

**Local Law No. 4 of 2015, entitled:**

**“Solar and Wind Energy Facilities Law”**

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

1. Section 22 of Chapter 250 of the Code of the Town of Clinton (“Town Code”) is hereby amended by removing Section 22 and replacing it with a revised section 22 which shall read as follows:

**§ 250-22 Accessory Structures.**

- A) Accessory Structures, as defined in this chapter, may not be located in any yard of a Residential Lot except as permitted in § 250-23, Measurement and use of Lots, and are subject to the following limitations. In no event shall these limitations apply to Ground Mounted Solar Energy Systems or to Ground Mounted Wind Energy Systems which shall be governed by § 250-49A.
  - 1) No such structure shall exceed 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 such Accessory Structures, other than permitted signs or agricultural buildings on a Farm as defined herein, of which no more than one shall be a private garage, shall be permitted on a Lot in a Residential District, except where Lots are held in common ownership in accordance with § 250-42, 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 Regulations of this chapter 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 or 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 chapter.

6) An Accessory Structure, other than for agricultural use, shall not be larger than the Footprint of the Principal Building on the Lot.

2. Section 105 of Chapter 250 of the Town Code is hereby amended by adding the following definitions which shall read as follows:

GROUND MOUNTED - Installed on or in the ground and not attached or affixed to any Structure.

ROOF MOUNTED – Installed on or connected to any Building or Structure.

SOLAR ENERGY SYSTEM (“SES”) – Shall mean either:

- A. An active solar energy system arrangement or combination of components designed to provide heating, cooling, hot water or electricity through the process of collecting solar radiation, converting it to another form of energy, storing the converted energy, protecting against unnecessary dissipation and distributing the converted energy. This term shall not include pipes, controls, insulation or other equipment which are part of the conventional heating, cooling, insulation or electrical system of a building; or
- B. A passive solar energy system arrangement or combination of components which relies upon the original or retrofitted design and elements of a building to enhance the use of natural forces including solar radiation, winds and night-time coolness to provide heating, cooling or hot water through the process of collecting solar radiation, converting it to another form of energy, storing the converted energy, protecting against unnecessary dissipation and distributing the converted energy. This term shall not include pipes, controls, insulation or other equipment which are part of the conventional heating, cooling or insulation system of the building; nor shall it include any expenditure allocable to a swimming pool used as a storage medium.

WIND ENERGY SYSTEM (“WES”) – An arrangement or combination of components, including power conditioning equipment, designed to provide electricity or mechanical energy through the process of converting wind energy into mechanical and/or electric energy, and storing or distributing such energy. The means of converting wind energy to electricity is accomplished by a mechanical wind generator, wind turbine, wind power unit, or wind energy converter, which are often generically referred to as a "wind generator" or “windmill”.

3. Section 20 of Chapter 250 of the Town Code is hereby amended by removing subsections A. and B. and replacing them with revised subsections A. and B. which shall read as follows:

- A. Flagpoles, radio or television antennas, transmission towers or cables, agricultural barns and silos, and similar features, any of which shall be restricted to a maximum height of 80 feet above average finished grade at its base, except as otherwise provided in § 250-44.
  - B. Spires, belfries, chimneys, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, air conditioning units or similar structures which in their aggregate coverage occupy no more than 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 20 feet above the roof or 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 chapter.
4. Chapter 250 of the Town Code is hereby amended by adding a new section which shall read as follows:

§250-49A. Energy Facilities.

- A) Purpose and objectives. The proliferation of Solar Energy Systems (“SES”) and Wind Energy Systems (“WES”) as environmentally friendly and cheaper energy alternatives are expected in the coming years. This equipment and the installation thereof must be reasonably regulated to the maximum degree possible, to coordinate and control the same to preserve and protect the aesthetic qualities of the Town and its neighbors. The Town recognizes the demand for SES and WES facilities and the need for the services they provide. This section regulates SES and WES installations to ensure that any proposed SES or WES is designed, located, and installed in accordance with the purposes and objectives of the chapter by:
- 1) Promoting the health, safety and welfare of the residents of the Town.
  - 2) Minimizing the adverse visual effects of SES and WES on the Town.
  - 3) Protecting the natural features, aesthetics and rural character of the Town through careful planning, design, location, buffering, and screening.
  - 4) Avoiding potential damage to adjacent properties from falling or flying debris from SES and WES facilities through careful engineering and reasonable siting of SES and WES.

