

## Chapter 250: Zoning

### Article VII Administration and Enforcement

~~§ 250-88. General. [Amended 7-12-2016 by L.L. No. 2-2016, effective 7-29-2016; 9-12-2017 by L.L. No. 2-2017, effective 9-26-2017]~~

#### § 250-88 General.

This ~~e~~Chapter shall be administered, enforced and prosecuted by the Zoning Administrator, the Building Inspector (BI), the Municipal Code Enforcement Inspector (MCEI), the Fire Inspector, the Attorney to the Town, the Town Attorney, the Planning Board and/or the Zoning Board of Appeals in the manner prescribed ~~below in this eChapter~~ for the application and issuance of permits, submission of plans, conduct of hearings and handling of violations, including but not limited to the prosecution thereof. The Attorney to the Town or Town Attorney shall have the authority to enforce and prosecute all provisions of this ~~e~~Chapter. Notwithstanding the forgoing, prior to the commencement of any legal action in the Town of Clinton Justice Court or any court of competent jurisdiction, including an appeal of a judicial decision, such action must be duly authorized and approved by the Town Board.

#### **§ 250-89. Zoning Administrator powers and duties.**

- A. Enforcement. In addition to all other authority conferred by law, and except as otherwise provided, it shall be the duty of the Zoning Administrator to enforce literally the provisions of this ~~e~~Chapter and of all rules, conditions and requirements specified by the Zoning Board of Appeals and the Planning Board.
- B. Administration. The Zoning Administrator shall receive all applications for ~~s~~Special ~~u~~Use ~~p~~Permits, ~~S~~sign permits, ~~T~~temporary permits, soil erosion and sediment control permits, ~~P~~pond permits, ~~V~~variances, ~~S~~site ~~P~~plan reviews, change of ~~U~~use (including ~~N~~nonconforming ~~U~~ses), and such other applications as may be specified in other local laws or by the Town Board, or as otherwise herein provided. Applications will be forwarded by the Zoning Administrator to the appropriate board(s) or officials for review, if applicable. [Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010]
- C. Compliance review.
  - (1) The Zoning Administrator shall review and approve all applications, in writing, prior to the issuance by the Building Inspector of a ~~B~~building ~~P~~permit or ~~C~~ertificate of ~~O~~ccupancy. Before granting such approval, the Zoning Administrator shall be satisfied that:
    - (a) The proposal set forth in the application conforms to the ~~U~~use, area, and bulk regulations of this ~~e~~Chapter.
    - (b) There are no existing zoning violations with regard to the property on which application is made.
    - (c) All required reviews and actions have been complied with.

- (2) No Bbuilding Ppermit or Certificate of Occupancy shall be issued that would not be in full compliance with the provisions of this eChapter and the Uniform Code. Any such permit or certificate issued or approved in violation of any provision of this eChapter and other applicable provisions shall be null and void.

D.—Inspections. The Zoning Administrator is authorized to enter, with property Owner permission, upon, examine, and inspect any Bbuilding, Structure, or property at any reasonable time, in the Town of Clinton, for the purpose of carrying out the duties of the position and to

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D. determine compliance with the provisions of this ~~e~~Chapter and other local laws and ~~O~~rdinances. In the event that the person, firm, corporation, trust, estate, association or other entity owning possessing or controlling real property in the Town of Clinton refuses to allow the Zoning Administrator to inspect the real property where an alleged violation of this ~~e~~Chapter is or has occurred, then the Zoning Administrator shall file an affidavit of the facts showing a probable violation of this ~~e~~Chapter with the Town Justice, or any court of competent jurisdiction, and after an examination by the Zoning Administrator and the filed affidavit of facts, the Court shall make a written finding whether or not there appears to be probable cause that there is a violation of this ~~e~~Chapter. If the Court makes a determination that such a violation probably exists, then the Court shall issue a-

search warrant to a police officer or department having jurisdiction over the Town authorizing a search of the real property to determine if there is a violation of this ~~e~~Chapter. The search shall be conducted in accordance with the terms and conditions of the search warrant which shall describe the date, time and other parameters of the authorized search. The Zoning Administrator shall accompany the police officer conducting the search. When conducting the search, the police officer shall give notice of their authority and purpose only to the ~~O~~wner(s) and/or occupant(s) present at the real property at the time of the search before conducting the authorized search and show the ~~O~~wner(s) and/or occupant(s) present at the real property the warrant or a copy thereof upon request. A written report of each such search and inspection shall be prepared on an appropriate form and kept on file by the Zoning Administrator.

**[Amended 5-8-2018 by L.L. No. 2-2018-, effective 5-17-2018]**

- E. Issuance of order to remedy. Whenever in the opinion of the Zoning Administrator, after proper examination and inspection, there exists a violation of any provision of this ~~e~~Chapter, or of any regulation adopted pursuant thereto, the Zoning Administrator shall serve a written notice upon the appropriate ~~P~~erson or ~~P~~ersons responsible for such alleged violation. Such notice shall inform the recipient of the nature and specific details of such alleged violation, and the date of compliance by which the alleged violation must be remedied or removed, which date shall be not more than 30 calendar days from the date of notice, except as specifically herein provided.
- F. Issuance of stop orders. Whenever the Zoning Administrator has reasonable grounds to believe that work on any ~~B~~uilding or ~~S~~tructure or any ~~U~~se of land is occurring either in violation of the provisions of this ~~e~~Chapter, not in conformity with any application made, permit granted or other approval issued, or in an unsafe or dangerous manner, the Zoning Administrator shall promptly notify the appropriate ~~P~~erson or ~~P~~ersons responsible to suspend work on any such ~~B~~uilding or ~~S~~tructure or the ~~U~~se of any such land. Such ~~P~~ersons shall immediately suspend such activity until such time that the stop order has been rescinded by the Zoning Administrator. Such order and notice shall be in writing, shall state the conditions under which the work or ~~U~~se may be resumed, and shall be served by delivering it personally, or by posting the same upon a conspicuous portion of the ~~B~~uilding under construction or premises in ~~U~~se. In addition, a copy of the same shall be sent by certified mail to the ~~P~~erson or ~~P~~ersons responsible.
- ~~G.~~ Issuance of appearance tickets. Whenever in the opinion of the Zoning Administrator the ~~P~~erson(s) responsible for an alleged violation has failed to remedy the condition, or has failed to stop work as requested, the Zoning Administrator shall issue and serve an appearance ticket with respect to a violation of this ~~e~~Chapter. Such appearance ticket shall be served by

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G. the Zoning Administrator and conform with the provisions of the Criminal Procedure Law. The appearance ticket may be accompanied by a civil complaint.

H. Approval of Lot Line adjustments. [Added 2-10-2015 by L.L. No. 1-2015<sup>+</sup>, effective 2-24-2015-]

(1) An applicant seeking to merge one or more adjoining Lots shall submit an application to the Zoning Administrator for a Lot Line adjustment. All applications submitted to the Zoning Administrator must include:

(a) Existing description of the metes and bounds of all Lots affected by the proposed Lot Line adjustment;

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- (b) A plat or map of all Lots affected by the proposed Lot Line adjustment; and
  - (c) Proposed description of the metes and bounds of all Lots affected by the proposed Lot Line Alteration.
- (2) The Zoning Administrator shall review and approve the Lot Line adjustment to ensure compliance with all applicable provisions of the Town Code, including but not limited to the provisions of this eChapter.
- I. Complaints. All complaints of alleged violations shall be made to the Zoning Administrator. If the complaint is made in writing, the Zoning Administrator shall respond to the complainant in writing within 30 days, acknowledging the complaint, and stating the disposition or pending action on the complaint.
  - J. Records. The Zoning Administrator shall keep a permanent record of all violations of this eChapter, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the disposition of all such violations. These records shall be public records. The Zoning Administrator shall file the disposition of each violation or written complaint in the office of the Town Clerk within 10 days of a decision or action.
  - K. Reports. The Zoning Administrator shall make a report to the Town Board, in writing, at least once every three months, listing all reported or continuing violations of this eChapter and the disposition or pending action of such violations.
  - L. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision of the Zoning Administrator. Such an appeal by an applicant for a permit shall be made within 45 days of the filing of such decision in the office of the Town Clerk (see also § **250-98**).

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**§ 250-90. Building Inspector powers and duties.**

A. General.

- (1) The Building Inspector shall administer the ~~B~~building provisions of this ~~e~~Chapter and other local laws of the Town of Clinton and all ~~B~~building conditions and requirements specified by the Zoning Board of Appeals and the Planning Board.

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~~1. Editor's Note: This local law also provided for the redesignation of former Subsections H through K as Subsections I through L, respectively.~~

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

(2) § 250-94, Fire Inspector powers and duties).

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

B. Issuance of ~~B~~building ~~P~~permits and ~~C~~certificates of ~~O~~ccupancy. The Building Inspector shall receive all applications for ~~B~~building ~~P~~permits and ~~C~~certificates of ~~e~~Occupancy, and shall review such applications and issue ~~B~~building ~~P~~permits and ~~C~~certificates of ~~O~~ccupancy, after obtaining all necessary approvals, in accordance with this ~~e~~Chapter.

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

D. Approval of ~~S~~ewage ~~T~~treatment ~~S~~ystem in C Districts. The Building Inspector shall approve altered or new ~~S~~ewage ~~T~~treatment ~~S~~ystems in the C District in accordance with § 250-10.

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

F. Issuance of stop orders and appearance tickets. The Building Inspector may issue stop orders and appearance tickets related to the scope of his/her responsibilities in the manner prescribed for such issuance in § 250-89.

G. Records.

(1) The Building Inspector shall maintain complete files of all applications for ~~B~~building ~~P~~permits and for ~~C~~certificates of ~~O~~ccupancy and records of all ~~B~~building ~~P~~permits and ~~C~~certificates of ~~O~~ccupancy issued. These files and records shall be public records.

(2) The Building Inspector shall file a copy of issuance or denial of each ~~B~~building ~~P~~permit or ~~C~~ertificate of ~~O~~ccupancy with the office of the Town Clerk within 10 days of a decision or action.



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- H. Reports. The Building Inspector shall make a report to the Town Board, in writing, at least once every three months, listing each Bbuilding Ppermit and Certificate of Occupancy issued during the period since the last report, and summarizing the number and type of Bbuilding Ppermits and Certificates of Occupancy issued.
- I. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision of the Building Inspector. Such an appeal by an applicant for a permit shall be made within 45 days of the filing of such decision with the Office of the Town Clerk (see also § **250-98**). Appeal may be made to the regional board of review for the NYS Uniform Fire Prevention and Building Code for variances to the Uniform Code. Application requirements for such a request may be obtained from the Building Inspector.

