

§Chapter 250: Zoning
Article V Supplementary Regulations

§250-29. — Accessory ~~dwelling-unit~~Dwelling Units.

- A. Intent. Accessory ~~dwelling-unit~~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 ~~A~~accessory ~~dwelling-unit~~Dwelling Units, within the ~~P~~principal ~~structure~~Structure or ~~detached~~Detached, shall meet the following requirements:
- (1) Only one ~~A~~accessory ~~U~~nit is allowed per ~~lot~~Lot, and it shall be clearly subordinate to the ~~principal-use~~Principal Use on the ~~lot~~Lot.
 - (2) The ~~lot~~Lot may not be an existing ~~N~~nonconforming ~~lot~~Lot of less than the prescribed ~~lot-area~~Lot Area or ~~lot~~Lot ~~W~~idth required in the ~~district~~Zoning District.
 - (3) No ~~A~~accessory ~~dwelling-unit~~Dwelling Unit shall be created on a ~~lot~~Lot where two or more ~~dwelling~~Dwellings exist in violation of the permitted density, or as a ~~N~~nonconforming ~~U~~se, in the ~~district~~Zoning District in which the ~~lot~~Lot is located. No ~~A~~accessory ~~Dwelling U~~nit shall be created on a ~~lot~~Lot where a ~~T~~wo-~~F~~amily or ~~M~~ultifamily ~~dwelling~~Dwelling exists.
 - (4) The ~~O~~wner of the ~~lot~~Lot on which more than one ~~a S~~single-~~F~~amily ~~dwelling-unit~~Dwelling Unit exists shall occupy at least one of the ~~dwelling-unit~~Dwelling Units.
 - ~~(1) — The number of bedrooms in the unit shall not be more than two.~~
 - (5) The ~~A~~accessory ~~Dwelling U~~nit shall contain no greater than 35% of the total ~~habitable space~~Gross ~~F~~loor ~~A~~area of the existing ~~P~~principal ~~structure~~Structure prior to the construction of such ~~A~~accessory ~~apartment-dwelling-unit~~Dwelling Unit or 1,000 square feet of ~~G~~ross ~~F~~loor ~~space~~Aarea, whichever is more restrictive. The ~~G~~ross ~~F~~loor ~~space~~Aarea of the ~~A~~accessory ~~Dwelling U~~nit shall be a minimum of 400 ~~gross~~ square feet. The area of the ~~P~~principal ~~dwelling-unit~~Dwelling Unit shall not

be reduced below the area required ~~herein (see § by §250-48, Dwelling~~Dwelling
~~standards). "Habitable space" shall be that as defined in the NYS Uniform Fire~~
~~Prevention and Building Code Standards, of this Chapter in order to accommodate the~~
~~A~~Accessory Dwelling Unit. If the ~~A~~Accessory Dwelling Unit is larger
than ~~this~~the maximum size limitation herein and is
Attached to or located within the ~~Pr~~principal ~~single family~~Single-Family ~~S~~structure,
then the ~~building~~Building is a ~~T~~two-F~~family~~ ~~dwelling-unit~~Dwelling Unit, and must
conform to the conditions for ~~that a~~ special-use permitSpecial Use Permit, including the
Town of Clinton Zoning Law Update acreage requirement. If the ~~A~~Accessory Dwelling
~~U~~nit is larger than this size limitation and is in a ~~detached~~Detached structureStructure,
then the new ~~dwelling-unit~~Dwelling Unit is a separate ~~S~~single-F~~family~~ ~~dwelling-~~
~~unit~~Dwelling Unit, and ~~subdivision~~Subdivision must take place¹

~~(5)~~(6) The Accessory Dwelling unit shall be self-contained, with separate cooking,
sleeping, and sanitary Facilities for use by the occupant(s).

~~(6)~~(7) The Accessory Dwelling Unit ~~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~~Structure.

~~(2)~~ No ~~special-use permit~~Special Use Permit for an Accessory Dwelling Unit shall be
granted unless the applicant can demonstrate that the water supply and sewage disposal
systems serving the ~~building~~Building or ~~building~~Buildings in question meet current
County Health Department requirements and shall

1.—Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(8) continue e such requirements. The Planning Board may require that the applicant have sufficient ~~lot area~~Lot Area to allow for future replacement of the Sseptic Ssystem.²

~~(7)~~(9) Stairways leading to any floor or sstory above the first floor shall be located within the walls of the ~~building~~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 Sstreet.

~~(8)~~(10) Any legally established Accessory Dwelling Unit that is in existence at the time of the adoption of this Chapter or subsequent amendment and which fails to conform to one or more provisions of this Chapter shall be subject to the provisions of Article VI, Nonconforming Uses. Any illegally established Accessory Dwelling Unit in existence at the time of the adoption of this Chapter or subsequent amendment which fails to conform to one or more provisions of this Chapter shall be in violation of this Chapter and shall be brought into compliance with this Chapter.

C. Accessory ~~dwelling-unit~~Dwelling Unit within ~~P~~principal ~~structure~~Structure. In addition to the provisions specified in Subsection B above, ~~A~~accessory ~~dwelling-unit~~Dwelling Units within or ~~A~~attached to a ~~P~~principal ~~structure~~Structure shall meet the following requirements:

(1) The total acreage required for the ~~S~~single-~~F~~family ~~dwelling-unit~~Dwelling with the ~~A~~accessory ~~dwelling-unit~~Dwelling Unit within the ~~P~~principal ~~structure~~Structure is the same as the acreage required for a ~~S~~single-~~F~~family ~~dwelling-unit~~Dwelling Unit in the ~~Z~~oning ~~district~~District in which it is located, except as may be required by Subsection B (9) above.

~~(3) No accessory dwelling unit within a principal structure shall be allowed in buildings issued a certificate of occupancy after the effective date of this chapter, except buildings covered by § 250-92E.~~

(2) e

D. Accessory ~~dwelling-unit~~Dwelling Unit in existing gatehouse, garage, barn, or similar ~~detached~~Detached structureStructure. An ~~A~~accessory ~~dwelling-unit~~Dwelling Unit is allowed under this ~~S~~subsection in a gatehouse, garage, barn or similar ~~detached~~Detached structureStructure which may legally exist at the time the ~~A~~accessory ~~dwelling-unit~~Dwelling Unit is proposed. For the purpose of this ~~S~~section, any ~~structure~~Structure which does not have at least one wall in common with the ~~P~~principal ~~structure~~Structure is a ~~detached~~Detached structureStructure. A common roof, patio, porch or breezeway shall not be construed as causing such an ~~accessory-structure~~Accessory Structure to be within the ~~P~~principal ~~building~~Building. In addition to the provisions in Subsection B above, ~~A~~accessory ~~dwelling-unit~~Dwelling Units in ~~detached~~Detached structureStructures shall meet the following requirements:

(1) The ~~accessory-structure~~Accessory Structure must meet the minimum ~~setback~~Setback requirements established for the construction of a ~~P~~principal ~~structure~~Structure in the ~~Z~~oning ~~district~~District as prescribed in the Schedule of ~~Area and Bulk Regulations~~Area and Bulk Regulations.³

~~(4)~~ Construction associated with adaptation of ~~building~~Buildings should be performed in a

way that

2.—Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3.—Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

~~§ 250-29~~ retains the character of the ~~structure~~Structure. The design and construction of the ~~§ 250-29~~
adaptation of the ~~building~~Building shall be compatible with the ~~P~~p principal
~~structure~~Structure and with the character of the neighborhood.

- (5) ~~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.~~

~~§ 250-29~~ ~~(2)(3)~~ ~~§ 250-29~~
The applicant shall acknowledge in writing to the Planning Board of the Town of Clinton, with a copy to be filed with the Zoning Administrator, the understanding that, should ~~subdivision~~ Subdivision of the parcel later be proposed, not less than the minimum specified acreages must be provided for the principal ~~dwelling~~ Dwelling and its Accessory Dwelling Unit, if their Certificates of Occupancy are to be maintained.

B.E. Accessory dwelling-unit Dwelling Unit in Nonresidential building Building.

(1) The unit shall not exceed 50% of the total ~~usable~~ Gross Floor Area of the Commercial building Building.

(4)

(2) The unit is limited to the second floor and/or to the rear of the first floor of the Commercial building Building.

(3) The total acreage required for the commercial building Building with the Accessory dwelling-unit Dwelling Unit within the Principal ~~structure~~ Structure is the same as the acreage required for the ~~commercial-use~~ Commercial Use in the Zoning district District in which it is located.

(4) In no case will Accessory Dwelling Units be allowed in the same building 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-use-permit~~ Special Use Permit application if it determines that the primary business Use may create a hazard for the Accessory Residential Use.⁴

Chapter 250: Zoning
Article V Supplementary Regulations

§ 250-32: ~~Animal husbandry~~Animal Husbandry.

The purpose of the ~~animal husbandry~~Animal Husbandry Section of this Chapter shall be to provide opportunities for ~~animal husbandry~~Animal Husbandry and to encourage 4-H projects on ~~R~~esidential parcels in a manner which will not conflict with neighboring non-~~A~~gricultural ~~R~~esidential ~~U~~ses or other purposes of this Chapter.

A. General.

- (1) All ~~animal husbandry~~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~~District, and ~~A~~gricultural management practices recommended by Cornell Cooperative Extension to the extent permitted by this Chapter.
- (2) Manure ~~S~~storage shall be covered or contained in a ~~structure~~Structure to prevent leaching when within 200 feet of any public water supply, ~~lake~~Lake, state-regulated ~~wetland~~Wetland or neighbor's residence.
- ~~(3)~~—All outdoor areas used by animals shall be enclosed by fencing or other means sufficient

4.—Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Town of Chilton, NY
(3) to confine any animals or fowl to the premises.

~~§ 250-29~~
~~(4) Animal husbandry~~ Animal Husbandry is permitted on a minimum of three acres. ~~§ 250-32~~

B. ~~Horses, cows~~ Cows, sheep, goats.

- (1) A minimum of two acres shall be provided for the first one such ~~horse, pony, cow~~ cows, or similar large animal which is kept, grazed, fed or cared for on the property; an additional one acre shall be provided for each additional large animal. For horses and ponies, Ssee § 250-66.
- (2) A minimum of one 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 1/3 acre shall be provided for each additional medium-sized animal.
- (3) No ~~fence~~ Fenced area for such livestock shall be located within 50 feet of a neighbor's residence. All ~~area and bulk regulations~~ Area and Bulk Regulations specified in the ~~District~~ District Schedule of Area and Bulk ~~Regulations~~ Regulations shall be observed.

C. Pigs, poultry, and small animals.

- (1) A minimum of two acres shall be provided for the first hog which is kept, grazed, fed or cared for on the property; an additional one acre shall be provided for each additional hog, up to a maximum acreage requirement of 50 acres.
- (2) A minimum of two acres shall be provided for each 25 adult or fully grown chickens, ducks, geese or other fowl or birds; an additional one acre shall be provided for each additional 25 such poultry, up to a maximum acreage requirement of 50 acres. For poultry operations contained completely within ~~building~~ Buildings, the acreage requirements contained in this ~~S~~ subsection shall not apply.
- (3) No ~~building~~ Buildings or pens for the keeping of hogs or caged-type poultry shall be located within 100 feet of any property line.
- (4) ~~Building~~ Buildings or pens for the keeping of animals for fur production shall not be located within 200 feet of any property line.

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

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§250-37-~~2~~ Camps ~~or Campgrounds~~

The following regulations apply to Ceamp and Ceampgrounds:

- A. The minimum ~~lot~~Lot size of a Ceamp or Ceampground shall be 10 acres.
- B. No Ceamp or Ceampground shall be operated ~~during the months of~~between November 1st and through March 31st.
- C. No ~~structure~~Structure intended for ~~dwelling~~Dwelling purposes, including tents, shall be closer than 200 feet to any property line or ~~lake~~Lake. Said ~~structure~~Structure shall be screened from view from adjoining properties or public Hhighways by fenceFences, walls, or trees and shrubs.

5. ~~Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.~~

~~properties or public highways by fences, walls, or trees and shrubs.~~

D. Each ~~C~~camp or ~~C~~campground shall have current approval of the Dutchess County

Health Department and meet other applicable regulations of this ~~C~~chapter and the State Sanitary Code.

~~E. No amplifiers or loudspeakers, of any type, shall be installed outside of any building.~~

~~—~~ Exterior amplifiers or loudspeakers may be permitted, but shall may only be uused for emergency notices and regular announcements (from 7am to 9 pm); and shall not be uused to broadcast, music, or other sounds not related to an emergency or announcement, regulated by § 250-28

~~E. (A) regulates noise and time~~

F. No activity area or recreational ~~facility~~Facility shall be closer than 250 feet to any ~~R~~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 chapter.⁶~~

§

Article V Supplementary Regulations§250-38. ~~Camping trailer~~Camping Trailers and ~~motor homes~~camping vehicleCamping Vehicles.

- A. ~~Camping trailer~~Camping Trailers and ~~motor homes~~Camping Vehicles located on a
Ceamp site in a ~~camping trailer campground~~Ceamp or CCampground shall comply with all
provisions of Town ~~of Clinton~~-local laws ~~and ordinances~~⁷ and shall be subject to inspections
by the Zoning Administrator, the ~~Building~~Building Inspector, or other official authorized by
the Town Board.; ~~and shall meet the following conditions:~~ No Camping Vehicle greater
than 36 feet in length or eight (8) feet in width shall be permitted in a Camp or
Campground.

~~(1) (1) No camping vehicle, as defined herein, of length greater than 3036 feet or width~~
~~greater than eight feet shall be permitted in a camping trailer camp or campground;~~

~~(2) No camping vehicle, as defined herein, of area greater than 256 square feet in setup mode,~~
~~measured along the exterior walls at floor level, shall be permitted in a camping trailer~~
~~campground.~~

- B. ~~Camping trailer~~Camping Trailers and ~~motor homes~~camping vehicleCamping Vehicles
located outside a ~~camping trailer~~Ceamp or CCampground shall comply with §-250-64,-
~~Outdoor storage or parking of recreational or commercial vehicles of this C~~chapter.

Chapter 250: Zoning
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§250-42. ~~Cluster development~~Cluster Development, ~~R~~Residential.

A. Policy and authority. It is the policy of the Town, as expressed in the ~~Clinton~~
~~Master~~Town Comprehensive Plan, to provide a variety of housing options,
preserve ~~open space~~Open Space, and harmonize new development with the
traditional open, rural, wooded, ~~A~~agricultural, and hamlet landscapes of the
Town. To that end, the Town Board ~~of the Town of Clinton~~, through the
adoption of this ~~C~~ehapter, hereby adopts the provisions of §-278 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 ~~S~~section to modify applicable
provisions of this ~~C~~ehapter 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 ~~S~~section. The
regulations contained in this ~~S~~section shall constitute the rules and regulations
required by §-278 of the Town Law, setting forth criteria by which a cluster
~~subdivision~~Subdivision may be required.⁸

~~B.~~—Purposes. This provision encourages flexibility in the design and development of land in

6.—Editor's Note: See Ch. 218, Trailers and Trailer Parks.

7.—Editor's Note: See Ch. 218, Trailers and Trailer Parks.

8.—Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 250-37 order to promote the most appropriate Use of land, to facilitate the adequate and § 250-42
economical provision of street and utilities, and to preserve as permanent usable open-
spaceopen space Agricultural land, important natural, historical and cultural features,
wildlife habitathabitat, water resources, ecological systems, and scenic areas for the
benefit of present and future residents.

- (1) A Residential eluster developmentCluster Development shall achieve the following purposes:
- (a) Better protection of natural and scenic resources identified in the MasterTown
Comprehensive Plan and this Chapter than would be provided by a
conventional subdivisionSubdivision plan;

- (b) Compatibility with surrounding land ~~Uses~~ and the Town's traditional land ~~Use~~ pattern in which small hamlets contrast with ~~open-space~~ Open Space and farmlands, ~~Farm building~~ Buildings, barns and building Buildings;
 - (c) Provision of adequate ~~buffer~~ Buffers for adjoining properties;
 - (d) Contribution to Town-wide ~~open-space~~ Open Space planning by creating a system of permanently preserved usable open-space 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;
 - (e) Provision of a broader range of housing types and potentially lower housing prices by reducing the length of ~~roadway~~ Roadways and other critical ~~infrastructure~~ structure costs;
 - (f) Preservation of large areas of contiguous land ~~suitable for agriculture~~, particularly where development involves or borders active Agricultural land or land with Pprime or Iimportant Agricultural Ssoils; and
 - (g) Greater flexibility and creativity in the design of Residential ~~-subdivision~~ Subdivisions, provided that the overall density of development is no greater than what is normally allowed in the Zoning district District.
- (2) A cluster Subdivision should accomplish the above purposes by reducing the ~~lot~~ Lot size and bulk requirements contained in this Chapter, while clustering homes in those areas where they will have the least impact on natural, historical or cultural features. The Agricultural lands, ~~open-space~~ 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 ~~subdivision~~ Subdivisions, enabling the subdivided ~~lot~~ Lots to be smaller than the ~~zoning~~ Zoning District would normally require, provided that compensating buildable land is placed under ~~open-space~~ Open Space conservation easement to maintain the overall density at or below the level permitted by this Chapter.

C. Procedure.

—Any Residential ~~cluster development~~ Cluster Development shall be subject to §-250-96,

~~§ 250-37~~ Site Plan ~~Site Plans~~, and Chapter 206, ~~Subdivision~~ Subdivision of Land. It is in the ~~best~~ § 250-42
interest of the applicant and the Planning Board to determine the applicable development
pattern at the earliest possible time. If a-

—

- (1) ~~conceptual plan~~ Conceptual Plan application meets any of the cluster preference criteria listed in Subsection C(2) below, the Planning Board may use its authority to permit or require a Rresidential ~~cluster development~~ Cluster Development alternative. The Planning Board may require that the applicant submit land inventory information at the ~~conceptual plan~~ Conceptual Plan stage to assist in

~~§ 250-42~~ making such a judgment. The Planning Board may also hold a public hearing and may ~~§ 250-42~~ refer the ~~conceptual plan~~ Conceptual Plan application to the Conservation Advisory Committee following the procedure in § 250-99.

~~(2)(1)~~ An applicant for any ~~subdivision~~ Subdivision shall provide a ~~conceptual plan~~ Conceptual Plan for a cluster ~~subdivision~~ Subdivision on parcels 30 acres or larger in the C, AR5 and AR3 ~~District~~ Zoning Districts, or 10 acres or larger in the MR1, RH and H ~~District~~ Zoning Districts, or when some of the following objectives, in the judgment of the Planning Board, are better accomplished by a cluster ~~subdivision~~ Subdivision as compared to a conventional ~~subdivision~~ Subdivision with ~~R~~residential ~~lot~~ Lots occupying most of the tract:

- (a) Preservation of large areas of contiguous ~~P~~prime or ~~S~~statewide ~~I~~important ~~A~~gricultural ~~S~~soils, as defined in Article VIII;
- (b) Maintenance of the Use of land in active ~~A~~gricultural ~~land~~ production;
- (c) Protection of the ground or surface water, ~~wetland~~ Wetlands, ~~steep slope~~ Steep Slopes, ~~floodplain~~ 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 scenic and open space ~~Open Space~~ views identified as important to the Town;
- (f) Reduction in the amount of new ~~R~~roads or ~~driveway~~ Driveways obtaining access from existing ~~R~~roads;
- (g) Reduction in the amount of new ~~road~~ Rroads 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~~ Comprehensive Plan.
- (j) Protection of Hamlets, Ridgelines and Scenic and Historic Zoning Districts as found in applicable Ssections of 250-11 (Hamlets) and 250-15 (Ridgeline, Scenic and Historic Protection).

- (3) — An application for ~~C~~eluster ~~D~~evelopment shall include all plans and materials required for a conventional ~~subdivision~~Subdivision. The maximum number of ~~dwelling unit~~Dwelling Units that may be permitted and approved within a ~~eluster development~~Cluster Development shall not exceed the number of ~~lot~~Lots shown on an approvable conceptual plat for the ~~lot~~Lot-by-~~lot~~Lot development of the site for ~~S~~single-~~F~~family ~~detached~~Detached ~~dwelling~~Dwellings. Any regulations contained in this ~~C~~ehapter which restrict the number of ~~S~~single-~~F~~family ~~dwelling unit~~Dwelling Units permitted shall also restrict the number of ~~dwelling unit~~Dwelling Units permitted in a cluster proposal or requirement, including

(2) ~~§~~ § 250-26, Land designated as ~~freshwater wetland~~Wetlands or under water.

