRA Compliance for Full Site Plan and/or Special Exception Use Permits

§ 16.12.1 No application, whether a minor or full site plan review shall be approved without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and submission of an acceptable draft environmental impact statement. No application shall be deemed complete unless a negative declaration or a Draft Environmental Impact Statement has been filed as per SEQRA.

## § 16.13 Public Hearing and Notice for Full Site Plan and/or Special Exception Use Permits

§ 16.13.1 The Planning Board shall not authorize any use requiring special exception permit approval or site plan approval without first holding a public hearing at which interested parties and citizens shall have an opportunity to be heard. The public hearing shall be conducted within sixty-two (62) calendar days of the Planning Board's determination that the application is complete. A complete application includes either a Draft Environmental Impact Statement or a negative declaration as per SEQRA. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing.

§ 16.13.2 Extension of Time to Render Decision. The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

§ 16.13.3 The Planning Board shall be responsible for publication of the public hearing notice in a newspaper of general circulation in the Town at least five (5) business days before the date of such hearing. This notice shall include a general description of the proposal which is the subject of the application, and shall identify the applicant and the location of the proposal. Notice shall also be posted on the Town Web site at least five (5) business days prior to the date of the hearing.

§ 16.13.4 The Planning Board shall mail copies of the public hearing notice at least ten (10) business days prior to the public hearing, or as otherwise required to by state law to the applicant, involved agencies, and as otherwise required by SEQRA, and to all farms located in a New York State Agricultural District as identified on the Ag Data Statement provided by the applicant within five hundred (500) feet of the project. In addition, the Planning Board shall send a notice of the hearing at least ten business days before the date of the hearing to the owners of the property abutting that held by the applicant. Such notice shall be by ordinary mail, and, at the discretion of the Planning Board, the Secretary of the Planning Board or the applicant shall furnish proof of compliance with the notification procedure and all costs required and fees assessed by the Secretary of the Planning Board will be borne by the applicant.

§ 16.13.5 If the land involved in any application lies within five hundred (500) feet of the boundary of any other municipality, the Town Clerk shall also transmit to the Municipal Clerk

of such other municipality, a copy of the official notice of public hearing thereon not later than the day after such notice appears in the official newspaper of the Town.

#### § 16.14 Decision on Full Site Plan and/or Special Exception Use Permits

§ 16.14.1 Time of decision. Within sixty-two (62) days of the public hearing, the Planning Board shall render a decision on the site plan and/or Special Exception Use permit. The Planning Board action shall be in the form of a written statement to the applicant stating whether the site plan and Special Exception Use permit is recommended for approval, disapproval or approval with conditions. If the proposal is recommended for disapproval, the Planning Board' statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The Planning Board' decision must be filed with the Town Clerk within five (5) business days after such decision is rendered and a copy mailed to the applicant.

§ 16.14.2 Approval. Upon approval of the site plan and/or Special Exception Use permit and payment by the applicant of all fees and reimbursable costs pursuant to Local Law 4 of 2007 due to the Town, the Planning Board shall endorse its approval on a copy of the site plan, and shall, within five (5) business days of its decision, file along with the site plan, a written statement of approval with the Town Clerk and the Building Inspector. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

§ 16.14.3 Approval with Conditions. The Planning Board may approve the site plan and/or Special Exception Use permit, and require that specific conditions be met. A copy of a written statement of approval containing the conditions required by the Planning Board shall be sent to the applicant by mail. The applicant shall submit a final site plan with the conditions enumerated or shown in reproducible form. Upon approval, and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk and the Building Inspector.

§ 16.14.4 Disapproval. Upon disapproval of the site plan and/or Special Exception Use permit, the decision of the Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board' reasons for disapproval.

§ 16.14.5 Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.

§ 16.14.6 Renewal Procedure. As a condition of approval, the Planning Board may require that special exception use permits be renewed periodically. Thirty (30) days prior to the expiration of a special exception use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special exception use permit. The Zoning Enforcement Officer shall inspect the premises to verify that the conditions of the permit have been met. Upon a finding that there

are no violations and no complaints have been lodged against the applicant, the special exception use permit shall be renewed for a time period equal to the original special exception use permit approval. However, where the Zoning Enforcement Officer finds that the applicant is in noncompliance of the special exception use permit, or that complaints have been lodged against the applicant, then such renewal shall require Planning Board approval and may be granted only following due notice and hearing. Renewal may be withheld upon a determination by the Planning Board that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the applicant for full compliance prior to revocation of the permit.

### § 16.15 Administration/Enforcement for Minor and Full Site Plans and/or Special Exception Use Permits

§ 16.15.1 Site Plan Completion. No permit or certificate of occupancy shall be issued by the Zoning Enforcement Officer, except upon authorization by, and in conformity with, an approved site plan where required.

§ 16.15.2 Revocation of Approval. Failure by any property owner to continually observe all conditions of a site plan or special exception use approval shall result in an immediate stop work order issued by the ZEO. The site plan approval any building permit and certificate of occupancy may be revoked after notice and hearing. If the Zoning Enforcement Officer determines that the site is not being maintained in accordance with its approval, he shall order the same to be corrected within ten (10) business days of the date of his order. Should non-compliance continue, the Zoning Enforcement Officer may recommend revocation of site plan approval by the Planning Board. Upon receipt thereof, the Planning Board shall notify the owner of said premises by written notice. Such notice shall specify the time, date and place of said hearing and the ground upon which revocation has been recommended.

§ 16.15.3 Court Review. Any person aggrieved by a decision of the Planning Board may apply to the New York State Supreme Court for review of procedural issues by a proceeding under Article 78 of the Civil Practice Laws and rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by the Planning Board in the office of the Town Clerk.

§ 16.15.4 Costs. Costs shall not be allowed against the Planning Board or Zoning Board of Appeals unless it shall appear to a court of competent jurisdiction that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

§ 16.15.5 Performance guarantee options. Subsequent to the granting of site plan approval or special exception use, no certificate of occupancy shall be issued until all improvements shown on the site plan and/or conditioned in the special exception use permit are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed. The Planning Board may require that the applicant enter into one of the following agreements with the town.

- A. Furnish a bond executed by a surety bond company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be based on an estimate furnished by the applicant, confirmed by the Zoning Enforcement Officer or Town Engineer; and approved by the Planning Board as the case may be.
- B. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.

## § 16.16 Conditions

§ 16.16.1 The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

§ 16.16.2 Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.

§ 16.16.3 Extension of time. The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within 18 months from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or certified check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction or improvements is not performed in accordance with applicable standards and specifications.

§ 16.16.4 Schedule of improvements. When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the check deposit or performance bond.

§ 16.16.5 Inspections. Prior to the Planning Board Chairman signing the site plan, the applicant shall pay to the Town Clerk an inspection fee escrow established by the Claverack Town Board. Inspections during installation of improvements shall be made by the Town Engineer and/or Zoning Enforcement Officer to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Town Engineer and Zoning Enforcement Officer when each phase of improvements is ready for

inspection. Upon acceptable inspection and final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the town of the portion of the performance bond or certified check deposit as designated in the contract to cover the cost of such completed work.

§ 16.16.6 Phased development. The Planning Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Town Engineer and Zoning Enforcement Officer.

