Local Law No. __ of 2019, entitled:

"Solar and Wind Energy Systems Law"

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

1. Section 105 of Chapter 250 of the Town Code is hereby amended repealing and removing the following definitions contained therein: ACCESSORY STRUCTURE and SOLAR ENERGY SYSTEM ("SES") and adding the following new or revised definitions:

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 Energy and Wind Energy Systems. See also "Structure".

Building-Integrated Solar Energy System - A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

Farmland of Statewide Importance - Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

Glare - The effect by reflections of light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System - A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, which generates electricity for onsite or offsite consumption.

Perennial Vegetation - Perennial Vegetation shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

Prime Farmland - Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil

Survey, that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, and oilseed crops and is also available for these land uses.

Roof-Mounted Solar Energy System - A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

Solar Access - Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

Solar Energy Equipment - Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

Solar Energy System - The components and subsystems required to convert solar energy into electrical energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

A. Tier 1 Solar Energy Systems include the following:

a. Roof-Mounted Solar Energy Systems

b. Building-Integrated Solar Energy Systems

B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months, or estimated usage over the previous 12 months based on new construction.

C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electricity.

Storage Battery - A device that stores electrical energy and makes it available in an electrical form.

2. Chapter 250 of the Town Code is hereby amended by repealing the existing Section 250-49.1 in its entirety and replacing it with a new Section 250-49.1 which shall read as follows:

§ 250-49.1 Solar Energy Systems.

A. **Purpose and objectives.** The proliferation of Solar Energy Systems as environmentally friendly and cheaper energy alternatives is 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 Solar Energy Systems and the need for the services they provide. This section regulates Solar Energy System installations to ensure that any proposed Solar Energy System is designed, located, and installed in accordance with the purposes and objectives of this Chapter by:

(1) Promoting the health, safety, and welfare of the residents of the Town.

(2) Taking advantage of a safe, abundant, renewable, and non-polluting energy resource.

(3) Decreasing the use of fossil fuels, thereby reducing the carbon footprint of the Town

(4) Decreasing the cost of electricity to the owners of residential and commercial properties, including single-family houses.

(5) Making the community more resilient during a storm event.

(6) Diversifying energy resources to decrease dependence on the grid.

(7) Mitigating the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources.

(8) Minimizing the adverse visual effects of Solar Energy Systems on the Town.

(9) Protecting the natural features, aesthetics and rural character of the Town through careful planning, design, location, buffering, and screening.

(10) Avoiding potential damage to adjacent properties from falling or flying debris from Solar Energy Systems through careful engineering and reasonable siting of the Solar Energy System.

B. Applicability

(1) The requirements of this Section shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Section, excluding general maintenance and repair which shall include cleaning solar panels and inverters, replacing faulty electrical components, and updating monitoring equipment.

(2) Solar Energy Systems constructed or installed prior to the effective date of this Section shall not be required to meet the requirements of this Section.

(3) Modifications to an existing Solar Energy System that increase a Tier 2 Solar Energy System's area by more than 25% of the original land area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Section.

(4) Modifications to an existing Solar Energy System that increase a Tier 3 Solar Energy System's area by more than 10% of the original land area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Section.

(5) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State

Uniform Fire Prevention and Building Code ("Building Code"), the New York State Energy Conservation Code ("Energy Code"), and the Town Code.

C. General Requirements – In its review of an application for approval of a Solar Energy System, the Planning Board is authorized to require such additional information as it may reasonably deem necessary to properly evaluate the potential visual and public health effects of the Solar Energy System, including but not limited to:

(1) Photo simulation of the proposed Solar Energy System, with the baseline pictures taken from locations approved by the Planning Board. Use of other visual assessment methods may be considered by the Planning Board.

(2) Structural analysis as to the adequacy of the equipment and structures necessary to support the Solar Energy System.

Issuance of permits and approvals by the Planning Board may include review pursuant to the State Environmental Quality Review Act (SEQRA).

D. Permitting Requirements for Tier 1 Solar Energy Systems - All Tier 1 Solar Energy Systems, including Roof-Mounted and Building-Integrated Solar Energy Systems, shall be permitted in all Zoning Districts and shall be exempt from site plan review or approval by the Planning Board, subject to the following conditions for each type of Solar Energy Systems:

(1) Roof-Mounted Solar Energy Systems

(a) Roof-Mounted Solar Energy Systems shall incorporate the following design requirements:

[1] Solar Panels on pitched roofs shall be installed with a maximum distance of 12 inches between the roof surface and the highest point of the system.