~~Lot~~Lots shown on the conventional conceptual plat shall be fully consistent with both the ~~lot area~~Lot Area and bulk requirements of the ~~Z~~zoning ~~district~~District in which the ~~eluster development~~Cluster Development is proposed and the requirements of Chapter 206, ~~Subdivision~~Subdivision of Land, for the provision of ~~S~~tstreets and other required ~~F~~facilities and improvements.

D. Standards.

- (4) — Where the ~~eluster development~~Cluster Development results in the creation of individual ~~lot~~Lots for the development of ~~S~~single-~~F~~family ~~detached~~Detached ~~dwelling~~Dwellings, the ~~M~~minimum ~~lot area~~Lot Area per ~~dwelling~~Dwelling

~~§ 250-42~~ ~~CL1589~~ Unit that may be created within a ~~cluster development~~ Cluster Development shall be ~~1/2~~ 1/2 acre.

- (2) All ~~dwelling unit~~ Dwelling Units within a ~~cluster development~~ Cluster Development shall be owner-occupied units ~~or annually rented~~. Wherever common property is approved as part of the cluster proposal, a ~~homeowners' association~~ Homeowners' Association agreement will be established under New York State law.
- (3) While A-attached or ~~detached~~ Detached ~~dwelling unit~~ Dwelling Units are permissible within a ~~cluster development~~ Cluster Development, no individual ~~structure~~ Structure shall contain more than four A-attached ~~dwelling unit~~ Dwelling Units in the C, AR5 and AR3 Zoning District ~~Districts~~, or more than six A-attached ~~dwelling unit~~ Dwelling Units in the MR1, CR1, RH and H Zoning District ~~Districts~~.
- (4) Common ~~driveway~~ Driveway Aaccess may be provided to the extent considered practical by the Planning Board. A pedestrian circulation and/or trail system ~~shall~~ should be designed and installed sufficient for the needs of residents.
- (5) Maximum ~~structure~~ Structure height within a ~~cluster development~~ Cluster Development shall be restricted to 35 feet.
- (6) The minimum separation distance between individual R-residential ~~structure~~ Structures within a ~~cluster development~~ Cluster Development shall be 50 feet in the C, AR3 and AR5 Zoning District ~~Districts~~, and 25 feet in the MR1, CR1, RH and H Zoning District ~~Districts~~.

- (7) The ~~M~~minimum ~~F~~front ~~Y~~yard ~~setback~~Setback from the ~~C~~center ~~L~~line of a public ~~roadway~~Roadway shall be no less than the normally applicable ~~setback~~Setback requirement in the ~~Zoning district~~District in which the property is located. Any other ~~area and bulk regulations~~Area and Bulk Regulations shall be determined by the Planning Board in the ~~site plan~~Site Plan review process.
- (8) Water supply and sewage disposal ~~F~~facilities shall be designed by a licensed engineer for any such ~~R~~residential ~~eluster development~~Cluster Development in accordance with the requirements of the Town ~~of Clinton~~ and the Dutchess County Health Department. Underground ~~F~~facilities may be located in areas to be set aside as permanent ~~open space~~Open Space.
- (9) Common ~~usable~~ ~~open space~~Open Space totaling not less than 60% of the total ~~eluster development~~Cluster Development site in the C and AR5 ~~Zoning District~~Districts, or 40% of the total ~~eluster development~~Cluster Development site in the AR3, MR1, CR1, RH and H ~~Zoning District~~Districts, shall be provided in perpetuity as part of the ~~eluster development~~Cluster Development. A plan for maintenance or landscaping of the common ~~usable~~ ~~open space~~Open Space area shall be reviewed and approved by the Planning Board. No portion of this minimum required ~~useable~~ ~~open space~~Open Space shall be utilized for roads, ~~driveway~~Driveways, utility ~~structure~~Structures, or similar features.
- ~~(10) Open space~~Open Space land may be owned in common by a ~~homeowners' association~~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~~Homeowners' Association, the common ~~open space~~Open Space land shall be protected by conservation easement from future ~~subdivision~~Subdivision and development. The Planning Board shall assure that proper provision has been made for ownership and maintenance of ~~open space~~Open Space land, ~~roadway~~Roadways and other improvements. Ownership shall be ~~structure~~structured in such a manner that real property taxing authorities may satisfy property tax claims against the ~~open space~~Open Space lands by proceeding against all individual ~~O~~owners in the ~~homeowners' association~~Homeowners' Association and the ~~dwelling unit~~Dwelling Units they each own. Ongoing maintenance standards shall be established, enforceable by the Town ~~or its designee~~ against an ~~O~~owner of ~~open space~~Open Space land as a condition of

~~§ 250-42~~ ~~(10)~~ ~~subdivision~~ Subdivision approval, to assure that the ~~open-space~~ Open Space land ~~does~~ § 250-42

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~~ Open Space land forever wild or limiting Use of such land to Agricultural, managed forest land, passive recreational or ~~open-space~~ Open Space Use, or to the Residential Use specified as part of the plan, and prohibiting institutional,-

~~§ 250-42~~ ~~industrial~~Industrial or ~~commercial use~~Commercial Use of such ~~open space~~Open Space ~~§ 250-42~~ land, pursuant to §-247 of the General Municipal Law and/or §§-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.-

~~(11)~~ Such conservation easement shall be reviewed and approved by the Planning Board and shall be required as a condition of plat approval under Chapter 206, ~~Subdivision~~Subdivision of Land. The conservation easement shall not be amendable to permit commercial, ~~industrial~~Industrial, institutional or further ~~R~~residential development, and shall be recorded in the Dutchess County Clerk's office simultaneously with the filing of an approved cluster ~~subdivision~~Subdivision plat.

~~(12)~~ The ~~open space~~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~~Building ~~lot~~Lots and is permanently reserved for ~~open space~~Open Space purposes. Residential ~~structure~~Structures and ~~building~~Buildings ~~A~~accessory to noncommercial recreation, conservation, or ~~A~~agriculture may be erected on this land, subject to the ~~Residential~~ ~~cluster development~~Cluster Development plan and §-250-96, ~~Site plan~~Site Plans.

~~(12)~~

E. Partial ~~subdivision~~Subdivisions. This ~~S~~subsection allows for the partial ~~subdivision~~Subdivision of a parcel that would otherwise meet the purposes and requirements of a ~~Residential~~ ~~cluster development~~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 ~~R~~residential ~~cluster development~~Cluster Development is to be considered or shall be required for a given parcel, based on the purposes and objectives of this ~~S~~section, any partial ~~subdivision~~Subdivision which does not develop the maximum allowable number of ~~lot~~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 ~~S~~section.

~~(1)~~ Before any such partial ~~subdivision~~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 ~~S~~section, and ~~that~~ such plan will indeed be followed in any subsequent development phase or by any

§ 250-42 subsequent Owner.

§ 250-42

(2)

(2) In order to guarantee the long-term intention to carry out the overall cluster plan for the entire property, the applicant shall accomplish either Subsection E(3)(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~~Subdivision.
- (b) Permanently protect through conservation easement the designated ~~open-space~~Open Space for the entire property.

~~F.~~—Siting guidelines. In the clustered development, the ~~lot~~Lots shall be laid out so that ~~dwelling~~Dwelling

F. ~~Units will be~~are located in a manner consistent with the purposes of this ~~S~~section. The following guidelines (listed in order of general priority) are to be applied, when applicable, on a case-~~by-by~~-case basis by the Planning Board with ~~lot~~Lots to be laid out:

(1) On the least fertile soils for ~~A~~agricultural ~~U~~ses, and in a manner which maximizes the usable area remaining for such ~~A~~agricultural ~~U~~ses;

~~(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)~~(2) To provide permanent protection for significant natural, historical or cultural features identified on the site;

~~(4)~~(3) So as to minimize the number of ~~driveway~~Driveways with access to existing ~~R~~oads;

~~(5)~~(4) In such a manner that the common boundary between the new ~~house~~lotshouse ~~lot~~Lots and any active farmland is minimized in length (to reduce potential conflict situations);

~~(6)~~(5) In locations least likely to block or interrupt scenic vistas, as seen from the public ~~roadway~~Roadway(s) or other public vantage points;

~~(7)~~(6) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and

~~(8)~~(7) To meet other criteria listed under §-250-96, ~~Site-plan~~Site Plans.

~~(9)~~(8) In ~~cluster development~~Cluster Developments exceeding 20 ~~dwelling-~~unitDwelling Units, the Planning Board shall consider the layout of smaller groupings, each having some ~~open space~~Open Space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that Residential ~~cluster development~~Cluster Development will be more compatible with the neighborhood in which it is located.

Chapter 250: Zoning

Article V Supplementary Regulations

§ 250-44. Commercial communications facilities. ~~[Added 3-28-2000 by L.L. No. 1-2000-
]Communication Facilities.~~

- A. Purpose. The purpose of this ~~S~~section is to regulate the location, design and ~~U~~use of ~~commercial communications facilities~~Commercial Communications Facilities in the Town ~~of Clinton~~ in order to:
- (1) Protect the health, safety and general welfare of residents of the Town ~~of Clinton~~.
 - (2) Preserve the historic rural character and irreplaceable scenic qualities of the Town by regulating the location, design and architectural treatment of ~~commercial communications facilities~~Commercial Communications Facilities in order to minimize their visibility from places within the Town, avoid intrusion into scenic vistas, avoid disruption of the natural and built environment, and ensure harmony and compatibility with surrounding land ~~U~~use patterns.
 - (3) Minimize the undue proliferation, height and adverse visual impact of ~~-~~Commercial Ceommunications ~~T~~towers throughout the community.
 - (4) Meet the wireless communications needs of residents, businesses and travelers within the Town of Clinton.

- (5) Encourage a streamlined approval process for Ffacilities and provide a procedural basis for timely review of requests to place, construct, operate or modify Ffacilities.

B. Type of Ffacilities to be regulated.

- (1) This Ssection regulates the installation and/or Use of all ~~commercial communications facilities~~Commercial Communications Facilities, including, but not limited to, cellular Commercial Communications Ttowers and Antennas, Accessory ~~building~~Buildings and repeaters; Ffacilities for personal communications services (PCS); broadcast Commercial Communications Ttowers; and ~~structure~~Structures maintained or constructed for the purposes of specialized mobile radio services and paging services.
- (2) This Ssection does not apply to non-commercial or governmental Communications Ffacilities. Those Ffacilities are governed by §-250-43, Noncommercial Communications Antennas or Ttowers.

C. Compliance with the State Environmental Quality Review Act (SEQRA).

- (1) The Town Board designates the Planning Board ~~of the Town of Clinton~~ as the reviewing body responsible to determine the lead agency for applications made under this Ssection.

- (2) The Planning Board and the applicant shall comply with all provisions of SEQRA under Article 3 of the Environmental Quality Review Act and its implementing regulations. An application for a ~~C~~ommunications ~~F~~facility which conforms to the regulations of this ~~S~~ection and this ~~C~~hapter shall be an unlisted action unless otherwise designated by SEQRA. Should any ~~V~~ariance from these regulations be requested, the application for a ~~special-use-permit~~Special Use Permit for the proposed ~~facility~~Facility shall be considered a Type I action.⁹

D. Standard approval process.

- (1) A ~~special-use-permit~~Special Use Permit shall be required for the installation and/or ~~U~~se of all ~~commercial communications facilities~~Commercial Communications Facilities, as specified in the ~~Schedule of Use Regulations~~.¹⁰ ~~The duration of special use permits for installation and/or use of commercial communications facilities shall be two years from the date of issue, subject to renewal.~~¹¹ ~~Any significant addition or alteration~~Alteration to the facilityFacility by the Owner shall require an amended ~~special-use-permit~~Special Use Permit to be acquired by the ~~O~~wner.
- (2) ~~If~~In processing an ~~applicant~~application for a ~~special-use-permit~~ proposes a ~~commercial communications facility~~Commercial Communications Facility which does not meet all requirements of ~~under~~ this chapter, including district, height, area and bulk regulations, ~~S~~ection the Planning Board, and the Zoning Board of Appeals, as the case may, at its discretion and at any point in the review ~~be, shall as much as practicable, process, suspend review the application consistent with the time frames set forth by the Federal Communications Commission~~¹² as follows:
- (2)(a) ~~For an application not involving a c~~Co-location of the application until necessary variances are obtained.¹² ~~an existing structure~~Structure, 150 days; or
- (b) ~~For an application involving a c~~Co-location of an existing ~~structure~~Structure, 90 days.
- (3) Any proposed ~~U~~ser of ~~commercial communications facilities~~Commercial Communications Facilities shall be an FCC-licensed provider of commercial communications services and ~~must~~shall acquire a ~~special-use-permit~~Special Use Permit whether or not it will install or own the ~~F~~acilities.¹³

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9. ~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~
10. ~~Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.~~
11. ~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~
12. ~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~
13. ~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

~~§ 250-44~~ (4) Any applicant who is not an FCC-licensed provider of commercial communication ~~§ 250-44~~

services but who proposes to provide a ~~facility~~Facility for ~~U~~use by an FCC-licensed ~~carrier~~Carrier shall also acquire a ~~special-use permit~~Special Use Permit and shall meet the following requirements:⁴⁴

- (a) When applying for a ~~special-use permit~~Special Use Permit, the proposed ~~O~~owner shall name ~~one or more~~all FCC- licensed ~~carrier~~Carrier(s) which will ~~u~~use the ~~facility~~Facility.
- (b) The proposed ~~O~~owner shall provide ~~evidence of a~~ copy of an executed written contract between each such FCC--licensed ~~carrier~~Carrier and the ~~faeility~~Facility installer/~~O~~owner that each such FCC licensee will ~~u~~use the ~~faeility~~Facility ~~when installation is complete~~.
- (c) No ~~special-use permit~~Special Use Permit shall be granted to the proposed ~~O~~owner for the installation or construction of a ~~faeility~~Facility until a ~~special-use permit~~Special Use Permit has been granted to a proposed ~~U~~user.

- (d) Each FCC licensee which seeks to ~~uu~~se the proposed ~~facility~~Facility shall have the responsibility of providing evidence of need for the proposed ~~facility~~Facility, as stated in Subsection D.(5) below.
 - (e) Any addition to the ~~facility~~Facility by the ~~O~~wner to accommodate an additional ~~U~~ser, including the addition of antennas and accessory equipment, shall require an ~~additional~~amended ~~special-use permit~~Special Use Permit to be acquired by the ~~O~~wner. The repair or replacement of antennas and accessory equipment, with like kind, shall not require review or approval under this sSection.
- (5) Evidence of need for the proposed ~~facility~~Facility at the proposed location- for an application not involving a cCo-location.
- (a) Any FCC-licensed ~~earrier~~Carrier which is applying for a ~~special-use permit~~Special Use Permit to ~~U~~se ~~any existing or a~~ proposed ~~facilities~~~~facility~~Facility shall provide clear and convincing evidence that the proposed ~~facility~~Facility is needed to provide ~~adequate coverage~~Adequate Coverage and capacity (as defined in this ~~C~~chapter) for licensed communications services which the applicant is unable to provide with existing or other planned ~~F~~facilities. This evidence shall include materials such as ~~R~~adiation ~~P~~ropagation ~~S~~tudies and coverage maps along with all assumptions, technical parameters, map scales and other data needed for a complete understanding and independent evaluation of the information presented.⁴⁵
 - (b) The applicant shall state its signal strength and primary coverage objectives in the Town, the specific areas, ~~H~~highways and population centers it wishes to cover, and the signal strength, coverage and ~~G~~rade of ~~S~~service currently existing within those areas.
 - (c) The applicant shall provide evidence that any ~~F~~facilities within a four-mile radius of the proposed ~~facility~~Facility, which the applicant currently uses or for which the applicant has an application pending, cannot provide ~~adequate coverage~~Adequate Coverage and capacity to locations in the Town ~~of Clinton~~ in place of the proposed ~~facility~~Facility.

- ~~(d)~~—The applicant shall provide evidence that the proposed height and spatial dimensions of the ~~facility~~Facility are the minimum necessary to provide ~~adequate~~

~~coverage~~Adequate Coverage and capacity to locations in the Town ~~of Clinton~~
which the applicant is unable to

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- [§ 250-44](#) [\(d\)](#) serve with existing [F](#)facilities and/or [F](#)facilities of a tower height and/or smaller [§ 250-44](#) spatial dimensions; and
- [\(e\)](#) The applicant shall demonstrate that a conscientious effort has been made to site [C](#)ommunications [F](#)facilities on or within existing tall ~~structure~~[Structures](#) such as utility poles or-

~~(e)~~ Commercial Communications Towers, silos, ~~building~~Buildings, Church steeples, etc. before approval will be granted to construct a new Commercial Communications Tower. As evidence of this effort, the applicant shall provide an inventory of all existing ~~structure~~Structures within a ~~four-one~~ mile radius of the proposed location that are at least 50 feet high, along with a map showing the exact location of each ~~structure~~Structure. The inventory shall include an analysis of the availability and suitability of the ~~structure~~Structures for use by the applicant instead of a proposed new Commercial Communications Tower. The Planning Board may require the applicant to provide additional information, such as ground elevation, height and ~~R~~radial P~~plot~~lots, for one or more of these existing ~~structure~~Structures in order to evaluate their suitability as alternate sites for the proposed ~~facility~~Facility.

(6) Location of Ffacilities.

- (a) All of the Commercial Communication Ffacilities which are covered by one ~~special-use-permit~~Special Use Permit, including Commercial Communications ~~—T~~towers, equipment shelters and Accessory ~~building~~Buildings, shall be located on one ~~lot~~Lot and shall meet the ~~area and bulk regulations~~Area and Bulk Regulations of the Zoning district~~District~~ where located.¹⁶

~~(b) Applicants proposing to locate facilities within the Ridgeline, Scenic and Historic Protection Overlay District must meet all requirements listed in § 250-15.~~

- ~~(e)~~(b) In the following locations, new Commercial Communications Structures, such as Commercial Communications Towers, shall be prohibited and ~~commercial communications facilities~~Commercial Communications Facilities shall be restricted to ~~antennas or repeaters~~C~~co-location~~ on existing ~~structure~~Structures ~~such as buildings, telephone poles or church steeples, along with necessary accessory buildings~~:

[1] Inside or within 500 feet of any of the hamlets/~~R~~residential hamlets included on the Town Zoning ~~District~~District Map; and/or

[2] Inside or within 500 feet of a Medium Density Residential (MR1) Zoning District~~District~~; and/or

[3] Inside or within 500 feet of a Clustered Residential (CR1) Zoning District~~District~~;

[4] Inside or within 500 feet of a Critical Environmental Area (CEA).

~~(d)~~(c) Location of new Commercial Communications Structures, such as Commercial Communications Towers, on wooded sites with tall, mature trees shall be encouraged. Location on cleared sites or sites with small or immature trees shall be discouraged.

(7) ~~Collocation~~Co-location.

(a) New communications ~~structure~~Structures, such as Commercial Communications Towers, and their Accessory ~~building~~Buildings, shall be of a type and design which will allow ~~collocation~~Eco-location.

~~16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

§ 250-44 (b) Applicants who seek a ~~special-use permit~~ Special Use Permit for the installation § 250-44 and/or Use of a new Commercial Communications Structure or who wish to locate Facilities on an existing ~~structure~~ Structure shall agree in writing to accept ~~collocation~~ Co-location by other ~~carrier~~ Carriers on the same ~~structure~~ Structure, so long as:⁴⁷

[1] Such ~~collocation~~ Co-location does not cause transmission interference; and

—The existing ~~structure~~Structure and ~~lot~~Lot can accommodate the additional-
 [2] Facilities, such as antennas and ~~A~~accessory ~~building~~Buildings, that would be-
~~[4]~~required by the applicant for ~~collocation~~Co-location.

