

ZONING LAW

VILLAGE OF CLAYVILLE, NEW YORK

April, 2013

This Law is a revision of the Village of Clayville Zoning Regulations developed and approved as an Ordinance in 1961.

While significant changes have been made throughout the document, Section 3, “Definitions,” and Article XI, “Board of Appeals,” have been expanded. Article XI now includes a more comprehensive inclusion of New York State Village Law, Section 7-712-b.

The Oneida County Department of Planning, upon review has made several recommendations for correction, and said corrections have been made. The approval documentation from the Oneida County Department of Planning is on file at the Clayville Village Clerks Office, at 2505 Foundry Place, Clayville.

This Law, to be known as “The Zoning Law of the Village of Clayville,” was submitted to the Oneida County Department of Planning for official review in February 2013. This Law was approved (with recommended corrections) by John R. Kent, Jr., Commissioner of Planning on February 22, 2013, as granted under General Municipal Law, Sections 239-1. -m, or -n.

Public Meeting Held: April 18, 2013 at the Clayville Fire House Meeting Room.

Village of Clayville Mayor Terry P. Dote

Village Board of Trustees

Michael Hryb, Deputy Mayor; Carla Bostic, Joseph Inglis, Earl Wengert

Codes and Zoning Officer

Ron Ditmar

ZONING LAW

VILLAGE OF CLAYVILLE, ONEIDA COUNTY, NEW YORK

TABLE OF CONTENTS

ENACTMENT AND INTERPRETATION

	Page
Article I -Title	3
Article II -Purpose	4
Article III -Definitions	4 - 17

DISTRICT REGULATIONS

Article IV -Districts and Boundaries	17 - 18
Article V -Use Regulations	18 - 23
Article VI -Lot Area and Width, Yards, Building Coverage and Height Schedule A	23-27
Article VII -Supplementary Regulations	28 - 29
Article VIII -Off-Street Parking and Loading	29 - 31

ADMINISTRATIVE PROVISIONS

Article IX -Non-Conforming Uses	32 - 34
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TABLE OF CONTENTS (Continued)

	Page
Article X -Administration	34 - 35
Article XI -Board of Appeals	36 - 41
Article XII -Amendments	41 - 43
Article XIII Miscellaneous	43
Schedule "A"	44 - 45

Z O N I N G R E G U L A T I O N S

THE VILLAGE OF CLAYVILLE

A LAW REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION, ALTERATION AND USE OF BUILDINGS AND LAND IN THE VILLAGE OF CLAYVILLE, NEW YORK PURSUANT TO THE ZONING PROVISIONS OF CHAPTER 64 OF THE CONSOLIDATED LAWS OF THE STATE OF NEW YORK.

THE BOARD OF TRUSTEES OF THE VILLAGE OF CLAYVILLE, by virtue of the power and authority vested in it by the law, does hereby ordain and enact as follows:

ARTICLE I - TITLE

Section 1 - This Law shall be known and may be cited as "The Zoning Law of the Village of Clayville, New York".

ARTICLE II – PURPOSES

Section 2 – This law is enacted for the following purposes:

1. To lesson congestion in the streets;
2. To secure the safety from fire, flood, panic and other dangers;
3. To promote health and the general welfare;
4. To provide adequate light and air;
5. To prevent the overcrowding of land;
6. To avoid undue concentration of population;
7. To facilitate the adequate provision of transportation, water, sewer-age, schools, parks and other public requirements;
8. To conserve the value of buildings;
9. To encourage the most appropriate use of land throughout the Village.

ARTICLE III – ABBREVIATIONS AND DEFINITIONS

For the purposes of this law certain words and terms used herein shall have the meanings given in this Article.

Words used in the present tense include the future tense; words used in the singular include the plural, and the plural the singular. The word “lot” includes the words “plot” and “parcel”. The word “building” includes the word

“structure”. The word “used” shall be deemed also to include “designed, intended, or arranged to be used”. The word “shall” is mandatory.

Section 3 – Definitions.

ALLEY: A public way which affords generally a secondary means of vehicular access to abutting property.

ADULT ARCADE: (Shall also include Adult Bookstore, Adult Novelty Shop.) An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by one or more persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. Any place to which the public (Excluding minors under the age of 18) is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video, or laser disc players, or other image-producing devices are maintained to show images to one or more persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas. An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines, and other periodicals or photographs, drawings, slides, films, video tapes, recording tapes, and novelty items which are distinguished or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

ANIMAL HOSPITAL: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. This shall include Breeding, (in all natural and medical forms.)

ANIMAL SHELTER: A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

AREA, BUILDING: Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps, and terraces.

ART GALLERY: A storefront type space dedicated to the specific function of displaying Art, Furniture, or other craft for public viewing, and which may also include onsite sale of said items.

AUTOMOBILE BUSINESS: shall be defined as any business engaged in the sale, maintenance, manufacture, storage, body shop repair, impounding, wrecking, of trucks and automobiles. This shall include oil and tire changing businesses.

BAKERY: An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service. A bakery shall be considered a general retail use.

BANK: A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities

BAR: An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

BED AND BREAKFAST: A private residence that offers sleeping accommodations to lodgers in 10 or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers, and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than 30 consecutive days.

BASEMENT: An area partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, and which is not designed or used primarily for year-round living accommodations.

BUILDING: Any roofed structure intended for shelter, housing or enclosure of persons, animals, or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

BOARDING HOUSE: A single family dwelling where one to four rooms are provided for lodging for definite periods of times. An establishment providing rooms and meals for compensation, and where said meals are not served to persons who are not guests at the house.

BUILDING OR USE, ACCESSORY: A building or use subordinate or supplemental to the main building or use of the same lot.

