

Local Law No. __ of 2023, entitled:

“Local Law Amending Town Code to Provide for the Regulation of Farm Operations and Agricultural Businesses”

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

1. Chapter 250 of the Town Code is hereby amended by repealing the existing Section 51 in its entirety and replacing it with a new Section 51 which shall read as follows:

§ 250-51. Farm Operations & Agricultural Businesses.

- A. Intent. The Town of Clinton supports the use of land for Sound Agricultural Practices and will exercise its powers to enact and administer the provisions of its Town Code consistent with its Comprehensive Plan in such a manner as may realize the policy and goals set forth in New York State Agriculture and Markets Law Article 25-AA, and shall not unreasonably restrict or regulate Farm Operations within Agricultural Districts in contravention of the purposes of New York State AGM Article 25-AA unless it can be shown that the public health or safety is threatened. The Town supports the continued operation of active Farm Operations and has provided, through the regulations of this Chapter and Chapter 206, Subdivision of Land, the means for the Town to approve the Development of nonagricultural land subject to such conditions as may be required to assure the long-term viability of active Farm Operations and Sound Agricultural Practices by limiting the potential for conflict between these protected uses and any newly established nonagricultural land uses. It is the general purpose and intent of this Section to maintain and preserve the rural tradition and character of the Town of Clinton, to permit the continuation of Sound Agricultural Practices, to protect the existence of Farm Operations, and to encourage the initiation and expansion of Farm Operations and Agricultural Businesses.
- B. Essential Activity. The Town finds that farming is an essential activity and that Farm Operations reinforce the special quality of life enjoyed by citizens, provide the visual benefit of open spaces, and generate economic benefits and social well-being within the community. Therefore, the Town emphasizes to newcomers that the Town encourages its agriculture and requests newcomers to be understanding of the necessary day-to-day operations that accompany Sound Agricultural Practices.
- C. Right to Farm. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in Sound Agricultural Practices within the Town of Clinton in compliance with all laws and regulations.
- D. Notice to Prospective Neighbors. Any parcel that borders a Farm Operation shall include the following notice in Building Permits and on plats of Subdivisions submitted for approval pursuant to Town Law § 276: "This property borders a Farm Operation, as defined in Chapter 250, Zoning, of the Town of Clinton Town Code. Residents should be aware that farmers have the right to conduct Sound Agricultural Practices which may generate dust, odor, smoke, noise, and vibration." As used in this provision a bordering parcel shall mean a parcel that is located adjacent to the Lot Line of a Farm Operation not separated by a Road.

- E. Farm Worker Housing. In order to accommodate long workdays, seasonal housing needs, the shortage of nearby rental housing, and because Farm Worker Housing is considered by New York State to be an integral part of Farm Operations, the Town permits Farm Worker Housing under the following regulations:
1. Farm Worker Housing shall be exempt from the requirements of § 250-29 Accessory Dwelling Units. Structures used for Farm Worker Housing shall not be included in the count of total Accessory Dwelling Units nor Accessory Structures allowed on a Lot, provided all other provisions of § 250-51.E are met.
 2. Use of Farm Worker Housing. Only a Farm Worker, as defined in this Chapter, his or her Immediate Family and persons otherwise permitted by N.Y. Real Property Law § 235-f may live in or otherwise occupy Farm Worker Housing. Farm Worker Housing may not, at any time, be used as any other type of Dwelling Unit, including but not limited to a Principal Dwelling Unit or an Accessory Dwelling Unit, nor may it be used for any other Use, including but not limited to Short-Term Rental, transient lodging, or long-term rental, without an application made to and approved by the Town for a change in the Certificate of Occupancy which may require Site Plan approval and a Special Use Permit.
 3. Permit Required. A Building Permit under § 250-91 shall be required for Farm Worker Housing prior to the Commencement of Construction and a Certificate of Occupancy must be issued as described in § 250-92 prior to the commencement of occupancy. Further, Farm Worker Housing must meet Housing and Urban Development (HUD) standards and must pass all inspections by the Town of Clinton Building Inspector as required in Town of Clinton Town Code and the New York State Uniform Fire Prevention and Building Code (Uniform Code) prior to the commencement of occupancy. At the discretion of the Building Inspector, and as allowed for in § 250-92.D. Certificates of Occupancy, a Temporary Certificate of Occupancy may be issued when deemed necessary and appropriate by the Building Inspector.
 4. Size, Type, and Location. Farm Worker Housing shall comply with all regulations pertaining to migrant farm worker housing provided in Part 15 of Chapter 1 of Title 10 of the New York Codes, Rules and Regulations. It may be of any approved construction type or method allowed under the Uniform Code, including but not limited to Factory-Manufactured Homes and Mobile Homes, with consideration to maintaining a reasonable affordability for the Farm Operation. Farm Worker Housing may be located anywhere within the Farm Operation, provided that all applicable Setback requirements are met and that appropriate consideration is given to environmental and operational considerations.
 5. Modified Site Plan Review. In cases where the proposed Farm Worker Housing presents reasonable concern or other special considerations, the Municipal Code Enforcement Inspector may, after consulting with the New York State Department of Agriculture and Markets, require Modified Site Plan approval by the Planning Board under § 250-51.G.
 6. Water and Wastewater. All water and Wastewater utilities serving Farm Worker Housing shall be approved and certified by the Dutchess County

Department of Health prior to a Certificate of Occupancy or Temporary Certificate of Occupancy being issued. Certification that the proposed water supply and Wastewater management systems meet the requirements of the Dutchess County Health Department is required prior to the issuance of a Building Permit for Farm Worker Housing.