(c) ~~Collocation~~Co-location on an existing ~~structure~~Structure is required unless:

[1] There are no usable existing ~~structure~~Structures in the service area; or

~~[2] The applicant is unable to secure permission from existing structure owner(s) or landowner(s); or~~

~~[3]~~[2] ~~Collocation~~Co-location at existing sites does not achieve the
 minimum reasonable technical needs of the proposed ~~facility~~Facility;

or

~~[4]~~[3] ~~Structural or engineering limitations of the existing~~
~~structure~~Structure(s) prohibit ~~collocation~~Co- location.

(8) Height.

(a) The total height of any ~~structure~~Structure or accessory elements ~~a~~attached to
 any ~~structure~~Structure shall be measured from the natural ground level to the
 top of the ~~structure~~Structure or the top of the uppermost accessory affixed to
 the ~~structure~~Structure, whichever is higher.

(b) New ~~Commercial Communications T~~towers or other supporting
~~structure~~Structures, including masts, antennas and other accessory
~~F~~facilities, shall not exceed the minimum height necessary to provide
~~adequate coverage~~Adequate Coverage and capacity (as defined by this
~~C~~chapter) for the FCC-licensed ~~earrier~~Carrier which proposes to use the
~~facility~~Facility. In cleared areas where there are fewer than 20 trees (~~6" in~~
~~width at 4.5 feet high~~) within 100 feet surrounding the proposed location,
 these ~~structure~~Structures shall not exceed 80 feet above the natural ground.
 If there are at least 20 trees within 100 feet surrounding the proposed
 location, the total height of the proposed ~~faecility~~Facility shall be limited to
~~25 feet above the average tree canopy, or 100 feet, whichever is lower. 100~~
~~feet.~~ New ~~Commercial Communications T~~towers proposed for locations
 within the Ridgeline, Scenic and Historic Protection Overlay ~~Zoning~~
~~District~~District shall not exceed the height limitations for that ~~Zoning~~
~~district~~District, as set forth in §-250-15 of this ~~C~~chapter.

(c) Applicants may be required to achieve ~~C~~overage objectives by using
 multiple existing or new ~~Commercial Communications T~~towers ~~structure~~or

Structures rather than new, taller ~~structure~~Structures, which shall not exceed the height limitations in Subsection D(8)(b) above.

- (d) Antennas mounted on electric utility towers, ~~building~~Buildings or other existing ~~structure~~Structures shall not exceed the height of the existing tower or ~~structure~~Structure by more than 15 feet nor result in a total height greater than 100 feet.

~~17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

§ 250-44 It shall be the responsibility of the holder of the ~~special-use permit~~ Special Use Permit ~~to~~ § 250-44
inform the Town ~~of Clinton~~ of any change in or termination of contractual agreements
which affect the-

~~§ 250-44~~ (9) ~~special-use permit~~ Special Use Permit within 30 days of such change. Any ~~§ 250-44~~

material change in the conditions under which a ~~special-use permit~~ Special Use Permit was granted shall result in the immediate termination of the ~~special-use permit~~ Special Use Permit unless agreement has been obtained from the Planning Board prior to the change. These material changes include but are not limited to:¹⁸

- (a) Changes in supporting ~~structure~~ Structures (such as towers), ~~A~~ accessory building Buildings or ~~A~~ access Roads. A change in ownership of the ~~facility~~ Facility or the property on which the ~~facility~~ Facility is installed shall require notification to the Zoning Administrator by the holder of the ~~special-use permit~~ Special Use Permit but will not terminate the ~~special-use permit~~ Special Use Permit.
- (b) Cessation of Use by the FCC-licensed ~~carrier~~ Carrier which has a ~~special-use permit~~ Special Use Permit for Use of the ~~facility~~ Facility.
- (c) A change in the FCC-licensed User of the specially permitted ~~facility~~ Facility. Nothing herein shall prohibit another FCC-licensed ~~carrier~~ Carrier from using the ~~facility~~ Facility so long as that ~~carrier~~ Carrier provides evidence of need to use that ~~facility~~ Facility and acquires a ~~special-use permit~~ Special Use Permit under this Chapter.
- (d) Loss of the User's FCC license to provide commercial communications services within the Town ~~of Clinton~~.
- (e) Violation of this Chapter, on or with regard to the ~~facility~~ Facility by the holder(s) of the ~~special-use permit~~ Special Use Permit or the Owner of the land on which the ~~facility~~ Facility is installed.

~~(10)~~(9) Installation of Communications Facilities on existing ~~structure~~ Structures; ~~c~~Co-location.

- (a) The Planning Board may allow increases up to 20 feet in the height of the existing ~~structure~~ Structure, so long as the total height will be no more than 100 feet, if this modification:

- [1] Will aid in the Ceamouflage of Communications Facilities by allowing them to be hidden inside roofs, steeples or other portions of the existing ~~structure~~ Structure; and
- [2] Is compatible with the appearance of the existing ~~structure~~ Structure and surrounding ~~structure~~ Structures and environment; and
- [3] Will not compromise the structural integrity of the existing ~~structure~~ Structure

and will not increase threat to safety from fire, wind or other adverse occurrence, and this is certified by a licensed engineer.

- (b) No other modification of the existing ~~structure~~Structure except that which is necessary for the addition and/or camouflage of antennas and ~~accessory~~structureAccessory Structures shall be permitted, except as deemed necessary by the Planning Board. This restriction is not intended to-

(b) prohibit modifications which are required for maintenance and/or repair of the existing ~~structure~~Structure.

(11)(10) Design of new Commercial Communications Ttowers.

~~18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

- (a) Commercial Communications Tower designs shall be the least obtrusive and the most appropriate to the proposed site, as determined by the Planning Board. Use of ~~structure~~Structures made from natural materials, such as laminated wood poles, and antenna panels that mount directly to the pole rather than on platforms, shall be encouraged. The use of designs which require guy wires to support a Commercial Communications Tower shall be discouraged. If requested by the Planning Board, applicants shall submit alternatives to any design proposed for the purpose of determining the minimum necessary height and spatial dimensions and/or compatibility with nearby ~~structure~~Structures or landscape.
- (b) Commercial Communications Towers shall be designed and constructed in a manner which will accommodate future sharing, and applicant shall provide a written statement that ~~collocation~~Eco-location on the Commercial Communications Tower will be permitted and the extent and dimensions thereof. The design and ~~site plan~~Site Plan shall include fixture potential buildout to accommodate the number of future potential ~~collocators~~collocutors proposed.

~~(12)~~(11) Camouflage of Commercial Communications Facilities.

- (a) The Planning Board may require Communications Facilities, including new Commercial Communications Towers and antennas installed on existing ~~structure~~Structures, to be camouflaged in order to make them compatible with surrounding scenery and/or ~~structure~~Structures if, in its judgment, the location, height and/or design of a proposed ~~facility~~Facility compromises the scenic, historic or Residential character of the Town. Such camouflage may be required by the Planning Board at any location in the Town.
- (b) In particular, Facilities located in or visible from areas with scenic and/or historic importance to the Town or with potential for higher Residential density may require camouflage. These include, but are not limited to, Facilities located on lands which are:
- [1] Five hundred feet or more above sea level; and/or
 - [2] Within that portion of the Taconic State Parkway Viewshed which lies within the Town; and/or
 - [3] Within or adjacent to one of the hamlets included on the Town Zoning ~~District~~District Map; and/or

- [4] Within or adjacent to a Critical Environmental Area (CEA);
 - [5] Within or adjacent to Zoning district~~Districts~~ designated as Celustered Residential (CR1) or Medium-Density Residential (MR1) on the Town Zoning District~~District~~ Map;
 - [6] Within view of an historic Zoning district~~District~~ or landmark.
- (c) Camouflage devices may include , but are not limited to silos and Cehurch steeples with special roofs which allow antennas to be hidden inside them, towers and antennas disguised as flagpoles or artificial trees which are appropriate to the surrounding wooded area; structure~~Structures~~ designed to appear as Cehurches, with accessory equipment and antennas installed within a single structure~~Structure~~, and antennas disguised as components of existing building~~Buildings~~.

~~§ 250-44~~ (12) Clustering. Clustering of Commercial Communications Ttowers and ~~§ 250-44~~

~~structure~~Structures on the same site may be considered if ~~Eco~~-location cannot be facilitated. However, clustering may be ruled out for a particular location if the Planning Board ~~judges-determines~~ that it will create or increase a negative effect on the scenic, historic or ~~R~~esidential character of the Town.

~~(14)~~(13) Yard ~~setback~~Setbacks.

(a) New Commercial Communications Ttowers shall be set back at least two times the height of the Commercial Communications Ttower from all ~~lot~~Lot boundaries, or must comply with other ~~setback~~Setback requirements listed in this ~~C~~chapter, whichever ~~are~~ is more restrictive.

(b) New Commercial Communications Ttowers must be at least 500 feet from existing habitable ~~structure~~Structures, or planned habitable ~~structure~~Structures for which a Town ~~of Clinton building~~Building Permit has been issued.

~~(15)~~(14) Cleared area, ~~buffer~~Buffer strip and landscaping requirements for new Commercial Communications Ttowers, ~~u~~Unless otherwise specified by the Planning Board:

(a) There shall be a cleared area surrounding any new Commercial Communications Ttower not to exceed 75 feet from the outer edge of the Commercial Communications Ttower's ~~F~~footprint.

(b) A ~~buffer~~Buffer strip composed of trees or other vegetation ~~shall~~should be required to serve as a visual screen around the cleared area and proposed freestanding ~~F~~facilities, unless the Planning Board determines that the ~~buffer~~Buffer strip will be detrimental to the aesthetics of the site or neighboring parcels.

(c) If a ~~buffer~~Buffer strip is required by the Planning Board, it shall contain or be planted with vegetation of sufficient height, depth and density to completely screen the bottom of the Commercial Communications Ttower and any ~~A~~accessory ~~building~~Buildings, as viewed from outside the ~~buffer~~Buffer strip.-

~~(c)~~ Vegetation in the ~~buffer~~Buffer strip shall be maintained in a healthy state or replaced as necessary.

(d) The ~~buffer~~Buffer strip shall be free of any man-made ~~structure~~Structures, ~~including~~excluding ~~fence~~Fences and ~~F~~facilities, ~~except for or~~ an A~~access~~R~~oad~~.

~~(16)~~(15) Accessory ~~building~~Buildings.

(a) Accessory ~~building~~Buildings shall be the minimum size necessary to meet the needs of the specific site.

(b) If the A~~accessory~~ ~~building~~Building is at a site which can accommodate future collocators, the necessary ~~structure~~Structure design and the ~~site-plan~~Site Plan shall include future potential buildout to accommodate the number of potential collocators proposed.

(c) All A~~accessory~~ ~~building~~Buildings shall be ~~u~~used only for housing of equipment related to that particular ~~facility~~Facility and site.

(d) A~~ccessory~~ ~~Building~~Buildings shall be similar in size, materials, colors and design and shall be compatible with nearby ~~structure~~Structures and/or vegetation, as judged by the Planning Board.

~~(17)~~ Alteration~~Alteration~~ of ~~facility~~Facility or location. After specially permitted F~~facilities~~ are installed, they

~~§ 250-44~~ shall not be altered with regard to height, color, design or any other aspect without ~~§ 250-44~~ Planning Board approval. If a ~~facility~~Facility is to be moved from one ~~lot~~Lot to another, a new ~~special-use permit~~Special Use Permit shall be required.¹⁹

~~(18)~~(17) Fencing. New ~~Commercial Communications T~~towers and their accompanying ~~A~~accessory ~~building~~Buildings shall be enclosed by a ~~fence~~Fence and gated. When antennas are installed on or within existing ~~structure~~Structures such as silos, the Planning Board shall determine whether the existing ~~structure~~Structure and any ~~accessory structure~~Accessory Structures will require fencing. The Planning Board shall approve the height and design of the ~~fence~~Fence to ensure that it will be secure and visually attractive and that ~~A~~accessory ~~building~~Buildings and the lower portion of the ~~Commercial Communications T~~tower will be hidden when viewed from ~~lot~~Lots surrounding the proposed site. If a new ~~Commercial Communications T~~tower and ~~accessory structure~~Accessory Structures are camouflaged, the Planning Board may waive this requirement if, in its judgment, a ~~fence~~Fence is not required for the security of the ~~facility~~Facility.

(18) Color. The finish of a new ~~Commercial Communications T~~tower shall blend with the sky and/or trees, as required by the Planning Board. Antennas and supporting electrical and mechanical equipment shall be of a color identical to or closely compatible with the color of the supporting ~~structure~~Structure.-

~~(19)~~ Colors and materials of all exterior surfaces shall be maintained in their original condition.

~~(20)~~(19) Noise. Steps shall be taken to minimize, to the full extent possible, the amount of noise heard off-site from all temporary or permanent power equipment. Generators shall include hospital-grade mufflers.

~~(21)~~(20) Lighting or special painting.

- (a) No externally visible lighting of Commercial Communications Ttowers or Ffacilities shall be permitted, except manually operated emergency lights for use only when operating personnel are on site.
- (b) The applicant shall submit, as part of the application, a written statement regarding whether the proposed facilityFacility requires lighting and/or special painting to meet the requirements of the FAA or other authority, and if so, what type of lighting or special painting would be required.
- (c) New structureStructures that would be classified as an obstruction or hazard or would require any special lighting or special painting under FAA regulations (currently 14 CFR 21) shall not be permitted.
- (d) If, after installation of the facilityFacility, the FAA or any other government authority requires that lights be installed, the Owner of the facilityFacility must notify the Zoning Administrator at least 60 days before any such lights are installed.

~~(22)~~(21) Electric power supply and telephone service lines. All service lines to new Commercial Communications Ttowers and accompanying Ffacilities shall be installed underground from the existing power source.

~~(23)~~(22) Fuel tanks. All fuel tanks must be above ground and protected against potential damage from vandalism or other adverse occurrencess.

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

~~§ 250-44~~ (23) Signs. One ~~S~~sign no greater than ~~threesix~~ (6) square feet with the name of ~~§ 250-44~~ the ~~facility~~Facility Owner/-operator and a twenty-four-hour emergency telephone number, plus no-~~trespassing~~-warning ~~S~~signs no larger than 1 1/2 square feet, are permitted. Signs shall meet all requirements of §-250-70, Signs, of this ~~C~~chapter.

~~(25)~~(24) Access and ~~P~~parking.

- (a) A ~~R~~road and ~~P~~parking plan shall be provided to ensure adequate emergency and service access and shall meet the requirements of the Planning Board. Any ~~driveway~~Driveway shall meet the requirements of the Planning Board, ~~the Fire District~~District and the highway authority for the ~~R~~road on which ~~the driveway~~Driveway fronts.

- (b) Maximum use of existing public and private roads shall be made, consistent with safety and aesthetic considerations.
- (c) Road construction shall minimize ground and vegetation disturbance. Road grades shall follow natural contours to reduce soil erosion potential and to ensure that Roads are aesthetically compatible with the character of the surrounding area.
- (d) The Planning Board may require an erosion and sedimentation control plan and may refer the ~~site plan~~Site Plan to the Town Highway Superintendent, ~~Fire District~~District, ~~Building~~Building Inspector and/or the Town Engineer for review.
- (e) Unpaved Roads ~~shall~~may be considered unless conditions require paving, as determined by the Planning Board, in consultation with the appropriate authorities (i.e. Fire District~~District~~) or consultants.

~~(26)~~(25) Maintenance, testing and inspection.

- (a) The original appearance of the exteriors of all Commercial Communications Towers, Accessory ~~building~~Buildings and any other ~~structure~~Structures must be retained through regular maintenance by the applicant.
- (b) Before commercial transmission begins, the applicant shall acquire certification by a licensed professional engineer that the ~~facility~~Facility will not exceed the maximum permissible exposure limits for the level of electromagnetic radiation using standards in accordance with FCC OET Bulletin Number 65.

~~(27)~~(26) Removal of F-facilities.

- (a) Commercial Communications Towers and antennas shall be removed if the Owner's or User's ~~special use permit~~Special Use Permit for these Facilities has expired or has been terminated or if the Facilities are no longer being used by the FCC licensee. Commercial Communications Towers and antennas shall be removed if there is not at least one operator with a valid ~~special use permit~~Special Use Permit using the Commercial Communications Tower for twelve (12) months. Potential or planned future Use of any ~~facility~~Facility for commercial communications service is not sufficient to avoid the requirement for removal.²⁰

- (b) If the removal of Commercial Communications ~~Towers~~ and antennas is required, Accessory building ~~Buildings~~ and other ~~structure~~ Structures shall also be removed unless:

~~20. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

- [1] The landowner wishes to retain these ~~structure~~Structures and communicates this in writing to the Planning Board; and
- [2] The retention of these ~~structure~~Structures will comply with this Cchapter; and
- [3] The Planning Board agrees that removal of these ~~structure~~Structures is not required.

- (c) Each applicant seeking a ~~special-use permit~~Special Use Permit for a ~~commercial communications facility~~Commercial Communications Facility shall provide a written contract with the Town ~~of Clinton~~ agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal of antennas, ~~A~~accessory buildingBuildings and supporting ~~structure~~Structures such as Commercial Communications Ttowers when removal is required by this ~~C~~chapter.²¹ and indemnify the Town by bond or suitable surety instrument.
- (d) If a proposed ~~commercial communications facility~~Commercial Communications Facility will be owned by an entity other than an FCC-licensed ~~carrier~~Carrier which will ~~use~~ that ~~facility~~Facility, the ~~carrier~~Carrier shall provide to the Planning Board a copy of a contract between the ~~facility~~Facility ~~O~~owner and the FCC- licensed ~~carrier~~Carrier in which the ~~O~~owner agrees to remove the ~~facility~~Facility, including any Commercial Communications Tower, antennas and ~~accessory structure~~Accessory Structures, and indemnify the Town for all costs of such removal, when these ~~F~~facilities are no longer being used by an FCC-licensed operator with a valid Town ~~of Clinton special-use permit~~Special Use Permit.²²
- (e) A decision to require removal shall be the responsibility of the Planning Board after consulting with the Zoning Administrator and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period, the Town shall have the right to compel removal, with all costs to be borne by the ~~special-use permit~~Special Use Permit holder who owns and/or previously used the ~~F~~facilities. Removal costs may also be recovered from the ~~O~~owner of the tax parcel on which the ~~F~~facilities are located.²³
- (f) When Commercial Communications Ttowers are removed, site reclamation shall be completed, in conformance with the reclamation plan contained in the original application and to the satisfaction of the Planning Board, within 180 days of ~~structure~~Structure removal. Reclamation shall include landscaping, removal of ~~structure~~Structures, utility lines and ~~accessory structure~~Accessory Structures, and shall encompass the ~~building~~Building site and ~~buffer~~Buffer area controlled by the ~~facility~~Facility ~~O~~owner.
- ~~(28)~~(27) Bonding. Before obtaining or renewing a ~~special-use permit~~Special Use Permit, the applicant shall provide financial surety in an amount acceptable to the Town Board

~~§ 250-44~~ (in consultation with the Planning Board and the Attorney for the Town) to ensure ~~full~~ ^{§ 250-44}
and complete performance of all conditions imposed by the Planning Board as a
requirement of the ~~special-use permit~~ Special Use Permit.²⁴

~~(29)~~(28) Application fee. The applicant shall pay fees as set from time to time by
resolution of the Town Board.²⁵

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

~~§ 250-44~~
~~(30)~~(29) ~~§ 250-44~~ Consultant fees. The Planning Board and/or Zoning Board of Appeals may retain consultants to assist in reviewing the application, ~~its renewal~~, or an application for a ~~V~~variance related to a pending application, with consultant fees to be paid by the applicant. These consultants may include the Town Engineer, the Town's attorney, one or more ~~commercial communications facility~~Commercial Communications Facility consultants, or other consultants as determined by the Planning Board and/or Zoning Board of Appeals. ~~At the beginning of the review process~~Upon submitting the application, the Planning Board may require the applicant to fund an escrow account from which the Town may draw to ensure reimbursement of consultant fees. During review of the application, the Planning Board may require the applicant to add funds to the escrow account as the Planning Board deems necessary. If the required funds are not added to the escrow account, review of the application by the Planning Board shall be suspended until such time, if any, as payment of said funds is made. Any remaining funds in the escrow account after payment of all consultant fees will be returned to the applicant.