**§ 250-91. Building ~~permits~~Permits.****A. Scope.**

- (1) No ~~P~~person shall commence the erection, construction, enlargement, ~~A~~alteration, removal, improvement, demolition, or conversion of any ~~B~~building or ~~S~~structure, or cause the same to be done, except as provided in § 250-22B of this ~~e~~Chapter as pertains to ~~A~~accessory ~~S~~tructures, ~~or other nonpermanent accessory structures not exceeding 50 square feet in size,~~ without first obtaining a separate ~~B~~building ~~P~~permit from the Building Inspector for each such ~~B~~building or ~~S~~structure.
- (2) No ~~B~~building ~~P~~permit shall be issued for a ~~B~~building to be used for any ~~U~~se allowed by ~~s~~Special ~~u~~se ~~p~~Permit until such ~~S~~special ~~U~~se ~~P~~permit has been approved by the Planning Board. [Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010.]
- (3) No ~~B~~building ~~P~~permit shall be issued for any ~~B~~building where the ~~S~~site ~~P~~plan of such ~~B~~building is subject to approval by the Planning Board except in conformity with the plans approved by said Board.
- (4) No ~~B~~building ~~P~~permit shall be issued without a compliance review and approval of the application by the Zoning Administrator, in accordance with § 250-89.
- (5) No ~~E~~excavation shall be made for any ~~B~~building or ~~S~~structure requiring a ~~B~~building ~~P~~permit until such permit has been issued. Any ~~E~~excavations left open after the expiration of the permit period must be filled. If the ~~O~~wner fails to comply with this requirement, he/she shall, within 10 days after written notification from the Building Inspector, cause the ~~E~~excavation to be filled. If the ~~O~~wner fails to comply, the Town is empowered to fill the ~~E~~excavation and any cost incidental thereto shall be paid by the ~~O~~wner.
- (6) A ~~B~~building ~~P~~permit shall be void if construction is not started within a period of one year or completed within a period of three years of the date of said permit.
- (7) The issuance of a ~~B~~building ~~P~~permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable ~~B~~building laws, ~~O~~rdinances, or regulations. All work shall conform to the approved application, plans and specifications.
- (8) Any amendments to the application, or to the plans and specifications accompanying the same, must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Building Inspector and Zoning Administrator. If the change involves a change in the ~~S~~special ~~U~~se ~~P~~permit or ~~S~~site ~~P~~plan, the applicant shall gain approval from the Planning Board.<sup>2</sup>

**B. Application.**

- (1) Application contents.

- (a) Applications for a ~~B~~building ~~P~~permit shall be made to the Building Inspector on forms provided by him, with the appropriate fee, and shall contain the following [information](#):

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

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information:

- [1] A description of the land on which the proposed work is to be done and evidence that the Lot is contained on a Subdivision map filed in the office of the Dutchess County Clerk or is an existing Lot-

H of Record, as defined in Article **VIII** and allowed by § **250-18**, Existing Lots of Record.

- [2] A statement of the Use or Occupancy of all parts of the land and of the Building or Structure;
- [3] A brief description of the nature of the proposed work;
- [4] The valuation of the proposed work;
- [5] The full name and address of the Owner, the applicant, and the responsible officers of any corporation;
- [6] Three copies of plans and specifications as set forth in § **250-91B(2)**;
- [7] Evidence of County Health Department approval, if necessary;
- [8] Evidence of a Driveway permit from the appropriate authority (New York State Department of Transportation, Dutchess County Department of Public Works, Town Highway Department);
- [9] An approved Site Plan, if necessary;
- [10] Such other information as may reasonably be required by the Building Inspector or Zoning Administrator to establish compliance of the proposed work with the requirements of the applicable Building and zoning laws, Ordinances, and regulations.
- (b) When clearly not applicable, certain application requirements listed in this Subsection may be waived by the Building Inspector or Zoning Administrator.
- (2) Each application for a Building Permit shall be accompanied by three copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing Structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from Lot Lines, the relationship of Structures on adjoining property, widths and grades of adjoining Streets, walks and alleys, and, where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams, and other essential technical data. Storm drainage plans shall also be submitted.
- (3) Application shall be made by the Owner, lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a Person other than the Owner, it shall be accompanied by an affidavit of Owner that the proposed work is authorized by the Owner and that the applicant is authorized to

make such application.<sup>3</sup>

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- (4) Plans and specifications shall bear the signature of the Person responsible for the design and drawings. Plans and specifications shall carry the official seal or stamp of an authorized architect, land surveyor, or professional engineer licensed in the State of New York, to attest that they conform to all requirements of the Uniform Code, except applications for:
- (a) Alterations costing less than \$2030,000 and not involving changes affecting structural or public safety;
  - (b) Farm Buildings except Dwellings; or
  - (c) Residential Buildings of a gross Floor Area of 1,500 square feet or less.
- (5) All water supply and sewage disposal installations shall conform to the Dutchess County Department of Health regulations. No plot plan shall be approved by the Building Inspector in any Zoning District unless such conformity is certified on the plan. Drainage affecting Addjacent Properties shall be considered by the Building Inspector before issuing a Building Permit, including possible runoff to said properties. The Building Inspector may request an evaluation of the drainage plan from the Dutchess County Soil and Water Conservation District. If the Building Inspector has concerns regarding drainage, Grading, or erosion control, he shall refer the plot plan to the Town Engineer. All costs of such evaluations and referral reviews shall be charged to the applicant.
- (6) The Building Inspector may require the applicant to name the Town as an additional insured during the construction period.
- C. Posting. Building Permits shall be issued in duplicate and one copy shall be posted conspicuously on the premises affected whenever construction work is being performed. No Owner, contractor, worker, or other Person shall perform any Building operations of any kind unless a Building Permit covering such operation is displayed.
- D. Disapproval. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable zoning and Building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Building Inspector shall cause such refusal, together with the reasons, to be transmitted to the applicant in writing. Such notice shall include information on the appeals procedure. The Building Inspector shall keep a file of such disapproval, together with sufficient documents to explain the reasons for refusal.
- E. Revocation. The Building Inspector may order that an approved Building Permit be revoked in the following instances:
- (1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the Building Permit was based.

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- (2) Where he finds that the Building Permit was issued in error and should not have been issued in accordance with the applicable law.
- (3) Where he finds that the work performed under the Building Permit is not being pursued in accordance-



~~(3)~~ with the provisions of the application, plans or specifications.

- (4) Where the ~~P~~person to whom a ~~B~~building ~~P~~permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector or Zoning Administrator.

**§ 250-92. Certificates of Occupancy.****A. Scope.**

- (1) No Building shall be occupied, used or changed in Use until a Certificate of Occupancy has been issued by the Building Inspector, stating that the Building or proposed Use complies with the provisions of this eChapter and all other applicable laws and regulations. Specifically, the following requirements shall be strictly met:
  - (a) No Building erected after the effective date of this eChapter shall be used or occupied in whole or in part until a Certificate of Occupancy shall have been issued by the Building Inspector.
  - (b) No Building enlargement, extension or Alteration after the effective date of this eChapter which required the issuance of a Building Permit shall be occupied or used, unless a Certificate of Occupancy shall have been issued by the Building Inspector.
  - (c) No change shall be made in the specific Use or type of Occupancy of an existing Building unless a Certificate of Occupancy authorizing such change shall have been issued by the Building Inspector.
  - (d) No Certificate of Occupancy shall be issued until the Road or Roads have been completed sufficiently to provide proper and reasonable ingress and egress for emergency vehicles.
  - (e) No Certificate of Occupancy shall be issued without prior approval of water supply and sewage Facilities by the Dutchess County Department of Health.

**B. Application and review.**

- (1) A Certificate of Occupancy shall be applied for, to the Building Inspector, upon completion of construction.
- (2) Before the issuance of a Certificate of Occupancy, the Building Inspector shall examine all Buildings, Structures and sites for which an application has been filed for a Building Permit to construct, enlarge, alter, remove, demolish, or change the Use or Occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a Building Permit has been issued. There shall be maintained by the Building Inspector a record of all such inspections and examinations together with a record of findings in violation of the law.
- ~~(3)~~—When, after final inspection, it is found that the proposed work has been completed in

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(3) accordance with the applicable provisions of this eChapter, provisions of the Uniform Code, and in accordance with the application, plans and specifications filed in connection with the issuance of the Bbuilding Ppermit, the Building Inspector shall issue a Ceertificate of Ooccupancy.

C. Disapproval. If it is found, on final inspection, that the proposed work has not been properly-completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order

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~~completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order~~  
~~C~~ completed, the Building Inspector shall ~~not refuse to~~ issue a Certificate of Occupancy and shall order the work completed in conformity with the ~~B~~building ~~P~~permit and in conformity with the applicable ~~B~~building regulations. The Building Inspector shall state such disapproval in writing with the cause and immediately mail such disapproval by certified mail to the applicant at the address indicated on the application. Such notice shall include information on the appeals procedure.

- D. Temporary ~~C~~ertificate of ~~O~~ccupancy. Upon request, the Building Inspector may issue a ~~T~~emporary ~~C~~ertificate of ~~O~~ccupancy for a ~~B~~building or ~~S~~tructure, or part thereof, before the entire work covered by the ~~B~~building ~~P~~permit has been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare, and provided the work can be reasonably expected to be completed within 30 days. A ~~T~~emporary ~~C~~ertificate of ~~O~~ccupancy shall be effective for a period not to exceed 30 days. No ~~T~~emporary ~~C~~ertificate of ~~O~~ccupancy shall be issued for any ~~U~~se requiring a ~~S~~pecial ~~U~~se ~~P~~ermit or ~~S~~ite ~~P~~lan approval until such approvals have been granted.<sup>4</sup>
- E. Upon request, the Building Inspector may issue a letter "in lieu of ~~C~~ertificate of ~~O~~ccupancy" which verifies that a ~~B~~building predates the requirement for issuance of a ~~C~~ertificate of ~~O~~ccupancy.
- F. Revocation. If the property ~~O~~wner fails to continuously maintain the premises in conformance with any conditions imposed as part of the permit process, the Building Inspector, after giving notice of the deficiency and reasonable time for the property ~~O~~wner to remedy the deficiency, may revoke the ~~C~~ertificate of ~~O~~ccupancy. Such revocation shall be in writing, sent to the property ~~O~~wner by certified mail, and shall include information on the appeals procedure.

