

ZONING ORDINANCE  
TOWN OF CLYMER  
CLYMER, NEW YORK  
AUGUST 1, 1975

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## DEFINITIONS

ACCESSORY STRUCTURE OR USE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

AGRICULTURE. Land, including necessary buildings and structures, that has as its principal use the raising or keeping of livestock or the growing of crops in the open.

BILLBOARD. Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.

BUILDING. Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or chattels.

BUILDING LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this ordinance.

DECK AND PATIO. An open structure, with or without a roof, projecting from the outside wall of the building without window sash or any other form of permanent solid enclosure. (Amended 9-10-92)

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING. A building or portion thereof including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

DWELLING UNITS. A building or portion thereof providing complete housekeeping facilities for one family.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

FAMILY. One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers, or lodgers not in excess of the number allowed by this ordinance as an accessory use.

FARM. An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, but not including the commercial feeding of garbage or offal to swine or other animals.

HOME OCCUPATION. Any use conducted customarily entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The office of a physician, dentist, engineer or member of another recognized profession, including a teacher or instructor, with musical instruction limited to one pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchases or sale of economic goods, shall be deemed to be Home Occupations; and the occupation of dressmaker, seamstress or milliner, home cooking and preserving, and the operation of a beauty parlor, barber shop, real estate office, or tourist home, each of the foregoing with not more than one paid assistant, shall be deemed to be Home Occupations. The conducting of a clinic, convalescent home, dance studio, tearoom, animal hospital mortuary and stores, trades and businesses not herein excepted shall not be deemed home occupations.

INDUSTRY HEAVY. A heavy industry is defined as any processing of goods or articles by hand or machine in such a manner that one or more of the following may carry beyond the boundary of the property upon which the industry is located: fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or glare. The storage of raw material, component parts, finished products and waste material by necessity must be carried on outside the building.

INDUSTRY LIGHT. A light industry is any processing of goods or articles by hand or machine, conducted within an enclosed building in such a manner that no fire hazard, radioactivity, electrical disturbance, noise, vibration, dust, smoke, odor, air pollution, or

glare may be detected beyond the boundary lines of the property upon which a light industrial plant is located. The storage of raw material, component parts, finished products and waste material is within an enclosed building.

JUNK YARD. A lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly, and/or sale of waste, scrap metal, paper, lumber, rags, or similar materials including storage of three or more inoperable motor vehicles.

LOADING AND UNLOADING SPACE, OFF STREET. An open hard-surface area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interferences with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length, and fourteen feet in height, exclusive of access aisles and maneuvering space.

LOT. A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT AREA. The net area contained within the lot.

LOT LINES. The property lines bounding a lot. The front line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line.

LOT RECORD. Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Chautauqua County.

LOT WIDTH. The mean horizontal distance between the side lot line measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

MOBILE HOME. Any portable vehicle designed to be transported on its own wheels or those of another vehicle, used as a detached, single-family residence of 400 square feet or more, and which is intended to be used as a permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.

MOBILE HOME PARK. Any parcel of land planned and improved for placement of two or more mobile homes which are used as dwellings and for occupancy for more than 90 consecutive days.

PERCOLATION RATE. The number of minutes it takes for water to drop

one inch for two successive percolation tests giving approximately equal results.

PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.

PUBLIC USE. Public parks, schools and administrative, cultural and service buildings not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY. Any person, firm corporation, or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation or water.

QUARRY'S AND PIT, GRAVEL PIT, TOP SOIL STRIPPING. A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a Building Permit has been made.

SANITARY LAND FILL. A method of disposing of garbage and refuse by spreading, covering, and compacting with earth.

SEMI-PUBLIC USE. Churches, parochial schools, colleges, hospitals, and other institutions of an educational, religious, charitable or philanthropic nature.

SIGN. Any advertisement, announcement, direction or communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or other structure, or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county, or state agency for the purpose of showing street names, directions, regulations, or for other purpose.

