

## ZONING

### *190 Attachment 1*

#### **Village of Clyde**

#### **Appendix B**

#### **Zoning Incentives for Development in the C-2 District [Adopted 9-21-2000 by L.L. No. 1-2000]**

This Appendix refers to Chapter 190, Zoning, § 190-14.

1. Intent. In order to encourage appropriate types and styles of development, and the continued use, expansion, rehabilitation, restoration and adaptive reuse of older buildings, the following regulations shall apply to development within the C-2 Commercial Development District.
2. Definitions. The following definitions shall be used in the application of the regulations set forth in this section.

**AUTOMATIC FIRE ALARM SYSTEM** — A building system which automatically signals an audible alarm upon the detection of heat, smoke or flame, and automatically relays such alarm to the local fire department or an emergency dispatch center.

**EFFICIENCY APARTMENT** — A dwelling unit containing a single bedroom or sleeping area, or a combination living/sleeping area. [Amended 4-27-2006 by L.L. No. 1-2006]

**ENCOURAGED USE** — A use desired in the C-2 District, due to its nostalgic, tourist-oriented or neighborhood commercial nature. Such uses shall include: barber shops, hair and tanning salons, delicatessens, pizzerias, non-commercial bakeries, bagel and pastry shops, coffee shops, diners, eat-in or take-out restaurants, cafes with outdoor dining facilities, museums, art galleries and exhibition halls, antique and collectible shops, boutiques, gift shops, clothing and shoe stores, pharmacies, specialty shops, outlet shops, tourist agencies and information centers, bed-and-breakfasts, inns and hotels for the traveling public, bookstores, card and flower shops, pottery or ceramic shops and china shops, hobby and craft shops, law offices, insurance offices, medical and dental offices, offices for surveyors, draftsmen, architects and engineers, video rental stores, banks and accounting offices, libraries, sporting goods stores, jewelry shops, small groceries, newsstands, laundromats, hardware stores, canoe or bicycle rental shops, art or photographic studios, toy stores, small markets for the sale of meats, fruits or vegetables, dairies, ice cream parlors, soda fountains, candy shops, five & tens, variety stores and pet shops.

a. This use shall also include:

- (1) Owner-occupied buildings, defined as a building in which the owner physically resides, on a year-round basis; or a building in which the owner physically conducts a trade or profession on a full-time basis.

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- (2) Renovated rental-housing units, defined as existing dwelling units previously not in compliance with the standards contained in Section 136-13(B)8, which have been renovated to comply with such standards.
  - (3) Infill construction, defined as the construction of new buildings on a vacant lot next to or between existing buildings, where a previous building once stood.
- b. This definition shall not include such uses as: arcades, smoke or tobacco shops, liquor stores, bars or saloons, taverns, nightclubs, new or used car dealerships, gas and service stations or auto-repair shops, car washes, electronic shops, furniture or carpet stores, convenience marts, supermarkets, department stores, hospitals, second-hand or thrift stores, junk shops, drive-through restaurants, assembly halls, theaters, billiard parlors, bowling alleys, strip clubs, juice bars, adult book or movie stores, auction houses, gun shops, pawn shops, tattoo and body-piercing parlors, massage parlors, casinos and gambling halls, small engine repair shops, animal hospitals, and kennels.<sup>1</sup>

**PRIMARY FACADE** — The portion of a building's facade within the first 10 feet of vertical height.

**SECONDARY FACADE** — The portion of a building's facade above the first 10 feet of vertical height.<sup>2</sup>

- 3. General regulations. In harmony with the general purpose and intent of the C-2 District and in accordance with the provisions of this chapter, the Village Planning Board, after public notice and hearing, may grant special permits authorizing modifications of specified applicable district regulations for any development in the C-2 District encompassing one or more of the following:
  - a. An encouraged use established and maintained in accordance with Appendix B, Section 8a.
  - b. Facade restoration completed and maintained in accordance with Appendix B, Section 8b.
  - c. Installation of fire protection features in accordance with Appendix B, Section 8c.
- 4. Specific incentives. The Planning Board, by special permit after public notice and hearing, may authorize within the C-2 District any one or more of the following specified incentives:

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<sup>1</sup> Editor's Note: The former definition of "one-bedroom apartment," which immediately followed this definition, was deleted 4-27-2006 by L.L. No. 1-2006.