[2] Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.

[3] Solar Panels on flat roofs with a parapet shall be located no less than 3 feet from the parapet and shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.

[4] Solar Panels on flat roofs having no parapet shall be located no less than 3 feet from the edge of any part of the roof edge and no more than 24 inches above the flat surface of the roof.

(b) Glare. All Solar Panels shall have anti-reflective coating(s). The Solar Energy System shall use dark-tone, non-reflective color for the framing supporting the Solar Panels. All solar panels shall be installed so as to prevent Glare that is perceptible beyond the boundaries of the Lot on which the Solar Energy System is located.

(c) Height. All Roof-Mounted Solar Energy Systems shall comply with the height limitations set forth in Appendix 3 hereto "Maximum Height Requirements".

(d) The Solar Energy System and all of its components must be installed in accordance with the Solar Energy Systems manufacturer's specifications and comply with all applicable Building Codes and the National Electrical Code (hereinafter "NEC"), as amended.

(e) All utility services and electrical wiring shall be underground or shall be placed within the walls or within a 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 on the Solar Energy System.

(2) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the Solar Energy System.

(3) Roof-Mounted Solar Energy Systems 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.

E. Permitting Requirements for Tier 2 Solar Energy Systems - Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25 kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months, or an estimated usage of no more 110% of the electricity consumed on the site over the previous 12 months based on new construction. All Tier 2 Solar Energy Systems shall be permitted in all Zoning Districts and shall be subject to site plan review or approval by the Planning Board under the local zoning code or other land use regulations. In addition, all Tier 2 Solar Energy Systems shall be subject to the following conditions:

(1) Glare. All Solar Panels shall have anti-reflective coating(s). The Solar Energy System shall use dark-tone, non-reflective color for the framing supporting the Solar Panels. All Solar Panels shall be installed so as to prevent Glare that is perceptible beyond the boundaries of the Lot on which the Solar Energy System is located.

(2) Setbacks. Tier 2 Solar Energy Systems shall comply with the setback regulations set forth in Appendix 2 hereto.

(3) Tier 2 Solar Energy Systems shall comply with the height limitations set forth in Appendix 3 hereto.

(4) Screening and visibility.

(a) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties by fencing or a combination of berms, fencing, and evergreen or deciduous plantings. All screening must be maintained for the life of the Solar Energy System and until time as the Solar Energy System is decommissioned in accordance with the requirements of paragraph G. (8) below.

(b) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate Solar Access.

(5) Lot size. Tier 2 Solar Energy Systems shall comply with the existing Lot size requirement specified for Accessory Structures, as defined in § 250-105, within the underlying Zoning District.

G. Permitting Requirements for Tier 3 Solar Energy Systems - Tier 3 Solar Energy Systems include any Solar Energy Systems that cannot be defined as Tier 1 or Tier 2 systems. All Tier 3 Solar Energy Systems are permitted through the issuance of a special use permit within the Very Low-Density Agricultural Residential (AR5), Low-Density Agricultural Residential (AR3), Medium-Density Residential (MR1), and Office-Light Industrial (I) Zoning Districts, and subject to site plan application requirements set forth in § 250-97 (Special Use Permits). The following procedures and requirements shall apply to Tier 3 Solar Energy Systems:

(1) Applications for the installation of Tier 3 Solar Energy System shall be subject to the procedures and requirements of § 250-97 pertaining to Special Use Permits.

(2) Underground requirements. All on-site utility lines shall be placed underground as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

(3) Vehicular paths. Vehicular paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.

(4) Signage.

(a) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within a maximum area no more than 6 square feet per sign.

(b) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(5) Glare. All Solar Panels shall have anti-reflective coating(s). The Solar Energy System shall use dark-tone, non-reflective color for the framing supporting the Solar Panels. All solar panels shall be installed so as to prevent Glare that is perceptible beyond the boundaries of the lot on which the Solar Energy System is located.

(6) Lighting. Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

(7) Tree cutting. Removal of existing trees larger than 6 inches in diameter measure at 4 feet from the ground should be minimized to the extent possible.

(8) Decommissioning

(a) Solar Energy Systems that have been abandoned and/or not producing electricity for a period of 1 year shall be removed at the Owner and/or operators expense, which at the Owner's option may come from any security made with the Town of Clinton as set forth in **Permit Time Frame and Abandonment (I)**, **Section (2)**.