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

SWIMMING POOL. Any body of water or receptacle for water having a depth at any point greater than two feet or a capacity of 5,000 gallons or more, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground. (Amended 9-10-92)

USE. The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

YARD. An unoccupied space open to the sky, on the same lot with a



building or structure.

YARD, FRONT. An open unoccupied space on the same lot with a building situated between the street line and a line connecting the parts of the building setting back from and nearest to such street line, and extending to the side lines of the lot.

YARD, REAR. A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal buildings.

YARD, SIDE. The part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

ZONING MAP. The map or maps incorporated into this ordinance as a part hereof, designating Zoning Districts.

ZONING OR BUILDING PERMIT. The permit issued by the Building Inspector authorizing the construction, extension, or use of land and/or buildings.

## I. GENERAL PROVISIONS

### A. Interpretation

1. Minimum Requirements. The provisions of the Zoning Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

2. Relationship with Other Laws. Where the conditions imposed by any provision of this Zoning Ordinance upon the use of land or buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

3. Effect on Existing Agreements. This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.

### B. Continuance of Use

Any lawfully established use of a building or land, at the effective date of this ordinance, or of amendments thereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal non-conforming use and may be continued.

### C. Application of Regulations

1. Application. Except as hereinafter provided:

a. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.

b. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building.

c. No lot, yard, setback, parking area or other space shall be so reduced in area, dimension, or capacity as to make said area, dimension or capacity less than the minimum required under this ordinance. If already less than the minimum required under this ordinance, said area, dimension, or capacity shall not be further reduced.

2. In order for the administrator of this ordinance to consider an application for a Zoning Permit the following material must be provided in support of any application.

a. When property to be developed fronts on a State

or County highway and access to the highway is desired, an approved permit from the applicable agency for the development of such highway access shall be presented.

b. When property is to be developed for human habitation and use such application shall be accompanied by a plan and construction details for waste disposal approved by the applicable State, or County, Health Department.

c. Two copies of a layout of the lot or tract to be built upon, the exact size and location of the building to be erected and area designated to be utilized for the required off-street parking and unloading, and location of waste disposal facilities.

3. Responsibility. The final responsibility for the conforming of buildings and use to the requirements of this ordinance shall rest with the owner or owners of such building or use and the property on which it is located.

#### D. Lot Area and Dimension

1. Contiguous Parcels. When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the Use District in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

2. Lots or Parcels of Land of Record. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than seventy-five percent of the minimum required dimensions of area.

#### E. Access to Public Street

Except as otherwise provided for in this ordinance, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street unless a permanent easement of access to a public street was of record prior to the adoption of this ordinance.

#### F. Corner Clearance

There shall be no materials or obstructions to vision on any corner lot between a height of two (2) feet and a height of ten (10) feet above the finished grade of either street within the triangle formed by the street line connecting such street lines forty (40) feet from their intersection.

#### G. Oil and Gas Wells

All oil or gas wells and gas and oil storage facilities shall be

located in accordance with the yard requirements of this ordinance. In addition they shall not be located within two hundred (200) feet of any existing dwelling or structure which is used to store farm products or house livestock or poultry.

## II. DISTRICTS

For the purpose and provisions of this ordinance, the Town of Clymer is hereby divided into the following types of districts.

Residential District  
Agricultural-Residential

### A. Zoning Map

The boundaries of the aforesaid Zoning Districts are hereby established as shown on the map entitled, "Zoning District Map of Clymer, New York, dated 8-1-75, which map accompanies and is made a part of this ordinance and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

## III. RESIDENTIAL DISTRICT

The following uses are permitted within the district. The administrator of the ordinance shall issue a zoning permit for the construction of facilities and/or use of land when plans and required supporting data are submitted with an application for a zoning permit provided that the application indicates compliance with the regulations of this ordinance.

### A. Permitted Uses

Single family dwelling, not including mobile homes.  
Public use.  
Essential services.  
Accessory uses.