§ 16.16.7 Enforcement. Failure by any applicant to comply with all conditions of a site plan approval shall result in an immediate stop work order issued by the ZEO. If the Zoning Enforcement Officer determines that the site is not being maintained in accordance with the site plan, he shall order the same to be corrected within ten (10) business days of the date of his order. Should noncompliance continue, the Zoning Enforcement Officer may recommend revocation of site plan approval by the Planning Board or special exception use permit approval by the Planning Board. Upon receipt thereof the permitting Board shall notify the owner of said premises by written notice. Such notice shall specify the time, date and place of said hearing and the ground upon which revocation has been recommended. After hearing all competent evidence, it shall render a decision.

## Chapter 17 - NONCONFORMING USES AND NONCONFORMING BUILDINGS OR STRUCTURES

### § 17.1 Application of Regulations

§ 17.1.1 These provisions shall apply to all lots, buildings or structures, and all uses of buildings or structures or lots lawfully existing prior to the effective date of this Law, or of subsequent amendments, revisions or re-enactments of such Law, which do not conform to the provisions of said original Law, or to such revisions or re-enactments on their effective dates.

### § 17.2 Unlawful Buildings, Structures, or Uses not to be Construed as Nonconforming

§ 17.2.1 No building or structure not lawfully erected at the effective date of this Law, nor any use of a building or structure or lot, nor any lot not lawfully existing at the effective date of this Law shall be deemed a nonconforming building, structure, use, or lot pursuant to this Law.

### § 17.3 Continuance

§ 17.3.1 Any lawful: (i) non-conforming building or structure; (ii) nonconforming use of any nonconforming building or structure; (iii) non-conforming use of conforming building or structure; or (iv) non-conforming use of land in existence on the effective date of this Zoning Law, may be continued indefinitely if maintained in accordance with all applicable codes, ordinances, regulations and other requirements, but:

- A. Shall not be enlarged or extended, altered, reconstructed or restored, except as provided in this Law, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this Zoning Law. However, any proposed change to a use, building or structure which under this Zoning Law requires special exception permit and/or site plan approval shall require special exception permit and/or site plan approval in accordance with this Law.
- B. Shall not be moved to another location where such use would be non-conforming.
- C. Shall not be changed to another non-conforming use.

§ 17.3.2 A nonconforming building or structure that is not devoted to a nonconforming use may be reconstructed, structurally altered, restored or repaired in whole or in part.

§ 17.3.3 A legal buildable lot which is rendered non-conforming by this Law may be used, or a building or structure may be erected on such lot for use, in accordance with all the other applicable provisions of this Law. Thus, an existing undersized lot that becomes nonconforming as a result of this Law may be used or sold for one residence, but shall not be further subdivided.

§ 17.3.4 An existing building designed and used for a conforming use but located on a nonconforming lot, whether the building is conforming or nonconforming with respect to lot coverage and minimum yard requirements, may be reconstructed, structurally altered, restored or repaired in whole or in part, except that the degree of nonconformity shall not be increased.

## § 17.4 Extension

§ 17.4.1 Nonconforming Uses. No additional nonconforming uses shall be allowed.

§ 17.4.2 Nonconforming mobile homes. A non-conforming mobile home, previously legally placed in accordance with the then applicable zoning law, may be replaced with a newer mobile home that complies with all safety requirements and building codes applicable at the time of replacement, one time per parcel within the town. Any such replacement shall not be deemed an illegal extension or enlargement of the nonconformity where the placement of said newer home complies with all other regulations contained herein. The replacement of a nonconforming mobile home shall be subject to site plan approval by Planning Board.

§ 17.4.3 Nonconforming Buildings or Structures. An existing building or structure, whether above ground or underground, that does not meet the requirements of this Zoning Law may be

extended, provided that the extent of such addition does not exceed 20% of the gross floor area of building or structure footprint of the existing building or structure and the addition is in strict compliance with the requirements set forth for the zoning district in which it is located.

## § 17.5 Change

§ 17.5.1 A nonconforming use shall only be changed to a conforming use.

§ 17.5.2 Nonconforming uses shall not be moved to another location where such use would be nonconforming.

§ 17.5.3 No lot shall be reduced in area so that it results in nonconformity with either the bulk and dimensions or use provisions in this Law.

## § 17.6 Abandonment

§ 17.6.1 A nonconforming use shall be deemed to have been abandoned: When it is changed to a conforming use. In cases where such nonconforming use is of a building or structure designed for such use, when it has been voluntarily discontinued for a period of twenty-four (24) consecutive months.

§ 17.6.2 A nonconforming use that has been abandoned shall not thereafter be reinstated. A nonconforming use or structure shall thereafter be replaced by a conforming, permitted use or structure.

## § 17.7 Destruction

§ 17.7.1 Nothing in this Law shall prevent the restoration, within one year, of a building or buildings destroyed, in whole or in part, by fire, explosion, Act of God or act of public enemy or prevent the continuance of the use of such building or buildings or part thereof.

## § 17.8 Pending Permit Applications

§ 17.8.1 Any site plan, subdivision or building permit application which was submitted to the Town of Claverack prior to the effective date of this Zoning Law but has not yet been permitted may continue to be processed and considered by the Planning Board or Code Enforcement Officer provided the application is amended to fully comply with the requirements of this Zoning Law. The applicant shall have no vested rights to a project that has not received any approvals or permits from the Town of Claverack. For a project that has already received a permit from the Town of Claverack as of the effective date of this Zoning Law, then the project shall be allowed to continue as approved or permitted.

## Chapter 18 - BOARD OF APPEALS

## § 18.1 Purpose

§ 18.1.1 The Zoning Board of Appeals shall have the following jurisdiction and authority: to hear and decide appeals from and review any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer.

## § 18.2 Membership

§ 18.2.1 Said Board shall consist of seven (7) members. The method of appointment, terms of office, and tenure of its members shall be as prescribed by law.

§ 18.2.2 The Town Board shall designate the chairperson of the Zoning Board of Appeals.

§ 18.2.3 In the absence of a chairperson, the board of Appeals may designate a member to serve as acting chairperson.

§ 18.2.4 No person who is a member of the Town Board shall be eligible for membership on the Board of Appeals.

§ 18.2.5 The appointment of members to the Zoning Board of Appeals shall for a term which shall be equal in years to the number of members of the Zoning Board of Appeals.

§ 18.2.6 If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

§ 18.2.7 The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements related to meeting attendance and training as established by this law. However, if the Town Board reduces the number of members from seven to five, no incumbent shall be removed from office except upon the expiration of his or her term. Cause for removal of a member may include one (1) or more of the following:

- A. Any undisclosed or unlawful conflict of interest.
- B. Failure to attend 33% of the meetings during the course of one (1) calendar year, or failure to attend four (4) consecutive meetings.
- C. Failure to complete their mandatory training requirements.

§ 18.2.8 Mandatory Training. All members of the Zoning Board of Appeals shall comply with the requirements of New York State Town Law Section 271 that require all Zoning Board of Appeals members to complete a minimum of four (4) hours of training each year. No Zoning Board of Appeals member shall be eligible for reappointment if they have not completed this training as required. The Town Supervisor shall check annually on the training certificates

earned and filed with the secretary of the Board of Appeals to ensure that all members have fulfilled at least the minimum hours of education specified.

§ 18.2.9 All meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as such board may determine.

§ 18.2.10 The Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.