~~(31)~~(30) Insurance. Facilities shall be insured by the ~~O~~owner(s) of the Commercial Communications Ttowers and/or the antennas thereon against damage to persons or property. The ~~O~~owner(s) of the Commercial Communications Ttowers and/or antennas thereon shall provide annually to the Town Clerk a certificate of insurance in the minimum amount of \$1,000,000, or a higher amount if required by the Planning Board in consultation with the Town Board, in which the Town ~~of Clinton~~ shall be an additional named insured- and acceptable by the Town's Attorney and Insurance Carrier~~Carrier~~. This insurance shall insure ~~against~~ damage or loss arising from all ~~structure~~Structures, Commercial Communications Ttowers or Aantennas on the property.

~~(32)~~(31) Application requirements for ~~commercial communications facilities~~Commercial Communications Facilities. In addition to other requirements and fees outlined in this ~~C~~chapter and fee schedule, an applicant seeking a ~~special-use permit~~Special Use Permit for installation or Uuse of a ~~commercial communications facility~~Commercial Communications Facility in the Town ~~of Clinton~~ shall also submit the following data and/or take the following actions:²⁶

- (a) Applicants proposing to locate ~~F~~facilities within a Ridgeline, Scenic and Historic Protection Overlay ~~Distriet~~Zoning District must also meet all requirements of §-250-

§ 250-44 15 of this Chapter regulating development in ~~these~~this protection overlay areas. § 250-44

- (b) The applicant shall provide clear and convincing evidence, such as radial maps and engineering studies, that:

[1] The proposed ~~facility~~Facility is necessary to provide licensed communications services to locations in the Town which the applicant is unable to serve with existing or other planned ~~F~~facilities.

[2] The proposed height and spatial dimensions of the ~~facility~~Facility are the minimum necessary to provide licensed communications services to locations in the Town which the applicant is unable to serve with one or more existing ~~F~~facilities and/or one or more ~~F~~facilities of a lower height and/or smaller spatial dimensions.

~~[3]~~—The visual, aesthetic and community character intrusion impacts have been

~~25. Editor's Note: The current Fee Schedule is on file in the Town offices.~~

~~26. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

[3] minimized to the maximum extent practicable.

[4] The applicant has conducted a careful review of alternative sites, technologies and design considerations which include but are not limited to ~~structure~~Structure types and heights, materials, color, multiple smaller ~~structure~~Structures versus one larger ~~structure~~Structure or other design parameters as may be requested by the Planning Board.

[5] Any proposed new ~~structure~~Structure has the ability to handle the additional ~~F~~facilities of possible future collocators. The maximum number of collocators which could be supported on the ~~structure~~Structure must be identified.

(c) The applicant shall provide:

[1] A completed Town of Clinton-application for a ~~commercial communications facility~~Commercial Communications Facility, a ~~site plan~~Site Plan, and any other requirements of this ~~C~~chapter.

[2] Payment of the application fee as set from time to time by resolution of the Town ~~Board~~²⁷Board when the completed application is submitted to the Planning Board.

[3] A completed SEQRA full environmental assessment form (Parts I, II, and III) and such other SEQRA forms as may be required by the Planning Board.

[4] A written agreement with the ~~O~~wner(s) of the ~~structure~~Structure and/or the real property to allow installation of the ~~C~~ommunications ~~F~~acility.

[5] Certification by a licensed engineer that the design of any proposed new ~~structure~~Structure is sound and will pose no threat to the surrounding population or property, and evidence of compliance with applicable structural standards such as Electronics Industry Association/Telecommunications Industry Association 222E (or current equivalent).

[6] Certification that proposed radio-frequency emissions will comply with FCC standards and that the ~~facility~~Facility will not cause interference with existing-

[6] communications devices. This radio-frequency emission certificate shall be prepared using the methods and techniques prescribed in the most current edition of FCC OET Bulletin No. 65 (or current equivalent) and must show all calculations, formulas and assumptions used.

[7]—A five-year buildout plan for the proposed site and other sites within the Town and within adjacent towns, which shows the applicant's plans for other ~~structure~~Structures, proposed application and ~~building~~Building dates and justification for additional ~~structure~~Structures. Additionally, the five-year buildout plan must take into consideration known and potential changes in technology which may have an effect on the number, design, and type of ~~F~~Facilities needed in the near future. In keeping with the buildout plan, the applicant shall also notify the Planning Boards of all adjacent communities and the coordinator of the Dutchess

27. ~~Editor's Note: The current Fee Schedule is on file in the Town offices.~~

~~§ 250-44~~ ~~§ 250-44~~ [7] County Office of Emergency Response concerning the location and height of the

proposed ~~facility~~ Facility.

[8] An inventory of all tall ~~structure~~ Structures within ~~four miles~~ one mile of the proposed location which are at least 50 feet high. The inventory shall include an analysis of ~~the~~ availability and suitability of these ~~structure~~ Structures for ~~U~~ use by the applicant in place of the proposed ~~facility~~ Facility.

[9] If a ~~C~~ommunications ~~F~~acility is proposed for installation on an existing ~~structure~~ Structure, an engineer's report that the proposed ~~U~~ use will not diminish existing structural integrity and public safety.

[10] A copy of the applicant's liability insurance, which shall name the Town as an additional insured party.

[11] A copy of the applicant's FCC licenses for service in the proposed area and a copy of FCC Form 854, Application for Antenna ~~Structure~~ Structure Registration (or current equivalent).²⁸

~~[11]~~ A copy of FAA Form 7460-1, Notice of Proposed Construction or ~~Alteration~~ Alteration (or current equivalent), if required (with aeronautical study, if required), or a statement from a recognized aeronautical consultant.

~~[12]~~

~~[12]~~ [13] A copy of the federal environmental impact statement, if required.

~~[13]~~ [14] The number, size, type, materials, manufacturer and model number, and location of antennas or other types of transmitting devices, including but not limited to microwave dishes or microwave panels, to be placed on the ~~structure~~ Structure.

~~[14]~~[15] For a new Commercial Communications Ttower, landscaping and reclamation plans in the event of future ~~structure~~Structure removal. This plan shall include provisions for site reclamation, landscaping, removal of ~~structure~~Structures, utility lines, and ~~accessory structure~~Accessory Structures, and shall cover the ~~building~~Building site and ~~buffer~~Buffer area controlled by the ~~facility~~Facility Owner.

~~[15]~~[16] A visual analysis, which shall be presented to the Planning Board at a public hearing which has been properly advertised. The methodology of the visual analysis shall be approved by the Planning Board and may include drawings of the proposed ~~F~~facilities superimposed on photographs or computer--generated graphics depicting the proposed installation from a range of perspectives and distances.

~~[16]~~[17] Additional information as requested by the Planning Board or, Zoning Administrator ~~or the Town of Clinton~~ application for a Commercial Communication Facility.

~~(33) Renewal application requirements for commercial communications facilities.~~

~~(a) Special use permits shall be reviewed every two years by the Zoning Administrator~~

~~to determine whether the applicant is in conformance with the conditions of the original approval and has provided the information necessary for renewal. When the Zoning Administrator confirms that these conditions have been met, renewal of the special use permit shall be reviewed for approval by the Planning Board.²⁹~~

~~(b) A renewal application shall include the following:~~

~~[1] The original date of issue for the special use permit.³⁰~~

~~[2] A current, updated buildout plan, if a five year buildout plan was originally required.~~

~~[3] Proof of continued need for the facility, including the original evidence for need which was reviewed by the Planning Board, updated to reflect current conditions, plus any other new information relevant to the applicant's need for the facility in order to provide FCC licensed commercial communications services to areas within the Town of Clinton.~~

~~[4] A copy of the current FCC license.~~

~~[5] A current certificate of insurance in the minimum amount of \$1,000,000 annually in which the Town of Clinton shall be an additional named insured [as in Subsection D(31) above].~~

~~[6] A written agreement with the owner(s) of the structure and/or the real property to allow the continued installation and/or use of the communications facilities.~~

~~[7] Certification that electromagnetic radio frequency emissions continue to meet FCC requirements.~~

~~(c) A renewal application for a special use permit must be submitted no less than 60 days prior to the expiration of the permit. If the application is not submitted within such time, the special use permit shall expire unless an extension is requested from and granted by the Planning Board.³¹~~

~~(d) If the applicant wishes to renew a special use permit after it has expired, a new application for a special use permit shall be required.³²~~

~~(e) During the renewal review process the Planning Board may modify, add to or delete the previous conditions associated with the approval of the special use permit, and may require a revised site plan, based upon the circumstances existing at the time of the renewal review process.³³~~

~~(f) Conforming to the renewal process and timing requirements is the applicant's responsibility.~~

29. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

30. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

31. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

32. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

33. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

~~§ 250-44~~
(5) ~~Any costs which result from the renewal application, including but not limited to consultant fees and advertising costs for public hearing notification and legal fees, shall be borne by the applicant.~~³⁴

E. ~~Streamlined~~³⁵ ~~Co-location~~ ~~Streamlined~~ approval process.

(1) In order to encourage the appropriate location, ~~co-location~~ ~~Co-location~~ and design of ~~commercial communications facilities~~ ~~Commercial Communications Facilities~~ in the Town of Clinton, applications which meet the criteria listed in this ~~S~~ subsection shall be given the benefit of ~~a streamlined approval process~~ ~~the provisions of clause (3) below~~.

(2) Criteria.

(a) Facilities must be located on or within existing ~~structure~~ ~~Structures~~ such as silos, ~~building~~ ~~Buildings~~, ~~C~~ church steeples, etc., or on high-tension electric ~~Commercial Communications T~~ towers located within electric utility right-of-way strips which pass through the Town; and

(b) Facilities must not be located in Ridgeline, Scenic and Historic Protection Overlay Areas unless the applicant agrees to camouflage the ~~F~~ facilities, such that, in the judgment of the Planning Board, they are compatible with the surrounding scenery and ~~structure~~ ~~Structures~~ in the overlay areas; and

(c) The applicant must agree to abide by all applicable requirements of the standard approval process of this ~~C~~ chapter pertaining to ~~commercial communications facilities~~ ~~Commercial Communications Facilities~~, without a ~~V~~ variance.

~~(1) Streamlined application~~ ~~Application~~ process.

~~(3)~~

~~(d)~~(a) The applicant may complete a short environmental assessment form and visual EAF addendum instead of a SEQRA full environmental assessment form (Parts I, II and III), unless otherwise required by the Planning Board.

~~(e)~~(b) The applicant shall not be required to provide a five-year buildout plan for the proposed site as specified above.

~~(f)~~(c) The applicant shall not be required to provide an inventory of all tall ~~structure~~Structures within four miles of the proposed location which are at least 50 feet high, as specified above.

~~(g)~~(d) The Planning Board may waive the visual analysis or any part thereof, and rely instead on the visual representations provided in the ~~site plan~~Site Plan.

Chapter 250: Zoning

Article V Supplementary Regulations

§ 250-49. **Educational** ~~institutions~~ Institutions or ~~vocational schools~~ Vocational Schools.

The following regulations apply to Educational Institutions and Vocational Schools:

A. The minimum ~~lot~~ Lot size shall be 10 acres.

~~No special use permit shall be granted for the~~

~~B.~~ No construction or expansion of an Educational

34. ~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

35. ~~Editor's Note: Former Subsection E, Violations, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now § 250-102.~~

B. ~~Institution~~ for over 100 students shall not be allowed unless such institution has a minimum of 400 feet of frontage on a state or county road. ~~[Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010]~~

C. Any sports arena or other place of assembly having a seating capacity of more than ~~1,000~~500 persons shall have entrances and exits on a state or county road.

D. All ~~building~~Buildings, ~~structure~~Structures, ~~P~~parking and outdoor activity areas shall have a minimum-

~~D.~~ ~~setback~~Setback of 200 feet from any adjoining ~~R~~residential property line and 100 feet from any property boundaryline.

Chapter 250: Zoning

Article V Supplementary Regulations

§ 250-51. ~~Farming~~Agricultural Operation, Agricultural Practice, A-agricultural protection and right to farm.~~Intent.~~

A. The Town ~~of Clinton~~ supports the ~~use~~ of land for ~~A~~agricultural purposes. Through the Town Comprehensive Plan, The Farmland Protection Plan, and this ~~C~~chapter, the Town has attempted to provide, to the fullest extent allowed by law, ~~for the protection of~~ ~~A~~agricultural ~~Uses~~ and lands suitable for ~~A~~agricultural production. The Town supports the continued operation of active ~~Agricultural~~~~farm~~ ~~O~~operations and has provided, through the regulations of this ~~C~~chapter and ~~C~~Chapter 206, ~~Subdivision~~~~Subdivision~~ Law, the means for the Planning Board and/or the Zoning Board of Appeals, to approve non-~~A~~agricultural land development subject to such conditions as may be required to assure the long-term viability of active ~~Agricultural~~~~farm~~ ~~O~~operations and ~~A~~agricultural activities by limiting the potential for conflict between established ~~farms~~~~Agricultural Operations~~ and ~~A~~agricultural ~~Uses~~ and newly established non-~~A~~agricultural land ~~Uses~~. The Town supports sound ~~agricultural practices~~~~Agricultural Practices~~ necessary for the on-~~F~~farm production, preparation, and marketing of ~~A~~agricultural commodities and supports the ~~F~~farm protection policies set forth in §308 of the Agriculture and Markets Law.

—The Town finds that ~~Agricultural~~~~ral~~~~farming~~ Practice is an essential activity within Clinton. ~~Farming~~ and that Agricultural Operations and Practices~~farming~~, as defined herein, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of ~~open space~~Open Space and generates economic benefits and social ~~well~~~~well~~-being within the community. Therefore, the Town emphasizes to ~~newcomers~~~~all residents~~ that this Town encourages its ~~A~~agriculture and requests ~~newcomers~~~~all residents~~ to be understanding of the necessary day-to-day operations. It is the general purpose and intent of this ~~C~~chapter to maintain and preserve the rural tradition and character of Clinton, to permit the ~~A~~continuation of ~~agricultural practices~~~~Agricultural Practices~~, to protect the existence and operation of ~~F~~farms, and to encourage the initiation and expansion of ~~F~~farms and ~~A~~agricultural Operations~~businesses~~. For the purpose of reducing future conflicts between ~~F~~farmers and

~~§ 250-44~~

~~§ 250-49~~

nonfarmers, it is ~~necessary for notice to be given to future neighbors about the nature of~~
~~agricultural practices.~~

B. necessary for notice to be given to future neighbors about the nature of agricultural
practices Agricultural Operations and Practices.

C. The right to undertake ~~agricultural practices~~ Agricultural Practices.

~~B. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in Agricultural Practices ~~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 in compliance with all laws and regulations.~~

D. Notice to prospective neighbors.

~~C. The following notice shall be included in building ~~Building~~ Permits and on plats of ~~subdivision~~ Subdivisions which neighbor a Farm or Agricultural Operation, submitted for approval pursuant to Town Law § 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."~~ 276: § "This property borders an Agricultural Operation ~~Farm operation~~, as defined in Chapter 250, "Zoning" of the Town of Clinton Town Code. Residents should be aware that farmers have the right to conduct Agricultural Practices ~~Farm practices~~ which may generate dust, odor, smoke, noise and vibration."

E. ~~Setback~~ Setback buffer ~~Buffers~~ for Agricultural and farmland protection. Site Plan ~~Site Plan~~ Approval, Special Use Permit Approval and ~~Subdivision~~ Subdivision Approval involving the establishment of non- Agricultural Uses on land adjacent to property located within an Agricultural District ~~Agricultural District~~ and/or property actively in use for Agricultural purposes may adversely affect Agricultural and farm activities Operations and Agricultural Practices by locating non- Agricultural Uses in proximity to such Agricultural Uses, thereby setting up potential conflicts (e.g. noise, odors, trespass, etc.) between the Agricultural Use and the neighboring Owners and tenants. In such cases, a minimum buffer ~~Buffer setback~~ Setback of one hundred fifty (150) feet between any principal and accessory structure ~~Accessory Structures~~ and the property line of the neighboring Agricultural property is required. Notwithstanding, the Planning Board may allow the

underground utilities and pedestrian walkways within the ~~buffer~~Buffer area. The Planning Board and/or the Zoning Board of Appeals are expressly authorized to require such additional ~~buffer~~Buffer ~~setback~~Setback as may be required, in the opinion of said board, to ensure
that the ~~R~~residential ~~U~~se(s) do not conflict with the continued ~~U~~se of the adjacent land(s) for ~~A~~gricultural purposes. The ~~buffer~~Buffer ~~setback~~Setback area shall be permanently preserved by
recorded deed instrument in a form approved by the Town Attorney, and which shall provide for Town enforcement of said restriction.

F. Standards for ~~R~~residential development.

§ 250-44

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(1) The following standards shall be applied in the review of any application for a ~~Site Plan~~ ~~Site Plan, Special Use Permit~~ ~~Special Use Permit or Subdivision~~ ~~Subdivision~~ approval involving a parent parcel of land

that would be developed for non-Agricultural purposes where the parent parcel:

(a) Meets the standards for ~~R~~residential ~~cluster development~~Cluster

Development set forth in §250-42(C)(2) of this Chapter; or

(b) Is located within an ~~Agricultural District~~Agricultural District; or

(c) Is located on land adjacent to an ~~Agricultural District~~Agricultural District; or

(d) Is located on land that was actively ~~u~~used for ~~A~~gricultural purposes within three (3) of the previous five (5) five-year period; or

(e) Is adjacent to land that is ~~U~~used for ~~A~~gricultural purposes; or

(f) Contains fifty percent (50%) percent or more Soils of Statewide Agricultural Significance; or

(g) Contains fifty percent (50%) percent or more Prime Agricultural Soils.

(2) The Planning Board shall make the initial determination as to whether a particular parcel contains the requisite amount of ~~A~~gricultural soils as set forth herein. Acreage determinations may be rebutted by evidence presented by a licensed surveyor or engineer.

G. Where one or more of the conditions in paragraph “E” and “F” above exist, the Planning Board shall review the proposed ~~site plan~~Site Plan or ~~subdivision~~Subdivision plan and shall, to the extent practicable as determined by the Planning Board, require that ~~P~~principal and ~~A~~accessory ~~R~~residential ~~U~~uses and improvements be located as follows:

(1) In the least fertile ~~A~~gricultural soils and in a manner which maximizes the usable area remaining for ~~A~~gricultural ~~U~~se; and

(2) Along the far edges of open ~~A~~gricultural fields adjacent to any woodland, to reduce encroachment upon ~~A~~gricultural soils and enable new ~~R~~residential development to be visually absorbed by natural landscape features; and

(3) In such a manner that the boundaries between house ~~lot~~Lots and ~~A~~gricultural land

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and active Agricultural Operations ~~Farm operations~~ are well ~~buffer~~Buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between ~~R~~residential and ~~A~~agricultural ~~U~~ses.

H. Where one or more of the conditions in paragraph “E” and “F” above exist, the Planning Board may require the use of “~~building~~Building envelopes” within which ~~R~~residential improvements may be placed, and outside of which only limited improvements, such as utilities and ~~driveway~~Driveways, may be located. Where the Planning Board requires the use of ~~building~~Building envelopes in order to limit disturbance to ~~A~~agricultural soils and ~~Agricultural farm~~ ~~O~~operations, the Board shall ensure that any such development restrictions are permanently preserved by recorded deed instrument in a form approved by the Town Attorney, and which shall provide for Town enforcement of said restriction.

Chapter 250: ZoningArticle V Supplementary Regulations§250-56. ~~Home-occupation~~Home Occupations.A. Purpose.

- (1) ~~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-use~~Commercial Uses not customarily allowed in Residential ~~district~~Zoning Districts.

A.—General.B. Required approvals.