### B. Special Uses Requiring Board of Appeals Approval

Two-family dwelling.  
Mobile homes.  
Home occupations.  
Semi-public uses.  
Multiple Housing (Amended 3-9-76)

### C. Standards

#### 1. Lot size.

a. Single-family dwellings: In areas not served by a State approved community water supply system and sanitary sewerage system every dwelling shall be erected on a lot of not

less than one acre or 43,560 square feet and a width at the established building line of not less than one hundred and fifty (150) feet. This lot area and width requirement may be reduced when an application for a permit is accompanied by a report signed by a registered engineer stating that two or more percolation tests on each dwelling lot indicate the following soil percolation rates.

<u>Percolation Rate</u>	<u>Lot area</u>	<u>Lot Width</u>
45 minutes and over	43,560 sq. ft.	150 ft.
40 minutes	41,000 sq. ft.	144 ft.
35 minutes	38,000 sq. ft.	138 ft.
30 minutes	35,000 sq. ft.	131 ft.
25 minutes	32,000 sq. ft.	125 ft.
20 minutes	29,000 sq. ft.	119 ft.
15 minutes	26,000 sq. ft.	113 ft.
10 minutes	23,000 sq. ft.	106 ft.
5 minutes and under	20,000 sq. ft.	100 ft.

When a tract of land is served by a State approved community water supply system or sanitary sewer system, a one-family dwelling may be erected on a lot having an area of not less than fifteen thousand (15,000) square feet and a width at the building line of not less than eighty (80) feet. When a tract of land is served by both a community water supply system and sanitary sewerage system approved by the State, a one-family dwelling may be erected on a lot having an area of not less than seven thousand (7,000) square feet and a width at the building line of not less than sixty (60) feet.

b. Two-family dwellings. In areas not served by a State approved sanitary sewerage system the lot area shall be increased by twice the minimum space necessary to install an individual sanitary sewerage disposal system plus the lot area and width required for single-family dwellings.

c. All other uses shall be erected on lots of not less than one acre (43,560) square feet with a width at the building line of not less than one hundred and fifty (150) feet.

2. Yard Areas. No building shall be erected or enlarged unless the following yards are provided and maintained:

a. Front Yard

1. State and County Roads. No building shall be placed closer than 100 feet from the center line of any State or County road.

2. Neighborhood or Town Roads. No building shall be placed closer than 50 feet from the center line of any Neighborhood or Town road.

b. Side Yard. On each tract upon which a building is constructed there shall be a side yard on each side of not less than ten (10) percent of the tract or lot width. No side yard shall be less than ten (10) feet. (Amended 8-8-95)

c. Rear Yard. No rear yards shall be less than ten (10) feet. (Amended 9-10-92, 8-8-95)

#### IV. AGRICULTURAL-RESIDENTIAL DISTRICT



The following uses are permitted within this district. The administrator of this ordinance shall issue a Zoning Permit for the construction of facilities and/or use of land when plans and required supporting data are submitted with an application for a Zoning Permit provided that the application indicates compliance with the regulations of the ordinance.

A. Permitted Uses

Agriculture.  
 Forestry.  
 Single and two-family dwelling (seasonal and year round).  
 Public use.  
 Public utilities.  
 Essential services.  
 Semi-public uses.  
 Hunting, fishing, and game preserves.  
 Oil and gas wells.  
 Camp grounds.  
 Accessory uses.  
 Home occupations.  
 Retail Business  
 Motels and hotels.  
 Service business.  
 Light industry.  
 Mobile homes.

B. Special Uses Requiring Board of Appeals Approval.

Airport or aircraft landing field.  
 Commercial recreation facilities (exclusive of hunting, fishing, and game preserves and camp grounds as herein defined).  
 Cemeteries.  
 Sanitary landfills.  
 Topsoil, sand and gravel extraction.  
 Sawmills (exclusive of temporary sawing facilities established on a temporary basis and an accessory use to a farm operation for a period of less than twelve months).  
 Automobile salvage yards in conformity with Sec. 136 the General Municipal Law as of January 1, 1973.  
 Fuel oil and gasoline storage.  
 Mobile home parks (according to County Mobile Home Park regulations).  
 Planned community developments.

