

NOTES:

ZONING AMENDMENTS AND SECTION 3.2 (SCHEDULE OF USE REGULATIONS – PRINCIPAL USES) ARE SEPARATE ITEMS.

Please note that until the town records are digitized, this is the best representation we can get of an older document. Thank you.

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Town of Clinton, Dutchess County, New York    Local Law No. 3, 1991  
Effective Date: August 19, 1991

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## ARTICLE 1 PURPOSES

### 1.1 GENERAL PURPOSES

The zoning regulations and districts herein set forth and as outlined upon the map made a part of this law are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, convenience, order, prosperity and general welfare of the community. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view toward conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.

### 1.2 OBJECTIVES

- A. To provide adequate light, air and privacy, to secure safety from fire, floods, and other dangers and to prevent overcrowding of the land and undue congestion of population.
- B. To prevent the pollution of streams, ponds, and all other water resources, and to encourage the wise use and sound management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community, the integrity of the natural environment, and the value of the land.
- C. To facilitate the provision of water supply, sewage disposal, school, park and other public facilities and services that will meet the residents' basic needs and improve opportunities for community activities.
- D. To provide a safe and efficient transportation system, while preserving the Town's scenic and historic roadside features.
- E. To allow economic opportunities that are consistent with the primarily rural, residential character of the Town.
- F. To enhance the appearance of the Town as a whole, by ensuring that all development shall be orderly and beneficial to the Town, and by permitting appropriate uses and review of site plans.
- G. To provide a broader range of housing sizes and types in appropriate locations for all Clinton's residents, including young people, the elderly, and households who earn less than the median income.
- H. To preserve the Town's historic elements and character by protecting existing historic buildings and ensuring that new development is in harmony with existing historic character.
- I. To protect and promote the continuation of agriculture as an economic activity, a land use, and a method of maintaining open space.
- J. To promote a pattern of development that reinforces the community's hamlets, discourages strip commercial development, and preserves the Town's rural character.

ARTICLE 2 ESTABLISHMENT OF DISTRICTS

2.1 ZONING DISTRICTS

For the purposes of this law, the Town of Clinton is hereby divided into the following nine (9) districts:

C Residential AR5 Residential AR3 Residential	Conservation Agricultural  Very Low Density Agricultural  Low Density Agricultural	H RH MR1 CR1 I F	Hamlet Residential Hamlet Medium Density Residential Clustered Residential Office-Light Industry Floodplain
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2.2 ZONING MAP

The location and boundaries of said districts are shown on the "ZONING DISTRICT MAP, TOWN OF CLINTON," which is hereby adopted and is declared to be a part of this law. The Zoning District Map shall be kept up-to-date and shall be located in the Town Clerk's office for public use.

2.3 DELINEATION OF FLOOD HAZARD ZONES

The boundary of the Floodplain District is established herein as delineated on the most current edition of the appropriate "Federal Insurance Administration Flood Hazard Boundary Map" as issued for the Town of Clinton by the Federal Emergency Management Agency. Any revisions, amendments or successors thereto, are hereby adopted and made a part of this law. The latest edition of the map shall be kept on file in the offices of the Town Clerk and the Town Zoning Enforcement Officer for public use.

2.4 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

- A. Where district boundaries are indicated as approximately following streets, highways, public utility easements, rights-of-way, or watercourses, the center lines thereof shall be construed to be such boundaries.
- B. Where district boundaries are indicated as approximately following the town boundary line, property lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, streets, highways, public utility easements, rights-of-way, property lines, lot lines, watercourses or projections thereto, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning District Map.
- D. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot may, with the exception of the Floodplain District, extend not more than thirty-five (35) feet into the more restricted portion, provided the lot has street or highway frontage in the less restrictive district. In the case of Conservation Agricultural Residential District (C), Very Low Density Agricultural Residential District (AR5), and Low Density Agricultural Residential District (AR3), this distance may be extended up to two hundred (200) feet into the more restrictive portion by the Planning Board.

E. If the district classification of any land is in question, it shall be deemed to be in the most restrictive adjoining district.

F. In all other cases, where dimensions are not shown on the Zoning District Map, the location of the boundaries on said map shall be determined by use of the scale of the map.

## 2.5 PURPOSE OF EACH DISTRICT

### A. Conservation Agricultural Residential (C)

This district is intended to protect an area in north-central Clinton with critical natural resources. Silver Lake, Mud Pond, and Long Pond have been included in Dutchess County's Significant Areas because of their unique geological formation and important habitats. Agriculture, very low density residential development and recreational uses on a limited scale are allowed in the watershed area of these lakes, but with certain restrictions to preserve the surface water quality and underlying prime aquifer.

### B. Very Low Density Agricultural Residential (AR5)

This category is the largest district in the Town, covering most of northern and eastern Clinton. The land is generally characterized by areas of steep slopes, extremely shallow soils with exposed bedrock, or soils with poor permeability. Principal uses include agriculture and single-family dwellings and accessory uses at a density compatible with the natural limitations of the land and clustered where appropriate. The relatively rugged topography in this district makes these areas, for the most part, rural and lightly developed.

### C. Low Density Agricultural Residential (AR3)

This district includes a large portion of south-central Clinton and three smaller areas in the northern part of town. Since moderately deep soils are generally prevalent in these areas, the land is more conducive to both agriculture and development than most other sections.

Uses include continued agricultural uses and low density residential development with clustering and other land conservation techniques encouraged to protect sensitive natural resources, open space, and farm soils.

### D. Hamlet (H)

The hamlet districts reinforce the traditional land use pattern in Clinton by allowing more concentrated development in and around existing hamlets. They are designed to have defined boundaries with greenbelt buffers to maintain a central identity and to limit sprawl that would overwhelm their historic scale. The principal residential character of the hamlets will be retained by encouraging single-family houses on small lots, with some opportunities for small clusters of residential units, either through development of back lots or vacant lots, property on the perimeter or conversions of existing large homes. The current mixed use character of Clinton Corners, Schultzville, and Clinton Hollow will be enhanced by allowing additional public uses and small-scale businesses. Strip commercial or highway business uses are not allowed.

### E. Residential Hamlet (RH)

Several of the historic hamlets, (Frost Mills, Pleasant Plains, and Hibernia), are now less amenable to even small-scale commercial development and, therefore, have been designated residential hamlets. Primary uses are single-family houses and accessory uses on small lots and, if soil conditions are suitable and other performance standards are satisfied, small clusters of residential units.

Development of perimeter parcels and vacant or rear lots is encouraged in conjunction with site plan review where required.

#### F. Medium Density Residential (MR1)

This district encompasses the area between Route 9G and the Town's western border along the Crum Elbow Creek. With excellent transportation access and relatively good soils, a variety of housing options at an average density of one dwelling unit per acre is appropriate. One-family, two-family, multi-family, and cluster residential development are allowed, as well as mobile home parks and camping trailer campgrounds. Adequate setback buffers are required and only a minimum number of driveways are allowed to protect the safety and capacity of the state highway. In order to prevent any possibility of strip development, only a few selected commercial uses are permitted in this district.

#### G. Clustered Agricultural Residential (CR1)

This designation is reserved for the southeast corner of the Town, east of Salt Point Turnpike. With direct access to Salt Point Turnpike and the Taconic State Parkway and well-drained soils, this district allows moderate residential densities. The intent is to cluster all development in this district. Without increasing the overall density, clustering preserves more open space and agricultural land, allows

better site plans in relation to the interspersed natural constraints, limits road and other infrastructure costs that contribute to escalating housing prices, and preserves the long-range option to connect to future central utilities.

#### H. Office-Light Industry (I)

This district allows for expansion of industrial uses in two existing locations. Permitted uses include light industry, offices, office-research, and non-retail commercial functions to increase the district's flexibility and encourage higher standards of site design. Because of the proximity of these zones to residential uses and nearby hamlets, restrictions on uses that constitute a fire hazard or emit smoke, noise, or dust are enforced and high quality landscaping and wide buffers are required.

#### I. Floodplain (F)

The floodplain category contains the low-lying areas and major stream corridors defined on the Federal Emergency Management Agency's maps as 100-year floodplains. Uses in the floodplain district are limited to agriculture, forestry, recreation, and other uses that would be minimally affected by high water. Structures, especially those that would house either humans or livestock, are restricted.

ARTICLE 3 DISTRICT REGULATIONS

3.1 APPLICATION OF REGULATIONS

A. No building or structure shall be erected, moved, altered, enlarged or rebuilt, nor shall any land, building or structure be used, designed, or arranged to be used for any purpose other than as specified in the Schedule of Use Regulations and subject to all provisions of this law. See Section 2.1 for full district names.

B. Within each district, the regulations set forth by this law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure or land.

3.2 SCHEDULE OF USE REGULATIONS

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SEPARATE DOCUMENT

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3.3 CONSERVATION AGRICULTURAL RESIDENTIAL (C) DISTRICT REGULATIONS

A. Purpose

The Conservation Agricultural Residential (C) district regulations are intended to preserve and maintain the quality and quantity of surface and groundwater in the primary watershed area of Silver Lake, Mud Pond, and Long Pond. These lakes have been identified as one of Dutchess County's Significant Areas by the Dutchess County Environmental Management Council because of their unique geological formation and important habitats. They are also identified in the Town of Clinton Master Plan as located over a prime aquifer. The C district regulations permit agriculture and residential uses, but prohibit certain uses and activities that are incompatible with the goal of protecting high quality water for drinking and recreational use. The restrictions are designed to ensure long-term surface water quality and the substantial groundwater potential in this area, to protect aquatic life, and the health, safety and general welfare of the surrounding residents.

B. Location

The additional requirements of this section apply exclusively to the Conservation Agricultural Residential district as delineated on the "Zoning District Map, Town of Clinton," adopted as part of this law.

C. General Standards

1. No proposed use or action requiring a permit or board approval in the C district shall be approved or undertaken where the reviewing board or official, as prescribed by Article 7 herein, finds that, based on available information, analysis and evidence, the proposed action will:

- a. Significantly alter the subsurface flow of groundwater to existing water supply wells;
- b. Degrade the quality of surface or groundwater through the introduction of sewage wastes, stormwater runoff, liquid chemicals, petroleum products, dissolved metals, or other toxic substances;

c. Increase the long-term risk of water contamination through the siting, establishment, or expansion of uses which store, transport, or use significant quantities of material which is potentially harmful to water quality;

d. Increase the risk of water contamination through the excavation of soil, sand, stone, or gravel.

2. Any action requiring a site plan, special permit, or subdivision approval shall conform to erosion and sedimentation control standards as defined in Section 5.44 and the recommendations in the Dutchess County Soil and Water Conservation District's Erosion and Sediment Control Guidebook.

3. Nothing in Section 3.3.(C) shall apply to introduction of animal wastes through agricultural operations.

#### D. Use Requirements

1. Prohibited Uses and Activities. The following uses or activities are prohibited in the C district:

a. Land application, disposal, or storage of any sludge, solid wastes, municipal wastewater, toxic chemicals, hazardous or radioactive materials, except the storage of solid waste and hazardous materials in containers as part of normal household use. Such restriction shall not apply to normal agricultural operations;

b. Disposal of toxic or hazardous wastes in disposal wells or unsealed abandoned wells;

c. Snow stockpiling or dumping from town roads or public or private parking lots, except normal road plowing;

d. Chloride salts, nitrate salts, or coal storage, except as part of indoor household use;

2. Bulk Fuel Storage. No underground storage tanks shall be installed or replaced in the C district, unless such tanks, regardless of size, comply with all Department of Environmental Conservation regulations for tanks over 1,100 gallons. Above ground storage of heating fuel shall be permitted and shall comply with all applicable codes and regulations for safe and proper storage (see Section 5.9). The owner of any storage tank or container is responsible for prompt reporting of any spills or leaks and for the cost of cleanup, containment and damages.

#### 3. Agricultural Uses

a. No building in which animals are kept shall be placed closer than two hundred (200) feet from any lake. Such restriction shall not apply to buildings in existence on the effective date of this law.

b. All stables, pigsties, barnyards, standing places and other areas where animal wastes may accumulate shall be so arranged and maintained that no washings or drainage therefrom shall flow into any lake, watercourse or wetland. This paragraph shall not apply to such structures and feed lots in existence on the effective date of this law.

c. All bulk storage of artificial fertilizers, pesticides, herbicides, or other farm chemicals shall be within a completely enclosed building or structure which will prevent any seepage or runoff.

4. Hazardous Materials. No pesticides, herbicides, fertilizers or other hazardous materials for lawn care shall be stored or applied within two hundred (200) feet of any lake. Such materials should be stored and used in compliance with state guidelines and regulations to prevent leaching into surface and groundwater.

#### 5. Sewage Treatment Systems

a. No septic system or other facility for the deposit or treatment of human wastes or wastewater shall be constructed within two hundred (200) feet of a lake, watercourse or wetland or in such a place or manner to threaten to contaminate the same. Such restriction shall not apply to septic systems installed before the effective date of this law.

b. Before a building permit to expand the number of bedrooms or bathrooms in an existing building shall be issued, the applicant shall present evidence of inspection by a qualified professional and affidavit that the existing or proposed septic system shall be adequate to support such proposed expansion and that there is no evidence that such expansion will cause lake pollution from this source.

c. All sewage treatment systems shall be designed with subsurface discharge resulting in no visible effluent.

### 3.4 HAMLET (H) AND RESIDENTIAL HAMLET (RH) DISTRICT REGULATIONS

#### A. Purpose

The Town of Clinton values the architectural character of its historic hamlets. The following district regulations are intended to reinforce Clinton's hamlets by allowing residential and certain non-residential growth in and immediately around existing hamlets. These districts provide for a traditional hamlet land use pattern of mixed residential, community facilities, and small-scale commercial businesses. A variety of uses and housing types, short front setbacks, pedestrian orientation, vacant and interior lot development are encouraged, while highway business uses or suburban strip centers are not allowed. Compatibility with the existing historic and primarily residential character of the hamlets is protected through design criteria in the site plan review process.

#### B. Location and Permitted Uses

The additional requirements of this section apply to the Residential Hamlet (RH) and Hamlet (H) districts only, as delineated on the "Zoning District Map, Town of Clinton," adopted as part of this law. The permitted uses in the RH and H Districts are listed in Section 3.2, Schedule of Use Regulations.

#### C. Standards

1. Access. To the extent practical, new buildings shall front on new interior roads, and not on county roads. Such interior roads shall be built with provisions for a pedestrian accessway and shall require street trees and on-street parking. Where appropriate, adjacent non-residential parking and circulation routes shall be interconnected to limit access points onto main roads.

2. Off-Street Parking. All non-residential and multi-family off-street parking shall be screened with landscaping or fencing from the public roadway and neighboring residential properties, and shall be located behind the front building line, preferably in the rear yard, except where specific site conditions make such location impractical. For the purposes of this section, front building line shall also include, on a corner lot, any side building line that fronts on a street.

3. **Maximum Size of Structures.** The maximum footprint (ground area covered by the building and foundation) of any structure shall be three thousand (3,000) square feet, except such limitation shall not apply to agricultural buildings.
4. **Mix of Non-residential and Residential Uses.** In the RH and H districts, up to one (1) non-residential establishment and one (1) dwelling unit are permitted on the same lot. These combined uses on the same lot shall be either attached or in a detached building in existence as of the effective date of this law. For the purpose of this paragraph, newly constructed detached structures for mixed commercial use are not permitted. Combined uses on one lot are subject to Health Department approval and shall provide off-street parking for both uses in conformance with Section 5.36, Off-Street Parking.
5. **Hours of Operation.** Hours of operation for commercial uses are limited to between 6:00 a.m. and 10:00 p.m., except agriculture, medical facilities, hotels, motels or theaters.
6. **Protection of Existing Development.** For actions requiring site plan review (not required for single-family dwelling), the Planning Board shall consider at least the following factors and may suggest alternatives in the following areas:
  - a. Visual compatibility with surrounding buildings, including proportions of the front facade, proportion and arrangement of windows and other openings within the facade, roof shape, color and rhythm of spacing of buildings on the street.
  - b. Comparable treatment of the sides and rear of all buildings in amenity and appearance to that given the front facades of these same buildings.
  - c. Building materials and site accessories and their relation to similar features of other nearby properties in the district.
  - d. The hamlet objectives to extend and link pedestrian accessways, encourage accessible areas that can accommodate public activities, and to enhance the pedestrian environment through coordinated landscaping, lighting, signs, street furniture and design.

### 3.5 CLUSTERED RESIDENTIAL (CR1) DISTRICT REGULATIONS

#### A. Purpose

The Town of Clinton Master Plan recommends requiring clustered development in the CR1 district to preserve open space and agricultural land, allow better site plans in relation to the interspersed natural constraints, and limit road and other infrastructure costs that contribute to escalating housing prices. Clustered subdivisions also preserve the long-term option of connecting the Clinton Corners area to a central sewer system on Wappinger Creek. For additional general purposes, criteria and guidelines, see Section 5.16, Cluster Development, Residential.

#### B. Standards

1. All subdivisions and development in the CR1 district shall be clustered in accordance with a development plan for the entire property, subject to the provisions of Section 281 of the Town Law of the Consolidated Laws of New York and Section 5.16 of this law. The Planning Board may waive this requirement under one (1) or more of the following conditions:

- a. The existing property is less than five (5) acres.
- b. It can be documented that soils or other natural conditions prohibit development in a clustered arrangement.
- c. Based on the goals and policies in the Town Master Plan and the purposes set forth in Section 5.16 of this law, the Planning Board determines that clustering is inappropriate on a given site.

The Planning Board shall fully document the reasons for the granting of a waiver from the cluster requirement.

2. Partial subdivision of a parcel is permitted to accommodate landowners who do not wish to subdivide their entire property. However, in the CR1 district, unless the cluster requirement is waived by the Planning Board, all subdivisions that do not develop the maximum allowable number of lots or dwelling units on a given parcel shall be created in accordance with an overall cluster plan for the development of the entire parcel and the requirements of Section 5.16, Cluster Development, Residential.

### 3.6 MEDIUM DENSITY RESIDENTIAL (MR1) DISTRICT REGULATIONS

#### A. Purpose

It is the purpose of this section to allow a variety of residential uses in the MR1 district, while protecting the safety and capacity of the state highway and the Crum Elbow Creek stream corridor. Uses that could evolve into a strip commercial character are prohibited.

#### B. Location

The additional requirements of this section apply to the Medium Density Residential (MR1) district only, as delineated on the "Zoning District Map, Town of Clinton," adopted as part of this law.

#### C. Standards

1. Access. To the extent practical, new structures shall front on new interior roads, and not on the state highway. Driveways entering directly onto the state highway shall be strictly limited to the minimum necessary to service the use.
2. Setback Buffers. In addition to the minimum yards listed in Section 4.1, "District Schedule of Area and Bulk Regulations," a setback buffer area of at least one hundred (100) feet in depth from the property line along the state highway containing no structures shall be maintained. For principal uses other than agriculture and one-family or two-family dwellings, the buffer area shall be planted and bermed or fenced to completely screen in all seasons the use from the state highway.
3. Stream Protection. A stream protection buffer at least one hundred (100) feet from the mean high water mark of the Crum Elbow Creek shall be maintained for all principal uses other than agriculture and one-family or two-family dwellings. Natural vegetation shall be maintained to prevent erosion and campsites, mobile home sites, or structures shall be prohibited in such buffer area.

4. All permitted uses in the MR1 district shall comply with all other provisions of this law and all other ordinances and local laws of the Town of Clinton.

### 3.7 OFFICE-LIGHT INDUSTRY (I) DISTRICT REGULATIONS

#### A. Purpose

It is the purpose of this section to encourage the development of well-designed office and light industrial uses where such uses are appropriate. The physical design, siting and layout of office and light industrial uses are considered to be essential to insuring a coherent pattern and appropriate mix of land uses, thereby preserving property values and maintaining the visual and aesthetic environment. Further, properly planned office and light industrial uses will provide area residents with employment opportunities and contribute to the economic vitality of the Town.

#### B. Location

The additional requirements of this section apply to the Office-Light Industry (I) district only, as delineated on the "Zoning District Map, Town of Clinton," adopted as part of this law.

#### C. Standards

1. **Density.** No lot upon which a permitted building or buildings are to be constructed shall be smaller than three (3) acres. However, where a lot in an industrial district meets minimum frontage requirements and that district frontage has direct access on an existing state or county roadway, the minimum acreage required shall be one (1) acre.

2. **Multiple uses.** Notwithstanding Section 4.2(A), multiple uses shall be allowed on a lot within the I district. Only those uses specified in Section 3.2, Schedule of Use Regulations, shall be permitted. Only one use per accessory building shall be permitted.

3. **Setbacks.** The setback requirements for buildings shall be as specified in Section 4.1, District Schedule of Area and Bulk Regulations, with the exception that where an industrial lot abuts a residential lot or district, a minimum two hundred (200) foot setback for all permitted uses and associated activities from a residential lot or district shall be required. A landscaped buffer in compliance with Section D(3), Landscaping, shall be provided within any required two hundred (200) foot setback.

4. All uses in the I district shall comply with the provisions of this law including but not limited to:

- a. Section 5.34, Landscaping;
- b. Section 5.36, Off-Street Parking and Loading;
- c. Section 5.43, Signs;
- d. Section 5.2, General Performance Standards.

5. **Shared Access.** In order to reduce the number of access points onto roadways carrying through traffic and thereby improve traffic flow and reduce the risk of accidents, the use of shared accessways and driveways in the I district is permitted, provided that the accessways are built to town standards. Where two or more lots

abut and where the uses or proposed uses of those lots are complementary, all efforts shall be made to provide for common driveways or accessways. Any necessary easement, deed restriction, or other form of legal access guarantee acceptable to the Town's attorney shall be provided to the Planning Board at the time of final approval. Where no use for an adjoining lot currently exists, but where a lot's future use can be reasonably anticipated, the Planning Board may require that an applicant reserve a right-of-way or easement which would insure the future interconnection of the two lots by means of an accessway or driveway.

## ARTICLE 4 AREA AND BULK REGULATIONS

### 4.1 DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

The general area and bulk regulations in each zoning district are set forth in the attached "DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS." This Schedule is supplemented, as appropriate, by other provisions of this law, including the Supplementary Regulations stated in Article 5.

A. No structure shall be erected, moved, altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless it is in conformity to the District Schedule of Area and Bulk Regulations, except as hereinafter provided.

B. No yard or lot existing at the time of the passage of this law shall be reduced in size or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this law shall meet the minimum requirements established by this law, with such lots established in accordance with the requirements of the Town of Clinton's Subdivision Regulations.

### 4.2 GENERAL REGULATIONS

The provisions of this law shall be subject to such exceptions, additions or modifications as provided by the following general regulations:

#### A. Lot for Every Principal Building

Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one (1) principal building on one (1) lot, except for agricultural operations, multi-family developments, community facilities and except as specifically permitted elsewhere in this law. Where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot than the height of the taller of said buildings.

#### B. Subdivision of a Lot

Where a lot is hereafter formed from the part of a lot already occupied by a building, such separation shall be effected in such a manner that each lot thus created conforms to all of the requirements of this law and the Town's Subdivision Regulations.

#### C. Irregularly Shaped Lots

Where a question exists as to the proper application of any of the requirements of this article to a particular lot because of the peculiar or irregular shape of the lot, the Planning Board shall determine how the District Schedule of Area and Bulk Regulations shall be applied.

4.1 DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

Minimum Lot

Area per

Dwelling Minimum Setback

Max. Max. Min.

Zoning Unit or for Yards Min. Parking Setbacks Bldg. Bldg. Lot Min. Lot Open

District Establishment Front\* Side Rear Front SideRearHeight\*\*CoverageWidthFrontageSpace\_\_

Zoning District	Min Lot Area Per Dwelling Unit or Establishment	Min Setback for yards			Min Parking Setbacks			Max Bldg Height	Max Bldg Coverage	Min Lot Width	Min Lot Frontage	Min Open Space
		Front	Side	Rear	Front	Side	Rear					
AR5	5 acres	100'	50'	75'	50'	10'	10'	35'	7%	400'	40'	75%
AR3	3 acres	100'	50'	75'	50'	10'	10'	35'	7%	300'	40'	75%
C***	5 acres	100'	50'	75'	50'	10'	10'	35'	7%	400'	40'	75%
H	1 acre	45'	****	50'	50'	10'	10'	35'	12%	100' Interior 150' Corner	40'	50%
RH	1 acre	45'	****	50'	50'	10'	10'	35'	12%	100' Interior 150' Corner	40'	50%
MR1	1 acre	75'	****	50'	50'	10'	10'	35'	10%	100' Interior 150' Corner	40'	65%
CR1	1 acre	75'	****	50'	50'	10'	10'	35'	10%	100' Interior 175' Corner	40'	65%
J*****	3 acres and FAR of 1.5	100'	50'	75'	125'	20'	20'	50'	30%	300'	40'	30%
	1 acre and FAR of 1.5	60'	25'	50'	50'	10'	10'	50'	30%	150'	40'	30%

F No dwelling units or establishments permitted

\* See Section 4.8. For corner lots see Section 4.6.

\*\* See Height Exceptions in Section 4.5.

\*\*\* See additional setback and other requirements for the C district in Section 3.3.

\*\*\*\* There shall be two (2) side yards with a total width of not less than fifty (50) feet. The width of the narrower of the two (2) side yards shall not be less than one-third (1/3) of the total width of the two (2) side yards.

\*\*\*\*\* See Section 3.7(C)(1).

4.3 EXISTING LOTS OF RECORD

A. Nothing contained herein shall prohibit the use of an existing lot of record, as defined in Article 8 of this law, of less than the prescribed lot area, lot width or lot frontage for the district in which it is located, provided that:

1. Such lot may not be used for more than one (1) dwelling unit and its associated accessory structures.
2. Such use shall satisfy all applicable requirements of the Town of Clinton and the New York State Departments of Health and Environmental Conservation for potable water supply and sewage disposal facilities.

3. All other area and bulk regulations for that district shall be met.
4. If created after June 12, 1962, the lot is part of subdivision plat approved by the Town of Clinton Planning Board in accordance with the Town's Subdivision Regulations and filed in the office of the Dutchess County Clerk in a timely manner pursuant to Town Law.
  - B. Any lands that may be described separately, but are part of a single deed or which have not been duly approved as separate building lots by the Planning Board and filed as separate lots in the office of the Dutchess County Clerk, whether or not they are separate lots for property tax purposes, require subdivision under the provisions of this law.

#### 4.4 MINIMUM LOT AREA PER DWELLING UNIT OR ESTABLISHMENT

A. In all districts where residences are permitted, a lot may only be improved for residential use in accordance with the minimum lot area and related bulk regulations for the district as set forth in the "District Schedule of Area and Bulk Regulations," except as provided in Section 4.3 above regarding existing lots of record, or as provided in Section 5.16 of this law regarding residential cluster development in accordance with the Town of Clinton's Subdivision Regulations and Section 281 of the Town Law.

If two (2) or more principal residential structures or if a single structure containing two (2) or more dwelling units are located or proposed to be located on the same lot, except for residential conversion authorized under this law by special permit, the minimum lot area per dwelling unit requirement must be complied with, and all other requirements of the law and other applicable laws, rules and regulations must be strictly met. Further, a residential lot of required or greater than required area as set forth in this law shall not be reduced in area for transfer of ownership if such lot so divided will form any lot which shall be less than the minimum lot area required in that district or for the existing use.

B. In all districts, except Hamlet or Residential Hamlet districts, the minimum acreage required for each principal use other than for a dwelling unit shall be the same as the minimum acreage for a single dwelling unit in that district, as set forth in the "District Schedule of Area and Bulk Regulations," except as otherwise provided in Articles 3, 4, and 5 for that principal use.

In H and RH districts, the provisions of Section 3.4(C)(4) apply.

C. In consideration of minimum lot area, the following restrictions apply:

1. Individual septic tanks shall be permitted on existing lots of record of not less than 20,000 square feet in area.
2. All septic tank installations or sewage disposal systems shall otherwise conform to the requirements of the Dutchess County Department of Health.
3. No such septic tank shall be permitted in low, swampy areas with a high water table (permanent, fluctuating, or seasonal), areas with ledge rock, or areas that are subject to flooding.
4. The installation of a septic system utilizing pumping shall be permitted where approved by the Department of Health.

5. The pumping of cesspools and septic tanks shall be permitted; however, the disposal of the contents thereof shall not be permitted within the Town of Clinton, except as approved by the Town Board.

#### 4.5 HEIGHT EXCEPTIONS

The height limitations set forth in the "District Schedule of Area and Bulk Regulations" shall apply to all buildings and structures, but shall not be applicable to the following:

- A. Flagpoles, radio or television antennas, transmission towers or cables, windmills, agricultural barns and silos, and similar features, any of which shall be restricted to a maximum height of eighty (80) feet above average finished grade at its base.
- B. Spires, belfries, chimneys, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, solar collectors, air conditioning units or similar structures which in their aggregate coverage occupy no more than ten percent (10%) of the roof area of the building of which they are an integral architectural or mechanical element. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended, not to extend more than twenty (20) feet above the roof or twenty (20) feet above the maximum height allowed in the district, whichever is less restrictive. No structure listed in this section shall be used as a place for habitation or for advertising not otherwise authorized by this law.
- C. For each foot a building or structure exceeds the maximum height specified in Section 4.1, it shall be offset from the property lines one (1) foot in addition to the applicable yard requirements.

#### 4.6 CORNER LOTS

- A. On a corner lot, each street frontage shall be deemed to be a front street line, and the required yard along each such lot line shall be a required front yard. However, the above notwithstanding, no lot shall be interpreted to have more than two (2) front yards regardless of how such lot is located or configured. The owner, in consultation with the Zoning Enforcement Officer, shall establish which of the remaining yards shall be the required side yard and the required rear yard.
- B. On a corner lot, no fence, wall, hedge or other structure or planting, more than three (3) feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distance from the point of intersection, measured along said right-of-way lines. The height of three (3) feet shall be measured above the road surface at the nearest edge of the road travelled. This paragraph shall not apply to existing or planting of trees, provided that no branches are closer than six (6) feet to the ground, and that proper visibility is provided.

#### 4.7 ACCESSORY STRUCTURES

- A. Accessory structures, as defined in Article 8 of this law, may not be located in any yard of a residential lot except as permitted in Section 4.8, Measurement and Use of Yards, and are subject to the following limitations:
1. No such structure shall exceed twenty-five (25) feet in height in any residential district, except agricultural buildings.

2. All structures in the aggregate shall not exceed the maximum building coverage as set forth in the Schedule of Area and Bulk Regulations, except for agricultural buildings.
  3. No such structure shall project closer to the fronting street than the principal building on the lot, or the required front yard setback for the district, whichever shall be less restrictive.
  4. Not more than three (3) such accessory structures, other than permitted signs or agricultural buildings on a farm as defined herein, of which no more than one (1) shall be a private garage, shall be permitted on an individual lot in a residential district, except where lots are held in common ownership in accordance with Section 5.16, Cluster Development, Residential.
  5. If any accessory structure is attached to a principal building or semi-detached therefrom, including attachment by means of a breezeway or a roofed passageway, it shall comply in all respects to the area and bulk requirements of this law applicable to the principal building. No such accessory structure shall be constructed nearer to the front lot line than is permitted for the principal building nor nearer to any side or rear lot line than the distance required in the Schedule of Area and Bulk Regulations, except as specifically provided elsewhere in this law.
- B. One (1) accessory building with a maximum floor area of one hundred twenty (120) square feet may be installed or constructed and utilized without the issuance of a building permit or certificate of occupancy, provided that:
1. The structure does not have a permanent foundation.
  2. The structure is not served by any utility such as electricity, gas or plumbing.
  3. The structure does not exceed ten (10) feet in height.
  4. The structure is never used for human habitation.
  5. All other requirements of this law related to accessory structures are fully met.
  6. Such structures are not included in the total allowed in Section 4.7(A)(4) above.

#### 4.8 MEASUREMENT AND USE OF YARDS

- A. The front yard setback is measured from the nearest point on the center line of the road or right-of-way. Where the width of the right-of-way is greater than sixty (60) feet, the front yard is measured from the nearest edge of the right-of-way.
- B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
- C. Minimum yards, as required herein, shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material or for signs, except as otherwise specifically permitted herein.
- D. Minimum yards may not be encroached upon for construction, except:

1. Ordinary building projections, up to three (3) feet into the required yard;
2. Exterior stairs, up to eight (8) feet into the required yard, but not closer than five (5) feet to any lot line;
3. Awning or movable canopy, up to six (6) feet into the required yard;
4. Retaining walls, fences, masonry walls, open arbors, trellises;
5. Unroofed steps, patio or terrace not less than twenty (20) feet from the street or right-of-way line nor less than ten (10) feet from any side or rear lot line;
6. Bus passenger shelter, playhouse, toolhouse, garden house, or similar non-permanent structures, not to exceed fifty (50) square feet, and located not closer than ten (10) feet to any lot line or street right-of-way line. Such non-permanent accessory structures shall not be included in the maximum number permitted by Section 4.7, Accessory Structures.