7. Professional Advisors Required. As a Dwelling Unit intended for human habitation, Farm Worker Housing is subject to the Uniform Code and, therefore, the plans submitted with a Building Permit application for Farm Worker Housing must be certified and approved by a New York State licensed professional engineer or registered architect.
8. Exclusions. A Dwelling or Accessory Dwelling occupied by any owner or partner of a Farm Operation shall not be considered Farm Worker Housing. Also, any family of any owner or partner of a Farm Operation who is not employed as a full-time employee of the Farm Operation shall not be eligible for Farm Worker Housing and shall not occupy Farm Worker Housing unless they are also the Immediate Family of a Farm Worker or are otherwise permitted to occupy such housing by law.
9. Maintenance and Upkeep. Farm Worker Housing units, as tenant-type Dwelling Units, shall provide housing for Farm Workers that is consistent with New York State Real Property Law and shall, according to Real Property Law § 235-B, Warranty of Habitability, be maintained in such a way as to be fit for human habitation and kept in such a way so that no Farm Worker, or Immediate Family member thereof, residing therein shall be subjected to any conditions which would be dangerous, hazardous, or detrimental to his or her life, health, or safety. In the event such condition is found to exist, the Municipal Code Enforcement Inspector is empowered to take all actions necessary to remedy the condition including but not limited to issuing an Order to Remedy under § 250-89.E.
10. Screening. Farm Worker Housing is not considered by the Town to be objectionable or different from other forms of residential housing. The Town shall not generally require the screening of Farm Worker Housing from neighboring Lots nor from adjacent Roads. However, should it be determined that the existence or conditions of any specific Farm Worker Housing creates a threat to the public health or safety, or if it is shown that there are other special local considerations that make screening necessary, screening may be required.
11. Termination of Use and Conversion or Removal. The Town understands that Farm Operations are not only seasonal in nature, but often have varying requirements from one year to another. Because there may be years in which a unit of Farm Worker Housing is not required by the Farm Operation, such a vacancy or interruption of Use shall not cause such Use to expire. However, should a unit of Farm Worker Housing remain unused for a period of three (3) consecutive years or be used for another Use for any amount of time, the Certificate of Occupancy shall be revoked, the Use of said Farm Worker Housing shall terminate, and the Dwelling Unit must either be converted to a different approved Use, subject to the requirements of the Town Code, or be removed from the Lot. Similarly, should the Farm Operation cease operations in a permanent manner, all Farm Worker

Housing in existence within said Farm Operation must either be converted to a different approved Use, subject to the requirements of the Town Code, or be removed from the Lot.

F. **Agricultural Businesses.** Consistent with the intent of New York State Agriculture and Markets Law Article 23, Direct Marketing, as stated in AGM § 281, the Town recognizes the need for Farm Operations within an Agricultural District to engage in a variety of alternative marketing structures for Agricultural Products including, but not limited to, direct sales of raw and processed Agricultural Products or foods containing Agricultural Products, Agricultural Tourism, Farm Marketing Events, Farm Stores, Farm Restaurants, Farm Tasting Rooms, and On-Farm Slaughterhouses. As indicated in standards set in New York State Agriculture and Markets Law Article 25-AA, the primary purpose of an Agricultural Business must be to sell the farm's crops, livestock, and livestock products in a manner which primarily promotes the sale, marketing, production, harvesting, or use of the products of the farm and enhances the public's understanding and awareness of farming and farm life. The Town recognizes that the nature of most farms within the Town does not allow for effective marketing and sales of Agricultural Products if limited to only those Agricultural Products produced on-farm and, in agreement with guidelines provided by New York State Department of Agriculture and Markets, allows for an Agricultural Business to be supplied by multiple New York State farms. The amount and extent of the relationship between On-Farm Agricultural Products and other Agricultural Products is described below as necessary. The intent of this section is to provide a means for Farm Operations to directly market and sell to the public in a way that promotes the rural and agricultural nature of the Town of Clinton and to provide a means for Farm Operations in an Agricultural District to do so beyond the standards and protections of New York State Agriculture and Markets Law. To this end, any reference to Agricultural Business, Farm Restaurant, Farm Store, or Farm Tasting Room herein shall use the specific Definitions of this Chapter and shall not hold the same meaning as agricultural business, farm restaurant, farm store, or farm tasting room as may be used elsewhere. Nothing herein shall preclude or prevent a Farm Operation from engaging in more than one Agricultural Business. The following regulations apply to Agricultural Businesses in the Town of Clinton:

1. **Informational Permit Required.** The filing of an Informational Permit pursuant to § 250-97.1 shall be required for any Farm Operation open to the public and/or engaged in retail marketing and/or retail sales as part of their Farm Operation. There shall be no cost to a Farm Operation for the filing of an Informational Permit.
 - a. An Informational Permit must be filed prior to the commencement of any retail marketing or retail sales and shall be updated at least annually, on or before March thirty-first, and prior to any proposed operational change in the retail marketing and/or retail sales.
 - b. The Municipal Code Enforcement Inspector shall consult with the New York State Department of Agriculture and Markets to determine if the retail marketing and/or retail sales conducted as part of a Farm Operation are being done in such a way as to be

within the standards and protections of New York State Agriculture and Markets Laws.

- c. Any proposed retail marketing and/or retail sales by a Farm Operation determined to be outside the standards and protections of New York State Agriculture and Markets Law shall be deemed an Accessory Use to the Farm Operation and subject to the requirements of this Chapter, including but not limited to § 250-51 Farm Operations and Agricultural Businesses, § 250-96 Special Use Permits, and Site Plan approval pursuant to § 250-51.G. Modified Site Plan Process. Any required approvals or permits must be in full effect prior to commencing such retail marketing and/or retail sales.
2. Agricultural Tourism. Agricultural Tourism is permitted on all Farm Operations within an Agricultural District in the Town, under the following conditions:
 - a. Agricultural Tourism is allowed only on Lots on which there is an active Farm Operation and must be hosted by that Farm Operation. A Farm Operation conducting Agricultural Tourism must register with the Town by filing an Informational Permit pursuant to § 250-97.1.
 - b. Activities must predominantly promote the sale, marketing, production, harvesting, or use of the On-Farm Agricultural Products, or to specifically serve the purpose of educating the public about farms and Agriculture. In order to be considered as predominantly promoting the above, such promotion must be demonstrably clear to the Municipal Code Enforcement Inspector, who may consult with the New York State Department of Agriculture and Markets for guidance.
 - c. The focus of the activities must be to enhance the public's understanding and awareness of farming and farm life.
 - d. Agricultural Tourism activities shall not occur in the hours between 10:00 pm and 10:00 am and must comply with § 250-28 General Performance Standards in order to protect the public health, safety, and welfare.
 - e. Parking shall be in designated areas only and shall be buffered from view of neighboring properties by farm buildings, fencing, topography, or other reasonable means whenever possible. While parking on vegetated areas is allowed, such parking areas shall be large enough to provide for the continued growth and health of the vegetation.
 - f. Agricultural Tourism as used herein is intended to be incidental and occasional to the Farm Operation, so demonstrated by the use of additional and different means of marketing, promotion, and/or selling of On-Farm Agricultural Products. Direct on-farm sales held without the inclusion of promotional activities are not considered Agricultural Tourism.
 3. Farm Marketing Events. Farm Marketing Events are a useful tool for attracting customers to farms and, as such, may contribute to the