BUILDING COVERAGE: The percentage of the lot area covered by the building area.

BUILDING, HEIGHT OF: The vertical distance measured from the established grade at the curb; or if no grade has been officially established at a curb, measured from the average level of the finished ground surface across the front of the building to the highest point of the roofs, to the deck line of the mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUSINESS ESTABLISHMENT (SMALL): "Business Establishments (Small)" shall be defined as a commercial, retail, or services based business with twelve (12) or less employees that satisfies the purpose of the Planned Development, Mixed-Use Zoning District(s), subject to the provisions of this Article. Examples of acceptable small business establishments that comply with the purpose of this Article include, but shall not be limited to; a hair salon, barbershop, a convenience store, a small health fitness store, a retail store, an art gallery, a bakery, or a diner. A Medium to Large Business establishment shall mean a business employing more than twelve (12) employees.

CELLAR: An area wholly or partly below grade and having less than half of its clear floor to ceiling height above the average grade of the adjoining ground.

CHURCH: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

CONTRACTOR: A general contractor or builder engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction. A contractor who performs home improvements such as, but not limited to; remodeling, roofing, fencing, plastering, painting, tile work, siding, doors and window replacement and installation. The performance of any other trade, such as but not limited to, the electrical, plumbing and sheet metal trades, shall be included in this definition.

CONVENIENCE STORE: A retail store with a floor area of less than 5,000 square feet that may serve food for onsite consumption, or take-out, and sells limited, and basic groceries and may also sell gasoline; does not include automotive service stations or vehicle repair shops.

DILAPIDATED: No longer adequate for the purpose or use for which it was originally intended.

DINER: A restaurant. An establishment which sells food and beverages in a ready-to-consume state primarily to persons who are seated within the building or outside on the premises. An establishment engaged in the preparation of food and beverages containing no more than 2,500 gross square feet.

DRIVE-IN FOOD SERVICE: (This definition shall include businesses known as "Fast Food Restaurants.") A building and adjoining parking area used for the purpose of furnishing food, soft drinks, ice cream, and similar confections to the public normally for consumption outside the confines of the principal permitted building, or in vehicles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided inside for the patrons. Services are effected principally while patrons remain in their vehicles.

DRIVE-THROUGH ESTABLISHMENT: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

DWELLING UNIT: A building, or portion thereof, providing complete housekeeping facilities, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families. In no case shall a motor home, trailer coach, automobile chassis, tent, boat, or portable building be considered a dwelling.

DWELLING, ONE-FAMILY: A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY: A detached building containing two dwelling units only.

DWELLING, MULTI-FAMILY: A building, or portion thereof, containing three or more dwelling units.

ENTERTAINMENT , INDOOR: Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters and concert or music halls.

ENTERTAINMENT, OUTDOOR: Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

FAMILY: One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit.

FARM: A parcel or tract of land which is used for the production or raising of agricultural products, except where such production is an accessory and non-commercial garden to a principal residential use on the same lot.

FIRING RANGE: (Indoor and Outdoor) A business or membership club, whose primary function is target shooting and the training and use of firearms of any type, and or the storage of firearms and ammunition.

FOUNDATION: Supporting structure made of materials approved by, and in conformance with the NYS Uniform Fire Prevention and Building Code. (Adopted by the Village of Clayville). A permanent structure.

FUNERAL HOME: (Also Mortuary) A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. . . . [W]here a funeral home is permitted, a funeral chapel shall also be permitted.

GARAGE, PRIVATE: A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

GARAGE, PUBLIC: A building or part thereof used for the storage, hiring, selling, greasing, washing, servicing, or repair of motor-driven vehicles, operate for gain.

GARAGE, STORAGE: A building or part thereof, used only for the storage of vehicles for gain, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

GASOLINE STATION: Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning, or otherwise servicing motor vehicles, but not including the painting or major repair thereof.

GOODWILL STORE: A retail outlet whose primary function is the collection and resale of donated clothing, household goods, and food to the public.

GROUND FLOOR: The floor of a building or structure at ground level, or within one to three steps of ground level.

GROUP HOME : One main building, or portion thereof, on one zoning lot that is licensed by the commissioner of health as a rooming and/or boarding house and receives 50 percent or more of its residents under a contract or other arrangement with the state or local government human services agency. Such Home provides lodging for people who are mentally ill or chemically dependent. A facility having as its principal function the receiving of adults for foster care, and licensed by the state under [state law]. An adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, chemically dependent, or are physically handicapped and who require supervision on an on-going basis, but who do not require continuous nursing care. (Shall also mean Adult Care Shelter, Adult Care Facility.)

HOME OCCUPATION: Any personal or professional service customarily conducted entirely within a dwelling and carried on only by resident members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the residential character thereof, and in which there is kept no stock in trade.

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injuries. The term shall be deemed to include sanitarium and medical clinic.

HOTEL: A building or portion thereof containing ten or more rooms intended or designed to be used or that are used, rented, or are occupied for sleeping purposes for compensation, whether the compensation be paid directly or indirectly.

INDUSTRIAL SERVICES: Establishments providing industrial services to individuals or businesses. This classification includes dry cleaning plants; metal, machine, and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication and repair.

JUNK YARD: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storing and salvaging of machinery or vehicles, and for the sale of the parts thereof.

LAUNDRY: Commercial enterprise engaged in washing, drying, dry cleaning of bulk clothing, or other fabric materials. Will generally coincide with the operation of delivery trucks in and out of the facility.

LAUNDROMAT: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LIQUOR STORE: An establishment whose business is the sale of alcoholic beverages, and mixers for the sole purpose of “off-site” consumption. Incidental “taste-testing” may be available for the products it sells.

