

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**FILED**  
**STATE RECORDS**

**MAY 20 2010**

**DEPARTMENT OF STATE**

County  
City of Clinton  
Town  
Village

Local Law No. 1 of the year 2010

A local law to provide for the codification of the local laws, ordinances and certain resolutions of the Town of Clinton into a Municipal Code to be designated the "Code of the Town of Clinton"

Be it enacted by the Town Board of the

County  
City of Clinton as follows:  
Town  
Village

**(SEE ATTACHED)**

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**CERTIFICATION**

**TOWN OF CLINTON**

**Office of the Town Clerk**

I, **CAROL- JEAN MACKIN**, Town Clerk of the Town of Clinton, New York, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Town Board of the Town of Clinton, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Town of Clinton, County of Dutchess, State of New York, as adopted by local law of the Town Board on May 11, 2010.

Given under my hand and the Seal of the Town of Clinton, County of Dutchess, State of New York, this 11 day of May, 2010, at the municipal offices of the Town of Clinton.

**s/CAROL-JEAN MACKIN**

  
Town Clerk

**PROPOSED CODE ADOPTION LOCAL LAW**  
**for the**  
**CODE OF THE TOWN OF CLINTON, NEW YORK**  
**March 2010**

GENERAL CODE  
72 Hinchey Road  
Rochester, New York 14624  
  
(585) 328-1810 or 800 836-8834  
FAX (585) 328-8189

ARTICLE I  
**Adoption of Code**

**§ 1-1. Legislative intent.**

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Clinton, as codified by General Code, and consisting of Chapters 1 through 250, together with an Appendix, shall be known collectively as the “Code of the Town of Clinton,” hereafter termed the “Code.” Wherever reference is made in any of the local laws, ordinances and resolutions contained in the “Code of the Town of Clinton” to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

**§ 1-2. Continuation of existing provisions.**

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Clinton, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

**§ 1-3. Repeal of enactments not included in Code.**

All local laws and ordinances of a general and permanent nature of the Town of Clinton in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

**§ 1-4. Enactments saved from repeal; matters not affected.**

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Clinton prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Clinton or any penalty, punishment or forfeiture which may result therefrom.

- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Clinton.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Clinton.
- E. Any local law or ordinance of the Town of Clinton providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Clinton or any portion thereof.
- F. Any local law or ordinance of the Town of Clinton appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Clinton or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law adopted subsequent to October 13, 2009.

**§ 1-5. Severability.**

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 1-6. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Clinton and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Clinton by impressing thereon the Seal of the Town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-7. Amendments to Code.**

- A. Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the “Code of the Town of Clinton” or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be published in the Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.
- B. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in legislation and parts of legislation included in the supplement, insofar as it is necessary to do so to embody it into a unified code. In no case shall the codifier make any change in the meaning or effect of material included in the supplement or already embodied in the Code. For example, the codifier may:
  - (1) Organize the material into appropriate subdivisions;
  - (2) Provide appropriate headlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such headlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this local law" or words of the same meaning to "this chapter," "this article," etc., as the case may be, or to "§§ \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the material incorporated into the Code); and

- (5) Make other nonsubstantive changes necessary to preserve the original meaning of sections inserted into the Code.

**§ 1-8. Code to be kept up-to-date.**

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the Code of the Town of Clinton required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are published as supplements to said Code.

**§ 1-9. Sale of Code; supplementation.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-10. Penalties for tampering with Code.**

Any person who alters or tampers with the Code of the Town of Clinton in any manner whatsoever which will cause the legislation of the Town of Clinton to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

**§ 1-11. Changes in previously adopted legislation; new provisions.**

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Clinton, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

**§ 1-12. Incorporation of provisions into Code.**

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Clinton, such local law to be entitled “General Provisions, Article I, Adoption of Code,” and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

**§ 1-13. When effective.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strikeout that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 10 of the (County) (City) (Town) (Village) of Clinton was duly passed by the (Name of Legislative Body) Town Board on May 11 20 10, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.~~

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**5. (City local law concerning Charter revision proposed by petition.)**

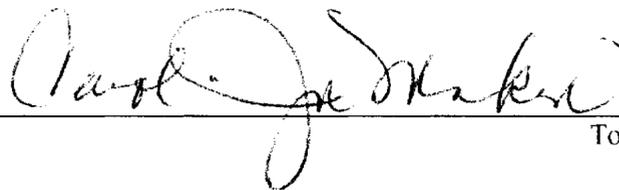
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the Towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