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~~completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order~~  
**§ 250-93. Demolition permits.**

- A. General. Demolition of a ~~B~~building involves the discontinuation of a particular ~~U~~use and ultimately the ~~U~~use of the property in a different manner. Therefore, prior to commencement of any demolition, except as provided herein, a demolition permit must be obtained from the Building Inspector. Such requirement for permit shall not apply to ~~F~~farm ~~B~~buildings.
- B. Intent. The intent of this regulation is to provide for the orderly process of demolition of any ~~B~~building, and to assure proper review of historical and safety considerations, as well as compliance with future intended ~~U~~use of the property.
- C. Application. The applicant shall submit the following to the Building Inspector:
  - (~~1~~)—A statement regarding the age of the ~~B~~building to be demolished and any national, state

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

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- (1) or local designations of significance that are associated with the Building and the parcel on which it is located;
  - ~~(2) A statement regarding why the building is planned for demolition and, if the building has some historic value, what alternative actions could be taken to preserve it;~~
  - ~~(3)~~(2) Plans regarding how the demolition process will take place, in the form prescribed by the Building Inspector;
  - ~~(4)~~(3) If known, the intended future Use of the property;
  - ~~(5)~~(4) Applicable environmental assessment form as required by this eChapter in conjunction with the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and Part 617 of the New York Codes, Rules and Regulations.
- D. Issuance of permit. Upon the filing for a demolition permit, the Building Inspector shall refer such application to the Planning Board. The Planning Board shall review such application within 45 days, and approve such plans only if it finds that the demolition is in compliance with federal, state and local regulations with regard to historical Buildings, and that the demolition will not do harm to the character of the surrounding area and Buildings. The Planning Board may require Aalterations to the demolition plan in order to approve it. The Building Inspector shall conduct his own review of the application with regard to compliance with Building regulations, and upon Planning Board approval, the Building Inspector shall issue a demolition permit within 30 days. In the event that plans submitted are disapproved by the Planning Board or the Building Inspector, the Building Inspector shall notify the applicant, in writing, of the reason for refusal to issue the permit.

**§ 250-94. Fire Inspector powers and duties.**

- A. General. The Fire Inspector shall administer and enforce the provisions specified by this ~~§~~Section in accordance with the New York State Uniform Fire Prevention and Building Code and other laws of the Town of Clinton. In carrying out such duties, the Fire Inspector shall cooperate with the Building Inspector, the Zoning Administrator, and other fire prevention and safety agencies.
- B. Appointment. The Town Board shall appoint one or more Fire Inspectors as the need may appear to act under its supervision and direction and to exercise such duties as specified herein. The two positions of Building Inspector and Fire Inspector may be held separately or by the same person, as appointed by the Town Board, which may also assign temporary duties if a vacancy occurs. Where the two positions are separately held, the Town Board shall resolve any jurisdictional questions.
- C. Inspections.
  - (1) The Fire Inspector shall perform such minimum fire and safety inspections as are required by the New York State Uniform Fire Prevention and Building Code, and other such inspections as may be required by other laws of the Town of Clinton, including but not limited to:
    - ~~(a) — Firesafety~~[Fire safety](#) inspections in areas of public assembly, as defined in the Uniform Code,

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- (a) at least once a year;<sup>5</sup>
- (b) Fire safety inspections in all multiple ~~D~~wellings and all ~~N~~onresidential ~~O~~ccupancies, at intervals consistent with local conditions, as specified by resolution of the Town Board or local law;
- (c) Inspections to determine ~~B~~uilding safety requested by the Fire Department following a fire, if so specified by resolution of the Town Board or by local law;
- (d) Inspections in response to bona fide complaints regarding fire-related conditions or activities allegedly failing to comply with the Uniform Code.
- (2) Inspections during construction shall be performed by the Building Inspector in accordance with the duties of the position.
- D. Issuance of stop orders and appearance tickets. The Fire Inspector may issue stop orders and appearance tickets related to the scope of his responsibilities, in the manner prescribed for such issuance in § **250-89**.
- E. Records. The Fire Inspector shall maintain files of all inspections. These files shall be public records. A summary of each such inspection shall be filed in the office of the Town Clerk within 10 days of the inspection or action.
- F. Reports. The Fire Inspector shall make a report to the Town Board, in writing, at least annually, listing each inspection performed and summarizing the number and type of such inspections-



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**F.** performed.

**G. Appeal.**

- (1) An appeal may be made to the Zoning Board of Appeals from any decision of the Fire Inspector. Such an appeal by an applicant for a permit shall be made within 45 days of the filing of such inspection in the office of the Town Clerk.
- (2) Appeal may be made to the regional board of review for the NYS Uniform Fire Prevention and Building Code for **V**variances to the Uniform Code. Application requirements for such a request may be obtained from the Building or Fire Inspector.

**§ 250-95. Planning Board powers and duties.**

A. Creation, composition and appointment.

(1) Creation. A Planning Board shall be maintained in accordance with § 271 of the Town Law.

(2) Composition. The Planning Board ~~consists~~shall consist of seven members, unless changed in accordance with § 271 of the Town Law.

~~(3)~~ Appointment. The Town Board shall appoint the members of the Planning Board and shall designate its Chairperson. No person may serve on the Planning Board who is a

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

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(3) member of the Town Board or the Zoning Board of Appeals. The terms of each of the Planning Board positions shall be seven years, and as otherwise provided by their creation in accordance with-

§ 271 of the Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term. <sup>6</sup> All members of the Planning Board shall be Eligible Voters in the Town of Clinton.

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

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

**B. General procedures.**

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

(2) Minutes. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be made part of the minutes. The minutes, once approved, shall be filed in the office of the Town Clerk and shall be a public record.

(3) Procedure. The Planning Board shall proceed in accordance with Article 16 of the Town Law, and as further provided in this eChapter and Chapter 206, Subdivision of Land.

(4) Rules of procedure. The Planning Board shall have the power to make, adopt and promulgate such written rules of procedures, bylaws and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this eChapter. Every rule, regulation and every amendment or repeal thereof shall be filed in the office of the Town Clerk and shall be a public record. In addition to any other matters within its authority, the Planning Board is hereby authorized to promulgate rules of procedure regarding the following matters:

- (a) The day and time by which applications for new matters, and supplemental materials for pending matters, must be submitted to the Secretary of the Planning Board in order to be considered at the next meeting of the Board.
- (b) The number of copies of materials that must be submitted for new and pending matters.
- (c) The maximum number of applications that may be heard at a regular meeting of the Board.
- (d) The form of the applications for ~~V~~variances, ~~appeals~~ and ~~interpretations~~~~requests~~ including the use of a Long Form or a Short Form Environmental Assessment Form for certain matters.
- (e) The maximum length of time of a regular meeting of the Board.
- (f) The conduct of applicants and the public at meetings and public hearings of the Board.
- ~~(4)~~(5) All determinations and procedures of the Planning Board shall be made in accordance with the requirements of the State Environmental Quality Review Act (SEQRA).
- ~~(5)~~(6) Fees. The Planning Board, in exercising the full power and authority conferred on it under Town Law Article 16 and this ~~e~~Chapter, shall require an applicant for a permit to pay the fee established by resolution of the Town Board for such permit, and to include reasonable and necessary costs, as determined by the Planning Board for the Planning Board to hire its own independent surveyor, engineer, planning consultant, attorney and/or similar expert.<sup>7</sup>

C. Authorized actions. The Planning Board is hereby authorized to take action on the following matters:

- ~~E~~(1) Subdivisions. The Planning Board shall have full power and authority to approve Ssubdivision plats, as provided by Article 16 of the Town Law, as further provided by this ~~e~~Chapter, and Chapter 206, Subdivision of Land, and:
- ~~(1) As provided by Chapter 206, Subdivision of Land, the Planning Board shall hold a public hearing prior to final subdivision approval. In addition to giving public notice as therein prescribed, the Planning Board shall, at least five days before such hearing, mail notices by certified mail to adjacent property owners within 200 feet of the property involved. Notification to the county and state for adjacent highways is not required.~~

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

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

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

- ~~(2) In addition to all material required to be submitted to the Planning Board by Chapter 206, Subdivision of Land, and the Planning Board's application packet, the applicant shall furnish a copy of the Assessor property record from the Assessor's office, including the uses, as defined herein, of all buildings on the property being subdivided, and shall either affirm that the facts furnished on the Assessor record are correct or shall correct the record as presented to the Planning Board. Any application which is incorrect shall void any approval by the Planning Board.~~
- ~~(3) In addition to any requirement of the Chapter 206, Subdivision of Land, for approval of subdivision of land into parcels of size under 10 acres, the Planning Board shall approve subdivision of land into parcels of any size.~~

(2) Lot Line adjustments. The Planning Board shall have full power and authority to approve Lot Line adjustments, as provided by § 206-13, Subdivision of Land; and

D.(3) Site Plans. The Planning Board shall review all Site Plans in accordance with § 250-96 of this Chapter; and

E.(4) Variances.

~~(1)(a)~~ Application for Vvariances may be made to the Zoning Administrator upon denial of a requested Uuse or Bbuilding Ppermit. Upon the Zoning Administrator's determination that a Vvariance is required and that the application is complete, the Zoning Administrator shall, within five days or at its next regular meeting of the Planning Board, whichever is later, shall transmit the application to the Planning Board for recommendation to the Zoning Board of Appeals.

~~(2)(b)~~ In accordance with § 271 of the Town Law, the Town Board hereby refers all applications for Vvariances to the Planning Board for its recommendation prior to final action on such Vvariances by the Zoning Board of Appeals.

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~~(c)~~ The Planning Board shall issue a written report of its recommendation to the Zoning Board ~~of~~

~~(3)~~~~(d)~~ Appeals on each Variance application, which shall be decided by the Zoning Board of Appeals in a accordance with § **250-98** of this eChapter.