LOT: A parcel of land considered as a unit, occupied or capable of being occupied by one building and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this law, and having its principal frontage on a public street or an officially approved place.

LOT, AREA: The total horizontal area included with lot lines, except that no part of the area within a public right-of-way may be included in the computation of the lot area.

LOT, CORNER: A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135 degrees.

LOT, INTERIOR: A lot other than a corner lot.

LOT, THROUGH: A lot having frontage on two approximately parallel, or converging streets.

LOT, DEPTH: The mean horizontal distances between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, WIDTH: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

MACHINE SHOP: Shops where lathes, presses, grinders, shapers, and other wood and metalworking machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

MANUFACTURING: The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, liquor, resins, etc.

MANUFACTURED HOUSING: A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a

place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

MOBILE HOME: A structure, transportable in one or more sections, which is at least eight feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required facilities. A mobile dwelling designed for and providing complete housekeeping facilities for one-family.

MODULAR HOUSING: A factory-built home, other than a manufactured home, which meets all of the following requirements: is designed only for erection or installation on a site-built permanent foundation; is not designed to be moved once so erected or installed; is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing; or to the manufacturer's knowledge, is not intended to be used other than on a site-built permanent foundation.

MOTEL: A building with or without party walls, or any group of buildings, used primarily for sheltering transient motorists, and accessory uses, such as restaurants and parking.

MOVIE THEATER: (Theater) A specialized theater for showing movies or motion pictures. The primary structural difference between a theater and a movie theater is the projection screen. However, many movie theaters can easily be adapted for stage performances.

NON-CONFORMING BUILDING: A building which does not conform to the regulations of the district in which it is located.

NON-CONFORMING LOT: A lot, whose use does not conform to the regulations of the district in which it is located.

NON-CONFORMING USE: A building, structure or lot occupied by a use at the time of enactment of this law or any amendment which does not conform with the regulations of the district in which it is located.

NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED: Any dwelling used for the accommodation and care of persons with, or recuperating

from, illness or incapacity, or aged persons where nursing services are furnished for hire. (Shall include Assisted Living Facilities. See “Group Homes” for Adult Home Care.)

PAINT BALL RANGE: (INDOOR AND OUTDOOR) A business whose function is the sale, storage, or rental, or repair of paint-ball guns, or related equipment. And, which provides facilities for shooting of said paint-ball guns.

PARKING SPACE: An off-street space available for the parking of one motor vehicle and having an area of not less than 170 square feet, exclusive of passageways and driveways thereto.

PET SHOP: (Shall include animal shelters, kennels, hospitals) A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, including exotic animals and farm animals such as horses, goats, sheep, and poultry. (See Animal Shelter, Breeders, Humane Society, and Veterinarians.)

PHARMACIES: Any business where prescription drugs are dispensed or compounded. A business substantially devoted only to the sale of pharmaceutical items, supplies, and equipment such as prescription drugs, and medical equipment and supplies.

PRINTING SHOP: An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

PUBLIC AND CIVIC USES: Government-owned facilities to which the public has access such as public buildings, public parks, schools, school administrative buildings, recreational, cultural, and service buildings, but not including public land or buildings devoted solely to the storage and maintenance of equipment and material or the disposal of refuse.

PUBLIC LIBRARY: A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

PUBLIC UTILITY: The use of land for public utility purposes by an entity providing pipeline, gas, electrical, telephone, telegraph, water, or sewage service. “Public utility” also includes the use of land for utility purposes, whether or not owned, controlled, or operated by a public entity, whose services are performed for or commodities delivered to the public or any portion thereof. Private energy production, transmission relay, repeater, translator, radio and television towers and equipment, and cable television

facilities, and telecommunication facilities are also considered public utilities. “Public utility” does not include airports or television, radio or community television antenna system administration offices, or other types of administrative offices or maintenance yards

QUARRY: sand pit, gravel pit, top soil stripping – See attachment to page fifteen.

RECREATIONAL FACILITY, (PRIVATE): Country clubs, riding stables, golf courses, and other private noncommercial recreation areas and facilities, or recreation centers, including private swimming pools open to the general public paying a usage fee or membership fee. A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

RECREATION FACILITY, (PUBLIC): Publicly owned or operated recreation facilities, including, but not limited to parks, swimming pools, playground areas, and nature trails, walking paths, and picnic areas.

RESEARCH & DEVELOPMENT: A structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor. Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standards or regulations.

RETAIL USES: Retail uses shall include convenience and personal service-oriented commercial business, intended to serve nearby residents and employees; such as, but not limited to; hair salons, barbershop, a convenience store, a small health fitness store, a retail store, an art gallery, a bakery, or a diner.

RESTAURANT: A Diner. An establishment serving food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within a building.

ROOMING HOUSE: Any building or portion thereof containing more than two and less than ten rooms that are used, rented or hired out to be occupied or that are occupied for sleeping purposes for compensation, whether the compensation to be paid is directly or indirectly. A residential building with

three or more sleeping rooms for lodgers, and wherein no dining facilities are maintained for the lodger, as distinguished from a boarding house.

SALVAGE AND WRECKING OPERATIONS: A facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. Scrap or discarded material includes but is not limited to metal, paper, rags, tires, bottles, motor vehicle parts, machinery, structural steel, equipment, and appliances. The term includes facilities for separating trash and debris from recoverable resources, such as paper products, glass, metal cans, and other products which can be returned to a condition in which they may again be used for production.

SELF-SERVICE STORAGE: A building or group of buildings of a controlled access compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customers' goods or wares.

SERVICE CLUB: An organization with "dues-paying membership. Service Clubs primary function is in helping the community, or local schools, or people in need of various types of assistance. Organizations such as, but not limited to; Optimists, Rotary, Lions, and Veterans Clubs, are examples of such clubs.