<sup>2</sup> Editor's Note: The former definition of "two-bedroom apartment," which immediately followed this definition, was deleted 4-27-2006 by L.L. No. 1-2006.

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- a. An increase in the number of new or converted residential units than is otherwise permitted by this chapter, in accordance with Appendix B, Section 9a.
  - b. Restoration of a nonconforming use previously abandoned under the terms of this chapter, in accordance with Appendix B, Section 9b, or an extension of the timeframe for break in use of nonconforming use; or enlargement of a nonconforming use.
  - c. Modification of applicable height, yard, open space, lot coverage, or off-street parking and loading requirements, in accordance with Appendix B, Section 9c.
5. Eligible projects. In order for an application to be considered by the Planning Board, the building must be used in a trade or business or held for the production of income. It may be used for offices, for commercial enterprises or for rental housing. It may not serve exclusively as the owner's private residence. Not-for-profit uses shall be eligible if they are of a tourist, cultural or educational nature.
6. Requirements for applications. An application to the Village Planning Board for the grant of a special permit respecting any development under the provisions of this section shall include a site plan showing the location and proposed use of all the buildings or other structures on the site; the location of all vehicular entrances and exits and off-street parking spaces; and such information as may be required by the Planning Board. Application information should also include:
- a. A detailed description of the proposed project.
  - b. A project budget and financial projections. The budget must include an itemization of sources and uses of funds.
  - c. Construction commencement and completion dates.
  - d. A list of necessary public approvals.
  - e. The name, address, and legal structure of the business entity (or entities) undertaking the project.
  - f. Identification of the principals and consulting professionals who constitute the project team, including a description of the qualifications and past development experience of each.
  - g. A description of the economic impact of the project on the area including but not limited to a description job creation and/or retention goals, increases in business activity, and increases in sales and property tax revenues generated as a result of the project.
  - h. Proof of tenant commitments, if applicable.

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- i. Copies of financing commitments or other evidence that all other required funding will be available for the project.
  - j. Photographs of the building and/or site.
7. Guiding standards. In making its determination, the Planning Board shall take into consideration the following:
- a. The general criteria for special permitted uses designated in § 190-29..
  - b. The C-2 District regulations designated in § 190-14.
  - c. The specific criteria designated in Appendix B, Sections 8 and 9.
8. Conditions for approval. The Planning Board shall only approve an application for special permit under this section with one or more of the following conditions:
- a. Encouraged use. An encouraged use, as defined in this section, shall be established and maintained within the specified building(s), such use being established within six months of approval and being continued for a minimum period of five years. The use may be changed during such five-year period only to that of another encouraged use, and the building(s) shall not remain closed for business or vacant for more than four consecutive months or 18 months total within said five-year period. The restriction on closure or vacancy shall not apply to renovated rental housing units. No single encouraged use shall contain more than 2,000 square feet of floor area per story and 4,000 square feet of total cumulative floor area per building, which is devoted to public use, (such as display and sales areas and dining areas.)
  - b. Facade restoration. The building's facade shall be restored to its original or earlier historic style and appearance, in accordance with the guidelines contained in § 190-14 of this chapter. Restoration of the primary facade shall begin within six months of approval and shall be completed within 18 months of approval. Restoration of the secondary facade shall begin within 24 months of approval and shall be completed within 36 months of approval.
  - c. Installation of fire protection features. The building shall be equipped and maintained with one or more of the following:
    - (1) An automatic fire alarm system protecting all portions of the building(s), including basements and attics.
    - (2) A fire sprinkler system protecting all portions of the building(s), including basements and attics.
    - (3) A second means of egress from a building or story currently having only one such exit, provided such exit is of fire-retardant construction.