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

~~F.~~~~(5)~~ Special Use Permits. The Planning Board shall have the power to grant Special Use Permits in accordance with § **250-97** of this eChapter. ~~[Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010]; and~~

~~G.~~~~(6)~~ Demolition permits. The Planning Board shall review and make determinations regarding applications for demolition permits, in accordance with § **250-93** of this eChapter; and

~~H.~~ Nonconforming Uses. The Planning Board shall review all applications and make recommendations regarding any application for change of Nonconforming Use, referred to it by the Zoning Board of Appeals in accordance with

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(7) § 250-98. In reviewing such applications, the Planning Board may, as it deems necessary, require the applicant to prepare a Ssite Pplan, and to provide any other information needed to make its recommendation. In addition to review of the Ssite Pplan, if necessary, the Planning Board shall make its recommendation on such application in accordance with the provisions of Article VI in this eChapter and the considerations listed in ~~§ 250-98E~~.

§ 250-98E. ~~Master~~

~~I~~ (8) Comprehensive Plan. In accordance with § 272-a of the Town Law, and under the direction of the Town Board, the Planning Board may prepare and change a Ceomprehensive-master Pplan for the Ddevelopment of the entire area of the Town.

~~I~~ (9) Other. The Planning Board shall be authorized to review and decide any applications on which it has been empowered by resolution of the Town Board, in accordance with § 271 of the Town Law, or on which it has been empowered by any other laws of the Town of Clinton.<sup>8</sup>

D. Violations. Upon written report or receipt of a Stop Order or Order to Remedy ~~notice of violation or an order to cease and desist~~ from the Zoning Administrator and/or Building Inspector for a violation of this Chapter, the Planning Board shall not review or hold public meetings or public hearings regarding, and shall take no action regarding, an application for Ssubdivision, Llot Lline adjustment, Sspecial Uuse Ppermit, Ssite Pplan, or any other action on any application until notified by the Zoning Administrator and/or Building Inspector that such violation has been cured or ceased by the applicant. However, the Board may, upon written recommendation of the Zoning Administrator and/or Building Inspector, review and act on an application involving property for which there is a violation where the approval of such application would result in the violation being remedied. is a plan to cure the violation.

E. Any regular or alternate Planning Board member who fails to attend three (3) consecutive regularly scheduled Planning Board meetings in a calendar year shall be subject to removal from the Planning Board pursuant to § 250-95 A (-4)-of this eChapter. For the purposes of this sSection, a regularly scheduled Planning Board meeting shall be defined as any meeting or workshop scheduled at least thirty (30) days in advance.

**§ 250-96. Site ~~plans~~. Plan review; resource mapping.****A. Scope.**

- (1) The Planning Board is authorized to review and approve, approve with modifications, or disapprove new Ddevelopments, Aalterations, or changes in Use which affect site requirements such as Pparking, Aaccess, sewage disposal, water supply, runoff, landscaping, Buffers, architectural features, location of Structures, impact on Aadjacent Property ~~and~~ Uses, elements relating to health, safety, and general welfare of the community, ~~etc.~~, and to ensure that plans are prepared to the specifications set forth in the applicable Zoning Districts, the pertinent Supplementary Regulations, and the general criteria and standards set forth below.
- (2) Site Pplan approval by the Planning Board is required for all Uses specified in the Schedule of Use Regulations<sup>9</sup>Regulations as requiring Site Pplan review (including change of Use), for all special permit Uses, for expansions of Nonconforming Uses, and for changes to similar or less Nonconforming Uses.
- (3) The Site Pplan is intended to:
  - (a) Illustrate the intended design, arrangement, and Uses of the land to be improved;
  - (b) Describe the proposal's physical, social, and economic effects on the community.
- (4) The Site Pplan review process permits the Planning Board to analyze Development proposals in terms of their impacts on local growth and the need for Facilities and services.

**B. Procedure for Site Pplan approval.**

- (1) Referral by the Zoning Administrator.
  - (~~a~~)—Prior to the approval of a Building Permit or Certificate of Occupancy in any Zoning District,

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8.—Editor's Note: Former Subsection K, Lot line alterations, added 3-14-1995 by L.L. No. 2-1995, which immediately followed this subsection, was repealed 2-10-2015 by L.L. No. 1-2015, effective 2-24-2015.

9.—Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.



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- (a) the Zoning Administrator shall require Ssite-Pplan approval for Uses specified in the Schedule of Use Regulations.
- (b) The Zoning Administrator shall refer the applicant to the Planning Board for its review of the proposed Sstructure or Use in accordance with the standards and procedures set forth in this sSection.
- (2) ~~Sketch-plan~~Pre-Application conference.
- ~~(a)~~ A ~~sketch-plan~~pre-Application conference between the Planning Board and the applicant shall be held to initially review the basic site design concept and generally determine the extent of Ssite Pplan review necessary for the intended project and the information to be required on the Ssite Pplan and in accompanying reports. At the sketch plan conference, the applicant should provide a written statement and rough sketch describing what is proposed, including indication of all existing structures and uses, if any, on the site. This step does not require a formal application and is made in order to allow the parties to discuss the appropriateness of the proposed layout, the suitability of the land for development, the general requirements for improvements, and conformity with the Town Comprehensive Plan and this cChapter. The pre-application <sup>[SE1]</sup>
- ~~(b)~~(a) At a minimum, this conference should include a map showing the important existing natural and built features in and around the site and a sketch plan showing the major features of the proposed development. This information can then form the basis with which the Town can advise the applicant on the next steps required to gain final site plan approval and of the necessary data that will have to be provided with the application. It should be noted that a copy of any deed restrictions should be provided for review at this sketch plan conference. A copy of the documentation presented should be kept on file by the Planning Board.

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process is required to ensure that Town Ddevelopment goals are recognized as they may apply to the property in question. This should help expedite the formal Ssite Pplan review before the applicant has made a substantial investment in the application process.

- (b) Unless waived by the Planning Board all applicants are required to submit a Resource Analysis and a Conceptual Site Plan and shall participate in a discussion with the Planning Board about the Resource Analysis and the Conceptual Site Plan. The Resource Analysis and the Conceptual Site Plan shall be depicted on separate maps.
- (c) There shall be no statutory time limit for the review of the Resource Analysis, nor the need to make a determination of whether the Ssite Pplan application is complete. The Planning Board, in its discretion, may waive a Resource Analysis review.
- (d) The submission shall include an identification of the primary assets and limitations of the property that is the subject of the Ddevelopment proposal. This will provide an opportunity for the Oowner and Planning Board to discuss the appropriate range and intensity of Ddevelopment; the general locations intended for improvements, areas planned to remain undeveloped, and general Aaccess and utility plans. It is also expected that the applicant will have performed an on-site assessment of the site and project area. The applicant should therefore be prepared to discuss possible Ssite Pplan concepts based on what has been learned from the Resource Analysis.

(3) The Resource Analysis shall include the following information:

- (a) The proposed project name or identifying title.
- (b) The name of the property Oowner(s) and the authorized applicant, if different from the property Oowner(s).
- (c) Aerial map at a scale of one-inch equals four hundred feet (1" = 400'), showing the location of the proposed parcel with respect to all Sstreets and property within one thousand (1,000) feet of its boundary and superimposed with 5-foot contours, regulated freshwater Wwetlands, Ffloodplains, streams, slopes of fifteen percent (15%) or greater, water bodies and public trails and Rrecreation Aareas. The map shall also include the location and designation of Zzoning Ddistricts and their boundaries; the location and boundary of any designated Critical Environmental Areas; the location and boundary of any Ridgeline, Scenic, and Historic Protection Ooverlay Ddistrict or Aareas. The map shall referenced and if possible overlay with Town's then in effect National Resource Inventory (NRI).
- (d) List of features on the parcel including but not limited to, historic Bbuildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife Hhabitats and view sheds. This list is a preliminary step in identifying features and is subject to modification and interpretation by the Planning Board.
- (e) A soils map indicating the location and extent of ~~any soils of prime and/or statewide importance~~any Prime or Statewide Important Agricultural Soils as defined by the

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[Soil Survey of Dutchess County New York.](#)

[\(f\) General information necessary to explain and/or supplement the Aerial Map.](#)

- (4) Study of Resource Analysis and Conceptual Site Plan. The Planning Board shall discuss the proposed ~~S~~site ~~P~~plan with the applicant and shall determine how the plan meets, or does not meet, the objectives of the Town Comprehensive Plan and this ~~e~~Chapter. The Planning Board shall consider the areas of proposed ~~D~~evelopment and their relation to one another, the natural constraints of the land, and the protection of important environmental features and ~~O~~open ~~S~~space, the potential effect of ~~D~~evelopment on important view sheds.
- (5) The Planning Board shall make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board and shall indicate to the applicant the priority resources to be preserved. Any requirements of these regulations which the applicant requests to be waived should be discussed at this time.
- (6) The Resource Analysis and Conceptual Site Plan discussion shall not be construed to be an approval of the ~~D~~evelopment plan by the Planning Board and is only a precursor to a formal application for Site approval.
- (~~e~~)(7) The Planning Board shall then take one or more of the following three actions:
- ~~[1]~~(a) Require full review. Advise the applicant of ~~S~~site ~~P~~plan application requirements in accordance with Subsection C and a related administrative checklist which may be employed; ~~or~~
  - ~~[2]~~(b) Require additional information. Require additional ~~sketch plan~~ information needed to complete a satisfactory review. Requirements in Subsection C may be waived or combined as appropriate to the proposed project; ~~pre-application conference or~~
  - ~~[3]~~(c) Waive one or more ~~S~~site ~~P~~plan application requirements.
  - ~~(d) The Planning Board may specify the information needed to complete a satisfactory review. Requirements in Subsection C may be waived or combined as appropriate to the proposed project.~~
- (~~3~~)(8) Formal application to the Planning Board.
- (a) Meeting with applicant. Upon receipt of the application, the Planning Board shall notify the applicant, in writing, of the place, date and time of the meeting of the Planning Board at which the application is to be considered and request the applicant's presence to discuss the application.
  - ~~(b)~~ Referral to Dutchess County Department of Planning. The Planning Board shall comply with the provisions of Article 12B, §§ 239-l and 239-m of the General

Municipal Law, as amended, and refer to the Dutchess County Department of Planning – such– site –plan –applications –as –are –within –its –jurisdiction –[see