production, preparation, and marketing of Agricultural Products as a commercial enterprise. The following regulations apply to Farm Marketing Events:

- a. Farm Marketing Events are allowed as part of any Farm Operation within an Agricultural District in the Town. A Farm Operation conducting a Farm Marketing Event must submit an Informational Permit under § 250-97.1 to the Town of Clinton Building and Zoning Department for each such Event. At the discretion of the Municipal Code Enforcement Inspector, who may consult with the New York State Department of Agriculture and Markets, a Site Plan approval under the Modified Site Plan Process may be required.
 - b. The primary purpose of the Farm Marketing Event must be to sell the On-Farm Agricultural Products of the Farm Operation and not to gain admission fees or rental income.
 - c. Agricultural Products from the Farm Operation must be grown or raised on-farm and sold through direct marketing to the public at the time and location of the Farm Marketing Event. Although additional Agricultural Products from other New York State farms may also be marketed and sold as part of a Farm Marketing Event, the sales from such products may not be included in the gross sales from the retail sale of On-Farm Agricultural Products mentioned in subsection (d) below.
 - d. Farm Marketing Events must be incidental and subordinate to the Farm Operation. Incidental is determined to mean that the total of gross annual receipts from other than On-Farm Agricultural Products sold at such events does not exceed thirty percent (30%) of the total gross sales from the retail sale of On-Farm Agricultural Products sold at such events. All Agricultural Products must be sold at a cost no higher than the current retail price of such products sold as part of the Farm Operation.
 - e. Farm Operations are required to keep sufficient records to prove that the financial requirement is met and must submit a report of such records to the Municipal Code Enforcement Inspector annually if requested.
 - f. Farm Marketing Events may include other relevant vendors such as, but not limited to, food trucks, face painters, and craftspeople. However, any financial benefit from any such vendor shall count toward the gross annual receipts from non-On-Farm Agricultural Products. Any such vendor must possess, in full force and effect, any and all certificates, licenses, and permits as required by any agency governing said vendor.
4. Farm Restaurants and Farm Tasting Rooms. In the interest of better connecting consumers to the farms from which their food originates, the Town recognizes the value in broadening the available forms of direct sales of Agricultural Products from Farm Operations to the general public. Furthermore, Farm Restaurants and Farm Tasting Rooms have the unique opportunity to sell a variety of specialized, gourmet, or hard-to-find fresh

Agricultural Products, including but not limited to herbs, mushrooms, fruits, meats, vegetables, wines, ales, and spirits, in a variety of specialized ways while creating a rural community experience centered around farming and Agriculture. To this end the Town allows for Farm Restaurants and Farm Tasting Rooms to be operated as part of a Farm Operation with an Agricultural District according to the following regulations:

- a. Farm Restaurants and Farm Tasting Rooms determined, as described above in § 250-51.F.(1), to be operating outside of the standards and protections of New York State Agriculture and Markets Law shall be considered an Accessory Use to the Farm Operation and subject to the requirements of this Chapter, including but not limited to § 250-51 Farm Operations and Agricultural Businesses, § 250-96 Special Use Permits, and to Site Plan approval under the Modified Site Plan Process pursuant to § 250-51.G.
- b. Food and Beverage Service at Farm Restaurants. A Farm Restaurant must primarily be a food service establishment but may also serve and sell beverages, New York State Agricultural Products, and other relevant goods as accessory to food. The clear majority, seventy percent (70%) or more, of items and products for sale must be Agricultural Products, as defined herein, and at least forty percent (40%) of the Agricultural Products for sale must be On-Farm Agricultural Products. Complementary products that enhance the promotion of farming and Agricultural Products, such as t-shirts, books, stickers, etc., may also be sold, but shall be clearly incidental to the sale of Agricultural Products, so demonstrated by representing thirty percent (30%) or less of total items and products for sale.
- c. Food and Beverage Service at Farm Tasting Rooms. Food service at Farm Tasting Rooms shall be limited to the minimum requirements of the New York State Liquor Authority and such establishments may not serve food or beverages in such a way as to require a Food Service Permit from the Dutchess County Department of Health, though they may sell other relevant goods. The clear majority, seventy percent (70%) or more, of items and products for sale must be Agricultural Products, as defined herein, and at least forty percent (40%) of the Agricultural Products for sale must be On-Farm Agricultural Products. Complementary products that enhance the promotion of farming and Agricultural Products, such as t-shirts, books, stickers, etc., may also be sold, but shall be clearly incidental to the sale of Agricultural Products, so demonstrated by representing thirty percent (30%) or fewer of total items and products for sale.
- d. Use of a Building Required. A Farm Restaurant or Farm Tasting Room shall be principally located within an Agricultural Commercial Building and shall not be located solely within a tent or other temporary Structure, though use of a tent that is accessory

to the Agricultural Commercial Building is allowed. All Buildings and Structures, including tents, sheds, barns, and other outbuildings, must have a valid Certificate of Occupancy to be used as any part of a Farm Restaurant or Farm Tasting Room. Such Buildings, Structures, and/or tents must meet the requirements of the Uniform Code.