C. Standards

1. Lot Size. Every structure or land use established within this district shall be located on a lot the area of which, on one side of a street or highway, shall contain no less than one

(1) acre in area with a width at the established building line of not less than two hundred (200) feet.

2. Yard Areas. No building shall be erected or enlarged unless the following yards are provided and maintained:

a. Front Yard.

1. State and County Roads. No building shall be placed closer than 100 feet from the center line of any State or County road.

2. Neighborhood or Town Roads. No building shall be placed closer than 50 feet from the center line of any Neighborhood or Town road.

b. Side Yard. On each tract upon which a building is constructed there shall be a side yard on each side of not less than ten (10) percent of the tract or lot width. No side yard shall be less than ten (10) feet. (Amended 8-8-95)

c. Rear Yard. No rear yards shall be less than ten (10) feet. (Amended 9-10-92, 8-8-95)

#### V. SUPPLEMENTARY REGULATIONS

A. Signs and Outdoor Advertising Structures. With the exception of public road and highway signs, no sign or billboard shall be permitted in any district except as hereinafter provided.

1. No sign or outdoor advertising structure shall use moving parts or artificial light which is not maintained stationary or constant in intensity or color at all times when such signs are in use. No rotating or flashing light may be used.

2. Real estate signs not exceeding 12 square feet in area and advertising the sale, rental or lease of the premises on which the sign is located shall be permitted on any property.

3. Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than 6 square feet in area shall be permitted in any district where such activities are permitted.

4. Bulletin boards and signs for a church, school, community or other public or semi-public institutional building shall be permitted provided that the area of such sign does not exceed 15 square feet in area and such signs are set back a minimum of 15 feet from the established right-of-way line.

5. Temporary signs not exceeding 50 square feet, announcing the erection of a building, the architects, builders, etc. may be erected for the period of 60 days plus the construction period, provided, however, the same shall be removed from the premises upon the completion of the building.

6. For business uses, each business shall be permitted to erect one flat or wall sign for the purpose of permanent advertising. The area of such sign for any single business enterprise shall be limited according to the frontage width of the building or the frontage width of the part of the building occupied by such enterprise. In computing the maximum size, each business

enterprise may have a permanent sign of an area equivalent to one and one-half square feet of sign area for each lineal foot of frontage width occupied, but in no case shall exceed a maximum area of 100 square feet. A free-standing pole sign of symbolic design not over 30 feet in height and not in excess of 40 square feet in sign area may also be permitted each business providing that:

a. No part of such sign shall project into or over any public right-of-way.

b. The pole support of such sign shall not be less than 40 feet from any lot in any Residential District.

7. For industrial uses, a sign or billboard may be erected which pertains to the specific use of the property upon which it is erected. The area of such sign shall not exceed more than 100 square feet in area, except that the Board of Zoning Appeals may approve signs of up to 200 square feet in area, provided they be at least 35 feet from any street line and 50 feet from any other lot line.

8. Except as provided above, signs and outdoor advertising structures, where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use in such district.

B. Off-Street Parking and Loading Requirements. In all districts, in connection with every residential, commercial, industrial, institutional, or other use, there shall be provided at any time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

1. Each off-street parking space shall have an area of not less than 162 square feet exclusive of access drives or aisles and shall be of usable shape and condition. All open off-street parking spaces, except when accessory to single-family dwellings, shall be improved with a compact macadam base and surface with all-weather dustless material.

2. There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than eight feet in width in the case of a dwelling and not less than eighteen feet in width in all other cases leading to the parking area shall be required.