#### 4.9 ROAD FRONTAGE REQUIREMENT

No lot shall be created, nor any driveway permit issued, nor any building permit issued for any structure, unless the lot upon which such application is made has not less than forty (40) feet of frontage on and access to a public street or highway, as defined by Section 280-a of Town Law, which street or highway shall have been suitably improved or a bond posted therefor to the satisfaction of the Town Board as provided in said law.

#### 4.10 REAR LOTS

A. Rear lots are allowed in any district. Such lots may be approved only where they will not endanger public health and safety and will advance the purposes of this law, including the preservation of natural and scenic resources.

B. Rear lots are subject to the following additional conditions:

1. The accessway to the rear lot must be not less than forty (40) feet wide along its entire length, and must be contained entirely within the lot, except where an easement exists through lands owned by a public utility.
2. At least seventy-five percent (75%) of the required minimum lot area for a rear lot shall be contained in the area of the rear lot which does not include the area of the minimum accessway to the lot (i.e., 40 feet times the length of the accessway).
3. No two (2) accessways to rear lots may abut. The Planning Board may waive this requirement and allow no more than two (2) abutting accessways to rear lots, except as allowed in paragraph 5 below.
4. A driveway entrance must be a minimum of eighty (80) feet, at its closest point, from another existing or proposed adjacent driveway on the same side of the road, except where two (2) abutting accessways have been allowed by the Planning Board pursuant to Section 4.10(B)(3) above, and except as allowed in paragraph 5 below.

5. The requirements in Section 4.10(B)(3) for non-abutting accessways and the requirements in 4.10(B)(4) for eighty (80) feet between adjacent driveways shall not apply at the closed end of a cul-de sac, in which case the Planning Board may approve such accessway locations as it finds will meet the objectives of this law.

6. Any authorized rear lot must have at least the minimum lot width specified for the zoning district at the building line established on the subdivision plat, rather than at the minimum required front setback line, as otherwise required by this law. The building line so established must meet the minimum building setback and must be at least fifty (50) feet farther from the point at which the lot achieves the minimum lot width.

7. In considering the best use of land in a subdivision, the Planning Board may limit the number and location of such rear lots and the length of the accessways, and shall require such other changes in design and layout of the subdivision so that the rear lots will be in keeping with the Town of Clinton Master Plan.

#### 4.11 LAND DESIGNATED AS FRESHWATER WETLANDS OR UNDER WATER

At least seventy-five percent (75%) of the required minimum lot area for any lot in any district shall be fulfilled by land which is not within a designated wetland, as regulated by the New York State Department of Environmental Conservation and by land which is not under water. Land completely under water shall not be used in the calculation of the maximum number of dwelling units permitted in a subdivision. All minimum front, side and rear yard requirements must be satisfied by measurement from the flagged wetland boundary or the mean high water mark for surface water, whichever is more restrictive. However, for purposes of this paragraph, land which is covered by a stream less than five (5) feet in average width at mean water level, or land covered by a pond not exceeding one hundred fifty (150) square feet in surface area at normal high water level, shall not be considered as being under water.

## ARTICLE 5 SUPPLEMENTARY REGULATIONS

### 5.1 APPLICATION OF REGULATIONS

In addition to the provisions set forth in the Schedule of Use Regulations, the conditions set forth in the following Supplemental Regulations shall apply to specific uses. In all cases where this law requires special permit approval, no Building Permit or Certificate of Occupancy shall be issued by the Building Inspector except by authorization from the Planning Board that all plans have been approved and that all conditions imposed by this article, and all general standards have been met (see also subsection 7.10(B)). Restrictions imposed by the definition of any item, as contained in Article 8 herein, shall also be construed as supplementary regulations to this law.

### 5.2 GENERAL PERFORMANCE STANDARDS

The intent of these provisions is to protect the public health, safety, and welfare by limiting conditions which are obnoxious, offensive, or hazardous to neighboring property owners. Uses established or maintained shall conform with standards contained herein, unless excepted elsewhere in this law, for the continuance of any certificate of occupancy or special permit. Nothing herein shall prevent a property owner from pursuing private nuisance remedies.

#### A. Noise

1. Sound levels shall be determined at the property line of the lot from which the noise is emitted. Sound measurements shall be accomplished through a sound-level meter having an A-weighted filter and constructed in accordance with specifications of the American National Standards Institute or currently accepted standard for the measurement of sound.

2. No person, firm or corporation shall allow the emission of sound which, as measured at the property lines, has a sound level in excess of:

- a. Sixty (60) decibels on the A-weighted scale between the hours of 7:00 a.m. and 8:00 p.m.; and
- b. Fifty (50) decibels on the A-weighted scale between the hours of 8:00 p.m. and 7:00 a.m.

3. No person, firm or corporation shall allow the emission of sound at the property line, at levels lower than the above paragraph, which is by the type of frequent noise emitted, offensive or disruptive, or in continual disharmony with the character of the surrounding residential neighborhood. Nothing herein shall prevent, however, occasional noise from residential or agricultural uses.

4. No internal combustion engine shall be operated at any time without an adequate muffler designed and manufactured to suppress exhaust noises to a minimum (see also other applicable local laws of the Town of Clinton).

5. These noise regulations are meant to limit habitual, long-term noise violations. The Zoning Enforcement Officer and the Zoning Board of Appeals may exempt temporary or infrequent noises. The following uses and activities shall also be exempt from the noise regulations:

- a. Noises from agricultural operations on a farm as defined herein.
- b. Temporary construction noises between the hours of 7:00 a.m. and 8:00 p.m.

c. Transient noises from moving sources, such as automobiles, trucks except those in commercial operations, and except as otherwise restricted by the laws of the Town of Clinton.

d. Noises from safety signals, warning devices and emergency pressure relief valves.

e. The sound of bells or chimes from a church or other place of worship.

B. Smoke or Particulate Matter. Any emission of smoke or particulate matter, from any source, shall comply with all local, state and federal regulations.

C. Glare and Heat. No unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is located. All exterior lighting, including security lighting, in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties. Special efforts shall be required, such as limiting hours of lighting or the planting of vegetation and the installation of light shields, to alleviate the impact of objectionable or offensive light and glare produced by exterior sources on neighboring residential properties or public thoroughfares. In particular, no use shall produce glare so as to cause illumination beyond the property on which it is located in excess of five-tenths (0.5) footcandle.

D. Electromagnetic Interference. No land use or operation shall be allowed which produces any perceptible electromagnetic interference with normal radio or television reception outside the boundaries of the lot on which such use or operation takes place; however, nothing herein shall be construed to apply to occasional use of farm machinery or shall be applied in any manner which is inconsistent with any state or federal regulation relating to electromagnetic interference.

E. Toxic or Noxious Matter. No land use or operation shall be permitted which permits or causes the escape of any toxic or noxious fumes, gases or other matter outside the building in which the use is conducted.

F. Radiation. No emission of radiation or discharge of radioactive gases, liquids or solids shall be permitted. The handling, storage or disposal of radioactive materials or waste by-products, whether or not licensed by the Atomic Energy Commission, shall be conducted only in accordance with the standards established in Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation," as amended, and in accordance with any other applicable laws or regulations.

G. Vibration. No activity shall cause or create a steady state or impact vibration discernible at any lot line.

H. Liquid or Solid Wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws, and regulations of the Dutchess County Department of Health, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste from any commercial or industrial activity shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.

I. Fire and Explosion Hazards. All activities involving, and all storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices standard in the industry. All applicable requirements of the New York State Uniform Fire Prevention and Building Code, DEC regulations, as well as the provisions of the National Fire Protective Association (NFPA) Code, shall be observed.

J. Odor. No person, firm or corporation, excluding farms and agricultural operations, shall permit the emission of any offensive odor at the property line of the lot from which the odor is emitted.

K. Outside Storage Related to Commercial or Industrial Activities. Materials, supplies and products shall not be stored in any required setback area. All permitted outside storage areas shall be neatly kept, fenced, and screened from any existing or proposed road or any adjoining residential property.

L. Fences. The Planning Board may require the fencing or screening, or both, of any hazardous or potentially dangerous conditions which in the opinion of the Board might cause injury to persons or damage to property. The Zoning Board of Appeals may require appropriate fencing or screening as a condition to granting a variance.

M. Procedure. Complaints under the above General Performance Standards shall be made to the Zoning Enforcement Officer or other authorized officer. The decisions of the Zoning Enforcement Officer are subject to administrative review by the Zoning Board of Appeals.

### 5.3 ACCESSORY DWELLING UNIT

#### A. Intent

Accessory dwelling units are allowed in the Town of Clinton in order to provide broader housing alternatives in a manner which does not infringe upon the character of existing neighborhoods.

#### B. General Provisions

All accessory dwelling units, within the principal structure or detached, shall meet the following requirements:

1. Only one accessory unit is allowed per lot, and it shall be clearly subordinate to the principal use on the lot.
2. The lot may not be an existing nonconforming lot of less than the prescribed lot area or lot width required in the district.
3. No accessory unit shall be created on a lot where two or more dwellings exist in violation of the permitted density, or as a nonconforming use, in the district in which the lot is located.  
No accessory unit shall be created on a lot where a two-family or multi-family dwelling exists.
4. The owner of the single-family dwelling unit shall occupy at least one (1) of the dwelling units.
5. The number of bedrooms in the unit shall not be more than two (2).
6. The accessory unit shall contain no greater than thirty-five percent (35%) of the total "habitable space" of the existing principal structure prior to the construction of such accessory apartment or one thousand (1000) square feet of floor space, whichever is more restrictive. The floor space of the accessory unit shall be a minimum of four hundred (400) square feet. The area of the principal dwelling unit shall not be reduced below the area required herein (see Section 5.21, Dwelling Standards). "Habitable space" shall be that as defined in Article 3, Part 711.1 of the NYS Uniform Fire Prevention and Building Code.

If the accessory unit is larger than this size limitation and is within the principal structure, then the building is a two-family dwelling unit, and must conform to the conditions for that special permit, including the acreage requirement.

If the accessory unit is larger than this size limitation and is in a detached structure, then the new dwelling unit is a separate single-family dwelling unit, and subdivision must take place in accordance with the provisions of this law and the town Subdivision Regulations.

7. The unit shall be self-contained, with separate cooking, sleeping, and sanitary facilities for use by the occupant(s).
8. The unit must have safe and proper means of entrance. Any additional exterior entrances which may be created shall be located at the side or rear of the structure.
9. No special permit for an accessory unit shall be granted unless the applicant can demonstrate that the water supply and sewage disposal systems serving the building or buildings in question meet current County Health Department requirements and shall continue to meet such requirements. The Planning Board may require that the applicant have sufficient lot area to allow for future replacement of the septic system.
10. Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practical. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall an exterior stairway or fire escape be located on any wall fronting the street.
11. Any legally established accessory unit that is in existence at the time of the adoption of this law and which fails to conform to one (1) or more provisions of this law shall be subject to the provisions of Article 6, Nonconforming Uses. Any illegally established accessory unit in existence at the time of the adoption of this law and which fails to conform to one (1) or more provisions of this law shall be in violation of this law and shall be brought into compliance with this law.

#### C. Accessory Dwelling Unit Within Principal Structure

In addition to the provisions specified in subsection B above, accessory dwelling units within or attached to a principal structure shall meet the following requirements:

1. The total acreage required for the single-family dwelling with the accessory dwelling unit within the principal structure is the same as the acreage required for a single-family dwelling unit in the district in which it is located, except as may be required by paragraph B(9) above.
2. No accessory dwelling unit within a principal structure shall be allowed in buildings issued a certificate of occupancy after the effective date of this law, except buildings covered by Section 7.5 (E).
3. No addition to create an accessory dwelling unit within a principal structure shall be permitted unless such addition conforms to all area and bulk regulations (except as specified in paragraph C(1) above) as specified in Section 4.1 of this law.

#### D. Accessory Dwelling Unit in Existing Gatehouse, Garage, Barn, or Similar Detached Structure

An accessory dwelling unit is allowed under this subsection in a gatehouse, garage, barn or similar detached structure which may legally exist at the time the accessory dwelling unit is proposed.

For the purpose of this section, any structure which does not have at least one (1) wall in common with the principal structure is a detached structure. A common roof, patio, porch or breezeway shall not be construed as causing such an accessory structure to be within the principal building.

In addition to the provisions in subsection B above, accessory dwelling units in detached structures shall meet the following requirements:

1. The accessory structure must meet the minimum setback requirements established for the construction of a principal structure in the zoning district as prescribed in Section 4.1, "Schedule of Area and Bulk Regulations."
2. Construction associated with adaptation of buildings should be performed in a way that retains the character of the structure. The design and construction of the adaptation of the building shall be compatible with the principal structure and with the character of the neighborhood.
3. The total acreage required for the single-family dwelling unit with the detached accessory dwelling unit shall be twice the acreage required for a single-family dwelling in the district in which it is located.
4. The applicant shall acknowledge in writing to the Planning Board of the Town of Clinton, with a copy to be filed with the Zoning Enforcement Officer, the understanding that should subdivision of the parcel later be proposed, not less than the minimum specified acreages must be provided for the principal dwelling and its accessory unit, if their Certificates of Occupancy are to be maintained.

#### E. Accessory Dwelling Unit in Non-Residential Building

1. The unit shall not exceed fifty (50) percent of the total usable floor area of the commercial building.
2. The unit is limited to the second floor and/or to the rear of the first floor of the commercial building.
3. The total acreage required for the commercial building with the accessory dwelling unit within the principal structure is the same as the acreage required for the commercial use in the district in which it is located.
4. In no case will accessory units be allowed in the same building as any use which involves the use of noxious or dangerous chemicals, gases or other hazardous substances and materials. The Planning Board may deny a special permit application if it determines that the primary business use may create a hazard for the accessory residential use.

#### 5.4 ACCESSORY USES

The Planning Board shall consider the impact of proposed accessory uses as part of site plan review and special permit application. The Planning Board shall require conditions for an accessory use as would be required under this law for the same use as a principal use. The Planning Board shall not allow as an accessory use any use not permitted as a principal or accessory use under this law in the district in which the proposed use is located.

## 5.5 ALTERNATE CARE FACILITY

### A. Intent

The Town of Clinton seeks to make needed alternate care facilities available and conveniently accessible without unduly disrupting the economic or social balance of the community or unduly impacting its infrastructure and ability to provide services.

### B. General Provisions

1. The Community Environment Standards adopted in a Statement of Principle by the State Department of Mental Hygiene and the State Board of Social Welfare state that: "A concentration of residents in a single neighborhood would be detrimental not only to the community, but to the clients of the facility as well."

To avoid a negative impact on the neighborhood as well as the residents of the alternate care facilities, the Planning Board's special use permit approval authority shall be limited to not more than one (1) such facility within a one (1) mile radius.

2. The intended use shall be reasonably accommodated by existing community infrastructure and services.

3. The site plan shall be reviewed for adequacy of active and passive outdoor recreational facilities for the clients.

4. Any special use permit approval granted under this section is additionally subject to the licensing procedures and approvals of all appropriate state, county and regional agencies. A Certificate of Occupancy shall not be issued by the Building Inspector until a copy of all such approvals has been reviewed by the Planning Board.

5. Any increase in the resident population, change in type of population, and/or any expansion of the facilities shall require application to the Planning Board for consideration of a new special use permit and shall require re-examination of the site plan by the Planning Board.

### C. Application Requirements

The application shall be accompanied by a community impact statement providing at a minimum the following information for consideration by the Planning Board in its review of the special use permit application:

1. Specific classification or type of facility.

2. Names of the regulatory agencies from whom permits, licenses or approvals are required and designation of a contact person at each.

3. General description of client disability.

4. Documentation of the need for the proposed program and/or facility.

5. Identification of who is responsible for the financial support of the clients.

6. Copies of all pertinent correspondence and/or approvals between the applicant and the regulatory agencies.

7. Number of clients, both current and projected.
8. Type of employment, if any, clients will seek within the community.
9. Description of the plan to integrate the clients into the community socially and economically.
10. Number of staff employees residing on the premises, including projection of the number of school-age children who may be residing on the premises as part of staff members' families.
11. Number of non-resident staff employees.
12. Which community facilities and services will clients use within the community; i.e., police and fire protection, ambulance services, sewers, water, utilities, refuse collection, postal service, recreational facilities, etc.? How will they be provided?
13. Transportation Plan - How will transportation be provided?
14. Description of planning on-site active and passive recreational activities.
15. How will health-related needs be provided?
16. Will any clients become the education responsibility of the local school districts?
17. For what local and county real property taxes will the facility be responsible? State how much revenue would be provided to the town, county and the school district based on current real property tax and equalization rates.
18. Provide a map indicating by location and maximum resident/client population all other health-related and alternate care facilities within a radius of one (1) mile of the facility.
19. Describe the facility's five (5) year Operating Plan as it pertains to the previously mentioned items. Include discussion of how compliance with all special permit standards shall be maintained.

## 5.6 ANIMAL HUSBANDRY

The purpose of the animal husbandry section of this law shall be to provide opportunities for animal husbandry and to encourage 4-H projects on residential parcels in a manner which will not conflict with neighboring non-agricultural residential uses or other purposes of this law.

### A. General

1. All animal husbandry activities shall be conducted in accordance with the "Best Management Practices for Agriculture" guidelines as set forth by the Dutchess County Soil and Water Conservation District, and agricultural management practices recommended by Cornell Cooperative Extension to the extent permitted by this law.
2. Manure storage shall be covered or contained in a structure to prevent leaching when within two hundred (200) feet of any public water supply, lake, state regulated wetland or neighbor's residence.

3. All outdoor areas used by animals shall be enclosed by fencing or other means sufficient to confine any animals or fowl to the premises.

4. Animal husbandry is permitted on a minimum of three (3) acres.

B. Horses, Cows, Sheep, Goats

1. A minimum of two (2) acres shall be provided for the first one such horse, pony, cow, or similar large animal which is kept, grazed, fed or cared for on the property; an additional one (1) acre shall be provided for each additional large animal.

2. A minimum of one (1) acre shall be provided for the first one such sheep, goat, fallow deer or similar medium-sized animal which is kept, grazed, fed or cared for on the property; an additional one-third (1/3) acre shall be provided for each additional medium-sized animal.

3. No fenced area for such livestock shall be located within fifty (50) feet of a neighbor's residence. All area and bulk regulations specified in Section 4.1 shall be observed.

C. Pigs, Poultry, and Small Animals

1. A minimum of two (2) acres shall be provided for the first hog which is kept, grazed, fed or cared for on the property; an additional one (1) acre shall be provided for each additional hog, up to a maximum acreage requirement of fifty (50) acres.

2. A minimum of two (2) acres shall be provided for each twenty-five (25) adult or fully grown chickens, ducks, geese or other fowl or birds; an additional one (1) acre shall be provided for each additional twenty-five (25) such poultry, up to a maximum acreage requirement of fifty (50) acres. For poultry operations contained completely within buildings, the acreage requirements contained in this paragraph shall not apply.

3. No buildings or pens for the keeping of hogs or caged-type poultry shall be located within one hundred (100) feet of any property line.

4. Buildings or pens for the keeping of animals for fur production shall not be located within two hundred (200) feet of any property line.

D. Agricultural Districts

Nothing herein is intended to unreasonably restrict land used in agricultural production in an agricultural district, as defined by Article 25-AA, Agricultural Districts, of the New York Agriculture and Markets Law.

## 5.7 BED AND BREAKFAST ESTABLISHMENT

A. Such an establishment shall be permitted only as an accessory use of a single-family dwelling, and shall be owner occupied.

B. Such establishments shall not exceed six (6) guest bedrooms.

- C. All sign, landscaping and other applicable zoning requirements shall be met before any special permit, if required, shall be granted.
- D. The proprietor may serve meals to guests. A public dining room, restaurant or bar is prohibited.
- E. A bed and breakfast establishment in a residential district shall be limited to the principal dwelling unit and one accessory building.

#### 5.8 BOARDING OR ROOMING HOUSE

- A. A boarding or rooming house, as defined in Article 8, may have no more than four (4) rooms for rent and a total of no more than six (6) residents in all rooms.
- B. One (1) off-street parking space must be provided per bedroom intended for residents' use. The portion of a driveway behind the building line may be used in meeting this requirement.
- C. The renting of rooms shall not include the provision of cooking facilities in rooms for residents.
- D. Such an establishment shall be permitted only as an accessory use of a single-family dwelling, and shall be owner occupied.

#### 5.9 BULK FUEL STORAGE AND DISTRIBUTION

The storage of alcohol, gasoline, crude oil, liquified petroleum gas or any other highly flammable liquid shall conform to all state and federal regulations and guidelines, as well as the following provisions:

- A. Storage of such liquids in above ground tanks in an amount greater than five hundred and fifty (550) gallons shall be permitted only when such tanks up to and including ten thousand (10,000) gallons capacity are placed not less than seventy five (75) feet from all property lines and when tanks of more than ten thousand (10,000) gallon capacity are placed not less than one hundred (100) feet from all property lines.
- B. No underground storage tanks shall be installed or replaced for residential uses, unless such tanks, regardless of size, comply with all Department of Environmental Conservation regulations for tanks over one thousand one hundred (1100) gallons.
- C. The Planning Board may require appropriate berming, fencing, screening and landscaping for a safe and attractive installation. Any above ground bulk fuel storage having a capacity greater than five hundred and fifty (550) gallons shall be properly diked with earthen dikes having a capacity of not less than one and one-half (1 1/2) times the capacity of the tank(s) surrounded.

#### 5.10 BUS PASSENGER SHELTER

- A. Bus passenger shelters shall not exceed fifty (50) square feet.
- B. No shelter shall be located closer than ten (10) feet to any lot line or road, which shall supersede the minimum yard requirements listed in Section 4.1.

#### 5.11 CAMP

- A. The minimum lot size shall be ten (10) acres.
- B. No camp shall be operated during the months of November through March.
- C. No structure intended for dwelling purposes, including tents, shall be closer than two hundred (200) feet to any property line or lake. Said structure shall be screened from view from adjoining properties or public highways by fences, walls, or trees and shrubs.
- D. Each camp shall have current approval of the Dutchess County Health Department and meet other applicable regulations of this law.
- E. No amplifiers or loudspeakers, of any type, shall be installed outside of any building.
- F. No activity area or recreational facility shall be closer than two hundred and fifty (250) feet to any residential property boundary.
- G. No camping trailer or recreational vehicle of any size is allowed in a camp. Such vehicles are allowed only in a camping trailer campground, subject to all local laws of the Town of Clinton, except as otherwise permitted by this law.

#### 5.12 CAMPING TRAILERS AND MOTOR HOMES

- A. Camping trailers and motor homes located in a camping trailer campground shall comply with all provisions of Town of Clinton local laws and ordinances and shall be subject to inspections by the Zoning Enforcement Officer, the Building Inspector, or other official authorized by the Town Board, and shall meet the following conditions:
  - 1. No camping vehicle, as defined herein, of length greater than thirty (30) feet or width greater than eight (8) feet shall be permitted in a camping trailer campground;
  - 2. No camping vehicle, as defined herein, of area greater than two hundred and fifty-six (256) square feet in setup mode, measured along the exterior walls at floor level, shall be permitted in a camping trailer campground.
- B. Camping trailers and motor homes located outside a camping trailer campground shall comply with Section 5.37, Outdoor Storage or Parking of Recreational or Commercial Vehicles.

#### 5.13 CEMETERY

- A. No burial or memorial plots or buildings shall be located closer than twenty-five (25) feet from any front lot line or right-of-way line, whichever is less restrictive.
- B. Burial or memorial plots shall not be located within twenty-five (25) feet of any side or rear property line. During site plan review, the Planning Board may require a planted buffer or other provision for visual screening from adjacent residential properties.
- C. All burials shall be undertaken in strict accordance with applicable regulations of the New York State Department of State and the Department of Health.

#### 5.14 CHURCH OR PLACE OF WORSHIP

Churches and other places of worship, as defined in Article 8, shall be subject to a special permit and site plan approval. The Planning Board shall consider the following conditions in addition to those specified in Section 7.9, Site Plans, and Section 7.10, Special Permits:

- A. A church or other place of worship shall be designed to be compatible with the existing neighborhood character;
- B. The Planning Board shall have the authority to modify the height regulations of the district and Section 4.5, Height Exceptions, if it finds that a taller structure would be in keeping with the character of the neighborhood and churches or other places of worship in the area;
- C. The minimum lot size shall be five (5) acres in the C and AR5 districts and three (3) acres in the AR3, MR1, CR1, RH and H districts;
- D. Traditional accessory uses such as a parish house, meeting rooms, kitchen facilities, and classrooms shall be considered as part of the overall site plan. Any parsonage, manse or other dwelling shall be subdivided from the church and meet all dwelling requirements in the district in which it is located.

#### 5.15 CLUBHOUSE

- A. A hedge, fence or wall adequate for year-round screening of the clubhouse may be required by the Planning Board.
- B. Any exterior lighting installed shall be designed to avoid nuisance to adjacent residential districts.
- C. Specific plans for public address systems and/or lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board, including the specific hours of operation for such facilities.

#### 5.16 CLUSTER DEVELOPMENT, RESIDENTIAL

##### A. Policy and Authority

It is the policy of the Town, as expressed in the Clinton Master Plan, to provide a variety of housing options, preserve open space, and harmonize new development with the traditional open, rural, wooded, agricultural, and hamlet landscapes of the Town. To that end, the Town Board of the Town of Clinton, through the adoption of this zoning law, hereby adopts the provisions of Section 281 of the Town Law of the Consolidated Laws of New York, and hereby grants to the Planning Board the full authority set forth in that section to modify applicable provisions of the zoning law as they apply to a specific plat, but only to the extent herein permitted, including the authority to require an applicant to modify a plat in a manner consistent with the purposes and criteria of this section. The regulations contained in this section shall constitute the rules and regulations required by Section 281(a) of the Town Law, setting forth criteria by which a cluster subdivision may be required.

##### B. Purposes

This provision encourages flexibility in the design and development of land in order to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve as permanent open space agricultural land, important natural and cultural features, wildlife habitat,

water resources, ecological systems, and scenic areas for the benefit of present and future residents. A Residential Cluster Development shall achieve the following purposes:

1. Better protection of natural and scenic resources identified in the Master Plan and zoning law than would be provided by a conventional subdivision plan;
2. Compatibility with surrounding land uses and the Town's traditional land use pattern in which small hamlets contrast with open space and farmlands;
3. Provision of adequate buffers for adjoining properties;
4. Contribution to town-wide open space planning by creating a system of permanently preserved open spaces, both within large parcels of land and among such parcels throughout the Town, providing linkages between existing open space areas and, where appropriate, linkages to hamlet areas;
5. Provision of a broader range of housing types and potentially lower housing prices by reducing the length of roadways and other critical infrastructure costs;
6. Preservation of land suitable for agriculture, particularly where development involves or borders active agricultural land or land with prime or important agricultural soils; and
7. Greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of development is no greater than what is normally allowed in the district.

A cluster subdivision should accomplish the above purposes by reducing the lot size and bulk requirements contained in the zoning law, while clustering homes in those areas where they will have the least impact on natural or cultural features. The agricultural lands, open space or sensitive areas are then permanently preserved through the use of conservation easements. The cluster principle can be applied not only to large development, but also to smaller subdivisions, enabling the subdivided lots to be smaller than the zoning would normally require, provided that compensating buildable land is placed under open space conservation easement to maintain the overall density at or below the level permitted by the zoning law.

#### C. Procedure

1. Any Residential Cluster Development shall be subject to Section 7.9, Site Plans, and town Subdivision Regulations. It is in the best interest of the applicant and the Planning Board to determine the applicable development pattern at the earliest possible time. If a conceptual plan application meets any of the cluster preference criteria listed in paragraph 2 below, the Planning Board may use its authority to permit or require a residential cluster development alternative. The Planning Board may require that the applicant submit land inventory information at the conceptual plan stage to assist in making such a judgment. The Planning Board may also hold a public hearing and may refer the conceptual plan application to the Conservation Advisory Committee following the procedure in Section 7.12.
2. An applicant for any subdivision shall provide a conceptual plan for a cluster subdivision on parcels thirty (30) acres or larger in the C, AR5 and AR3 districts, or ten (10) acres or larger in the MR1, RH and H districts, or when some of the following objectives, in the judgment of the Planning Board, are better accomplished by a cluster subdivision as compared to a conventional subdivision with residential lots occupying most of the tract:

- a. Preservation of contiguous prime or statewide important agricultural soils, as defined in Article 8;
- b. Maintenance of active agricultural land;
- c. Protection of the ground or surface water, wetlands, steep slopes, floodplains or unique areas of natural, scenic or historical significance;
- d. Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act (SEQRA) requirements;
- e. Preservation of open space views identified as important to the Town;
- f. Reduction in the amount of new roads or driveways obtaining access from existing roads;
- g. Reduction in the amount of new road that may be required to be dedicated to the Town;
- h. Protection of Critical Environmental Areas designated by the Town Board;
- i. Accomplishment of specific goals set forth in the Town's Master Plan.

3. An application for cluster development shall include all plans and materials required for a conventional subdivision. The maximum number of dwelling units that may be permitted and approved within a cluster development shall not exceed the number of lots shown on an approvable conceptual plat for the lot-by-lot development of the site for single-family detached dwellings. Any regulations contained in this law which restrict the number of single-family dwelling units permitted shall also restrict the number of dwelling units permitted in a cluster proposal or requirement including Section 4.11, Land Designated as Freshwater Wetlands or Under Water. Lots shown on the conventional conceptual plat shall be fully consistent with both the lot area and bulk requirements of the zoning district in which the cluster development is proposed and the requirements of the Town's Subdivision Regulations for the provision of streets and other required facilities and improvements.

#### D. Standards

1. Where the cluster development results in the creation of individual lots for the development of single-family detached dwellings, the minimum lot area per dwelling unit that may be created within a cluster development shall be one-half (1/2) acre.
2. All dwelling units within a cluster development shall be owner occupied units. Wherever common property is approved as part of the cluster proposal, a homeowners' association agreement will be established under New York State law.
3. While attached or detached dwelling units are permissible within a cluster development, no individual structure shall contain more than four (4) attached dwelling units in the C, AR5 and AR3 districts, or more than six (6) attached dwelling units in the MR1, CR1, RH and H districts.
4. Common driveway access may be provided to the extent considered practical by the Planning Board. A pedestrian circulation and/or trail system shall be designed and installed sufficient for the needs of residents.
5. Maximum structure height within a cluster development shall be restricted to thirty-five (35) feet.

6. Minimum separation distance between individual residential structures within a cluster development shall be fifty (50) feet in the C, AR3 and AR5 districts, and twenty-five (25) feet in the MR1, CR1, RH and H districts.
7. The minimum front yard setback from the center line of a public roadway shall be no less than the normally applicable setback requirement in the district in which the property is located. Any other area and bulk regulations shall be determined by the Planning Board in the site plan review process.
8. Water supply and sewage disposal facilities shall be designed by a licensed engineer for any such residential cluster development in accordance with the requirements of the Town of Clinton and the Dutchess County Health Department. Underground facilities may be located in areas to be set aside as permanent open space.
9. Common open space totalling not less than sixty percent (60%) of the total cluster development site in the C and AR5 districts, or forty percent (40%) of the total cluster development site in the AR3, MR1, CR1, RH and H districts, shall be provided in perpetuity as part of the cluster development. A plan for maintenance or landscaping of the common open space area shall be reviewed and approved by the Planning Board. No portion of this minimum required open space shall be utilized for roads, driveways, utility structures, or similar features.
10. Open space land may be owned in common by a homeowners' association, held in private ownership subject to a permanent conservation easement or dedicated to the Town if such agreement is approved by the Town Board. If owned by a homeowners' association, the common open space land shall be protected by conservation easement from future subdivision and development. The Planning Board shall assure that proper provision has been made for ownership and maintenance of open space land, roadways and other improvements. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against all individual owners in the homeowners' association and the dwelling units they each own. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Maintenance standards may include the obligation to mow open fields to maintain their scenic character or agricultural potential.
11. A perpetual conservation easement leaving the open space land forever wild or limiting use of such land to agricultural, managed forest land, passive recreational or open space use, or to the residential use specified as part of the plan, and prohibiting institutional, industrial or commercial use of such open space land, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, may be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be reviewed and approved by the Planning Board and shall be required as a condition of plat approval under the Town's Subdivision Regulations. The conservation easement shall not be amendable to permit commercial, industrial, institutional or further residential development, and shall be recorded in the Dutchess County Clerk's office simultaneously with the filing of an approved cluster subdivision plat.
12. The open space land shall be shown on the plat map and shall be labeled in a manner to indicate that such land is not to be further subdivided for building lots and is permanently reserved for open space purposes. Residential structures and buildings accessory to non-commercial recreation, conservation, or agriculture may be erected on this land, subject to the cluster development plan and Section 7.9, Site Plans.

## E. Partial Subdivisions

This subsection allows for the partial subdivision of a parcel that would otherwise meet the purposes and requirements of a cluster development to accommodate landowners who may not wish to subdivide the entire property at the time of application.

1. If the Planning Board determines that a residential cluster development is to be considered or shall be required for a given parcel, based on the purposes and objectives of this section, any partial subdivision which does not develop the maximum allowable number of lots on this parcel shall only be approved in accordance with an overall cluster plan for the entire parcel that meets all the requirements of this section.