- (1) ~~Home-occupation~~Home Occupations that meet the standards in Section “C” below shall not require site-planSite Plan or special-use-permitSpecial Use Permit approval. Home-occupationHome Occupations that are not listed as included occupations pursuant toSubsection “E” and that are not listed as prohibited occupations as set forth inSubsection “F” shall be subject to site-planSite Plan and special-use-permitSpecial Use Permit approval by the Planning Board. Any included occupation that will not meet thestandards of Subsection “C” shall be subject to site-planSite Plan and special-use-permitSpecial Use Permit approval by the Planning Board. Any home-occupationHome Occupation that would be conducted in an accessory-structureAccessory Structure shallbe subject to site-planSite Plan and special-use-permitSpecial Use Permit approval by thePlanning Board.

C. Standards.

- (1) ~~A home-occupation~~Home Occupation shall be conducted entirely within the principal Residential ~~structure~~Structure; use of or an accessory-structureAccessory Structure forother than storage is not permittedlocated on the same lotLot as the principal residence. No Outdoor ~~storage~~Storage

~~(1) or displays shall be or displays of materials or goods offered or used as part of the home-~~
~~§ 250-49~~ ~~§ 250-56~~
~~occupation~~ Home Occupation is permitted. Temporary Outdoor storage Storage is permitted
but shall not be visible.

- (2) A ~~home-occupation~~ Home Occupation shall be clearly secondary to the Residential Use, and
shall be carried on by one or more of the of the lot Lot, and the business Use shall not change the
character thereof. The ~~home-occupation~~ Home Occupation Use shall be conducted in a manner
which does not give the outward appearance of a business, does not infringe on the right of
neighboring residents to enjoy the peaceful Occupancy of their dwelling Dwellings, and does not
alter the essential character of the neighborhood.

~~(3) The lot on which the home-occupationHome Occupation is conducted shall be occupied~~
~~§ 250-49~~ ~~§ 250-56~~
~~by those engaged in the home-occupationHome Occupation as their principal domicile.~~

~~(3)(4)~~ No more than one ~~(1)~~ nonresident ~~person~~ shall be permitted to work on the premises at any one time. ~~Employee P~~parking shall be provided on the ~~lot~~Lot or parcel on which the ~~home-occupationHome Occupation~~ is conducted. In addition, if the business receives clients or customers on the premises, sufficient off- street ~~P~~parking for such clients or customers shall be provided on the ~~lot~~Lot. In no event shall any ~~home-occupationHome Occupation~~ significantly affect the availability of on-street ~~P~~parking for neighborhood residents.

~~(4)(5)~~ There shall be ~~permitted~~ no sharing, letting, or subletting of space for use by others in the conduct of a ~~home-occupationHome Occupation~~.

~~(5) No more than 25% of a dwelling unit's aboveground floor area shall be devoted to home occupational use.~~

~~—Whether conducted in the principal structureStructure or an accessory structureAccessory Structure, the amount of gross square footage that may be devoted to the home-occupationHome Occupation business U~~se shall not exceed 25% of the

~~(6) principal R~~esidential ~~structureStructure~~'s habitable floor area. For purposes of this ~~S~~section, "habitable floor area" shall comprise those areas of the principal ~~R~~esidential ~~dwellingDwelling~~ used for living, sleeping, eating, or cooking. Garages, unfinished basement and attic spaces, ~~storageStorage~~ and utility spaces, and similar areas shall not be considered habitable space. (Note to applicants: ~~-H~~Home ~~O~~ccupations utilizing more than 15% of the habitable space of a ~~dwellingDwelling~~ may require ~~alterational~~alterations to the ~~structureStructure~~ in order to comply with the State ~~BuildingBuilding~~ Code. Applicants are encouraged to consult with the Town ~~BuildingBuilding~~ Inspector regarding requirements for ~~home-occupationHome Occupation U~~se of a residence prior to commencement of the business ~~U~~se). A floor plan depicting the layout of the entirety of the ~~P~~principal or the ~~accessory structureAccessory Structure~~ in which the ~~home-occupationHome Occupation~~ would be conducted shall be submitted with the application for ~~special-use permitSpecial Use Permit~~ approval. The floor plan shall include the dimensions of ~~the~~ all interior rooms and shall identify the location within the ~~structureStructure~~ in which the ~~home-occupationHome Occupation~~ would be performed.

~~(6)(7)~~ No ~~alterationAlteration~~ of the ~~R~~esidential appearance of the ~~principal structureStructure~~ or ~~the accessory structureAccessory Structure~~ or of the premises to accommodate a ~~home-occupationHome Occupation~~ is ~~allowed; exterior~~permitted. The Planning Board may, within its

- ~~sole discretion, allow or require changes to a P~~principal or ~~an accessory structure~~Accessory
~~Structure proposed for home-occupation~~Home Occupation Use so as to bring its appearance into
consistency with the ~~R~~residential or the rural character of the neighborhood in which the ~~lot~~Lot is
located. Exterior visual evidence of a ~~home-occupation~~Home Occupation shall be limited to one
(1) ~~S~~sign and up to three (3) additional ~~parking-space~~Parking Spaces as provided herein.
- (7) ~~One unanimated, nonilluminated sign having an area of not more than three square feet shall be
permitted on the street front of the lot on which the residence is located.~~

~~(8) Signage advertising the location of the home-occupation~~ Home Occupation shall be allowed in conformity with §250- 70(E)(1) of this Chapter. ~~§ 250-56~~ § 250-56

~~(8)(9)~~ 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)(10)~~ Delivery and pick-up of materials or commodities to and from the premises by a ~~commercial vehicle~~ Commercial Vehicle shall not exceed ~~fourteen~~ (10) trips per week, and the deliveries shall not restrict ~~or impede the flow of~~ traffic ~~on any Road~~.

~~(10)(11)~~ In no case shall a ~~home-occupation~~ Home Occupation be open to the public earlier than 8:00 a.m. or later than 9:00 p.m.

~~(12)~~ Noise from the operation or conduct of any ~~home-occupation~~ Home Occupation, including noise generated by any equipment associated with the ~~home-occupation~~ Home Occupation, shall not exceed 65 decibels measured at the property line (as defined in 250-28) in which the ~~home-occupation~~ Home Occupation is conducted.

~~(11)(13)~~ 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~~ 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~~ Home Occupation shall be allowed which creates offensive noise, vibration, smoke, electrical interference, dust, odors, heat, glare ~~or other nuisance, or other~~ nuisance Nuisance, or which requires the presence in the ~~dwelling~~ Dwelling of machinery, equipment, or vehicles that contribute to such neighborhood ~~nuisance~~ Nuisances.

~~(14)~~ Home occupations that attract customers, clients, or students to the premises for sales or service shall not be allowed in multifamily dwelling units.

~~(14)~~ See 250-28

~~(15)~~ No ~~home-occupation~~ Home Occupation shall be permitted which requires the presence of materials as inventory or stock-in-trade that are toxic or hazardous, as per NYS DEC list.

D. Inspections.

~~(P) Any home occupation~~ Home Occupation approved pursuant to a ~~special use permit~~ Special Use Permit under this ~~S~~section shall be subject to an annual inspection by the Zoning Administrator for compliance with the terms of the ~~special use permit~~ Special Use Permit.

~~B.~~ Included ~~home occupation~~ Home Occupations. When conducted in accordance with the requirements stated herein, ~~home occupation~~ Home Occupations shall include but are not limited to the following: antique shops; dressmaking; millinery; home cooking; musical instruction; beauty salon or barber shop with not more than two (2) chairs; ~~beauty shop with not more than two chairs;~~ small appliance repair, ~~and;~~ day care for no more than six (6) children and not requiring a New York State license ~~(see § 250-46, Day care or nursery school facilities)~~. In addition, home occupations shall include but are not

Town of Clinton, NY
limited to the (see § 250-46, Day-Ceare or Nursery School Facilities); office or studio and shop for
§ 250-56 § 250-56
minor fabrication work of an electrician, plumber, carpenter, and similar trades but not including a
physician, dentist, Contractor Yard. In addition, home occupation Home Occupations shall include an
accountant, artist, musician, lawyer, architect, engineer, teacher, insurance agent, realtor real estate broker
or agent, computer programmer or other such professional person, social worker, psychologist,
psychiatrist, acupuncturist, physical therapist, chiropractor, dietitian-nutritionist, insurance adjuster,
home inspector, land surveyor, financial planner, landscape architect, interior designer, automotive seat
and furniture upholstery, licensed outdoor guide, marriage and family therapist, occupational therapist,
private investigator, real estate appraiser, speech and language pathologist.

C.E. Home occupation 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 occupation 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 with
more than two (2) chairs; Church; Funeral Home or mortician; Alternate Ceare facility 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 Kennel; animal hospital; plumbing or electrical shop or a similar trade or Retail
and Wholesale Business.

Article V Supplementary Regulations§ 250-58: ~~Hotels or motels.~~ Motel Motels, and Inns

The following regulations apply to ~~H~~hotels ~~and, motel~~Motels ~~and inns~~:

- A. The ~~M~~minimum ~~lot area~~Lot Area shall be three acres for the first 16 guest rooms, plus an additional 6,000 square feet of ~~lot area~~Lot Area for each additional guest room provided.
- B. The minimum ~~setback~~Setback for any ~~structure~~Structure, ~~P~~parking ~~lot~~Lot or other outdoor ~~facility~~Facility from any ~~S~~street ~~L~~line or property line adjacent to another ~~Z~~oning ~~district~~District shall be 100 feet. The ~~setback~~Setback from all other property lines shall be 50 feet.
- C. ~~Hotels or, motel~~Motels ~~and inns~~ are intended for temporary residency; ~~O~~ccupancy of patrons shall not exceed four weeks in any six-month period.
- D. ~~Hotels and, motel~~Motels ~~and inns~~ may include accessory ~~R~~estaurants and other ~~F~~acilities for the use of guests, not to exceed 25% of the total above-ground floor area.
- E. Each rental ~~structure~~Structure in a ~~motel~~Motel shall contain at least eight rental units.
- F. Parking shall be behind the front ~~building~~building line and should be encouraged to be in the ~~S~~side or ~~R~~ear ~~Y~~ards.

Chapter 250: Zoning

Article V Supplementary Regulations

§ 250-59: ~~Kennel~~Kennels.

The following regulations apply to ~~kennel~~Kennels:

- A. The minimum ~~lot~~Lot size shall be 10 acres.
- B. No ~~building~~Building or other quarters shall be permitted within 250 feet of any property line.
- C. All outdoor areas used by animals shall be located to the side or rear of the ~~P~~p principal ~~building~~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~~Kennel shall be operated in such a manner as to produce no objectionable noise, odors, or other ~~nuisance~~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. § 250-59
- F. A maximum of 12 domesticated animals (cats or dogs) over six months of age may be housed, except that two additional ~~dogs~~animals may be housed for each one additional acre of land provided over 10 acres.

§

Article V Supplementary Regulations

§250-61. 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~~ subdivisions, multifamily and ~~industrial~~ Industrial and commercial sites, including new ~~P~~ 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 ~~subdivision~~ Subdivisions over two ~~lot~~ Lots, for ~~special-use permit~~ Special Use Permits in hamlet and ~~industrial~~ Industrial Zoning ~~district~~ Districts, and for ~~site plan~~ Site Plans for multifamily and ~~P~~ parking ~~lot~~ Lots. The Planning Board may, upon a determination of practical difficulty or incompatibility based on site conditions, waive the requirement for a landscaping plan or any part of this ~~S~~ section.³⁶

C. General landscaping requirements.

(1) Non-invasive plantings shall be used unless otherwise approved by the ~~P~~ planning ~~B~~ board.

(2) Topsoil shall be spread to a minimum depth of three inches over that area of the site which is disturbed. The Planning Board may require topsoil of a greater depth where such may be required to establish permanent plantings.

~~(1)~~

~~(2)~~(3) 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 along with a table indicating the number and species of plantings as well as the height or size at the time of initial planting.

~~(3)~~(4) Where a nonresidential Use requiring a landscaping plan abuts a ~~R~~esidential Use, a ~~buffer~~ Buffer area of year-round screening satisfactory to the Planning Board shall be retained or provided. Screening of service yards, ~~commercial vehicle~~ Commercial Vehicles, commercial trailers, passenger vehicles, ~~P~~ parking areas, refuse containers, and other places that tend to be unsightly, shall be accomplished by use of walls, fencing, planting, or combinations of these with all such enclosures being compatible in material, texture, and color with the ~~P~~ principal ~~building~~ Building or ~~building~~ Buildings on or boarding the site, wherever possible.

~~(4) Parking areas and parking lots shall be landscaped with trees and plantings, and shall be screened from neighboring properties.~~ ~~§ 250-56~~ § 250-59

~~(5) Site accessories, such as trash receptacles, benches and phone booths, shall be located and screened in a manner satisfactory to the Planning Board.~~

(5) ~~Parking areas and Pparking lot~~Lots shall be landscaped with trees and plantings; and shall be
~~§ 250-56~~ screened from neighboring properties and Rroads. Parking areas, access aisles, and ~~parking-~~
~~space~~Parking Spaces facing or adjacent to property located in a Rresidential Zoning
~~district~~District shall be set back an additional 15 feet from the Mminimum Yyard ~~setback~~Setback
to provide a visual and noise ~~buffer~~Buffer to such rresidentially zoned property. The 15--foot
~~buffer~~Buffer shall be planted with a mixture of plantings at a planted height so as to completely
screen the Pparking area from neighboring properties and Sstreets. In the case of practical
difficulty, or where the Planning Board determines that the additional 15--foot ~~buffer~~Buffer strip
is unnecessary due to site conditions, the Board may reduce the depth of the ~~buffer~~Buffer
provided that the Board finds that such reduction will be at least as protective of property located
in the Rresidential Zoning ~~district~~District as the full depth ~~buffer~~Buffer. The species type,
location and planted height of such landscaping shall be subject to the approval of the Planning
Board and Highway Superintendent to ~~insure~~ensure proper site distance.

(6) Parking areas and traffic ways shall be enhanced with landscaped islands, containing trees and
tree groupings. The interior (i.e. non-perimeter) areas of a proposed Pparking area shall be
appropriately landscaped, and for Pparking ~~lot~~Lots containing twenty (20) or more ~~parking-~~
~~space~~Parking Spaces such interior landscaping shall comprise not less than fifteen (15%) percent
of the land area of the proposed Pparking ~~facility~~Facility.

(7) Where possible, natural or existing topographic features and patterns that contribute to the beauty
and character of a site or neighborhood shall be preserved.

(8) Grades of walks, ~~parking-space~~Parking Spaces, terraces, and other paved areas shall
provide an inviting appearance and shall be of such width, as determined by the Planning
Board, to easily accommodate pedestrian movement.

(9) Landscape treatment shall be provided to enhance architectural features, strengthen vistas and
visual corridors and provide shade.

(10) Unity of design shall be achieved by repetition of certain plant varieties and other materials and

~~Town of Clinton, NY~~
~~By coordination with adjacent developments.~~
~~§ 250-56~~

~~§ 250-59~~

- (11) Plant material shall be selected for interest in its ~~structure~~structure, texture and color and in consideration of its ultimate growth pattern. Vegetation non-invasive to the area and others that will be harmonious to the design and exhibit a good appearance should be used.
- (12) In locations where plants will be susceptible to injury by pedestrian or motor traffic, appropriate curbs, tree guards, or other devices shall be installed and maintained. The Planning Board may require the use of markers to delineate curbing and other sensitive features to alert snow plow operators of the existence of such features and curbing.
- ~~(6)~~(13) 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 and filed with the Town Clerk.

Chapter 250: Zoning
Article V Supplementary Regulations

§250-61.262. Motor vehicle related Uses.

A. Motor Vehicle Aaccessory Ssales Ffacilities. The following regulations shall apply to -
Mmotor Vvehicle Aaccessory Ssales Ffacilities.

- (1) The material and equipment shall not be permitted within 20 feet of a Rresidential
Zzoning distrietDistrict boundary or in any required yard, landscaped or bufferBuffer
area, and shall be stored in a buildingBuilding or otherwise screened from public view.
- (2) Repair work on-site is prohibited.
- (3) The sale, rental, and leasing of motor vehicles, recreational vehicles, and boats is
prohibited.
- (4) The premises shall not be used for the display of automobiles, trailers, mobile-
homeMobile Homes, boats, or other motorized vehicles for any purpose.
- (5) The dispensing of petroleum products into motor vehicles, recreational vehicles, and
boats, and other motorized machines is prohibited, except as needed to complete the
repair.
- (6) Commercial Cear Wwash Ffacilities, body repair, or painting are prohibited.

B. Motor Vvehicle Rrepair Ffacilities. The following regulations apply to Mmotor Vvehicle Rrepair:

- (1) All automobile parts, dismantled vehicles, waste material, and similar matter shall be
stored within a buildingBuilding or screened from public view.
- (2) The sale, rental, and leasing of motor vehicles, recreational vehicles, and boats is
prohibited.
- (3) The dispensing of petroleum products into motor vehicles, recreational vehicles, and
boats, and other motorized machines is prohibited, except as needed to complete the
repair.
- (4) No site-planSite 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
planSite Plan shall

show any school, playground, place of public assembly, surface water, drainage channel, or environmentally sensitive area, such as NYS regulated ~~wetland~~Wetlands within 200 feet of the proposal.

(5) All such ~~F~~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~~Setback required for ~~building~~Buildings.

(6) No inoperative motor vehicle shall be kept on the premises for longer than 30 calendar days, except where it is demonstrated that necessary repair parts have been ordered and delivery is awaited.

(7) In addition to other landscaping requirements established by this ~~C~~chapter, suitable year-round ~~round~~round ~~buffer~~Buffering and landscaping shall be provided in all ~~R~~rear and ~~S~~side ~~Y~~yards through evergreen planting.

(8) The premises shall not be used for the display of automobiles, trailers, ~~mobile~~homeMobile Homes, boats, or other motorized vehicles for any purpose.

(9) Commercial ~~C~~ear ~~W~~ash ~~F~~facilities are prohibited.

C. Motor ~~V~~ehicle ~~S~~ervice ~~F~~facilities. The following regulations apply to ~~M~~motor ~~V~~ehicle ~~S~~ervice ~~F~~facilities:

(1) A minimum ~~R~~oad frontage of 200 feet shall be required.

(2) No ~~site plan~~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~~Site Plan shall show any school, playground, place of public assembly, surface water, drainage channel, or environmentally sensitive area such as NYS regulated ~~wetland~~Wetlands within 200 feet of the proposal.

(3) All such ~~F~~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~~Setback required for ~~building~~Buildings.

(4) Pumps and other dispensing devices, except air pumps, shall be located no nearer than 50

feet to any property line. Gasoline and petroleum products in bulk shall be stored in

accordance with this Chapter and current New York State DEC regulations; and shall be set back no less than 50 feet from any ~~lot~~Lot or ~~Street~~street right-of-way boundary.

(5) All automobile parts, dismantled vehicles, waste material, and similar matter shall be stored within a ~~building~~Building or screened from public view.

(6) No inoperative motor vehicle shall be kept on the premises for longer than 30 calendar days, except where it is demonstrated that necessary repair parts have been ordered and delivery is awaited.

(7) In addition to other landscaping requirements established by this Chapter, suitable ~~year-round-round buffer~~Buffering and landscaping shall be provided in all ~~Rear~~rear and ~~S~~side Yyards through evergreen planting.

(8) The premises shall not be used for the display of automobiles, trailers, ~~mobile-~~homeMobile Homes, boats, or other motorized vehicles for any purpose.

(9) Commercial ~~C~~ear ~~W~~wash ~~F~~facilities are prohibited.

Chapter 250: Zoning
Article V Supplementary Regulations

§ 250-65. ~~Pond~~Ponds or ~~lake~~Lakes.

Any ~~excavation~~Excavation for the purpose of ~~building~~Building a ~~pond~~Pond or ~~lake~~Lake of water surface larger than one acre shall require a ~~pond~~ permit issued by the Zoning Administrator.

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

(1) Property identification, location, and size of ~~pond~~Pond or ~~lake~~Lake;

~~36. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

§ 250-65 ~~§ 250-65~~ Classification of ~~waterecourse~~ Watercourses affected and Department of Environmental

Conservation (DEC) permit, if required;

(3) Any related ~~wetland~~ 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 Administrator shall issue the ~~pond~~ permit.