  
\_\_\_\_\_  
Town Clerk

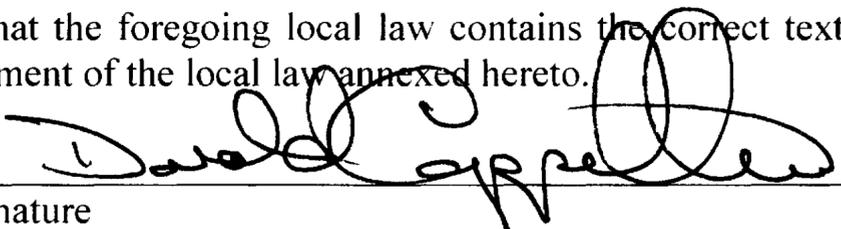
(Seal)

Date: May 12, 2010

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF DUTCHESS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Signature

ATTORNEY FOR TOWN  
\_\_\_\_\_  
Title

Town of Clinton

Date: 5/13/10

**Town of Clinton  
Code Adoption Local Law  
Schedule A**

**Nomenclature.**

Throughout the Code, the following terms have been updated:

“Zoning Enforcement Officer” is changed to “Zoning Administrator”

“Comprehensive Plan” is changed to “Master Plan”

**Fees**

Specific fee amounts are removed from throughout the Code and replaced with text indicating that fees are as set from time to time by resolution of the Town Board. The current fee schedule is on file in the Town offices. Specific fee amounts have been removed from the following sections:

§ 12-1  
§ 98-1  
§ 153-10  
§ 168-9  
§ 213-5D  
§ 213-12G(5)  
§ 250-44D(29)  
§ 250-44D(32)(c)[2]

**Chapter 5, Article I – Tax Assessor**

Section 5-2 is amended to change “Real Property Tax Law § 316” to “Real Property Tax Law § 328.”

**Chapter 12 – Checks, Returned**

Chapter 12 is revised in its entirety to read as follows:

**§ 12-1. Charge for returned checks.**

The Town Board of the Town of Clinton hereby and pursuant to General Municipal Law § 85 declares that a charge per check as set from time to time by resolution of the Town Board shall be imposed and added to any account owing to the Town of Clinton where a tendered payment of such account was by a check or other written order which was returned for insufficient funds.

**Chapter 18 – Defense and Indemnification**

1. Section 18-1 is revised to change the definition of "Comptroller" to read as follows: "The Town Supervisor, who is the Town's Financial Officer."
2. Section 18-4 is revised as follows: "The Town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any Town, state or federal court, or in the amount of any settlement of a claim approved by the Town Board, provided the Town Board finds that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of

his public employment and in the discharge of his duties and was not in violation of any rule or regulation of his agency at the time the alleged damages were sustained; the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee."

3. Section 18-5 is amended to change "five days" to "10 days."
4. The lead-in to § 18-6 is amended to read as follows: "In the event that the act or omission upon which the court proceeding against the employee is based was or is also the basis of a disciplinary proceeding by the employee's agency against the employee, representation by the Town's legal counsel and indemnification by the Town may be withheld:"

### **Chapter 32 – Code of Ethics**

Chapter 32 is revised in its entirety to read as follows:

#### **Chapter 32**

#### **ETHICS, CODE OF**

##### **§ 32-1. Purpose; coordination with state law.**

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Clinton, Dutchess County, New York recognizes that there are rules of ethical conduct for public officers, volunteers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. The proper operation of the Town government requires that its officers, volunteers, employees, consultants, and members of a board, commission, committee, council or agency be independent, impartial, objective, unbiased and responsible to the people of the Town of Clinton; that public office should not be used for personal gain; and that public officers, volunteers, employees, consultants and members of a board, commission, committee, council or agency maintain the highest standards of integrity and discharge faithfully the duties of their office, regardless of personal considerations. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers, volunteers, employees, consultants, and members of a board, commission, committee, council or agency of the Town Board of the Town of Clinton. These rules shall serve as a guide for official conduct of the officers, volunteers, employees, consultants, and members of a board, commission, committee, council or agency of the Town Board of the Town of Clinton. The rules of ethical conduct of this chapter, as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

##### **§ 32-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**CONSULTANT** — A person, paid or unpaid, providing advice to and at the request of a municipal board, committee, commission, council or other body.