SERVICE STATION: See Gasoline Station.

SHOPPING CENTER: A group of retail and other commercial establishments that is planned, owned, and managed as a single property. On-site parking is provided. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and open-air strip centers. A single piece of real estate containing more than three commercial establishments and a total business space of more than 3,200 square feet planned, constructed, and managed as a total entity with customer and employee parking provided on site.

SIGN: Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered a "sign".

SIGN, ADVERTISING: An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

SIGN, BUSINESS: A “business sign” is a sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

SIGN, FLASHING: A “flashing sign” is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of the law any revolving, illuminated sign shall be considered a “flashing sign”.

STABLE, PRIVATE: An accessory building in which one or more horses or ponies are kept for private use and not for hire, remuneration or sale.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, said part having a ceiling height of 5 feet or more for an area not exceeding one-half the floor area of said full story, and in which space not more than two-thirds of the floor area is finished off as rooms.

STREET: A public way which affords the principal means of access to abutting property.

STRUCTURE: Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building.

TOURIST HOME: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

WAREHOUSING: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

YARD: An open space on the same lot with a building, unoccupied or unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this law.

YARD, FRONT: An open, unoccupied space on the same lot with a building, between the front line of the building and the street or highway line, and extending the full width of the lot.

YARD, REAR: An open, unoccupied space, except for accessory buildings, on the same lot with the building between the rear line of the building and the rear lot line and extending the full width of the lot.

YARD, SIDE: An open, unoccupied space on the same lot with the building, situated between the building and the side lot line, and extending from the front yard to the rear yard.

ARTICLE IV – DISTRICTS AND BOUNDARIES

Section 4 – Districts

In order to regulate and restrict the location and the use of buildings, structures and land for trade, industry, residence and other purposes; to regulate and restrict the height and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces, the amount of parking space, and the density of the population, the Village of Clayville is hereby divided into four districts known as follows:

R-1.....Residence District

C-1.....Commercial District

M-1.....Manufacturing District

PDMUZ-1...Planned Development, Mixed Use Zone (See Attachment “A”)

Section 5 – Zoning Map

The locations and boundaries of the zoning districts hereby established are shown on a map entitled “Zoning Districts–Village of Clayville”. The District map and all notations, references and other information shown thereon are hereby adopted and declared to be a part of this law. The Village Board shall delineate on the Zoning Map all amendments to the District boundaries which are authorized by law immediately upon the effective date of such law, indicating the title and date of the law.

Section 6 – District Boundaries

Where uncertainty exists as to the locations of any boundaries shown on the zoning map, the following rules shall apply:

1. District boundary lines are intended to follow center lines of streets or alleys, right-of-way or water courses, lot lines, or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimensions as shown on the zoning map.
2. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
3. In un-subdivided land and where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon.
4. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine the location of said line.

ARTICLE V – USE REGULATIONS

Section 7 – R-1 Residence District.

The following use regulations shall apply in any R-1 Residence District:

- A. Permitted Uses.
 1. One or two-family dwellings
 2. Church, church school, convent, parish house
 3. Public or parochial school
 4. Public library or museum

5. Public park or playground
 6. Fire house or other Town or Village Building
 7. Bed and Breakfast, Boarding or Rooming houses
 8. Customary Home Occupation
 9. Sign. A nameplate, identification, for sale or rent sign is permitted. A sign shall be located only on the premises of the use to which it refers. A sign shall emit no flashing or intermittent illumination nor shall it be located in or projected into the public way nor be located above the first story. No neon sign shall be used in any residence district. The placement of said sign shall be done in such a manner as not to obstruct the view for oncoming traffic, and shall otherwise comply with the zoning law concerning sign placement.
 - a. A nameplate or identification sign shall not exceed two (2) square feet in area.
 - b. A “for sale” or “for rent” sign shall not exceed four (4) square feet in area.
 10. Mobile home now in existence and use in the Village
- B. Uses permitted upon issuance of a permit by the Village Board or, Zoning Board of Appeals:
11. Public utility station or structure
 12. Outdoor recreational areas such as swimming pool, skiing, skating or golf for public or membership use

Section 8 – C-1 Commercial District.

The following use regulations shall apply in any C-1 Commercial District:

A. Permitted Uses:

1. Retail Store
2. Restaurant or other places for serving food or beverages
3. Motel or Hotel
4. Personal service shop, such as barber, beauty parlor, tailor or shoe repair
5. Appliance sales and service
6. Laundry or dry cleaning – self-service or pick-up station
7. Bank, savings or loan institution
8. Job printing or letter-press shop
9. Business or professional office
10. Social, recreational or fraternal club or lodge
11. Municipal building or fire house
12. Public building or museum
13. Public park or playground
14. Church, church school, parish house or convent
15. Public utility station, structure or use
16. Accessory buildings and uses customarily incidental to any permitted use

17. Business Sign pertaining only to a permitted use, product or service available on the same premises, provided that the aggregate area of all such signs shall not be greater than three (3) square feet for each foot of frontage actually occupied by such use, but not exceeding 200 square feet of aggregate sign area. Said sign shall be integral with, or attached flat against the building, or may project not more than four feet beyond that building line and not above the high point of the main roof of the street frontage. No sign shall emit any flashing or intermittent illumination.

B. Uses permitted upon issuance of a permit by the Village Board, or Zoning Board of Appeals:

18. Gasoline station

19. Drive-through establishment

20. Public utility station, structure or use

21. Other uses similar to the current list of “permitted Uses,” and not listed here.

Section 9 – M-1 Manufacturing District.

