

**Village of Clayton  
Local Law No. \_\_\_ of the year 2016**

**A Local Law to Regulate the Installation of Underground Utility Lines in the Historic District of the Village of Clayton**

**Be it enacted by the Village Board of the Village of Clayton as follows:**

- Section 1.** **Title.** This Local Law may be cited as the "Historic District Utility Lines Installation" law of the Village of Clayton, New York.
- Section 2.** **Purpose.** The Village Board of the Village of Clayton adopts this Local Law to regulate the placement and installation of utility lines to protect the public health, safety and welfare of its citizens and visitors; to minimize the adverse impacts on the character and economy of the shopping district of the Village's downtown Historic District; to minimize the adverse impacts on property values of nearby citizens; and to improve and preserve the aesthetics of the Village's Historic District shopping district.
- Section 3.** **Authority.** The Village Board of the Village of Clayton enacts this Local Law under the authority granted by Article IX of the New York State Constitution, the New York Municipal Home Rule Law, and the New York Village Law.
- Section 4.** **Findings.** The Village Board of the Village of Clayton finds and declares that:
- 4-1** Article IX of the New York State Constitution allows local governments to protect the health, safety and well-being of the people.
  - 4-2** The New York Municipal Home Rule Law grants local governments the power to adopt or amend local laws, not inconsistent with the New York State Constitution or any general law, relating to the protection and enhancement of their physical and local environments, as well as to the government, protection, order conduct, safety, health, and well-being of persons or property therein.
  - 4-3** Section 4-412 of the New York State Village Law allows the Village Board to grant rights and permission to utility companies to use the streets, highways, public places or any part thereof, as well as the space above or under them, subject to any legal regulations as the Village Board may deem proper.
  - 4-4** The Village of Clayton's downtown Historic District is the Village's main commercial hub.
  - 4-5** Regulation of the installation of utility lines and, in particular, requiring undergrounding of unsafe and unsightly overhead electrical lines, in the Historic District is necessary for protecting the health, safety, and well-being of property owners and the general public.
  - 4-6** Regulation of the installation and requiring undergrounding of utility lines is further necessary for protecting and promoting the local economy and local aesthetics of the Village of Clayton's Historic District shopping district.
  - 4-7** The possible negative impacts of relocating and reinstalling underground utility lines must be balanced against the positive benefits, including but not limited to benefits for the people, the local economy, and local character and aesthetics of the community.
  - 4-8** The New York State High Voltage Proximity Act, New York Labor Law § 202-h, prohibits property owners or workers from being within 10 feet of high voltage power lines. Current placement of overhead electrical lines prevents property owners in the Historic District from being able to maintain their historic buildings and facades without violating the High Voltage Proximity Act and without posing a danger to property owners and workers.
  - 4-9** The current placement of overhead electrical lines so close to the buildings increases the risk of loss of life and property. There have been three incidents of fires in the Historic District in the last 40 years. In the event of another fire in any of the buildings in the Historic District shopping district, firefighters would be delayed in responding. Firefighters would first need to call the utility companies to shut off power to a large portion of the Historic District before they could put water on the fire or use any aerial devices. This delay would increase the risk of the potential loss of life and property damage, as there is little or no fire separation between the buildings.

- 4-10 Overhead utility lines pose an additional threat to public safety and property because the utility lines are vulnerable to being downed by ice and wind storms. The North American Ice Storm of 1998 downed utility lines throughout New York State, which caused extensive and lengthy electricity and telephone outages in the Village of Clayton of more than three weeks. The outages left residents and visitors vulnerable to the extreme weather and caused significant property damage.
- 4-11 Overhead utility lines' vulnerability to being downed by ice and wind storms also poses a threat of economic loss and disruption to the businesses in the Historic District. The downed and damaged overhead lines caused by the North American Ice Storm of 1998 resulted in significant economic loss for the Historic District of the Village of Clayton, as this main commercial district was without power and unable to transact business for more than three weeks.
- 4-12 The Village of Clayton relies on tourism as a driver of economic development in the Village. The Historic District shopping district's unique aesthetics are a major draw and one of the bases of the tourism industry.
- 4-13 The Village of Clayton's Historic District shopping district has a distinct character which is negatively affected by unsightly overhead utility lines. The overhead utility lines detract from the culture and character of this community, and are in conflict with the Village's efforts to promote tourism.

**Section 5. Definitions.** As used in this chapter, the following terms shall have the meanings indicated within the language of this Law. Words not defined in this Local Law shall be given their ordinary and common meaning:

- 5-1 **Historic District:** The properties adjoining the span of State Road 970L in the Village of Clayton running from the intersection of Hugunin Street and James Street, proceeding to Riverside Drive, continuing up Webb Street, and terminating at the intersection of Hugunin Street and Webb Street.
- 5-2 **Utility Lines:** Transmission and lateral distribution wires and cables used for providing electricity, cable, internet and other similar services to the residents of the Village and the Village of Clayton.
- 5-3 **Person:** Any natural or artificial person, including but not limited to any individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, or club.
- 5-4 **Repair:** The replacement of existing equipment or infrastructure of any kind with substantially similar or the same equipment or infrastructure.
- 5-5 **Underground:** At least two feet below the grade existing at the location of the utility lines and poles.

**Section 6. Applicability.** The requirements of this Local Law shall apply to all existing and future utility lines and poles installed in the Historic District in the Village of Clayton.

**Section 7. Requirement of Underground Installation.** All utility lines located in the Historic District in the Village of Clayton, including existing utility lines, shall be installed underground. Existing utility lines shall be moved or replaced within forty-eight months of the effective date of this Local Law. Any owner of any utility line that is existing at the time of the effective date of this Local Law shall file with the Village Clerk, within twelve months of the effective date of this Local Law, a written plan and confirmation describing the intended actions of the owner of the utility line(s) in complying with the requirements of this chapter to move existing utility lines underground. Future installation or replacements of utility lines in the Historic District within the Village of Clayton shall be underground.

**Section 8. Enforcement; Penalties and Remedies for Violations**

- 8-1 The Village Board shall appoint such Village staff or outside consultants as it sees fit to enforce and implement this Local Law.
- 8-2 Any person owning utility lines shall be legally and financially responsible for any and all violations of this Local Law. Any person who violates this Local Law shall be guilty of a misdemeanor offense and subject to a fine of not more than \$1,000.00 per incident, in addition to any other penalties provided by local, state, or federal law. Each day of violation shall constitute a separate offense.
- 8-3 The Village may institute a civil proceeding to collect civil penalties in the amount of \$1,000.00 for each violation, and such other remedies as may be appropriate, together with costs, expenses and reasonable attorneys' fees to be fixed by the court. Each day said violation continues shall be deemed a separate violation.

**8-4** In addition to other remedies and penalties herein provided, and in addition to any other penalties provided by local, state, or federal law, the Village may institute any appropriate legal action or proceeding for injunctive relief to prevent or cure any violation, along with such other remedies as may be appropriate, including costs, expenses, and reasonable attorneys' fees to be fixed by the court.

**Section 9.** **Severability:** Should any provision of this Local Law be declared by any Court, administrative body, or board, or any other government body or board, to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.

**Section 10.** **Effective Date:** This local law shall take effect immediately upon filing with the Secretary of State.