### § 18.3 Meeting and Voting Procedures

§ 18.3.1 All meetings of the Board of Appeals shall be open to the public. A quorum shall consist of four (4) members.

§ 18.3.2 Every decision by the Board shall be by resolution, and shall contain a full record of the findings of the Board in the particular case.

§ 18.3.3 If all fees have not been paid at the time that approval is given by the ZBA, the process will be delayed until all fees, fines or costs due the Town of Claverack are fully paid.

§ 18.3.4 Every motion or resolution of the Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the Columbia County Planning Agency the voting procedures of Section 239-m of the General Municipal Law shall apply.

§ 18.3.5 The Board of Appeals shall decide upon the appeal within 62 days of the conduct of a hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

§ 18.3.6 In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Code Enforcement Officer within the time allowed by 18.3.5 of this Law, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to rehearing process as set forth in 18.3.7.

§ 18.3.7 A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board 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 Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board 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.

§ 18.3.8 The ZBA shall coordinate with the Planning Board chair to ensure that such board has knowledge of project applications currently under review by the Zoning Board of Appeals.

#### § 18.4 Application and Public Hearing Procedure

§ 18.4.1 Applications for any action by the Board of Appeals, except only site plan review pursuant to Section 16 hereof, shall be submitted in the form required by the Board and this Section 18.

§ 18.4.2 The Board shall fix a time and place for a public hearing thereon, and shall provide for the giving of notice at least 10 days prior to the date thereof, as follows:

- A. By publishing a notice in the official newspaper and sending a notice by certified mail to the owners of properties within 300 feet of the property affected by the proposed application, including properties on the opposite side of the street or highway, except as provided with respect to temporary housing which provisions shall control as to notice for such applications.
- B. By requiring the applicant to erect a white-with-black-lettering sign or signs measuring not less than two (2) feet long and one (1) foot wide, which shall be prominently displayed on the premises facing each public street on which the property abuts, giving notice that an application for an appeal is pending, and the date, time and place where the public hearing will be held. The sign shall not be setback more than 10 feet from the property or street line and shall be not less than two (2) nor more than six (6) feet above the grade at the property line. The sign shall be made of durable material and shall be furnished by the municipal clerk. It shall be displayed for a period of not less than 10 days immediately preceding the public hearing date or any adjournment date.
- C. The applicant shall file an affidavit that he has complied with the provisions of this Section.
- D. If the land involved in an application is within 500 feet of the boundary of any other municipality, notice of the public hearing shall also be mailed to the municipal clerk of such other municipality.

§ 18.4.3 Notice of the public hearing and a description of the applicant's proposal shall be mailed to the Columbia County Planning Board in any case where the land involved in an application is within 500 feet of:

- A. The boundary of any other municipality.
- B. Any State or County park or other recreation area.

- C. The right-of-way of any Federal, State, or County parkway, thruway, expressway or other controlled access highway.
- D. The right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines.
- E. The boundary of any State- or County-owned land on which a public building or institution is situated.
- F. The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.

§ 18.4.4 No action shall be taken on applications referred to the Columbia County Planning Board, until the recommendation has been received, or 30 days have elapsed after the Columbia County Planning Board received the full statement on the applicant's proposal.

§ 18.4.5 A record shall be established of all variances granted pursuant to action of the Board of Appeals under this Law. Each case shall be identified by a sequential numbering system and alphabetically by applicant's name. Said files shall be available for public inspection.

§ 18.4.6 The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and official actions all of which shall be filed in the municipal Clerk's office and shall be a public record.

§ 18.4.7 Zoning permits authorized by Board of Appeals' actions on variances shall be obtained within 90 days and shall automatically expire if construction or use under the permit is not started within 90 days of issuance and completed within one (1) year. Extensions of these periods may be granted by the Board of Appeals where good cause is shown.

§ 18.4.8 The fee of variance applications to the Board of Appeals shall be as determined by Town Board.

## § 18.5 Appeals on Interpretation of the Zoning Law and Map

§ 18.5.1 The Board of Appeals shall, upon appeal, hear and decide:

- A. Any matter where the applicant alleges that the Building Inspector was in error in refusing to issue a building permit or certificate of occupancy, as a result of misinterpreting the meaning, intent or application of any section or part of this Law.

- B. Any matter where the applicant alleges that the Building Inspector was in error in his determination as to the exact location of a District boundary line on the Zoning Map that forms a part of this Law.
  
- C. Any matter which the Building Inspector or Zoning Enforcement Officer appeals on grounds of doubt as to the meaning or intent of any provision of this Law or as to the location of a District boundary line on the Zoning Map.

## § 18.6 Variances

§ 18.6.1 The Board of Appeals shall have the power in passing on appeals where, as a result of exceptional physical conditions connected with a particular site, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Law that would deprive the owner of the reasonable use of the land or building involved, to vary or modify the application of the regulations or provisions of this Law.

### § 18.6.2 Guiding Principles:

- A. Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.
  
- B. Every variance granted by the Board of Appeals may be made subject to such conditions and safeguards as the Board shall deem to be applicable to the particular case.
  
- C. Violations of such conditions or safeguards that are a part of the Board's decision shall be deemed a violation of this Law.
  
- D. Any variance granted by the Board of Appeals pursuant to the provisions of this Section shall be construed to be a nonconforming use.

### § 18.6.3 Variances:

- A Use Variances: The Board of Appeals, on appeal from the decision or determination of the Building Inspector shall have the power to grant use variances, as defined herein.
  - i No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate the following to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located.

- ii The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - iii That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
  - iv That the requested use variance, if granted, will not alter the essential character of the neighborhood; and,
  - v That the alleged hardship has not been self-created.
  - vi The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- B Area Variances: The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer to grant area variances as defined herein.
- i In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant.
  - ii 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.
  - iii Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
  - iv Whether the requested area variance is substantial.
  - v Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: and,

- vi 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.
  - vii The Board of Appeals, 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.
- C Imposition of Conditions: The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### § 18.7 Conflicts

No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which he or she has an interest. Any conflict of interest prohibited by Article 18 of the New York State General Municipal Law shall disqualify a member.

### § 18.8 Meeting Cancellation Policy

Twenty-four (24) hours notice must be given for any Zoning Board meeting cancellation when an application has been placed on the agenda. If an applicant cancels a scheduled meeting in less than twenty-four hours then any costs incurred by the Town related to that application shall be charged to the applicant. In the event that an applicant and/or his representatives do not show up for, and have not cancelled, a scheduled meeting with the Board, and this happens three times, the application will be noted as withdrawn.

### § 18.9 Adoption of Rules and Regulations

The Zoning Board may adopt rules and regulations in respect to procedure before the ZBA not otherwise regulated herein or by State law or laws as to any subject matter over which it has jurisdiction. Such rules will be adopted after public hearing by the ZBA subject to the consent and approval of the Town board.

## Chapter 19 - PLANNING BOARD

### § 19.1 Purpose

§ 19.1.1 The Planning Board shall have the following jurisdiction and authority:

- A. To review and make recommendations on: studies, amendments, or other matters relevant to the Town of Claverack Comprehensive Plan; and matters relating to the

planning and development of the Town of Claverack as it seems desirable, provided that the total expenditures of the Planning Board shall not exceed the appropriations therefore.