The following use regulations shall apply in any M-1 Manufacturing District.

A. Permitted Uses:

1. Heating, plumbing, air conditioning, electrical, cabinet and similar hand fabrication shops

2. Storage and sale of lumber, wood, feed or fuel

3. Manufacture, processing or treatment of textile goods and articles

4. Manufacture, processing or treatment of leather or plastic goods and articles.
5. Manufacture, processing or treatment of articles or merchandise from previously prepared paper, plastic, metal, stone or wood materials. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts.
6. Manufacture or assembly of electrical or electronic instruments or devices, surgical or dental instruments, musical instruments, rubber or metal stamps, toys or novelties
7. Manufacture, processing or packaging of such products as candy, cosmetics, pharmaceutical and food products
8. Printing or publishing plant
9. Warehousing or distribution but not including truck terminal
10. Laundry or dry cleaning plant
11. Municipal or public utility station or structure
12. Development or research center
13. Tool, dye and pattern making and similar small machine shops
14. Welding or metal craft shop

15. Accessory building or use customarily incidental to any of the above uses

16. Business Sign pertaining only to a permitted use, product or service available on the same premises, provided that the aggregate area of all such signs shall not be greater than three (3) square feet for each foot of frontage actually occupied by such use, but not exceeding 200 square feet of aggregate sign area. Said sign shall be integral with, or attached flat against the building, or may project not more than four feet.

ARTICLE VI – LOT AREA AND WIDTH, YARDS, BUILDING COVERAGE AND HEIGHTS

Section 10 – Regulations in Schedule A

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are as specified in Schedule A. The regulations appearing in Schedule A are subject to the Supplementary Regulations of Article VII, and additional regulations as follows:

Section 11 – Additional Area Regulations

1. Lots of less than Required Dimensions:

- a. Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this law and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.

- b. In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.
2. Reduction of Lot Area. The minimum yards and open spaces, including lot area per family, required by this law for any building existing at the time of the adopting of this law, or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this law.
3. Corner Lot. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on such streets. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a zoning permit. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot facing an intersecting street, and of record at the time of the passage of this law to less than twenty four (24) feet.
4. Visibility at Street Corners. On a corner lot in any district where a front yard is required, no fence, wall, hedge or other structure or planting shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 foot distance from the point of intersection, measured along said lines. In any event, no fence, wall, hedge or other structure or planting shall be more than three (3) feet in height.
5. Front Yard Exceptions. The front yard of all buildings and structures hereafter constructed within a Residence District shall be not less than the average front yard of all buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within 300 foot distance shall be considered as having the minimum front yard

required in the district for the purpose of computing such average front yard.

6. Transition Yard Requirements:

- a. Where two districts abut on the same street between two intersecting streets, and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less restricted district a front yard equal in depth to the average of the required depth in the two districts.
- b. Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to the required in the more restricted districts.

7. Projecting Architectural Features, Terraces, Porches, Fire Escapes:

- a. The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features, provided, however, that such features shall not project more than 2 feet into any required yard.
- b. A paved terrace shall not be considered as part of a building in the determination of yard size or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form on enclosure exceeding 6 feet in height.
- c. In determining the percentage of building coverage or the size of yards for the purpose of this law, enclosed porches, or porches

open at the side but roofed, shall be considered a part of the building.

- d. An open fire escape may extend into any required yard not more than 6 feet provided that such fire escape shall not be closer than 4 feet at any point to any lot line.
 - e. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed 6 feet.
8. Walls, Fences and Hedges. The yard requirements of this law shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by Village Law, providing that in any residence district, such fence, wall or hedge shall be no closer to any front lot line than 2 feet, and shall comply with visibility at street corners as provided in this Article.

Section 12 - Additional Height Requirements.

- 1. Chimneys, Spires, etc. The height limitations of this law shall not apply to belfries, church spires, cupolas, penthouses and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
- 2. On Through Lots. On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street.

On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

Section 13 – Accessory Building: Number, Height and Location

1. Number. There shall not be more than one accessory building on each zone lot intended or used for residential purposes. Homeowners may request a variance through the Village Board, acting as “Zoning Board” for allowance of more than one accessory building on each zone lot.
2. Height. Maximum height of accessory buildings shall be one story or 15 feet.
3. Location. Accessory Buildings in R–Districts which are not attached to a principal building may be erected within the rear yard in accordance with the following requirements:
 - a. Rear yard – 5 feet from side or rear line, except when abutting an alley, then 10 feet.
 - b. Side yard, street side of corner lot – same as for principal building.
 - c. No closer to a principal building than 10 feet.
4. Attached Accessory Building in Residence District. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this law applicable to the principal building.
5. Accessory Building in Business and Manufacturing District. Non-dwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be no closer to any rear property line than 10 feet.

ARTICLE VII – SUPPLEMENTAL REGULATIONS

Section 14 – Lots in Two Districts

Where a district boundary line divided a lot in one ownership at the time of adoption of said district line, the regulations for the less restricted portion of such lot shall extend not more than 50 feet into the more restricted portion provided the lot has frontage on a street in the less restricted district.

Section 15 – Commercial Excavation

Statement of Intent: The Clayville Village Board recognizes that sand, gravel and rock resources within its area are necessary and beneficial to the economy of the Village and the welfare of its citizens. To provide utilization of these resources in a manner compatible with nearby residential areas and to insure restoration of commercial excavation areas at the conclusion of operations in such a manner as to conform to the Village Strategic Plan, and surrounding terrain and conditions, and to the following conditions:

Except when incidental to the construction of a building on the same lot, the excavation, processing and sale of top soil, sand, gravel, clay or other natural mineral deposit, or the quarrying of any kind of rock formation is subject for the approval of the Board of Appeals. Subject to the provisions of this section, commercial excavation or quarrying may be permitted in an “M” zoning district.