2. Before any such partial subdivision is approved, the applicant shall demonstrate to the satisfaction of the Planning Board that the overall cluster plan is physically possible, the best layout for achieving the purposes of this section, and will indeed be followed in any subsequent development phase or by any subsequent owner.

3. In order to guarantee the long-term intention to carry out the overall cluster plan for the entire property, the applicant shall accomplish either a or b below, or both.

a. Indicate all future property lines, roads, and other major improvements for the cluster plan on the map to be filed for the partial subdivision.

b. Permanently protect through conservation easement the designated open space for the entire property.

## F. Siting Guidelines

In the clustered development, the lots shall be laid out so that dwelling units will be located in a manner consistent with the purposes of this section. The following guidelines (listed in order of general priority) are to be applied, when applicable, on a case-by-case basis by the Planning Board with lots to be laid out:

1. On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;

2. Within any woodland contained in the parcel, or along the far edges of the open fields (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);

3. To provide permanent protection for significant natural or cultural features identified on the site;

4. So as to minimize the number of driveways with access to existing roads;

5. In such a manner that the common boundary between the new houselots and any active farmland is minimized in length (to reduce potential conflict situations);

6. In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s) or other public vantage points:

7. In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and

8. To meet other criteria listed under Section 7.9, Site Plans.

9. In cluster developments exceeding twenty (20) dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that cluster development will be more compatible with the neighborhood in which it is located.

#### 5.17 COMMUNICATIONS ANTENNA OR TOWER

A. Communications antennas or towers shall be set back from any property line and/or principal building a distance equal to one and one half (1 1/2) times the height of the antenna.

B. Communications antennas or towers shall not cause interference with local radio or television reception and shall not endanger neighboring property or the public.

C. No site plan shall be approved for any communications antenna or tower that would allow the creation of a hazard to aircraft. Any plan approved may be so conditioned as to require the owner of the antenna or tower to install, operate and maintain beacons, lights, and/or markers as may be necessary and/or required by law for aircraft safety or for safe airport operation.

D. No communications antenna or tower shall be used for or have placed upon it any type of sign except warning signs needed for public safety.

E. Antennas or towers shall be erected only to that height necessary to accomplish the purpose they are to serve, and such height shall not exceed eighty (80) feet.

F. A communications antenna or tower shall be permitted only as an accessory use to a permitted principal use.

G. Nothing herein shall be construed to conflict with Federal Communication Commission (FCC) regulations, nor shall any section be applied which is the sole regulatory authority of the FCC.

#### 5.18 CONFERENCE CENTER OR DUDE RANCH

A. The minimum lot size shall be twenty-five (25) acres, except where a golf course is provided, in which case the minimum acreage shall be seventy-five (75) acres. When the maximum number of patrons to be accommodated is fifty (50) or more, an additional ten (10) acres shall be provided for each twenty (20) patrons or portion thereof.

B. No building shall be built within two hundred (200) feet of any property line.

C. Parking areas shall be located at least one hundred (100) feet from any street or property line.

D. To the greatest extent practical, existing open space and unique natural areas, such as streams, ponds, marshes, steep slopes and woodlands shall be preserved.

E. The keeping of horses or other livestock shall comply with Section 5.39, Public Stable or Riding Academy.

F. Any golf course shall comply with Section 5.27, Golf Course or Country Club.

G. Swimming pools shall comply with Section 5.47, Swimming Pool.

H. Housing facilities shall be for the express use of conference center or dude ranch patrons, except that up to twenty five percent (25%) may be used for transient guests, provided accommodations do not contain kitchen facilities.

I. Health Department approval is required for all lodging and food service facilities.

#### 5.19 DAY CARE OR NURSERY SCHOOL FACILITY

##### A. Purpose

It is the intent of the Town of Clinton, consistent with New York State Social Services Law, Article 390, to provide for the child care needs of the residents and those employed in the Town in a way that promotes the public interest while maintaining the essential character of the Town's residential, commercial and industrial areas. This section is developed in recognition of the critical need for affordable child care for the Town's working parents. The Town recognizes that the lack of child care alternatives may prevent parents from obtaining gainful employment which fully meets their needs.

##### B. Family and Group Family Day Care Homes

Family and group family day care homes, as defined under day care facilities in Article 8, shall be permitted in all residential districts without special permit, provided that:

1. State licensing requirements are met, including those pertaining to building, fire safety, and health codes and that such state license copy shall be on file with the Building Inspector;
2. Applicable zoning and subdivision standards for residential uses are adhered to in full;
3. All area and bulk regulations are in compliance with Section 4.1;
4. Signs, if any, conform to the requirements in Section 5.43;
5. An off-street drop-off/pick-up area and adequate parking shall be provided. A driveway in conformance with Town permit standards shall be sufficient for such purpose;
6. No structural or decorative alteration that will alter the single-family character of an existing residential residence is permitted. Outdoor play equipment is permitted in rear or side yards, but should be contained by fencing from adjacent properties.

##### C. Day Care Centers, School Age Child Care Facilities and Nursery Schools

A special permit is required for any day care center, school age child care facility or nursery school, as defined in Article 8. Day care centers, school age child care facilities and nursery schools are permitted in all zones with the exception of the floodplain zone, provided they are in compliance with the following:

1. The center, facility or nursery school complies with all general standards of Section 7.10, Special Permits. In addition, the licensed day care provider shall submit a copy of said license and other pertinent documents from New York State Department of Social Services and, if applicable, the New York State Department of Education.
2. A site plan is submitted to the Planning Board for its approval, following the procedures in Section 7.9 of this law. For site plan approval day care centers, school age child care facilities or nursery schools shall:
  - a. Comply with subsection B(1 through 4) of this section;
  - b. Provide an outdoor play space as specified by New York State Social Services Law 390, Part 418.8 or subsequent laws. Such area shall be at least one quarter (1/4) the square footage of the structure in which the facility is housed, screened from the road from which the center takes access either by the center itself or appropriate landscaping or other methods, and contained, by fence or other means, to prevent conflicts between adjacent properties and the facility's activities;
  - c. Provide adequate parking facilities for the day care center or nursery school: at least one (1) parking space for every non-resident employee, plus one (1) for every ten (10) children, and provide an off-street pickup and drop-off area either on the driveway or an approved parking area;
  - d. Conform to other requirements, as specified by the Planning Board, to insure that the center maintains the residential or hamlet character of the neighborhood.
3. Day care centers, school age child care facilities and nursery schools serving more than 12 children shall have a minimum lot size of ten (10) acres.

## 5.20 DRIVEWAYS

- A. All driveway entrances and exits shall meet the requirements of all local laws of the Town of Clinton. (See Local Law #2 of 1977 and any subsequent driveway laws).
- B. Driveways shall meet any additional requirements prescribed by the Planning Board at subdivision, site plan, or special permit review.

## 5.21 DWELLING STANDARDS

- A. No permit for the erection of a single or two-family dwelling shall be granted in the Town of Clinton unless the minimum ground floor space per dwelling unit shall be as follows:

1 story dwelling unit 864 square feet  
 1 - 1 1/2 story dwelling unit 720 square feet  
 2 story dwelling unit 576 square feet

The area mentioned herein does not include open or enclosed porches, basements, garages or carports. All foundations shall comply with the Uniform Code.

- B. Any basement area used for sleeping purposes shall have not less than two means of egress, at least one of which shall be a door giving access to an open area whose service is at least eight (8) inches below the level

of the basement floor. Each basement room used for living purposes shall have a window area opening to the outside, equal to not less than five percent (5%) of the floor area of such room, or as otherwise required by the Uniform Code.

C. No building containing dwelling units shall henceforth be constructed, nor shall any existing building be altered so as to contain dwelling units unless the surface grade of the front yard at the front wall of such building be more than one foot above the established grade of the sidewalk. Where a sidewalk grade has not been established, the surface grade of the front wall of the dwelling shall not be less than one foot above the centerline of the street measured at the midpoint between the side lot lines of the lot. Where there is unusual difficulty in meeting this provision, the Building Inspector may accept a substitute gradient, provided that no minus gradient is established within fifteen (15) feet of the front wall or within six (6) feet of either side wall of the building.

## 5.22 EDUCATIONAL INSTITUTION OR VOCATIONAL SCHOOL

A. The minimum lot size shall be ten (10) acres.

B. No special permit shall be granted for the construction or expansion of an educational institution for over one hundred (100) students unless such institution has a minimum of four hundred (400) feet of frontage on a state or county road.

C. Any sports arena or other place of assembly having a seating capacity of more than one thousand (1,000) persons shall have entrances and exits on a state or county road.

D. All buildings, parking and outdoor activity areas shall have a minimum setback of two hundred (200) feet from any adjoining residential property and one hundred (100) feet from any property boundary.

## 5.23 EXCAVATION AND MINING

A. Purpose

Regulation of actual mining activities is regulated by New York State under Article 23, Title 27 of the Environmental Conservation Law. It is the intent of the Town of Clinton to permit excavation and gravel mining operations in the Office-Light Industry district, and to allow existing excavation and mining activities located elsewhere within the Town to continue as permitted (a) by the Department of Environmental Conservation (DEC), and (b) by this local law insofar as such activities comply with the provisions herein regarding the continuation of prior nonconforming uses and structures.

B. Applicability

Activities covered by this section include:

1. Mining activities requiring New York State DEC permits, but only to the extent allowed by Article 23, Title 27 of Environmental Conservation Law; and

2. Excavation and mining, as defined herein, or reclamation thereof, not requiring a permit by New York State DEC, that uses more than one hundred (100) cubic yards of material for any purpose other than for reuse on the same site in a successive twelve (12) month period.

### C. Exempt Activities

Activities exempt from this regulation include:

1. Accepted agricultural practices not otherwise in conflict with this law, where soil or other material is to be used for grading, improving or draining and where the soil or other material is to be replaced on the same site.
2. Excavation for the sole purpose of building a pond or lake in which the material is retained on the same site;
3. Activities performed for or by the Town of Clinton;
4. Excavation for building construction, sewage disposal systems or underground fuel storage tanks or other activities of limited duration, e.g., swimming pools, graves;
5. Excavations for the purposes of installing public utilities and building or maintaining roads;
6. Dredging operations under the jurisdiction of the United States Army Corps of Engineers and other governmental entities.

### D. Town of Clinton Special Permits

#### 1. Mining Activities Requiring DEC Permits

The Planning Board shall approve the special permit application, provided the following conditions are met:

- a. Activities shall comply with all requirements and conditions specified in the DEC permit concerning setback from property boundaries and public rights-of-way, natural or other barriers to restrict access, dust control and hours of operation.
- b. Activities shall comply with District Regulations, Article 3 herein, Area and Bulk Regulations, Article 4 herein, General Performance Standards, Section 5.2 herein, and with Site Plan and Special Permit requirements, Article 7 herein, as well as other generally applicable sections of this law.
- c. Reclamation requirements contained in the DEC permit shall be fully met.

#### 2. Mining Activities Not Requiring DEC Permits

The Planning Board shall approve the special permit application, provided the following conditions are met:

- a. **Application.** An applicant for special permit or renewal shall obtain a current Mined Land Reclamation Program Applicant's Guide from DEC, and submit all the same required information to the Town of Clinton Planning Board. The Planning Board, at its discretion, may waive any application requirements.
- b. **Standards.** The Planning Board, in considering special permit approval, shall apply the same standards as those applied by the DEC (as contained in the Mined Land Reclamation Program Applicant's Guide), and may place conditions on approval as it may deem appropriate to the application, including setbacks from property boundaries and public rights-of-way, natural or other barriers to restrict access, dust control, hours of operation and reclamation requirements.

c. Renewal, Inspection and Enforcement

Special permits for excavation and mining shall be issued for a one (1) year period and may be renewed for additional one (1) year periods. Site inspections may be made by the Zoning Enforcement Officer in accordance with the law, and by Planning Board members and/or Town Engineer, as part of the special permit application or renewal procedure herein. Permits shall be subject to revocation and/or penalties, as provided in Section 7.10(A)(11), Revocation of Special Permit, in the event of violation of the conditions of a permit or of the requirements of this section. No permit renewal may be granted if an outstanding violation exists at the time of application for renewal for such permit. Any and all costs related to site inspections shall be charged back to the owner or operator of the site and shall be paid as a condition of special permit approval by the Planning Board. Final inspection, acceptance of the reclaimed site, and final release of the performance bond required in subsection e below may not be earlier than two (2) growing seasons following the end of mining operations and removal of equipment.

d. Insurance

A certificate of liability insurance, naming the Town as co-insured, shall be required by the applicant prior to issuance of the special permit. The minimum liability coverage shall be in the amount contained in the fee schedule established annually by the Town Board, or if not specified, shall be in a minimum amount of one (1) million dollars for personal injury, including injury resulting in death, on the property. The liability coverage shall be maintained throughout the term of the permit.

e. Performance Bonds

A performance bond or other form of surety approved by the Town Board, sufficient to assure compliance with the reclamation conditions herein and to repair extraordinary damage resulting from the operation to town roads or to upgrade such roads near the property access, shall be reviewed as a part of special permit approval or renewal. If the Planning Board determines, with the recommendation of the Town Engineer, that the performance bond shall be established or changed to reflect changes in the amount of disturbed acreage or to reflect changes in the cost of site reclamation or other costs omitted, the Board shall make such recommendation, with an amount, to the Town Board. The Planning Board shall give special permit approval only after notice of approval of the performance bond by the Town Board. Said bond shall not be released until the operator has complied with all standards and conditions of this law and the special permit, and a written release has been issued by the Town Board.

## 5.24 FARMING

### A. Intent

The Town finds that farming is an essential activity within Clinton. Farming, as defined herein, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of open space and

generates economic benefits and social well-being within the community. Therefore, the Town emphasizes to newcomers that this town encourages its agriculture and requests newcomers to be understanding of the necessary day to day operations.

It is the general purpose and intent of this law to maintain and preserve the rural tradition and character of Clinton, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural businesses.

For the purpose of reducing future conflicts between farmers and non-farmers, it is necessary for notice to be given to future neighbors about the nature of agricultural practices.

#### B. The Right to Undertake Agricultural Practices

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Clinton at any and all times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

#### C. Notice to Prospective Neighbors

The following notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law Section 276:

"This property borders a farm, as defined in Local Law No. 3 of 1991, the Zoning Law of the Town of Clinton. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibration."

### 5.25 FARM MACHINERY SALES

- A. In AR5, AR3 and C districts farm machinery sales shall be limited to an accessory use of a farm.
- B. No outdoor storage of farm machinery for sale in AR5, AR3 and C districts shall be closer than one hundred (100) feet from any property line.
- C. Outdoor storage of farm machinery for sale shall be visually screened from any adjoining residential properties and roadways by fences, walls, or trees and shrubs in a manner sufficient to visually obscure the activity from the surrounding neighborhood.
- D. Such regulations shall not apply to incidental sales of used farm machinery owned and used as part of the agricultural operation.

### 5.26 GASOLINE STATION OR AUTOMOBILE SERVICE FACILITY

- A. A minimum road frontage of two hundred (200) feet shall be required.
- B. No gasoline station or automobile service facility shall have a vehicular entrance closer than two hundred (200) feet to an entrance to a church, school, theater, hospital, park, playground or other public gathering place designed for occupation by more than fifty (50) people.
- C. No site plan shall be approved unless the Planning Board finds that the proposal contains adequate safeguards to prevent pollution of surface or ground water. The site plan must show any school, playground,

place of public assembly, surface water, drainage channel, or environmentally-sensitive area such as wetlands within five hundred (500) feet of the proposal.

- D. All such facilities shall be so arranged as to require all servicing on the premises and outside the public way. As much as possible, all repair work shall be performed indoors. All vehicles awaiting repair, dismantled vehicles, and automobile parts shall be stored indoors or within a screen conforming to the setback required for buildings.
- E. Pumps and other dispensing devices, except air pumps, shall be located no nearer than fifty (50) feet from any property line.
- F. All waste material shall be stored within a structure or enclosed within fencing at least eight (8) feet high and shall not be visible at any property line of the establishment.
- G. Gasoline or flammable oils in bulk shall be stored fully underground, in accordance with current New York State DEC regulations and may not be closer than twenty-five (25) feet to any lot or street right-of-way line.
- H. No inoperative motor vehicle shall be kept on the premises for longer than fourteen (14) calendar days, except where it is demonstrated that necessary repair parts have been ordered and delivery is awaited.
- I. In addition to other landscaping requirements established by this law, suitable year-round buffering and landscaping shall be provided in all rear and side yards through a mix of deciduous and evergreen planting.
- J. The premises shall not be used for the display for sales, lease or rental of automobiles, trailers, mobile homes, boats or other vehicles.
- K. Commercial car wash facilities, body repair, or painting are not permitted as part of this use.

#### 5.27 GOLF COURSE OR COUNTRY CLUB

- A. The minimum lot size shall be fifty (50) acres.
- B. Any buildings incidental to a golf course shall be located at least two hundred (200) feet from any street or property line. Restaurants and other food service establishments, health and fitness facilities, and lodging accommodations incidental to the principal use shall be permitted, provided such facilities receive site plan approval.
- C. Parking areas shall be located at least fifty (50) feet from any street or property line.
- D. Tees, fairways and greens shall be located at least two hundred (200) feet from any residential property line; however, where residential lots are included as part of the golf course subdivision, the Planning Board may reduce this requirement to fifty (50) feet. Fencing may be required by the Planning Board as a condition of permit approval.
- E. Year-round screening of all buildings and parking areas shall be installed in accordance with Section 5.34, Landscaping, along any residential property line.
- F. Surface runoff from any golf course shall not contain nutrients or other chemicals that will cause harm to surrounding habitat. The Planning Board shall require a golf course developer to complete a study of

drainage and surface runoff as a condition of special permit approval and provide mitigation where it is determined that such runoff will have a negative impact.

G. No permanent buildings are allowed in a floodplain.

## 5.28 HISTORIC DISTRICT AND LANDMARK PROTECTION

### A. Purpose

It is the Town's intent to protect those historic features which enrich the quality of life for the residents of Clinton. Clinton's Master Plan contains a partial list of historically important sites and the county has conducted a survey of the Town's historic resources. Historic districts and individual landmarks may be designated by the Town Board in accordance with General Municipal Law, sections 96a and 119 and the procedures hereinafter specified for the following purposes:

1. To protect and enhance the landmarks and historic districts which represent distinctive elements of Clinton's historic, architectural, and cultural heritage;
2. To foster civic pride in the accomplishments of the past;
3. To protect and enhance Clinton's attractiveness to residents and visitors and the support and stimulus to the economy thereby provided; and
4. To insure the harmonious, orderly and efficient growth of the Town and promote the economic, cultural, educational, and general welfare of the public.

### B. Petition

A petition for designation of a historic district or landmark shall be submitted to the Town Board by the Planning Board, Conservation Advisory Committee, local historical group, or interested town residents. The petition shall include documentation to justify such a designation, a description of historically significant features of the site(s), and specific recommendations for boundaries.

### C. Procedures for Historic Designation

1. If the Town Board decides to consider such a petition, no building or demolition permits for the nominated properties shall be issued by the Building Inspector until the Town Board has made its decision on designation.
2. Notice of such consideration shall be given to the public and by certified mail to the owner(s) of all properties proposed for designation. A public hearing shall be held within forty-five (45) days of the Board's decision to consider the petition. A decision to approve or disapprove the designation shall be made within forty-five (45) days of the public hearing.
3. If the Town Board determines that the proposed property or properties possess special character or historic or aesthetic importance as part of the cultural, political, economic, or social history of the locality, region, state or nation, it may designate a locally protected landmark or historic district. Notice of the designation, boundaries, and the supporting documentation shall be filed with the Town Clerk for use by the public, Building Inspector, Zoning Enforcement Officer, Planning Board, and Zoning Board of Appeals.

## D. Standards

1. All major exterior alterations, if visible from a public roadway, and any reconstruction, demolition, or relocation of a designated landmark or property within a historic district, as well as new construction visible to the public and within two hundred (200) feet of designated properties, shall require approval by the Planning Board or other committee empowered by resolution of the Town Board. "Major" alterations shall include change of architectural lines and replacement of siding with a different material, but shall exclude repair and painting.
2. In reviewing applications and permits that involve changes to exterior appearance of designated properties, the Planning Board's or review committee's decision should be based on the following principles:
  - a. Designated landmarks and properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
  - b. Any alteration of an existing property or new construction shall be compatible with the property itself and surrounding properties in terms of scale, texture, materials, color, proportions of the facade, arrangement of openings within the facade, roof shape, and rhythm of spacing of properties on the street.
3. Application requirements and review procedures shall conform with the site plan review process described in Section 7.9.
4. Nothing in the section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a designated property which does not involve a change in design, material, or outward appearance. For the purposes of this section, changing paint color or roofing materials only is not subject to review.
5. Every effort shall be made in the Planning Board's review of site plans for properties adjacent to historic districts or landmarks to protect the views of historic sites and to make new construction compatible with designated properties.

## 5.29 HOME OCCUPATION

Home occupations permit residents of the community a broader choice in the use of their homes as a place of livelihood or for the supplementing of household income. The provisions of this section are intended to protect and maintain the residential character of the neighborhood from commercial uses not customarily allowed in residential districts.

### A. General

1. A home occupation shall be conducted entirely within the principal residential structure; use of an accessory structure for other than storage is not permitted. No outdoor storage or displays shall be permitted.
2. A home occupation shall be clearly secondary to the residential use, and shall be carried on by one or more of the residents.
3. No more than one (1) non-resident shall be permitted to work on the premises at any one time.

4. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of a home occupation.
5. No more than twenty-five percent (25%) of a dwelling unit's above ground floor area shall be devoted to home occupational use.
6. No alteration of the residential appearance of the premises to accommodate a home occupation is allowed; exterior visual evidence of a home occupation shall be limited to one (1) sign and up to three (3) additional parking spaces as provided herein.
7. One (1) unanimated, non-illuminated sign having an area of not more than three (3) square feet shall be permitted on the street front of the lot on which the residence is located.
8. Services or instructions offered shall be limited to no more than three (3) clients or customers at a time. Adequate off-street parking shall be required for customers.
9. Delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle shall not exceed four (4) trips per week, and the deliveries shall not restrict traffic.
10. In no case shall a home occupation be open to the public earlier than 8:00 a.m. or later than 9:00 p.m.
11. Except for articles produced on the premises and other articles customarily associated with a product made or a service provided on the premises, no stock in trade shall be displayed or sold on the premises nor shall any item be available for rental.
12. No home occupation shall be allowed which requires the presence in the home or on the premises of machinery or equipment or vehicles normally associated with commercial or industrial activities.
13. No home occupation shall be allowed which creates offensive noise, vibration, smoke, electrical interference, dust, odors, heat, glare or other nuisance.
14. Home occupations that attract customers, clients, or students to the premises for sales or service shall not be allowed in multi-family dwelling units.

B. **Included Home Occupations.** When conducted in accordance with the requirements stated herein, home occupations shall include but are not limited to the following: antique shops, dressmaking, millinery, home cooking, musical instruction, barber shop with not more than two (2) chairs, beauty shop with not more than two (2) chairs, small appliance repair, and day care for no more than six (6) children and not requiring a New York State license (see Section 5.19, Day Care or Nursery School Facility).

In addition, home occupations shall include but are not limited to the office or studio of a physician, dentist, accountant, artist, musician, lawyer, architect, engineer, teacher, insurance agent, realtor, computer programmer or other such professional person.

C. **Home Occupations Prohibited.** In addition to those uses which do not meet all of the requirements stated herein, the following uses are specifically prohibited as home occupations: ambulance, taxi, limousine or similar service; automobile-related business, including repair, parts, sales, upholstery, body work, painting or washing service; beauty salon or barber shop over two (2) chairs; church; funeral home or mortician; alternate care facility; group musical or dancing instruction; restaurant, takeout food services, or tavern; video store;

commercial servicing of construction equipment, including but not limited to backhoes, bulldozers, and trucks; public stable; kennel; animal hospital; plumbing or electrical shop or a similar trade or business.

### 5.30 HOSPITAL

- A. The minimum lot size shall be ten (10) acres.
- B. No building or parking area shall be located closer than one hundred (100) feet to any side or rear lot line.
- C. No incinerator shall be located closer than two hundred and fifty (250) feet to any lot line.

### 5.31 HOTEL OR MOTEL

- A. The minimum lot area shall be three (3) acres for the first sixteen (16) guest rooms, plus an additional six thousand (6,000) square feet of lot area for each additional guest room provided.
- B. The minimum setback for any structure, parking lot or other outdoor facility from any street line or property line adjacent to another zoning district shall be one hundred (100) feet. The setback from all other property lines shall be fifty (50) feet.
- C. Hotels or motels are intended for temporary residency; occupancy of patrons shall not exceed four (4) weeks in any six (6) month period.
- D. Hotels and motels may include accessory restaurants and other facilities for the use of guests, not to exceed twenty-five (25) percent of the total above ground floor area.
- E. Each rental structure in a motel shall contain at least eight rental units.
- F. Parking shall be behind the front building line and should be encouraged to be in the side or rear yards.

### 5.32 KENNEL

- A. The minimum lot size shall be ten (10) acres.
- B. No building or other quarters shall be permitted within two hundred and fifty (250) feet of any property line.
- C. All outdoor areas used by animals shall be located to the side or rear of the principal building on the site. Such areas shall be enclosed by fencing of a type of construction and height sufficient to confine any animal on the premises.
- D. Such kennel shall be operated in such a manner as to produce no objectionable noise, odors, or other nuisances beyond the boundaries of the site on which it is located.
- E. All such quarters shall at all times be maintained in a sanitary condition.
- F. A maximum of twelve (12) dogs over six (6) months of age may be housed, except that two (2) additional dogs may be housed for each one (1) additional acre of land provided over ten (10) acres.

### 5.33 LANDFILL, DUMP OR TRANSFER STATION

- A. Any landfill or transfer station shall be owned or operated by the Town of Clinton. No privately owned or operated landfills, dumps, or transfer stations are permitted in any district.
- B. For regulations on garbage disposal, littering, and dumping, see other local laws of the Town of Clinton.

### 5.34 LANDSCAPING

#### A. Purpose

It is the purpose of the Town of Clinton to protect the welfare of the residents and commercial interests of the community by assuring that new subdivisions, multi-family and industrial and commercial sites, including new parking areas, do not detract from property values and will preserve the rural character of the Town.

#### B. Applicability

The Planning Board shall require a landscaping plan for new subdivisions over two (2) lots, for special permits in hamlet and industrial districts, and for site plans for multi-family and parking lots. The Planning Board may waive the requirement for a landscaping plan or any part of this section.

#### C. General Landscaping Requirements

1. Topsoil shall be spread to a depth of three (3) inches over that area of the site which is disturbed.
2. Sufficient trees and shrubs shall be either retained as the site is cleared, or planted, in order to preserve the natural appearance of the site. Such trees and shrubs shall be shown on the plan submitted.
3. Where a non-residential use requiring a landscaping plan abuts a residential use, a buffer area of year-round screening satisfactory to the Planning Board shall be retained or provided.
4. Parking areas and parking lots shall be landscaped with trees and plantings, and shall be screened from neighboring properties.
5. Site accessories, such as trash receptacles, benches and phone booths shall be located and screened in a manner satisfactory to the Planning Board.
6. A maintenance bond in an amount recommended by the Planning Board in consultation with the Town Engineer, and in a form satisfactory to the attorney for the Town, may be set by the Town Board.

### 5.35 MULTI-FAMILY DWELLING, INCLUDING TOWNHOUSES

#### A. Purpose

The Town of Clinton Master Plan states that its primary housing goal is to provide a broader range of housing sizes and types in appropriate locations for all of Clinton's residents. In order to achieve this objective, it is necessary to create diversity in housing styles, prices, and tenures. This will help the community retain a diverse population, maintain its socioeconomic balance and sustain a diverse economy. This section allows for

the creation of rental housing opportunities, the construction of attached units, and the conversion of appropriate existing buildings to multiple dwelling units.

## B. Standards

1. Multi-family dwellings shall be permitted only in districts so designated in Section 3.2 and upon issuance of a special permit and site plan approval from the Planning Board as specified in Article 7, and in accordance with the additional requirements of this section.
2. All area and bulk requirements shall conform to Section 4.1, Schedule of Area and Bulk Regulations. The number of dwelling units per acre shall not exceed the minimum lot area per dwelling unit or establishment required in the applicable district.
3. The minimum floor area of each dwelling unit shall be as follows: 400 square feet for a studio apartment; 500 square feet for a one-bedroom apartment; 700 square feet for a two-bedroom apartment; and 850 square feet for a three-bedroom apartment.
4. No individual structure shall contain more than six (6) attached dwelling units.
5. No building shall exceed one hundred fifty (150) feet in length or be located closer than fifty (50) feet to any other principal building.
6. Within any multi-family rental development containing more than five (5) units, one (1) unit shall be reserved for a resident manager.
7. All buildings shall be arranged so as to avoid undue concentration of buildings or parking facilities and shall be oriented so as to preserve visual and auditory privacy.
8. Architectural design shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
9. When necessary to ensure compatibility with the surroundings, buffer strips shall be provided. They shall consist of trees, hedges, dense plantings, earth berms, and/or changes in grade. These buffers shall be used, in particular, to separate the more dense character of multi-family housing from less intensely developed land uses and to maintain a natural transition between multi-family structures.
10. Usable open space, excluding parking, must be available for tenants. This open area shall be a minimum of one hundred fifty (150) square feet per bedroom for adaptation of existing structures and at least forty percent (40%) of the gross lot area for new structures.
11. A recreation fee will be charged for all new rental units as provided for in the current fee schedule. On-site dedication of land or construction of recreational facilities can be an alternative to a recreational fee.
12. All parking shall be provided in paved off-street areas. No parking lot shall be closer than twenty-five (25) feet to the front of any building or ten (10) feet to the side or rear of any building.

13. All applicable requirements of the multiple residence section of the New York State Uniform Fire Prevention and Building Code shall be strictly met.

14. An existing building may be expanded only upon a showing that such expansion is necessary to allow a reasonable conversion of the building. If such expansion is permitted in no case shall the gross floor area of the building be increased by more than five hundred (500) square feet. Any changes to the exterior of the building must be compatible with the existing architecture of the building.

15. Adequate water supply and sewage disposal facilities shall be provided in full accordance with the requirements of the Town of Clinton and the Dutchess County Department of Health. For conversions of existing buildings, sufficient engineering documentation shall be provided to allow the Town and the Health Department to assess the adequacy of any existing facilities which are proposed for continued and expanded use.

### 5.36 OFF-STREET PARKING AND LOADING

#### A. General Provisions

1. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with the off-street parking and loading space required by the terms of this law to meet the needs of persons using or occupying such structures or land.

2. The plans for any new building or any expansion of an existing building, when submitted for site plan approval, shall show specifically the location, size and type of improvements of the off-street parking and loading space required to comply with this law and the means of access to such space from the public streets or highways. Off-street parking and loading requirements do not apply to single-family residential or other uses not requiring site plan approval.

3. No certificate of occupancy shall be issued for any building or land use until the required off-street parking space has been provided.

4. Required off-street parking facilities which, after development, are later dedicated to and accepted by the Town shall be deemed to continue to serve the uses or structures for which they were originally provided.

5. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use except as otherwise provided for in this law.

6. No off-street parking or loading space shall be so reduced in area that it does not meet the minimum requirement of this law.

#### B. Existing Structures and Uses

1. Lawful structures and land uses at the time of the effective date of this law shall not be subject to the parking or loading space requirements of this law, provided that any parking and loading facilities then existing to serve such structures or uses shall not be reduced except where they exceed these requirements, in which case they shall not be reduced below such requirements.

2. Required parking and loading facilities as herein stated shall, however, be provided as a condition for the issuance of any building permit for any enlargement or change in use of such structures or uses in the future.

C. Location

1. No off-street parking or loading area shall be used or shall be designed, arranged, or constructed to be used in a manner that will obstruct or interfere with the free use of any other parking space or any street, alley or adjoining property.

2. Off-street parking or loading areas that are requirements for a permitted use shall be located at least ten (10) feet from any property line, except where other provisions in this law require greater setbacks.

3. Required parking and loading spaces shall be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures or land uses on two (2) or more adjacent lots may be provided in a single common facility on one (1) or more of said lots. Required setbacks may be waived for this purpose. A legal instrument, satisfactory to the Planning Board, shall assure the continued existence of the parking facility to serve said structures or land uses as long as they may exist. Such agreements shall also guarantee that, upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use in accordance with all requirements of this law.

4. If the off-street parking space required by this law cannot be reasonably provided on the same lot on which the principal use is conducted, the Planning Board may permit such space to be provided in a private lot within four hundred (400) feet of the main entrance to such principal use. Such parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. The applicant must own or otherwise provide this space.

5. No commercial motor vehicle of more than one (1) ton capacity shall be parked or stored overnight on the street in any residential district, and such parking shall be subject to all other local laws.

D. Size of Parking Spaces

1. Each parking space shall be at least nine (9) feet wide and eighteen (18) feet long if unenclosed and at least ten (10) feet wide and eighteen (18) feet long if bordered by walls or columns on two (2) or more sides.