- e. The capacity of a Farm Restaurant or Farm Tasting Room shall be restricted by the Uniform Fire Safety Code as determined by the Town Fire Inspector.
- f. Days and Hours of Operation. Farm Restaurants and Farm Tasting Rooms that are under license of the New York State Liquor Authority shall comply with any and all regulations pertaining to days and hours of operation promulgated by the New York State Liquor Authority and must only operate during the specific dates and times permitted pursuant to their New York State Liquor Authority license. At all times, the operation of a Farm Restaurant or Farm Tasting Room shall comply with § 250-28 General Performance Standards. The Planning Board shall have the discretion to further restrict the hours of operation based on the specifics of an application including, but not limited to, impact on neighboring properties, traffic concerns, and overall size and make-up of the proposed operation. Herein, the term 'operation' shall mean the service of customers and shall not include time required for opening or closing procedures.
- g. Outdoor Activities. Food service, beverage service, and other related activities that are complementary to the promotion and marketing of Agricultural Products shall be allowed in defined outdoor areas in accordance with all applicable sections of this Chapter, including § 250-28 General Performance Standards, and any additional requirements imposed by the Planning Board as included in the final resolution granting Site Plan approval through the Modified Site Plan Process. Outdoor areas proposed to be used for such outdoor activities shall be clearly shown on the Sketch Plan and Narrative Description.
- h. Music. Live or recorded music is allowed provided that it is incidental to the promotion and marketing of Agricultural Products and must comply with § 250-28 General Performance Standards. This allowance shall not be construed to mean that live or recorded music can be played at such a volume so as to detract from the on-farm experience, nor to be a disturbance or nuisance to the neighborhood. Noise complaints shall be recorded against the property owner and may result in fines and penalties as described in this Chapter.
- i. Large Events. The principal purpose of a Farm Restaurant or Farm Tasting Room shall be to provide for the promotion and marketing of Agricultural Products by offering such products for sale to the public as an exceptional opportunity within otherwise rural agricultural neighborhoods. It shall not be the purpose of

these establishments to act as event venues without also holding a Special Use Permit as required by § 250-45.1 Agricultural Event Venues. Therefore, the number of events larger than the stated capacity of a Farm Restaurant or Farm Tasting Room, if any, shall be limited by the Planning Board and such limitation shall be clearly stated in the resolution granting Site Plan approval under the Modified Site Plan Process approval. In its determination the Planning Board should consider the size and occupancy capacity of Buildings and Structures, the proximity of these to adjoining residences, the size and location of parking facilities, the overall topography and natural features of the Lot, the potential for noise or other disruptions to the neighborhood, and the overall safety and health of all persons.

- j. Other Applicable Laws. As they are intended to operate with considerable frequency in rural areas within the Town for the benefit and inclusion of the general public, and are not considered Agricultural Buildings as defined herein, Farm Restaurants and Farm Tasting Rooms are subject to Site Plan approval through the Modified Site Plan Process approval under § 250-51.G; § 250-91 Building Permits; § 250-92 Certificates of Occupancy; and any other applicable provisions of the Town Code as determined by the Municipal Code Enforcement Inspector and/or the Planning Board in their review of an application for a proposed Farm Restaurant or Farm Tasting Room.
- k. Governance by Other Agencies. Additional permits, licenses, and certifications shall be obtained by the applicant as required by any additional agencies. It is the responsibility of the applicant to be aware of and to obtain all required certificates, licenses, and permits that are applicable to the proposed operation. These may include, but are not limited to:
 - 1. The Dutchess County Department of Health for Food Service, Public Water Supply, Wastewater, and any other relevant permits required by the New York State Department of Health;
 - 2. The New York State Liquor Authority for the service of any alcohol;
 - 3. The New York State Department of Agriculture and Markets for retail food sales and any other permits, licenses, or certifications required by the Department of Agriculture and Markets;
 - 4. The New York State Department of Taxation and Finance for a Certificate of Authority to collect sales tax;
 - 5. Any other permits, licenses, or certifications as may be required by any agency having jurisdiction over the proposed operation of a Farm Restaurant or Farm Tasting Room within a Farm Operation.

1. Enforcement. The enforcement of this Section and paragraph will be conducted by the Municipal Code Enforcement Inspector under § 250-89 of the Town Code.
5. Farm Stand. The Town of Clinton recognizes the right of a Farm Operation within an Agricultural District to directly market and sell their On-Farm Agricultural Products, provided such marketing and selling meets all standards and requirements of New York State Agriculture and Markets Law. The following standards apply to Farm Stands within the Town of Clinton:
 - a. Location. A Farm Stand shall be on a Lot that is part of the Farm Operation conducting the marketing and sales within the Farm Stand. It may be located within the Front Yard Setback but shall not create a potential hazard nor impact vehicular traffic on any Road and shall be located at least 20 feet from the edge of the right-of-way of any Road.
 - b. Cooperation with Other Farms. A Farm Stand may market and sell the Agricultural Products of other local farms as a means to attract additional customers through product diversity. However, the On-Farm Agricultural Products marketed and sold shall generally make up 51% or more of total Agricultural Products. Also, off-farm Agricultural Products shall be representative of the On-Farm Agricultural Products produced by the Farm Operation.
 - c. Certificate of Occupancy. A Farm Stand that allows entry by the general public and/or acts as a place of employment for the processing, treating, or packaging of Agricultural Products shall be deemed an Agricultural Commercial Building and shall hold a Certificate of Occupancy as such prior to the commencement of use as a Farm Stand. A Farm Stand that cannot be classified as an Agricultural Commercial Building shall be considered an Agricultural Building and shall hold a Certificate of Occupancy as such prior to the commencement of use as a Farm Stand.
 - d. Other Applicable Laws. A Farm Stand must comply at all times with § 250-28 General Performance Standards as well as with all applicable New York State Agriculture and Markets Laws and any other regulations, requirements, or laws that are deemed applicable.
6. Farm Store. In order to provide a mechanism to improve the access of the public to New York Agricultural Products and to promote the economic viability of Farm Operations within the Town of Clinton, Farm Stores are allowed as part of a Farm Operation within an Agricultural District with the following regulations:
 - a. Farm Stores determined, as described above in § 250-51.F.(1), to be operating outside of the standards and protections of New York State Agriculture and Markets Law shall be considered an Accessory Use to the Farm Operation and subject to the requirements of this Chapter, including but not limited to § 250-51 Farm Operations and Agricultural Businesses, § 250-96 Special

Use Permits, and to Site Plan approval under the Modified Site Plan Process pursuant to § 250-51.G.