Before issuing a permit for such use the Board of Appeals shall find that such excavation or quarrying will not endanger the stability of adjacent land structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic congestion, or other condition. The Board of Appeals may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including but not limited to the following:

- a. The slope of material in such top soil, sand, gravel, clay or other pit shall not exceed the normal angle of repose of such material.
- b. The top and the base of such slope shall not be nearer than 50 feet to any property line nor nearer than 100 feet to the right-of-way line of any street or highway.
- c. In the case of a quarry or other excavation in rock, the Board of Appeals may require and specify a substantial fence at all points 40 feet or more from the face of any quarry walls.

- d. Restoration and rehabilitation of the commercial excavation area shall be a continuing operation during each year and the area quarried shall be regarded and drained so as to assure conformance with the public health, safety and welfare. The Board of Appeals may require a performance bond to assure adequate rehabilitation of commercial excavation sites.
- e. The Village Board reserves the right to appeal any and all decisions.

Section 16 – Drive-in Food Services

Such businesses, where persons are served in automobiles, shall be no closer than 200 feet to a Residence District. Arrangements of ingress and egress of vehicles shall be approved by the Village Board.

ARTICLE VIII – OFF-STREET PARKING AND LOADING

Section 17 – Off-Street Parking

Off-street parking space shall be required for all buildings constructed or new uses established after the effective date hereof. Each off-street space shall consist of at least one hundred and eighty (180) square feet with a minimum width of 8 feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in Schedule B.

For uses not specified the Board of Appeals shall, on appeal, and after recommendation of the Village Board, establish parking requirement in specific cases consistent with those specified in Schedule B.

1. For any building having more than one use, parking space shall be required as provided for each use.
2. Parking spaces required in Residence Districts shall be located in the side or rear yard on the same lot or tract as the principal use.
3. Floor areas for the purpose of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several

floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

Section 18 – Off-Street Loading

At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described in Section 17. Space for off-street loading shall be in addition to space for off-street parking.

Each facility shall be subject to the following minimum requirements:

1. Each berth shall not be less than 12 feet wide, 33 feet long; and 14 feet in height when covered.
2. Space for such berth may occupy any part of any required side or rear yard, except no such berth shall be located closer than 100 feet to any lot in any Residence District unless wholly within a completely enclosed building.

SCHEDULE B – OFF-STREET PARKING

USE

SPACES REQUIRED

1. Dwellings	1 space for each dwelling unit
2. Rooming house, tourist home, motel, hotel, bed & breakfast	1 space for each guest room 1 space for each 200 Sq./Ft. of floor space
3. Administrative, professional, eleemosynary, governmental or utility office	10 spaces, plus space for all employee and resident personnel cars
4. Funeral home	1 space for each 10 seating spaces in main assembly room
5. Church or temple	1 space for each 10 seating spaces
6. School	2 spaces for each classroom
7. Theatre or other place of assembly	1 space for each 5 seating spaces
8. Nursing or convalescent home	1 space for each 4 beds
9. Retail store or bank	1 space for each 250 sq. ft. of floor space devoted to customer use
10.Clubs and restaurants	1 space for each 50 sq. ft. of floor area devoted to patron use
11.Bowling alley	5 spaces for each alley
12.Wholesale, storage, freight terminal or utility use	1 space for each 1,000 sq. ft. of gross floor area
13.Industrial or manufacturing use	1 space for each 2 employees on the maximum working shift
14.Home occupation	1 space for each client or patient at any one time

ARTICLE IX – NON-CONFORMING USES

Section 19 – Continuation.

Any non-conforming use, building or structure which existed lawfully at the time of enactment of this law may be continued, subject to the regulations which follow in this Article.

Section 20 – Registration.

All non-conforming uses shall be recorded by the Village Zoning Enforcement Officer, and each owner or agent notified regarding such non-conformance within six months of the date of adoption of this law.

Section 21 – Non-Conforming Use of Land.

The non-conforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this law. A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of adoption of this law. A non-conforming use of land shall not be changed to another non-conforming use. If a non-conforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located. All non-conforming uses of land shall be discontinued within two (2) years after the effective date of this law as amended, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

Section 22 – Non-Conforming Use of Buildings.

1. Additions. A non-conforming building shall not be added to or enlarged in any manner, unless such non-conforming building and the use thereof is made to conform to all the regulations of the district in which it is located.
2. Alterations and Repairs. No structural alterations shall be made to any non-conforming building unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a non-conforming building or structure in sound condition shall be permitted.

3. Changes. A non-conforming use of a building may not be changed except to a conforming use. When so changed, the non-conforming use may not be resumed thereafter.

4. Discontinuance. A non-conforming use of a building or structure, or a portion thereof, which is discontinued for a period of twelve (12) consecutive months shall not be re-established, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:
 - a. Vacancy of a non-conforming use building or discontinuance of a non-conforming use, for a period of twelve (12) consecutive months.

 - b. Manifestation of a clear intent on the part of the owner to abandon the non-conforming use.

5. Extension. A non-conforming use may not be extended to any other part of such building.

6. Restoration. A building devoted to a non-conforming use destroyed or damaged by fire, wind, explosion, structural failure or other natural cause to the extent of seventy-five (75) percent or more of its true value at the time of the damage, as adjusted from assessed value, based upon State Board of Equalization rates, shall not be repaired or rebuilt except in conformity with provisions of this law.

7. Removal. If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform with the regulations of the district.

8. Validity of Permit. Any building for which a permit has been lawfully granted, and on which the construction has been started and diligently prosecuted before the effective date of this law may be completed.