**INTEREST** — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee or consultant. For the purposes of this chapter, a municipal officer or employee or consultant shall be deemed to have an interest in:

- A. The contract of his spouse, minor children and dependents, except a contract to employment with the municipality which such officer, employee, or consultant serves;

- B. A firm, partnership or association of which such officer, employee, or consultant is a member or employee;
- C. A corporation of which such officer, employee, or consultant is an officer, a director or an employee; and
- D. A corporation any stock of which is owned or controlled directly or indirectly by such officer, employee, or consultant.

**MUNICIPAL OFFICER OR EMPLOYEE** — An officer, volunteer or employee of the Town Board of the Town of Clinton, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer.

**§ 32-3. Standards of conduct.**

Public officers, volunteers and employees are agents of the public purpose and hold office for the benefit of the public. Their conduct in both their official and private affairs should be above reproach. Every officer, volunteer and employee, consultant, member of a board, commission, committee, council or agency of the Town of Clinton shall be subject to and abide by the following standards of conduct:

- A. Gifts. No officer, volunteer, employee, consultant, member of a board, commission, committee, council or agency shall, directly or indirectly, solicit any gift or accept or receive any gift having a value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part. The recipient of any such gift or gratuity shall immediately return the same to the giver and shall notify the Town Board, in writing, of the occurrence.
- B. Confidential information. No officer, volunteer, employee, consultant, member of a board, commission, committee, council or agency of the Town shall disclose confidential information acquired by him or her in the course of his/her duties or use such information to further his or her personal interests or the private interest of others.
- C. Representation before one's own agency. No officer, employee, consultant, member of a board, commission, committee, council or agency shall receive compensation or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal board, commission, committee, council or agency of which he or she is an officer, member or employee, or of any municipal agency over which he or she has jurisdiction, or to which he or she has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. No officer or employee shall receive compensation or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board, commission, committee, council or agency of the Town, whereby his compensation is to be dependent or contingent upon any action by such board, commission, committee, council or agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest and recusal. If any Town officer, volunteer, employee, consultant, or member of a board, commission, committee, council or agency has a potential or actual conflict of interest in any matter which he or she encounters in the performance of his or her official Town duties, he or she shall make known to all concerned parties the nature of such conflict and shall refrain from voting or otherwise acting in the matter so as to avoid an actual conflict. In all cases of potential or actual conflict, the Town Board shall be made aware of the situation by the person in conflict; the nature of this conflict shall be made

clear on a form provided by the Town Clerk, as annexed to this chapter, or on another piece of paper having substantially the same consent. This disclosure shall be made part of the official record, and a copy of this filed form shall be kept in a separate place by the Town Clerk for the public record.

- F. Investments in conflict with official duties or employment. Officers of the Town, volunteers, employees, consultants and members of their immediate families cannot invest or hold interest in any financial, business, commercial, real estate, or any private transaction which creates a conflict of interest with their duties as officers, volunteers or employees of the Town. If such an investment or interest becomes apparent after they have assumed office or employment, they must recuse themselves.
- G. Private employment. Officers of the Town, volunteers and employees cannot ask or negotiate for, or promise to accept, employment from private interests or parties when this employment is in conflict with or hinders the proper discharge of their duties.
- H. Future employment. After leaving service or employment for the Town of Clinton, former officers, volunteers and employees cannot appear before any board or agency of the Town in matters that relate to a proceeding or application that was under their consideration while they were active officers, volunteers or employees.

#### **§ 32-4. Claims.**

There is nothing in this ethics code that bars a present or former officer, volunteer or employee of the Town of Clinton from filing a claim, asking for payment, demanding or suing the Town or any of its agencies for himself or herself or members of his/her family for personal injury, property damage or monetary damages, as he or she may be otherwise entitled by law.

#### **§ 32-5. Distribution of Code of Ethics.**

The Town Clerk is responsible for the distribution of a copy of this ethics code to every officer, volunteer and employee of the Town within 20 days after the code's adoption (initial or revised) by the Town Board. Thereafter, the Town Clerk will furnish every new officer with a copy of this code before he or she begins his/her duties, and the Town Supervisor or Highway Superintendent will furnish every new employee with a copy of this code before he or she begins his/her duties. The failure to receive a copy of the code does not relieve a municipal officer, volunteer, employee, or consultant from compliance with the provisions of this code.