- b. Use of a Building or Structure Required. A Farm Store shall be principally located within a permanent Agricultural Commercial Building and shall not be an open-air store nor located solely within a tent, though use of a tent that is accessory to the Agricultural Commercial Building is allowed. All Buildings and Structures, including tents, sheds, barns, and other outbuildings, must have a valid Certificate of Occupancy to be used as part of a Farm Store. Such Structures and/or tents must meet the requirements of the Uniform Code, as amended.
- c. Items for Sale. The principal purpose of a Farm Store shall be to provide for the promotion of Agricultural Products by offering such products for sale to the public. Therefore, at least 60% of items sold must be New York State Agricultural Products with at least sixty percent (60%) of the Agricultural Products for sale being made up from On-Farm Agricultural Products. Complementary products that enhance the promotion of farming and New York State Agricultural Products, such as t-shirts, books, stickers, pet food, garden supplies, etc., may also be sold, but shall be clearly incidental to the sale of Agricultural Products, so demonstrated by representing fewer than forty percent (40%) of total items and products for sale.
- d. Facilities and Equipment. Farm Stores may include the facilities and equipment necessary for the packing, shipping, first-instance processing, or storage of farm and food products. All such facilities, equipment, and processing shall, as necessary, meet the requirements of New York State Agriculture and Markets Laws, the New York State Liquor authority, the Dutchess County Health Department, and any other regulations or requirements as are necessary.
- e. Days and Hours of Operation. Farm Stores shall be allowed to operate within the following parameters, though the Planning Board, at its discretion, may deviate from these restrictions and impose other parameters based upon its review of an application:
 1. Between the hours of 8:00 am and 8:00 pm.
 2. Up to seven (7) days per week.
 3. Up to three hundred sixty-five (365) days per year.
 4. Herein, the term 'operation' shall mean the service of customers and shall not include time required for opening or closing procedures.
- f. Setback Exception. The requirements of § 250-23 (Measurement and Use of Yards) and the applicable requirements of Attachment 2 District Schedule of Area and Bulk Regulations for the Zoning District in which the Farm Store is proposed to be located shall apply, except that Farm Stores shall be exempt from the Front Yard Setback therein, such requirement being replaced by a Front Yard Setback deemed appropriate by the Planning Board based on

its review of the application for Site Plan approval for a Farm Store. However, in no instance shall a Farm Store be less than twenty (20) feet from the nearest Road edge, nor shall it negatively impact site lines on any Road.

- g. Compliance with Other Codes. Farm Stores, being intended to operate in rural areas within the Town of Clinton for the benefit and inclusion of the general public and not simply as Agricultural Buildings must comply with § 250-91 Building Permits, § 250-92 Certificates of Occupancy, and any other applicable provisions of the Town Code as determined by the Municipal Code Enforcement Inspector and/or the Planning Board in their review of the application.
- h. Governance by Other Agencies. Additional permits, licenses, and certifications shall be obtained by the applicant as required by any additional agencies. It is the responsibility of the applicant to be aware of and obtain all required certificates, licenses, and permits that are applicable to the proposed operation. These may include, but are not limited to:
 - 1. The Dutchess County Department of Health for Food Service, Public Water Supply, Wastewater, and any other relevant permits required by the New York State Department of Health;
 - 2. The New York State Liquor Authority for the service of any alcohol;
 - 3. The New York State Department of Agriculture and Markets for retail food sales and any other required permits, licenses, or certifications required by the Department of Agriculture and Markets;
 - 4. The New York State Department of Taxation and Finance for a Certificate of Authority to collect sales tax;
 - 5. Any other permits, licenses, or certifications as may be required by any agency having jurisdiction.
- 7. Roadside Stand. The Town of Clinton is fortunate to have a large number of gardeners and non-commercial producers of Agricultural Products. In order to help these growers and producers directly market and sell or share their Agricultural Products and to assist the general public in accessing them, the Town recognizes the community need for small-scale Buildings, Structures, or vehicles located nearer to the road than may otherwise be allowed in this Chapter. Roadside Stands in the Town of Clinton shall be regulated as follows:
 - a. Building Permits Not Required. Provided the requirements below are met, Buildings and Structures used for Roadside Stands shall require neither a Building Permit nor a Certificate of Occupancy, nor shall they count against the total number of Accessory Structures allowed on a Lot(s). Roadside Stands must, however, be registered with the Town of Clinton Zoning Department through the filing of an Informational Permit under § 250-97.1.