- (b) **§ 250-98B(5)**]. When a referral is sent to any agency, it shall indicate the date when a response is due.
- (c) Site inspection. Inspections may be made by the Zoning Administrator in accordance with this eChapter and by Planning Board members and/or the Town Engineer, as part of the application review. No approval shall be granted if such reasonable inspections are not permitted by the applicant.
- (d) Public hearing notice. Within 62 days of the receipt of a complete application, the Planning Board shall conduct a public hearing. Public notice shall be given by publication in the official Town newspaper at least five (5) days prior to the public hearing. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days before the–

- (d) ~~hearing.~~ Reports from the Dutchess County Department of Planning shall be read into the record at the hearing. At the discretion of the Planning Board, the requirement for a public hearing may be waived. If the public hearing is waived, all responses from referrals to other agencies will be read into the record at the final ~~review meeting, before a decision is made.~~<sup>40</sup> Review meeting, before a decision is made. In accordance with GML 239-nn where the site of the proposed Development is within 500 feet of a municipal boundary the Planning Board shall notify the clerk of the adjoining municipality of the public hearing by mail or electronic transmission at least ten (10) days prior to the date of said hearing.
- (e) Conditions. In acting to approve, with or without modifications, a Ssite Pplan application, the Planning Board shall attach such ~~reasonable~~ conditions and restrictions as are directly related to ~~and incidental to~~ the proposed Ssite Pplan.<sup>41</sup>
- (f) Necessary permits. A record of application for an approval status of all necessary permits from federal, state, county, and Town agencies shall be required before final Ssite Pplan approval is granted.
- (g) Decision. Within 62 days of the hearing or of the receipt of the complete application as specified by the Planning Board if no hearing has been held and after the applicant has had the opportunity of meeting with the Planning Board, the Planning Board shall approve, approve with modification, or disapprove the Ssite Pplan. The decision of the Planning Board shall be expressed in the report to the Zoning Administrator, which report shall be binding- but is subject to appeal as provided below. A copy of said report shall be mailed by certified mail to the applicant at the address indicated on the application. The decision of the Planning Board shall be filed in the office of the Town Clerk within five days after such decision is rendered. If applicable, a report on the action taken shall also be filed within seven days thereof with the Dutchess County Department of Planning. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board.<sup>42</sup>
- (h) ~~Within 60 days~~ six (6) months of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final Ssite Pplan in reproducible form, including any modification required by the Planning Board as a condition of its approval. Upon verification by the Planning Board that the plan

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

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).

- (h) complies with the requirements of the Planning Board, the plan shall be endorsed by the Planning Board Chairperson and properly filed with the Zoning Administrator, the Planning Board and the Town Clerk. No Building Permit shall be issued until compliance with this Section is complete. The time to submit a final Ssite Pplan for Planning Board 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 Planning Board to grant such extension.
- (i) AnyAfter receipt of Planning Board Chairperson signature on the approved final Ssite Pplan the approval shall be terminatedterminate if construction and/or Use as approved is not completedcommenced within 18 months of approval, unless the approval is reviewed and extended by the Planning Board.
- ~~(j) Appeals. Any disagreement with the Planning Board's interpretation of any provision of this chapter may be appealed to the Zoning Board of Appeals.~~
- (j) Existing violations. No Ssite Pplan approval shall be issued for a property upon which there is an existing violation unless the application for Ssite Pplan approval is intended to bring the property into compliance with this eChapter-with the agreement of the appropriate agency=.

C. Application requirements. At the discretion of the Planning Board, any of the application requirements listed in this ~~s~~Section may be waived ~~in accordance with Subsection B above.~~ The application for ~~S~~site ~~P~~plan approval shall be submitted in four copies, and shall include the following requirements:

- (1) State Environmental Quality Review Act (SEQRA) environmental assessment form. No application shall be deemed complete without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and the submission of an acceptable draft environmental impact statement (DEIS), if needed.
- (2) A vicinity map drawn at the scale of 2,000 feet to the inch or larger showing the relationship of the proposal to existing ~~C~~ommunity ~~F~~facilities that may affect or serve it such as ~~R~~oads, shopping areas, schools, etc. It shall also show all properties, ~~S~~ubdivisions, ~~S~~treet and easements within 500 feet of the property on which the ~~U~~se for which application is made is proposed to be situated. Such a ~~sketch~~map may be superimposed on a USGS map of the area.
- (3) A ~~S~~site ~~P~~plan or set of plans showing the intended ~~U~~se of the property shall be prepared by a licensed design professional, such as an architect, engineer, or surveyor, at a scale of not less than one inch equals 50 feet and shall include the following information:
  - (a) Boundaries of the property and existing ~~L~~ot ~~L~~ines as shown on the current Tax Map. If the current Tax Map is in error, this condition shall be resolved before final approval is granted.
  - (b) The names of all ~~O~~wners of record adjacent to the applicant's property.
  - (c) The location of ~~S~~tructures ~~and used~~ on ~~A~~adjacent ~~P~~roperties within 100 feet of the subject ~~L~~ot ~~L~~ine.
  - (d) Existing public ~~S~~treet, easements, or other reservations of land within 500 feet of the applicant's property.
  - (e) Existing zoning and special ~~Zoning D~~istrict boundaries within 500 feet of the tract.
  - (f) The location and boundaries of pertinent ~~natural~~ features that may influence the design of the proposed ~~U~~se such as ~~watercourses, wetlands, one-hundred-year floodplains, soil types, rock outcrops, existing vegetative cover, those listed in Section 250-96 B(3)(c) and single trees (which are not part of a wooded area) eight or more inches in diameter.~~



- (g) Existing topography and proposed Ggrading, at contour intervals of not more than two feet, referenced to the nearest U.S. government or local approved benchmark, and extending 50 feet beyond the subject property.
- (h) The extent and amount of Ccut and Ffill for all disturbed areas.
- (i) A soil erosion and sediment control plan, if applicable.
- (j) The location, dimensions, proposed Use, and design of all existing and proposed Buildings and Structures.<sup>[SE2]</sup>
- (k) The location size, design, materials, and associated lighting of all existing and proposed Signs.
- (l) The location, description and design of all existing and proposed site improvements,-

- (h) including pavement, walks, Buffers, curbing, Fences, walls, screening and recreational Facilities.
- (m) The location and design of existing and proposed Streets, Roads, Highways, alleys, Coul-de-sacs, Parking areas, and truck/Commercial Vehicles loading and unloading areas.
- (n) Landscaping plan, showing the natural vegetation to be preserved, the number, size, types, and locations of all trees and shrubs to be planted, and proposed grass and ground cover areas, and a landscape maintenance plan (see § 250-61, Landscaping).
- (o) The location and description of existing or proposed sewage disposal systems and water supply systems, including wells, water lines, valves, hydrants, and Storage tanks.
- (p) Proposed stormwater drainage system, including existing and proposed drains and culverts.
- (q) The location and design of existing and proposed lighting, power, and Commercial Communications Facilities, including any Commercial Communications Towers and Satellite Dish Antennas.
- (r) The location, type, and design of all solid waste handling Facilities.
- (s) The location of outdoor Storage, if any.
- (t) Lot Area in acres or square feet, and measurements of Lot boundaries with bearings.
- (u) Ground area of Buildings and total area by floor.
- (v) Measurement of Setbacks of Buildings.
- (w) Number of Parking Spaces required and to be provided.
- (x) The amount of Building Area proposed for retail sale Uses, if any.
- (y) Any proposed division of Buildings into units of separate Occupancy.

- (z) A signature block for Planning Board endorsement of approval, the applicant's name and address, North arrow, scale, and date.
- (aa) The location and design of monuments.
- (bb) The location and width of all Deriveways, exits, and entrances.
- (cc) The pedestrian safety plan and control elements.
- (dd) The aesthetic relationship of the proposed Structures to the site.
- (ee) Specifications for materials of the proposed site improvements.
- (ff) Fiscal impacts to the Town.
- (gg) The location and description of all Hazardous Substances to be used and/or stored on the site.<sup>13</sup>

site.

- (4) Elevations and ~~s~~Sections shall be required at a scale sufficient to delineate clearly the bulk and height of all ~~B~~uildings and other ~~S~~tructures included in the proposal.
- (5) Estimated project construction schedule.
- (6) For projects involving more than one phase, a ~~S~~ite ~~P~~lan ~~[SE3]~~ indicating ultimate ~~D~~evelopment of the entire property, including each phase.
- (7) A copy of any covenants or deed restrictions for any part of the property.
- (8) Identification of all necessary permits from federal, state, and county agencies and proof of ~~S~~pecial ~~U~~se ~~P~~ermit approval if applicable.<sup>14</sup>
- (9) Other information as required by the Planning Board to assist in the review of the ~~S~~ite ~~P~~lan.
- (10) ~~Appropriate fees~~ Fee in an amount established by the Town Board (see § 250-103).
- (11) All revisions to ~~S~~ite ~~P~~lans must be numbered and dated.

D. General criteria and standards for ~~S~~ite ~~P~~lan approval. The following criteria and standards shall be used by the Planning Board for applications for ~~S~~ite ~~P~~lan approval. They are intended to provide a framework within which the designer of the ~~D~~evelopment is free to exercise creativity, invention and innovation while recognizing the historic, scenic and rural qualities inherent in the community. The Planning Board has the authority to require submission of alternative design and layout proposals based on guidelines in this ~~s~~Section. Site ~~P~~lans are further subject to all other applicable provisions of this ~~e~~Chapter, including the ~~S~~upplementary ~~R~~egulations pertaining to the ~~Z~~oning ~~D~~istrict, the proposed ~~U~~se, and the site treatment.

- (1) Relationship of proposal to the Town ~~Master~~ Comprehensive Plan.

~~(a)~~—Due attention by the applicant should be given to the goals, objectives and the

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

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

- (a) stated general land Use policies for the Town and the specific area in which the Development is proposed.
  - (b) In the Site Plan and design, recognition should be given, where possible, to the traditional Building forms and layouts which are evidence of the distinctive historical Development of the area, and of the specially designated or recognized Scenic and Historic Protection Overlay Areas-~~districts~~ within the vicinity of the proposed Development.
- (2) Relationship of Buildings to site.
- (a) The site shall be planned to create a desirable relationship to the streetscape and to provide for adequate planting, safe pedestrian movement, and adequate Parking areas.
  - (b) Site Plans in which Setbacks and Yards are in excess of zoning restrictions are encouraged to provide a variation in relationship between Buildings.