3/8

Article V Supplementary Regulations§250-66. ~~Public stables or riding academies~~ Equine Operations, Horse Boarding Operations, and Private Stables.

The following regulations shall apply to ~~public stables and riding academies~~: all operations that keep, graze, feed, or care for horses on a lot.

The

A. ~~A minimum lot size of one (1) acre shall be five acres.~~

~~B. (1) The provided for use of by the property first horse kept, grazed, fed, or cared for on the lot.~~ One half (1/2) additional acre shall be limited to the keeping of one provided for use by each additional horse per one acre of on the lot area.

No building

~~C. (2) All building Buildings or Structure Structures in which animal horses are kept shall meet the setback Setback requirements of the Z zoning district District in which the facility Facility is located, but in no case shall be placed closer to any property line less than 200 seventy five (75) feet from a residence on another lot.~~

(3) All outdoor areas shall be enclosed by fencing or other means sufficient to confine all horses to the lot. No fence Fence or similar barrier enclosing where horses can be kept outdoors shall be located less than five (5) feet from the edge of any R road bordering the lot.

~~—Manure S storage areas shall be covered or contained in a structure designed to prevent leaching when within leachate from entering soil or ground water or surface water.~~ Manure S storage areas shall be located no less than two hundred

~~D. (4) (200) feet off from any public water supply, state-regulated wetland Wetland, or neighbor's residence or watercourse Watercourse, or any neighboring property line.~~

Chapter 250: ZoningArticle V Supplementary Regulations**§ 250-67. Public Utilities and transmission lines.** ~~[Amended 3-28-2000 by L.L. No. 1-2000]~~

The following shall apply to Public Utilities and transmission lines ~~(other than commercial communications facilities,~~ which are regulated by § ~~250-44):~~:

- A. The Planning Board shall review ~~site plan~~Site Plans for the construction, erection, or installation of ~~structure~~Structures and ~~F~~acilities 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 this Chapter. 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 §§ ~~250-61~~, Landscaping, and 250-28, General ~~performance standards~~Performance Standards.
- C. The provisions of this Section shall not apply to telephone, electric light and power lines usually located along public Highways ~~carrying 5,000 volts or less (15,000 volts or less if enclosed in a common sheath cable and suspended from wooden poles), or~~ ~~to~~or local service underground conduits, cable, gas, sewer and water mains or pipes.
- ~~D.~~—Any aboveground ~~structure~~Structures related to items listed in Subsection C above, including ground

D. ~~transformers~~, multiplexors, or similar equipment placed on private property, shall: ~~§ 250-68~~

- (1) Not require ~~site plan~~ Site Plan review;
 - (2) Not be subject to ~~area and bulk regulations~~ Area and Bulk Regulations (see the Schedule of Area and Bulk ~~Regulations~~ ³⁷ Regulations, except as below;
 - (3) ~~Be located a minimum~~ The Board may shall require suitable landscaping of 10 feet from the public right-of-way and be surrounded with a buffer, as herein defined, satisfactory, including planted buffer Buffers to the Town;
 - (4)(3) ~~Be subject to height restrictions contained in this chapter~~ screen visual impacts along public roadway Roadways.
- 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 or deeded land of sufficient width shall be required to permit the safe construction and maintenance of the transmission line and to prevent any ~~nuisance~~ 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~~ 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 Cchapter; however, where a court proceeding overrules this Cchapter, such utility substation shall be subject to ~~site plan~~ Site Plan approval and requirements listed under ~~§§ 250-96 and 250-28, General performance standards.~~ §§ 250-96 and 250-28, General performance standards Performance Standards.

Chapter 250: ZoningArticle V Supplementary Regulations§ 250-68. ~~Satellite dish antenna~~Satellite Dish Antennas. ~~[Amended 3-28-2000 by L.L. No. 1-2000-]~~

The following shall apply to ~~satellite dish antenna~~Satellite Dish Antennas, over 2 feet in diameter (other than ~~commercial communications facilities~~Commercial Communications Facilities, which are regulated by § 250-44):

- A. Satellite Dish Antennas are permitted, provided that they are in Rrear Yards and meet all applicable provisions of this Section. If a usable satellite signal cannot be obtained from such Rrear Yard, the antenna may be located on the Side or Front Yard of the property, subject to ~~setback~~Setback requirements for ~~accessory structure~~Accessory Structures contained in the Schedule of ~~Area and Bulk Regulations~~Area and Bulk Regulations.³⁸ If a usable satellite signal cannot be obtained by locating the Antenna on the Rrear, Side or Front Yard of the property, such Antenna may be placed on the roof of the ~~dwelling~~Dwelling ~~structure~~Structure.
- B. Not more than one Satellite Dish ~~television A~~ntenna shall be allowed on any ~~lot~~Lot.
- C. The construction and installation of ~~satellite dish antenna~~Satellite Dish Antennas shall conform to all applicable buildingBuilding codes and other regulations and requirements.

37. ~~Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.~~

38. ~~Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.~~

- D. ~~§ 250-65~~ ~~satellite dish antenna~~ Satellite Dish Antennas shall be adequately grounded. ~~§ 250-70~~
- E. ~~Satellite dish antenna~~ Satellite Dish Antennas shall be designed and located to minimize visual impact on adjacent property and ~~roadway~~ Roadways.
- F. A ~~satellite dish antenna~~ Satellite Dish Antenna shall be located not less than 10 feet from any property line or easement.
- G. A ~~G~~ground-~~M~~mounted ~~satellite dish antenna~~ Satellite Dish Antenna shall not exceed a diameter of 16 feet or a grade height of 20 feet.
- H. Wiring between a ~~G~~ground-~~M~~mounted ~~satellite dish antenna~~ Satellite Dish Antenna and a receiver shall be placed beneath the surface of the ground.
- I. Roof-~~M~~mounted ~~S~~satellite ~~D~~dish ~~A~~antennas shall not be mounted on chimneys, towers, ~~or~~ or spires ~~or~~ or trees. Where practical, the antenna should be placed below the ridgepole of the roof. Such antennas shall not extend more than 20 feet above the roof and shall not exceed a diameter of 16 feet.

Article V Supplementary Regulations

§ 250-69: ~~Sawmill~~Sawmills.

The following regulations apply to ~~sawmill~~Sawmills:

- A. All ~~F~~facilities for cutting, chipping, shredding, or other mechanical activities shall be located no closer than 200 feet to any property line.
- B. A two-hundred-foot ~~buffer~~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 ~~sawmill~~Sawmills in existence on the effective date of this ~~C~~chapter.
- C. No ~~sawmill~~Sawmill shall be permitted except where such ~~facility~~Facility has at least 200 feet of ~~R~~road frontage on a state, county or two-lane Town ~~roadway~~Roadway. Access to the parcel shall be gained through this frontage. Such requirement shall not apply to ~~sawmill~~Sawmills in existence on the effective date of this ~~C~~chapter.
- D. A ~~sawmill~~Sawmill shall comply with § 250-28, General ~~performance standards~~Performance Standards.

Chapter 250: Zoning

Article V Supplementary Regulations

§ 250-70. Signs.

The following regulations shall apply to Ssigns:

A. Purposes.

- (1) To promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising and Ssigns.
- (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 Ssign or advertising distractions and obstructions that may contribute to traffic accidents and reduce hazards that may be caused by Ssigns overhanging or projecting over public rights-of- way.

(4) To encourage the installation of appropriate Ssigns that harmonize with the ~~building~~Buildings, the neighborhood, and other Ssigns in the area and to eliminate excessive, unsightly competition for visual attention through advertising Ssigns.

B. Applicability. Except as otherwise provided in Subsection HD below, no Ssign or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged, or altered except in conformity with this Cchapter and, where applicable, without first obtaining a permit from the Zoning Administrator subject to prior Planning Board approval.

C. General regulations. Signs are an ~~accessory use~~Accessory Use only. Signs are not permitted as a ~~principal use~~Principal Use.

(1) Each Ssign shall pertain to a Use that is conducted on the same property on which the Ssign 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 Ssign or lighting device shall employ only lights emitting a light of constant intensity, and no Ssign 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-

- (2) attracting attention to a nonresidential 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~~ 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 faces. Identical Signs arranged ~~back-to-back~~ 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~~ Permanent ~~Freestanding~~ or A-frame 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~~ Site Plan review process, when ~~site plan~~ Site Plan review is required.
- (9) In matters of ~~setback~~ Setback from the Street or Road, required Yards, and other such respects, Freestanding Signs larger than eight (8) square feet shall be regarded as ~~structure~~ Structures within the meaning of this Chapter.
- (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 ~~S~~sign shall be located so as to obscure any ~~S~~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 ~~S~~sign shall be attached to any tree, ~~S~~street ~~S~~sign or municipal ~~pole~~structureStructure or be painted upon or otherwise directly affixed to any rock, ledge, or other natural feature.
- (13) No ~~S~~sign or support for any ~~S~~sign shall be placed on the roof of any ~~building~~Building.
- (14) No wall ~~S~~sign attached parallel to a ~~building~~Building shall project more than ~~twelve~~ (12) inches from the face of the ~~building~~Building.
- (15) No ~~S~~sign attached perpendicular to a ~~building~~Building shall project more than six ~~(6)~~ feet from the ~~building~~Building.
- ~~(16)~~ No ~~S~~sign shall overhang onto ~~an~~ or above adjacent property or a ~~public or private~~ right-of-way unless ~~said line is the building line, in which case a sign may extend over the~~ ~~Owner of such property or~~ right-of-way ~~line for a distance not exceeding four feet.~~consents. "
- ~~(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 25% of the area of said window.~~
- ~~(18)~~(16) No ~~S~~sign shall exceed ~~ten~~ (10) feet in height or extend above the ~~F~~facade of the ~~building~~structureStructure to which it is attached.

~~(19)(17)~~ Landscaping. Any permanent ~~F~~freestanding ~~S~~sign larger than twenty (20) square feet ~~§ 250-70~~ shall be installed in a landscaped planter larger than the area of the sign. ~~No~~Permanent ~~F~~freestanding sign larger~~S~~signs greater than eight (8) square feet shall have not less than three (3) feet of ~~open space~~Open Space ~~at~~from the bottom of the Ssign downward to grade, extending its entire length.

~~(20)~~(18) Material. Each ~~S~~sign shall be constructed of wood, metal, or other durable material approved by the Planning Board. Plastic ~~S~~signs are not permitted, except as allowed by Subsection ~~H~~E below.

~~(21)~~(19) Design. For ~~S~~signs requiring permits ~~(see also Subsection H below)~~, the Planning Board may suggest alternatives in informational content, lettering, and decorative elements.

D. Prohibited Ssigns.

(1) Signs more than 20 square feet and Ssigns not located on the premises with which they are associated or to which they refer in other Ssections of the Ceode.

(2) Roof Ssigns.

(3) Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

(4) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product, service, or activity or direct people to a business or activity located on property not associated with the business or commercial activity advertised. However, this is not in any way intended to prohibit Ssigns placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the Ssign is incidental to the primary use of the vehicle or trailer, or Ssigns advertising Rroadside Sstands.

(5) The use of fluorescent and/or "day-glow" type of paints.

~~Strip lighting outlining commercial structures and used to attract attention for commercial purposes, and strings of light bulbs used in any connection with commercial premises unless the lights are shielded.~~

(6) A Ssign which obstructs any window or door opening used as a means of egress, prevents free passage from one part of a roof to any other part, interferes with an opening required for legal ventilation, or is attached to or obstructs any standpipe, fire escape or fire hydrant.

(7) No pennants, balloons, ribbons, streamers, spinners, or other similar moving, fluttering, or

~~Town of Clinton, NY~~
~~revolving~~ devices shall be allowed on any commercial premises.

~~§ 250-70~~

~~§ 250-70~~

(8) No permanent Ssign shall be constructed of paper, cardboard, or similar materials.

~~D.~~ Signs permitted in all ~~Zoning district~~ Districts, without a permit, subject to the

(1) ~~E. No more than three signs along the frontage of a lot which meet all other requirements herein of Ssection C above~~

(1) For a ~~home occupation~~ Home Occupation one (1) ~~S~~sign of no more than four (4) square feet in size mounted on the front of the principal ~~dwelling~~ Dwelling or mounted on a ~~F~~freestanding pole located in the ~~F~~front ~~Y~~yard. Such ~~F~~freestanding ~~S~~sign shall be set back not less than four (4) feet from the edge of the travel way of any ~~H~~highway, and shall not exceed six (6) feet in height above the ~~F~~finished ~~G~~grade.

(2) One bulletin board not exceeding fifteen (15) square feet in area for a ~~church~~ place of religious ~~Place of W~~worship or other public ~~nonecommercial~~ non-commercial ~~use~~ commercial Use.

(3) Temporary non-illuminated ~~"For Sale," "Open House," "For Rent," "For Lease," "Opening Soon," "Coming Soon" and similar Rreal Eestate Ssigns, and "-Yard Sale," "Garage Sale" and Ssigns of a similar nature, provided such Ssigns do not exceed six (6) square feet each side and are not placed within any Sstreet or Hhighway right-of-way without a permit or approval from the appropriate governmental agency having jurisdiction over such Sstreet or Hhighway. Such Ssigns shall be removed immediately upon the ceessation of the Eevent so advertised but, in any event, no later than five (5) days of the end of the event. Failure to promptly remove said Ssigns in accordance with this Ssection may result in the removal by the Zoning Administrator.~~

(4) One (1) ~~S~~sign, not exceeding four (4) square feet, listing the architect, engineer, contractor, and/or ~~O~~owner on premises where construction, renovation, or repair is in progress. Said ~~S~~sign shall be removed upon completion of construction, renovation, or repair as determined by the Zoning Administrator.

(5) Non-commercial and similar ~~S~~signs as long as they are not placed within the travel way of any ~~S~~street or ~~H~~highway, or block sight lines.

(6) On premises "No Trespassing" or "Private Property" or similar warning ~~S~~signs, not to exceed two

(2) square feet in area per sign.

(7) Decorative banners, flags, posters, placards, and streamers on ~~R~~residential premises.

~~(3)~~ (8) Signs identifying real estate, apartment, or ~~subdivision~~ Subdivision

developments, not to exceed one (1) ~~S~~sign per entrance ~~from a Rroad~~ where each

~~S~~sign shall not exceed twelve (12) square feet in size, and identifying only the name

of the development where such Sign is located.

- ~~§ 250-70~~ ~~(4)(9)~~ ~~Temporary signs for One (1) temporary Ssign per Sstreet front displayed not more than~~ ~~§ 250-70~~
~~thirty (30) days following the initial opening of a business establishment. These signs~~ ~~Such~~
~~Sisign~~ shall not exceed ~~twelve (12)~~ square feet ~~and one sign per street front.~~
- ~~(5)(10)~~ Signs necessary for the identification, operation, or protection of a ~~P~~public ~~U~~utility installation.
- ~~(6)(11)~~ Signs incidental to a legal process or necessary to the public welfare.

~~(7)(12)~~ Directional ~~S~~signs with valid ~~S~~sign permits obtained from the Town, Dutchess County ~~§ 250-70~~

or New York State highway authorities.

~~(8)~~ A maximum of two (2) off-premises directional ~~S~~signs, not to exceed eight (8) square feet in area per sign, erected for no more than 90ninety (90+50) [NMI] days per year, with permission of the property ~~O~~owner, to advertise ~~F~~farm products or a ~~F~~farm stand. One (1) on-premises sign, not exceeding eight

~~(13)~~ All signs (8) square feet, identifying a permitted ~~farming~~Agricultural Ooperation or Rroadside Sstand.

~~(14)~~ Seasonal ~~S~~signs and decorations located on private property that are illuminated by or contain flashing, intermittent, rotating, or moving lights or strings of lights, provided that such ~~S~~signs are temporary.

~~(15)~~ Signs that have been declared by resolution of the Town Board to be of historic, Aagricultural purpose or cultural significance.

~~(16)~~ One (1) ~~S~~sign per ~~lot~~Lot, not exceeding two (2) square feet in area, identifying the occupant of the premises.

~~(17)~~ The changing of message content, but not design or format, on approved ~~S~~signs.

~~(18)~~ Temporary ~~S~~signs related to events, meetings, conventions, and other assemblies. Such ~~S~~signs shall be limited to twelve (12) square feet in area, and a period not exceeding forty-five (45) days prior to the Eevent and shall be removed within five (5) days of the end of the event.

~~(19)~~ Memorial or historical ~~S~~signs, names of ~~building~~Buildings, and dates of erection when cut or cast into any permanent material, not to exceed six (6) square feet in area.

~~(20)~~ Traffic or other municipal ~~S~~signs.

~~(21)~~ Legal notices or such temporary, emergency, or non-advertising ~~S~~signs, as may be authorized by the Town Board.

~~(22)~~ U.S., state, and local flags.

~~(23)~~ Signs not visible from outside the ~~lot~~Lot upon which they are situated.

~~(24)~~ Security ~~S~~system Iidentification ~~S~~signs.

~~(9)~~ Subsection H below.

~~E.F.~~ Signs permitted in the hamlet Zoning ~~district~~Districts. In addition to those ~~S~~signs permitted in all Zoning ~~district~~Districts, the following standards apply and are subject to the requirements of Ssection C above:

(1) Regardless of the types of ~~S~~signs, the total ~~S~~sign area for all ~~S~~signs shall not exceed ten percent (10%~~%~~) of the front face of a building~~Building~~, up to a maximum of thirty (30) square feet. No

more than one (1) permanent ~~F~~freestanding ~~S~~sign shall be permitted.

~~§ 250-70~~

(2) When there is more than one establishment on a single ~~lot~~Lot, the following standards shall apply: ~~§ 250-70~~

(a) One (1) ~~F~~freestanding ~~S~~sign not in excess of twenty (20) square feet may be erected identifying-

- (a) only the name of the center or ~~facility~~Facility as a whole and not containing advertising matter. Such Ffreestanding Ssigns shall be set back not less than ten (10) feet from any Hhighway right-of-way or thirty-five (35) feet from any Hhighway centerline, whichever is greater, and shall not exceed six (6) feet in height above the Ffinished Ggrade.
- (b) Individual wall or projecting ~~S~~signs, totaling not more than ten percent (10%%) of the area of the ~~building~~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~~Facility shall be required and subject to site-planSite 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 ~~building~~Buildings in the Zoning districtDistrict and not obscure individual historic features.
- ~~(4) Gasoline stations-Motor Vvehicle Sservice facility~~Facility. Total ~~S~~sign area shall not exceed thirty (30) square feet, including any canopy lettering. In addition, gasoline pumps may bear the customary ~~S~~signs identifying the brand, grade, price, and tax of gasoline, but no other unrelated ~~S~~signs, symbols, banners, or other devices may be attached. Self-service islands may display two (2) ~~S~~signs not to exceed two (2) square feet in area per ~~S~~sign and to be placed below the top edge of the island canopy.
- ~~(4)~~
- F.—Signs permitted in AR5, AR3, C, CR1 and MR1 Zoning DistrictDistricts. In addition to those ~~S~~signs permitted in all ~~district~~Zoning Districts, the following standards apply: One (1) ~~S~~sign per ~~lot~~Lot not to exceed twenty (20)

G.) square feet may be erected to identify any Use permitted under this Chapter, excluding ~~home occupation~~Home Occupations, which are regulated by ~~Subsection H below.~~§ 250-70(E)(1) above, , subject to the requirements of Section C above.

G.H. Signs permitted in the Office-Light Industry Zoning District~~District~~. In addition to those Signs permitted in all Zoning district~~Districts~~, the following standards apply and are subject to the requirements of sSection C above:

- (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~~Building, up to a maximum of fifty (50) square feet. Not more than one (1) permanent Freestanding Sign shall be permitted. Such Ffreestanding Ssign shall be set back not less than ten (10) feet from any Hhighway right-of-way or thirty-five (35) feet from any Hhighway centerline, whichever is greater, and shall not exceed six (6) feet in height above the Ffinished Ggrade.
- (2) When there is more than one establishment on a single ~~lot~~Lot, the standards in Subsection E~~F~~ (2) shall apply.