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- (4) The removal of combustible interior finishes, which in the judgement of fire authorities would constitute a fire hazard, and their replacement with suitable incombustible or fire-resistant materials.
- (5) The installation of suitable fire-rated separations between buildings, stories, dwelling units, or occupancies.
- (6) The removal of wooden porches, balconies or additions, which in the judgement of fire authorities would constitute a fire hazard, or their replacement with non-combustible construction.
- (7) The replacement in whole or in part, of old electrical and mechanical systems.
- (8) The installation of hard-wired residential smoke alarms in dwelling units.
- (9) The installation of emergency lighting.
- (10) The installation of suitable portable fire extinguishers, fire hose stations, or other fire-fighting equipment.
- (11) The exterior use of fire-resistant siding, roofing, fire doors or wire glass where such materials may be deemed appropriate by fire authorities to protect the building from the spread of fire.
- (12) The elimination of existing fire hazards such as old dumbwaiter shafts or the removal from the building of occupancies constituting a significant fire hazard.

The installation of such fire protection features shall be in addition to features otherwise required for the project, and shall be accompanied by the formulation of a fire Safety Plan for all occupants of the building which shall provide: (i) appropriate information to the Fire Department concerning the number of occupants, types of uses, installed fire equipment, locations of utilities and floor plans; and (ii) appropriate information to the occupants concerning how to report a fire, evacuation procedures, use of provided fire-fighting equipment and general fire safety practice. The Fire Safety Plan shall also provide for a tour, by the fire Department, of the property for pre-planning purposes, and shall require that fire drills be conducted at least annually. Fire protection features provided under this section shall not be removed or placed out of service, except that it shall be permitted to improve or upgrade such systems to afford a higher degree of protection.

9. Criteria for specific incentives. The following criteria shall apply to specific incentives granted by the Planning Board:
  - a. Residential conversions and new residential construction. An increase in the number of dwelling units than is otherwise permitted by this chapter shall be

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allowed, provided that the units are created and maintained in accordance with the following:

- (1) Generally. Dwelling units may contain one, two, three or four bedrooms or sleeping areas, or may be efficiency apartments as defined in Appendix B, Section 2. No more than four bedrooms total shall be provided in any one building, nor shall more than 1/3 of the provided units be efficiency apartments. [Amended 4-27-2006 by L.L. No. 1-2006]
- (2) Minimum size of dwelling units. The minimum size of dwelling units shall be in accordance with the New York State Uniform Code as applicable. [Amended 4-27-2006 by L.L. No. 1-2006]
- (3) Storage areas. Each dwelling unit shall be provided with a minimum of 100 square feet of storage space within the building, except that 60 square feet of storage space shall be required for an efficiency apartment.
- (4) Arrangement of dwelling units. All parts of the dwelling unit must be accessible from within the unit. Units shall be arranged so as to insure the privacy, comfort and safety of all residents within the building. In addition, the following apply:
  - (a) The only access to a bedroom shall not be through another bedroom or through a bathroom.
  - (b) The only access to a bathroom shall not be through another bathroom or through a bedroom.
  - (c) Access to the unit shall not be through bathrooms or bedrooms. Access to an efficiency apartment may open into a combined living/sleeping area if a permanent partition affording privacy to the occupant is provided between the entry door and the combined living/sleeping area. The main entry door shall open upon a living room, dining room, or common hall or foyer.
  - (d) The only access to the kitchen shall not be through a bathroom or bedroom.
  - (e) The only access to living or dining rooms shall not be through bedrooms or bathrooms.
  - (f) Doorways, hallways and stairways shall be reasonably arranged so as to minimize potential damage during the movement of furniture.
- (5) Basic amenities. Each dwelling unit shall be provided with the following basic amenities:

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- (a) Each bedroom or combination living/sleeping area shall be provided with a full-height closet at least 32 inches wide and 24 inches deep. The closet shall be provided with a pole for hanging clothes, which shall be not more than four feet long without intermediate support, shall be mounted five feet-six inches from the floor, and 12 inches away from the rear closet wall. A shelf 12 inches deep shall be provided two inches above the pole. The door(s) of such closet shall be louvered or undercut one inch at the bottom to afford cross-ventilation. Doors on closets shall be designed to expose as much of the closet as possible when extended. Closet floors shall be raised 3/4 inch to prevent the collection of dust and dirt. Closets shall be provided with electric lighting.
- (b) If space is available, closets shall be provided in vestibules. Such closets shall be constructed as in Subsection (a) above.
- (c) Kitchens shall be provided with a pantry or adequate cabinet space for foodstuffs and household supplies.
- (d) Bathrooms shall be provided with a medicine cabinet adequate to store necessary toiletries.
- (e) A linen closet shall be provided in a hallway or bathroom, with shelving appropriate for such use.
- (f) Screens and storm windows shall be provided on all exterior windows and doors, where appropriate.
- (g) Weather stripping shall be provided for all exterior windows and doors, where appropriate.
- (h) If space is available, a laundry room shall be provided in the building or in each unit for exclusive use of the occupants.
- (i) Every exterior door shall be equipped with operable deadbolt locks, and every exterior window shall be equipped with operable latches.
- (j) Where appropriate, entry doors shall be provided with peepholes.
- (k) Each building and dwelling unit shall be conspicuously numbered or lettered for identification purposes.
- (l) The main entry door to each dwelling unit shall be provided with a doorknocker, doorbell, or intercom.
- (m) Every bedroom and bathroom shall be provided with solid/opaque doors, which are lockable from within.

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- (n) Every bathroom window shall be frosted, or equipped with blinds to afford privacy to those within. No such window shall be located less than four feet above the floor.
  - (o) Each apartment shall be independently equipped with a hot-water heater of not less than 30 gallons capacity, which shall be located not more than two stories below the most remote fixture served.
  - (p) Each individual apartment shall have a heating system, which directly serves each floor of the living unit. Such heating system shall be independently controlled within each unit by separate thermostats.
  - (q) Every kitchen, basement and garage, and every common storage, laundry and refuse area shall be equipped with a suitable fire extinguisher.
  - (r) In upper-story apartments, which do not have two means of egress, a portable escape ladder shall be provided for emergency use.
  - (s) Entry halls and vestibules shall be provided with appropriate, non-absorbent floor coverings on the interior side of the entry door. Such covering shall extend the full width of the hall or vestibule and at least three feet into such area.
  - (t) Every living room or combination living/sleeping room shall be provided with a ceiling fan. An air conditioner shall be permitted in lieu of such fan.
  - (u) All utilities, including gas and water lines, electrical panel boxes, etc., shall be conspicuously identified for each residential and commercial unit in the building. Common storage, laundry and refuse rooms shall be clearly identified by fixed signage.
  - (v) Telephone cable shall be run to every room except bathrooms and laundry rooms.
  - (w) Cable television cable shall be hardwired to every bedroom and living room.
  - (x) Mechanical ventilation shall be provided in every bathroom and kitchen. Such ventilation shall be capable of at least 12 changes per hour.
  - (y) Every kitchen shall be provided with at least 12 square feet of counter space.
- (6) Entrances and exits. The primary entrance (if any) shall be differentiated from the secondary access to upper floors (if any). Entrances should be

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placed where there were entrances historically, especially when echoed by architectural detailing on the upper stories. External stairways and fire escapes shall not be located in the front of the building. Access to basements shall not be through individual dwelling units.