ARTICLE X – ADMINISTRATION

Section 23 – Enforcement Officer.

The provisions of this law shall be administered and enforced by a person designated by the Village Board as the “Zoning Enforcement Officer”, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this law. No zoning permit or certificate of occupancy required hereunder shall be issued by the Zoning Enforcement Officer except in compliance with the provisions of this law, or as directed by the Board of Appeals under the provisions of Article XI.

Section 24 – Zoning Permit.

No building shall be erected, moved, altered, added to, and no excavation for any building shall be begun unless and until a Zoning Permit for such work has been issued by the Zoning Enforcement Officer.

Applications for Zoning Permits shall be submitted in duplicate on a form or forms provided by the Zoning Enforcement Officer. Each application shall set forth the purpose for which the building is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot and the building, and dimensions of required and proposed yards. The Zoning Enforcement Officer may require such additional information, other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use, and the use of the land are in conformity with the provisions of this law.

Section 25 – Certification of Occupancy.

A certificate of occupancy is required for any of the following:

1. Occupancy and use of a building hereafter erected, altered, moved or extended.
2. Change in the use of an existing building.
3. Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.
4. Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use.

A certificate of occupancy may be obtained, on application, from the Zoning Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this law. The Zoning Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within five (5) days from the date of the application, Saturdays, Sundays and legal holidays an exception. Failure to make such inspection and determination within the specified period of time shall be deemed to be disapproval of the application for certificate of occupancy.

Section 26 – Violation, Penalty

Any person, association, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this law shall be punished by a fine of not less than \$25.00 nor more than \$100.00 for each offense; and each day that the violation is permitted to exist shall constitute a separate offense.

In case of violation of this law the Village and its officers may, in addition to any other remedies conferred by law, institute any reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE XI – BOARD OF APPEALS

A Board of Appeals is hereby established. It shall consist of five members, each to be appointed by the Mayor, (as allowed by Section 7-712 of New York State Village Law) and approved by the Board of Trustees for a term of three years. The Chairman of the Board shall be designated by the mayor. The Board members shall serve with compensation for its services. Such compensation shall be determined by a consensus of the Village Board of Trustees.

This Board of Appeals shall have the duties, rights, powers and functions conferred upon its Section 179-b of Article VI-A of the Village Law and any other provisions of law or law applicable thereto, including the following:

Section 27 – Meetings.

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Such Board shall keep minutes of its proceeding showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

Section 28 – Records.

The Board shall keep minutes and all decisions, determinations, and considerations shall be in writing, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. A copy of each decision shall be sent to the applicant and to the Zoning Enforcement Officer, and the Village Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Clayville Village Clerk within 5 business days, and shall be a public record. Each decision shall set forth fully the reasons for the decisions of the Board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of subsections of 2a, 2b, 2c, and 3a, 3b, and 3c of Section 31 where appeal is for a variance or a special exception.

Section 29 – Appeal.

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Village Board of Trustees, and the Zoning Enforcement Officer. It shall also hear and decide all matters referred to it upon which it is required to pass under this law. Additionally, at

least five (5) days before any such hearing, the Board of Appeals shall mail notices to the Oneida County Planning Board, and to all affected parties. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Village Board of Trustees or the Zoning Enforcement Officer, or to decide in favor of the applicant any matter upon which it is required to pass under this law or to affect any variation in this law. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

Such appeal shall be taken within 60 days (As set forth in 7-712-a of NYS Village Law) or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Village Board of Trustees, or with the Board of Appeals, or the Zoning Enforcement Officer, a notice of appeal specifying the grounds thereof, together with the appropriate fee for filing of said application, with said fee to be determined by the Village Board, The Village Board of Trustees, or the Zoning Enforcement Officer shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

Section 30 – Stay.

Stay upon appeal. An appeal shall stay all proceedings in the furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

Section 31 – Jurisdiction.

The Board of Appeals shall have the following powers and duties prescribed by statute and by this law:

1. Interpretation. On appeal, from a determination of the Zoning Enforcement Officer, or the Village Board, to hear and decide on questions where is alleged there is an error in order, requirement, decision or determination made by the Zoning Enforcement Officer involving the interpretation of any provision of the law. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation

or determination as in its opinion ought to have been made in the matter by the administrative official charged with enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

2. Use Variance. (a) The Board of Appeals, on appeal, from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.

(b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) 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; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

(c) 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 proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area variances. (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such local law, to grant area variances as defined herein.

(b) 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. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a

detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

(c) 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.

4. 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 the zoning local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

5. The Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case, and that any such determination shall also conform to Criteria set forth in Section 7-712-b of the New York State Village Laws.

6. Special Exception. On application, supplementing an application to the Zoning Enforcement Officer for a zoning permit or certificate of occupancy, the Board of Appeals may grant a permit for any use for which approval of the Board is required under this law. In granting such permit, the Board may specify appropriate conditions in harmony with the following standards:

- a. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.

- b. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its size layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of development of the neighborhood.

- c. The location and height of buildings, the location, nature and height of wall and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

Section 32 – Hearing and Determination.

Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and by public notice at least once in a paper of general circulation (The Newspaper of record) in the village five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or by attorney.

Time of decision. The board of appeals shall decide upon the appeal within sixty-to (62) days after the conduct of said 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.

Determination. The Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the

powers of the officer from whom the appeal is taken. All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the Zoning Enforcement Officer. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Clayville Village Clerk within 5 business days, and shall be a public record.

ARTICLE XII – AMENDMENTS

Section 33 – Amendments, How initiated.

The Village Board may from time to time on its own motion, amend, supplement, repeal or change the regulations in this law, and district boundaries established by this law.