H. Exceptions. The following do not require a sign permit:

- ~~(1) One sign per lot, not exceeding two square feet in area, identifying the occupant of the premises.~~
- ~~(2) One sign per lot, not exceeding three square feet in area, identifying a permitted home occupation.~~
- ~~(3) One non-illuminated sign per lot, advertising the sale, lease or rental of the premises upon which the sign is located or one nonilluminated sign denoting an architect, engineer or contractor, placed on premises where construction, repair or renovation is in progress. Such signs shall not exceed six square feet in area, except in the Office Light Industry (I) District where such signs shall not exceed a maximum of 30 square feet.~~
- ~~(4) One sign per lot, not exceeding eight square feet in area, identifying a permitted farming operation or roadside stand (see § 250-75, Temporary permits).~~
- ~~(5)(1) The changing of message content, but not design or format, on approved signs.~~
- ~~(6) "No trespassing" signs, not to exceed two 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 12 square feet in area, and a period not exceeding 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 square feet in area.~~

~~(9)(1) Traffic or other municipal signs.~~

~~(10) Legal notices or such temporary, emergency, or nonadvertising 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)(1) 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 chapter (see also Subsection K).~~ ~~§ 250-70~~ ~~§ 250-70~~

~~(14)(1) Security system identification signs.~~

I. Application. A separate application for a Ssign permit is not necessary when the information required in this Ssection is included in an application for ~~site-plan~~Site Plan approval. All applications for Ssign permits shall contain the following information:

- (1) The name, address, and telephone number of the applicant.
- (2) The location and ~~principal-use~~Principal Use of the ~~building~~Building, ~~structure~~Structure, or ~~lot~~Lot to which or upon which the Ssign is to be attached or erected.
- (3) A description, including size, of all existing Ssigns located on the property.
- (4) A detailed drawing showing:
 - (a) A description of the Ssign, 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 Ssign.
 - (c) The position and type of lighting or other extraneous devices.
 - (d) A location plan showing the position of the Ssign on any ~~building~~Building or land and its position in relation to nearby ~~building~~Buildings or ~~structure~~Structures, private or public ~~roadway~~Roadways, and property lines.
- (5) Written consent of the Owner of the ~~building~~Building, ~~structure~~Structure, or land to which or on which the Ssign 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 Administrator, upon the filing for a Ssign permit, to refer such application to the Planning Board. The Planning Board shall examine such plans, specifications, locations, and other data submitted and approve said plans within ~~forty-five~~ (45) days if they are in compliance with all requirements of this Cchapter.-

~~(1)~~(2) Upon Planning Board approval, the Zoning Administrator shall issue a permit for the erection of the proposed Ssign within ~~fifteen~~ (15) days. In the event that plans submitted are denied, the Zoning Administrator shall then notify the applicant, in writing, of the reason for refusal to issue a permit.

~~(2)~~(3) If the authorized Ssign is not erected within six (6) months of the day the Ssign permit is granted, the permit shall become null and void and new application must be

made.

~~K.~~—Removal of certain ~~S~~signs. Each of the ~~N~~nonconforming ~~S~~signs or ~~structure~~Structures specified below is

be sufficiently objectionable and out of character within the ~~Z~~oning ~~district~~District in which such ~~U~~se is located, as to depreciate the value of other property and ~~U~~ses permitted in the ~~Zoning district~~District and otherwise inhibit the proper, safe, and orderly development of such ~~Zoning district~~District. Therefore, each such ~~N~~onconforming ~~U~~se shall be terminated on or before the expiration of the specified period of time after the effective date of this ~~C~~hapter. Said period of time is specified herein as one that is reasonable to permit the phasing out of such ~~U~~se and amortization of any remaining value.

- (1) Any ~~S~~ign existing on or after the effective date of this ~~C~~hapter 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 ~~O~~wner of the ~~S~~ign and/or his agent within ~~ninety~~ (90) days of the effective date of this ~~C~~hapter or within ~~thirty~~ (30) days after receipt of written notice from the Zoning Administrator to remove such obsolete sign, whichever date is later.
- (2) Any ~~S~~ign and supporting ~~structure~~Structures, unrelated to the activity on the site, including off-premises directional ~~S~~igns, shall be removed not more than three ~~(3)~~ years from the effective date of this ~~C~~hapter, except as permitted herein.
- (3) Signs shall be maintained in a proper state of repair, and in full compliance with the ~~Uniform Code building Building and electrical codes~~. If any ~~S~~ign regulated by this ~~C~~hapter is unsafe or insecure, ~~or violates the Uniform Code or is a menace to the public~~, the Zoning Administrator shall give written notice to the ~~O~~wner of the ~~S~~ign and the ~~O~~wner of the land upon which the ~~S~~ign is erected, who shall remove or repair the ~~S~~ign, sign frame, or supports within ~~thirty~~ (30) days from the date of such notice. If, after proper written notice, such ~~S~~ign is not removed or repaired, the Zoning Administrator shall revoke the permit, if applicable, issued for the sign, and may remove or repair the ~~S~~ign and shall assess all costs and expenses incurred in the removal or repair against the land or ~~building~~Building on which such ~~S~~ign was located.

Chapter 250: ZoningArticle V Supplementary Regulations**§ 250-71. Soil erosion and sediment control.**

- A. Purpose. The purpose of this ~~S~~section is to protect the health, safety and welfare of the citizens of the Town ~~of Clinton~~ by regulating site ~~alteration~~Alteration and construction activities such as ~~excavation~~Excavation, filling, ~~grading~~Grading and stripping. This regulation is intended to minimize the negative impacts resulting from site ~~alteration~~Alteration and construction which include: sedimentation, erosion, siltation, water quality deterioration, increased flooding, washouts, property damage, and destruction of ~~habitat~~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~~Alteration and construction activities that require an approved plan such as ~~excavation~~Excavation, filling, ~~grading~~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~~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-use permit~~ Special Use Permit, ~~site plan~~ Site Plan approval or ~~subdivision~~ Subdivision in which more than 1/2 acre of topsoil is to be disturbed.³⁹
- (2) Other activities requiring a separate erosion control plan:
 - (a) Any ~~alteration~~ Alteration of a designated ~~wetland~~ 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 15% or steeper.
 - (c) Any site preparation within the one-hundred-year ~~floodplain~~ Floodplain of any ~~waterecourse~~ Watercourse.
 - (d) ~~Excavation~~ Excavation or filling which affects more than 200 cubic yards of material.
 - (e) Soil stripping or ~~grading~~ Grading which affects more than 1/2 acre of ground surface within any parcel or any one ~~subdivision~~ Subdivision.
 - (f) Site preparation on any area which, in the judgment of the ~~Building~~ 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 ~~Ssingle-Ffamily dwelling~~Dwelling that is not a part of a new ~~subdivision~~Subdivision of land, except as required under Subsection C.
 - (3) ~~AcceptedSound agricultural practices~~Agricultural Practices.
 - (4) Household gardening and activities related to the maintenance of landscape features on existing developed ~~lot~~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 Ssection 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 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~~Grading and construction activities, including:

- [1] Start and completion dates;
 - [2] Sequence of ~~grading~~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 ~~F~~facilities;
 - (d) The installation, operation and maintenance of proposed soil erosion and sediment control measures and stormwater management ~~F~~facilities.
- (2) A ~~site plan~~Site Plan map drawn on separate sheet(s) which adheres to the general provisions required in-
- ~~(2)~~ § 250-96, ~~Site plan~~Site Plans, and includes the following:
- (a) Proposed ~~alteration~~Alterations, including cleared, excavated, filled or graded areas and proposed ~~structure~~Structures, utilities, ~~R~~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 ~~F~~facilities;

- (3) All activities subject to regulation in Subsection C(2) of this Ssection 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) The 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-use permit~~Special Use Permit, ~~site-plan~~Site Plan approval or ~~subdivision~~Subdivision, the Planning Board shall either approve the plan when it complies with the requirements and objectives of this Ssection, 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-use permit~~Special Use Permit, ~~site-plan~~Site Plan approval or ~~subdivision~~Subdivision until a satisfactory plan has been approved. [Amended 5-11-2010 by L.L. No. 1-2010-, effective 5-20-2010-]
- (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~~District. Such referral shall be completed within 30 days after being sent. The Planning Board may approve a plan referred to the

(b) Dutchess County Soil and Water Conservation ~~District~~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 Ssection, the Planning Board shall either approve the plan when it complies with the requirements and objectives of this Ssection, 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 Ffacilities in the plan scheduled prior to site development are installed and functional.

~~§ 250-71~~
(3) Planned soil erosion and sediment control measures and ~~F~~facilities shall be installed as ~~§ 250-71~~ scheduled according to the approved plan.

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

(5) The Zoning Administrator 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~~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 § **250-50**, ~~Excavation~~Excavation and ~~mining~~Mining).

**§ 250-72. ~~Steep-~~
~~slope~~Steep Slopes.**

A.—Purpose. It is the intent of the Town ~~of Clinton~~ to preserve ~~steep-slope~~ 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 ~~S~~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~~ Alteration of significant views, and destruction

A. of potentially significant ~~habitat~~ Habitat which may result from disturbance of ~~S~~steep ~~S~~elopes.

B. Regulated activities. For the purpose of this ~~S~~section, ~~steep-slope~~ Steep Slopes are determined to be of two general classifications as defined in Article VIII: ~~M~~moderately ~~steep-slope~~ Steep Slopes of 15% to 25% and ~~E~~extremely ~~steep-slope~~ Steep Slopes over 25%. Any disturbance of lands exhibiting slopes of 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 ~~S~~section:

- (1) Any customary landscaping not involving ~~grading~~ Grading, provided such activity conforms to all other applicable ~~O~~rdinances, laws and regulations;
- (2) Removal of diseased or dead timber or other vegetation ~~subject to routine~~ accordance with a forest management ~~practices~~ plan;
- (3) Creation of trails, paths, or corridors for the purpose of ~~nonvehicular~~ non-vehicular human recreation or the maintenance of wildlife migration routes or ~~habitat~~ Habitats, provided such activity conforms to all other applicable ~~O~~rdinances, laws and regulations;
- (4) Activities on premises for which a ~~special-use permit~~ Special Use Permit for ~~excavation~~ Excavation or ~~mining~~ Mining is in effect (see § 250-50); ~~[Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010]~~
~~Accepted~~ § 250-50);

(5) ~~Sound agricultural practices~~ Agricultural Practices;-

(6) ~~The removal of live trees for personal use and/-or for general maintenance.~~

D. Application procedure. Applications to disturb ~~M~~moderately and ~~E~~extremely ~~steep-slope~~ Steep Slopes shall be made to the Planning Board and shall accompany other application materials as required for said activity. Applications for disturbance of ~~M~~moderately ~~steep-slope~~ 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 Administrator or ~~Building~~ Building Inspector. Applications for disturbance of ~~E~~extremely ~~steep-slope~~ Steep Slopes shall follow the procedures in § 250-97, ~~Special-use permit~~ Special Use Permits. All applications shall be accompanied by:⁴⁰

- (1) Four copies of plans for the proposed regulated activities drawn to a scale of not less than one inch equals 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 ~~structure~~Structures, roads, walls, sewage disposal systems, wells and ~~wetlands within 500 feet;~~

wetlandWetlands within 500 feet;

- (b) Estimated material quantities of ~~excavation~~Excavation or ~~F~~fill;
- (c) Location and size of areas of ~~M~~moderately and ~~E~~extremely ~~steep slope~~Steep Slopes under existing and proposed conditions, in the area of proposed disturbance and within a distance of 500 feet;
- (d) Location of soil types in the area of proposed disturbance and to a distance of 500 feet;

40. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

~~§ 260-7~~ Existing and proposed adjusted contours at two-foot intervals in the area of proposed disturbance and to a distance of 500 feet;

(f) Cross-sections of critical slope areas;

(g) Retaining walls, with details of construction. Such walls over six 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 ~~Mmoderately steep slope~~Steep Slopes. When considering an application which includes the disturbance of ~~Mmoderately steep slope~~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~~Open Space design principles whereby ~~lot~~Lots, ~~structure~~Structures, utilities and other improvements are located in areas most suitable for development;

(2) Roads and ~~driveway~~Driveways follow natural topography, and minimize ~~grading~~Grading;

(3) Sewage disposal systems and wells are sited to minimize ~~F~~Fill requirements, and the potential for disturbance, erosion, sinking, and slope failure;

(4) ~~Grading~~Grading, cuts and ~~F~~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 ~~F~~Fill does not exceed the natural angle of repose of the soil or rock materials in the cut or ~~F~~Fill, except where retaining walls or other structural stabilization is used. Generally, for soils, angles of a cut or ~~F~~Fill shall be no steeper than one vertical to three horizontal (33% slope);

(6) Tops and bottoms of cuts and ~~F~~Fills are set back from ~~structure~~Structures and property lines a distance that will ensure the safety of the ~~structure~~Structure and neighboring property in the event of the collapse of the cut or ~~F~~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 slope~~Steep Slopes is undertaken in workable units in which the disturbance can be-

(8) 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 ~~E~~extremely ~~steep-slope~~Steep Slopes. No disturbance shall be created on areas of ~~E~~extremely ~~steep-slope~~Steep Slopes as defined herein unless a separate ~~special-use permit~~Special Use Permit for their disturbance has been issued by the Planning Board. The Planning Board shall issue a ~~special-use permit~~Special Use Permit for disturbance only if:⁴¹

(1) ~~There~~ are no reasonable alternatives to the disturbance; and

§ 250-72

(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 slope~~ Steep Slopes.

G. Conditions relating to the disturbance of ~~steep slope~~ Steep Slopes.

(1) The estimated costs of ~~measures required as part completion of a plan the work to disturb areas of steep slopes, as specified in an approved plan or special use~~ be performed under a permit, shall issued pursuant to this Ssection may, as a condition of Planning Board approval, may be covered in ~~—a performance bond or other assurance~~ type of surety in an amount recommended by the Planning Board, reviewed by the Town's attorney, and approved by resolution of the Town Board.⁴² Alternatively, the Planning Board may require as a condition of any permit issued under this Ssection the posting of a performance bond or other type of surety to cover the cost of site restoration in lieu of completion of the entirety of any work to be otherwise performed. The Planning Board is also authorized to waive the posting of a performance bond or surety when, in the sole determination of the Planning Board, the work to be performed under the steep slope Steep Slopes Ppermit is minor or involves a matter of urgency to avoid further environmental damage and the Town Engineer concurs, in writing, to such waiver.

(2) The ~~—~~provisions of this Ssection shall not apply to any development, ~~alteration~~ Alteration or improvement of property for which final ~~approval shall have steep slope Steep Slope permit, site plan Site Plan, special use permit Special Use Permit, or subdivision Subdivision approval has been obtained and not expired and the approved work not completed prior to the effective date of this Cchapter.~~

~~A special use 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 year. The Planning Board may renew the special use permit on reapplication. The Zoning Administrator or the~~

(3) Within one (1) year of the date of approval the applicant shall present to the Planning Board a corrected plan in reproducible form, including any modification required by the Planning Board as a condition of its approval, for Chairperson signature. Upon verification by the Town Engineer that the plan complies with the requirements of the Board's approval, the plan shall be endorsed by the Chairperson and filed with the Zoning Administrator, the Planning Board and the Town Clerk. The time to submit a final site plan Site Plan for Chairperson signature may be extended by the Planning Board for up to one additional one-year period upon a finding of good cause by the Board to grant such extension. After receipt of Chairperson signature on the approved final site plan Site Plan the approval shall terminate if construction is not commenced within 18 months thereafter, unless the approval is reviewed and extended by the Planning Board. The Zoning Board of Appeals, by administrative review, may suspend or revoke a special use permit Special Use Permit or approval for disturbance if it finds that the applicant is in violation of that the permit or approval.⁴³ any conditions of the permit.

Chapter 250: Zoning
Article V Supplementary Regulations

§ 250-75. Temporary permits.

The intent of this ~~S~~section is to establish necessary regulation of ~~T~~temporary ~~U~~uses in order to protect ~~the~~ rights of property owners and public safety. Temporary permits shall be issued by the Zoning Administrator for the following ~~U~~uses, consistent with this ~~C~~chapter 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, ~~F~~airs, ~~C~~ircuses. A ~~church~~Place of Religious Worship, school, civic association or other nonprofit organization may hold a ~~F~~air, ~~C~~arnival, ~~C~~ircus, horse show or similar ~~E~~vent upon its premises, or other premises with the approval of the Zoning Administrator. the proceeds of which are for the sole benefit of said applicant. ~~Upon request, the Zoning Administrator 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 ~~E~~vent may be issued for a period not to exceed three days in any one calendar year;
- (2) The applicant is responsible for cleaning the site and removing all refuse within 48 hours after the event;
- ~~(3)~~—The applicant shall furnish evidence of sufficient temporary ~~P~~parking and responsibility

~~41. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

~~42. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

~~43. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).~~

~~(§ 250-71)~~ traffic control;

~~§ 250-75~~

- (4) The ~~E~~vent must comply with the ~~M~~inimum ~~Y~~ard and ~~setback~~Setback requirements of the ~~Zoning district~~District in the Schedule of ~~Area and Bulk Regulations~~Area and Bulk Regulations.⁴⁴

B. Temporary ~~building~~Buildings. Temporary ~~building~~Buildings, including ~~mobile home~~Mobile Homes and ~~storage~~Storage ~~structure~~Structures, are permitted only in conjunction with construction projects. The following specific regulations apply:

- (1) A permit for a ~~T~~emporary ~~building~~Building shall be issued by the Zoning Administrator for a period not to exceed one year. Such permit may be renewed a maximum of one time;
- (2) All ~~T~~emporary ~~building~~Buildings must conform to the ~~area and bulk regulations~~Area and Bulk Regulations of the ~~Zoning district~~District as they apply to ~~accessory use~~Accessory Uses;

~~(3)~~ Operating hours shall be between 8:00 a.m. and 8:00 p.m.; unless in conjunction with a permitted event;

~~(3)(4)~~ No ~~T~~emporary ~~building~~Building may be ~~u~~sed as a sales office;

~~(4)(5)~~ Any ~~T~~emporary ~~building~~Building must be removed within 30 days of the completion of the construction project or expiration or revocation of any ~~building~~Building ~~P~~ermits issued thereto;

~~(5)(6)~~ Any ~~T~~emporary ~~building~~Building used or intended to be used as a ~~storage~~Storage ~~facility~~Facility for a period exceeding seven successive days requires a permit.

~~(6)~~(7) Such permit requirement shall not apply to ~~A~~accessory ~~building~~Buildings allowed in Article IV herein.