2. Each space shall have direct and usable driveway access to a street and adequate maneuvering area between spaces in accordance with proper site engineering standards.

3. The front or rear vehicle overhang shall not encroach upon any sidewalk or landscaped area.

4. The Planning Board may consider, in the site plan approval process and upon the request of the applicant, a reduction in the size of the parking spaces for up to fifteen percent (15%) of the number of parking spaces. In no event shall any parking space be less than eight (8) feet wide and eighteen (18) feet long.

E. Landscaping (See Section 5.34, Landscaping)

F. Grades, Drainage, Paving and Marking

1. All required parking facilities shall be graded, surfaced, drained and maintained throughout the duration of their use to the satisfaction of the Zoning Enforcement Officer to the extent necessary to avoid nuisances of

dust, erosion or excessive water flow across public ways or adjacent lands. Thermal pollution of any adjacent watercourses from runoff of parking areas shall be minimized. The maximum slope within a parking area shall be five percent (5%).

2. In multi-family residential developments and in non-residential developments, the Planning Board shall require the provision of maneuvering areas, entrances and exits.

#### G. Traffic Circulation

1. In order to encourage safe and convenient traffic circulation, the Planning Board may require the interconnection of parking areas via access drives within and between adjacent lots. The board shall require written assurance and/or deed restrictions, satisfactory to the Town's attorney, binding the owner and his heirs and assignees to permit and maintain such internal access and circulation and interuse of parking facilities.

2. Unobstructed access to and from a street, so designed as to not require the backing of any vehicle across a sidewalk or a traffic lane, shall be provided for all parking and loading spaces.

3. Adequate access to buildings by use of fire lanes shall be provided and maintained in all off-street parking and loading areas.

#### H. Waiver of Improvement

1. Where the Planning Board determines that less than the required number of finished parking spaces will satisfy the intent of this law, said Board may waive the requirement for completion in part, but not in excess of fifty percent (50%) of the number of required parking spaces according to this section. Such waiver shall not apply to the number of spaces to be provided, but only the number to be completed.

2. In such cases, it shall be expressly demonstrated on the site plan that sufficient space remains for the provision of the total amount of off-street parking required, and the site plan shall bear such designation.

3. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking.

4. Written guarantees, satisfactory to the Town's attorney, shall be submitted by the applicant for the eventual improvement of any spaces which have been waived. These spaces shall be constructed by the property owner within six (6) months of the date of written notice to the property owner by the Planning Board that such spaces have been determined as necessary and must be constructed.

#### I. Operation and Maintenance

Required off-street parking facilities shall be maintained as long as the use of the structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times for those persons who are employed at or make use of such structure and land uses.

#### J. Off-Street Parking Requirements

Off-street motor vehicle parking facilities shall be provided as follows, except as may be modified in other provisions of this section or where additional parking requirements may be made as a condition of the issuance of a special permit:

1. Where two (2) or more different uses are permitted on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot. However, the Planning Board may approve the joint use of parking space by two (2) or more establishments on the same or on contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided that said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments. Such approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments.

2. Handicapped Access

All parking spaces shall comply with New York State and local regulations concerning handicapped access as defined by the New York State Vehicle and Traffic Law, Article 32, Section 1203-c or any successor statute.

3. Schedule of Parking Requirements

Minimum Required Off-Street Parking Spaces

Accessory apartment 2 per dwelling unit

Alternate care facility 1 per 3 resident beds, plus 1 per employee

Amusement facilities 1 for every 5 customers computed on the basis of maximum servicing capacity at any one time plus 1 for every 2 persons regularly employed on the premises.

Animal hospital, kennel 4 per doctor, plus 1 per employee, but in no case less than 1 per 400 square feet of gross floor area

Bank, office 1 per employee, but not less than 1 per 350 square feet of gross floor area

Clubhouse 1 per 50 square feet of gross floor area in auditorium, assembly hall and dining room of such building, plus 1 for every 2 persons regularly employed on the premises

Funeral home 1 per employee, plus 1 per 25 square feet of gross floor area in assembly rooms

Gasoline station or 1 per 1,000 square feet of site automobile service facility area; spaces within service areas of building and at pumps and access lanes shall not be counted

Hospital	1 for every 2 beds intended for patients, excluding bassinets	
Hotel, other overnight	1 per guest sleeping room, plus accommodations	1 for every 2 employees
Light manufacturing, light processing uses	1 per employee on largest shift, research laboratory, or square feet of gross floor area	but not less than 1 per 650
Medical clinic and related per employee office	4 per doctor or equivalent professional health service	professional, plus 1
Residence, multi-family	2 per dwelling unit	
Residence, single-family or two-family	2 per dwelling unit	
Restaurant or bar	1 for every 3 seats but not less than 1 per 100 square feet of gross floor area	
Retail or service business	1 for every 275 square feet of gross floor area	
Educational institution	1 per employee plus 1 for every 5 students	
Theater, place of worship	1 for every 5 fixed seats; 1 per 100 square feet in places without fixed seats	
Wholesale, storage, utility	1 per employee, but not less or other similar use	than 1 per 1,000 square feet of gross floor area

Other uses not listed Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each use as part of its site plan review process.

#### K. Off-Street Loading and Unloading Facilities

- For every building or structure or part thereof hereafter erected and occupied for non-residential purposes, there shall be provided and maintained adequate space on the same premises for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley, or if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
- Off-street loading space shall not bar access to the off-street parking area or any parking space.
- Each off-street loading space shall be at least fifteen (15) feet in width, forty (40) feet in length and fourteen (14) feet in height, exclusive of access and turning areas, except that adjacent loading spaces may each be twelve (12) feet in width. Where delivery service will be by tractor trailer, the minimum length shall be sixty (60) feet, and the minimum width shall be fourteen (14) feet.
- The required number of off-street loading spaces shall be as follows:

- a. For office establishments, a minimum of one (1) space for the first ten thousand (10,000) square feet of gross floor area or portion thereof, plus one (1) space for each additional fifteen thousand (15,000) square feet of gross floor area or portion thereof, except that no spaces are required for buildings of less than five thousand (5,000) square feet of gross floor area.
- b. For retail, wholesale, industry, warehouse, and service business establishments, and for restaurants, a minimum of one (1) space for the first four thousand (4,000) square feet of gross floor area or portion thereof, plus one (1) space for each additional ten thousand (10,000) square feet of gross floor area or portion thereof, except that no spaces are required for buildings of less than two thousand (2,000) square feet of gross floor area.
- c. In the site plan approval process, upon consideration of all factors entering into the loading and unloading needs of each use, the Planning Board may make appropriate reductions in the loading requirements of the above structures and uses and may determine reasonable and appropriate loading requirements for structures and uses which do not fall within the categories listed above.
- d. The Planning Board, in approving a special permit application, may require additional reasonable and appropriate off-street loading spaces where it determines that they are necessary for the loading and unloading of such use.

#### 5.37 OUTDOOR STORAGE OR PARKING OF RECREATIONAL OR COMMERCIAL VEHICLES

- A. Outdoor storage or parking of not more than one of each of the following shall be permitted only as an accessory use to an occupied principal dwelling unit: boat over fifteen (15) feet, boat trailer, cargo trailer, camping vehicle, any of which shall be owned for personal use by a resident on the premises. Boats under fifteen (15) feet shall be permitted as an accessory use without quantity limitation.
- B. Outdoor storage of a recreational or commercial vehicle or bus, for a period longer than seventy-two (72) hours, is permitted only when owned by a resident of a principal or accessory dwelling unit, and shall not be within the minimum yards of a lot in a residential district (see Section 4.8).
- C. Any such recreational or commercial vehicle or bus shall be parked or stored only in the side or rear yard of a dwelling unit, and if stored, shall be completely screened from roads and neighboring properties.
- D. No vehicles shall be used for living or sleeping purposes, except as permitted in subsection G below.
- E. No more than one (1) commercial vehicle or bus per dwelling unit shall be parked or stored outdoors on a residential lot. Such limitation shall not limit indoor parking or storage.
- F. No unregistered commercial vehicle or bus shall be allowed. A maximum of one (1) unregistered non-commercial automobile, van or truck shall be allowed. This subsection shall exclude vehicles in operating condition used for agricultural operations.
- G. No property shall have placed on it an occupied camping trailer or motor home for more than thirty (30) days in any calendar year.
- H. Parking or storage of commercial vehicles in approved off-street parking spaces is a permitted accessory use of a commercial establishment.

### 5.38 POND OR LAKE

Any excavation for the purpose of building a pond or lake of water surface larger than one (1) acre shall require a pond permit issued by the Zoning Enforcement Officer.

A. The applicant shall furnish the Town with a letter from the Dutchess County Soil and Water Conservation District (DCSWCD) indicating:

1. Property identification, location, and size of pond;
2. Classification of watercourses affected and Department of Environmental Conservation (DEC) permit, if required;
3. Any related wetlands affected and DEC permit, if required;
4. Discussion of other relevant information;
5. Site inspection review and advice, including any soil erosion mitigation plans, by the DCSWCD.

B. On receipt of such information, and after payment of any required fee, the Zoning Enforcement Officer shall issue the pond permit.

### 5.39 PUBLIC STABLE OR RIDING ACADEMY

A. The minimum lot size shall be five (5) acres.

B. The use of the property shall be limited to the keeping of one (1) horse per one (1) acre of lot area.

C. No building in which animals are kept shall be placed closer to any property line than two hundred (200) feet.

D. Manure storage shall be covered or contained in a structure to prevent leaching when within two hundred (200) feet of any public water supply, state-regulated wetland, or neighbor's residence.

### 5.40 PUBLIC UTILITIES AND TRANSMISSION LINES

A. The Planning Board shall review site plans for the construction, erection, or installation of structures and facilities and transmission lines for public services upon the furnishing of proof of public necessity. Such proof shall require demonstration that the applicant is a duly constituted public utility, that the property site is necessary to enable the applicant to render safe and adequate service, and that no alternative sites are available which could be used with less disruptive environmental impacts or inconsistencies with the purposes and intent of the Town's zoning law. The Board, in approving such a plan, may impose restrictions and conditions which will protect private property in the vicinity and promote the health, safety, and general welfare of the community.

B. Any use permitted under this section shall conform to the standards of Section 5.34, Landscaping, and Section 5.2, General Performance Standards.

- C. The provisions of this section shall not apply to telephone, electric light and power lines usually located along public highways carrying five thousand (5,000) volts or less [fifteen thousand (15,000) volts or less if enclosed in a common sheath cable and suspended from wooden poles], or to local service underground conduits, cable, gas, sewer and water mains or pipes.
- D. Any above ground structures related to items listed in subsection C above, including ground transformers, multiplexors, or similar equipment placed on private property shall:
1. Not require site plan review;
  2. Not be subject to Area and Bulk Regulations, Section 4.1, except as below;
  3. Be located a minimum of ten (10) feet from the public right-of-way and be surrounded with a buffer, as herein defined, satisfactory to the Town;
  4. Be subject to height restrictions contained in this law.
- E. Public utility transmission lines may be permitted by the Planning Board, provided that it is clearly demonstrated that such lines will not endanger the public or surrounding property. Planning Board review and approval shall include consideration of alternative routes.
- F. In densely populated areas, the Planning Board may require that transmission lines be located underground.
- G. A right-of-way of sufficient width shall be required to permit the safe construction and maintenance of the transmission line and to prevent any nuisance or hazard to surrounding property. The Planning Board may permit the erection of a transmission line within an easement across private property, subject to these same regulations, provided that there are adequate safeguards to prevent any building or development within these easements. The Board shall require suitable landscaping of the right-of-way, including planted buffers to screen visual impacts along public roadways.
- H. Utility substations are not permitted under this law; however, where a court proceeding overrules this law, such utility substation shall be subject to site plan approval and requirements listed under Section 7.9 and Section 5.2, General Performance Standards.

#### 5.41 SATELLITE DISH ANTENNA

- A. Satellite antennas are permitted, provided that they are in rear yards and meet all applicable provisions of this section. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property, subject to setback requirements for accessory structures contained in the Schedule of Area and Bulk Regulations, Section 4.1. If a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure.
- B. Not more than one (1) satellite dish television antenna shall be allowed on any lot.
- C. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.

- D. Satellite dish antennas shall be adequately grounded.
- E. Satellite dish antennas shall be designed and located to minimize visual impact on adjacent property and roadways.
- F. A satellite dish antenna shall be located not less than ten (10) feet from any property line or easement.
- G. A ground-mounted satellite dish antenna shall not exceed a diameter of sixteen (16) feet or a grade height of twenty (20) feet.
- H. Wiring between a ground-mounted satellite dish antenna and a receiver shall be placed beneath the surface of the ground.
- I. Roof-mounted satellite dish antennas shall not be mounted on chimneys, towers, spires or trees. Where practical, the antenna should be placed below the ridgepole of the roof. Such antennas shall not extend more than twenty (20) feet above the roof and shall not exceed a diameter of sixteen (16) feet.

#### 5.42 SAWMILL

- A. All facilities for cutting, chipping, shredding, or other mechanical activities shall be located no closer than two hundred (200) feet from any property line.
- B. A two-hundred (200) foot buffer from all property lines shall be required, in which no placing of materials, equipment, supplies or machinery shall be allowed; however, such requirement shall not apply to sawmills in existence on the effective date of this law.
- C. No sawmill shall be permitted except where such facility has at least two hundred (200) feet of road frontage on a state, county or two-lane town roadway. Access to the parcel shall be gained through this frontage. Such requirement shall not apply to sawmills in existence on the effective date of this law.
- D. A sawmill shall comply with Section 5.2, General Performance Standards.

#### 5.43 SIGNS

##### A. Purposes

1. To promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising and signs.
2. To protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of developed areas of the community, and preserve the scenic and natural beauty of less developed areas.
3. To reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.
4. To encourage the installation of appropriate signs that harmonize with the buildings, the neighborhood and other signs in the area and to eliminate excessive, unsightly competition for visual attention through advertising signs.

## B. Applicability

Except as otherwise provided in subsection H below, no sign or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged or altered except in conformity with this law and, where applicable, without first obtaining a permit from the Zoning Enforcement Officer.

## C. General Regulations

Signs are an accessory use only. Signs are not permitted as a principal use.

1. Each sign shall pertain to a use that is conducted on the same property on which the sign is located, except for signs not to exceed six (6) square feet identifying religious or service organizations, and except as otherwise permitted herein.
2. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving lights or strings of lights. Strings of lights shall not be used for the purpose of advertising or attracting attention to a non-residential use when not part of a sign.
3. No illuminated sign or lighting device directed on signs shall be so placed or directed as to permit the beams and illumination to be directed upon or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a nuisance or traffic hazard.
4. Signs shall not be internally illuminated, nor be constructed with sequins or fluorescent paint.
5. No sign or part thereof shall contain or consist of moving or revolving parts. Such devices shall not be used for the purpose of advertising or attracting attention when not part of a sign.
6. No sign shall have more than two (2) faces. Identical signs arranged back to back may be counted as one sign. The area of a sign without a defined background shape shall be calculated as the smallest polygon or circle capable of enclosing the sign.
7. Portable freestanding or A-type signs are not permitted, except for signs permitted under subsection H.
8. The location of signs shall be determined by the Planning Board in the site plan review process, when site plan review is required.
9. In matters of setback from the street or road, required yards and other such respects, freestanding signs larger than eight (8) square feet shall be regarded as structures within the meaning of this law.
10. No advertising sign shall attempt or appear to regulate, warn or direct highway traffic or to imitate or resemble official traffic signs, signals or devices.
11. No sign shall be located so as to obscure any signs displayed by a public authority; to obstruct proper sight distance or otherwise interfere with traffic or pedestrians; to obstruct any door, window, ventilation system, fire escape or exit; or to cause any other hazard to public health and safety.
12. No sign shall be attached to any tree or utility pole or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

13. No sign or support for any sign shall be placed on the roof of any building.
14. No wall sign attached parallel to a building shall project more than twelve (12) inches from the face of the building.
15. No sign attached perpendicular to a building shall project more than six (6) feet from the building.
16. No sign shall overhang onto an adjacent property or right-of-way unless said line is the building line, in which case a sign may extend over the right-of-way line for a distance not exceeding four (4) feet.
17. No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty-five percent (25%) of the area of said window.
18. No sign shall exceed (10) feet in height or extend above the facade of the building to which it is attached.
19. Landscaping. Any permanent freestanding sign larger than twenty (20) square feet shall be installed in a landscaped planter larger than the area of the sign. No freestanding sign larger than eight (8) square feet shall have less than three (3) feet of open space at the bottom, extending its entire length.
20. Material. Each sign shall be constructed of wood, metal or other durable material approved by the Planning Board. Plastic signs are not permitted, except as allowed by subsection H below.
21. Design. For signs requiring permits (see also subsection H below), the Planning Board may suggest alternatives in informational content, lettering, and decorative elements.

D. Signs Permitted in all Districts

1. No more than three (3) signs along the frontage of a lot which meet all other requirements herein.
2. One bulletin board not exceeding fifteen (15) square feet in area for a church or other public non-commercial use.
3. Signs identifying real estate, apartment or subdivision developments, not to exceed one (1) sign per entrance where each sign shall not exceed twelve (12) square feet in size, and identifying only the name of the development where such sign is located.
4. Temporary signs for thirty (30) days following the initial opening of a business establishment. These signs shall not exceed twelve (12) square feet and one sign per street front.
5. Signs necessary for the identification, operation or protection of a public utility installation.
6. Sign incidental to a legal process or necessary to the public welfare.
7. Directional signs with valid sign permits obtained from Dutchess County or New York State highway authorities.

8. A maximum of two (2) off-premise directional signs erected for no more than ninety (90) days per year, with permission of the property owner, to advertise farm products or a farm stand.

9. All signs permitted in subsection H below.

#### E. Signs Permitted in the Hamlet Districts

In addition to those signs permitted in all districts, the following standards apply:

1. Regardless of the types of signs, total sign area for all signs shall not exceed ten percent (10%) of the front face of a building, up to a maximum of thirty (30) square feet. No more than one (1) permanent freestanding sign shall be permitted.
2. When there is more than one establishment on a single lot, the following standards shall apply:
  - a. One (1) freestanding sign not in excess of twenty (20) square feet may be erected identifying only the name of the center or facility as a whole and not containing advertising matter.
  - b. Individual wall or projecting signs, totalling not more than ten percent (10%) of the area of the building face to which they are applied, may be erected for each separate activity or establishment.
  - c. An overall sign design plan for any such center or facility shall be required and subject to site plan review. The design plan shall reflect a reasonable uniformity of design, lettering, lighting, and materials.
3. Signs shall be designed to be compatible in terms of materials, color and proportion with the historic character of the buildings in the district and not obscure individual historic features.
4. Gasoline Stations. Total sign area shall not exceed thirty (30) square feet including any canopy lettering. In addition, gasoline pumps may bear the customary signs identifying the brand, grade, price and tax of gasoline, but no other unrelated signs, symbols, banners or other devices may be attached. Self-service islands may display two (2) signs not to exceed two (2) square feet in area per sign and to be placed below the top edge of the island canopy.

#### F. Signs Permitted in AR5, AR3, C, CR1 and MR1 Districts

In addition to those signs permitted in all districts, the following standards apply:

One (1) sign per lot not to exceed twenty (20) square feet may be erected to identify any use permitted under this law, excluding home occupations, which are regulated by subsection H below.

#### G. Signs Permitted in the Office-Light Industry District

In addition to those signs permitted in all districts, the following standards apply:

1. Regardless of the types of signs, total sign area for all signs shall not exceed fifteen percent (15%) of the front face of a building, up to a maximum of fifty (50) square feet. Not more than one (1) permanent freestanding sign shall be permitted.

2. When there is more than one establishment on a single lot, the standards in subsection E(2) shall apply.

#### H. Exceptions

The following do not require a sign permit:

1. One (1) sign per lot, not exceeding two (2) square feet in area, identifying the occupant of the premises.
2. One (1) sign per lot, not exceeding three (3) square feet in area, identifying a permitted home occupation.
3. One (1) non-illuminated sign per lot, advertising the sale, lease or rental of the premises upon which the sign is located or one (1) non-illuminated sign denoting an architect, engineer or contractor, placed on premises where construction, repair or renovation is in progress. Such signs shall not exceed six (6) square feet in area, except in the Office-Light Industry (I) district where such signs shall not exceed a maximum of thirty (30) square feet.
4. One (1) sign per lot, not exceeding eight (8) square feet in area, identifying a permitted farming operation or roadside stand (see Section 5.48, Temporary Permits).
5. The changing of message content, but not design or format, on approved signs.
6. "No trespassing" signs, not to exceed two (2) square feet per sign.
7. Temporary signs related to political campaigns or events of civic, philanthropic, educational, or religious institutions. Such signs shall be limited to twelve (12) square feet in area, and a period not exceeding forty-five (45) days.
8. Memorial or historical signs, names of buildings and dates of erection when cut or cast into any masonry, bronze, stainless steel, wood or similar permanent material, not to exceed six (6) square feet in area.
9. Traffic or other municipal signs.
10. Legal notices or such temporary, emergency, or non-advertising signs as may be authorized by the Town Board.
11. U.S., state, and local flags, except when displayed in connection with commercial or sales promotion.
12. Signs not visible from outside the lot upon which they are situated.
13. Any sign which meets all the requirements for a sign permit as specified in subsections C through G, and is in place on the effective date of this law (see also subsection K).
14. Security system identification signs.

#### I. Application

A separate application for a sign permit is not necessary when the information required in this section is included in an application for site plan approval. All applications for sign permits shall contain the following information:

1. The name, address and telephone number of the applicant.
2. The location and principal use of the building, structure or lot to which or upon which the sign is to be attached or erected.
3. A description, including size, of all existing signs located on the property.
4. A detailed drawing showing:
  - a. A description of the sign, including size, height, symbols, text, size of lettering, materials used, and color of lettering or symbols and background.
  - b. A description of the construction details of the sign.
  - c. The position and type of lighting or other extraneous devices.
  - d. A location plan showing the position of the sign on any building or land and its position in relation to nearby buildings or structures, private or public roadways, and property lines.
5. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event the applicant is not the owner.
6. Fee (see fee schedule).
7. Other materials or facts deemed appropriate by the Planning Board.

J. Issuance of a Permit

1. It shall be the duty of the Zoning Enforcement Officer, upon the filing for a sign permit, to refer such application to the Planning Board. The Planning Board shall examine such plans, specification, locations and other data submitted and approve said plans within forty-five (45) days if they are in compliance with all requirements of this law. Upon Planning Board approval, the Zoning Enforcement Officer shall issue a permit for the erection of the proposed sign within fifteen (15) days. In the event that plans submitted are denied, the Zoning Enforcement Officer shall then notify the applicant, in writing, of the reason for refusal to issue a permit.
2. If the authorized sign is not erected within six (6) months of the day the sign permit is granted, the permit shall become null and void and new application must be made.

K. Removal of Certain Signs

Each of the nonconforming signs or structures specified below is deemed to be sufficiently objectionable and out of character within the zoning district in which such use is located as to depreciate the value of other property and uses permitted in the district and otherwise inhibit the proper, safe and orderly development of such district. Therefore, each such nonconforming use shall be terminated on or before the expiration of the specified period of time after the effective date of this law. Said period of time is specified herein as one that is reasonable to permit the phasing out of such use and amortization of any remaining value.

1. Any sign existing on or after the effective date of this law which advertises a business no longer conducted, product no longer available, or service no longer provided on the premises, shall be removed from the premises by the owner of the sign and/or his agent within ninety (90) days of the effective date of this law or within thirty (30) days after receipt of written notice from the Zoning Enforcement Officer to remove such obsolete sign, whichever date is later.
2. Any sign and supporting structures, unrelated to the activity on the site, including off-premise directional signs, shall be removed not more than three (3) years from the effective date of this law, except as permitted herein.
3. Signs shall be maintained in a proper state of repair, and in full compliance with the building and electrical codes. If any sign regulated by this law is unsafe or insecure, or is a menace to the public, the Zoning enforcement Officer shall give written notice to the owner of the sign and the owner of the land upon which the sign is erected, who shall remove or repair the sign, sign frame or supports within thirty (30) days from the date of such notice.

If, after proper written notice, such sign is not removed or repaired, the Zoning Enforcement Officer shall revoke the permit, if applicable, issued for the sign, and may remove or repair the sign and shall assess all costs and expenses incurred in the removal or repair against the land or building on which such sign was located.

#### 5.44 SOIL EROSION AND SEDIMENT CONTROL

##### A. Purpose

The purpose of this section is to protect the health, safety and welfare of the citizens of the Town of Clinton by regulating site alteration and construction activities such as excavation, filling, grading and stripping. This regulation is intended to minimize the negative impacts resulting from site alteration and construction which include: sedimentation, erosion, siltation, water quality deterioration, increased flooding, washouts, property damage, destruction of habitat, among others. The requirement for approval of a soil erosion and sediment control plan shall serve as the primary method by which this purpose shall be achieved.

##### B. General Provision

It shall be unlawful to perform or contract to perform any site alteration and construction activities such as excavation, filling, grading and stripping without also performing the proper soil erosion and sedimentation control measures necessary to prevent erosion, sedimentation, siltation, water quality deterioration, increased flooding or stormwater drainage problems, washouts, property damage, or destruction of habitat. Damage by any of the above factors shall be evidence of a violation of this regulation. This regulation applies to all property within the Town of Clinton, regardless of whether a formal soil erosion and sediment control plan is required to be approved as described below.

##### C. Activities Requiring An Approved Plan

1. An erosion and sediment control plan shall be submitted to and approved by the Planning Board in conjunction with any application for special permit, site plan approval or subdivision in which more than one-half (1/2) acre of topsoil is to be disturbed.
2. Other activities requiring a separate erosion control plan:

- a. Any alteration of a designated wetland which is regulated by the New York State Department of Environmental Conservation including draining and filling.
- b. Any site preparation on slopes which are fifteen percent (15%) or steeper.
- c. Any site preparation within the one hundred-year floodplain of any watercourse.
- d. Excavation or filling which affects more than two hundred (200) cubic yards of material.
- e. Soil stripping or grading which affects more than one-half (1/2) acre of ground surface within any parcel or any one (1) subdivision.
- f. Site preparation on any area which, in the judgment of the Building Inspector, may cause an erosion problem.

D. Activities Exempt From Requirement For An Erosion And Sediment Control Plan

1. Any activity not requiring a permit under subsection C.
2. A single-family dwelling that is not a part of a new subdivision of land, except as required under subsection C.
3. Accepted agricultural practices.
4. Household gardening and activities related to the maintenance of landscape features on existing developed lots, except as required under subsection C.

E. Waiver Of Requirement

The Planning Board may waive the requirement for a soil erosion and sediment control plan if it determines that the site and activity proposed are unlikely to cause any of the impacts which this section is intended to minimize.

F. Materials To Be Submitted

A soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Four (4) copies of materials shall be submitted to the Planning Board to facilitate the review of interested agencies. Plans shall include:

1. Narrative description of activity and proposed soil erosion and sedimentation control measures including:
  - a. The proposed development or activity;
  - b. The schedule for grading and construction activities, including:
    1. Start and completion dates;

2. Sequence of grading and construction activities;
  3. Sequence for installation and/or application of soil erosion and sediment control measures; and
  4. Sequence for final stabilization of the project site;
- c. The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities;
  - d. The installation, operation and maintenance of proposed soil erosion and sediment control measures and stormwater management facilities.

2. A site plan map drawn on separate sheet(s) which adheres to the general provisions required in Section 7.9, Site Plans, and includes the following:

- a. Proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;
- b. The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities;

3. All activities subject to regulation in subsection C(2) of this section shall be required to submit in addition:

- a. A soil erosion and sediment control application;
- b. An Environmental Assessment Form pursuant to 6 NYCRR Part 617 State Environmental Quality Review Act;
- c. Application fee as specified by resolution of the Town Board to cover administrative and processing costs.

#### G. Application Procedure

1. In cases where a soil erosion and sediment control plan is submitted in conjunction with an application for special permit, site plan approval or subdivision, the Planning Board shall either approve the plan when it complies with the requirements and objectives of this section, or deny approval when the plan does not comply with these regulations. When a denial is issued, the Planning Board is hereby prohibited from granting final approval for special permit, site plan approval or subdivision until a satisfactory plan has been approved.

a. Prior to approval, the Planning Board may forward the plan to the Town Engineer, the Conservation Advisory Committee, or other appropriate board or consultant.

b. Prior to approval, the Planning Board may submit the plan to the Dutchess County Soil and Water Conservation District. Such referral shall be completed within thirty (30) days after being sent. The Planning

Board may approve a plan referred to the Dutchess County Soil and Water Conservation District if no report is received within that time period.

2. In cases where an erosion and sediment control plan is required prior to the commencement of activities specified in subsection C (2) of this section, the Planning Board shall either approve the plan when it complies with the requirements and objectives of this section, or deny approval when the plan does not comply with these regulations.

a. Upon receipt of a complete application, the Planning Board may complete the appropriate referrals as outlined in subsection G(1).

b. Following the review of the plan by the selected agencies, boards and consultants, the Planning Board shall consider any documents received.

#### H. Conditions Relating To Soil Erosion And Sediment Control

1. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the approved plan, may be covered in a performance bond or other assurance approved by the Town Board, as recommended by the Planning Board.

2. Site development shall not begin unless the erosion and sediment control plan is approved and those control measures and facilities in the plan scheduled prior to site development are installed and functional.

3. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the approved plan.

4. All erosion and sediment control measures and facilities shall be maintained in a condition which ensures compliance with the approved plan.

5. The Zoning Enforcement Officer shall inspect the site to ensure compliance with the completion dates contained in the plan.

#### I. Standards

Accepted principles, methods and practices are found in the Dutchess County Soil and Water Conservation District's Soil Erosion and Sedimentation Control Guidebook. All plans shall adhere to the

principles set forth therein. In approving or denying a soil erosion and sediment control plan, the Planning Board shall use the general "Control Strategies" and more detailed standards outlined in the Guidebook (which may be revised from time to time).

#### J. Topsoil Removal

Topsoil shall not be stripped, excavated, or otherwise removed for sale or use, other than for use on the premises from which such topsoil is removed (see Section 5.23, Excavation and Mining).

### 5.45 STEEP SLOPES

#### A. Purpose

It is the intent of the Town of Clinton to preserve steep slopes to the greatest extent practicable and to regulate their use to protect the public interest by minimizing detrimental effects of disturbance and development of these areas. This section is intended to protect the public from the potential negative impacts of erosion, siltation, pollution of water supplies, slope failure, increases in downstream runoff, alteration of significant views, and destruction of potentially significant habitat which may result from disturbance of steep slopes.

#### B. Regulated Activities

For the purpose of this section steep slopes are determined to be of two general classifications as defined in Article 8: moderately steep slopes of fifteen to twenty-five percent (15-25%) and extremely steep slopes over twenty-five percent (25%). Any disturbance of lands exhibiting slopes of fifteen percent (15%) or greater shall be subject to the special regulations contained herein, unless specifically exempted under subsection C below.

#### C. Exempt Activities

The following activities are exempt from the requirements of this section:

1. Any customary landscaping not involving grading, provided such activity conforms to all other applicable ordinances, laws and regulations;
2. Removal of diseased or dead timber or other vegetation subject to routine forest management practices;
3. Creation of trails, paths, or corridors for the purpose of non-vehicular human recreation or the maintenance of wildlife migration routes or habitats, provided such activity conforms to all other applicable ordinances, laws and regulations;
4. Activities on premises for which a special permit for excavation or mining is in effect (see Section 5.23);
5. Accepted agricultural practices.

#### D. Application Procedure

Applications to disturb moderately and extremely steep slopes shall be made to the Planning Board and shall accompany other application materials as required for said activity. Applications for disturbance of moderately steep slopes shall be processed in concert with applications for the primary activity. Applicants may also be required to appear before the Planning Board at the request of the Zoning Enforcement Officer or Building Inspector. Applications for disturbance of extremely steep slopes shall follow the procedures in Section 7.10, Special Permits.

All applications shall be accompanied by:

1. Four copies of plans for the proposed regulated activities drawn to a scale of not less than one (1) inch equals fifty (50) feet. The plans shall show the following:
  - a. Location of proposed construction or area of disturbance and its relationship to property lines, easements, existing and proposed structures, roads, walls, sewage disposal systems, wells and wetlands within five hundred (500) feet;

- b. Estimated material quantities of excavation or fill;
  - c. Location and size of areas of moderately and extremely steep slopes under existing and proposed conditions, in the area of proposed disturbance and within a distance of five hundred (500) feet;
  - d. Location of soil types in the area of proposed disturbance and to a distance of five hundred (500) feet;
  - e. Existing and proposed adjusted contours at two (2) foot intervals in the area of proposed disturbance and to a distance of five hundred (500) feet;
  - f. Cross-sections of critical slope areas;
  - g. Retaining walls, with details of construction. Such walls over six (6) feet high shall be signed and sealed by a professional engineer;
  - h. Other details, including specific reports by qualified professionals on soils, geology and hydrology, as may be determined to be necessary.
2. A soil erosion and sediment control plan, if required.