- B) The primary purpose of any SES or WES facility shall be to provide power for the Principal Use of the Lot whereon the facility is located and not for the generation of power for commercial purposes. This provision is not meant to be interpreted to prohibit the sale of excess power generated from time to time from a SES or WES otherwise designed to meet the energy needs of the Principal Use.
- C) Notwithstanding any other provision of this chapter, the system rating for all SES facilities shall not exceed the following peak power ratings:
  - 1) Residential installation: 20kw
  - 2) Agricultural installation: 100kw
  - 3) Commercial installation: 200kw
- D) No SES or WES shall be located or operated so as to impede the function of any other pre-existing SES or WES facility or of any radio or microwave communication device.
- E) No SES or WES shall be located so as to reduce or impede the amount of sunlight that would fall on an adjoining Lot absent the SES or WES.
- F) Solar Energy Systems (“SES”).
  - 1) Roof Mounted SES facilities sited on Buildings and Structures used for purposes other than agricultural and one and two family residential Dwellings shall be permitted subject to site plan review and approval by the Planning Board in accordance with the requirements of § 250-49A (F) (2) below.
  - 2) Roof Mounted SES facilities on Buildings and Structures used for agricultural purposes and one and two family residential Dwellings shall be permitted without the need for site plan review and approval by the Planning Board provided such facilities meet the following standards:
    - a) SES facilities on a peaked, gable, hip, or mansard roof shall meet the following requirements:
      - (1) The SES must either be mounted parallel to the roof surface or tilted with no more than an 18 inch gap between the module frame and the roof surface;

- (2) The SES and all its components must be installed in accordance with the SES manufacturer's specifications and comply with all applicable New York State Building Codes and the National Electrical Code, as amended; and
- (3) The SES and all its components shall not extend above the height of the roofline.
  - b) SES facilities on flat roofs having no parapet shall be located no less than three feet from the edge of any part of the roof edge and no more than three feet above the height of the roof.
  - c) SES facilities on flat roofs with a parapet shall be located no less than three feet from the parapet and may not extend above the greater of the height of the parapet or three (3) feet.
  - d) The SES facility shall use dark tone, non-reflective color, for the framing supporting the solar panels.
  - e) All utility services and electrical wiring shall be underground or shall be placed within the walls or within unobtrusive conduit and attached securely to the structure.
  - f) No signs, except for safety and signs required by any other regulatory or permitting authority, are permitted.
- 3) Roof Mounted SES applicants who qualify shall utilize the New York State Unified Solar Permit Application, as amended. All such applications shall be submitted to the Zoning Administrator. The Zoning Administrator shall review and approve applicants who meet the criteria and requirements contained therein. Applicants who are approved by the Zoning Administrator shall not be subject to site plan review and approval by the Planning Board.
- 4) Ground Mounted SES facilities located on premises used for any purpose shall be subject to site plan review and approval by the Planning Board.
- 5) In addition all Ground Mounted SES facilities shall comply with the following requirements:
  - a) Area and Bulk Regulations for the Zoning District in which the Lot is located;
  - b) Must be sited entirely behind the Front Building Line of the Principal Building on the Lot.

- c) No part of the SES shall exceed fifteen (15) feet in height above the finished grade of the site on which it is mounted when adjusted to the angle of maximum efficiency.
- d) The square footage of the SES panel or panels shall not exceed the Principal Building's footprint.
- e) Screened from adjacent properties to the extent practicable by fencing or a combination of berms, fencing, and evergreen and deciduous plantings. Plantings used for screening shall be of such a height and width, so as to obscure the SES from adjacent properties. All screening must be maintained for the life of the SES facilities.
- f) No lights used for illumination of an area shall be affixed to the Ground Mounted SES.
- g) Electrical wiring from the Ground Mounted SES facility to the utility interconnection shall be located underground.
- h) The SES facility shall be removed once it is no longer in service in accordance with § 250-49A I below.

G) Wind Energy Systems ("WES").