1. A Roadside Stand shall not be greater than one hundred square feet in gross floor area and no greater in height than ten feet at its highest point. There shall be no permanent foundation and the Roadside Stand shall be placed on a level, well-drained surface.
 2. The general public shall not be allowed entry into a Roadside Stand.
 3. A Roadside Stand may be served by electricity provided such electrical service meets the requirements of the Uniform Code as inspected and confirmed by the Building Inspector. It shall not be served by any other utilities.
 4. There shall be no heat source, including open flame, within or on a Roadside Stand.
- b. Location. Roadside Stands shall be located at least 20 feet from the edge of the Right-of-Way of any Road and must not create a potential hazard nor impact vehicular traffic on any Road. Adequate site distance and space for vehicles to pull off the roadway and park safely must be provided and maintained. However, the construction or installation of impervious surfaces, such as asphalt or concrete, for the express use of a Roadside Stand is prohibited.
 - c. End of Use. Should the Use of a Roadside Stand be abandoned, discontinued, terminated, or left unused for a period of one (1) year, such Roadside Stand shall be removed by the property owner.
 - d. Multiple Vendors. Agricultural Products marketed, sold, or shared utilizing a Roadside Stand need not be grown, raised, and/or produced on the Lot on which the Roadside Stand is located. However, only Agricultural Products not produced as part of a Farm Operation may be included.
 - e. Vendor Permit. Property owners with Roadside Stands shall not be required to obtain a permit to sell Agricultural Products, provided that no Agricultural Products are being sold by, or on behalf of, a Farm Operation.
 - f. Roadside Vendors. A roadside Building, Structure, or vehicle used to market, sell, or share anything other than Agricultural Products shall not be considered a Roadside Stand and shall be regulated by other relevant sections of the Town Code. See 250-75.D.
 - g. Other Agencies. It is the full responsibility of the property owner to be aware of and to comply with all applicable Town, County, State, and Federal laws, if any, in regard to the items being marketed, sold, or shared in a Roadside Stand.
8. On-Farm Slaughterhouse. New York State Agriculture and Markets Law provides for the regulation of On-Farm slaughter and butchering for food in Article 5-A of the New York State Agriculture and Market Law. Therefore, the Town allows for slaughtering or butchering only as part of a Farm Operation and only under strict adherence to Article 5-A mentioned above.
 - a. License Required. Any person, firm, or corporation engaged in the operation of any place or establishment where animals or fowls are

slaughtered or butchered for food must be licensed by the Commissioner of the New York State Department of Agriculture and Markets as described and regulated under New York State Agriculture and Market Law Article 5-A, Licensing of Slaughterhouses.

- b. Registration with the Town. The operation of a slaughterhouse or a butchering facility as part of a Farm Operation shall be registered with the Town, and such registration shall include a copy of the license given by the Commissioner of the Department of Agriculture and Markets.
 - c. Reporting of Complaints. Any and all complaints or concerns offered against a slaughterhouse or butchering facility, or potential violations allegedly committed by such of any laws, regulations, or requirements of any agency tasked with the governance of slaughterhouses and/or butchering facilities, shall be reported to the Commissioner of the Department of Agriculture and Markets and shall be considered a violation of the Town Code § 250-51 (J)(7). Enforcement by the Municipal Code Enforcement Inspector shall be coordinated with the Department of Agriculture and Markets if possible.
- G. Modified Site Plan Process. In the interest of facilitating beneficial communication between the Town and local Farm Operations and to assist farmers in creating safe, accessible, and efficient operations, where Site Plan approval by the Planning Board is required for a Farm Operation or an Agricultural Business, it will, unless otherwise indicated, follow the Modified Site Plan Process below:
1. Sketch Plan. A sketch of the Lot or Lots of the Farm Operation on a location map (e.g., tax map) plainly showing boundaries and dimensions of the Lot or Lots involved, identifying contiguous properties and Roadways, and including any known easements or rights-of-way which burden or benefit the Lot or Lots. Additionally, the sketch must show the following:
 - a. The approximate location of all existing Buildings, Structures, Uses, and features, including crops, pastures, woodlands, watercourses, wetlands, water and wastewater systems, manure storage, and composting areas of the Lot or Lots as well as those within five hundred (500) feet of the Farm Operation.
 - b. The proposed location and arrangement of all proposed Buildings, Structures, and Uses on the Lot or Lots, including but not limited to proposed Buildings, tents, gazebos, barns, sheds, signs, means of ingress and egress, parking, and traffic circulation. This sketch must include exterior dimensions and elevations of front, side, and rear views of each Building or Structure as well as clear labels of each Use. A copy of any available blueprints, plans, or drawings shall also be included.
 2. Narrative Description. A description of all aspects of the Farm Operation (existing and proposed) and a narrative describing the intended Uses and locations of proposed Buildings, Structures, tents, gazebos, barns, Signs, etc., including relevant information regarding anticipated Uses, proposed hours of operation, a list of proposed products and merchandise to be sold

(if any), types of anticipated events (if any), and any anticipated changes in the existing topography and natural features of the Lot or Lots to accommodate the proposed changes. The narrative should also contain an Agricultural Data Statement and a description of how the proposed Agricultural Business, Agricultural Event Venue, or Farm Operation meets the goals of promoting New York State Agricultural Products and of enhancing the public's understanding and awareness of farming and farm life.

3. Owner Information. Provide the name and address of the applicant and all owners of the Farm Operation Lot or Lots. If the owners of the Lot or Lots are entities other than a natural person, provide the names and addresses of the individual or individuals who are the owners or members of the entity.
4. Authorization. If the applicant is not the owner of the Lot or Lots, a Consent of Authorization to Act form signed by the owner of the Lot or Lots is required.
5. Wetlands. If any new Buildings, Structures, tents, gazebos, barns, or Signs are going to be located adjacent to a Watercourse or Wetland, provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the Lot or Lots.
6. Fee. Payment of the application fee, as set by resolution of the Town Board, is required. See the Town of Clinton Fee Schedule.
7. The Planning Board in reviewing a Site Plan application under this Modified Site Plan Process shall have discretion to waive or modify the requirements of § 250-63(Off-Street Parking and Loading) as well as any dimensional standards, including setback requirements.

2. Chapter 250 of the Town Code is hereby amended by removing the existing Section 75 (D) and replacing it with a new Section 75 (D) which shall read as follows:

D. Roadside Vendors. Roadside Vendors, as defined in Article VIII of this chapter, shall be permitted subject to the following conditions:

(1) All Roadside Vendors are required to obtain a Temporary Permit prior to commencing operation. No Roadside Vendors may operate in the Town without a Temporary Permit.

(2) Buildings, Structures, tents, etc., utilized shall not exceed 100 square feet in gross floor area, shall not allow for entry by the general public, and shall be located not less than 20 feet from the Right of Way of any Road.

(3) Adequate sight distance and space for safely pulling off the Road and parking must be provided. However, the construction of paved parking facilities for the express use of Roadside Vendors is prohibited.

(4) Such permit must be renewed annually and may be revoked if the Roadside Vendor fails to meet any of the conditions herein.