#### **§ 32-6. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any provision of this code shall be guilty of misconduct and may be disciplined, suspended, or otherwise removed from office or employment in the manner provided by the laws of the State of New York. A Town offense is considered a violation and will be enforced by the Town Board and prosecuted by the Town Attorney.

### **Chapter 44 – Interagency Purchasing Cooperative**

Section 44-5 is amended to change “Poughkeepsie Journal” to “official newspaper of the Town.”

### **Chapter 46, Investment Policy**

Section 46-5C is revised to read as follows: "All participants involved in the investment process shall refrain from personal business activity or self-dealing that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions."

### **Chapter 61, Personnel Policies**

Article II, Town Workday and Workweek

Section 61-3A is revised to read as follows: "A five-day workweek with eight-hour days is established for the Superintendent of Highways." Subsection B is revised to delete the following positions from the list: Constable and Deputy Constable.

### **Chapter 103 – Bingo**

1. Section 103-4 is amended to read as follows: "No single prize shall exceed the sum or value as set forth in General Municipal § 475."
2. Section 103-5 is amended to read as follows: "No series of prizes on any one occasion shall aggregate more than the amount set forth in General Municipal Law § 475."
3. Section 103-8 is amended to read as follows: "The unauthorized conduct of a bingo game and any willful violation of any provision of this chapter shall constitute and be punishable as a Violation C for each person operating and participating in the bingo game."

### **Chapter 108 – Boats**

Section 108-8 is amended to read as follows: "A violation of any provision of this chapter is hereby declared to be a Violation C, punishable as set forth in Chapter 137, Fines and Penalties."

### **Chapter 112 – Building Construction and Fire Prevention**

Chapter 112 is added as follows:

#### **Chapter 112**

#### **BUILDING CONSTRUCTION AND FIRE PREVENTION**

##### **§ 112-1. Purpose and intent.**

This chapter shall provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the Town of Clinton. This chapter is adopted pursuant to § 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this chapter, state law, or within the Uniform Code, all premises, regardless of use, are subject to the provisions which follow.

##### **§ 112-2. Intermunicipal contracts.**

The Town Board may, by resolution, authorize the Supervisor to enter into a contract with other governments to carry out the terms of this chapter.

##### **§ 112-3. Code enforcement official, duties and powers.**

- A. The office of Building Inspector is hereby created and shall be filled by an appointment of the Town Board. The Building Inspector shall possess background experience related to building construction or fire prevention and shall, within the time constraints proscribed by law, obtain such training as the State of New York shall require for building inspection personnel.
- B. In the absence of the Building Inspector, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board to designate a person to act on behalf of the Building Inspector and to exercise all the powers conferred upon him by this chapter.
- C. The Town Supervisor, with the approval of the Town Board, may appoint one inspector or

more, as the need may appear, to act under the supervision and direction of the Building Inspector and to exercise any portion of the powers and duties of the Building Inspector as directed by him.

- D. The compensation for the Building Inspector, acting Building Inspector and inspectors shall be fixed and adjusted as needed by the Town Board.
- E. The Building Inspector shall administer and enforce all the provisions of the Uniform Code and the provisions of this chapter, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy, collecting fees as set forth by the Town Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Town Board. The Zoning Administrator is authorized to pursue administrative actions and, in consultation with the Building Inspector and the Town Attorney, legal action as necessary to abate conditions not in compliance with the New York State Uniform Fire Prevention and Building Code, this chapter, or other laws, rules or regulations of the Town of Clinton or of the State of New York.