- B. To hear, review and finally decide applications for minor and full site plan review.
- C. To hear, review, and finally decide applications for special exception use permits.
- D. To hear, review, and finally decide applications for subdivision.
- E. To investigate and report its recommendations to the Town Board with respect to any proposed study or amendment in the Zoning Law or other land use regulations of the Town of Claverack, the subject matter of which, is within the jurisdiction of the Planning Board pursuant to this Zoning Law or State law or other local law or ordinance of the Town.
- F. To review and report upon any matter referred to it by the Town Board pursuant to Section 271(14) of the New York State Town Law or the Zoning Board of Appeals, provided such referral by the Zoning Board of Appeals is authorized by law.
- G. To exercise any other powers and carry out any other duties as are authorized by law.
- H. To coordinate with the ZBA chair to ensure that such board has knowledge of project applications currently under review by the Planning Board.

## § 19.2 Membership

### § 19.2.1 Appointment and terms.

- A The Planning Board shall consist of seven (7) members appointed by the Town Board. Members now holding office for terms that do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be seven (7) years.
- B Successor Board members shall be appointed for the term of seven (7) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board to fulfill the remaining unexpired term of that member.

- C Board composition. All members of the Planning Board shall be residents of the Town of Claverack. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.
- D Vacancies. Permanent vacancies on the Planning Board shall be filled by the Town Board.
- E Mandatory training. All members and alternate members of the Planning Board shall comply with the requirements of New York State Town Law Section 271 that require all Planning Board members and alternate members to complete a minimum of four (4) hours of training each year. No Planning Board member shall be eligible for reappointment if they have not completed this training as required. The Town Supervisor shall check annually on the training certificates earned and filed with the secretary of the Planning Board to ensure that all members have fulfilled at least the minimum hours of education specified.
- F Removal. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by this Zoning Law or other law established by the Town Board. Cause for removal of a member may include one (1) or more of the following:
  - i Any undisclosed or unlawful conflict of interest.
  - ii Failure to attend 33% of the meetings during the course of one (1) calendar year, failure to attend four (4) consecutive meetings.
  - iii Failure to complete their mandatory training requirements.
- G Chairperson and Vice Chairperson. The Town Board shall appoint one of the Planning Board members as Chairperson, to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Planning Board members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may, from time to time, be provided by the rules of the Board. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. The chairperson, or acting chairperson, may administer oaths to applicants, witnesses, or others appearing before the Board and may compel the attendance of witnesses.

- H Appointment of Agricultural Member. The Town Board should make every effort to include on the Planning Board one or more members each of whom derives \$10,000 or more annual gross income from agricultural pursuits. As used in this Section, the term “agricultural pursuits” means the production of crops, livestock, and livestock products, aquaculture products and woodland products as defined in Section 301 of the New York State Agriculture and Markets Law.
- I Planning Board Secretary and Public Record. Upon recommendation by the Planning Board in coordination with the Zoning Board of Appeals, the Town Board shall appoint a Planning Board Secretary who shall attend all Planning Board proceedings and, upon request, the proceedings of any of its committees.
- J The Secretary shall keep minutes of the proceedings of the Planning Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board.
- K The Town Clerk shall provide for keeping a file of all records of the Planning Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege.

### § 19.3 Voting procedures

§ 19.3.1 Quorum. No business shall be transacted by the Board without four (4) members of the Board being present.

§ 19.3.2 Voting. The concurring vote of at least four (4) members shall be necessary for any action by the Board, pursuant to NYS Town Law 271(16). Where an action is the subject of a referral to the County Planning Board, and in the event that the County Planning Board recommends disapproval of the application within the thirty (30) day time period allowed them, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after taking final action on an application, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

§ 19.3.3 If all fees have not been paid at the time that approval is given by the Planning Board, the process will be delayed until all fees, fines or costs due the Town of Claverack are fully paid.

### § 19.4 Decisions

§ 19.4.1 Decisions. Every decision of the Planning Board shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.

§ 19.4.2 Final decision. All deliberations and decisions of the Planning Board shall occur at a meeting open to the public and shall state any special circumstances or conditions. Decisions of the Board shall be final upon adoption of resolution of Planning Board by a majority of the members of the Planning Board and the filing of the resolution with the office of the Town Clerk.

§ 19.4.3 Notification of decision. Within five (5) business days following the final decision on any action before the Planning Board, a notice of such decision shall be mailed to the applicant and such decision shall be filed in the office of the Town Clerk.

§ 19.4.3 Failure to Act. The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

### § 19.5 Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any conflict of interest prohibited by Article 18 of the New York State General Municipal Law shall disqualify a member.

### § 19.6 Appeals

Any person or persons, jointly or severally aggrieved by any final decision of the Planning Board, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of the decision of the Planning Board in the office of the Town Clerk.

### § 19.7 Meeting Cancellation Policy

Twenty-four (24) hours notice must be given for any Planning Board meeting cancellation when an application has been placed on the agenda. If an applicant cancels a scheduled meeting in less than twenty-four hours then any costs incurred by the Town related to that application shall be charged to the applicant. In the event that an applicant and/or his representatives do not show up for, and have not cancelled, a scheduled meeting with the Board, and this happens three times, the application will be noted as withdrawn.

### § 19.8 Adoption of Rules and Regulations

§ 19.8.1 The Planning Board may adopt rules and regulations in respect to procedure before the Planning board not otherwise regulated herein or by State law or laws as to any subject matter over which it has jurisdiction. Such rules will be adopted after public hearing by the Planning Board and subject to the consent and approval of the Town board.

## Chapter 20 - ADMINISTRATION AND ENFORCEMENT

### § 20.1 Interpretation

In applying and interpreting this Law, its provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or the general welfare. The following specific regulations shall apply:

- A A minimum required lot or yard size for one building or structure shall not be used in whole or in part as any part of a required lot or yard for a second structure.
- B The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Law.
- C The parking spaces required for one building or structure or use shall not be included in the computation of required parking spaces for a second building or structure or use unless two businesses agree to share spaces when they have operating hours that do not conflict.

### § 20.2 Relation of Zoning Law to Other Provisions of Law

§ 20.2.1 Nothing contained in this Law shall be taken to repeal, abrogate, annul or any way impair or interfere with the Building Code or any rules or regulations adopted or issued there under, or any other provisions of law or ordinance, or regulations, existing or as may be adopted in the future, when not in conflict with any of the provisions of this Law. Nor is it intended by this Law to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided that when this Law imposes a greater restriction upon the use of buildings, structures, premises, lots or land, or upon the height of buildings or structures, or required larger lots, yards, courts or other open spaces than imposed or required by such other provision of law, ordinance or regulations, or by such easements, covenants, or agreements, the provisions of this Law shall control.

§ 20.2.2 Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this Law, the provisions of such other law or ordinance or regulations shall control.

§ 20.2.3 No provision contained in this Law shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on any subdivision plat filed in the office of the County Clerk or within any Federal, State, County or municipal street or highway.

§ 20.2.4 Should there be doubt as to the meaning or intent of any provision of this Law, or as to the location of any District boundary line on the Zoning Map, or as to the propriety of issuing a Building Permit or a Certificate of Occupancy in a particular case related to the provisions of

this Law, the Code Officer shall appeal the matter to the Board of Appeals for interpretation and decision.

§ 20.2.5 If the Building Inspector should mistakenly issue a building permit which violates the provisions of this Law, that building permit shall be invalid.