(b) The applicant must submit a decommissioning plan, as provided for in Appendix 4 hereto signed by the Owner and/or operator of the Solar Energy System shall be submitted by the applicant, which shall address the following:

[1] The cost of removing the Solar Energy System, required for the purpose of determining the amount of the security bond or the decommission agreement.

[2] The time required to decommission and remove the Solar Energy System, ancillary structures and any attendant screening which time shall not exceed six months from the date the Solar Energy System was abandoned and/or not producing electricity for a period of one year.

[3] The time required to restore the property to usable condition and remove the Solar Energy System, ancillary structures and any attendant screening which

time shall not exceed six months from the date the Solar Energy System, ancillary structures and any attendant screening has been removed.

(c) Security.

[1] The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restorations of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. The decommissioning amount shall be reduced by the amount of the estimated salvage value of the Solar Energy System.

[2] In the event of default upon performance of such conditions, after proper notice by registered mail and expiration of any cure periods, the cash deposit, bond, or security shall be deemed forfeited to the Town, which shall be entitled to maintain an action thereon. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.

[3] In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in **Permit Time Frame and Abandonment (I), Sections (2) and (3)**.

[4] In lieu of such a removal bond, the Planning Board, in its discretion, may permit the Owner and/or operator to enter into a decommission agreement with the Town which provides, in relevant part, that if the decommission of the site is not completed within six months of the time period specified in Subsection G(8)(b)[2] above, and/or the restoration is not completed within the time period specified in Subsection G(8)(b)[3] above, the Town may, at its own expense, enter the property and remove or provide for the removal of the Solar Energy System, ancillary structures and any attendant screening and/or the restoration of the site, as the case may be, in accordance with the

decommissioning plan. Such agreement shall provide, in relevant part, that the Town may recover all expenses incurred for such activities from the defaulting property Owner and/or operator. The cost incurred by the Town shall be assessed against the property and shall become a lien and tax upon said property and shall be added to and assessed as part of the taxes to be levied and assessed thereon and enforced and collected with interest in the same manner as other taxes. This provision shall not preclude the Town from collecting such costs and expenses by any other manner by action in law or in equity. In the event of any such legal proceedings, the Owner and/or operator, as the case may be, shall be liable for all legal expenses, costs and disbursements in connection with said litigation, as awarded by a court of competent jurisdiction. Upon a majority vote of the Planning Board the Chairperson of the Planning Board is authorized to execute the decommission agreement on behalf of the Town.

(9) Site plan application. For any Solar Energy system requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:

(a) Property lines and physical features, including roads, for the project site.

(b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.

(c) A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all NEC compliant disconnects and over current devices. (d) A preliminary equipment specification sheet that documents all proposed Solar Panels, significant components, mounting systems, energy storage devices, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.

(e) Name, address, and contact information of the proposed or potential system installer and the Owner and/or operator of the Solar Energy System. Such information of the final system installer shall be submitted prior to the issuance of

building permit. (f) Name, address, phone number, and signature of the project applicant, as well as all the property Owners, demonstrating their consent to the application and the use of the property for the Solar Energy System.

(g) Zoning District designation for the parcel(s) of land comprising the project site.

(h) A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.

(i) Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

(10) Prior to the issuance of the building permit or final approval by the Planning Board, all engineering documents must be signed and sealed by a New York State Licensed Professional Engineer or New York State Registered Architect, such engineering documents are not required to be submitted as part of the initial application

(11) Special Use Permit Standards.

(a) Lot size. The property on which the Tier 3 Solar Energy System is placed shall meet the Lot size requirements set forth in Appendix 1.

(b) Setbacks. The Tier 3 Solar Energy Systems shall meet the setback requirements set forth in Appendix 2.

(c) Height. The Tier 3 Solar Energy Systems shall comply with the height limitations set forth in Appendix 3 depending on the underlying Zoning District the Solar Energy System is located within.

(d) Lot coverage.

[1] The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for Lot coverage requirements:

[a] Foundation systems, typically consisting of driven piles, monopoles, or helical screws with or without small concrete collars.

[b] All mechanical equipment of the Solar Energy System, including any pad-mounted structure for batteries, switchboard, transformers, or storage cells.

[c] Paved access roads servicing the Solar Energy System.

[2] Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum Lot coverage requirement of the underlying Zoning District.