#### **§ 112-4. Building permits.**

##### **A. Permits required.**

- (1) Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, or install a solid fuel burning heating appliance, chimney or flue in any dwelling unit, without first having obtained a permit from the Building Inspector.
- (2) No permit shall be required for:
  - (a) Necessary repairs which do not materially affect structural features;
  - (b) Alterations to existing buildings, provided that the alterations:
    - [1] Do not materially affect structural features;
    - [2] Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations and exits;
    - [3] Do not involve the installation or extension of electrical systems; and
    - [4] Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.
  - (c) One accessory building with a maximum floor area of 120 square feet (see § 250-22B for details); and
  - (d) Nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

##### **B. Application for a permit.**

- (1) The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code. The application is available on the Town Web site ([www.TownofClinton.com](http://www.TownofClinton.com)) and in the Building Department office.
- (2) The form of the permit and application therefor shall be prescribed by the Building Inspector. The application shall be signed by the owner (or his authorized agent) of the building and shall contain at least the following:

- (a) Full name and address of the owner and if by a corporation, the name and addresses of the responsible officials;
  - (b) Identification and/or description of the land on which the work is to be done;
  - (c) Description of use or occupancy of the land and existing or proposed building;
  - (d) Description of the proposed work;
  - (e) Three sets of plans and specifications for the proposed work;
  - (f) The required fee as provided in § 112-5;
  - (g) A certificate of liability insurance naming the Town of Clinton as additional insured;
  - (h) Proof of worker's compensation and disability benefits.
- (3) The Building Inspector may waive the requirement of plans and specifications when the work to be done involves minor alterations or is otherwise unnecessary.
  - (4) The applicant shall notify the Building Inspector of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work has been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Inspector and approval shall be received from the Building Inspector prior to the commencement of such change of work.

C. General requirements.

- (1) A building permit issued pursuant to this chapter shall be prominently displayed on the property or premises to which it pertains.
- (2) A building permit issued pursuant to this chapter may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.
- (3) A building permit issued pursuant to this chapter shall expire one year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods, provided that:
  - (a) The permit has not been revoked or suspended at the time the application for renewal is made;
  - (b) The relevant information in the application is up to date; and
  - (c) The renewal fee is paid.

**§ 112-5. Fees.**

A fee schedule shall be established, and changed as needed, by resolution of the Town Board. Such fees may be charged for the issuance of permits, certificates of occupancy, temporary certificates of occupancy, and for firesafety inspections.

**§ 112-6. Certificates of occupancy.**

- A. No building erected subject to the New York State Uniform Fire Prevention and Building Code shall be used or occupied, except to the extent authorized hereunder, until a certificate of occupancy has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which requires the issuance of a building permit shall be occupied or used more than 30 days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner or his agent shall make application for a certificate of occupancy.
- B. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire six months from the date of issuance or at an earlier date if so specified. A temporary certificate of occupancy may, at the discretion of the Building Inspector and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed. The Building Inspector may place special conditions on temporary certificates of occupancy as necessary to ensure safety and to protect the interest of the Town.

**§ 112-7. Inspection.**

- A. Inspections during construction.
  - (1) Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the inspector that the work is ready for inspection and to schedule such inspection.
  - (2) Work which requires special inspections during construction shall be the responsibility of the owner, applicant, or his agent to provide a list, at his or her expense. A statement of the special inspections, including a complete list of materials and work requiring such inspections, and a list of the individuals and approved agencies shall be provided to the Building Inspector for the permit application file. The reports of such special inspections shall be provided to the Building Inspector for the permanent record.
  - (3) If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the inspector of the situation, may apply to any court of competent jurisdiction for an order to make an inspection.
- B. Fire inspection and property maintenance inspections.
  - (1) Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and property maintenance requirements of the Uniform Code at least once in every 36 months. Inspections of such buildings shall include the common areas such as halls, foyers, staircases, etc. and vacant dwelling units. Where the tenants of occupied dwelling units allow, the inspection may include such units.
  - (2) Firesafety inspections of buildings or structures having areas of public assembly, defined as "all buildings or portions of buildings used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress therefrom" shall be performed at least once in every 12 months.
  - (3) All other buildings, uses and occupancies (except one- or two-family dwellings) shall

be inspected at least once in every 24 months.

- (4) An inspection of a building or dwelling unit may also be performed at any other time upon:
  - (a) The request of the owner, authorized agent or tenant;
  - (b) Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exist; or
  - (c) Other reasonable and reliable information that such a violation exists.

**§ 112-8. Penalties for offenses.**

- A. Upon determination that a violation of the Uniform Code or this chapter exists in, on, or about any building or premises, the Zoning Administrator shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by certified mail.
- B. In addition to those penalties proscribed by state law, any person, firm or corporation who or which violates any provision of the Uniform Code or any rule or regulation of this chapter, or the terms or conditions of any certificate of occupancy issued by the Building Inspector shall be liable to a violation zoning, punishable as set forth in Chapter 137, Fees and Penalties, for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Zoning Administrator.
- C. Alternatively or in addition to an action to recover the civil penalties provided by Subsection B, the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any certificate of occupancy issued by the Building Inspector.