### § 20.3 Special Definitions Governing Permits and Code Enforcement

§ 20.3.1 Building Permit shall mean a permit issued pursuant to this law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended.

§ 20.3.2 Certificate of Occupancy shall mean a certificate issued pursuant to this law.

§ 20.3.3 Code Enforcement Personnel shall include the Code Enforcement Officer and all Inspectors.

§ 20.3.4 Compliance Order shall mean an order issued by the Code Enforcement Officer pursuant to this law.

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

§ 20.3.6 Operating Permit shall mean a permit issued pursuant to Section 15 or 16 of this law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this law.

§ 20.3.7 Permit Holder shall mean the Person to whom a Building Permit has been issued.

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

§ 20.3.9 Stop Work Order shall mean an order issued pursuant to this law.

§ 20.3.10 Temporary Certificate shall mean a certificate issued pursuant to the provisions of this law.

§ 20.3.11 Town shall mean the Town of Claverack.

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

### § 20.4 Code Enforcement Officer and Inspectors

§ 20.4.1 Notwithstanding the commonly used terms of Building Inspector, Code Enforcement Officer, and Zoning Enforcement Officer, for purposes of this Section the term Code

Enforcement Officer is used. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, the flood damage prevention law, and this law. The Code Enforcement Officer shall have the following powers and duties:

- A To receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
- B Upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- C To conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this law;
- D To issue Stop Work Orders;
- E To review and investigate complaints;
- F To issue orders pursuant to Violations of this law;
- G To maintain records;
- H To collect fees as set by the Town of Claverack;
- I To pursue administrative enforcement actions and proceedings;
- J In consultation with Town attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this law;
- K To receive and review for completeness all site plan applications before they are submitted to the Planning Board and/or ZBA; and

- L To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this law.

§ 20.4.2 The Code Enforcement Officer shall be appointed by the Town Board.

- A The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.
- B In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this law.
- C One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.
- D The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.

## § 20.5 Building Permits

§ 20.5.1 Building Permits Required. Except as otherwise provided in 20.5.2 of this Section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

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

- A Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- B Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- C Installation of fences which are not part of an enclosure surrounding a swimming pool;
- D Construction of retaining walls unless such walls support or impound Class I, II or IIIA liquids or are part of a pond with a dam;
- E Construction of temporary motion picture, television and theater stage sets and scenery;
- F Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- G Installation of partitions or movable cases less than 5'-9' in height;
- H Painting, wallpapering, tiling, carpeting, or other similar finish work;
- I Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- J Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
- K Repairs, provided that such repairs do not involve:
  - i the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
  - ii the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
  - iii the enlargement, alteration, replacement or relocation of any building system; or

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

L Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in 20.5 shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

§ 20.5.3 Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- A A description of the proposed work;
- B The value of the proposed work;
- C The tax map number and the street address of the premises where the work is to be performed;
- D The occupancy classification of any affected building or structure;
- E A statement of the use or occupancy of all parts of the land and the proposed building or structure;
- F A statement that the applicant consents to permit the code officer to enter upon the premises for purposes of inspection, monitoring, issuing orders or notices;
- G Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- H At least 2 sets of construction documents (drawings and/or specifications) which
  - i define the scope of the proposed work;

- ii are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
- iii indicate with sufficient clarity and detail the nature and extent of the work proposed;
- iv substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
- v where applicable, include a site plan with a contour map that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

I Flood Boundary - In accordance with the current Town of Claverack Flood Damage Prevention Law, all flood boundaries must be shown on site plan applications for a building permit. Proposed structures must comply with the requirements of the current Town of Claverack flood damage prevention law. No structures other than accessory farm structures are allowed in the 100 year floodplain.

§ 20.5.4 Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in Section 20.5.3 this law. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

§ 20.5.5 Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

§ 20.5.6 Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

§ 20.5.7 Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code

Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

§ 20.5.8 After completion of footings and establishing of the forms on the first course of the foundation walls, or equivalent structure, the owner shall notify Building Inspector. If required by Building Inspector, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Building Inspector before construction is continued.

§ 20.5.9 Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer. Such renewals may only be for a total of three years from initial issuance.

§ 20.5.10 Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code, the Energy Code or the Zoning Law of the Town of Claverack, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:

- A. all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and the Zoning Law of the Town of Claverack; and
- B. all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code, the Energy Code and the Zoning Law of the Town of Claverack.

§ 20.5.11 Fee. The fee specified in or determined in accordance with the provisions set forth in Local Law 4 of 2007 must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

## § 20.6 Construction Inspections

Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer.

§ 20.6.1 The Permit Holder shall notify the Code Enforcement Officer when any element of work is ready for inspection.

§ 20.6.2 Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- A Work site prior to the issuance of a Building Permit;
- B Footing and foundation;
- C Preparation for concrete slab;
- D Framing;
- E Building systems, including underground and rough-in;
- F Fire resistant construction;
- G Fire resistant penetrations;
- H Solid fuel burning heating appliances, chimneys, flues or gas vents;
- I Energy Code compliance;
- J A final inspection after all work authorized by the Building Permit has been completed.

§ 20.6.3 Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code, Energy Code and/or Town of Claverack Zoning Law. Work not in compliance with any applicable provision of the Uniform Code, Energy Code and Zoning Law shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code, Energy Code, and Zoning Law re-inspected, and found satisfactory as completed.

§ 20.6.4 Fee. The fee specified in or determined in accordance with the provisions set forth in Local Law 4 of 2007 must be paid prior to or at the time of each inspection performed pursuant to this Section.

## § 20.7 Stop Work Orders

§ 20.7.1 Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this Section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- A Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code, Energy Code or Zoning Law, without

regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

- B Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.
  
- C Content of Stop Work Orders. Stop Work Orders shall :
  - i be in writing,
  - ii be dated and signed by the Code Enforcement Officer,
  - iii state the reason or reasons for issuance, and
  - iv if applicable, state the conditions which must be satisfied before work will be permitted to resume.
  
- D Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by USPS certified mail return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order personally or by USPS certified mail return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
  
- E Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
  
- F Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty (Violations) of this law or under any other applicable local law or State law. Any such other remedy

or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## § 20.8 Certificates of Occupancy

A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.

§ 20.8.1 Issuance of Certificates of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code, Energy Code the Zoning Law and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub-classification to another complies with all applicable provisions of the Uniform Code, Energy Code and the Zoning Law. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:

- A a written statement of structural observations and/or a final report of special inspections, and
- B flood hazard certifications.

§ 20.8.2 Contents of Certificates of Occupancy. A Certificate of Occupancy shall contain the following information:

- A The Building Permit number, if any;
- B The date of issuance of the Building Permit, if any;
- C The name, address and tax map number of the property;
- D If the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;
- E The use and occupancy classification of the structure; the type of construction of the structure;

- F The assembly occupant load of the structure, if any;
- G If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- H Any special conditions imposed in connection with the issuance of the Building Permit;
- I The signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

§ 20.8.4 Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

§ 20.8.5 Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

§ 20.8.6 Fee. The fee specified in or determined in accordance with the provisions set forth by the Town Board must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

## § 20.9 Notification Regarding Fire or Explosion

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

## § 20.10 Unsafe Buildings and Structures

Unsafe structures and equipment in the Town of Claverack shall be identified and addressed in accordance with the procedures established by the Town Board by Local Law 5 and 6 of 1980 as enacted or amended from time to time.