- (c) Parking shall, wherever possible, be located to the rear or sides of Bbuildings.
  - (d) The height and bulk of each Bbuilding shall be Ccompatible with its site and existing or anticipated adjoining Bbuildings.
  - (e) New Sstructures will be sited and located to take advantage of sSolar aAccess insofar as practical, including the orientation of proposed Bbuildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation both on and off the site, and the impact on sSolar aAccess to Aadjacent Properties and Uses, ~~and properties~~.
  - (f) Newly installed utility services and service revisions necessitated by exterior Aalterations shall be underground, where practical.
- (3) Relationship of Bbuildings and site to adjoining area.
- (a) Site Pplans proposed adjacent to a Residential Zoning District shall be reviewed with regard to the impact of the Development on that Zoning District.
  - (b) The Planning Board shall encourage the use of a combination of landscaping, Buffers, screens, visual interruptions, and common Bbuilding materials to create attractive transitions between Bbuildings of different architectural styles.
- (4) Landscaping: ~~see shall be in conformity with: § 250-61, Landscaping.~~
- ~~(5) Lighting: [SE4]~~
- ~~(a)(5) Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible in conformity with the building and adjacent areas §250-61A.~~
  - ~~(b) The number of light standards and the intensity of lighting Signs shall be appropriate to illuminate the location for safety, without glare to adjoining properties and streets.~~
  - ~~(c) Lighting standards shall be appropriate to the design of the structures and shall not~~

exceed 15 feet in height.

~~(6)~~ Building design. [SE5]

- ~~(a)~~ Appropriate recognition should be made in the building design of compatible building forms indigenous to the community and, in particular, to the historic character of Clinton.
- ~~(b)~~ Materials shall have good architectural character and shall be selected for harmony conformity with traditional building materials. Where practical, natural materials should be used.
- ~~(c)~~ Building components such as windows, roof lines, doors, eaves, entrance porches, and decorative elements shall have well designed proportions and relationships to one another and be compatible with the historic character of Clinton.
- ~~(d)~~ Mechanical equipment such as air conditioners, satellite dishes, and other utility hardware on roofs, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.
- ~~(e)~~ Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

~~(7)~~ (6) Signs: see § 250-70, Signs. [SE6]

~~(8)~~ (7) Ecological considerations.

- (a) The proposal shall result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon areas of environmental concern.
- (b) The proposal shall conform with existing geological and topographic features, to the end that the most appropriate Use of land is encouraged.

~~(9)~~ (8) Drainage. The proposed Development shall be so designed as to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns and protects other properties. Drainage plans shall be reviewed by the Town Engineer prior to approval. Wherever possible, drainage systems should be designed to avoid an increase in stormwater volume and velocity.

~~(10)~~ (9) Solid waste. Facilities to handle solid waste shall be easily accessible and properly screened.

~~(11)~~ (10) Vehicular traffic.

- (a) All entrance and exit Driveways shall be located with due consideration for traffic flow, so as to afford maximum safety to traffic on public Streets and shall be reviewed by the appropriate state, county or local authority.

- (b) On-site circulation shall be designed for ease of use, the safety and convenience of pedestrians, and safe connections with adjoining properties where appropriate.



~~(12)~~(11) Pedestrian circulation.

- (a) Pedestrian circulation shall be separated from motor vehicle circulation. Appropriate walkways shall be provided on the site and its approaches if deemed necessary.
  - (b) Disabled Persons. The plan, for any Use to which the public is expected to visit, shall make proper provision for Buildings and site Developments that are accessible to and functional for physically disabled Persons, such as by provision of walks and ramps of suitable width and grade, curb cuts, identified wide Parking Spaces and ground-level Building entrances, as required in the New York State Uniform Fire Prevention and Building Code and all of the applicable state and federal laws and regulations.
- E. Performance bonds. The applicant may be required to post performance bonds or other form of surety approved by the Town Board in sufficient amounts and duration to assure that all proposed public Streets ~~or~~and other public places shown on the Site Plan shall be suitably graded and paved and that Streets Signs, sidewalks, Streets lighting standards, curbs, gutter, Streets trees, water mains, fire alarm signal devices, including necessary ducts and cable or other connecting Facilities, sanitary sewers and storm drains or combined sewers or other public improvements proposed shall all be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments. The form of the bond shall be approved by the ~~Town's attorney~~Town' Attorney or the Attorney to the Town. The need for a performance bond and its amount shall be approved by the Town Board, with the recommendation of the Planning Board.

**§ 250-98. Zoning Board of Appeals ~~powers~~Powers and ~~duties~~Duties.**

A. Creation, ~~composition~~Composition, and ~~appointment~~Appointment.

- (1) Creation. A Zoning Board of Appeals shall be maintained in accordance with § 267 of the Town Law and this Chapter.
- (2) Composition. The Zoning Board of Appeals consists of seven (7) members, unless changed in accordance with § 267 of the Town Law. Pursuant to §10, Subdivision 1(ii)d(3), of the Municipal Home Rule Law, this Chapter supersedes the provisions of Town Law §267, Subdivision 2, in its application to the Town of Clinton.
- (3) Appointment. The Town Board shall appoint the members of the Zoning Board of Appeals and shall designate its Chairperson. No ~~P~~erson shall serve on the Zoning Board of Appeals who is a member of the Town Board or the Planning Board. The terms of each of the Zoning Board of Appeals positions shall be ~~five~~seven (7) years, as provided by their creation in accordance with § 267 of the Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term. All members of the Zoning Board of Appeal shall be Eligible electors Voters of in the Town of Clinton.
- (4) Removal. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause after public hearing.
- (5) Compensation. The Town Board may provide for compensation to be paid to Zoning Board of Appeals members, experts, clerks, a secretary, and for other such expenses as may be necessary and proper.

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(6) Any regular or alternate Zoning Board of Appeals member who fails to attend three (3) consecutive regularly scheduled Zoning Board meetings in a calendar year shall be subject to removal from the Zoning Board pursuant to Subsection 4 above. For the purposes of this ~~s~~Section, a regularly scheduled meeting shall be defined as any meeting or workshop scheduled at least thirty (30) days in advance.

B. Procedures. In its quasi-judicial role, the Zoning Board of Appeals shall act in strict accordance with the procedures specified by § 267 of the Town Law and this ~~chapter~~Chapter.

(1) Rules of Procedure. The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedures, bylaws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this Chapter. Every rule, regulation, and every amendment or repeal thereof shall be filed in the office of the Town Clerk and shall be a public record. In addition to any other matters within its authority, the Zoning Board of Appeals is hereby authorized to promulgate rules of procedure regarding the following matters:

(a) The day and time by which applications for new matters, and supplemental materials for pending matters, must be submitted to the Secretary of the Zoning Board of Appeals in order to be considered at the next meeting of the Board.

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(b) The number of copies of materials that must be submitted for new and pending matters.

(c) The maximum number of applications that may be heard at a regular meeting of the Board.

(d) The form of the applications for ~~V~~variances, ~~appeals~~ and interpretation requests including the use of a Long Form or a Short Form Environmental Assessment Form for certain matters.

(e) The maximum length of time of a regular meeting of the Board.

(f) The conduct of applicants and the public at meetings and public hearings of the Board.

~~(1)~~(2) Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as ~~such~~the Board may determine. On the ~~five~~seven ~~(7)~~ member board, a quorum shall consist of ~~three~~four ~~(4)~~ members. In order to reverse a decision of the Zoning Administrator or Building Inspector or authorize a ~~variance~~Variance, or to decide contrary to the recommendation of the Planning Board, an affirmative vote of at least ~~three~~four ~~(4)~~ members shall be required. A favorable vote of a majority plus one, ~~i.e., that is,~~ of at least ~~four~~five ~~(5)~~ members, shall be required if the action taken by the Zoning Board of Appeals is contrary to an advisory recommendation received from the Dutchess County Department of Planning under the provisions of §§ 239-l and 239-m of the General Municipal Law. All meetings of such Board shall be open to the public. ~~[Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010]~~

~~(2)~~(3) Minutes. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon ~~every~~each question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, ~~every~~ amendment, or repeal thereof, and every order, requirement, decision, or determination of the Board shall be made part of the minutes. The minutes, once approved, shall be filed in the office of the Town Clerk within ten ~~(10)~~ days and shall be a public record.

~~(4) Application and fee.~~Appeals. All appeals and applications to the Zoning Board of Appeals shall be made in writing, on forms prescribed by the Board, and shall be filed with the Zoning Administrator within thirty

~~(3)~~ (30) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule annually reviewed and established by the Town Board. ~~Appeals for review of administrative decisions shall also be filed with the Zoning Board of Appeals.~~ Every appeal or application shall refer to the specific provision of this ~~e~~Chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the ~~variance~~Variance that is applied for, and the ground on which it is claimed that such ~~variance~~Variance should be granted. Each application shall also be accompanied by a short or full ~~environmental assessment form~~Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law, and Title 6, Part 617 of the New York Codes, Rules, and Regulations.

Public notice and hearing. (a) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by a restraining

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order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.[SE7]

(4) Public Notice and Hearing. The Zoning Board of Appeals shall fix a reasonable time, as determined by the Zoning Board of Appeals for the hearing of any appeal, application, or other matter referred to it and give public notice by the publication in the official papernewspaper of a notice of such hearing, at least five (5) days prior to the date thereof, and shall, at least five (5) days before such hearing, mail notices by certified mail to the involved parties, to Aadjacent Property Owners within two hundred (200) feet of the property involved, and to the regional state park commission having jurisdiction over any state Park or parkway within five hundred (500) feet of the property affected by such appeal or application. Upon the hearing, any party may appear in Person or by agent or by attorney. The names and addresses of Owners notified shall be taken as such appear on from the last completed tax roll of the Town. If the land involved in the appeal or application lies within five hundred (500) feet of the boundary of any other municipality, the Zoning Board of Appeals shall also submit, at least five (5) days prior to the public hearing, to the municipal

(5) clerk of such municipality a copy of the notice of the substance of the appeal or application, together with a copy of the official notice of such public hearing. Provided that there has been substantial compliance with the provisions on public notice herein, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in granting or denying an appeal or an application for a ~~variance~~ Variance from a specific provision of this ~~chapter~~ Chapter.

~~(5)~~(6) Required ~~referrals~~ Referrals. A full statement of any appeal or application that meets the specific referral requirements of §§ 239-l and 239-m of the General Municipal Law shall also be referred prior to the public hearing to the Dutchess County Department of Planning for its review. No action shall be taken by the Zoning Board of Appeals on such appeal or application until an advisory recommendation has been received from said County Planning Department or thirty (30) days have elapsed since the Planning Department received such full statement, whichever comes first.