3. Chapter 250 is hereby amended by repealing and removing the following definitions from Section 105: 'Agriculture, Agricultural operations or Agricultural Practices', 'Agri-tourism', 'Animal Husbandry', 'Dwelling', 'Dwelling Unit', 'Dwelling, Single-Family or One-Family', 'Dwelling, Two-Family', 'Dwelling, Multi-Family', 'Dwelling, Row/Townhouse', 'Farm', 'Restaurant', 'Retail

Business’, ‘Roadside Stand’, ‘Sawmill’ and ‘Site Plan’.

4. Chapter 250 is hereby amended by adding the following definitions to Section 105:

AGRICULTURE, AGRICULTURAL USE - The commercial employment of land and buildings to generate remuneration from raising, harvesting, keeping, and selling crops or feed, and for keeping, grazing, breeding, managing, selling or producing livestock, poultry, fur-bearing animals or honeybees, or dairying and the sale of dairy products, or any other horticulture, floriculture or viticulture, aquaculture, hydroponics, silviculture, animal husbandry, or a combination thereof as defined by New York State Agriculture and Markets Law. It also includes the commercial employment of land and on-farm buildings as part of a Commercial Horse Boarding Operation, a Commercial Equine Operation, a Timber Operation, or a Compost, Mulch, Biomass Operation as allowed under New York State Agriculture and Markets Law.

AGRICULTURAL BUILDING – A Building or Structure designed and constructed to house farm equipment, farm implements, poultry, livestock, horses, hay, grain, or other agricultural items, as part of a Farm Operation, that is not a place of human habitation, nor a place of employment where Agricultural Products are processed, treated, or packaged, nor shall it be a place used by the public.

AGRICULTURAL COMMERCIAL BUILDING – A Building or Structure intended for use by the public and/or as a place of employment for retail sales and/or the processing, treating, or packaging of Agricultural Products, as part of a Farm Operation within an Agricultural District.

AGRICULTURAL BUSINESS – A specific type of commercial enterprise allowed to operate within an Agricultural District as part of a Farm Operation in order to promote Agricultural Products that is not otherwise regulated or protected under New York State Agriculture and Markets Law. See § 250-51 Farm Operations & Agricultural Businesses.

AGRICULTURAL PRODUCT – Any and all products grown, raised, or produced wholly within New York State and known as “crops, livestock, and livestock products” as defined in New York State Agriculture and Markets Law § 301, as well as the marketable and saleable services or products that result from a Commercial Horse Boarding Operation or a Commercial Equine Operation.

AGRICULTURAL TOURISM – Agriculturally based or inspired activities hosted on a Lot within an Agricultural District, by a Farm Operation active on that Lot, that contribute to the marketing, promotion, and/or sale of Agricultural Products produced by said Farm Operation through the enjoyment and/or education of the public that also intends to enhance the public’s understanding and awareness of farming and farm life.

ANIMAL HUSBANDRY – The non-commercial keeping, grazing, feeding, and care of animals other than household pets. For the purpose of this chapter, all animals, except offspring less than six months old, are counted in the permitted total. The calculation of acreage required for animals shall be in land made available for such use, not total land owned, unless otherwise designated herein.

COMMENCEMENT OF CONSTRUCTION – The beginning of continuous site clearing, site preparation, grading activity, construction material stockpiling, and/or any fastening to the earth or to any existing Building or Structure, that is intended to result in the creation of a new Building or Structure or alteration of an existing

Building or Structure. It does not include limited tree-cutting activities related to testing or surveying (such as geotechnical drilling and environmental testing), together with such testing, surveying, drilling and similar pre-construction activities to determine the adequacy of the site for construction and the preparation of application materials or compliance filings.

COMPOST, MULCH, BIOMASS OPERATION – The on-farm processing, mixing, handling, or marketing of organic matter that is grown or produced by such Farm Operation to rid such Farm Operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such Farm Operation and is necessary to facilitate the composting of such Farm Operation’s agricultural waste.

DWELLING, DWELLING UNIT – A structure or portion thereof providing complete housekeeping facilities for one family including independent kitchen, sanitary and sleeping facilities, and physically separate from any other dwelling unit, whether or not in the same structure. (Note: The terms ‘dwelling’, ‘single-family dwelling’, ‘multifamily dwelling’, or ‘dwelling unit’ shall not be deemed to include a hotel, motel, or any other accommodation used solely for transient occupancy.)

DWELLING, SINGLE-FAMILY -- A detached building occupied exclusively by one family and containing not more than one dwelling unit.

DWELLING, TWO-FAMILY -- A detached building where not more than two dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common hallway or cellar. A Two-Family Dwelling includes a single structure containing two dwelling units. Side-by-side is considered a Two-Family Dwelling regardless of individual ownership of either half of its structure, provided that they are on the same lot of record.

FARM – See ‘Farm Operation’ and ‘Garden’.

FARM MARKETING EVENT – A single and cohesive Event produced in order to market the Agricultural Products of a Farm Operation that meets the following criteria: is directly related to the sale and promotion of On-Farm Agricultural Products, is incidental and subordinate to the retail sale of On-Farm Agricultural Products, is hosted by the Farm Operation, and features On-Farm Agricultural Products.

FARM OPERATION – A single entity utilizing one or more contiguous or noncontiguous parcels of owned or leased land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation, and marketing of crops, livestock, and livestock products specifically as a commercial enterprise, including a Commercial Horse Boarding Operation, Commercial Equine Operation, Timber Operation, and Compost, Mulch, or Other Biomass Crops as defined by New York Agriculture and Markets Law § 301.

FARM RESTAURANT – A food service operation located wholly within an Agricultural District and operating as an Accessory Use to a Farm Operation for the principal purpose of promoting New York State Agricultural Products through the serving of food and beverages made primarily from such Agricultural Products. *See* § 250-51 Farm Operations & Agricultural Businesses.

FARM STAND – An Agricultural Building or an Agricultural Commercial Building used exclusively and only by a Farm Operation within an Agricultural District to market and sell Agricultural Products as allowed, regulated, and protected by New

York State Agriculture and Markets Laws. See § 250-51 Farm Operations & Agricultural Businesses.