- 1) Roof Mounted WES facilities are prohibited.
- 2) Site plan review and approval by the Planning Board shall be required for any Ground Mounted WES facility.
- 3) Ground Mounted WES facilities shall be permitted subject to the following:
  - a) Ground Mounted WES facilities located on Lots of less than one-half (0.5) acre are prohibited.
  - b) Ground Mounted WES facilities on any Lot of any size in the Hamlet (H), the Residential Hamlet (RH), the Medium Density Residential (MR1), and the Clustered Residential (CR1) Zoning Districts, and on any Lot in any Zoning District of one half acre (0.5) acre up to one (1) acre in size are permitted provided the overall blade length (i.e. radius) shall not exceed three (3) feet.

- c) Ground Mounted WES facilities, utilizing a blade style design, sited on a Lot of greater than one acre in size may exceed a blade length (i.e. radius) of three (3) feet provided such lot is not located in the Hamlet (H), the Residential Hamlet (RH), the Medium Density Residential (MR1), or the Clustered Residential (CR1) Zoning Districts.
- d) Anchor points for guy wires for the WES tower shall be located within the Lot and not on or across any aboveground electric transmission, distribution or cable line.
- e) Each WES system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application for site plan approval shall include a statement by a New York State registered professional engineer certifying that the rotor and over speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer shall also certify the structural compatibility of potential towers with available rotors. This certification shall include the distance and trajectory of the thrown blade from an exploding turbine or propeller according to the "Loss of Blade Theory".
- f) The base of the tower shall be completely enclosed by a locked, protective fence of at least six feet in height. The Planning Board may require additional security measures as it may deem necessary to prevent unauthorized access to the tower including measures to prevent persons from climbing the tower. Screening shall be maintained in a condition as approved by the Planning Board.
- g) Ground Mounted WES facilities shall meet all Area and Bulk Regulations for the Zoning District in which the Lot is located and shall not be located nearer to an adjoining Lot or Building than the required setback.
- h) Ground Mounted WES facilities are prohibited in any Front Yard and shall be located behind the Front Building Line of the Lot's Principal Building.
- i) Ground Mounted WES facilities shall comply with Area and Bulk Regulations for the Zoning District in which the Lot is located and must be set back from the Lot Line a distance of no less than 1.5 times the height of the WES support tower. The siting of Ground Mounted WES facilities behind the Principal Structure Front Building Line is strongly encouraged. In addition the following requirements shall be satisfied:
  - (1) All utility services and electrical wiring shall be underground.

- (2) No television, radio or other communication antenna may be affixed or otherwise made a part of a WES.
  - (3) No lights used for illumination of an area shall be affixed to a WES unless required by any regulatory or permitting agency.
  - (4) The location, design, color, materials and finish of the WES facility shall limit its visual impact on surrounding properties, and to minimize noise from the WES to adjacent and nearby properties.
  - (5) Any base station equipment associated with the WES shall be screened from adjacent properties to the extent practicable by fencing or a combination of berms, fencing, and evergreen and deciduous plantings. Plantings used for screening shall be of such a height and width, at the time of planting, so as to obscure the WES from adjacent properties. Plantings shall be maintained in a condition as approved by the Planning Board.
  - (6) No signs, except for safety and signs required by any regulatory or permitting agency, are permitted.
  - (7) The WES facility shall be removed once it is no longer in service in accordance with § 250-49A I below.
- H) In its review of an application for approval of an SES or WES facility the Planning Board is authorized to require such additional information as it may deem necessary to properly evaluate the potential visual and public health effects of the SES or WES facility including, but not limited to:
- 1) Photo simulation of the proposed SES or WES facility, with the baseline pictures taken from locations approved by the Planning Board;
  - 2) Structural analysis as to the adequacy of the equipment and structures necessary to support the SES or WES facility; and
  - 3) Noise assessment pursuant to New York State Department of Environmental Conservation guidance document “Assessing and Mitigating Impacts”, as amended.
- I) If a SES or WES facility ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the SES or WES facility as well as its

attendant equipment and structures no later than 90 days after the end of the twelve (12) month period. Failure to remove a SES or WES facility within said period shall constitute a Zoning Violation under chapter 137 of the Town Code.

5. If any section, subsection or specific part or provision or standard of this Local Law or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such section, subsection or specific part or provision or standard shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions thereof.
6. To the extent that any provision of this chapter is inconsistent with Town Law §§ 263, 274-a, 274-b or any other provision of Article 16 of the Town Law, or of the Energy Law, or of Real Property Law, the provisions of this chapter are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.
7. This Local Law shall take effect immediately upon filing with the Secretary of State.