(e) Fencing requirements. All mechanical equipment, including any structure for Storage Batteries, shall be enclosed by a 7-foot-high fence, as required by NEC, with a self-locking gate to prevent unauthorized access.

(f) Screening and visibility

[1] Solar Energy Systems shall have views minimized from adjacent properties using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

[2] Solar Energy Systems applicants shall be required to:

[a] Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.

[b] Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties.

(g) The screening and landscaping plan shall specify the locations, elevations, height, plant species, and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system, following the applicable rules and standards established by the Town.

(h) Agricultural resources. For projects located on agricultural lands the following standards and requirements shall be complied with:

[1] Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance shall not exceed 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel.

[2] Tier 3 Solar Energy Systems on Prime Farmland or Farmland of Statewide Importance shall be required to seed 20% of the total surface area of all Solar Panels on the Lot with Perennial Vegetation.

[3] Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets, if applicable.

[4] Tier 3 Solar Energy System Owners shall develop, implement, and maintain Perennial Vegetation to the extent practicable pursuant to a vegetation management plan, which shall be submitted prior to final approval. The vegetation management plan shall provide for Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and regional fauna. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the Owners shall not use prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

(12) Ownership changes. If the Owner or operator of the Solar Energy System changes or the Owner of the property changes, the special use permit shall remain in effect, provided that the successor Owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, decommissioning plan, and security bond or decommission agreement. A new Owner or operator of the Solar Energy System shall notify the Zoning Administrator of such change in ownership or operator within 30 days of the ownership change.

H. Safety

(1) Solar Energy Systems and Solar Energy Equipment shall be certified under the Building Code, the Energy Code and the NEC, as required.

(2) If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of the Building Code, the Energy Code and the NEC, as required when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

(3) All Solar Panels installations must be performed by a qualified installer.

(4) Prior to operation, electrical connections must be inspected by the Building Inspector and by an appropriate electrical inspection person or agency, as determined by the Town.

(5) Any connection to the public utility grid must be inspected by the appropriate public utility.

(6) Solar Energy Systems shall be maintained in good working order.

(7) Marking of equipment.

(a) Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the Solar Energy System. Materials used for marking shall be weather-resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

(b) For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

(c) In the event any of the standards in this Subsection H. for markings are more stringent than applicable provisions of the Building Code or the Energy Code, they shall be deemed to be guidelines only and the standards of the Building Code or the Energy Code shall apply.

I. Permit Time Frame and Abandonment

(1) The special use permit and site plan approval for a Solar Energy System shall be valid for a period of 18 months, provided that a building permit is issued for construction or construction is commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved by the Planning Board, within 18 months after approval, the applicant or the Town may extend the time to complete construction for 180 days. If the Owner and/or operator fails to perform substantial construction after 24 months, the approvals shall expire.

(2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for 12 months, the Solar Energy System shall be deemed abandoned and the Town may notify and instruct the Owner and/or operator of the Solar Energy System to implement the decommissioning plan by sending notice to the Owner/or operator by regular mail. The decommissioning plan must be completed within 180 days of the mailing of this notification, or within the time frame specified in the decommissioning agreement.

(3) If the Owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan. If alternatively, a decommission agreement has been executed the Town may take such action as is authorized therein.

J. Enforcement

Any violation of this § 250-49.1 shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in §250-102. Enforcement proceedings may be

commenced in Town of Clinton Justice Court by the Zoning Administrator, the Attorney for the Town or Town Attorney. Any enforcement action must be authorized pursuant to a Town Board resolution.

3. Chapter 250 of the Town Code is hereby amended by adding a new Section 250-49.2 which shall read as follows:

§ 250-49.2 Wind Energy Systems.

A. Purpose and objectives. The proliferation of Wind Energy Systems as environmentally friendly and cheaper energy alternatives is expected in the coming years. This equipment and the installation thereof must be reasonably regulated to coordinate and control the same and to preserve and protect the aesthetic qualities of the Town and its neighbors. The Town recognizes the demand for Wind Energy Systems and the need for the services they provide. This section regulates Wind Energy System installations to ensure that any proposed Wind Energy System is designed, located, and installed in accordance with the purposes and objectives of this Chapter by:

(1) Promoting the health, safety, and welfare of the residents of the Town.

(2) Minimizing the adverse visual effects of Wind Energy Systems on the Town.

(3) Protecting the natural features, aesthetics, and rural character of the Town through careful planning, design, location, buffering, and screening to a practicable height.