FARM STORE – An Agricultural Commercial Building as part of a Farm Operation within an Agricultural District that is open to entry by the general public and used in the direct marketing and sales of Agricultural Products beyond but including the On-Farm Agricultural Products of the Farm Operation engaged in such sales and marketing. See § 250-51 Farm Operations & Agricultural Businesses

FARM TASTING ROOM –A beverage service operation located wholly within an Agricultural District and operating as an Accessory Use to a Farm Operation for the principal purpose of promoting New York State Agricultural Products through the serving of beverages made primarily from such Agricultural Products. See § 250-51 Farm Operations & Agricultural Businesses

FARM WORKER – A person working full time, whether seasonal or year-round, engaged in the production functions of a Farm Operation, who is neither an owner nor a partner in the Farm Operation.

FARM WORKER HOUSING - A specific type of Dwelling Unit, provided to a Farm Worker, as further defined, regulated, and protected under New York State Agriculture and Markets Law Article 25-AA and § 250-51 of this Chapter.

GARDEN – An area or areas of a Lot dedicated to the non-commercial growing of products that are otherwise known as Agricultural Products. A Garden shall not be meant to include items or areas in use for Animal Husbandry.

GARDENING – The non-commercial growing of products that are otherwise known as Agricultural Products. Gardening does not include Animal Husbandry.

INFORMATIONAL PERMIT – *Pending additional info from Ag & Mkts*

NEW CONSTRUCTION - The building of a Structure where none existed or an addition to an existing Structure that increases the floor area.

ON-FARM AGRICULTURAL PRODUCT – Any and all Agricultural Products produced by a farmer as part of their Farm Operation.

ON-FARM SLAUGHTERHOUSE – An operation where animals are butchered for food and located on Farm where the animals have been grown. On-farm slaughterhouses do not accept animals for butchering from any other farm operation or any outside source.

PARCEL - An area of land identified with a Parcel Identification number by the Real Property Tax Service Agency of Dutchess County.

PRINCIPAL AGRICULTURAL BUILDING - A Building including covered porches that is located on a Lot within an Agricultural District, is part of a Farm Operation, and in which is conducted the Principal Agricultural Use of the lot on which such building is located.

PRINCIPAL AGRICULTURAL USE - The main agricultural use conducted by a Farm Operation within an Agricultural District.

RESTAURANT - An establishment open to the general public for the preparation, serving, and consuming of food and beverages, that cannot be classified as part of a

Farm Operation. See also 'Farm Restaurant'.

RETAIL BUSINESS - An establishment where goods or products are sold or rented and are offered to the public. Special Use Permit or Site Plan approval shall be limited to the specific Use applied for, not for "retail business or service" as a category.

ROADSIDE STAND - Any Structure or vehicle not otherwise classifiable as either an Agricultural Structure or an Agricultural Commercial Structure used to display and sell or share the Agricultural Products of a non-commercial grower or producer without entry by the general public, and which uses its proximity to a Road to attract potential customers. See § 250-51 Farm Operations & Agricultural Businesses.

ROADSIDE VENDOR - A roadside Building, Structure, or vehicle used to market, sell, or share anything other than Agricultural Products.

SAWMILL - A facility which uses mechanical processes to transform wood through cutting, sawing, or shredding operations, for commercial purposes.

SITE PLAN – A specific plan for a Lot(s) and its Use or proposed Use, including descriptive material, drawings, and other information required. See the Schedule of Use Regulations for Uses requiring Site Plan approval and § 250-96(Site Plans) for detailed Site Plan scope and requirements.

MODIFIED SITE PLAN PROCESS – A Site Plan application process modified in accordance with New York Agriculture and Markets Law and Guidance Documents for use by Farm Operations. See § 250-51.G. for detailed scope and requirements.

SOUND AGRICULTURAL PRACTICES – Those Agricultural Uses that have been deemed sound by the Commissioner of the New York State Department of Agriculture and Markets or their designee pursuant to Section 308 of the New York State Agriculture and Markets Law.

TIMBER OPERATION – The on-farm production, management, harvesting, processing, and marketing of timber grown on a Farm Operation into woodland products, including but not limited to logs, lumber, posts, and firewood.

TOWNHOUSE -- A row of two or more attached dwelling units wherein each unit is intended for single-family occupancy. Each unit shall share a common wall with one or more other units and shall not share a common floor or ceiling. Ownership of the townhouse may include the land on which the unit is placed.

5. Attachment 1 to Chapter 250 of the Town Code entitled "Schedule of Use Regulations" is hereby amended by removing and replacing "Agriculture or forestry, as either principal or accessory use" under "General Uses" with "Agriculture/Farm Operation or Timber Operation, as either principal or accessory use". An updated version of the Schedule of Use Regulations is attached hereto and made a part hereof.
6. Attachment 1 to Chapter 250 of the Town Code entitled "Schedule of Use Regulations" is hereby amended by adding that 'Roadside Stand' shall be a permitted Use in the Zoning District F. An updated version of the Schedule of Use Regulations is attached hereto and made a part hereof.
7. Attachment 1 to Chapter 250 of the Town Code entitled "Schedule of Use Regulations" is hereby amended by adding 'Roadside Vendor' and listing such as a Use that requires a Temporary Permit (TP) in all Zoning Districts other than Zoning District I. An updated version of the Schedule of Use Regulations is attached hereto and made a part hereof.

8. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.
9. This Local Law is adopted pursuant to the New York State Constitution, New York Municipal Home Rule Law § 10, and New York Real Property Tax Law § 466-a to advance and protect the health, safety, and welfare of the Town.
10. To the extent that any provision of this Local Law is inconsistent with Town Law §§ 263, 274-a, 274-b or any other provision of Article 16 of the Town Law, the provisions of this Local Law are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3); § 10(1)(ii)(a)(14) and § 22 to supersede any inconsistent authority.
11. This Local Law shall take effect immediately upon filing with the Secretary of State.