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

~~{4}~~[i] Municipal boundary;

~~{2}~~[ii] Boundary of any existing or proposed county or state ~~P~~ark or other ~~R~~ecreation Area;

~~{3}~~[iii] Right-of-way of any existing or proposed county or state ~~R~~oad or ~~H~~ighway;

~~{4}~~[iv] Existing or proposed right-of-way of any stream or drainage channel owned by the county, or for which the county has established channel lines; or

~~{5}~~[v] Existing or proposed boundary of any county- or state-owned land on which a public ~~B~~uilding or institution is situated.

(7) Agricultural Data Statement. An application for an Area Variance, a Use Variance, or a Special Use Permit must also contain an Agricultural Data Statement if any portion of the project is located on property within an Agricultural District containing a ~~Farm~~ Agricultural Operation, or a property with boundaries within five hundred (500) feet of a ~~Farm~~ Agricultural Operation located in an Agricultural District. The Agricultural Data Statement shall contain the name and address of the Applicant; a description of the proposed project and its location; the name and address of any Owner of land within the Agricultural District which contains a ~~Farm~~ Agricultural Operation; and a tax map or other map

showing the site of the proposed project relative to the location of ~~Farm~~ Agricultural Operations identified in the Agricultural Data Statement.

~~(b)(8)~~ (8) The Zoning Board of Appeals shall refer to and receive recommendations from the Planning Board on all applications for ~~variances~~ Variances and changes of Nonconforming Uses, and may refer to the Planning Board any other pertinent matters for review and recommendations. The Zoning Board of Appeals shall defer any decision on the application for a period of thirty (30) days or until a report thereon is issued by the Planning Board. If no report is received from the Planning Board within thirty (30) days after such referral, the Planning Board shall be deemed to have waived any rights concerning the matter being referred.

~~(6)(9)~~ (9) Decisions. Every decision of the Zoning Board of Appeals on an appeal or application shall be made within sixty-two (62) days of the close of the hearing by the Board, shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and contain a record of the findings on which the decision is based. Every decision shall be made by resolution of the Board, with such decision being filed in the office of the Town Clerk within five (5) days thereof. A copy of the decision shall be mailed to the applicant. If applicable, a report on the action taken shall also be filed within seven (7) days thereof with the Dutchess County Department of Planning. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the ~~applicant~~ Applicant and the Board.<sup>15</sup>



(10) Default Denial. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a Variance or reverse any order, requirement, decision or determination of the enforcement officer within the time allowed by Subsection 9 above, the appeal shall be deemed as denied. ~~The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to a rehearing process.~~ [SE8]

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

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

(13) Strict constructionConstruction. All provisions of this eChapter pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals, as a body of limited jurisdiction, shall-

(9) act in full conformity with all provisions of this ~~e~~Chapter and in strict compliance with all limitations contained herein; provided, however, that if the procedural requirements set forth in this ~~e~~Chapter have been substantially observed, no ~~applicant~~Applicant or appellant shall be deprived of the right of application or appeal.

~~C. Administrative review.~~

C. Appeals.

(1) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator, Building Inspector, Fire Inspector, or any administrative official charged with the enforcement of any law adopted pursuant to Article 16 of the Town Law. It shall also hear and decide all matters referred to it or upon which it is required to pass under any such law, including interpretations of the language, intent of such law, or interpretation of the location of ~~Z~~oning ~~D~~istrict boundaries ~~by the Zoning Administrator or the Building Inspector. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such law or to effect any variation in such law. Such appeal may be taken by any person aggrieved, or by an officer, department or board of the Town.~~ <sup>[SE9]</sup> by the Zoning Administrator or the Building Inspector.

(1)

(2) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

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

~~application, on notice to the officer from whom the appeal is taken and on due cause shown.~~

- (3) The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to ~~behave been~~ made, and to that end shall have all the powers of the officer from whom the appeal is taken.

D. Variances. The Zoning Board of Appeals shall hear and decide applications for ~~variances~~Variances from the terms of this ~~chapter~~Chapter in accordance with the following provisions. The intent of these provisions is to protect the public interest and to observe the spirit of this ~~chapter~~Chapter, and to authorize ~~variances~~Variances from the terms of this ~~chapter~~Chapter in situations where, due to documentable exceptional and extraordinary circumstances, there would result unnecessary hardships or practical difficulties, as defined below, due to the strict application of the provisions of this ~~chapter~~Chapter. Failure to realize the highest return on the land and/or ~~B~~buildings does not necessarily constitute practical difficulty, economic injury, or unnecessary hardship. The Zoning Board of Appeals may grant such ~~variances~~Variances when the Board finds that the following criteria, or current criteria consistent with New York State law, have been strictly met:

(1) Area ~~variances.~~<sup>16</sup>Variances.

- (a) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this ~~e~~Chapter, to grant ~~area variances~~Area Variances as defined herein.
- (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the ~~variance~~Area Variance is granted, as weighed against the detriment to the ~~health, safety and welfare of the neighborhood or community by such grant.~~  
~~In making such determination the Board shall also consider:~~

health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

~~[4]~~~~[i]~~ Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, by the granting of the ~~area variance~~Area Variance;

~~[2]~~~~[ii]~~ Whether the benefit sought by the ~~applicant~~Applicant can be achieved by some method, feasible for the applicant to pursue, other than an ~~area variance~~Area Variance;

~~[3]~~~~[iii]~~ Whether the requested ~~area variance~~Area Variance is substantial;

~~[4]~~~~[iv]~~ Whether the proposed ~~variance~~Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or ~~Zoning District~~;

~~[5]~~~~[v]~~ Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the ~~area variance~~Area Variance.

~~(e)~~ Area Variance Approval and Conditions. The power of the Zoning Board of Appeals to grant ~~a variance~~an Area Variance is to be sparingly

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

(c) exercised. Not every applicant for an ~~area variance~~ Area Variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty. If the Zoning Board of Appeals decides to grant relief, it ~~may grant only the minimum relief necessary to allow reasonable use of the land or building in question~~ shall grant the minimum Variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community. The Board may grant approval of an Area Variance on such conditions as the Board may find reasonable and necessary to preserve and protect the character of the neighborhood and the health, safety and welfare of the community. Said conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such Area Variance may have on the neighborhood or community.

(2) ~~Use variance. A property owner who desires to utilize any land and/or buildings for a use that is not permitted by this chapter within the applicable zoning district may apply for a use variance.~~

(a) ~~An applicant for a use variance must demonstrate unnecessary hardship by satisfying each of the following three tests:~~

[1] ~~Uniqueness. The applicant must prove that there are certain conditions or features of the property that are not generally applicable throughout the zoning district and that these features make it impossible to earn a reasonable return without some adjustment. If the conditions or features are generally applicable throughout the district, a variance may not be granted.~~

[2] ~~Reasonable return. The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted within the zoning district in this chapter. There must be a "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate. Failure to realize the highest return on the land and/or buildings is not considered a hardship.~~

[3] ~~Character. The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the purpose and intent of the zoning district and this chapter must be preserved.~~

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

Should the

(d) Application for Area Variance. Pursuant to §§ 274-a(3), 274-b(3), and 277(6) of the New York State Town Law, nothing herein shall be construed to prevent an applicant for Special Use Permit, Site Plan, or Subdivision approval from submitting an application for Area Variance approval without first obtaining a decision or determination from the Building Inspector, Zoning Administrator, or Planning Board.

## (2) Use Variances.

(a) The Zoning Board of Appeals ~~deem, on appeal from the same condition~~ decision or

determination of the administrative officer charged with the enforcement of this Chapter, shall have the power to apply generally to other land or buildings grant Use Variances, as defined in the same Town Law.

- (b) No Use Variance shall be granted by the Board without a showing by the Applicant that zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals for each

and every Permitted Use under the zoning regulations for the particular Zoning District where the property is located:

[i] That the Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence, and

[ii] That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the Zoning District or neighborhood or district, and

[iii] That the requested Use Variance, if granted, will not alter the essential character of the neighborhood, and

[iv] That the alleged hardship has not been self-created.

- (c) Use Variance Approval and Conditions. In granting a Use Variance, the Zoning Board of Appeals may call this condition to the attention shall grant the minimum Variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant and at the same time preserve and protect the character of the Town Board and may recommend that the Town Board consider a general amendment neighborhood and health, safety, and welfare of this chapter, but may not grant a variance the community. The Board may grant approval of a Use Variance on such conditions as the Board may find reasonable and necessary to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community. Said conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such Use Variance may have on the neighborhood or community.

Expiration. Unless

- (3) E. Time Limit. The Area Variance or Use Variance approval shall be void if construction or commencement of the Use is diligently commenced not commenced started within one (1) year from the date of the granting of a variance, such variance shall become null and void without further rehearing or action by the the Zoning Board of Appeals approval. A Use Variance shall be deemed to have expired when the Use has ceased for a period of twelve (12) consecutive months.

E.F. Nonconforming uses Uses. The Zoning Board of Appeals shall hear and decide any request application for change of a nonconforming use Nonconforming Use, as required by Article VI of this eChapter, and to determine whether the intended use Use maintains or reduces the nonconformity.

- (4) Appeal from Article VI to enlarge Enlarge or extend Extend a nonconforming use Nonconforming Use. In making such

(1) determination, the Zoning Board of Appeals shall consider the following:

- (a) The intent of this ~~chapter~~Chapter, as stated in Article VI.
- (b) An unlawful ~~U~~use prior to the effective date of this ~~chapter~~Chapter is not a ~~nonconforming-use~~Nonconforming Use.
- (c) The Planning Board recommendation as a result of its ~~site-plan~~Site Plan review if a ~~site-plan~~Site Plan is required by the Planning Board for such determination.
- (d) No appeal may be granted by the Zoning Board of Appeals if any violations of this ~~chapter~~Chapter exist with regard to this property.
- (e) An ~~O~~owner must make the same showing of deprivation of reasonable ~~use~~Use to justify an extension of an established ~~nonconforming-use~~Nonconforming Use as he ~~or she~~ would to justify a ~~variance~~Variance for a new ~~use~~Use.