(4) Avoiding potential damage to adjacent properties from falling or flying debris from Wind Energy System facilities through careful engineering and reasonable siting of Wind Energy Systems.

B. The primary purpose of any Wind Energy System facility shall be to provide power for the Principal Use of the Lot on which 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 occasional sale of excess power generated from a Wind Energy System otherwise designed to meet the energy needs of the Principal Use.

E. General Requirements

(1) No Wind Energy System shall be located or operated so as to impede the function of any other preexisting Wind Energy System or of any radio, telephone, or microwave communications device.

(2) No Wind Energy System shall be located so as to reduce or impede the amount of sunlight that would fall on an adjoining Lot absent the Wind Energy System.

(3) Roof-Mounted Wind Energy Systems are prohibited.

(4) Site plan review and approval by the Planning Board shall be required for any Ground-Mounted Wind Energy System.

(5) Ground-Mounted Wind Energy System shall be permitted subject to the following requirements:

(a) Ground-Mounted Wind Energy Systems located on Lots of less than 0.5 acre are prohibited.

(b) Ground-Mounted Wind Energy Systems 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 0.5 acre up to 1 acre in size are permitted, provided that the overall blade length (i.e., radius) shall not exceed 3 feet and the other applicable requirements of this Section are meet.

(c) Ground-Mounted Wind Energy Systems, utilizing a blade-style design, sited on a Lot of greater than 1 acre in size may exceed a blade length (i.e., radius) of 3 feet, provided that 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 Wind Energy System tower shall be located within the Lot and not on or across any aboveground electric transmission, distribution, cable line, or telephone line.

(e) Each Wind Energy 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 overspeed 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 6 feet in height. The Planning Board may require additional security measures that it may deem necessary to prevent unauthorized access to the tower, including measures to prevent unauthorized persons from climbing the tower. Screening shall be maintained in a condition as approved by the Planning Board.

(g) Ground-Mounted Wind Energy Systems 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 Wind Energy Systems shall be set back at least 300’ from the front line of the Lot.

(i) Ground-mounted Wind Energy Systems shall comply with all 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 1.5times the height of the Wind Energy System support tower. In addition, the following requirements shall be satisfied:

[1] All utility services and electrical wiring shall be underground.

[2] No television, radio, or other communications antenna may be affixed or otherwise made a part of a Wind Energy System.

[3] No lights used for illumination of an area shall be affixed to a Wind Energy System unless required by the Planning Board.

[4] The location, design, color, materials, and finish of the Wind Energy System shall limit its visual impact on surrounding properties and minimize noise from the Wind Energy System to adjacent and nearby properties.

[5] Any base station equipment associated with the Wind Energy System 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 at least 6 feet in height and sufficient in width, at the time of planting, so as to obscure the Wind Energy System from adjacent properties. Plantings shall be maintained in a condition as approved by the Planning Board.

[6] No signs, except for safety, emergency contact information, and signs required by any regulatory or permitting agency, are permitted.

[7] The Wind Energy System shall be removed once it is no longer in service in accordance with §250-49.2 I., below.

H. In its review of an application for approval of a Wind Energy System, the Planning Board is authorized to require such additional information that it may deem reasonably necessary to properly evaluate the potential visual and public health effects of the Wind Energy System, including but not limited to:

(1) Photo simulation of the proposed Wind Energy System, 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 Wind Energy System, performed by a New York State licensed engineer.

(3) Noise assessment pursuant to New York State Department of Environmental Conservation guidance document “Assessing and Mitigating Impacts,” as amended.

I. If a Wind Energy System ceases function for more than 12 consecutive months, the property Owner shall remove the Wind Energy System as well as its attendant equipment and structures no later than 180 days after the end of the 12-month period, or within the time frame specified in the decommissioning agreement. Failure to remove a Wind Energy System as well as its attendant equipment and structures within this period shall constitute a violation.

J. Any violation of this § 250-49.2 shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in §250-102. Enforcement proceedings may be commenced in Town of Clinton Justice Court by the Zoning Administrator, the Attorney for the Town or Town Attorney. Any enforcement action must be authorized pursuant to a Town Board resolution.

3. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.

4. This Local Law is adopted pursuant to § 261-263 of the Town Law and § 20 of the Municipal Home Rule Law of the State of New York, which authorize the Town to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and, in accordance with Town Law of New York State, “to make provision for, so far as conditions may permit, the

accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

5. 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.

6. This Local Law shall take effect immediately upon filing with the Secretary of State.