**§ 112-9. Stop-work orders.**

Whenever the Building Inspector has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and suspend all building activities until the stop-work order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission of the construction of such building.

**§ 112-10. Department records and reports.**

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him with the consent of the Town Board, and notices and orders issued. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.
- B. The Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by his office, including approvals, permits and

certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

**Chapter 116 – Unsafe Buildings**

Section 116-12 is amended to read as follows: “Violation of any of the provisions of this chapter is hereby declared to be a Violation B, punishable as provided in Chapter 137, Fines and Penalties.”

**Chapter 127 – Driveways**

1. Section 127-5 is added as follows:

**§ 127-5. Enforcement.**

This chapter shall be enforced by the Zoning Administrator, upon recommendation of the Town Highway Superintendent.

2. Section 127-6 is amended to read as follows: “Any person, firm or corporation who or which violates the provisions of this chapter shall be guilty of a Violation B, punishable as provided in Chapter 137, Fines and Penalties. In addition to the above provided penalty and punishment for violations of this chapter, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this chapter.”

**Chapter 137 – Fines and Penalties**

Chapter 137 is added as follows:

**Chapter 137**

**FINES AND PENALTIES**

**§ 137-1. Schedule of fines.**

The following table provides the fines and penalties for violation of Town laws:

<b>Type of Violation</b>	<b>Offense</b>	<b>Minimum Fine</b>	<b>Maximum Fine</b>	<b>Maximum Imprisonment</b>	<b>Comments</b>
Violation Zoning (misdemeanor, Town Law § 268)	First		\$350	6 months	Or both
	Second within 5 years	\$350	\$700	6 months	Or both
	Third or more within 5 years	\$700	\$1,000	6 months	Or both
	Each week's continual violation				

Type of Violation	Offense	Minimum Fine	Maximum Fine	Maximum Imprisonment	Comments
	shall constitute a separate additional violation.				
Violation A [misdemeanor Class A, Penal Law § 80.05(1)]			\$1,000		
Violation B [misdemeanor Class B, Penal Law § 80.05(2)]	First	\$100	\$500	15 days	Or both
	Second or more	\$250	\$750	15 days	Or both
	Each week's continual violation shall constitute a separate additional violation.				
Violation C [Violation, Penal Law § 80.05(4)]			\$250		

**§ 137-2. Penalties for Code violations.**

The following penalties apply for violations of the following sections of the Code of the Town of Clinton:

Code Section	Type of Violation	Penalty for
§ 103-9	Violation C	Bingo
§ 112-8	Violation C	Uniform Building Code
§ 116-12	Violation B	Unsafe buildings
§ 127-5	Violation B	Driveway construction
§ 136-5	Violation C	Games of chance
§ 153-15B, D	Violation B	Junkyards
§ 159-6	Violation B	Mass gatherings
§ 168-10	Violation Zoning	Natural gas and power plant facilities
§ 189-12	Violation B	Scenic roads
§ 195-12	Violation C	Garbage dumping and littering
§ 201-8	Violation A	Highway construction and excavation
§ 201-18	Violation B	Deposits on highways or culverts

<b>Code Section</b>	<b>Type of Violation</b>	<b>Penalty for</b>
§ 206-42	Violation Zoning	Subdivision regulations
§ 213-14	Violation Zoning	Trailer park and camping trailers
§ 219-6	Violation B	Motor-driven recreational vehicles
§ 222-7	Violation B	Vehicles and supplies on roads
§ 250-102C	Violation Zoning	Zoning Law

## **Chapter 140, Flood Damage Prevention**

1. Section 140-8 is amended to read as follows: "No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be guilty of a Violation B as set forth in Chapter 137, Fines and Penalties. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Clinton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 102-16 and 102-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency."
2. Section 140-9 is amended to change "officer or employee" to "officer, volunteer or employee."