## § 20.11 Operating Permits

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

- A Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled “Fire Code of New York State” and incorporated by reference in 19 NYCRR Section 1225.1;
- B Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling; use of pyrotechnic devices in assembly occupancies;
- C Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- D Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Code Enforcement Officer.
- E Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- F Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- G Multiple Activities. In any circumstance in which more than one activity is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

- H Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
  
- I Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
  
- J Fee. The fee specified in or determined in accordance with the provisions set forth in Local Law 4 of 2007 must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## § 20.12 Fire Safety and Property Maintenance Inspections

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

- A Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
  
- B Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
  
- C Fire safety and property maintenance inspections of all multiple dwellings not included above, and all non-residential buildings, structures, uses and occupancies not included above, shall be performed at least once every 24 months.

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

- A The request of the owner of the property to be inspected or an authorized agent of such owner;

- B Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- C Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;
- D Nothing in this Section shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

### § 20.13 Complaints

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, the Zoning Law or any other local law or regulation adopted for administration and enforcement of the Uniform Code, the Energy Code or the Zoning Law.

§ 20.13.1 All complaints shall be made in writing, signed and dated.

§ 20.13.2 The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in 20.16 (Violations) of this law;
- C If appropriate, issuing a Stop Work Order;
- D If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complainant.
- E A formal response and notification of findings shall be made by the ZEO to the complainant within 30 days.

## § 20.14 Record Keeping

The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- A All applications received, reviewed and approved or denied;
- B All plans, specifications and construction documents approved;
- C All Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- D All inspections and tests performed;
- E All statements and reports issued;
- F All complaints received;
- G All investigations conducted;
- H All fees charged and collected.
- I All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto shall be retained for at least the minimum time period so required by State law and regulation.

## § 20.15 Program Review and Reporting

The Code Enforcement Officer shall monthly submit to Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in Section 20.14 (Record Keeping) of this law and a report and summary of all appeals or litigation pending or concluded.

§ 20.15.1 The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of Town of Claverack, on a form prescribed by the Secretary of State, a report of the activities of the Town relative to administration and enforcement of the Uniform Code. A formal response and notification of findings shall be made by the ZEO to the complainant within thirty (30) days.

§ 20.15.2 The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related

materials the Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town in connection with administration and enforcement of the Uniform Code.

## § 20.16 Violations

With any alleged violation of the Uniform Code, the Energy Code, or the Zoning Law, the burden of proof of any and all defenses shall be upon the defendant; specifically, including the burden of proof that the violation was in fact a prior nonconforming use, structure, building or lot.

§ 20.16.1 The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or the Zoning Law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall

- A be in writing;
- B be dated and signed by the Code Enforcement Officer;
- C specify the condition or activity that violates the Uniform Code, the Energy Code, Zoning Law or the Zoning Law;
- D specify the provision or provisions of the Uniform Code, the Energy Code, Zoning Law or the Zoning Law which is/are violated by the specified condition or activity;
- E direct that full compliance with the order to remedy is required by a specific date which is thirty (30) days after the date of the order to remedy;
- F state that if the person or entity served with the order to remedy fails to comply in full with the order to remedy within the thirty (30) day period, that person or entity will be subject to fines pursuant to the New York State Executive law, if applicable, of a fine of not more than \$1,000 per day of violation, or imprisonment not exceeding one year, or both and the Town of Claverack Zoning law as provided in section 20.16.4.
- G state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

§ 20.16.2 The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by USPS certified mail return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant,

contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by USPS certified mail return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

§ 20.16.3 Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code and/or Zoning law.

§ 20.16.4 Penalties. In addition to those penalties proscribed by State law, or local law not inconsistent herewith any Person who violates any provision of the Uniform Code, the Energy Code, or Zoning law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this law, shall be liable to a civil penalty of not more than \$250 for each day or part thereof during which such violation continues.

§ 20.16.5 Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Claverack, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, the Zoning Law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code an action or proceeding may be commenced in the name of the Town of Claverack, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Claverack.

§ 20.16.6 Remedies Not Exclusive. No remedy or penalty specified in this Section shall be the exclusive remedy or remedy available to address any violation, and each remedy or penalty specified in this Section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this law or in any other applicable law. Any remedy or penalty specified in this Section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this Section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 381 of the Executive Law, and any remedy or penalty specified in this Section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 381 of the Executive Law.

## § 20.17 Fees

A fee schedule shall be established by the Town Board of the Town of Claverack. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this law.

## § 20.18 Procedure for Amendment

The municipal legislative body may from time to time on its own motion, or on petition, or on recommendation of the Zoning Board, amend, supplement or repeal the regulations and provisions of this Law, including the Zoning Map, after public notice and hearing, in accordance with State Law. The Town Board shall require that this zoning law be reviewed annually by the Planning Board, Zoning Board of Appeals and Building Inspector. Each board and the Building Inspector shall issue a written report detailing suggested amendments to this law based on that review to the Town Board for their consideration.

§ 20.18.1 Petitions for amendments shall be submitted in quadruplicate to the municipal clerk with an application fee of \$200.00. Any petition for a change in the Zoning Map shall include the following:

- A The name of the property owner.
- B A map accurately drawn to an appropriate scale, showing the proposed zone district boundary changes, property lines, the calculated areas affected in acres or square feet, the street rights-of-way in the immediate vicinity, and the lands and names of owners immediately adjacent to and extending within 300 feet of all boundaries of the property to be rezoned.
- C A metes and bounds description of the proposed amendment.

§ 20.18.2 The municipal legislative body, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given.

§ 20.18.3 Every such proposed amendment or change, whether initiated by the municipal legislative body or by petition, shall be referred to the Zoning Board for report before the public hearing is held thereon.

§ 20.18.4 Proposed amendments that must be referred to the Columbia County Planning Commission under the provisions of Section 239m of Article 12-B of the General Municipal Law shall be transmitted as soon as possible and in any case prior to the public hearing.

§ 20.18.5 The municipal legislative body shall require the petitioner to submit evidence that he has notified by certified mail, return receipt requested, all the property owners within 300 feet of all boundaries of the affected property.

§ 20.18.6 The municipal legislative body shall reserve decision on all zoning amendments or changes that must be referred to the Columbia County Planning Commission until its report has been presented, provided that such report is presented within a period of 30 days after the Columbia County Planning Commission receives such referral.

§ 20.18.7 Upon adoption of a change in the Zoning Map pursuant to a petition, the petitioner shall cause a monument to be placed at one (1) location on the property's street frontage, and shall also file with the Municipal Clerk and the Building Inspector, copies of an accurate survey description and drawing of the area affected by such amendment.

§ 20.18.9 Filing. Any amendment to this Law shall become effective upon filing with the New York State Department of State.