Whenever the owners of fifty (50) percent or more of the frontage in any district or part thereof shall present a petition duly signed and acknowledged, by the Village Board, requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Village Board to vote upon said petition within thirty (30) days after the filing of the same by the petitioners with the Village Clerk.

The Board of Appeals may, by resolution, propose an amendment to the Village Board suggesting a change or repeal of the regulations. Within thirty (30) days from the time such resolution is filed with the Village Clerk it shall be the duty of the Village Board to vote on such proposed amendment.

Section 34 – Referral of Proposed Amendments to the County Planning Board.

All proposed amendments, supplements or changes originating by petition, or by motion of the Village Board of Trustees, shall be referred to the County Planning Board for a report and recommendations thereon. The County Planning Board shall submit its report within twenty one (21) days after receiving such referral. Failure of the County Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

NOTE: It shall also be required that all proposed amendments, supplements or changes originating by petition, or by motion of the Village

Board of Trustees shall be submitted for review to the Oneida County Planning Board per the requirements of Sections 239-I and 239-m of the New York State General Municipal Law. Submission to the Oneida County Planning Board shall be done prior to approval by the Village Board of Trustees. The Village Board of Trustees shall not approve any such changes or amendments until the Oneida County Planning Board has rendered its determinations and recommendations.

Section 35 – Hearing on Proposed Amendment.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice hearing thereon as provided by law. Such hearing may be held by the Village Board, by a committee of the Village Board, or by the Board of Appeals, on request of the Village Board. In addition to the public notice of a hearing, notice shall be given in writing either personally or by mail, to all property owners of the land included in such proposed change, and the land immediately adjacent extending one hundred (100) feet therefrom, and the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the Village.

Where more than 12 properties are included in such change and the Village Board, by resolution, determines that notice in writing to each property owner is not feasible the notice of hearing shall be published in the official paper once a week for three (3) successive weeks and shall be posted in as many public places in the Village as practicable, preferably at least 12, but not less than eight (8), and at least two shall be in the area affected.

Section 36 – Adoption of Amendment.

After the public hearing, and referral to the report by the Planning Board, a majority vote of the members of the Village Board shall be required to amend the zoning law except as described in Section 37, Protest Petitions.

Section 37 – Protest Petition.

If a protest against a proposed amendment, supplement or change is presented to the Village Board, duly signed and acknowledged by the owners of twenty

(20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three-fourths of the Village Board.

Section 38 – Periodic Review of Zoning Law.

From time to time, at intervals of not more than three (3) years, the Village Board shall re-examine the provisions of the law and the location of the district boundary lines. All recommendations for changes or amendments, if any, which may be desirable in the interest of the public safety, health, convenience, necessity or the general welfare, shall be submitted to Oneida County Planning Board as per the requirements of Section 34.

ARTICLE XIII – MISCELLANEOUS

Section 39 – Validity.

Should any section, clause or provision of this law be declared by the courts to be invalid, the same shall not affect the validity of the law as a whole or any part thereof other than the part so declared to be invalid and only to the extent of such invalidity.

Section 40 – Conflicting Provisions Repealed.

All law or parts of laws in conflict with the provisions of this law are repealed, rescinded and annulled. Nothing herein contained shall be construed to limit the applicability of the New York State Uniform Fire Prevention and Building Code.

Zoning Schedule A

Village of Clayville

DISTRICTS (1)	PERMITTED PRINCIPAL USES (SEE ARTICLE V - USE REGULATIONS FOR COMPLETE LIST) (2)	USES PERMITTED SUBJECT TO THE GRANTING OF A PERMIT BY THE BOARD OF APPEALS (3)	AREA IN SQ. FEET (4)	WIDTH IN FEET (5)	MAXIMUM PERCENTAGE OF LOT TO BE OCCUPIED (6)	MINIMUM GROUND FLOOR AREA (SQ.FT) (7)	IN STORIES (8)	IN FEET (9)	FRONT (10)	ONE SIDE YARD (11)	BOTH SIDE YARDS (12)	REAR (13)
R-1 Residence	<ul style="list-style-type: none"> -One or two-family dwelling -Religious or educational institute -Home occupation 	Public utility	10,000	80	25	720	2 ½	35	25	10	25	40
			1 acre	150		864		35	40	20	50	25
C-1 Commercial	<ul style="list-style-type: none"> -Retail store -Restaurant -Bank -Motel or hotel -Club or lodge Church -Public utility 		NONE	NONE	50	NONE	2	35	NONE	NONE	NONE	25
M-1 Manufacturing	<ul style="list-style-type: none"> -manufacturing -Printing or publishing plant -Warehouse or distribution plant -Laundry or dry cleaning plant -machine shops 		NONE	NONE	50	NONE	2	40	50	30	30	40

Zoning Schedule A			Village of Clayville									
DISTRICTS (1)	PERMITTED PRINCIPAL USES (SEE ARTICLE V - USE REGULATIONS FOR COMPLETE LIST) (2)	USES PERMITTED SUBJECT TO THE GRANTING OF A PERMIT BY THE BOARD OF APPEALS (3)	AREA IN SQ. FEET (4)	WIDTH IN FEET (5)	MAXIMUM PERCENTAGE OF LOT TO BE OCCUPIED (6)	MINIMUM GROUND FLOOR AREA (SQ.FT) (7)	IN STORES (8)	IN FEET (9)	FRONT (10)	ONE SIDE YARD (11)	BOTH SIDE YARDS (12)	REAR (13)
Planned Development, Mixed Use Zone	Dwelling Units - One or Two Story	As Permitted.	As permitted									
	Retail Uses											
	Small Business Establishments			*	*	*	*	*	*	*	*	*
	Public and Civic Uses											

* "As Approved and Permitted."