## **Chapter 153 – Junk Dealers and Junkyards**

1. Section 153-10 is revised as follows: "The annual license fee shall be as provided and set forth in the current fee schedule resolution of the Town Board, to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. In addition to the license fee, the applicant shall pay the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto; and the license shall be conditioned upon payment of same."
2. Section 153-14H is amended to change "Town Constable" to "Zoning Administrator."
3. Section 153-15B is amended to read as follows: "For every violation of any provision of this chapter the person violating the same shall guilty of a Violation B, punishable as set forth in Chapter 137, Fines and Penalties."
4. Former § 153-15D, providing for civil penalties for violations, is deleted.

## **Chapter 159 – Mass Gatherings**

1. Section 159-3A is amended to add the following sentence regarding the permit application: "It is available on the Town's Web site ([www.TownofClinton.com](http://www.TownofClinton.com)) and in the Town Clerk's office."

2. The following sentence is added § 159-3C: “A copy of the approved permit shall be given to the Zoning Administrator.”

3. Section 159-4 is added as follows:

**§ 159-4. Application fee.**

The application fee is shown in the Fee Schedule Resolution.

4. Section 159-5 is added as follows:

**§ 159-5. Enforcement.**

The Zoning Administrator shall enforce compliance with the special permit provisions of this chapter.

5. Section 159-6 is added as follows:

**§ 159-6. Penalties for offenses.**

Violation of this chapter is considered a Violation B, punishable as set forth in Chapter 137, Fines and Penalties.

## **Chapter 168 – Natural Gas and Power Plant Facilities**

1. Section 168-5C(3) is amended to change “60 days” to “62 days.”

2. Section 168-10 is amended to read as follows: “Upon conviction, a violation of this chapter shall be deemed a Violation Zoning, punishable as set forth in Chapter 137, Fines and Penalties. In addition to the above-provided penalties and punishment, the Town Board in its discretion may immediately suspend the permit to operate the facility or, in the alternative, may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of the chapter. The permit to operate also may be revoked by the Town Board for any violation or violations of this chapter which continue for a period of 15 consecutive days or more. Any revocation hereunder shall be subject to a public hearing thereon at which the applicant shall have an opportunity to be heard.”

## **Chapter 172 – Notification of Defects**

1. Section 172-2 is added as follows:

### **§ 172-2. Written notice of snow or ice required.**

No civil action shall be maintained against the Town or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any defect in its sidewalks or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Town Superintendent of Highways, and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

2. Section 172-3 is amended to change “5 days” to “10 days.”

## **Chapter 184 – Records**

Chapter 184, Article I, Public Access to Records, is adopted as follows:

### **ARTICLE I Public Access to Records**

#### **§ 184-1. Purpose.**

- A. The people's right to know the process of governmental decisionmaking and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

#### **§ 184-2. Records not accessible to public.**

- A. The following records, pursuant to Town and state law, are not accessible to the public:
  - (1) Those which are specifically exempted from disclosure by state or federal statute.
  - (2) Those which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of § 89 of the Public Officers Law.
  - (3) Those which, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations.
  - (4) Those which are trade secrets or are maintained for the regulation of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.
  - (5) Those which are compiled for law enforcement purposes and which, if disclosed,

would:

- (a) Interfere with law enforcement investigations or judicial proceedings;
  - (b) Deprive a person of a right to a fair trial or impartial adjudication;
  - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - (d) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.
- (6) Those which, if disclosed, would endanger the life or safety of any person.
  - (7) Those which are interagency or intra-agency materials which are not:
    - (a) Statistical or factual tabulations or data;
    - (b) Instructions to staff that affect the public;
    - (c) Final agency policy or determinations; or
    - (d) External audits, including but not limited to audits performed by the Comptroller and the federal government.
  - (8) Those which are examination questions or answers which are requested prior to the final administration of such questions.
  - (9) Those which are computer access codes.
- B. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

**§ 184-3. Designation of records access officers; responsibilities.**

- A. The Town Board of the Town of Clinton is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers:
- (1) Town Clerk, 1215 Centre Road, Rhinebeck, NY 12572.
  - (2) Deputy Town Clerk, 1215 Centre Road, Rhinebeck, NY 12572.
- B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. The designation of records access officers shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so. Records access officers shall ensure that personnel:
- (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one of the following actions:
    - (a) Make records available for inspection; or
    - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
  - (4) Upon request for copies of records, make a copy available upon payment or offer to pay established fees, if any, in accordance with § 184-9.
  - (5) Upon request, certify that a record is a true copy.