## Chapter 21 – VALIDITY

If any specific part or provision or standard of this Zoning Law be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Zoning Law or the application thereof to other persons or circumstances and the Town Board hereby declares that it would have enacted this Zoning Law or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

## Tables

**TABLE 1: Schedule of Use Regulations**

**P - Permitted Use**  
**SE - Special Exception Use**  
**X - Prohibited**  
**\* - Use Requiring Site Plan Review by the Planning Board**  
**All Unlisted Uses are Prohibited in All Districts**

RC	RR	RA	HR	MHP	HC	HB	HB-1	CIP
Rural Conservation District	Rural Residence	Rural Agriculture	Hamlet Residential	Mobile Home Park Residential	Highway Commercial	Hamlet Business	Hamlet Business 1	Commercial Industrial Park

**A Residential Uses**

1. One-Family detached dwelling	P	P	P	P	SE	SE	SE	X	X
2. Two-family dwelling	P	P	P	P	SE	SE	SE	SE	X
3. Mobile home	X	P*	X	X	P	X	X	X	X
4. Mobile home park, licensed	X	X	X	X	P*	X	X	X	X
5. Multiple dwelling	X	X	X	P*	X	X	SE	SE	X
6. Conversion of existing one-family detached dwelling for two families	P	P	P	P	X	X	SE	SE	X
7. Temporary housing	SE	SE	SE	SE	SE	X	X	X	X
8. Cabin / Seasonal	P*	P*	P*	X	X	X	X	X	X
9. Campground	SE	SE	SE	X	X	X	X	X	X
10. Caretaker/owner dwelling	SE	SE	SE	X	X	X	X	X	X
11. Accessory Apartments	SE	SE	SE	SE	X	SE	SE	SE	SE

**B Residential Community Facilities**

1. Church or similar place of worship or religious instruction, parish house or rectory, seminary convent	P*	P*	P*	SE	SE	X	SE	SE	X
2. Day Care Center	P*	P*	P*	SE	X	X	SE	SE	X
3. Park - private or public use	P*	P*	P*	P*	P*	P*	SE	P*	X
4. Recreation Area - private or public use	P*	P*	P*	SE	P*	P*	SE	SE	X
5. Public library, museum, community center, fire station, government office building	SE	SE	SE	SE	P*	P*	P*	P*	P*

6.	School accredited by NYS Department of Education	SE	SE	SE	SE	X	X	X	X	X
7.	Assisted Living	SE	X	X	SE	X	SE	X	SE	X
8.	Senior Housing	SE	X	X	SE	X	SE	X	SE	X
9.	Nursing Home	SE	X	X	SE	X	SE	X	SE	X

C **General Community Facilities**

1.	Bus Shelter	P*								
2.	Cemetery	X	X	P*	X	X	X	X	X	X
3.	College, University	X	X	X	X	X	P*	X	X	X
4.	Hospital, including auxiliary services and functions	X	X	X	X	X	P*	X	X	X
5.	Country Club	SE	X	SE	X	X	SE	X	X	X
6.	Membership Club - non-profit	SE	SE	SE	SE	X	SE	SE	SE	X
7.	Public utility structure or right of way including sewage treatment plant or water supply facility	SE								
8.	Airport and ancillary use, except for emergency services	X	X	X	X	X	X	X	X	X

D **Business Uses**

1.	Agriculture, excluding animal husbandry & ag-tourism	P	P	P	SE	SE	P	SE	SE	X
2.	Agriculture, animal husbandry & ag-tourism	P	P	P	SE	X	SE	SE	SE	X
3.	New Farms	P*	P*	P*	SE	X	SE	X	X	X
4a.	Farm Stand < 500 sq. ft.	P	P	P	P	X	P*	P*	P*	X
4b.	Farm Stand > 500 sq. ft.	P*	P*	P*	P*	X	P*	P*	P*	X
5.	Funeral home	X	X	X	X	X	P*	X	SE	X
6.	Greenhouse/commercial/plant nursery	P*	P*	P*	X	X	P*	X	X	X
7.	Offices: Business, Professional	SE	SE	SE	X	X	P*	SE	P*	P*
8.	Veterinary clinic	SE	SE	SE	X	X	P*	X	SE	SE
9.	Recreational Facility, Commercial Outdoors	SE	X	SE	X	X	P*	X	SE	SE
10.	Commercial Wind Farm	X	X	X	X	X	X	X	X	X
11a.	Major Saw Mill and related equipment	SE	X	SE	X	X	SE	X	X	SE

11b.	Minor Saw Mill	P	P	P	X	X	SE	X	X	SE
12.	Limo/Taxi services	X	X	X	X	X	P*	X	X	X
13.	Auction house	X	X	X	X	X	SE	X	X	X
14.	Bank	X	X	X	X	X	P*	SE	P*	X
15.	Hotel or motel	X	X	X	X	X	P*	X	SE	X
16.	Medical arts building or clinic	X	X	SE	X	X	P*	X	P*	SE
17.	Dry cleaning or laundry facility	X	X	X	X	X	SE	X	SE	X
18.	Microbrewery / Farm Distillery	SE	SE	SE	X	X	SE	SE	SE	SE
19.	Wholesale businesses including sales room	X	X	X	X	X	P*	SE	SE	SE
20.	Automobile rental or lease facility	X	X	X	X	X	P*	X	X	X
21.	Courier or delivery services	X	X	X	X	X	P*	X	X	P*
22.	Adult use	SE in Overlay								
23.	Auditorium, meeting hall	X	X	X	X	SE	P*	X	SE	X
24.	Bowling alley	X	X	X	X	X	P*	X	X	X
25.	Skating rink	X	X	X	X	X	P*	X	X	X
26.	Eating establishment with drive in, open front or curbside services	X	X	X	X	X	P*	X	X	X
27.	Convenience store, filling station, not auto repair	X	X	X	X	X	P*	X	X	X
28.	Motor vehicle, mobile home or boat salesroom or outdoor sales lot for farm equipment	X	X	X	X	X	P*	X	X	SE
29.	Multi-use Commercial	X	X	X	X	X	SE	SE	SE	SE
30.	Parking garage, storage garage	X	X	X	X	X	P*	X	X	P*
31.	Personal service shop or store, such as barber shop, day spa or similar business	X	X	X	X	X	P*	P*	P*	X
32.	Repair garage	X	X	X	X	X	P*	X	X	P*
33.	Restaurant/Tavern no drive thru/curbside service	X	SE	X	X	X	SE	SE	SE	X
34.	Theater or motion picture theater other than outdoor	X	X	X	X	X	P*	X	X	X

drive in theater

35.	Retail store	X	X	X	X	X	P*	P*	P*	X
36.	Kennels	X	X	X	X	X	SE	X	X	SE
37.	Timber Harvesting	SE	SE	SE	X	X	X	X	X	X
38.	Slaughterhouse	SE	SE	SE	X	X	SE	X	X	SE
39.	Telecommunication Tower or Transmitting / Receiving Facility	SE	SE	SE	X	X	SE	X	X	SE

**E Industrial Uses**

1.	Quarry; clay, sand and gravel pit	SE in Overlay								
2.	Non-nuisance industry	X	X	X	X	X	SE	X	X	SE
3.	Office machinery repair service	X	X	X	X	X	P*	X	X	SE
4.	Printing or publishing facility	X	X	X	X	X	P*	X	X	P*
5.	Assembly facility	X	X	X	X	X	P*	X	X	P*
6.	Research institute or laboratory	X	X	X	X	X	P*	X	X	P*
7.	Truck Terminal / Truck Transfer Station	X	X	X	X	X	X	X	X	SE
8.	Warehouse	X	X	X	X	X	SE	X	X	SE
9.	Aircraft repair and restoration	X	X	X	X	X	SE	X	X	P*
10.	Multi-use industrial, includes manufacture of wind turbines and photovoltaic panels	X	X	X	X	X	SE	X	X	SE
11.	Storage of fuels or other liquids in tanks	X	X	X	X	X	SE	X	X	SE
12.	Self storage facilities	X	X	X	X	X	SE	X	X	X
13.	Junkyard	X	X	X	X	X	X	X	X	X
14.	Brewery, Distillery	X	X	X	X	X	SE	X	X	SE