E. Approval Standards for Moderately Steep Slopes

When considering an application which includes the disturbance of steep slopes, the Planning Board shall seek to minimize, to the greatest extent practicable, the negative impacts of such development. In so doing the Planning Board shall ensure that:

- 1. Disturbance is limited by using cluster or open space design principles whereby lots, structures, utilities and other improvements are located in areas most suitable for development;
- 2. Roads and driveways follow natural topography, and minimize grading;
- 3. Sewage disposal systems and wells are sited to minimize fill requirements, and the potential for disturbance, erosion, sinking, and slope failure;
- 4. Grading, cuts and fills are minimized and retain to the greatest extent possible a natural appearance upon completion of the activity;
- 5. The angle of slope created by a cut or fill does not exceed the natural angle of repose of the soil or rock materials in the cut or fill, except where retaining walls or other structural stabilization is used. Generally, for soils, angles of a cut or fill shall be no steeper than one (1) vertical to three (3) horizontal (33% slope);
- 6. Tops and bottoms of cuts and fills are set back from structures and property lines a distance that will ensure the safety of the structure and neighboring property in the event of the collapse of the cut or fill;
- 7. Removal of rock or rock outcrop is accomplished by labor or machines. Blasting is minimized, and any blasting that is required is done in accordance with federal and state regulations;

8. Disturbance of steep slopes is undertaken in workable units in which the disturbance can be completed within one construction season. Areas will be seeded and planted immediately after completion of disturbance to prevent erosion and slope failure.

#### F. Approval Standards for Extremely Steep Slopes

No disturbance shall be created on areas of extremely steep slopes as defined herein unless a separate special permit for their disturbance has been issued by the Planning Board. The Planning Board shall issue a special permit for disturbance only if:

1. There are no reasonable alternatives to the disturbance; and
2. The activity complies with all standards in subsection E; and
3. No sewage disposal system or well component nor any pipes or other components used in their connection is located in or on extremely steep slopes.

#### G. Conditions Relating to The Disturbance of Steep Slopes

1. The estimated costs of measures required as part of a plan to disturb areas of steep slopes, as specified in an approved plan or special permit, shall be covered in a performance bond or other assurance in an amount recommended by the Planning Board, reviewed by the Town's attorney, and approved by resolution of the Town Board.
2. The provisions of this section shall not apply to any development, alteration or improvement of property for which final approval shall have been obtained and not expired and the approved work not completed prior to the effective date of this law.
3. A special permit for the disturbance of extremely steep slopes, unless otherwise indicated, shall expire on completion of the acts specified and, unless otherwise indicated, shall be valid for one (1) year. The Planning Board may renew the special permit on re-application. The Zoning Enforcement Officer or the Zoning Board of Appeals by administrative review may suspend or revoke a special permit or approval for disturbance if it finds that the applicant is in violation of that permit or approval.

### 5.46 SUBDIVISIONS

Any real property owner who hereinafter plans to subdivide his property shall abide by the Subdivision Regulations of the Town, as adopted by the Planning Board and approved by the Town Board, and in accordance with Section 7.8 herein.

### 5.47 SWIMMING POOL

A. Any outdoor swimming pool as defined within Section 8 of this law shall be subject to the following and any other safety measures, but only to the extent required by the New York State Uniform Fire Prevention and Building Code or other state or federal regulations:

1. The outdoor swimming pool shall be enclosed on all sides by a security fence not less than four (4) feet in height, or as otherwise prescribed by the Uniform Code.

2. Such security fence, as may be applicable, shall be provided with a locking gate to prevent accidental entry or unauthorized use of the outdoor swimming pool.

B. A private swimming pool shall not be located in any required setback area or in front of the permitted principal use. However, such requirement shall not apply to pools and related structures lawfully in existence on the effective date of this law.

C. For a public swimming pool:

1. The minimum lot size shall be three (3) acres.

2. The pool and any associated buildings shall be located not less than two hundred (200) feet from any existing residential structure nor within one hundred (100) feet of any lot line.

#### 5.48 TEMPORARY PERMITS

The intent of this section is to establish necessary regulation of temporary uses in order to protect rights of property owners and public safety. Temporary permits shall be issued by the Zoning Enforcement Officer (ZEO) for the following uses, consistent with this law and any other local laws. Permit fees shall be in accordance with the Town's fee schedule established by the Town Board. Town functions including Community Day, shall be exempt from such permit requirement.

A. Carnivals, Fairs, Circuses

A church, school, civic association or other non-profit organization may hold a fair, carnival, circus, horse show or similar event upon its premises, the proceeds of which are for the sole benefit of said applicant. Upon request, the Zoning Enforcement Officer may issue a permit to such organization located in the Town of Clinton to hold such an event upon premises other than those of the applicant. The following conditions apply:

1. A permit for such event may be issued for a period not to exceed three (3) days in any one (1) calendar year;

2. The applicant is responsible for cleaning the site and removing all refuse within forty-eight (48) hours after the event;

3. The applicant shall furnish evidence of sufficient temporary parking and responsibility for traffic control;

4. The event must comply with the minimum yard and setback requirements of the district in Section 4.1, Area and Bulk Regulations.

B. Temporary Buildings

Temporary buildings, including mobile homes and storage structures, are permitted only in conjunction with construction projects. The following specific regulations apply:

1. A permit for a temporary building shall be issued by the Zoning Enforcement Officer for a period not to exceed one (1) year. Such permit may be renewed a maximum of one (1) time;

2. All temporary buildings must conform to the area and bulk regulations of the district as they apply to accessory uses;
3. No temporary building may be used as a sales office;
4. Any temporary building must be removed within thirty (30) days of the completion of the construction project or expiration or revocation of any building permits issued thereto;
5. Any temporary building used or intended to be used as a storage facility for a period exceeding seven (7) successive days requires a permit.
6. Such permit requirement shall not apply to accessory buildings allowed in Article 4 herein.

C. Vendors, Solicitors, Peddlers

The following conditions shall apply to any roadside vendor, solicitor, or peddler in the Town of Clinton:

1. All vendors, solicitors, and peddlers are required to obtain a temporary permit prior to commencing operation. Permits shall be issued for a maximum period of two (2) weeks within a calendar year. No vending, soliciting, or peddling may be conducted in the Town of Clinton without a permit;
2. Any such operation to be conducted on private property shall have written consent of the property owner prior to and as a condition for issuance of the permit. No structure, equipment, or materials shall be erected or stored on a lot except as otherwise permitted in this law;
3. Operating hours shall be between 8:00 a.m. and 6:00 p.m.;
4. No structures, stands, motor vehicles or other facilities used for vending, soliciting, or peddling are permitted within the public right-of-way between the hours of 6:00 p.m. and 8:00 a.m.;
5. Any vehicles, trailers, or other facilities used for vending, soliciting, or peddling are subject to Section 5.37, Outdoor Storage or Parking of Recreational or Commercial Vehicles;
6. Permits may only be issued for a specific location designated by roadway name and mile marker. A new permit is required if a change in location is desired. The permit shall be conspicuously displayed by the vendor during hours of operation;
7. Only one vending permit per vendor shall be in force at one time. A permit will not be granted for a vendor, solicitor, or peddler where a permit has been granted to another vendor, solicitor, or peddler to operate within one (1) roadway mile;
8. No advertising, signs, or promotional materials are permitted except in accordance with Section 5.43, Signs, subsection C. Signs shall be limited to one per establishment. Signs may be either freestanding, wall mounted or painted on, but in no case may they exceed twelve (12) square feet. No sign may be placed in the traveled way of a road or otherwise constitute a danger to motor vehicles;

9. Adequate sight distance and space for safely pulling off the roadway and parking shall be provided. However, the construction of parking facilities for the express use of vending operations is prohibited;

10. No structures, stands, motor vehicles or other facilities used for vending are permitted within two hundred (200) feet of any residence, intersection or on any crosswalk;

11. Such permit may be revoked without notice by the Zoning Enforcement Officer, or the operation required to be moved, if in the judgment of the Zoning Enforcement Officer or Highway Superintendent, the operation is determined to be unsafe. If the permit is revoked, the operation shall immediately cease. Such decision to revoke for safety reasons may be appealed to the Town Board.

12. Vendors, solicitors, or peddlers are required to furnish proof of liability insurance as specified by the Town Board in the Town's fee schedule, or if not specified, a minimum of \$300,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.

#### D. Roadside Stands

Roadside stands, as defined in Article 8 of this law, shall be permitted as an accessory use, with permit, subject to the following conditions:

1. Such stand shall not exceed one hundred (100) square feet in gross floor area;

2. Such stand shall be located not less than twenty (20) feet from any roadway edge;

3. Such stand shall be solely for seasonal display and sale of agricultural products grown principally on the premises;

4. Adequate sight distance and space for safely pulling off the roadway and parking must be provided. However, the construction of paved parking facilities for the express use of roadside stands is prohibited;

5. Such permit does not have to be renewed, but may be revoked if the roadside stand fails to meet any of the conditions herein;

6. Such restrictions or permit requirement shall not apply to farms, except that products sold shall be grown principally on the premises.

#### 5.49 TWO-FAMILY DWELLING

A. At least one (1) of the dwelling units shall be owner-occupied. Otherwise, the special permit standards to be applied are those for multi-family dwelling, and are permitted only in districts as listed in the Schedule of Use Regulations, Section 3.2.

B. A two-family dwelling shall require twice the acreage specified in the District Schedule of Area and Bulk Regulations, Section 4.1, for a single-family dwelling in the district in which it is located.

C. Once a special permit has been approved for a two-family dwelling, any further subdivision of the property shall require that the two-family unit be identified on any subdivision plans and that the required acreage goes with the two-family dwelling; otherwise, subdivision may not occur while a special permit for a two-family dwelling is in effect.

D. If a two-family dwelling is created by conversion rather than new construction:

1. It must be created through conversion of a single-family dwelling legally existing on the effective date of this law;

2. The single-family dwelling, at the time of conversion, must be on an individual lot with lot area sufficient to accommodate the requirement for a two-family dwelling unit specified in subsection B above, and have lot width and lot frontage of no less than the minimum specified for the zoning district in Section 4.1, District Schedule of Area and Bulk Regulations. The lot may not be an existing nonconforming lot of less than the prescribed lot area, width, or frontage.

E. Adequate water supply and sewage disposal facilities shall be provided in accordance with the requirements of the Town of Clinton and the Dutchess County Department of Health.

#### 5.50 VETERINARIAN'S OFFICE OR ANIMAL HOSPITAL

A. Any building housing animals shall be located at least two hundred (200) feet from any property line.

B. All outdoor areas used by animals shall be enclosed by fencing of a type of construction and height sufficient to contain any animal on the premises. Such areas shall be located to the side or rear of the principal building.

C. The office or hospital shall be operated in such a manner as to produce no objectionable noise, odors, or other nuisances beyond the boundaries of the site on which it is located.

D. A minimum of ten (10) acres is required for boarding if animals have access to the outside of buildings. A minimum of three (3) acres is required for boarding if animals do not have access to the outside of buildings. If there are no boarding facilities, such office shall be construed to be a "medical clinic."

#### 5.51 WETLANDS, WATERCOURSES, LAKES, PONDS, AND FLOODPLAINS

A. Purpose

The intent of this regulation is to minimize any negative impacts caused by development to wetlands, watercourses, lakes, ponds, and floodplains and to regulate their use to maximize the public's rights to enjoy these areas. This section is intended to protect water supplies, aquifers, storm water management capacity, chemical and pollutant filtration ability, habitat and breeding environment, and recreation opportunities provided by the Town's water resources.

B. Applicability

1. While all uses and activities, including those undertaken by the Town, shall avoid, to the maximum extent practicable, adverse alteration of a wetland, watercourse, lake, pond, or floodplain, as defined in Article 8, the standards and procedures of this section apply only to the following:

a. Applications being reviewed for a subdivision, site plan, special permit, variance or other permit under this law; and

- b. Any area within one hundred (100) feet of a watercourse, lake, pond, or DEC-regulated wetland (see Section 3.3 for additional requirements for the C district); or
  - c. Land within the 100-year floodplain.
2. Within the areas specified in subsection 1 above, those activities that may be deemed to adversely alter, impinge upon or otherwise negatively affect such environments include:
- a. Placement or construction of any structure, except as provided in subsection C or elsewhere in this law;
  - b. Placement or construction of any part of a septic system or other type of sewage disposal system, including a sewage treatment plant;
  - c. Construction or installation of any road, utilities or utility corridor, or other improvements, including the driving of pilings or placement of other obstructions, unless all other alternatives are clearly impractical;
  - d. Any form of draining, dredging, excavation or removal of material either directly or indirectly, except as provided in subsection C;
  - e. Any form of dumping, filling or depositing of material either directly or indirectly, except as provided in subsection C;
  - f. Introduction of any form of pollution, including but not limited to surface or water discharge from a sewage system, the deposition or introduction of inorganic chemicals, animal wastes, pesticides or fertilizers and the discharging of solid, liquid or gaseous wastes;
  - g. Alteration or modification of natural features and contours or natural drainage patterns;
  - h. Construction of dams, docks or other water control devices;
  - i. Clearcutting of trees or vegetation, at once or over time, not regulated under Section 5.44, Soil Erosion and Sediment Control;
  - j. Creating an increase or decrease in the flow, velocity or volume of water in any wetland, watercourse, lake, or pond, excluding customary seasonal raising and/or lowering;
  - k. Any other activity that may impair the natural function(s) of a wetland, watercourse, lake, pond, or floodplain.

#### C. Exempt Activities

The following activities shall be exempt from regulation under this section:

- 1. The deposition or removal of the natural products of the wetlands and adjacent areas by recreational or commercial fishing, aquaculture, hunting or trapping, where otherwise legally permitted and regulated;
- 2. Ordinary maintenance and repair of existing structures or improved areas which do not involve expansion or substantial modification, including but not limited to bridges, roads, driveways, highways, bulkheads, docks, piers or pilings;

3. Public health activities under orders and regulations of the New York State Department of Health, provided that copies of all such orders and regulations affecting wetlands have been filed with the Planning Board and that the Planning Board may request modification of such orders if it deems it necessary to implement this law;
4. Any actual or ongoing emergency activity which is immediately necessary for protection and preservation of life or property or the protection or preservation of natural resource values;
5. The application of non-polluting chemicals and dyes for the purpose of maintenance;
6. Accepted agricultural practices, except where alteration is being reviewed as part of an application for permit under subsection (B)(1)(a) above.

D. Approval Standards

In approving or denying any application for a subdivision, site plan, special permit, variance, soil erosion and sediment control or pond permit under this law, the appropriate board shall consider the effect of the proposed activity on the ecology of the wetland, watercourse, lake, pond, or floodplain, on the public health and welfare, on flood hazards, water supply and on the maintenance and enhancement of other benefits provided by such resources. The boards shall insure that:

1. The potential negative impacts of the proposed activity, and existing and reasonably anticipated similar activities, upon neighboring land uses and wetlands, watercourses, lakes, ponds, and floodplains are eliminated or minimized. These activities include:
  - a. Infilling or other modification of natural topographic contours;
  - b. Disturbance or destruction of natural flora and fauna;
  - c. Influx of sediments or other materials causing increased water turbidity or substrate aggradation;
  - d. Removal or disturbance of wetland soils;
  - e. Reductions in water supply;
  - f. Interference with water circulation;
  - g. Reduction or increases in nutrients;
  - h. Influx of toxic chemicals or heavy metals;
  - i. Thermal changes in the water supply;
  - j. Changes affecting natural aesthetic values.
2. The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage and water quality are eliminated or minimized;

3. The potential for damage from flooding, erosion, winds, soil limitations and other hazards due to the activity is eliminated or minimized;
4. Water supply and waste disposal facilities, on and off site and in areas where future development can be reasonably expected, will be adequate after the completion of the proposed activity;
5. The activity is consistent with federal, state, county and local comprehensive land use plans and regulations including New York State Environmental Conservation Law, Article 24;
6. All reasonable alternatives on other sites or on the subject parcel have been thoroughly explored and no other alternative is available on a site which is not a wetland, watercourse, lake, pond, or floodplain.

E. Procedures

1. Review of any impacts on a wetland, watercourse, lake, pond, or floodplains shall take place in concert with the review of the principal activity;
2. The Town Board, Zoning Board of Appeals, or Planning Board may make referrals to other boards, the Conservation Advisory Committee, consultants or interested parties prior to approving any activity which includes the impingement upon or other disturbance of wetlands, watercourses, lakes, ponds, or floodplains;
3. Documentation necessary to determine the extent, delineate the boundaries, and analyze the properties of any wetland, watercourse, lake, pond, or floodplain shall be gathered as part of the State Environmental Quality Review Act process;
4. The Town, through the appropriate Board acting as its agent, hereby reserves the right to hire a consultant at the expense of the applicant for the purpose of collecting information necessary to make an appropriate determination of impacts on any wetland, watercourse, lake, pond, or floodplain.

5.52 YARD SALE OR OTHER TEMPORARY SALE

- A. Sales shall not last longer than four (4) days.
- B. Sales shall not be held more than twice in a calendar year.
- C. Sales shall be conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.
- D. No goods purchased for resale may be offered for sale.
- E. All directional and advertising signs shall be freestanding and removed after completion of the sale.
- F. All directional and advertising signs placed on private property shall have the owner's permission.
- G. No directional or advertising sign may be larger than four (4) square feet.

## ARTICLE 6 NONCONFORMING USES AND STRUCTURES

### 6.1 GENERAL PROVISIONS

The lawful use of any land, buildings or structures, or a part thereof existing at the time that this law or any subsequent amendment becomes effective may be continued, although such use does not conform with the provisions of this law, except as provided herein. The right to continue a nonconforming use is based on pecuniary and economic loss and is inapplicable to an incidental use of property for recreational, amusement or hobby purposes.

The intent of this law is to limit, by not increasing, nonconforming uses and to eliminate such uses as speedily as possible, but at the same time to alleviate economic hardship to an existing nonconforming use by allowing it to continue at its existing level of intensity, in accordance with all other provisions of applicable laws and regulations.

## 6.2 NONCONFORMING USES

Any lawful nonconforming use of buildings or land in existence on the effective date of this law, except as disallowed by Section 6.1, may be continued indefinitely if maintained in accordance with all other applicable codes, laws, regulations, and other requirements, but:

A. Shall not be enlarged or extended, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this law, except as provided in this article.

For the purpose of this section:

1. Any additional commercial accessory uses shall constitute such extension, and are prohibited.

2. Where no building is involved, the nonconforming use of the land may not be extended to occupy a greater area of land, or to include more intensive use of the same area of land, than occupied on the effective date of this law.

B. Shall not be moved to another location where such use would be nonconforming.

C. Shall not be changed to another nonconforming use without prior approval by the Zoning Board of Appeals, and then only to a use which, as determined by the Zoning Board of Appeals, maintains or reduces the nonconformity. Such change of nonconforming use approval by the Zoning Board of Appeals shall be prior to any other approvals required by the Planning Board.

D. Shall not be re-established if such use has been discontinued for any reason, whether through vacancy or cessation of use, for a period of one (1) year or longer, or has been changed to, or replaced by, a conforming use for any period of time. The intent to resume a nonconforming use does not confer the right to do so.

E. Shall be subject to all administration and enforcement provisions of this law, including but not limited to inspections, issuance of orders to remedy, stop orders and appearance tickets.

## 6.3 NONCONFORMING LOTS

Nothing herein shall prevent the use of a nonconforming lot, as defined in Article 8, provided it meets all applicable building codes, health department regulations, and other requirements of this law (see also Section 4.3).

## 6.4 NONCONFORMING BUILDINGS OR STRUCTURES

All alterations or extensions to a nonconforming building or structure shall comply with provisions of this law with respect to Article 4, Area and Bulk Regulations.

Nothing contained herein shall prohibit the extension of a permitted use to any portion of a nonconforming building or structure which existed prior to the effective date of this law.

Nothing herein shall prohibit normal repair and maintenance or structural alteration of a nonconforming building, provided such action does not increase or create any new nonconformity. Further, any nonconforming building or structure declared unsafe by the Building Inspector or other proper authority may be restored to a proper condition within the time period provided by such authority.

For nonconforming signs see Section 5.43, Signs.

#### 6.5 ALTERATIONS PERMITTED TO NONCONFORMING BUILDINGS

A. A building which is nonconforming under the previous zoning ordinance and nonconforming under this law shall be permitted to expand to an amount not exceeding 50% of the aggregate building area as it existed on the effective date of the 1974 Zoning Ordinance, established as October 2, 1974, except that no nonconforming building shall be permitted to violate any other provisions of this law relative to the district in which it is located.

B. A building which became a nonconforming building as a result of this law shall be permitted to expand to an amount not exceeding 50% of the aggregate building area as it existed on the effective date of this law, except that no nonconforming building shall be permitted to violate any other provisions of this law relative to the district in which it is located.

#### 6.6 RESTORATION AFTER DAMAGE

Nothing contained in this article shall be deemed to prevent the restoration of a lawful nonconforming use after damage by any cause, provided that the bulk, height, and area shall not be in excess of that which existed prior to the damage, that all applicable New York State Uniform Fire Prevention and Building Code provisions are fully complied with, and that the restoration is commenced within one (1) year of the damage and is fully completed within eighteen (18) months of such damage.

Nothing herein shall prohibit the restoration of a dwelling unit which is nonconforming only with respect to bulk and area regulations for the district in which it is located, except: no dwelling unit shall be altered, added to, or reconstructed to extend further into an already deficient yard or to reduce an already deficient amount of land area per dwelling unit.

#### 6.7 COMPLETION OF NONCONFORMING BUILDING CONSTRUCTION

Any building, the construction of which has been started pursuant to a validly issued building permit before the effective date of this law or any amendment thereto, may be completed in accordance with approved plans on file with the Building Inspector, provided that all other required permits and approvals have been issued prior to the effective date and such construction is diligently pursued and the building is completed within two (2) years of the effective date of this law or subsequent amendment.

#### 6.8 APPEAL JURISDICTION

All appeals for relief under this article shall be heard by the Zoning Board of Appeals, in accordance with the provisions of Section 7.11 of this law, except where another local law specifically requires permit application or renewal by the Town Board or the Planning Board for a particular use, whether permitted or nonconforming, in which case all questions shall be decided by the board so designated in such local law.

## ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

### 7.1 GENERAL

This law shall be administered and enforced by the Zoning Enforcement Officer (ZEO), the Building Inspector (BI), the Fire Inspector, the Planning Board, and/or the Zoning Board of Appeals in the manner prescribed below for the application and issuance of permits, submission of plans, conduct of hearings, and handling of violations.

### 7.2 ZONING ENFORCEMENT OFFICER, POWERS AND DUTIES

A. **Enforcement.** In addition to all other authority conferred by law, and except as otherwise provided, it shall be the duty of the Zoning Enforcement Officer to enforce literally the provisions of this law and of all rules, conditions and requirements specified by the Zoning Board of Appeals and the Planning Board.

B. **Administration.** The Zoning Enforcement Officer shall receive all applications for special permits, sign permits, temporary permits, soil erosion and sediment control permits, pond permits, variances, site plan reviews, change of use (including nonconforming uses), and such other applications as may be specified in other local laws or by the Town Board, or as otherwise herein provided. Applications will be forwarded by the ZEO to the appropriate board(s) or officials for review, if applicable.

C. **Compliance review.** The Zoning Enforcement Officer shall review and approve all applications, in writing, prior to the issuance by the Building Inspector of a building permit or certificate of occupancy. Before granting such approval, the ZEO shall be satisfied that:

1. The proposal set forth in the application conforms to the use, area, and bulk regulations of this law.
2. There are no existing zoning violations with regard to the property on which application is made.
3. All required reviews and actions have been complied with.

No building permit or certificate of occupancy shall be issued that would not be in full compliance with the provisions of this law and the Uniform Code. Any such permit or certificate issued or approved in violation of any provision of this law and other applicable provisions shall be null and void.

D. **Inspections.** The Zoning Enforcement Officer is authorized to enter upon, examine, and inspect any building, structure, or property at any reasonable time, in the Town of Clinton, for the purpose of carrying out the duties of the position and to determine compliance with the provisions of this law and other local laws and ordinances. If access is denied, the ZEO is authorized to obtain a warrant to allow such entry and inspection. A written report of each such inspection shall be prepared on an appropriate form and kept on file by the ZEO.

E. **Issuance of Order to Remedy.** Whenever in the opinion of the Zoning Enforcement Officer, after proper examination and inspection, there exists a violation of any provision of this law, or of any regulation adopted pursuant thereto, the ZEO shall serve a written notice upon the appropriate person or persons responsible for such alleged violation. Such notice shall inform the recipient of the nature and specific details of such alleged violation, and the date of compliance by which the alleged violation must be remedied or removed, which date shall be not more than thirty (30) calendar days from the date of notice, except as specifically herein provided.

F. Issuance of Stop Orders. Whenever the Zoning Enforcement Officer has reasonable grounds to believe that work on any building or structure or any use of land is occurring either in violation of the provisions of this law, not in conformity with any application made, permit granted or other approval issued, or in an unsafe or dangerous manner, the Zoning Enforcement Officer shall promptly notify the

appropriate person or persons responsible to suspend work on any such building or structure or the use of any such land. Such persons shall immediately suspend such activity until such time that the stop order has been rescinded by the Zoning Enforcement Officer. Such order and notice shall be in writing, shall state the conditions under which the work or use may be resumed, and shall be served by delivering it personally, or by posting the same upon a conspicuous portion of the building under construction or premises in use. In addition, a copy of the same shall be sent by certified mail to the person or persons responsible.

G. Issuance of Appearance Tickets. Whenever in the opinion of the Zoning Enforcement Officer the person(s) responsible for an alleged violation has failed to remedy the condition, or has failed to stop work as requested, the Zoning Enforcement Officer shall issue and serve an Appearance Ticket with respect to a violation of this law. Such Appearance Ticket shall be served by the Zoning Enforcement Officer and conform with the provisions of the Criminal Procedure Law. The appearance ticket may be accompanied by a civil complaint.

H. Complaints. All complaints of alleged violations shall be made to the Zoning Enforcement Officer. If the complaint is made in writing, the Zoning Enforcement Officer shall respond to the complainant in writing within thirty (30) days, acknowledging the complaint, and stating the disposition or pending action on the complaint.

I. Records. The Zoning Enforcement Officer shall keep a permanent record of all violations of this law, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the disposition of all such violations. These records shall be public records.

The Zoning Enforcement Officer shall file the disposition of each violation or written complaint in the Office of the Town Clerk within ten (10) days of a decision or action.

J. Reports. The Zoning Enforcement Officer shall make a report to the Town Board, in writing, at least once every three months, listing all reported or continuing violations of this law and the disposition or pending action of such violations.

K. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision of the Zoning Enforcement Officer. Such an appeal by an applicant for a permit shall be made within forty-five (45) days of the filing of such decision in the Office of the Town Clerk (see also Section 7.11).

### 7.3 BUILDING INSPECTOR, POWERS AND DUTIES

A. General. The Building Inspector shall administer the building provisions of this law and other local laws of the Town of Clinton and all building conditions and requirements specified by the Zoning Board of Appeals and the Planning Board.

The Building Inspector shall administer and enforce the provisions of the New York State Uniform Fire Prevention and Building Code as related to items listed in this section, and any additional standards which may be provided by local laws of the Town of Clinton (see also Section 7.7, Fire Inspector).

The two positions of Building Inspector and Fire Inspector may be held separately or by the same person, as appointed by the Town Board, which may also assign temporary duties if a vacancy occurs. Where the two positions are separately held, the Town Board shall resolve any jurisdictional questions.

B. Issuance of Building Permits and Certificates of Occupancy. The Building Inspector shall receive all applications for building permits and certificates of occupancy, and shall review such applications and issue building permits and certificates of occupancy, after obtaining all necessary approvals, in accordance with this law.

C. Issuance of Demolition Permits. The Building Inspector shall receive applications for and issue demolition permits in accordance with all local laws of the Town of Clinton.

D. Approval of Sewage Treatment System-C District. The Building Inspector shall approve altered or new sewage treatment systems in the C district in accordance with Section 3.3.

E. Inspections. The Building Inspector, upon the showing of proper credentials, is authorized to enter upon, examine, and inspect any building, structure, or property at a reasonable time, in the Town of Clinton, for the purpose of carrying out the duties of the position.

F. Issuance of Stop Orders and Appearance Tickets. The Building Inspector may issue Stop Orders and Appearance Tickets related to the scope of his/her responsibilities in the manner prescribed for such issuance in Section 7.2.

G. Records. The Building Inspector shall maintain complete files of all applications for building permits and for certificates of occupancy and records of all building permits and certificates of occupancy issued. These files and records shall be public records.

The Building Inspector shall file a copy of issuance or denial of each building permit or certificate of occupancy with the Office of the Town Clerk within ten (10) days of a decision or action.

H. Reports. The Building Inspector shall make a report to the Town Board, in writing, at least once every three months, listing each building permit and certificate of occupancy issued during the period since the last report, and summarizing the number and type of building permits and certificates of occupancy issued.

I. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision of the Building Inspector. Such an appeal by an applicant for a permit shall be made within forty-five (45) days of the filing of such decision with the Office of the Town Clerk (see also Section 7.11). Appeal may be made to the regional board of review for the NYS Uniform Fire Prevention and Building Code for variances to the Uniform Code. Application requirements for such a request may be obtained from the Building Inspector.

## 7.4 BUILDING PERMITS

### A. Scope

1. No person shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, or conversion of any building or structure, or cause the same to be done, except as provided in Section 4.7(B) of this law as pertains to accessory structures, or other non-permanent accessory structures not exceeding fifty (50) square feet in size, without first obtaining a separate building permit from the Building Inspector for each such building or structure.

2. No building permit shall be issued for a building to be used for any use allowed by special permit until such special permit has been approved by the Planning Board.
3. No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board except in conformity with the plans approved by said Board.
4. No building permit shall be issued without a compliance review and approval of the application by the Zoning Enforcement Officer, in accordance with Section 7.2.
5. No excavation shall be made for any building or structure requiring a building permit until such permit has been issued. Any excavations left open after the expiration of the permit period must be filled. If the owner fails to comply with this requirement, he/she shall, within ten (10) days after written notification from the Building Inspector, cause the excavation to be filled. If the owner fails to comply, the Town is empowered to fill the excavation and any cost incidental thereto shall be paid by the owner.
6. A building permit shall be void if construction is not started within a period of one (1) year or completed within a period of three (3) years of the date of said permit.
7. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances, or regulations. All work shall conform to the approved application, plans and specifications.
8. Any amendments to the application, or to the plans and specifications accompanying the same, must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Building Inspector and Zoning Enforcement Officer. If the change involves a change in the special permit or site plan, the applicant shall gain approval from the Planning Board.

#### B. Application

1. Applications for a building permit shall be made to the Building Inspector on forms provided by him, with the appropriate fee, and shall contain the following information:
  - a. A description of the land on which the proposed work is to be done and evidence that the lot is contained on a subdivision map filed in the office of the Dutchess County Clerk or is an existing lot of record, as defined in Article 8 and allowed by Section 4.3, Existing Lots of Record.
  - b. A statement of the use or occupancy of all parts of the land and of the building or structure;
  - c. A brief description of the nature of the proposed work;
  - d. The valuation of the proposed work;
  - e. The full name and address of the owner, the applicant, and the responsible officers of any corporation;
  - f. Three copies of plans and specifications as set forth in Section 7.4(B)(2);
  - g. Evidence of County Health Department approval, if necessary;

- h. Evidence of a driveway permit from the appropriate authority (New York State Department of Transportation, Dutchess County Department of Public Works, Town Highway Department);
- i. An approved site plan, if necessary;
- j. Such other information as may reasonably be required by the Building Inspector or Zoning Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building and zoning laws, ordinances, and regulations.

When clearly not applicable, certain application requirements listed in this section may be waived by the Building Inspector or Zoning Enforcement Officer.

2. Each application for a building permit shall be accompanied by three (3) copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys, and, where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams, and other essential technical data. Storm drainage plans shall also be submitted.

3. Application shall be made by the owner, lessee, or agency of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

4. Plans and specifications shall bear the signature of the person responsible for the design and drawings. Plans and specifications shall carry the official seal or stamp of an authorized architect, land surveyor, or professional engineer licensed in the State of New York, to attest that they conform to all requirements of the Uniform Code, except applications for:

- a. Alterations costing less than twenty thousand dollars (\$20,000) and not involving changes affecting structural or public safety;
- b. Farm buildings except dwellings; or
- c. Residential buildings of a gross floor area of fifteen hundred (1500) square feet or less.

5. All water supply and sewage disposal installations shall conform to the Dutchess County Department of Health regulations. No plot plan shall be approved by the Building Inspector in any zoning district unless such conformity is certified on the plan. Drainage affecting adjacent properties shall be considered by the Building Inspector before issuing a building permit, including possible runoff to said properties. The Building Inspector may request an evaluation of the drainage plan from the Dutchess County Soil and Water Conservation District. If the Building Inspector has concerns regarding drainage, grading, or erosion control, he shall refer the plot plan to the Town Engineer. All costs of such evaluations and referral reviews shall be charged to the applicant.