- (f) A mere intent by the ~~owner~~Owner at the time this ~~chapter~~Chapter became effective to use more land for a ~~nonconforming use~~Nonconforming Use does not require the Zoning Board of Appeals to permit subsequent extension of ~~nonconforming use~~Nonconforming Use of such land.
- (2) Request to ~~change~~Change from ~~one nonconforming use~~One Nonconforming Use to ~~another nonconforming use~~Another Nonconforming Use. In making its determination of whether the change of ~~use~~Use maintains or reduces the ~~nonconformity~~Nonconformity, the Zoning Board of Appeals shall consider the following:
- (a) No change shall adversely affect the public health, safety, and welfare, the character of the neighborhood, or property values in the area of such ~~use~~Use, nor prolong any existing adverse effects as a result of such change.
  - (b) No change of ~~use~~Use shall increase the overall degree of ~~nonconformity~~Nonconformity, with regard to compliance with the Schedule of Area and Bulk Regulations.<sup>47</sup>
  - (c) The Planning Board recommendation as a result of its ~~site plan~~Site Plan review.
- (3) Procedure. The Zoning Board of Appeals shall follow the same procedures for change of ~~nonconforming use~~Nonconforming Use as the procedure for ~~variances~~Variances prescribed in this ~~s~~Section.

(3) —

G. Violations. Upon written report or receipt of a Stop Order or Order to Remedy a notice of violation or an order to cease and desist from the Zoning Administrator and/or Building Inspector for a violation of this Chapter concerning any application before it, the Zoning Board of Appeals shall not review, hold public meetings or public hearings, and shall take no action regarding such an application for Area Variance approval, Use Variance approval, or interpretation until notified by the Zoning Administrator and/or Building Inspector that such violation has been cured or ceased by the applicant. However, the Board may, upon written recommendation of the Zoning Administrator and/or Building Inspector, review and act on an application involving property for which there is a violation where such application is a plan to cure the violation and bring the property or Use of the property into compliance with this Chapter.

F.H. Relief from ~~decisions~~Decisions. Any Pperson or Ppersons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be ~~initiated as therein provided within 30 days after the filing of the Zoning Board of Appeals' decision in the office of the Town Clerk.~~ initiated as therein provided within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the office of the Town Clerk.

**§ 250-99. Conservation Advisory Committee (CAC).**

~~In accordance with §~~

A. As authorized by §239-x of the General Municipal Law, a Conservation Advisory Committee ("CAC") is hereby established. The CAC shall consist of nine (9) members who shall be appointed by and serve at the pleasure of the Town Board. Each appointment shall be for a two-year term. The Chair of the CAC shall be designated by the Town Board from the members so appointed. The Town Board shall have the authority to remove any member of the CAC for cause, after a public hearing. A vacancy shall be filled for the unexpired term in the same manner as the original appointment.

A.B. The duties of the CAC shall include review of those matters expressly referred to it by the Town Board, the Planning Board, and the Zoning Board of Appeals in regard to applications for Ssubdivision, Ssite Pplan, Sspecial Uuse Ppermit, soil erosion and sediment control plan, Aarea Vvariance, or rezoning application may be referred by the reviewing agency to a conservationUuse Vvariance, and change of zone for an advisory council (Clinton-Conservation recommendation in regard to the potential impact of such

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~~17. Editor's Note: The Schedule of Area application(s) on the Town's Oopen Sspace, Hhabitat areas, surface water, and Bulk Regulations is included at the end of this chapter.~~

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~~Advisory Committee) for its recommendation on certain matters, ground water~~ including the following applications in which:<sup>48</sup>

- (1) The lands are completely or partly within the Conservation Agricultural Residential District (C District~~); and~~
- (2) The lands are completely or partly over Aaquifers, as currently derived from U.S. Geological Survey (USGS) maps~~; and~~
- (3) The lands include or partly include New York State Department of Environmental Conservation designated Wwetlands~~; and~~
- (4) Any other areas specifically designated by resolution of the Town Board for referral of applications to the ~~Conservation Advisory Committee~~CAC.

~~B.C. If~~Where the reviewing agency refers an application to the ~~Conservation Advisory Committee, CAC~~ the agency shall take no action on the application for ~~30~~ fifteen (15) days ~~without having received~~following the date of referral. The CAC shall, within fifteen (15) days of the date of referral issue a written report from the Conservation Advisory Committee. Such report shall evaluate to the reviewing agency evaluating the proposed Use or Development and its potential effects on the Town's Open Sspace, Habitat areas, surface water, and ground water, and may include recommendations as to alternative ~~use proposals~~Uses consistent with ~~area conservation~~the Town's Comprehensive Plan.

D. Additionally, the activities of the CAC shall include:

- (1) Working with the Planning Board, Building Department, and Zoning Board of Appeals in an advisory capacity on community planning and Development and wise use of the ~~t~~Town's natural resources; and
- (2) Working with the Town of Clinton Zoning Revision Committee to implement the recommendations of the Town Comprehensive, Open Space, Biodiversity and Farm Protection Plans, that includes the protection of Aaquifers; and

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- (3) Working to protect natural ~~H~~abitats of concern; and
- (4) Hosting programs to educate residents on the importance of their participation in the preservation of such issues as drinking water, wildlife ~~H~~abitats, and the ~~t~~Town's scenic beauty; and
- (5) Encouraging visitors to use the Town's Nature Trail; and
- (6) Updating CAC information on Town web-site; and
- (7) Placing newcomer folders with Town and environmental information in the offices of the Assessor, Town Clerk, and Clinton Community Library; and
- (8) Maintaining an inventory and map of ~~O~~open ~~S~~space areas in the Town and obtain information pertinent to proper utilization of such ~~O~~open ~~S~~space lands including lands owned by the Town and by the state; and
- (9) Maintaining an inventory and map of all open marsh lands, swamps and all other freshwater ~~W~~wetlands, and ~~makinge~~ periodic recommendations to the Town Board of a program or programs for ecologically suitable utilization of all such areas.

**§ 250-101. Amendments.**

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

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

(1) By the Town Board upon its own volition.

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

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

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

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

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- (1) Whether such change is consistent with the intent of this ~~e~~Chapter as applied to the particular ~~Z~~oning ~~D~~istricts concerned.
- (2) Which areas and ~~E~~stablishments in the Town will be directly affected by such change and in what way they will be affected.
- (3) Whether adequate public service and other support ~~F~~acilities exist or can be created to serve the needs of any additional ~~D~~evelopment that may occur as a result of such change.
- (4) What other regulations may be affected, and to what extent, as a result of such change.
- (5) Whether such proposed change is consistent with the underlying objectives of the Town Master Plan and this ~~e~~Chapter.
- (6) If such a referral is made, the Planning Board shall submit its report to the Town Board within 60 days. Failure of the Planning Board to report within the required time period shall be deemed to be a recommendation of approval of the proposed amendment.

C. Town Board procedure.

- (1) Public notice and hearing. The Town Board shall fix the time and place of the public hearing on the proposed amendment and cause notice thereof to be given pursuant to Municipal Home Rule-~~Law~~.

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(2) Required referral. The Town Board shall transmit a full statement of any proposed amendment, whether a map amendment or a text amendment, that meets the referral requirements of § 239-l or 239-m of the General Municipal Law, to the Dutchess County Department of Planning for its review and recommendation. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the County Department of Planning or 30 days have elapsed since said department received such full statement.

(3) Compliance with SEQRA. Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance of the proposed amendment in accordance with Article 8 of the Environmental Conservation Law and Title 6, Part 617 of the New York Codes, Rules and Regulations. Any action to initiate an amendment to this eChapter shall be specifically accompanied by either a short or full environmental assessment form as required by SEQRA.

(4) Town Board action. The Town Board may approve any such proposed amendment by a majority vote of the Board, except that a favorable vote of at least four members of the Town Board, i.e., a majority plus one, shall be required if action being taken is contrary to the advisory recommendation received from the Dutchess County Department of Planning under the provisions of §§ 239-l and 239-m of the General Municipal Law. If the action taken is contrary to the advisory recommendation of the County Department of Planning, a report on the action shall be filed within seven days thereof with said department.

### § 250-102. Penalties for offenses.

- A. In case any Bbuilding or Structure is erected, constructed, reconstructed, altered, converted, or maintained, or any Bbuilding, Structure or land is used, or any land is divided into Lots, blocks, or sites in violation of this eChapter or of any Ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate legal action or proceedings in a court of competent jurisdiction to prevent such unlawful erection, construction, reconstruction, Aalteration, conversion, maintenance, Use or division of land, to restrain, correct or abate such violation, to prevent the Occupancy of said Bbuilding, Structure, or land or to prevent any illegal act, conduct, business or Use in or about such premises.
- B. Upon the failure or refusal of the proper local officer, board, or body of the Town to institute any such appropriate legal action or proceeding for a period of 10 days after written request by a resident or taxpayer of the Town to so proceed, any three residents or taxpayers of the Town residing in the Zoning District wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this eChapter.
- C. A violation of this eChapter is hereby declared to be a Violation Zoning ~~unless specifically designated as a~~ Violation Zoning Enhanced <sup>[SE10]</sup>, punishable as set forth in Chapter **137**, Fines and Penalties. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, ~~all~~ violations of this eChapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. **[Amended 5-11-2010 by L.L. No. 1-2010, effective 5-20-2010; 9-14-2021 by L.L. No. 5-2021, effective 9-21-2021]**
- D. Any Person who fails to abate any violation of this eChapter after written notice has been served either personally or upon the property Owner at the address set forth in the last assessment roll of the Town within 10 days after mailing of said written notice has been sent to said Person by certified mail shall be subject to a civil penalty of \$100 for each and every day that said violation of the zoning law continues beyond said period, the same penalties recoverable in a civil action brought by the Town in a court of competent jurisdiction, and any civil penalties recovered by the Town shall be retained by it.
- E. If there is any damage to property or land due to a violation of this eChapter, the Person, firm, partnership, corporation or other party responsible shall be notified and shall cause such damage to be corrected within 36 hours of notice. If it is not so corrected, the Town may cause such correction to be undertaken, and the cost shall be paid to the Town by the party who failed to correct the damage. Such cost shall be a debt owed to the Town, which, if unpaid for more than 30 days after demand for payment, shall be a lien on the real property upon which the damage occurred. Such lien shall be collected by a levy added to the next real property tax levy otherwise payable to the Town.
- F. The remedies provided herein shall be cumulative and shall be in addition to other remedies provided by law.



**§ 250-103. Fees.**

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