**F. Accessory Uses**

1.	Bed and Breakfast Inn as defined.	P*	P*	P*	P*	X	X	P*	P*	X
2.	Customary traditional accessory structure, and or use	P	P	P	P	P	P	P	P	P*
3.	Farm Worker Housing	P*	P*	P*	X	X	P*	X	X	X

4.	Accessory HAM Radio equipment/antenna	p*								
5.	Wind Turbine(s) by Residences & Businesses	SE								
6.	Accessory Solar Panels Use by Resid. & Bus. (Free Standing)	SE								
7.	Accessory Solar Panels Use by Resid. & Bus. (Roof Mount)	P	P	P	P	P	P	P	P	P
8.	Flatland Pond	P	P	P	P	P	P	P	P	P
9.	Pond with dam	SE								
10.	Motorcycle, ATV, auto tracks or courses	X	X	X	X	X	X	X	X	X
11.	Wood Boilers	SE	X	SE	X	X	SE	X	X	X

**Home Occupations**

	1.	HO-1	P	P	P	P	X	P	P	P	X
G.	2.	HO-2	SE	SE	SE	X	X	SE	SE	SE	X

**TABLE 2: Dimensions & Density**

	<b>RC</b>	<b>RR</b>	<b>RA</b>	<b>HR</b>	<b>MHP</b>	<b>HC</b>	<b>HB</b>	<b>HB-1</b>	<b>CIP</b>
	Rural Conservation District	Rural Residence	Rural Agriculture	Hamlet Residential	Mobile Home Park Residential	Highway Commercial	Hamlet Business	Hamlet Business 1	Commercial Industrial Park
(a) Minimum lot size or Density of Development as applicable	5 acre density	2 acre density	5 acre density	1 acre min. lot size (.5 w/public sewage or water)	12 acre min. lot size	1 acre min. lot size	0.5 acre min. lot size (.5 w/public sewage or water)	1 acre min. lot size	1 acre min. lot size
1. Lot Coverage - Max. Percent	15%	15%	15%	50%	N/A	50%	75%	60%	75%
2. Lot Width - Min. Feet	200	150	150	80	150	100	80	100	150
3. Height - Max. Feet	35	35	35	35	20	35	35	35	35
4. Setback - Min. Feet Front	80	50	50	30	300	70	30	30	40
5. Setback - Side Min. for one	50	20	20	10	15	20	10	20	25
6. Setback - Side total for both on int. lot	100	45	45	20	50	40	20	40	40
7. Setback - side abutting side st. on corner lot	80	25	25	20	25	70	20	40	40
8. Setback - Rear	50	40	40	30	50	50	30	50	20
9. Frontage	200	150	150	80	300	100	80	100	150
10. Commercial and Manufacturing Building Footprint (Max Sq. Ft. per ind. Bldg.)	3,500	3,500	3,500	N/A	N/A	20,000 retail 45,000 non-retail	6,000	6,000	100,000
11. Multi-family Structure, 3 dwel units or more (Max Sq. Ft. per ind. Bldg.)	5,000	N/A	N/A	5,000	N/A	2,500	5,000	5,000	
12. Institutional Structure (Max. Sq. Ft. per ind. Bldg)	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	

Please Note: 1. Where public sewer is not available, no lot shall be built upon which has insufficient space for a private sanitary waste disposal system or adequate water supply.  
2. Lots Fronting on cul-de-sacs shall have a minimum lot frontage of 60 feet.  
3. Accessory structures no larger than 144 square feet and 15 ft. in height may be allowed setbacks of 10 ft. in HR & MHP.

**TABLE 3: Sign Regulations for Residential Districts**

District	RR, RC, RA, HR, MHP				All Residential Districts
Residential Identification Sign, ground mounted or attached	Residential Identification Sign, ground mounted or attached	Professional Sign, ground mounted or attached	Place of Worship Announcement Sign, ground mounted or attached	Parish house, club, public or semi public building announcement sign, ground	Development Entrance Sign, ground mounted
Number of Signs Allowed	1	1	1 on each public street frontage	1 on each public street frontage	1 for each entrance
Max. Area (square feet)	2	2	12	6	24
Max. Height (feet)	6	6	6	6	6
External Lighting Allowed	No	No	Yes	Yes	Yes
Internal Lighting Allowed	No	No	No	No	No
Other Requirements	5 feet from all property lines	5 feet from all property lines	15 feet from front property line and 25 feet from all other property lines	15 feet from front property line and 25 feet from all other property lines	15 feet from front property line and 5 feet from all other property lines

- Please Note:
1. Signs of existing, legal, but nonconforming businesses in residential districts may be refurbished as long as the resulting dimensions are equal to or less than those of the existing sign.
  2. Home occupations in the HR district are allowed only one sign, attached to the dwelling, with a maximum area of 2 square feet, having no internal or external lighting.

**TABLE 4: Sign Regulations for Commercial Districts**

Commercial Districts								
District	HC Highway Commercial		HB Hamlet Business		HB1 Hamlet Business1		CIP Commercial Industrial Park	
Type of Sign	Ground	Attached to Building	Ground	Attached to Building	Ground	Attached to Building	Ground	Attached to Building
Max. Area (square feet)	24	16	16	16	24	16	32	24
Max. Height (feet)	8	Not to extend above highest portion of roof or shall not project more than 12 inches from face of building	6	Not to extend above highest portion of roof or shall not project more than 12 inches from face of building	6	Not to extend above highest portion of roof or shall not project more than 12 inches from face of building	10	Not to extend above highest portion of roof or shall not project more than 12 inches from face of building
External Lighting Allowed	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Internal Lighting Allowed	Yes	Yes	No	No	No	No	Yes	Yes
Front Yard Setback (feet)	15	Not Applicable	15	Not Applicable	15	Not Applicable	40	Not Applicable
Setbacks from other Property Lines	5	Not Applicable	5	Not Applicable	5	Not Applicable	5	Not Applicable

Please Note: Buildings that house more than one business may have a multi-business directory sign that is no larger than 24 square feet. Each individual business in the multi-business building will be allowed one building mounted sign to mark its individual entrance that shall not exceed 4 square feet.

**TABLE 5: Acreage Requirements for Animal Husbandry in HR and HC Districts**

1. Rabbits: No minimum acreage requirement as rabbits are kept in hutches
2. Poultry, outdoor: 1/2 acre for 12 birds or less, one acre per 13 to 20 birds
3. It is recommended livestock should be stocked at one Animal Unit per acre. An Animal Unit is equivalent to a 1000 lb non-lactating cow
4. Sheep, Goats: 2 to 5 adult animals per acre
5. Alpacas and Llamas: 4 to 6 adult animals per acre
6. Pigs: Finishing/market hogs (235 to 270 lbs) 3 to 4 head per acre. Adult pigs (300 to 500 lbs) 2 to 3 head per acre. 1 to 2 sows with litter per acre
7. Cattle: 1 adult animal per acre
8. Horses: 1 adult animal per acre
9. Miniature equine: 2 to 4 adult animals per acre
10. Mink, Raccoons: 10 animals / two acres not to exceed 10% of the lot area