6. The Building Inspector may require the applicant to name the Town as an additional insured during the construction period.

C. Posting. Building permits shall be issued in duplicate and one copy shall be posted conspicuously on the premises affected whenever construction work is being performed. No owner, contractor, worker, or other

person shall perform any building operations of any kind unless a building permit covering such operation is displayed.

D. Disapproval. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable zoning and building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Building Inspector shall cause such refusal, together with the reasons, to be transmitted to the applicant in writing. Such notice shall include information on the appeals procedure. The Building Inspector shall keep a file of such disapproval, together with sufficient documents to explain the reasons for refusal.

E. Revocation. The Building Inspector may order that an approved building permit be revoked in the following instances:

1. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

2. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

3. Where he finds that the work performed under the permit is not being pursued in accordance with the provisions of the application, plans or specifications.

4. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector or Zoning Enforcement Officer.

## 7.5 CERTIFICATES OF OCCUPANCY

### A. Scope

1. No building shall be occupied, used or changed in use until a certificate of occupancy has been issued by the Building Inspector, stating that the building or proposed use complies with the provisions of this law and all other applicable laws and regulations. Specifically, the following requirements shall be strictly met:

a. No building erected after the effective date of this law shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector.

b. No building enlargement, extension or alteration after the effective date of this law which required the issuance of a building permit shall be occupied or used, unless a certificate of occupancy shall have been issued by the  
Building Inspector.

c. No change shall be made in the specific use or type of occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Building Inspector.

d. No certificate of occupancy shall be issued until the road or roads have been completed sufficiently to provide proper and reasonable ingress and egress for emergency vehicles.

e. No certificate of occupancy shall be issued without prior approval of water supply and sewage facilities by the Dutchess County Department of Health.

## B. Application and Review

1. A certificate of occupancy shall be applied for, to the Building Inspector, upon completion of construction.

2. Before the issuance of a certificate of occupancy, the Building Inspector shall examine all buildings, structures and site for which an application has been filed for a building permit to construct, enlarge, alter, remove, demolish, or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the Building Inspector a record of all such inspections and examinations together with a record of findings in violation of the law.

3. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable provisions of this law, provisions of the Uniform Code, and in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate of occupancy.

C. Disapproval. If it is found, on final inspection, that the proposed work has not been properly completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations. The Building Inspector shall state such disapproval in writing with the cause and immediately mail such disapproval by certified mail to the applicant at the address indicated on the application. Such notice shall include information on the appeals procedure.

D. Temporary certificates. Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare, and provided the work can be reasonably expected to be completed within thirty (30) days. A temporary certificate of occupancy shall be effective for a period not to exceed thirty (30) days. No temporary certificate of occupancy shall be issued for any use requiring a special permit or site plan approval until such approvals have been granted.

E. Upon request, the Building Inspector may issue a letter "in lieu of certificate of occupancy" which verifies that a building predates the requirement for issuance of a certificate of occupancy.

F. Revocation. If the property owner fails to continuously maintain the premises in conformance with any conditions imposed as part of the permit process, the Building Inspector, after giving notice of the deficiency and reasonable time for the property owner to remedy the deficiency, may revoke the certificate of occupancy. Such revocation shall be in writing, sent to the property owner by certified mail, and shall include information on the appeals procedure.

## 7.6 DEMOLITION PERMITS

### A. General

Demolition of a building involves the discontinuation of a particular use and ultimately the use of the property in a different manner. Therefore, prior to commencement of any demolition, except as provided herein, a

demolition permit must be obtained from the Building Inspector. Such requirement for permit shall not apply to farm buildings.

#### B. Intent

The intent of this regulation is to provide for the orderly process of demolition of any building, and to assure proper review of historical and safety considerations, as well as compliance with future intended use of the property.

#### C. Application

The applicant shall submit the following to the Building Inspector:

1. A statement regarding the age of the building to be demolished and any national, state or local designations of significance that are associated with the building and the parcel on which it is located;
2. A statement regarding why the building is planned for demolition and, if the building has some historic value, what alternative actions could be taken to preserve it;
3. Plans regarding how the demolition process will take place, in the form prescribed by the Building Inspector;
4. If known, the intended future use of the property;
5. Applicable Environmental Assessment Form as required by this law in conjunction with the State Environmental Quality Review Act, Article 8 ECL and Part 617 NYCRR.

#### D. Issuance of Permit

Upon the filing for a demolition permit, the Building Inspector shall refer such application to the Planning Board. The Planning Board shall review such application within forty-five (45) days, and approve such plans only if it finds that the demolition is in compliance with federal, state and local regulations with regard to historical buildings, and that the demolition will not do harm to the character of the surrounding area and buildings. The Planning Board may require alterations to the demolition plan in order to approve it.

The Building Inspector shall conduct his own review of the application with regard to compliance with building regulations, and upon Planning Board approval, the Building Inspector shall issue a demolition permit within thirty (30) days. In the event that plans submitted are disapproved by the Planning Board or the Building Inspector, the Building Inspector shall notify the applicant, in writing, of the reason for refusal to issue the permit.

### 7.7 FIRE INSPECTOR, POWERS AND DUTIES

A. General. The Fire Inspector shall administer and enforce the provisions specified by this section in accordance with the New York State Uniform Fire Prevention and Building Code and other laws of the Town of Clinton. In carrying out such duties, the Fire Inspector shall cooperate with the Building Inspector, the Zoning Enforcement Officer, and other fire prevention and safety agencies.

B. Appointment. The Town Board shall appoint one or more fire inspectors as the need may appear to act under its supervision and direction and to exercise such duties as specified herein. The two positions of Building Inspector and Fire Inspector may be held separately or by the same person, as appointed by the Town Board, which may also assign temporary duties if a vacancy occurs. Where the two positions are separately held, the Town Board shall resolve any jurisdictional questions.

C. Inspections. The Fire Inspector shall perform such minimum fire and safety inspections as are required by the New York State Uniform Fire Prevention and Building Code, and other such inspections as may be required by other laws of the Town of Clinton, including but not limited to:

1. Fire safety inspections in areas of public assembly, as defined in Part 606 of the Uniform Code, at least once a year;
2. Fire safety inspections in all multiple dwellings and all non-residential occupancies, at intervals consistent with local conditions, as specified by resolution of the Town Board or local law;
3. Inspections to determine building safety requested by the Fire Department following a fire, if so specified by resolution of the Town Board or by local law;
4. Inspections in response to bona fide complaints regarding fire-related conditions or activities allegedly failing to comply with the Uniform Code.

Inspections during construction shall be performed by the Building Inspector in accordance with the duties of the position.

D. Issuance of Stop Orders and Appearance Tickets. The Fire Inspector may issue stop orders and appearance tickets related to the scope of his responsibilities, in the manner prescribed for such issuance in Section 7.2.

E. Records. The Fire Inspector shall maintain files of all inspections. These files shall be public records. A summary of each such inspection shall be filed in the Office of the Town Clerk within ten (10) days of the inspection or action.

F. Reports. The Fire Inspector shall make a report to the Town Board, in writing, at least annually, listing each inspection performed and summarizing the number and type of such inspections performed.

G. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision of the Fire Inspector. Such an appeal by an applicant for a permit shall be made within forty-five (45) days of the filing of such inspection in the Office of the Town Clerk.

Appeal may be made to the regional board of review for the NYS Uniform Fire Prevention and Building Code for variances to the Uniform Code. Application requirements for such a request may be obtained from the Building or Fire Inspector.

## 7.8 PLANNING BOARD, POWERS AND DUTIES

A. Creation, Composition and Appointment

1. Creation. A Planning Board shall be maintained in accordance with Section 271 of Town Law.

2. Composition. The Planning Board consists of seven members, unless changed in accordance with Section 271 of Town Law.

3. Appointment. The Town Board shall appoint the members of the Planning Board and shall designate its chairperson. No person may serve on the Planning Board who is a member of the Town Board or the Zoning Board of Appeals. The terms of each of the Planning Board positions shall be five years, and as otherwise provided by their creation in accordance with Section 271 of Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term.

4. Removal. The Town Board shall have the power to remove any member of the Planning Board for cause after public hearing.

5. Compensation. The Town Board may provide for compensation to be paid to Planning Board members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

B. General Procedures

1. Meetings. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such board may determine. All meetings of such board shall be open to the public.

2. Minutes. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions.

Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be made part of the minutes. The minutes, once approved, shall be filed in the office of the Town Clerk and shall be a public record.

3. Procedure. The Planning Board shall proceed in accordance with Article 16 of Town Law, and as further provided in this law and the Town of Clinton Subdivision Regulations.

4. All determinations and procedures of the Planning Board shall be made in accordance with the requirements of the State Environmental Quality Review Act (SEQRA).

5. Fees. The Planning Board, in exercising the full power and authority conferred on it under Town Law Article 16 and this law, shall require an applicant for permit to pay the fee established by resolution of the Town Board for such permit, and to include reasonable and necessary costs for the Planning Board to hire its own independent surveyor and/or engineer or similar expert.

C. Subdivisions

The Planning Board shall have full power and authority to approve subdivision plats, as provided by Article 16 of Town Law, as further provided by this law, and the Town of Clinton Subdivision Regulations, and:

1. As provided by the Subdivision Regulations, the Planning Board shall hold a public hearing prior to final subdivision approval. In addition to giving public notice as therein prescribed, the Planning Board shall, at least five (5) days before such hearing, mail notices by certified mail to adjacent property owners within two

hundred (200) feet of the property involved. Notification to the County and State for adjacent highways is not required.

Provided that there has been substantial compliance with the provisions of public notice, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in granting or denying approval of a subdivision.

2. In addition to all material required to be submitted to the Planning Board by the Subdivision Regulations and the Planning Board's application packet, the applicant shall furnish a copy of the assessor property record from the assessor's office, including the uses, as defined herein, of all buildings on the property being subdivided, and shall either affirm that the facts furnished on the assessor record are correct or shall correct the record as presented to the Planning Board. Any application which is incorrect shall void any approval by the Planning Board.

3. In addition to any requirement of the Subdivision Regulations for approval of subdivision of land into parcels of size under ten (10) acres, the Planning Board shall approve subdivision of land into parcels of any size.

#### D. Site Plans

The Planning Board shall review all site plans in accordance with Section 7.9 of this law.

#### E. Variances

1. Application for variances may be made to the Zoning Enforcement Officer upon denial of a requested use or building permit. Upon the ZEO's determination that a variance is required and that the application is complete, the ZEO shall within five (5) days or at its next regular meeting transmit the application to the Planning Board for recommendation to the Zoning Board of Appeals.

2. In accordance with Section 274 of Town Law, the Town Board hereby refers all applications for variances to the Planning Board for its recommendation prior to final action on such variances by the Zoning Board of Appeals.

3. The Planning Board shall issue a written report of its recommendation to the Zoning Board of Appeals on each variance application, which shall be decided by the Zoning Board of Appeals in accordance with Section 7.11 of this law.

4. In considering variance applications, the Planning Board shall use the same criteria for evaluating the application as is prescribed herein for the Zoning Board of Appeals, and may recommend any conditions, safeguards or alternatives to the Zoning Board of Appeals as it deems appropriate.

#### F. Special Permits

The Planning Board shall have the power to grant special permits in accordance with Section 7.10 of this law.

#### G. Demolition Permits

The Planning Board shall review applications for demolition permits, in accordance with Section 7.6 of this law.

## H. Nonconforming Uses

The Planning Board shall review all applications for change of nonconforming use, referred to it by the Zoning Board of Appeals in accordance with Section 7.11. In reviewing such applications, the Planning Board may, as it deems necessary, require the applicant to prepare a site plan, and to provide any other information needed to

make its recommendation. In addition to review of the site plan, if necessary, the Planning Board shall make its recommendation on such application in accordance with the provisions of Article 6 in this law and the considerations listed in Section 7.11(E).

## I. Master Plan

In accordance with Section 272-a of Town Law, the Planning Board may prepare and change a comprehensive master plan for the development of the entire area of the Town.

## J. Other

The Planning Board shall be authorized to review and decide any applications on which it has been empowered by resolution of the Town Board, in accordance with Section 274 of Town Law, or on which it has been empowered by any other laws of the Town of Clinton.

## 7.9 SITE PLANS

### A. Scope

1. The Planning Board is authorized to review and approve, approve with modifications, or disapprove new developments, alterations, or changes in use which affect site requirements such as parking, access, sewage disposal, water supply, runoff, landscaping, buffers, architectural features, location of structures, impact on adjacent land uses, elements relating to health, safety, and general welfare of the community, etc., and to ensure that plans are prepared to the specifications set forth in the applicable zoning districts, the pertinent supplementary regulations, and the general criteria and standards set forth below.

2. Site plan approval by the Planning Board is required for all uses specified in Section 3.2, Schedule of Use Regulations, as requiring site plan review (including change of use), for all special permit uses, for expansions of nonconforming uses, and for changes to similar or less nonconforming uses.

3. The site plan is intended to:

- a. Illustrate the intended design, arrangement, and uses of the land to be improved;
- b. Describe the proposal's physical, social, and economic effects on the community.

4. The site plan review process permits the Planning Board to analyze development proposals in terms of their impacts on local growth and the need for facilities and services.

### B. Procedure for Site Plan Approval

1. Referral by the Zoning Enforcement Officer

Prior to the approval of a Building Permit or Certificate of Occupancy in any district, the Zoning Enforcement Officer shall require site plan approval for uses specified in Section 3.2, Schedule of Use Regulations.

The Zoning Enforcement Officer shall refer the applicant to the Planning Board for its review of the proposed structure or use in accordance with the standards and procedures set forth in this section.

2. Sketch Plan Conference

A sketch plan conference between the Planning Board and applicant shall be held to initially review the basic site design concept and generally determine the extent of site plan review necessary for the intended project and the information to be required on the site plan and in accompanying reports. At the sketch plan conference, the applicant should provide a written statement and rough sketch describing what is proposed, including indication of all existing structures and uses, if any, on the site.

At a minimum, this conference should include a map showing the important existing natural and built features in and around the site and a sketch plan showing the major features of the proposed development. This information can then form the basis with which the Town can advise the applicant on the next steps required to gain final site plan approval and of the necessary data that will have to be provided with the application. It should be noted that a copy of any deed restrictions should be provided for review at this Sketch Plan Conference. A copy of the documentation presented should be kept on file by the Planning Board.

The Planning Board shall then take one or more of the following three actions:

a. Require Full Review

Advise the applicant of site plan application requirements in accordance with subsection C and a related administrative checklist which may be employed.

b. Require Additional Information

Require additional sketch plan information needed to complete a satisfactory review. Requirements in subsection C may be waived or combined as appropriate to the proposed project.

c. Waive one or more site plan application requirements

The Planning Board may specify the information needed to complete a satisfactory review. Requirements in subsection C may be waived or combined as appropriate to the proposed project.

3. Formal Application to the Planning Board

a. Meeting with Applicant. Upon receipt of the application, the Planning Board shall notify the applicant, in writing, of the place, date and time of the meeting of the Planning Board at which the application is to be considered and request the applicant's presence to discuss the application.

- b. Referral to Dutchess County Department of Planning. The Planning Board shall comply with the provisions of Article 12B, Section 239-l and 239-m of the General Municipal Law, as amended, and refer to the Dutchess County Department of Planning such site plan applications as are within its jurisdiction (see Section 7.11(B)(5)). When a referral is sent to any agency, it shall indicate the date when a response is due.
- c. Site Inspection. Inspections may be made by the Zoning Enforcement Officer in accordance with this law and by Planning Board members and/or the Town Engineer, as part of the application review. No approval shall be granted if such reasonable inspections are not permitted by the applicant.
- d. Public Hearing Notice. Within forty-five (45) days of the receipt of a complete application, the Planning Board shall conduct a public hearing. Public notice shall be given by publication in the official town newspaper at least five (5) days prior to the public hearing. Reports from the Dutchess County Department of Planning shall be read into the record at the hearing. At the discretion of the Planning Board, the requirement for a public hearing may be waived. If the public hearing is waived, all responses from referrals to other agencies will be read into the record at the final review meeting, before a decision is made.
- e. Conditions. In acting to approve, with or without modifications, a site plan application, the Planning Board shall attach such conditions and safeguards as it deems necessary to ensure that the purpose and intent of this law shall be complied with.
- f. Necessary Permits. A record of application for an approval status of all necessary permits from federal, state, county, and town agencies shall be required before final site plan approval is granted.
- g. Decision. Within forty-five (45) days of the hearing or of the receipt of the complete application as specified by the Planning Board if no hearing has been held and after the applicant has had the opportunity of meeting with the Planning Board, the Planning Board shall approve, approve with modification, or disapprove the site plan. The decision of the Planning Board shall be expressed in the report to the Zoning Enforcement Officer, which report shall be binding. A copy of said report shall be mailed by certified mail to the applicant at the address indicated on the application. The decision of the Planning Board shall be filed in the office of the Town Clerk. If applicable, a report on the action taken shall also be filed within seven (7) days thereof with the Dutchess County Department of Planning.
- h. Within sixty (60) days of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modification required by the Planning Board as a condition of its approval. Upon verification by the Planning Board that the plan complies with the requirements of the Board, the plan shall be endorsed by the Planning Board Chairperson and properly filed with the Zoning Enforcement Officer, the Planning Board and the Town Clerk. No building permit shall be issued until compliance with this section is complete.
- i. Any approval shall be terminated if construction is not completed within eighteen (18) months of approval, unless the approval is reviewed and extended by the Planning Board.
- j. Appeals. Any disagreement with the Planning Board's interpretation of any provision of this law may be appealed to the Zoning Board of Appeals.

### C. Application Requirements

At the discretion of the Planning Board, any of the application requirements listed in this section may be waived in accordance with subsection B above.

The application for site plan approval shall be submitted in four (4) copies, and shall include the following requirements:

1. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form. No application shall be deemed complete without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and the submission of an acceptable Draft Environmental Impact Statement (DEIS), if needed.
2. A vicinity map drawn at the scale of 2,000 feet to the inch or larger showing the relationship of the proposal to existing community facilities that may affect or serve it such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets and easements within 500 feet of the property on which the use for which application is made is proposed to be situated. Such a sketch may be superimposed on a USGS map of the area.
3. A site plan or set of plans showing the intended use of the property shall be prepared by a licensed design professional, such as an architect, engineer, or surveyor at a scale of not less than one (1) inch equals fifty (50) feet and shall include the following information:
  - a. Boundaries of the property and existing lot lines as shown on the current tax map. If the current tax map is in error, this condition shall be resolved before final approval is granted.
  - b. The names of all owners of record adjacent to the applicant's property.
  - c. The location of structures and used on adjacent properties within one hundred (100) feet of the subject lot line.
  - d. Existing public streets, easements, or other reservations of land within five hundred (500) feet of the applicant's property.
  - e. Existing zoning and special district boundaries within five hundred (500) feet of the tract.
  - f. The location and boundaries of pertinent natural features that may influence the design of the proposed use such as watercourses, wetlands, one hundred (100) year floodplains, soil types, rock outcrops, existing vegetative cover, and single trees (which are not part of a wooded area) eight (8) or more inches in diameter.
  - g. Existing topography and proposed grading, at contour intervals of not more than two (2) feet, referenced to the nearest U.S. Government or local approved benchmark, and extending fifty (50) feet beyond the subject property.
  - h. The extent and amount of cut and fill for all disturbed areas.

- i. A soil erosion and sediment control plan, if applicable.
- j. The location, dimensions, proposed use, and design of all existing and proposed buildings and structures.
- k. The location, size, design, materials, and associated lighting of all existing and proposed signs.
- l. The location, description and design of all existing and proposed site improvements, including pavement, walks, buffers, curbing, fences, walls, screening and recreational facilities.
- m. The location and design of existing and proposed streets, roads, highways, alleys, cul-de-sacs, parking areas, and truck/commercial vehicles loading & unloading areas.
- n. Landscaping plan, showing the natural vegetation to be preserved, the number, size, types, and locations of all trees and shrubs to be planted, and proposed grass and ground cover areas, and a landscape maintenance plan (see Section 5.34, Landscaping).
- o. The location and description of existing or proposed sewage disposal system and water supply system, including wells, water lines, valves, hydrants, and storage tanks.
- p. Proposed stormwater drainage system, including existing and proposed drains and culverts.
- q. The location and design of existing and proposed lighting, power, and communications facilities, including any towers and satellite dish antennas.
- r. The location, type, and design of all solid waste handling facilities.
- s. The location of outdoor storage, if any.
- t. Lot area in acres or square feet, and measurements of lot boundaries with bearings.
- u. Ground area of buildings and total area by floor.
- v. Measurement of setbacks of buildings.
- w. Number of parking spaces required and to be provided.
- x. The amount of building area proposed for retail sale uses, if any.
- y. Any proposed division of buildings into units of separate occupancy.
- z. A signature block for Planning Board endorsement of approval, the applicant's name and address, north arrow, scale, and date.
- aa. The location and design of monuments.

- bb. The location and width of all driveways, exits, and entrances.
  - cc. The pedestrian safety plan and control elements.
  - dd. The aesthetic relationship of the proposed structures to the site.
  - ee. Specifications for materials of the proposed site improvements.
  - ff. Fiscal impacts to the Town.
  - gg. The location and description of all hazardous materials to be used and/or stored on the site.
4. Elevations and sections shall be required at a scale sufficient to delineate clearly the bulk and height of all buildings and other structures included in the proposal.
  5. Estimated project construction schedule.
  6. For projects involving more than one phase, a site plan indicating ultimate development of the entire property.
  7. A copy of any covenants or deed restrictions for any part of the property.
  8. Identification of all necessary permits from federal, state, and county agencies and proof of special permit approval if applicable.
  9. Other information as required by the Planning Board to assist in the review of the site plan.
  10. Appropriate fees (see Section 7.15).
  11. All revisions to site plans must be numbered and dated.
- D. General Criteria and Standards for Site Plan Approval

The following criteria and standards shall be used by the Planning Board for applications for site plan approval. They are intended to provide a framework within which the designer of the development is free to exercise creativity, invention and innovation while recognizing the historic, scenic and rural qualities inherent in the community. The Planning Board has the authority to require submission of alternative design and layout proposals based on guidelines in this section.

Site plans are further subject to all other applicable provisions of this law, including the supplementary regulations pertaining to the zoning district, the proposed use, and the site treatment.

1. Relationship of proposal to the Town Master Plan.
  - a. Due attention by the applicant should be given to the goals, objectives and the stated general land use policies for the

Town and the specific area in which the development is proposed.

b. In the site plan and design, recognition should be given, where possible, to the traditional building forms and layouts which are evidence of the distinctive historical development of the area, and of the specially designated or recognized scenic and historic districts within the vicinity of the proposed development.

## 2. Relationship of Buildings to Site

- a. The site shall be planned to create a desirable relationship to the streetscape and to provide for adequate planting, safe pedestrian movement, and adequate parking areas.
- b. Site plans in which setbacks and yards are in excess of zoning restrictions are encouraged to provide a variation in relationship between buildings.
- c. Parking shall, wherever possible, be located to the rear or sides of buildings.
- d. The height and bulk of each building shall be compatible with its site and existing or anticipated adjoining buildings.
- e. New structures will be sited and located to take advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation both on and off the site, and the impact on solar access to adjacent uses and properties.
- f. Newly installed utility services and service revisions necessitated by exterior alterations shall be underground, where practical.

## 3. Relationship of Buildings and Site to Adjoining Area

- a. Site plans proposed adjacent to a residential district shall be reviewed with regard to the impact of the development on that district.
- b. The Planning Board shall encourage the use of a combination of landscaping, buffers, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles.

## 4. Landscaping (See Section 5.34, Landscaping)

## 5. Lighting

- a. Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas.
- b. The number of light standards and the intensity of lighting shall be appropriate to illuminate the location for safety, without glare to adjoining properties and streets.

c. Lighting standards shall be appropriate to the design of the structures and shall not exceed fifteen (15) feet in height.

6. Building Design

a. Appropriate recognition should be made in the building design of compatible building forms indigenous to the community and, in particular, to the historic character of Clinton.

b. Materials shall have good architectural character and shall be selected for harmony with traditional building materials. Where practical, natural materials should be used.

c. Building components such as windows, roof lines, doors, eaves, entrance porches, and decorative elements shall have well designed proportions and relationships to one another and be compatible with the historic character of Clinton.

d. Mechanical equipment such as air conditioners, satellite dishes, and other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.

e. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

7. Signs (see Section 5.43, Signs)

8. Ecological Considerations

a. The proposal shall result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon areas of environmental concern.

b. The proposal shall conform with existing geological and topographic features, to the end that the most appropriate use of land is encouraged.

9. Drainage

The proposed development shall be so designed as to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns and protects other properties. Drainage plans shall be reviewed by the Town Engineer prior to approval. Wherever possible, drainage systems should be designed to avoid an increase in stormwater volume and velocity.

10. Solid Waste

Facilities to handle solid waste shall be easily accessible and properly screened.

## 11. Vehicular Traffic

- a. All entrance and exit driveways shall be located with due consideration for traffic flow, so as to afford maximum safety to traffic on public streets and shall be reviewed by the appropriate state, county or local authority.
- b. On-site circulation shall be designed for ease of use, the safety and convenience of pedestrians, and safe connections with adjoining properties where appropriate.

## 12. Pedestrian Circulation

- a. Pedestrian circulation shall be separated from motor vehicle circulation. Appropriate walkways shall be provided on the site and its approaches if deemed necessary.
- b. Disabled persons. The plan, for any use to which the public is expected to visit, shall make proper provision for buildings and site developments that are accessible to and functional for physically disabled persons, such as by provision of walks and ramps of suitable width and grade, curb cuts, identified wide parking spaces and ground level building entrances, as required in the New York State Uniform Fire Prevention and Building code and all of the applicable state and federal laws and regulations.

## E. Performance Bonds

The applicant may be required to post performance bonds or other form of surety approved by the Town Board in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs, sidewalks, street lighting standards, curbs, gutter, street trees, water mains, fire alarm signal devices including necessary ducts and cable or other connecting facilities, sanitary sewers and storm drains or combined sewers or other public improvements proposed shall all be installed in accordance with standards, specifications

and procedures acceptable to the appropriate town departments. The form of the bond shall be approved by the Town's attorney. The need for a performance bond and its amount shall be approved by the Town Board, with the recommendation of the Planning Board.

## 7.10 SPECIAL PERMITS

### A. Procedures

1. All uses listed in Section 3.2, Schedule of Use Regulations, as special permit uses are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform to, but not be limited to, the following general requirements as well as the pertinent supplementary regulations. Special permit uses are subject to the requirements of Section 7.9, Site Plans. Any conditions placed on the special permit shall be conditions of site plan approval.
2. Prior to the issuance of a Building Permit or Certificate of Occupancy in any district, the Building Inspector shall require an application for a Special Permit for uses so specified in Section 3.2.

Application for a special permit shall be made to the Zoning Enforcement Officer. The application shall include, but not be limited to:

- a. Completed application form and fees.
- b. Appropriate Environmental Assessment Form as required by the State Environmental Quality Review Act, Article 8 ECL and Part 617 NYCRR.
- c. Written statement and/or drawing describing what is proposed.
- d. Other information deemed necessary by the Planning Board to explain the proposed use and consistency with the standards of this law.

3. The Zoning Enforcement Officer shall review the application for completeness and compliance with all applicable regulations and within ten (10) working days:

- a. Reject the application as incomplete or noncomplying; or
- b. Forward the application to the Planning Board.

4. Review of Application and SEQRA Process. The Planning Board shall review the application with the applicant and determine the process for compliance with the State Environmental Quality Review Act.

5. Referral to Dutchess County Department of Planning, if necessary. The Planning Board shall comply with the provisions of Article 12B, Section 239-l and 239-m of the General Municipal Law, as amended, and refer to the Dutchess County Department of Planning such special permit applications as are within its jurisdiction.

6. Public Notice and Hearing. The Planning Board shall within forty-five (45) days of the receipt of the complete application conduct a public hearing on any special permit application. The Planning Board shall provide a copy of the notice of said hearing to the applicant and at which hearing the applicant shall appear in person or by agent. The Board shall additionally provide notice as follows:

- a. By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the Town.
- b. By requiring notice of the public hearing and data regarding the substance of the application to the owners of all property abutting that held by the applicant and all other owners within two hundred (200) feet of the land involved in such application. Notice shall be given by certified mail at least five (5) days prior to the hearing.

1. The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

2. Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board with granting or denying a special permit application.

c. If the land involved in the application lies within five hundred (500) feet of the boundary of any other municipality, the Planning Board shall also mail at least five (5) calendar days prior to the public hearing to the

municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

7. Decision. Within forty-five (45) days of the public hearing, the Planning Board shall render a decision on the special permit. This time limit may be extended by mutual consent of the applicant and the Planning Board.

8. Filing of Decision. The resolution (including any conditions) of the Planning Board, fully setting forth the reasons for approval or denial shall be filed by the Planning

Board in the office of the Town Clerk, and a copy shall be sent by the Planning Board by certified mail to the applicant within five (5) days of the decision. If applicable, a report on the action taken shall be also filed within seven (7) days thereof with the Dutchess County Department of Planning.

9. Expiration of Special Permits. A special permit shall be deemed to authorize only the particular use of uses specified in the permit and shall expire if said use or uses shall cease for any twelve (12) month period after the date of special permit approval or if the use is not commenced within twelve (12) months of approval.

10. Renewal of Special Permit. Where required by Article 5 of this law or by condition of approval by the Planning Board, special permits for some uses may be subject to renewal. Such permission for renewal will be made as for an initial application. The Planning Board may request any additional information it deems necessary for the review of the renewal application.

11. Revocation of Special Permit. Special permits may be revoked by the Zoning Enforcement Officer in the event of change of use, expansion of a use beyond the conditions approved, or violation of the conditions of the special permit.

12. Existing Violations. No special permit shall be issued for a property upon which there is an existing zoning violation.

13. Building Permit Approval. If the Planning Board Indicates that all applicable requirements have been met and approves the special permit and the Zoning Enforcement Officer has determined that all other applicable laws have been complied with, the Building Inspector may issue the building permit for which application has been made. The Building Inspector shall attach such conditions and safeguards to the building permit as have been required by the Planning Board. If the Building Inspector finds that any of the applicable requirements have not been met, the Building Inspector shall not issue the building permit for which the application has been made. Building permit applications shall be made in accordance with Section 7.4.

## B. General Standards

Under Section 274-a of the Town Law, the Town Board has delegated authority to the Planning Board to grant or deny special permits. The Planning Board may grant a special permit only if the proposed activity conforms to the following general conditions and any other particular conditions specified for that use in Article 5 or elsewhere in this law. No exceptions to the specific conditions listed in Article 5 or to these general standards shall be made by the Planning Board or Zoning Board of Appeals.

The Planning Board, after public notice and hearing, may approve the issuance of a special permit provided all of the following conditions and standards have been met:

1. The location and size of the use, the nature and the intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets and roads providing access, shall be in harmony with the orderly development of the district and its historic or rural character.
2. The location, nature and height of the buildings, walls and fences, and the nature and intensity of intended operations, will not discourage the appropriate development and use or impair the value of adjacent land and buildings.
3. All proposed traffic accessways shall be adequate but not excessive in number, adequate in width, grade, alignment and visibility, be sufficiently separated from street intersections and places of public assembly, and meet similar safety considerations.
4. Adequate provision for safe and accessible off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles of persons connected with or visiting the use.
5. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the extent practicable.
6. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.
7. The character and appearance of the proposed use, buildings, structures, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, flashing lights, or hours of operation than the operations of any permitted principal use and shall not adversely affect the general welfare of the inhabitants of the Town.
8. The use shall meet the prescribed area and bulk requirements for the district in which located or as further specified in the supplementary regulations, including such matters as minimum setback, maximum height, required off-street parking and sign regulations.
9. The level of services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use.
10. The sewage disposal system will be adequate to accommodate the proposed use, in accordance with health regulations.
11. The Planning Board may require additional conditions and safeguards to the special permit as may be necessary to assure continual conformance to all applicable standards and requirements, including periodic special permit renewal where not specified in the supplementary regulations for that use.

#### 7.11 ZONING BOARD OF APPEALS, POWERS AND DUTIES

##### A. Creation, Composition and Appointment

1. Creation. A Zoning Board of Appeals shall be maintained in accordance with Section 267 of Town Law.
2. Composition. The Zoning Board of Appeals consists of seven (7) members, unless changed in accordance with Section 267 of Town Law.
3. Appointment. The Town Board shall appoint the members of the Zoning Board of Appeals and shall designate its chairperson. No person shall serve on the Zoning Board of Appeals who is a member of the Town Board or the Planning Board. The terms of each of the Zoning Board of Appeals positions shall be five years, as provided by their creation in accordance with Section 267 of Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term.
4. Removal. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause after public hearing.
5. Compensation. The Town Board may provide for compensation to be paid to Zoning Board of Appeals members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

B. Procedures

In its quasi-judicial role, the Zoning Board of Appeals shall act in strict accordance with the procedures specified by Section 267 of Town Law and this law.

1. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as such board may determine. On the seven (7) member board, a quorum shall consist of four (4) members. In order to reverse a decision of the Zoning Enforcement Officer or Building Inspector or authorize a variance, or to decide contrary to the recommendation of the Planning Board, an affirmative vote of at least four (4) members shall be required. A favorable vote of a majority plus one, i.e., of at least five (5) members, shall be required if the action taken by the Zoning Board of Appeals is contrary to an advisory recommendation received from Dutchess County Department of Planning under the provisions of Sections 239-1 and-m of the General Municipal Law. All meetings of such board shall be open to the public.
2. Minutes. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be made part of the minutes. The minutes, once approved, shall be filed in the office of the Town Clerk within ten (10) days and shall be a public record.
3. Application and Fee. All appeals and applications to the Zoning Board of Appeals shall be made in writing, on forms prescribed by the Board, and shall be filed with the Zoning Enforcement Officer within thirty (30) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule annually reviewed and established by the Town Board. Appeals for review of administrative decisions shall also be filed with the Zoning Board of Appeals. Every appeal or application shall refer to the specific provision of this law that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the ground on which it is claimed that such variance should be granted. Each application shall also be accompanied by a short or full Environmental Assessment Form as required by SEQRA, Article 8 ECL and Title 6 Part 617 NYCRR.

4. **Public Notice and Hearing.** The Zoning Board of Appeals shall fix a reasonable time for the hearing of any appeal, application or other matter referred to it and give public notice by the publication in the official paper of a notice of such hearing, at least five (5) days prior to the date thereof, and shall, at least five (5) days before such hearing, mail notices by certified mail to the involved parties, to adjacent property owners within two hundred (200) feet of the property involved, and to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal or application. Upon the hearing, any party may appear in person or by agent or by attorney.

The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.

If the land involved in the appeal or application lies within five hundred (500) feet of the boundary of any other municipality, the Zoning Board of Appeals shall also submit, at least five (5) days prior to the public hearing, to the municipal clerk of such municipality a copy of the notice of the substance of the appeal or application, together with a copy of the official notice of such public hearing.

Provided that there has been substantial compliance with the provisions on public notice herein, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in granting or denying an appeal or an application for a variance from a specific provision of this law.

5. **Required Referrals.** A full statement of any appeal or application that meets the specific referral requirements of Sections 239-l and -m of the General Municipal Law shall also be referred prior to the public hearing to the Dutchess County Department of Planning for its review. No action shall be taken by the Zoning Board of Appeals on such appeal or application until an advisory recommendation has been received from said County Planning Department or thirty (30) days have elapsed since the Planning Department received such full statement.

Such actions shall include those which affect property located within five hundred (500) feet of the following:

- a. Municipal boundary;
- b. Boundary of any existing or proposed county or state park or other recreation area;
- c. Right-of-way of any existing or proposed county or state road or highway;
- d. Existing or proposed right-of-way of any stream or drainage channel owned by the county, or for which the county has established channel lines; or
- e. Existing or proposed boundary of any county or state-owned land on which a public building or institution is situated.

The Zoning Board of Appeals shall refer to and receive recommendations from the Planning Board on all applications for variances and changes of nonconforming uses, and may refer to the Planning Board any other pertinent matters for review and recommendations. The Zoning Board of Appeals shall defer any decision on the application for a period of thirty (30) days or until a report thereon is issued by the Planning Board. If no report is received from the Planning Board within thirty (30) days after such referral, the Planning Board shall be deemed to have waived any rights concerning the matter being referred.

6. Decisions. Every decision of the Zoning Board of Appeals on an appeal or application shall be made within sixty (60) days of the close of the hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and contain a record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with such decision being filed in the office of the Town Clerk within ten (10) days thereof. If applicable, a report on the action taken shall also be filed within seven (7) days thereof with the Dutchess County Department of Planning.

7. Rehearing. Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application or appeal, under the provisions of this section, denies the same, the Zoning Board of Appeals shall refuse to hold further hearings on the same or substantially similar application or appeal by the same applicant, his successor, or assign for a period of one (1) year, except and unless the Zoning Board of Appeals shall find and determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified. Such rehearing would be allowed only upon a motion initiated by a member of the Zoning Board of Appeals and adopted by not less than a majority of all members.

8. Attachment of Conditions. In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this law, it shall be the duty of the Zoning Board of Appeals to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this law and the criteria for granting relief stated in subsection D below.

9. Strict Construction. All provisions of this law pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals, as a body of limited jurisdiction, shall act in full conformity with all provisions of this law and in strict compliance with all limitations contained herein, provided, however, that if the procedural requirements set forth in this law have been substantially observed, no applicant or appellant shall be deprived of the right of application or appeal.

### C. Administrative Review

1. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer, Building Inspector, Fire Inspector, or any administrative official charged with the enforcement of any law adopted pursuant to Article 16 of Town Law. It shall also hear and decide all matters referred to it or

upon which it is required to pass under any such law, including interpretations of the language, intent of such law, or interpretation of the location of zoning district boundaries by the Zoning Enforcement Officer or the Building Inspector. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such law or to effect any variation in such law. Such appeal may be taken by any person aggrieved, or by an officer, department or board of the Town.

2. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would cause imminent peril to

life or property. In such cases proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

3. The Zoning 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, and to that end shall have all the powers of the officer from whom the appeal is taken.

#### D. Variances

The Zoning Board of Appeals shall hear and decide applications for variance from the terms of this law in accordance with the following provisions. The intent of these provisions is to protect the public interest and to observe the spirit of this law, and to authorize variances from the terms of this law in situations where, due to documentable exceptional and extraordinary circumstances, there would result unnecessary hardships or practical difficulties, as defined below, due to the strict application of the provisions of this law. Failure to realize the highest return on the land and/or buildings

does not necessarily constitute practical difficulty, economic injury or unnecessary hardship. The Zoning Board of Appeals may grant such variances when the Board finds that the following criteria, or current criteria consistent with New York State law, have been strictly met:

##### 1. Area Variance

In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, set-back lines, lot coverage, frontage requirements or density

regulations, so that the property may be utilized for one of the uses permitted by this law. The Zoning Board of Appeals may grant relief if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty shall include the following three-step process:

a. First, the applicant must demonstrate that the strict application of this law to his property causes significant economic injury and that no other solution is practical.

b. Once the applicant has demonstrated economic injury, then the zoning Board of Appeals must show that the regulation in question is reasonably related to a legitimate exercise of the police power.

c. Last, assuming the Zoning Board of Appeals has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety, or welfare of the community and that granting the variance will not adversely affect the community.

In assessing the matter of practical difficulty, the Zoning Board of Appeals will consider:

a. How substantial the variation is in relation to the requirement;

b. The potential effect of the area variance on available municipal, county and state facilities and services;

c. Whether the area variance will cause a substantial change in the character of the neighborhood;

d. Whether the difficulty can feasibly be mitigated by some other method;

e. Whether the interests of justice will be served in granting the area variance.

The power of the Zoning Board of Appeals to grant a variance is to be sparingly exercised. Not every applicant for an area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty. If the Zoning Board of Appeals decides to grant relief, it may grant only the minimum relief necessary to allow reasonable use of the land or building in question.

## 2. Use Variance

A property owner who desires to utilize any land and/or buildings for a use that is not permitted by this law within the applicable zoning district may apply for a use variance. An applicant for a use variance must demonstrate unnecessary hardship by satisfying each of the following three (3) tests:

- a. **Uniqueness.** The applicant must prove that there are certain conditions or features of the property that are not generally applicable throughout the zoning district and that these features make it impossible to earn a reasonable return without some adjustment. If the conditions or features are generally applicable throughout the district, a variance may not be granted.
- b. **Reasonable return.** The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted within the zoning district in this law. There must be a "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate. Failure to realize the highest return on the land and/or buildings is not considered a hardship.
- c. **Character.** The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the purpose and intent of the zoning district and this law must be preserved.

The applicant for a use variance must meet all three tests before the Zoning Board of Appeals may consider granting relief. A use variance may not be granted if the "unnecessary hardship" was created by the applicant, i.e., that the relief sought is to address a self-created hardship.

Should the Zoning Board of Appeals deem the same condition to apply generally to other land or buildings in the same neighborhood or district, the Zoning Board of Appeals may call this condition to the attention of the Town Board and may recommend that the Town Board consider a general amendment of this law, but may not grant a variance.

3. **Expiration.** Unless construction or use is diligently commenced within one (1) year from the date of the granting of a variance, such variance shall become null and void without further rehearing or action by the Zoning Board of Appeals.

## E. Nonconforming Uses

The Zoning Board of Appeals shall hear and decide any request for change of a nonconforming use, as required by Article 6 of this law, and to determine whether the intended use maintains or reduces the nonconformity.

1. **Appeal from Article 6 to enlarge or extend a nonconforming use.** In making such determination, the Zoning Board of Appeals shall consider the following:
  - a. The intent of this law, as stated in Article 6.

- b. An unlawful use prior to the effective date of this law is not a nonconforming use.
  - c. The Planning Board recommendation as a result of its site plan review if a site plan is required by the Planning Board for such determination.
  - d. No appeal may be granted by the Zoning Board of Appeals if any violations of this law exist with regard to this property.
  - e. An owner must make the same showing of deprivation of reasonable use to justify an extension of an established nonconforming use as he would to justify a variance for a new use.
  - f. A mere intent by the owner at the time this law became effective to use more land for a nonconforming use does not require the Zoning Board of Appeals to permit subsequent extension of nonconforming use of such land.
2. Request to change from one nonconforming use to another nonconforming use. In making its determination of whether the change of use maintains or reduces the nonconformity, the Zoning Board of Appeals shall consider the following:
- a. No change shall adversely affect the public health, safety and welfare, the character of the neighborhood, or property values in the area of such use, nor prolong any existing adverse affects as a result of such change.
  - b. No change of use shall increase the overall degree of nonconformity, with regard to compliance with the Schedule of Area and Bulk Regulations in Section 4.1 of this law.
  - c. The Planning Board recommendation as a result of its site plan review.
3. Procedure. The Zoning Board of Appeals shall follow the same procedures for change of nonconforming use as the procedure for variances prescribed in Section 7.11.

F. Relief from Decisions

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York.

Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the office of the Town Clerk.

7.12 CONSERVATION ADVISORY COMMITTEE (CAC)

In accordance with Section 239-x of the General Municipal Law, a subdivision, site plan, special permit, soil erosion and sediment control plan, variance, or rezoning application may be referred by the reviewing agency to a conservation advisory council (Clinton Conservation Advisory Committee) for its recommendation on certain matters, including the following applications in which:

- A. The lands are completely or partly within the Conservation Agricultural Residential district (C district).

B. The lands are completely or partly over aquifers, as currently derived from U.S. Geological Survey (USGS) maps.

C. The lands include or partly include New York State Department of Environmental Conservation designated wetlands.

D. Any other areas specifically designated by resolution of the Town Board for referral of applications to the Conservation Advisory Committee.

If the reviewing agency refers an application to the Conservation Advisory Committee, the agency shall take no action on the application for thirty (30) days without having received a written report from the Conservation Advisory Committee. Such report shall evaluate the proposed use or development and include alternative use proposals consistent with area conservation.

### 7.13 AMENDMENTS

This law, or any part, including the Zoning District Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Town Board in the manner prescribed by Municipal Home Rule Law.

A. Initiation. Consideration of an amendment to this law may be initiated in one of three ways:

1. By the Town Board upon its own volition.

2. By resolution of the Planning Board sent to the Town Board and filed with the Town Clerk, where certain changes or repeal of certain provisions are recommended. Where practical, the Town Board shall initiate consideration of such proposed amendment within ninety (90) days of the time the resolution is filed by the Planning Board in the office of the Town Clerk.

3. By petition duly signed and acknowledged from the owners of fifty percent (50%) or more of the public road frontage in any zoning district requesting an amendment, supplement or change in the regulations prescribed for such zoning district or part thereof. Where practical, the Town Board shall initiate consideration of such petition for amendment within ninety (90) days of the time the petition is filed by the petitioners in the office of the Town Clerk. Said petition shall be accompanied by the applicable fee, if any, in accordance with the fee schedule established and annually reviewed by the Town Board.

B. Report of the Planning Board

Proposed amendments may be referred to the Planning Board for a report and recommendation. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the matters specified below:

1. Whether such change is consistent with the intent of this law as applied to the particular zoning districts concerned.

2. Which areas and establishments in the Town will be directly affected by such change and in what way they will be affected.

3. Whether adequate public service and other support facilities exist or can be created to serve the needs of any additional development that may occur as a result of such change.
4. What other regulations may be affected, and to what extent, as a result of such change.
5. Whether such proposed change is consistent with the underlying objectives of the town master plan and this law.

If such a referral is made, the Planning Board shall submit its report to the Town Board within sixty (60) days. Failure of the Planning Board to report within the required time period shall be deemed to be a recommendation of approval of the proposed amendment.

#### C. Town Board Procedure

1. **Public Notice and Hearing.** The Town Board shall fix the time and place of the public hearing on the proposed amendment and cause notice thereof to be given pursuant to Municipal Home Rule Law.
2. **Required Referral.** The Town Board shall transmit a full statement of any proposed amendment, whether a map amendment or a text amendment, that meets the referral requirements of Sections 239-l or -m of the General Municipal Law, to the Dutchess County Department of Planning for its review and recommendation. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the County Department of Planning or thirty (30) days have elapsed since said department received such full statement.
3. **Compliance with SEQRA.** Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance of the proposed amendment in accordance with Article 8 of the Environmental Conservation Law and Title 6 Part 617 NYCRR. Any action to initiate an amendment to this law shall be specifically accompanied by either a short or full Environmental Assessment Form as required by SEQRA.
4. **Town Board Action.** The Town Board may approve any such proposed amendment by a majority vote of the Board, except that a favorable vote of at least four (4) members of the Town Board, i.e., a majority plus one, shall be required if action being taken is contrary to the advisory recommendation received from the Dutchess County Department of Planning under the provisions of Section 239-l and -m of the General Municipal Law.

If the action taken is contrary to the advisory recommendation of the County Department of Planning, a report on the action shall be filed within seven (7) days thereof with said department.

#### 7.14 VIOLATIONS

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this law or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate legal action or proceedings in a court of competent jurisdiction to prevent such unlawful erection, construction, reconstruction, alteration, conversion,

maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

B. Upon the failure or refusal of the proper local officer, board, or body of the town to institute any such appropriate legal action or proceeding for a period of ten (10) days after written request by a resident or taxpayer of the Town to so proceed, any three residents or taxpayers of the Town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law.

C. A violation of this law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars

(\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

D. Any person who fails to abate any violation of this law after written notice has been served either personally or upon the property owner at the address set forth in the last assessment roll of the Town within ten (10) days after mailing of said written notice has been sent to said person by certified mail shall be subject to a civil penalty of one hundred dollars (\$100) for each and every day that said violation of the zoning law continues beyond said period, the same penalties recoverable in a civil action brought by the Town in a court of competent jurisdiction, and any civil penalties recovered by the Town shall be retained by it.

E. If there is any damage to property or land due to a violation of this law, the person, firm, partnership, corporation or other party responsible shall be notified and shall cause such damage to be corrected within thirty-six (36) hours of notice. If it is not so corrected, the Town may cause such correction to be undertaken, and the cost shall be paid to the Town by the party who failed to correct the damage. Such cost shall be a debt owed to the Town, which if unpaid for more than thirty (30) days after demand for payment, shall be a lien on the real property upon which the damage occurred. Such lien shall be collected by a levy added to the next real property tax levy otherwise payable to the Town.

F. The remedies provided herein shall be cumulative and shall be in addition to other remedies provided by law.

#### 7.15 FEES

Fees shall be paid on the filing of any application, in accordance with the fee schedule established by resolution and annually reviewed by the Town Board.

## ARTICLE 8. DEFINITIONS.

### 8.1 Interpretations

Unless otherwise expressly stated, the terms defined in this article shall, for the purposes of this law, have the meaning herein indicated. Except where defined in this law, in Article 8 or elsewhere, all words and terms shall carry their customary meanings in the context used. Words used in the present tense include the future; the plural includes the singular, and the singular includes the plural; the word "herein" or "above" shall mean "in this law"; the words "in this law" shall mean "in this Local Law No. 3 of 1991, or amendments thereto;" the term "current" shall mean "the most recent". The term "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, constructed, altered, converted, rented, leased, or designed to be used or occupied"; the word "shall" is mandatory and not optional; the word "may" is permissive.

### 8.2 Definitions

Words and terms used in this law are defined for the purposes thereof, as follows:

**Access** - The abutment of a lot directly on a town, county, or state road, street, or highway which has the required frontage thereon to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, as prescribed by this law and Section 280-a of Town Law.

**Accessway** - The area which provides access.

**Accessory Structure** - A structure, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, or is located on the same lot or premises as the principal building. Accessory structures shall include but are not limited to tennis courts, garages, swimming pools, garden or tool sheds, barns, studios, greenhouses, and playhouses, and such elements as satellite dish antennas, windmills, and solar collectors. See also "Structure".

**Accessory Use** - A use which is customarily incidental to and subordinate to the principal use of the premises, building or structure and located on the same premises as such principal use. A second principal use is not an accessory use.

**Adjacent property** - Any property adjoining, directly opposite or within two hundred (200) feet of the boundary of any portion of the subject parcel. This definition shall include all property separated by a street or within two hundred (200) feet of the street frontage of the subject parcel.

**Agricultural District** - A parcel of land which has received such designation under the requirements of agricultural district legislation of New York, Article 25-AA-Agricultural Districts, of the New York Agriculture and Markets Law.

**Agriculture, Agricultural Operations or Agricultural Practices** - All activities conducted on a farm, necessary to the operation of a farm, or activities conducted in accordance with animal husbandry regulations contained herein.

**Alteration** - Any change, rearrangement, addition, or enlargement to a building or structure, other than repairs; the moving of a building or structure from one location to another; or the demolition of a building or structure.

Alternate Care Facility (ACF) - A facility designed or used for housing persons ("ACF clients") who are unable to live and work independently at a particular time and for the providing for the specific needs of these persons. For purposes of this law, this definition shall include nursing homes and the following types of supervised facilities:

1. Community residence - a dwelling providing room and board, recreation and rehabilitative services for the mentally disabled under responsible supervision.
2. Halfway house - a community residence providing 24-hour on-site responsible supervisory staff for long-term residents.
3. Supervised living facility - a community residence, or group home, providing 24-hour on-site responsible supervision of residents.
4. Supportive living facility - a community residence providing responsible supervision for residents.
5. Family care home - a dwelling providing room, board and supervision for patients who are maintained on an in-patient status by a state operated psychiatric facility.
6. Housing for the disabled - housing for those persons who are unable to function in society without assistance and/or supervision because of their physical, mental, or emotional deficiencies.
7. Rehabilitation services facility - a professionally planned and operated treatment facility designed to improve the functioning of physically, mentally, or emotionally disabled persons in their skills of daily living, including alcohol abusers, drug-dependent persons, the mentally ill, and the developmentally disabled.
8. Residential school for those persons having physical, mental, emotional or drug-dependent problems.

Animal Husbandry - The keeping, grazing, feeding and care of animals or fowl (poultry) other than household pets. For the purpose of this law, all animals, whether male or female, except offspring less than six (6) months old, are counted in the permitted total. The calculation of acreage required for animals shall be in land made available for such use, not total land owned, unless otherwise designated herein.

Aquifer - An underground bed or stratum of earth, gravel or porous stone that contains water.

Area and Bulk Regulations - The combination of controls which establishes the minimum size of a lot and the maximum size of a building and its location on such lot, as well as controls on parking, frontage, and open space.

Area, Building - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

Area, Floor (of a structure) - The sum of the horizontal area of the floor or floors of a structure, including the basement and accessory structures on the same lot, and including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Area, Floor Ratio - See "Floor Area Ratio".

Area, Land - The term "land area", when referring to the required area per dwelling unit, means "net land area", the area exclusive of streets and other public open space.

Attached - a term which, when used with reference to a building, shall mean connected to another building by means of at least one (1) common wall. A common roof, porch, patio, or breezeway shall not be construed as causing a building or structure to be "attached" to another. For the purposes of this law, the terms "attached" and "semi-detached" may be interchanged in any context. See also definitions for "detached" and "semi-detached".

Auto Sales - See "Motor Vehicle Sales or Rental"

Bakery, Retail - An establishment which sells primarily baked goods directly to the public on the premises.

Bakery, Wholesale - An establishment which produces and sells baked goods primarily to other establishments, or produces primarily for sale off the premises, and only incidentally directly to the public on the premises.

Bar or Tavern - An establishment licensed under the laws of New York State for the sale of alcoholic beverages and their consumption on the premises, and may provide live entertainment by no more than one (1) instrumental musician and/or vocalist.

Basement - A story partly underground but having at least one half of its height above the average outside ground level. See also "Cellar".

Bed and Breakfast Establishment - An owner-occupied dwelling in which rooms are rented for transient occupancy and meals may be provided for such occupants. A public restaurant or public bar shall not be included.

Beginning of Construction - the incorporation of both labor and materials on a building site, other than materials delivery, or the use of excavation equipment or labor to excavate for the building of foundation or footings, but not including wood cutting unrelated to building.

Boarding and/or Rooming House - A private owner-occupied dwelling in which at least two (2) and not more than four (4) rooms are offered for rent, which may or may not provide meals to lodgers, in which no transient guests are accommodated and no public restaurant is maintained.

Boat Rental - An establishment which rents non-motorized boats for a fee, but which shall not be construed to include boat storage for a fee, boat sales or bulk fuel storage, except as permitted herein.

Buffer - Land area used to visually separate one use from another or to shield or block lights, noise or other nuisances, which is suitably developed with fencing, berms and natural vegetation.

Building - A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. See "Structure".

Building, Accessory - A building, the use of which is customarily incidental and subordinate to that of the principal building and is attached thereto, or is located on the same lot or premises as the principal building. An accessory building other than for agricultural use shall not be larger than the principal building on the same lot.

**Building, Accessory Use of** - A use customarily incidental to the use of a principal building, not occupying more than twenty-five (25%) percent of the total above ground floor area of the principal building thereof and including home occupation uses as permitted herein.

**Building Coverage** - The total of areas taken on a horizontal plane at the main grade level of all principal and accessory structures located on the lot.

**Building Height** - The vertical distance measured, in the case of a building with a flat roof, from the average elevation of the finished lot grade at the front of the building to the level of the highest point of the roof beams and, in the case of a building with a pitched roof, from the average elevation of the finished lot grade at the front of the building to a point halfway between the top of the plate and the ridge. Such measurement shall not include chimneys, spires, towers, tanks and similar projections.

**Building Inspector** - The person designated by the Town Board to administer the duties of this position as defined herein.

**Building Line, Front** - A line generally parallel to the street or road beyond which the front of a building may not project into the required front yard as specified for the district in which the lot is located, also called "minimum front setback line". In the case of a corner lot any building line nearest to the street line shall be considered a front building line.

**Building Permit** - Official authorization issued by the Building Inspector to begin construction in accordance with approved plans and in strict compliance with all applicable requirements of this law, other local laws, the New York State Uniform Fire Prevention and Building Code, and related laws, rules and regulations.

**Building, Principal** - A building including covered porches, in which is conducted the principal use of the lot on which such building is located. In any residential district the principal dwelling shall be deemed the principal building on the lot on which it is situated.

**Business, Retail** - See "Retail Business or Service".

**Business, Service** - A commercial operation or establishment primarily engaged in performing work on a fee or contract basis, such as advertising and mailing, building maintenance, employment services, office equipment rental and leasing, commercial research, development and testing, photo finishing and personal services.

**Business, Wholesale** - See "Wholesale Business".

**Bus Passenger Shelter, Private** - A privately owned structure whose primary purpose is to provide shelter for persons waiting for buses.

**Camp** - Any lot on which are located two or more buildings or structures, shelters, tents, or accommodations of a design or character for seasonal occupancy used solely for educational or recreational purposes, except paramilitary. The operation of a camp program, including the presence of instructors and structured activities for campers is necessary for the area and use to be defined as a camp. Buses, camping trailers and/or motor homes are not construed to be a camp.

**Camping Trailer or Camping Vehicle Campground** - Any lot or parcel of land whereon two (2) or more camping trailers or camping vehicles are located or parked, other than for the purpose of loading, unloading or

discharge or entrance of occupants or passengers. The term "campground" shall mean "camping trailer or camping vehicle campground" as defined above.

**Camping Trailer or Camping Vehicle** - The term "camping trailer" or "camping vehicle" shall be defined as any recreational vehicle, designed as temporary living quarters for recreational camping, or travel use, which either has its own motive power or is mounted on or towed by another vehicle, and is of such size as not to require special highway movement permits, except as further limited in size herein, in accordance with New York State regulations. Motor homes, "fifth wheels", trailers mounted on pick-up trucks (truck campers), pop-up campers and recreational vans are included in this definition. Mobile homes and modular homes are not "camping vehicles" under this definition. Buses are included in this definition only when they are equipped as recreational vehicles. Regulations regarding camping vehicles permitted are found herein, in other local laws of the Town of Clinton, and in individual deed stipulations regarding specific properties.

**Carnival** - An amusement show, usually traveling from place to place and including side shows, ferris wheels, merry-go-rounds, games, and/or similar attractions.

**Car wash** - A lot and/or associated structures used principally for the cleaning, washing, waxing, polishing, or detailing of motor vehicles.

**Cellar** - A story of a building having more than one half of its height below the average outside ground level. See also "Basement".

**Cemetery** - Land used or intended to be used for the burial of deceased persons and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries when operated with and within the boundaries of such cemetery.

**Center Line of Street or Road** - A line midway between and parallel to two street or road property lines or as otherwise defined by the Planning Board.

**Certificate of Occupancy** - Official authorization issued by the Building Inspector that a premise conforms to the applicable provisions of this law, the New York State Uniform Fire Prevention and Building Code, and other applicable regulations, and may be legally used or occupied.

**Cessation or Termination of Use** - As used herein, a use shall be determined by the Zoning Enforcement Officer to have ceased or terminated when it has been discontinued either temporarily or permanently, whether with intent to abandon such use or not.

**Church or Other Place of Worship** - A building in which public religious worship is conducted which may include meeting halls, parish houses and similar facilities.

**Circus** - An exhibition of wild and trained animals, aerobatic feats, together with side shows and vending concessions.

**Clinic, Medical, Dental or Health** - A building designed or used for the diagnosis and treatment of human or animal patients, which does not include overnight care facilities.

**Clubhouse** - A building to house a club or social organization not conducted for profit and which is not adjunct to, or operated by, or in connection with, a public tavern, bar, cafe or other public place.

Cluster Development - A development pattern in which uses are grouped (clustered) through a density transfer within a particular development, rather than spread evenly throughout a parcel as in conventional lot-by-lot development, in order to achieve the purposes stated herein.

Commercial Use - Those uses listed under the heading "Commercial" in Section 3.2, and any uses of a similar type.

Commercial Vehicle - See "Vehicle, Commercial".

Commercial Recreation and Amusement Facility - An establishment engaged in providing indoor entertainment for a fee or admission charge, including dance halls, bowling alleys, billiard and pool establishments, membership sports recreation clubs, and game parlors (see also specific uses separately regulated).

Communication Antenna or Tower, Commercial - A structure or device mounted on a structure used or intended to be used for transmission or receiving of electromagnetic waves with or without connecting wires, as part of a business activity.

Community facility - Any building, structure, park, or recreation area or other area for the general use of the residents of the town or the public.

Compatible - Not disruptive or incongruous with the existing neighborhood and the intended goals and objectives of the community, as stated in both this law and the town's master plan.

Comprehensive Plan - See "Master Plan".

Conceptual Plan - The initial stage of subdivision or site plan review by the Planning Board, also called "sketch plan". For site plan requirements, see Section 7.9, Site Plans. For subdivision requirements, see "Subdivision Regulations - Town of Clinton".

Conference Center - A establishment used for business or professional conferences and seminars, often with rooms for lodging, eating, and recreational activities. Also, an establishment which attracts clients principally for recreational or health activities and contains rooms for lodging and eating for its clients.

Conservation Advisory Committee (CAC) - The Conservation Advisory Committee of the Town of Clinton, New York.

Contractor's Storage (Accessory Use) - Space inside an enclosed building, used for the storage or keeping of construction or other supplies, materials, equipment, machinery, or vehicles, or parts thereof, by a construction or other contractor residing on the premises. Such accessory use shall also apply to other than contractors.

Contractor's Yard or Establishment (Principal Use) - Any space, whether inside or outside a building, used for storage or sale of construction supplies, materials, equipment, machinery, or vehicles, or parts thereof by a contractor or other establishment if the use of such supplies, materials, equipment, machinery or vehicles is not approved or permitted on the same lot.

Convenience Store - A retail store, primarily used to sell food, beverages, and/or household supplies, which has hours of operation outside of those prescribed in Section 3.4, and constructed after the effective date of this law.

Conversion, Residential - A change in use or occupancy of a building, generally by alteration or by other reorganization to increase the number of families or dwelling units within a structure.

Coverage - See "Building Coverage".

Cul-de-sac - A local street, one end of which is closed and consists of a circular turn around.

Cut - A portion of land surface or area from which earth has been removed or will be removed by excavation.

Day Care Facility - Any facility which is licensed to operate pursuant to New York State Social Services Law Article 390 and provides care for a child on a regular basis away from the child's residence for less than twenty-four (24) hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child. For the purposes of this law, day care facilities are defined as follows:

1. Family Day Care Home - A program caring for children for more than three (3) hours per day per child in which child day care is provided in a family home, i.e., dwelling unit, under this law, for three (3) to six (6) children. A family day care home may, however, care for seven (7) or eight (8) children at any one time if no more than six (6) of the children are less than school age and the school-aged children receive care primarily before or after the period such children are ordinarily in school, during school lunch periods, on school holidays, or during those periods of the year in which school is not in session in accordance with the regulations of the Department of Social Services.
2. Group Family Day Care Home - A program caring for children for more than three (3) hours per day per child in which child day care is provided in a family home for seven (7) to ten (10) children of all ages, including not more than four (4) children under two (2) years of age, or up to twelve (12) children where all of such children are over two (2) years of age, except for those programs operating as a family day care home as defined herein, which care for seven (7) or eight (8) children. A group family day care home may provide child day care services to two (2) additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year which school is not in session in accordance with the regulations of the Department of Social Services.
3. Day Care Center - Any program provided for more than three (3) but less than twenty-four (24) hours a day away from the child's home by an individual association, corporation, institution or agency for seven (7) or more children except those programs operating as "group family day care" as defined herein and by New York State Social Services Law Section 390.
4. School Age Child Care - A program caring for more than six (6) school-aged children who are under thirteen (13) years of age or who are incapable of caring for themselves as defined in New York State Social Services Law Section 390.
5. Nursery School - Any program, whether licensed with the New York State Department of Education or not, provided in one or two sessions, each of less than three (3) hours a day, away from a child's home, except a family day care home, group family day care home or day care center.

Density - The ratio of land area per dwelling unit on a lot; "gross density" refers to the ratio of the land area of the total lot to the number of dwelling units; "net density" refers to the ratio of the land area of the developed or

developable portion of the lot, excluding streets, open space, and water resources as regulated herein, to the number of dwelling units. Unless stated otherwise herein, "density" shall mean "gross density", as defined above.

Detached - a term which, when used with reference to a building, shall mean either (a) not connected to another building by any physical construction, or (b) connected to another building by some physical construction, but without at least one (1) common wall. See also definitions for "attached" and "semidetached".

Development - Any humanly incurred change to improved or unimproved real estate, including but not limited to, buildings or other structures; mining; dredging; filling; clearing; grading; paving; excavation; or drilling operations, but excluding normal agricultural, conservation, or forest management activities.

District - An area or section of the town described on the Zoning District Map contained within this law, and within which certain zoning regulations apply.

District, Residential - Any district in which any of the residential uses listed in Section 3.2, District Schedule of Use Regulations, is permitted.

Disturbance - used in reference to land, this term shall mean any human alteration, including but not limited to grading, filling, excavating, or stripping.

Drive-in Business - An establishment in which patrons are not required to enter the building in order to be served, sold a product, or entertained, including but not limited to drive-in outdoor theaters, refreshment stands, and fast-food restaurants which have drive-in windows. Banks, postal deposit services, and businesses requiring patrons to enter a building in order to be served shall not be considered drive-in businesses as defined herein.

Driveway - Land situated on a lot used or intended to be used to provide access to a lot by vehicular traffic.

Dude Ranch - An establishment that may include facilities for lodging, dining, picnic grounds, boating, camping, swimming, golf, tennis, rifle ranges and various other sports, other services and facilities for the accommodation of the patrons, together with facilities for the stabling of horses, corrals and barns, and quarters for employees.

Dump - Land used for the disposal by abandonment, dumping, burning or any other means, and for whatever purpose of garbage, sewage, sludge, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind. A "dump" shall not be construed to include compost materials, leaves, or brush.

Dwelling - A house or other building designed or used primarily for human habitation. The word "dwelling" shall not include tourist homes, mobile homes, camping vehicles, motels, hotels or other structures designed for transient or temporary residence. A bus is not construed to be a dwelling.