~~C.—Roadside Stands, Vendors, solicitors, peddlers. The Solicitors, Peddlers. Except as provided in clause (D) below, the following conditions shall apply to any roadside vendor, solicitor~~Roadside Stand, Vendor, Solicitor, or peddler~~Peddler in the Town of Clinton:~~

C. All vendors, solicitors, (referred to hereafter collectively as “Vendors” and peddlers as being engaged in “vVending”):

- (1) All Vendors are required to obtain a Temporary permit prior to commencing operation. Permits shall be issued for a maximum period of two 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~~vVending 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~~StructureStructure, equipment, or materials shall be erected or stored on a ~~lot~~LotLot except as otherwise permitted in this Chapter;
- (3) Operating hours shall be between 8:00 a.m. and ~~6~~8:00 p.m.; unless in conjunction with a permitted Event;
- (4) No ~~structure~~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 facilitiesFacilities used for ~~vending, soliciting, or peddling~~vVending are subject to § **250-64**, Outdoor ~~storage~~Storage or Parking of Recreational or ~~commercial vehicle~~Commercial Vehicles;
- (6) Permits may only be issued for a specific location designated by roadwayRoadwayRoadway 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;

44. Editor's Note: The Schedule of Area and Bulk Regulations is included at the end of this chapter.

Town of Clinton, NY
~~shall be conspicuously displayed by the vendor during hours of operation;~~
~~§ 250-75~~

§ 250-75

~~(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 roadway mile;~~

~~(8) No advertising, signsSigns, or promotional materials are permitted except in accordance with~~

~~(7) § 250-70, Signs, Subsection C. Freestanding 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 12 square feet. No Sign may be placed in the traveled way of a roadRoad or otherwise constitute a danger to motor vehicles;~~

~~(9)(8) Adequate sight distance and space for safely pulling off the roadwayRoadwayRoadway and Parking shall be provided. However, the construction of Parking Facilities for the express Use of vending operationsvVending is prohibited;~~

~~(10)(9) No structuresStructureStructures, stands, motor vehicles or other facilitiesFacilities used for vendingvVending are permitted within 200 feet of any residence, intersection or on any crosswalk;~~

~~(11)(10) Such permit may be revoked without notice by the Zoning Administrator, or the operationvVending required to be moved, if in the judgment of the Zoning Administrator or Highway Superintendent the operation is determined to be unsafe. If the permit is revoked, the vVending operation shall immediately cease. Such decision to revoke for safety reasons may be appealed to the Town Board.~~

~~(12) Roadside Stands, Vendors, solicitors, or peddlersSolicitors, 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. \$300,000 for property damage and injuries, including injury resulting in death, caused by the Roadside stands. Roadside stands, as defined in Article VIII of this chapter, shall be permitted as an accessory use, with permit, subject to the following conditions:~~

~~(11) Such stand~~

~~(1)(12)~~ ~~Structure~~Structures, stands, motor vehicles or other Facilities used for ~~vVending~~ shall not exceed ~~400~~300 square feet in gross ~~floor~~ area;

~~(2)(13)~~ ~~Such stand~~StructureStructures, stands, motor vehicles or other Facilities used for ~~vVending~~ shall be located not less than 20 feet from any ~~roadway~~Roadway edge;

D. Farm Stands. The following conditions (and not the above clause (C)) shall apply to any Vendor which is a Ffarm in a New York State Agricultural DistrictAgricultural District which is selling predominantly products grown or raised on such Ffarm or on other Ffarms within the State of New York:

(1) All Vendors are required to obtain a permit prior to commencing operation. Permits shall be issued for a maximum period of one year. No ~~vVending~~ may be conducted in the Town of ~~Clinton~~ without a permit;

(2) Any ~~vVending~~ 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~~Structure, equipment, or materials shall be erected or stored on a ~~Lot~~Lot except as otherwise permitted in this ~~Ce~~hapter;

(3) Operating hours shall be between 8:00 a.m. and 8:00 p.m.;

(4) No ~~Structure~~Structures, stands, motor vehicles or other Facilities used for ~~vVending~~ 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 ~~vVending~~ are subject to § 250-64, ~~Outdoor storage~~Storage or ~~P~~parking of recreational or ~~commercial vehicle~~Commercial Vehicles;

(6) Permits may only be issued for a specific location designated by ~~Roadway~~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;

~~(3) No~~ Such stand shall be solely for seasonal display and sale of agricultural products grown principally on the premises;

(7) advertising, Signs, or promotional materials are permitted except in accordance with § 250-70, Signs, Subsection C. Signs shall be limited to two (three if the Ffarm is not located on a state or county Road) per Ffarm. Signs may be either Ffreestanding, wall-mounted or painted on, but in no case may they exceed 12 square feet. No Sign may be placed in the traveled way of a Road or otherwise constitute a danger to motor vehicles;

~~(4)(8)~~ Adequate sight distance and space for safely pulling off the ~~roadway and parking~~ must be provided. However, the construction of paved ~~Roadway~~Roadway and ~~P~~parking facilities for the express use of roadside stands is prohibitedshall be provided;

~~(5) No~~ Such permit does not have to be renewed, but may be revoked if the roadside stand fails to meet any of the conditions herein;

(9) Such restrictions or permit requirement shall ~~Structure~~Structures, stands, motor vehicles or other

Facilities used for vVending are permitted within 200 feet of any residence (other than residences
§ 250-75 on the Vendor's Ffarm), intersection or on any crosswalk; § 250-75

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

~~(11) Structure~~ Structures, stands, motor vehicles or other Facilities used for vending shall not exceed 400 square feet in gross area if within 50 feet of the ~~Roadway~~ Roadway edge; ~~§ 250-75~~

(12) ~~Structure~~ Structures, stands, motor vehicles or other Facilities used for vending greater than 25 square feet in gross area shall be located not apply to less than 20 feet from any ~~Roadway~~ Roadway edge;

(13) ~~Structure~~ Structures, stands, motor vehicles or other Facilities used for vending less than 25 square feet in gross area ~~may be~~ shall be located not less than 10 feet from the ~~R~~road edge.

~~(6)~~ Notwithstanding the above, ~~farms, except that the operation of which began~~ the operation of a Farm which began within the past two years shall have the benefit of this clause (D) even if the products sold shall be are not predominantly grown principally on the premises or raised on such Ffarm or other Ffarms owned or leased by the same Oowner within the State of New York as long as the Ffarm operator demonstrates a plan to the Zoning Administrator that it has a reasonable plan to achieve such predominance by the end of such two-year period.

“Predominantly” shall be interpreted to mean that at least 51% of the Aagricultural crops, livestock and livestock products sold, on an annual basis, must be from the Ffarm’s own production. Crops, livestock and livestock products that are imported from other Ffarms must be representative of the crops, livestock and livestock products that the Ffarm grows/raises and sells.

Chapter 250: Zoning
Article V Supplementary Regulations

§ 250-78. Freshwater ~~wetland~~Wetlands, ~~waterecourse~~Watercourses, ~~lake~~Lakes, ~~pond~~Ponds
and ~~floodplain~~Floodplains. ~~[Amended]~~

- A. Purpose. The intent of this regulation is to minimize any negative impacts caused by development to freshwater ~~wetland~~Wetlands, ~~watercourse~~Watercourses, ~~lake~~Lakes, ~~pond~~Ponds, and ~~floodplain~~Floodplains and to regulate their Use to maximize the public's rights to enjoy these areas. The purpose of this Ssection is to regulate the dredging, filling, deposition or removal of materials, including vegetation; the diversion or obstruction of water flow; the placement of ~~structure~~Structures in, and other Uses of, the ~~pond~~Ponds, ~~lake~~Lakes, reservoirs, natural drainage systems and freshwater ~~wetland~~Wetlands located in the Town of ~~Clinton~~; and to require permits therefor; and to provide for the protection and control of freshwater ~~wetland~~Wetlands, water bodies and ~~watercourse~~Watercourses.
- B. Legislative intent. The Town Board of the Town of ~~Clinton~~ has determined that the public interest, health and safety and the economic and general welfare of the residents of the Town of ~~Clinton~~ will be best served by providing for the protection, preservation, proper maintenance and Use of the Town's ~~pond~~Ponds, ~~lake~~Lakes, reservoirs, water bodies, streams, ~~watercourse~~Watercourses, freshwater ~~wetland~~Wetlands, natural drainage systems and adjacent land areas from encroachment, soiling, polluting or natural elimination resulting from rapid population growth attended by commercial development, housing, Road construction and/or the disregard for natural resources. This Ssection is intended to protect water supplies, Aaquifers, stormwater management capacity, chemical and pollutant filtration ability, ~~habitat~~Habitat and breeding environment, and recreation opportunities provided by the Town's water resources.
- C. Regulated activities which require a permit. Except as otherwise provided in Subsection D herein concerning exempt activities or Subsection H herein concerning waiver of requirements, it shall be unlawful, in the absence of a permit issued pursuant to this Ssection, to ~~do any of the following activities in any wetland, watercourse or controlled area (as defined below):~~(i) build a PondPond or LakeLake of water surface larger than one acre, increase the size of a PondPond or LakeLake by more than one acre, or increase the size of a PondPond or LakeLake of less than one acre so it is larger than one acre or (ii) do any of the following activities in any WetlandWetland, WatercourseWatercourse or Controlled AreaControlled Area:
- (1) Place or construct any ~~structure~~Structure.
 - (2) Place or construct any part of a Sseptic Ssystem or other type of Sewage Disposal System, including a sewage treatment plant.
 - (3) Construct or install any road, ~~driveway~~Driveway, utilities or utility corridor, or other improvements, including the driving of pilings or placement of other obstructions, unless all other alternatives are clearly impractical.
 - (4) Conduct any form of draining, dredging, Excavation or removal of material, either directly or indirectly.
 - (5) Conduct any form of dumping, filling or depositing of material, either directly or indirectly.
 - (6) Introduce 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.

- (7) Alter or modify any natural features and contours or natural drainage patterns.
- (8) Construct dams or other water control devices.

- (9) Clear-cut trees at once or over time, not regulated under § 250-71, Soil erosion and sediment control.
- (10) Create an increase or decrease in the flow, velocity or volume of water in any ~~wetland~~Wetland, ~~waterecourse~~Watercourse, ~~lake~~Lake, or ~~pond~~Pond, excluding customary seasonal raising and/or lowering.
- (11) Conduct any other activity that may impair the natural function(s) of a ~~wetland~~Wetland, ~~waterecourse~~Watercourse, ~~lake~~Lake, ~~pond~~Pond, or ~~floodplain~~Floodplain.

D. Exempt activities. The following activities are allowed without a permit under this Ssection:

- (1) The deposition or removal of the natural products of the ~~wetland~~Wetlands and adjacent areas by recreational or commercial fishing, aquaculture, hunting or trapping, where otherwise legally permitted and regulated.
- (2) Ordinary maintenance, repair and/or replacement of existing ~~structure~~Structures or improved areas which do not involve expansion or substantial modification, including but not limited to bridges, roads, ~~driveway~~Driveways, ~~H~~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 ~~wetland~~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 Ssection.
- (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 nonpolluting chemicals and dyes for the purpose of maintenance.
- (6) Accepted ~~agricultural practices~~Agricultural Practices, except where ~~alteration~~Alteration is being reviewed as part of an application for ~~site plan~~Site Plan approval, ~~subdivision~~Subdivision approval, a special permit or a Vvariance.
- (7) All activities listed in § 24-0701(3) through (8) of the New York Environmental Conservation Law as exempt from the permit requirements of the New York State Department of Environmental Conservation, and defined by 6 NYCRR 663.2 of the New York State Environmental Conservation Rules and Regulations.
- (8) ~~Wetland~~Wetlands of 12.4 acres or greater regulated by the New York State Department of Environmental Conservation Law, Freshwater ~~Wetland~~Wetlands Act,⁴⁵ or as amended and updated, shall be regulated by the Department of Environmental Conservation and shall not be subject to this Ssection.
- (9) All activities contemplated in pending applications before the Planning Board which have

received at least preliminary approval or final approval, provided the approval has not expired.

(10) The installation of approved dry hydrants.

~~45. Editor's Note: See Environmental Conservation Law Art. 24, § 24-0101 et seq.~~

(§ 11-15) The salting and sanding of public roads by municipal and state highway departments. [§ 250-78](#)

E. Approval standards. In approving or denying any application for a permit under this ~~S~~section, the Planning Board shall consider the effect of the proposed activity on the ecology of the ~~wetland~~Wetland, ~~waterecourse~~Watercourse, ~~lake~~Lake, ~~pond~~Pond, or ~~floodplain~~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 Planning Board shall apply the following standards in making its determination:

- (1) The potential negative impacts of the proposed activity, and existing and reasonably anticipated similar activities, upon neighboring land ~~U~~uses and ~~wetland~~Wetlands, ~~waterecourse~~Watercourses, ~~lake~~Lakes, ~~pond~~Ponds, and ~~floodplain~~Floodplains should be eliminated or minimized. Such impacts 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~~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; and
 - (j) Changes affecting natural aesthetic values.
- (2) The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood ~~storage~~Storage and water quality should be eliminated or minimized;
- (3) The potential for damage from flooding, erosion, winds, soil limitations and other hazards due to the activity should be eliminated or minimized;
- (4) Water supply and waste disposal ~~F~~facilities, on and off site and in areas where future development can be reasonably expected, should be adequate after the completion of the proposed activity;
- (5) The activity should be consistent with federal, state, county and local comprehensive land ~~U~~se plans and regulations, including New York State Environmental Conservation Law Article 24; and
- (6) All reasonable alternatives on the subject parcel shall have been thoroughly explored and no other reasonable alternative is available on a site which is not a ~~wetland~~Wetland, ~~waterecourse~~Watercourse, ~~lake~~Lake, ~~pond~~Pond, or ~~floodplain~~Floodplain.

F. Application process.

[§ 25-78](#) The issuance of permits for regulated activities under this [S](#)ection shall be the responsibility of the Planning Board, which shall be referred all permit applications deemed to be complete by the-

(+) Zoning Administrator. Applications for permits for regulated activities shall be filed with the Zoning Administrator. To the extent practicable, review of any impacts on a ~~wetland~~ Wetland, ~~watercourse~~ Watercourse, ~~lake~~ Lake, ~~pond~~ Pond, or ~~floodplain~~ Floodplain shall take place in concert with the review of any principal activity being reviewed by the Planning Board.

- (2) The Planning Board may request the advice of the Conservation Advisory Committee, consultants or interested parties prior to approving any regulated activity.
- (3) Where an application has been made to the Zoning Administrator, Town Board or Planning Board for an action that is subsequently determined to require a permit pursuant to this Section, a copy of the application may be submitted as the permit application.
- (4) The applicant shall file with the Zoning Administrator an application, in such form and with such information as the approval authority shall prescribe. At a minimum, the following information shall be required:
 - (a) A written explanation of why the proposed activity cannot be located at another site, i.e., out of the ~~wetland~~ Wetland, ~~watercourse~~ Watercourse, water body or ~~controlled area~~ Controlled Areas.
 - (b) Applications affecting the water retention capacity, water flow, or other drainage characteristics of any ~~wetland~~ Wetland, ~~watercourse~~ Watercourse or water body shall include a statement of the impact of the project on upstream and downstream areas, giving ~~appropriate~~ consideration to flood and drought levels and the amount of rainfall.
 - (c) A map showing all ~~wetland~~ Wetlands, ~~watercourse~~ Watercourses, water bodies and ~~controlled area~~ Controlled Areas on the site under review and within 200 feet of the site boundaries.
 - (d) A description of the vegetative cover of the area, including dominant species.
 - (e) A description of the soil types on the site.
 - (f) Where creation of a ~~lake~~ Lake or ~~pond~~ Pond is proposed, details of the construction of any dams, embankments, outlets or other water control devices and an analysis of the ~~wetland~~ Wetland hydrologic system, including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology and groundwater conditions.
 - (g) An environmental assessment form under SEQRA.

(h) In the case of a permit required by clause (C)(i) above, a letter from the Dutchess County Soil and Water Conservation ~~District~~ District (DCSWCD) indicating:

[1] Property identification, location, and size of ~~Pond~~ Pond or ~~Lake~~ Lake;

[2] Classification of ~~Watercourse~~ Watercourses affected and Department of Environmental Conservation (DEC) permit, if required;

[3] Any related ~~Wetland~~ 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."

- (5) The Planning Board 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~~Wetland, ~~waterecourse~~Watercourse, ~~lake~~Lake, ~~pond~~Pond, or ~~floodplain~~Floodplain.

G. Standards for permit decisions. In granting~~or~~, denying or conditioning any application for a permit, the approval authority shall consider the following:

- (1) All evidence offered at any public hearing.

- (2) ~~Any~~ reports from other environmental councils, boards or commissions and/or federal, ~~county~~ state or Town agencies.
- (3) The environmental impact of the proposed action.
- (4) Irreversible and irretrievable commitments of natural resources that would be involved in the proposed activity.
- (5) The suitability or unsuitability of the activity to the area for which it is proposed.
- (6) The effect of the proposed activity to the protection or enhancements of functions of ~~wetland~~Wetlands, ~~waterecourse~~Watercourses and water bodies and the benefits they provide.
- (7) The possibility of avoiding further reduction of the ~~wetland~~Wetlands', ~~waterecourse~~Watercourses', or water bodies' natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage and provide recreation and ~~open space~~Open Space.
- (8) The extent to which the exercise of property rights and the public benefit to be derived from such ~~Use~~ may or may not outweigh or justify the possible degradation of the ~~wetland~~Wetland, ~~waterecourse~~Watercourse or water body, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety and welfare.
- (9) Whether the property is grandfathered by virtue of approvals predating the adoption of Article 24 of the Environmental Conservation Law, and the extent to which it might be deemed unfair or unreasonable to regulate ~~wetland~~Wetlands under this ~~C~~chapter to limit development which is accordingly grandfathered from state regulation.
- (10) The comments of the Zoning Administrator, which shall be submitted in writing to the Planning Board.

H. Waiver of requirements.

- (1) Should the Planning Board determine, after review of said application and upon recommendation of the Zoning Administrator, that an action proposed for a regulated area is insignificant, the Planning Board shall have the power to:
- (a) Waive any information requirements contained in Subsection **F(4)**.
- (b) Waive referrals to outside agencies.

(c) Suspend the permitting process for the action and authorize the immediate issuance of the permit.

(2) Where the Planning Board finds that any waivers are appropriate, it shall set forth its decision and reasons therefore in writing and file the same with the Office of the Planning Board.

I. Findings.

(1) Permits will be issued by the Planning Board pursuant to this Ssection only if the approval authority ~~shall~~finds that:

~~§ 260-78~~ The proposed regulated activity is consistent with the policy of this ~~C~~chapter to ~~preserve~~^{§ 250-78} protect and conserve ~~wetland~~^{Wetland}, ~~waterecourse~~^{Watercourse} and water body functions and the benefits derived therefrom.

(b) The permit issued for the proposed regulated activity is at least as restrictive as would result under application of the Freshwater ~~Wetland~~^{Wetlands} Act of the State of New York, Environmental Conservation Law § 24-0501 et seq.

(c) The proposed activity is compatible with the public health and welfare.

(d) The proposed regulated activity cannot practicably be relocated on site to eliminate or reduce the intrusion into the ~~wetland~~^{Wetland}, ~~waterecourse~~^{Watercourse} or water body or the ~~controlled area~~^{Controlled Areas} adjacent thereto.

(2) The applicant shall have the burden of proof in demonstrating that the proposed activity will be in accordance with the policies and provisions of this ~~S~~section.

J. Permit conditions. Any permit issued pursuant to this ~~C~~chapter may be issued with conditions to assure the preservation and protection of affected ~~wetland~~^{Wetlands}, ~~waterecourse~~^{Watercourses} and water bodies, and compliance with the policy and provisions of this ~~C~~chapter.

K. Penalties for offenses. Any person convicted of having violated or disobeyed any provision of this ~~C~~chapter, or any condition attached by the approval authority in a permit granted pursuant to this ~~C~~chapter, shall, for the first offense, be punishable by a fine ~~of not less than \$1,000. For each subsequent offense, such person shall be punishable by a fine of not less than \$2,000 nor more than \$15,000, and/or imprisonment of not more than 15 days. Each consecutive day of the violation may be considered a separate offense.~~ Please See § 137-1 Schedule of fines.

L. Enforcement.

(1) This ~~C~~chapter shall be enforced by the Zoning Administrator. The Town Board may also designate other enforcement officers.

(2) The Town is specifically empowered to seek injunctive relief restraining any violation, threatened violation or breach of any permit condition under the provisions of this ~~C~~chapter, and/or to compel the restoration of the affected ~~wetland~~^{Wetland}, ~~waterecourse~~^{Watercourse}, water body or ~~controlled area~~^{Controlled Areas} to its condition prior to the violation, or breach of any permit condition. If the Town is successful in obtaining preliminary and/or permanent injunctive relief, it shall be entitled to an award by the court of its reasonable attorney's fees.

M. Appeals. Any appeal from a Planning Board determination under this ~~S~~section shall be made by an aggrieved party to the Supreme Court, Dutchess County, in the manner provided by Article 78 of the Civil Practice Law and Rules.

Chapter 250: Zoning
Article V Supplementary Regulations

§ 250-79. Yard ~~S~~sales or other temporary sales.

The following regulations apply to Yyard Ssales and other ttemporary sales:

A. Sales shall not last longer than four days.

- B. Sales shall not be held more than ~~twice~~three times in a calendar year. ~~§ 250-79~~
- 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 with the intent 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~~All directional or advertising Signs ~~may be larger than four square feet~~must comply with § 250-70