- (7) Maintenance. The following maintenance shall be performed and recorded after each tenant moves out and before a new tenant moves in:
  - (a) All damaged or broken hardware, windows, doors, appliances, fixtures, walls, floors, ceilings, etc., shall be repaired or replaced.
  - (b) If there are cracked, peeling, or deteriorated painted surfaces exceeding two square feet in area, the entire unit shall be repainted.
  - (c) Carpeting and floors shall be cleaned, and any damaged or soiled floor coverings shall be replaced.
  - (d) The unit shall be thoroughly cleaned, and all junk and refuse shall be removed.
  - (e) If the unit is furnished by the owner, all furniture shall be kept in good and clean condition.
  - (f) Any infestation by insects or vermin shall be eliminated and all signs of such infestation shall be removed.
- (8) Ground floor dwelling units. The Planning Board may allow the creation of ground floor dwelling units in compliance with the following criteria:
  - (a) The unit shall only be located at the rear of the building.
  - (b) Not more than 1/3 of the dwelling units in the building shall be located on the ground floor.
  - (c) The floor area of the dwelling unit, including storage space and space for necessary utilities and other services, shall not exceed 30% of the total floor area of the ground floor.
  - (d) All entrances and exits to the unit shall be located at the rear of the building and shall be separate from non-residential uses.
  - (e) The creation of the unit shall not interfere with or obstruct in any way the use of commercial space within the building, nor shall it alter the essential character of the related storefront.
- b. Restoration of nonconforming use. The Planning Board may authorize the restoration of a nonconforming use previously abandoned in compliance with the following:

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- (1) Such use has not since been replaced with a conforming use.
- (2) The use to be restored is not objectionable, noxious, unsightly, or otherwise not in keeping with the theme of the C-2 District.
- (3) The use is the same as or substantially similar to the use previously abandoned.
- (4) The use is not classified as a high-hazard occupancy by the New York State Uniform Fire Prevention and Building Code.
- (5) The building or portion thereof has remained vacant continuously for a period of five years.

The Planning Board may also authorize an extension of the timeframe for break in nonconforming use, not to exceed twice the normal timeframe.

The Planning Board may also authorize the enlargement of an existing nonconforming use, not to exceed 25% of the current floor area.

The Planning Board may also authorize the construction of a new building on a nonconforming vacant lot, provided that such non-conformity is due to inadequate width or area, but not both.

- c. Modification of height, yard, open space, lot coverage or parking and loading requirements. The Planning Board may modify applicable height, yard, open space, or parking and loading regulations as follows:
  - (1) Height. The maximum permitted height of a building may be increased by one story or 15 feet.
  - (2) Yards and open spaces. Minimum required yards and open spaces may be decreased or eliminated at the discretion of the Planning Board, if there exists within 1,000 feet of the property a public park, playground or recreation area.
  - (3) Lot coverage. The maximum allowed lot coverage may be modified, at the discretion of the Planning Board.
  - (4) Off-street parking. The required number of off-street parking spaces may be reduced or eliminated, at the discretion of the Planning Board, if there exists within 500 feet of the property, public or private parking areas containing a sufficient number of parking spaces to satisfy the minimum requirements of this chapter. The applicant shall demonstrate that such shared or consolidated parking arrangements are legally available during the time(s) needed.
  - (5) Off-street loading. The required number of off-street loading spaces may be reduced or eliminated, at the discretion of the Planning Board, if the

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applicant can demonstrate that such facilities are unnecessary for the operation of the proposed use.

In no event shall the Planning Board grant a modification which would result in greater or lesser heights, yards, open spaces, or parking and loading areas than are required by the New York State Uniform Fire Prevention and Building Code.

10. Issuance of special permits. Special permits issued under this section shall specify in writing the incentives granted, the zoning requirements waived or modified, and the conditions of approval. The special permit shall become null and void if any of the terms of its issuance are violated and not corrected within 10 days. The Planning Board may authorize any combination of incentives and impose any combination of conditions it deems appropriate in each individual case. The Planning Board shall, to the extent practicable, balance the number and type of incentives granted with the number and type of conditions required for approval. As a further condition for approval of any special permit under this chapter, the Code Enforcement Officer shall perform an annual inspection of the property so as to determine satisfactory and continued compliance with the conditions and technical standards imposed.