3. The number of off-street parking spaces to be provided shall not be less than the following:

<u>Use</u>	<u>Parking Spaces Required</u>
Residential	One per housekeeping unit
Rental units	One per rented room or unit
Church or school	One for each eight seats in principle gathering room
Restaurant	One for every four seats
Golf course	Six for each hole
Private club or lodge	One for each ten members
Country Club	One for each five members



Theater	One for every four seats
Offices, clinics, wholesale establishments and business services	One for every 300 square feet of floor space
Rental store or personal services establishment	One for each 100 square feet of floor space
Industrial uses	One for each two employees on the maximum working shift
Hospital	One for every three beds and one for each two employees on the maximum working shift
Sanitarium or convalescent home	One for every three beds and one for each two employees on the maximum working shift
Dance hall, assembly or feet of exhibition hall, night club, cafe or similar recreation establishment	One for each 100 square floor area
Bowling alley	Five for each alley
Mortuary or funeral home	One for each 75 square feet of floor area
Public swimming pool	One for each 40 square feet of pool area

4. No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces nor portion thereof established on a zoning lot without a building shall be located closer to any street line than the front yard setback required for the district in which the parking lot is located.

5. Every building having a gross floor area of 10,000 square feet or more, requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 10 feet in width, 35 feet in length and 14 feet in height.

#### C. Swimming Pools, Decks and Patios

Swimming pools, decks and patios all must meet the front, back, and side yard set backs as stated in each District. (Amended 9-10-92)

### VI. ADMINISTRATION AND ENFORCEMENT

#### A. Enforcement

This ordinance shall be enforced by a Building Inspector who shall be appointed annually by the Town Board. The powers and duties of the Building Inspector shall be:

1. Examine and approve applications pertaining to the

use of land, buildings, or structures when the applications conform with the provisions of this ordinance.

2. Issue all Zoning and Building Permits and keep permanent records thereof.

3. Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this Zoning Ordinance.

4. Receive, file and forward for appropriate action all applications for special use, variations and amendments to this ordinance which may be filed in the Zoning Office.

5. Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, special uses and variations.

6. Collect, receipt, and account for all fees chargeable under the provisions of this ordinance and pay all of the same into the Town General Fund.

#### B. Zoning Permit

Except as provided herein, it shall be unlawful for an owner to use or to permit the use of any structure or land or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, until an application is made to, and a Zoning Permit issued by, the Building Inspector. It shall be the duty of the Building Inspector to issue a Zoning Permit with fifteen (15) days after a written request for the same has been made, provided he is satisfied that the proposed use, change, construction, enlargement or alteration fully conforms with all the requirements of this ordinance. Where the approval of the County Department of Health or other authority is required, the Zoning Permit specified in this subdivision shall not be issued until such approval has been granted in writing.

Appeal from the decision of the Building Inspector may be made to the Zoning Board of Appeals as provided in Section VII.

A Zoning Permit hereafter granted under the provisions of this ordinance shall expire two (2) years from the date of issuance unless the proposed structure or change in the use has been completed.

#### C. Zoning Permit for Non-Conforming Uses

A Zoning Permit shall be required for all lawful non-conforming uses. It shall be the duty of the Building Inspector to issue such permits.

#### D. Zoning Permit Fees

A fee, in accordance with the following schedule of amounts, shall be chargeable and shall accompany each application for a Zoning Permit. Such Fee shall be paid into the General Fund of the Town

if the application is approved, or returned to the applicant if the application is denied.

Single-Family Dwelling (including seasonal)	\$10.00
Multiple-Family Dwelling (including seasonal)	\$10.00
Structures Accessory to Any Structure	\$10.00
Swimming Pools	\$10.00
Land Use not Involving Structure	\$10.00
Commercial or Industrial	\$10.00
All Other Structures	\$10.00

(Amended 9-10-92)

## VII. ZONING BOARD OF APPEALS

### A. Organization and Procedure

Upon the adoption of this ordinance, the Town Board, Town of Clymer, pursuant to the provisions of the Town Law applicable thereto shall appoint a Zoning Board of Appeals consisting of five members. The term of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. Such Board of Appeals, subject to the provisions of Town Law, shall determine its own rules of procedure. The members of the Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. No member of the Board of Appeals shall hold other elective or appointive office in the Town government.