Dwelling, Single-Family or One-family - A detached building designed for the use of a single household, including one or more persons living as a family, and wherein not more than two (2) boarders are sheltered and/or fed for profit.

Dwelling, Two-family - A detached, semi-detached or attached building, or portion thereof, containing two (2) dwelling units only, but not including a single-family dwelling to which an accessory dwelling unit, as permitted herein, has been added.

Dwelling, Multi-family - A detached, semi-detached or attached building or group of buildings, or portions thereof, on one lot, containing three (3) or more dwelling units.

Dwelling, Row/Town House - A two-family or multi-family dwelling with party walls separating adjacent dwelling units, with each dwelling unit having separate entrances from the outside.

Dwelling Unit - A building or entirely self-contained portion thereof containing complete housekeeping facilities, including kitchen facilities and bath for only one (1) family, and having no enclosed space, other than vestibules, entrances or other hallways or porches, or cooking or sanitary facilities in common with any other "dwelling unit". A boarding house, tourist home, motel, inn, nursing home, or other similar building shall not be deemed to constitute a "dwelling unit."

Dwelling Unit, Accessory - A dwelling unit having its own exterior or interior entrance which is subordinate to, and located on the same lot as the principal residence. An "accessory dwelling unit" may or may not be located within the principal residence. See Section 5.3, Accessory Dwelling Unit.

Educational Institution - Any public or private school or other organization conducting a regularly scheduled comprehensive curriculum of academic instruction similar to that furnished by kindergartens, primary or secondary schools or institutions of higher learning operated under the Education Law of New York State, except vocational schools, which are listed separately in Section 3.2. Alternate care facilities, correctional institutions, day care centers or nursery schools are not construed to be "educational institutions", as regulated herein.

Establishment - A building or related group of buildings, or an area of a lot, for purposes of the conduct of one (1) principal commercial use and its permitted accessory uses, located on a single lot. A non-residential building in which two (2) tenants lease space shall be construed as housing two (2) establishments.

Excavation or Mining - Any activity which removes and/or processes material such as soil, topsoil, rock, gravel, sand, earth, turf or other mineral or similar substances from their natural location in or on the ground, including digging, cutting, crushing, screening, washing, or other processing.

Facade - The face or front of a building facing the major or principal street.

Facility - Any establishment, business, building, structure, operation, or equipment used or intended for use.

Factory - A building or group of buildings, usually with equipment, where goods are manufactured.

Factory Manufactured Home - Any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part constructed in off-site production facilities intended or designed for the permanent installation, and/or assembly, on an approved building site. To qualify under this definition, the structure must be built to the National Manufactured Housing Construction and Safety Standards Act of 1974 and/or current national standards.

Fair - An occasional or periodic exhibition of farm products and/or livestock, usually accompanied by amusement features and for which an admission fee may be charged.

Family - A "family" consists of (a) one (1) person, or two (2) or more persons related by blood, marriage or adoption; or (b) not more than five (5) persons not necessarily related by blood, marriage or adoption, and in

addition to (a) or (b), any domestic servants or gratuitous guests or persons for whom foster care is provided, who live together in a single dwelling unit and maintain a common household.

Family, Immediate - Persons related by blood or adoption as parents, grandparents, sons, daughters, grandchildren, brothers, sisters; or by marriage as spouses, parents or grandparents of spouses, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law; not including cousins and other relatives or non-relatives except as listed in this definition.

FAR - See Floor Area Ratio.

Farm - A parcel of land of not less than five (5) acres used for the production of crops, livestock or livestock products, including dairy, poultry, aquaculture, fruit, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses or other similar operations used primarily for the raising of agricultural or horticultural commodities and having an annual gross sales value of production of one thousand (\$1,000) dollars or more. The term "farm" includes necessary farm structures within the prescribed limits of the farm parcel and the storage of equipment as part of the farm operation. The term "farm" excludes public stables and dog kennels. See related definitions and regulations for "animal husbandry", "public stables", "kennels", and "veterinarian's office".

Farm House - The principal building used as a dwelling on a farm, as defined herein.

Fence - A structure, other than a building, which is erected as a barrier for the purpose of preventing passage and/or view.

Fill - Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans.

Fire Inspector - The person designated by the Town Board to administer the duties of this position as defined herein.

Flood Hazard Boundary Map (FHBM) - The official map of the Town of Clinton on which the Federal Emergency Management Agency has delineated the boundaries of the special flood hazard area. The FHBM is replaced by the Flood Insurance Rate Map (FIRM) when the latter becomes effective.

Floodplain - A land area adjoining a river, stream, watercourse, or lake which is susceptible to being inundated by water from any source. The term "100 year floodplain" shall mean the highest elevation of water from flooding that, on the average, is likely to occur once every 100 years, or a one (1%) percent chance of occurring each year.

Floor Area, Gross - The sum of the horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings, but not to include attached, semi-detached, or built-in garages, porches or terraces, basements or unfinished floor area, including attics, having clear head room of less than seven (7) feet.

Floor Area Ratio (FAR) - The sum of the gross floor area of all structures on a lot divided by the lot area as defined herein.

Footprint - When used in reference to a structure, the term "footprint" shall mean the area covered, or which would be covered, by the structure at the intersection of the exterior walls of the structure with the ground.

Forestry - The raising, harvesting and sale of forest products.

Freestanding - When referring to a sign, the term "freestanding" shall mean "unattached to another structure" or "supported by its own structure".

Funeral Home - A building or part thereof used for human funeral services. Such a building may contain space and facilities for: a) embalming and the performance of other services used for the preparation of deceased persons for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. A funeral chapel shall be considered to be an accessory use of a funeral home.

Garage, Private - An enclosed space, whether an accessory building or part of a principal building, for the storage of one or more vehicles, provided that no business, occupation or service, other than a home occupation authorized herein, is conducted for profit therein nor contains space for more than one car owned by or leased to a non-resident of the premises. Unless otherwise specified, the term "garage" shall mean "private garage".

Garage, Public - A garage or covered parking lot conducted as a business. The rental of storage space for more than two (2) passenger cars or one (1) commercial vehicle not owned by a person residing on a premises shall be deemed a "parking lot". See also "Parking Lot".

Gasoline Station or Automotive Service Facility - Any premises where gasoline, other petroleum products and automotive accessories are sold, and which may or may not include facilities for lubricating and other minor servicing of motor vehicles. "Automotive service facilities" shall not include premises where automotive repair activities such as engine overhauls, automobile painting, body work, or auto sales or rental are conducted.

General Municipal Law - The General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws.

Grade, Established - The elevation of the center line of the street as established by the town, county or state highway authorities.

Grade, Finished - The elevation at which the finished surface of the lot surrounding a structure, either naturally occurring or upon completion of any change in contour, intersects the walls and supports of the structure.

Grading - Any operation, other than in connection with foundations or for a structure or highway construction, involving a change in ground elevation exceeding ten (10) feet from the previously existing grade.

Habitat - The region or environment where a plant or animal grows or lives.

Hazardous Material - Any material which constitutes a danger to the environment or public health, safety and general welfare.

Home Occupation - An occupation or business activity which results in a product or service, conducted entirely within a dwelling unit. A home occupation shall be clearly subordinate to the residential use of the dwelling unit. See Section 5.29, Home Occupation.

Homeowners' Association - A legally established membership organization, created and regulated under the authority of the Attorney General of New York State, for the purpose of maintaining joint ownership of

property. Such organization shall have the power to collect funds to assure property maintenance, including the ability to impose liens against lot owners or dwelling unit owners.

Hospital - An establishment for temporary occupation, including overnight admission, of the sick or injured for the purpose of medical diagnosis and treatment. Such an establishment may be either public or private, and shall be limited to the treatment or care of humans. See also "clinic", "nursing home", and "alternate care facility".

Hotel - A building or group of buildings which offers rental sleeping rooms, and which may also include dining rooms, bars, kitchens, serving rooms, ballrooms and other facilities and services intended primarily for the accommodation of its patrons.

Industry/ Industrial - The term "industry" or "industrial" includes the entire range of economic activity and as applied to specifics, i.e., manufacturing, wholesale, retail, services, etc., shall have the meaning set forth in the Standard Industrial Classification Manual, published by the Executive Office of the President, U.S. Office of Management and Budget, as currently updated.

Junkyard - A lot, land or structure, or part thereof other than a completely enclosed building, over 200 square feet in area used for or occupied by the collection, storage and/or sale of waste materials; or for the collection, dismantling, storage and salvage other than in a fully enclosed building of machinery or vehicles not in operating condition and/or for the sale of their parts. Two (2) or more motor vehicles not in operating condition shall be deemed to constitute a junkyard. A vehicle shall be deemed not to be in "operating condition" if it is no longer in condition for legal use on the public highways, i.e., registered and inspected, if required, for one (1) month.

Kennel - Any premises on which are kept four (4) or more dogs more than six (6) months of age for the purpose of boarding, care or breeding.

Lake - An inland body of water that, for the purposes of this law, has a surface water area at the mean high watermark of one (1) acre or larger.

Land and Wildlife Conservation - Vegetation and terrain left undeveloped and essentially unaltered in its natural state in order to allow vegetation and wild animals to be untouched by human actions.

Landfill - A lot or land area used for the disposal or abandonment, burial, burning, or other disposition and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind, including construction debris. A private compost pile shall not be construed as a "landfill".

Laundry, Self-Service, or Dry Cleaning Establishment - A business establishment equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

Light Processing or Light Manufacturing - A use involving the manufacture of a product, but not requiring heavy, noisy or otherwise objectionable machinery or transporting equipment in violation of the performance standards stated within Section 5.2 of this law.

Lot - A piece, parcel, tract or plot of land owned in fee, and occupied or designed to be occupied by a principal building or buildings and including the yards and other open spaces required by this law. "Premises" and

"property" may mean one "lot" or multiple "lots", when used with reference to a subdivision. Where a lot is in common ownership as part of a cluster development, "premises" shall mean the area related to or property owned by residents of one (1) dwelling unit.

Lot Area - The total land area of a lot within the property lines excluding any area devoted to external streets.

Lot Area, Minimum - The calculation of minimum lot area as required in this law shall be construed to include areas covered by utility easements and conservation easements, shall exclude areas not owned and shall exclude areas devoted to public streets.

Lot, Corner - A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street right-of-way is the "corner".

Lot Coverage - The entire unvegetated area of the lot, including the area covered by all structures, parking areas, driveways, walkways, patios and terraces.

Lot Depth - The horizontal distance from the street line of the lot to its opposite rear line measured along the median between the two side lot lines.

Lot Frontage - That portion of the lot which abuts the street.

Lot, Interior - A lot other than a corner lot.

Lot Lines - The lines that bound a lot as defined herein.

Lot, Rear - A lot which does not achieve the minimum lot width at the minimum required setback distance from the street, and therefore requires an accessway, which shall be a minimum width of forty (40) feet. See Section 4.10, Rear Lots.

Lot of Record - Any lot which has been established as such by plat, survey, record, or deed prior to the effective date of this law as shown on the records of the Dutchess County Clerk's Office. For use of existing "lots of record", see Section 4.3, Existing Lots of Record.

Lot, Substandard - Any lot which is of less than the prescribed lot area, lot width, or lot frontage for the district in which it is located.

Lot, Through - An interior lot having frontage on two (2) parallel or approximately parallel streets.

Lot Width - The horizontal distance between the two side lot lines measured at a right angle to the lot depth.

Lot Width, Minimum - the required lot width measured at the front building line.

Machine Shop or Major Vehicle Repair - An establishment which uses industrial equipment such as metal lathes, grinders, polishers, welding equipment, drill presses, computer-driven machinery, electronic test equipment or similar tools to do repair or manufacture of any item, product, machinery, engine, vehicle or any parts thereof, including automobile or truck body repair or painting.

**Manure Storage** - The collection of solid animal wastes for subsequent disposal, application, or other use. Manure storage shall not be construed to include the use of manure as part of a compost operation.

**Master Plan** - A long-range plan officially recognized as a guide for the physical growth and development of a community, also called a "comprehensive plan".

**Mobile Home** - A movable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, whether or not connected to utilities, and designed and constructed with or without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of again being separated into the components for repeated towing. "Mobile Home" shall include units designed to be used for residential, commercial, educational or industrial purposes, excluding camping trailers. A factory manufactured home as defined herein shall not be construed as a mobile home.

**Mobile Home Park** - Any lot on which two (2) or more mobile homes are located regardless of whether or not a charge is made for such accommodations.

**Motel** - A building or group of buildings containing not less than eight (8) individual rental living and sleeping units, each of which is provided with a separate exterior entrance and a parking space and is offered for rental use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, similar establishments known as an auto court, motor hotel, motor court, motor inn, motor lodge, or tourist court. The term "motel" shall not be construed to include a truck terminal. A restaurant shall not be construed to be an accessory use of a "motel".

**Motor Home** - A self-propelled vehicle designed or equipped for temporary living quarters. See also "Camping Vehicle".

**Motor Vehicle Sales or Rental** - A lot on which is located a building and/or open area other than the street used for the display, sale or rental of new or used automobiles, vans, trucks, cargo trailers, motorcycles, motor homes, or other vehicles requiring registration for road use.

**Nonconforming Building or Structure** - A lawful existing building or structure which contains a use permitted in the zoning district in which it is located, but which does not conform to the applicable district regulations for lot area, size, coverage or yards, or maximum height after the effective date of this law. A fence shall not, however, be construed to be a nonconforming structure. An unlawful building or structure is not a nonconforming building or structure.

**Nonconforming Lot** - A lot of record which does not comply with the area, width, shape, or frontage provisions of this law for the district in which it is located. Non-compliance with minimum parking setbacks shall not be construed to cause a lot to be a nonconforming lot.

**Nonconforming Use** - Any use lawfully existing prior to the effective date of this law, which use is not permitted by or does not conform with the permitted use provisions of this law for the district in which it is located. An unlawful use prior to the effective date of this law is not a nonconforming use.

**Nonconforming Sign** - Any sign lawfully existing prior to the effective date of this law which does not conform to the provisions of this law for the district in which it is located.

**Nonconformity** - A nonconforming use, lot, building, or other structure which existed lawfully, whether by variance or otherwise, on the effective date of this law and which fails to conform to one or more of the provisions of this law or such amendment. No nonconforming use, lot, building, or other structure shall be deemed to have lawfully existed on the effective date of this law unless it can be proven that it was actually in being on such date and that its use was lawful under all laws existing at the time, or that a valid building permit had been issued and actual construction lawfully begun prior to that date. Actual construction is hereby defined as the placing of construction materials in a permanent position in accordance with the plans for the building or other structure and with the intent to complete the construction in an expeditious manner.

**Noxious Use** - Any use which is dangerous, offensive or injurious by reason of the emission of dust, smoke, refuse matter, odor, gas fumes, noise or vibration in contravention of the standards and criteria established by this law and other applicable laws, rules, codes and regulations.

**Nuisance** - An interference with the enjoyment and use of property.

**Nursery** - An establishment consisting of gardens, greenhouses, and/or land under cultivation, and may include buildings and structures associated with these activities, which grows trees, plants, flowers, shrubs, or vegetables for sale. Such establishment is permitted to sell primarily those products produced or grown on the property. Purchase of products or produce for resale is not permitted, nor are machine sales or repair to be construed as accessory uses of a "nursery."

**Nursery School or Day-care Facility** - See "Day Care Facility".

**Nursing or Convalescent Home** - Any establishment where persons are housed or lodged and furnished with meals and nursing care for hire. For the purposes of this law, nursing and convalescent homes are considered alternate care facilities.

**Occupancy** - The use of a building, structure or land.

**Occupancy, Seasonal** - Occupancy for a period not exceeding four (4) months during any one calendar year.

**Office, Non-retail** - A building or portion thereof wherein professional, administrative, or clerical services are performed, which are sold primarily to other businesses and generally not to the public. Two (2) tenants, each conducting its own business, shall be construed to be two (2) establishments.

**Office, Retail** - A building or portion thereof wherein professional, administrative, or clerical services are performed, which are sold or offered for sale to the public. Two (2) tenants, each conducting its own business, shall be construed to be two (2) establishments.

**Official Map** - A map, adopted by the Town Board, showing streets, highways and parks heretofore laid out, adopted and established in accordance with Section 270 of the Town Law, or which may have been revised according to the provisions of Section 273 of the Town Law.

**Open Space** - Land and/or water in its natural state and containing no buildings or structures or land set aside or dedicated to remain unimproved except for improvements in support of agriculture.

**Ordinance** - Statute passed in accordance with the procedures set forth in Town Law, the Municipal Home Rule or other appropriate laws, rules and regulations. Any use of the word "law" or "local law" may be construed to mean "ordinance", if the document referred to was passed as an "ordinance."

**Owner** - Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, or executor trustee of a building, structure or premises. The term "owner" shall not include another member of the owner's family, unless that member is jointly an owner, or power-of-attorney is demonstrated to have been executed thereto.

**Park** - Any land and/or associated structures created and maintained by a municipality or organization for the express use and enjoyment by the general public for recreational purposes.

**Parking** - The keeping of a vehicle for less than forty-eight (48) hours. See "Storage".

**Parking Lot** - A lot on which patrons are allowed to park or store vehicles which can include a structure for collecting money or handling tickets. A "parking lot" includes a "public garage".

**Parking Space** - The area required for parking one (1) vehicle. See Section 5.36, Off-street Parking and Loading.

**Particulate Matter** - Any finely divided liquid or solid matter, including smoke, capable of being air-, gas- or waterborne.

**Performance Standards** - Regulations in this law for the control of particular activities which are considered objectionable, offensive or hazardous.

**Permitted Use** - A specific use noted with the "permitted use" symbol in Section 3.2 of this law, and for which land, lots, buildings or structures may be used, occupied or maintained under this law.

**Person** - Any individual, firm, corporation, partnership, association, trustee or legal government entity.

**Personal Service Establishment** - An establishment primarily engaged in providing services involving the care of a person, including but not limited to barber and beauty shops.

**Pond** - An inland body of water that, for the purposes of this law, has a surface water area at the mean high watermark of one (1) acre or larger.

**Porch, Open** - A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash. A structure having a driveway running to it, under it, or through it, shall not be considered an open porch.

**Prime or Statewide Important Agricultural Soils** - Soils that have the best combination of physical characteristics for the production of food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides and labor, and without intolerable soil erosion. Such soils do not include land committed to urban development, water storage, or other uses that cannot economically be returned to agriculture. Specific prime and statewide important soil types for Dutchess County are determined by the United States Department of Agriculture Soil Conservation Service.

**Principal Use** - The main use permitted under the zoning classification in accordance with the zoning district regulations. See also "Principal Building".

Printing, Retail - An establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, or collating of booklets and reports, for sale to the public, and having total personnel, including owner(s), of no more than five (5) people.

Printing, Wholesale - An establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, or collating of booklets and reports, or large-scale book publishing or other printing, primarily for sale to other businesses, and only incidentally to the public, and any printing establishment having total personnel, including owner(s), of more than five (5) people.

Prohibited Use - Any use which is not listed in the "Schedule of Use Regulations", Section 3.2 herein, or which is not listed and designated as a permitted use, special permit use, or permitted accessory use, in a specific zoning district shall be considered a prohibited use in that zoning district, as herein defined.

Public Stable or Riding Academy - See "Stable, Public".

Quarry, Sand 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 a commercial or industrial operation, and exclusive of the process of grading preparatory to the construction of building for which a building permit has been issued, or highway construction.

Recreation Area - Public or private land developed with facilities for passive recreation, e.g. trails, picnic areas, and/or with facilities for active outdoor individual or organized recreation, such as ball fields, tennis courts, swimming, or ice-skating.

Recreation Vehicle - See "Camping Vehicle".

Recycling Center - A lot or land area for the collection of waste materials which are to be re-used, or "recycled", and which are subsequently transported to the re-use location or another collection point. See also "Transfer Station".

Research Laboratory - A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products except as incidental to the principal purpose of the laboratory. See "Light Manufacturing", Section 3.2.

Residential - Used as or for a dwelling, as herein defined. See also "District, Residential".

Residential Cluster Development - A development pattern in which dwellings are concentrated in specific areas of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Restaurant - An establishment for the preparation, serving and consuming of food and beverages. Drive-in windows shall not be construed to be an accessory or principal use for a "restaurant." A take-out counter within a "restaurant" building shall be construed to be an accessory use. See also "Drive-in Business".

Retail Business or Service - An establishment other than a restaurant or other eating and/or drinking establishment where goods or products are sold or rented or services offered to the public. Special permit or site plan approval shall be limited to the specific use applied for, not for "retail business or service" as a category.

Right-of-way - A legal right of use and passage over, under or through another person's property, including an easement.

Road, Roadway, Street, Highway - A public way primarily used, or intended to be used, for passage or travel by motor vehicles. Unless otherwise specified, measurement shall be to the center line of the street. The "edge" of such public way shall mean the shoulder or ditch.

Roadside stand - Any structure or vehicle whose principal use is to display and sell produce and/or farm products produced on the property, and which uses its proximity to a roadway to attract potential customers. See Section 5.48, Temporary Permits.

Satellite Dish Antenna - Any parabolic dish, antenna, or other device or equipment of whatever nature or kind, more than two (2) feet in diameter, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites.

Sawmill - A facility which uses mechanical processes to transform wood through cutting, sawing, or shredding operations, for commercial purposes. Such definition shall not be construed to limit, strictly as an accessory use, the operation of portable sawing machinery for which no structures are erected.

School, Elementary - Educational institution for elementary education.

School, Secondary - Educational institution for secondary education.

School, Vocational - Any school having scheduled sessions with employed instructors who, as a principal activity, provide training in a trade or vocation, under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the state.

Seasonal Occupancy - See "Occupancy, Seasonal."

Semi-detached - a term which, when used with reference to a building, shall mean connected to another building by at least one (1) common wall. See also definitions for "attached" and "detached".

Septic System or Sewage Treatment System - All exterior pipes, fittings, tanks, pits, and similar apparatus for the collection, processing, and dispersal of sewage, but not including such pipes or fittings between the building and the first such tank or distribution point. All required setbacks for septic systems or parts thereof shall not include the building's interior fixtures or plumbing or the line from the building to the first tank or distribution point.

Setback - The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on the lot, except necessary driveways. See related terms "Yards", and "Minimum Yards".

Setback, Front - The setback, as herein defined, measured to the center line of the roadway or street. See also Section 4.8, Measurement and Use of Yards.

Setup Mode (for Camping Trailer or Camping Vehicle) - The camping trailer or camping vehicle when fully extended in accordance with all designed expansions and foldouts affecting interior living space.

**Sign** - Any structure or part thereof, attached thereto, or painted or represented thereon, or advertising display upon a building or other surface, which displays or includes any letter, model, banner, flag, pennant, insignia, device or representation. Such definition shall apply only to representations which are visible from the outdoors.

**Sign, Business** - A sign which directs attention to a business, profession or industry located on the premises where the sign is displayed, to the type of products sold, manufactured or assembled, and/or to service or entertainment offered on said premises.

**Sign, Farm Products** - A sign advertising the sale of farm products raised on the premises.

**Sign, Identification** - A sign used to identify the individual or organization occupying the premises or the name of the building or structure in connection with which the sign is displayed.

**Sign, Real Estate** - A sign advertising the property on which the sign is located, or a building thereon, for sale rent or lease.

**Site Plan** - A specific plan for a lot and its use or proposed use, including descriptive material, drawings, and other information required. For uses requiring site plan approval, see Section 3.2, Schedule of Use Regulations, and for detailed "site plan" scope and requirements, see Section 7.9, Site Plans.

**Sketch Plan** - See "Conceptual Plan".

**Sludge** - Waste solids removed from sewage, including septage from septic systems.

**Special Permit** - A permit under which a specific use may be permitted if and only if the use meets all the conditions required in this law and all the general standards listed herein. For uses requiring special permits, see Section 3.2, Schedule of Use Regulations; for general standards for special permits, see Section 7.10; and for conditions for special permit approval of specific uses, see Article 5, Supplementary Regulations.

**Stable, Private** - An accessory building in which horses are kept for private use and not for hire, compensation or sale.

**Stable, Public or Riding Academy** - Any establishment where horses are kept for riding, driving, or stabling for compensation or as an accessory use to the operation of any club, association, ranch or similar establishment.

**Steep Slope** - For the purposes of this law, steep slopes are determined to be of two general classifications as defined below:

1. **Moderately Steep Slopes** - Lands exhibiting slopes of fifteen to twenty-five percent (15-25%) as calculated by the vertical rise divided by the horizontal distance over any ten (10) foot interval and encompassing a geographical area of more than 10,000 square feet. (Example: a one and a half (1.5) foot vertical rise over a ten (10) foot interval is a fifteen percent (15%) slope.)

2. **Extremely Steep Slopes** - Lands exhibiting slopes of greater than twenty-five percent (25%) as calculated by the vertical rise divided by the horizontal distance over any ten (10) foot interval and encompassing a geographical area of more than 10,000 square feet.

Storage - The keeping of goods, vehicles, wares or supplies for any length of time. "Storage" includes "Parking". This definition, however, shall not be construed as including the activities of a "Junkyard" or "Landfill" as defined herein.

Storage, Outdoor - Storage on land outside any building or structure.

Story - That part of a building between any floor, other than the cellar floor, and the floor or roof next above.

Street - See "Road".

Street Line - The boundary between a lot and the right-of-way line of a street, as indicated by dedication or deed of record.

Structure - A static construction, or assembly, or materials, the use or occupancy of which requires a fixed location on the ground or attachment to an object having such a fixed location. "Structures" shall include, but are not limited to, buildings, stalls, booths, sheds, storage bins, swimming pools, tennis courts, gasoline pumps, billboards, and mobile dwellings. "Structures" shall not include common utility poles and related items thereon, nor walls, fences, or signs. See also "Accessory Structure."

Structural Alteration - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof, or any addition, change or rearrangement in the structural parts, or removal of a structure from one location to another.

Subdivision - The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land.

Subdivision Regulations - The current standards and requirements known as "Subdivision Regulations" for the Town of Clinton. Wherever any requirement of this law is determined by the Planning Board to be inconsistent with the "Subdivision Regulations", the more restrictive requirement shall apply.

Supplementary regulations - Additional standards for general and specific uses, found in Article 5 herein.

Swimming Pool - Any body of water or receptacle for water having a depth at any point greater than two (2) feet and having a water surface area greater than one hundred (100) square feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained on any building or on a lot. Such definition shall exclude natural bodies of water fed by rivers, streams, brooks or springs.

Tavern - See Bar or Tavern.

Temporary - For the purposes of this law, "temporary" shall be defined as a period of not more than thirty (30) calendar days. See related terms "Occupancy, Seasonal" and "Transient".

Theatre, Indoor - A building or part thereof used principally for presenting entertainment on a paid admission basis.

Theatre, Drive-in Outdoor - Open land with appurtenant facilities used principally for the showing of motion pictures to patrons seated in automobiles.

Town Engineer - That New York State licensed professional engineer, or engineering firm, or employee of such firm, or town employee or consultant, who shall be chosen by the Town Board to perform duties of the "Town Engineer" for purposes of this law.

Town Law - The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

Trailer, Boat - A vehicle designed exclusively for the transportation of a boat or boats.

Trailer, Camping - See "Camping Trailer".

Trailer, Cargo - A vehicle, not over 70 square feet in floor area, used for the hauling of cargo.

Transfer Station - A lot or land area, including structures, used for the collection of garbage, waste, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind, and/or recyclable materials, for subsequent transportation to a disposal facility. A "transfer station" may include a "recycling center".

Transient - Used herein to mean any occupancy of duration less than or equal to fourteen (14) days in a calendar year.

Transportation or Motor Freight Terminal - Any premises used by a motor freight company regulated by the Public Service Commission of New York and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported, or an establishment used for storing, transferring, loading and unloading such goods, or an establishment for the origin, destination, loading or discharge of passengers on public transportation.

Uniform Code - The New York State Uniform Fire Prevention and Building Code, a copy of which may be seen at the office of the Building Inspector.

Use - The specific purpose for which land or a building is designed, arranged or intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any non-conforming use.

Use Regulations - The controls that enumerate the permitted, principal, permitted accessory and special permit uses within each of the zoning districts established by this law.

Utility, Public - A corporation licensed and regulated under the laws of New York State as a "Public Utility". A "utility station or structure" is any structure and/or related equipment constructed or erected, or intended to be constructed or erected, by a "Public Utility".

Variance - A modification of the strict letter of this law in a case where the strict interpretation could cause "practical difficulties" or "unnecessary hardships", as determined by the standards contained in this law. For the types of variances and the standards applied to each type, see Section 7.11, Zoning Board of Appeals, Powers and Duties. For exceptions to conditions required for Special Permits, see Section 7.10, Special Permits.

Vehicle, Commercial - Any vehicle, registered for use on public highways, including but not limited to pickup trucks, trucks, vans, buses, trailers, which (a) contains an exterior commercial identification, other than agriculture; or (b) is used principally for business, other than agricultural operations. Such definition shall exclude vehicles registered as special purpose commercial vehicles or similar heavy vehicular machinery.

Standard unmarked automobiles designed only for passenger use shall not be construed to be "commercial vehicles."

Vendor/Solicitor/Peddler - Any person, including an employee or agent of another, who sells, advertises, or offers to sell food, beverages, goods or merchandise on or within the prescribed distance from any public street, right-of-way, or sidewalk from a stand, motor vehicle or from his or her person. Such definition shall not be construed to prohibit door-to-door sales or solicitations, unless otherwise regulated by local law.

Veterinarian's Office or Animal Hospital - An establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment.

Warehousing and Storage Facilities - A building or portion thereof used for the storage of goods or materials. This definition shall not be deemed to include storage as an accessory use in connection with a permitted principal use on the same property.

Wastewater - Any water discharged from a structure through a plumbing fixture including, but not limited to, sewage and any other waste such as water softener brine produced on the premises.

Watercourse - A stream, creek, brook, or other path through which surface water travels on a regular or seasonal basis. Drainage areas which contain water only during and immediately after a rainstorm shall not be considered a watercourse.

Wetland - Land where saturation with water is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface, including bogs, marshes, and swamps. Unless otherwise specified, wetland regulations herein shall apply only to wetlands of 12.4 acres or larger and which are regulated by New York State through the Department of Environmental Conservation.

Wholesale Business - An establishment primarily engaged in selling merchandise to retailers, to other wholesalers, or to industrial, commercial, institutional or professional business users, or primarily acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies, and only incidentally to the public. Special permit or site plan approval shall be limited to the specific use applied for, not for "wholesale business" as a category.

Yard - The open area which lies between a lot line and the nearest wall of a building or group of buildings and shall be unoccupied, except as herein permitted.

Yard, Front - An open area extending across the entire width of the lot between the front main wall of a building and the center line of the street. See also Section 4.8, Measurement and Use of Yards.

Yard, Minimum - The open, unoccupied area created by the required shortest distance from a property line that a building can be constructed or erected, in accordance with the "Area and Bulk Regulations" prescribed herein.

Yard, Rear - An open space extending across the entire width of the lot between the rear main wall of a building and the rear lot line.

Yard Sale - Any sales of goods, indoor or outdoor, including but not limited to garage sales, barn sales, and estate sales.

Yard, Side - An open space extending along the side of a lot between a side wall of a building and a side line of the lot and extending through from the front yard to the rear yard.

Zoning District Map - The map delineating the boundaries of the various districts established under this law which, along with the text, comprises this law.

Zoning Enforcement Officer - The person designated by the Town Board to administer the duties of this position as defined herein.

## ARTICLE 9 MISCELLANEOUS

### 9.1 INTERPRETATION, CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this law shall be deemed minimum requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law are inconsistent with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern, unless explicitly stated otherwise.

### 9.2 EFFECT OF EXISTING VIOLATIONS

No site plan or special permit shall be approved, no building permit or certificate of occupancy issued, or variance granted under this law for any premises upon which there is an existing violation of this law or any related town, county, or state regulation governing either building construction or the use of land and structures within the Town of Clinton. This limitation does not, however, prohibit such an approval, issuance, or grant with respect to a legal nonconforming use or legal nonconforming structure.

### 9.3 SEVERABILITY

If any section, subsection, sentence, clause, phrase or other part of this law is, for any reason, held by any court of jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of this law. The Town Board hereby declares that it would have passed this law and each section, subsection, sentence, clause, phrase and other parts thereof irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases or other parts be declared invalid.

### 9.4 SHORT TITLE

This law shall be known as and may be cited as the "Town of Clinton Zoning Law."

### 9.5 EFFECTIVE DATE OF THIS LAW, AND REPEAL OF (a) CURRENT ZONING ORDINANCE, (b) MORATORIUM LOCAL LAW, AND (c) LOCAL LAW #3 OF 1974.

This law shall become effective immediately upon its filing in the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of the Municipal Home Rule Law, at which time the current zoning ordinance of the Town of Clinton (enacted on October 13, 1981, as amended), the Moratorium (Local Law #3 of 1989, as amended), and the 1974 Zoning Law (Local Law #3 of 1974) shall simultaneously and thereupon be repealed.