### B. Powers and Duties

With due consideration for the purpose and intent of the Zoning Ordinance the Zoning Board of Appeals shall:

1. Hear and determine appeals from and review any order, requirement, decisions or determination made by the Building Inspector charged with the enforcement of this ordinance.
2. Hear and decide all matters referred to it, or upon which it is required to pass under this ordinance.
3. Hear and pass upon applications for variances when a property owner or his agent shows that a strict application of the terms of this ordinance relating to the use, construction or alteration of buildings or structures, or the use of land imposes upon him a particular hardship which is unique to the premises in question but not applying generally to other premises in the same district. (Amended 9-10-92)
4. Hold public hearings, and approve or disapprove each application for a special use received in compliance with the provisions of this ordinance.
5. Hold public hearings and submit to the Town Board a report and recommendations on each proposed ordinance for the amendment, supplement, change or repeal of the Zoning Ordinance as



set forth herein.

#### C. Applications and Appeals

An application or appeal to the Board of Appeals may be taken by any person affected by any decision of the Building Inspector with respect to the zoning provisions of this ordinance. The procedure for such application or appeal and the responsibilities of the Board of Appeals in such action shall be prescribed in the applicable sections of the Town Law of New York State.

A fee in the amount of \$15.00 shall be chargeable and shall accompany all applications or petitions of appeals.

#### D. Special Use Permits

The Board of Zoning Appeals may issue a Special Use Permit for any of the special uses listed in Sections III and IV of this ordinance, provided such special use complies with the general standards set forth in this Section and with the special requirements enumerated elsewhere herein. Application for Special Use Permits shall be made to the Board of Zoning Appeals through the Building Inspector and shall be accompanied by an application for the necessary Zoning and/or Building Permits, the prescribed fees and such preliminary plans and lot layouts as the Building Inspector may deem necessary.

#### E. General Standards

A Special Use Permit shall only be granted when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.

Upon finding that such general standards and the special standards set forth herein have been fully met, the Board of Appeals may issue such Special Use Permit and in so doing may impose any conditions that it may deem necessary to accomplish the reasonable application of said standards. Furthermore, it may deny any such application which in its judgment is not in accordance with said general or special standards. Said Board may require, as a condition of the issuance of any Special Use Permit, that it shall be periodically renewed, or said Board may issue a Temporary Special Use Permit, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the special permit involved and shall be in conformity with aforesaid general and special standards.

## F. Amendments

All amendments to this ordinance shall be in accordance with the provisions of the Town Law of New York State applicable thereto. Any proposed amendment shall be submitted to the Town Planning Board, if any, for a report and recommendations prior to the required public hearing and the final action thereon by the Town Board.

## VIII REFERRAL

### A. Mandatory Referral

In accordance with the Laws of New York State, all proposed zoning regulations, and all special permits, exceptions, variances or amendments thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred feet from the boundary of any city, village or town, or from the boundary of any county or state park or other recreation area, or from the right-of-way of any county or state parkway, thruway, expressway or other controlled access highway, or from the right-of-way of any stream or drainage channel owned by the County or from which the County has established channel lines, or from the boundary of any County or State owned land on which a public building or institution is situated, shall be referred to the County Planning Board for review and comment prior to their adoption by the appropriate legislative authority.

## IX. PENALTIES

Any person violating any provision of this ordinance shall be fined not less than \$10.00 nor more than \$50.00. Each weeks continued violation shall constitute a separate additional violation. In addition to other remedies, the Town of Clymer may institute any appropriate action or proceeding to prevent the unlawful erection, construction, alteration or use of any building or land in violation of the requirements of this ordinance.

The Building Inspector, upon his becoming aware thereof, shall serve notice of violation of the ordinance on the person or entity committing or permitting the same.

## X. SEPARABILITY

If any part of provision of this article or the application thereof to any person or circumstance 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 article or the application thereof to other persons or

circumstances and the Town Board hereby declares that it would have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.

XI. EFFECTIVE DATE

A. General

This ordinance shall take effect on August 1, 1975