- (6) Upon failure to locate records, certify that:
  - (a) The Town of Clinton is not the custodian for such records; or
  - (b) The records of which the Town of Clinton is custodian cannot be found after diligent search.

**§ 184-4. Location of records.**

Records shall be available for public inspection and copying at the office of the Town Clerk, 1215 Centre Road, Rhinebeck, NY 12572.

**§ 184-5. Hours for public inspection.**

Requests for public access to records shall be accepted and records produced during all hours the Town Clerk's office is regularly open for business. These hours are posted.

**§ 184-6. Procedure for requests.**

- A. A written request is required.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, such failure may be construed as a denial of access that may be appealed.

**§ 184-7. Subject matter list.**

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

**§ 184-8. Denial of access; appeals.**

- A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly as required in § 184-6D of these regulations, such failure shall also be deemed a denial of access.
- C. The following person or persons or body shall hear appeals from denial of access to records under the Freedom of Information Law: the Town Board of the Town of Clinton, 1215 Centre Road, Rhinebeck, NY 12572, (845) 266-5853.
- D. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:

- (1) The date of the appeal.
  - (2) The date and location of the request for records.
  - (3) The records to which the requester was denied access.
  - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 184-6D.
  - (5) The name and return address of the requester.
- E. The individual or body designated to hear appeals shall inform the requester of its decision in writing within 10 business days of receipt of an appeal.
- F. The person or body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection F of this section.

**§ 184-9. Fees.**

- A. There shall be no fee charged for:
- (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this article.
- B. Copies of records shall be provided according to the Town's fee schedule.

**Chapter 189 – Scenic and Historic Roads**

Section 189-12 is amended to read as follows: “Any person or entity violating any of the provisions of this chapter shall be guilty of a Violation B, punishable as set forth in Chapter 137, Fines and Penalties. Such violations shall be prosecuted in the Justice Court of the Town of Clinton by the Building Inspector, Zoning Administrator or Attorney for the Town. The Town Court, in assessing a penalty, may consider alternatives to fines in the nature of community service or services in the nature of improvement or preservation of scenic and historic roads.”

**Chapter 195 – Solid Waste**

1. Section 195-2C(2) is revised to change "individual property owners" to "all individual property owners."
2. The definition of “hazardous material” in § 195-4 is deleted and replaced with the following:

HAZARDOUS MATERIAL – Means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §

9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law or any other applicable environmental law and the regulations promulgated thereunder.

3. The term “hazardous substance” is changed to “hazardous material” throughout this chapter.
4. Section 195-12 is amended to read as follows: “Any person who violates any provision hereof shall be guilty of a Violation C, punishable as set forth in Chapter 137, Fines and Penalties. The application of the above penalty or penalties, or the prosecution for the violation of the provisions hereof, shall not be deemed to prevent the revocation of any permit issued pursuant hereto or the enforced removal of conditions prohibited herein.”

### **Chapter 201, Article II – Highway Construction and Excavations**

Section 201-5A is amended to read as follows: “Excavate in, under, over or through a Town highway or perform any construction within a Town highway without first obtaining a permit for such excavation or construction from the Highway Superintendent, or otherwise interfere with a Town highway; or”

### **Chapter 201, Article III, Maintenance of User Roads**

Section 201-10 is revised to change "Clinton property owner" to "Town property owner."

### **Chapter 201, Article IV – Deposit of Debris on Highways and Culverts**

1. Section 201-8 is amended to read as follows: “Any person violating any of the provisions of this article shall be guilty of a Violation A, punishable as set forth in Chapter 137, Fines and Penalties. In addition, the Town, upon a violation of this article, may also institute an action or proceeding, including one seeking an injunction, to prevent or remedy such violation.”
2. Section 201-16 is amended to update the statutory reference to Municipal Home Rule Law § 10(1)(ii)(a)(6).
3. Section 201-18A is amended to read as follows: “No stone or other rubbish shall be drawn to and deposited within the limits of any highway or culvert, except for the purpose of filling in a depression or otherwise improving the highway or culvert, and only with the written consent and under the direction of the Highway Superintendent. Any person who shall deposit or throw loose stones, sticks, leaves, or ashes in a culvert, the gutter, or grass adjoining a Town highway, or shall deposit or throw upon a Town highway, or in a culvert, snow, ice, stones, sticks, leaves, ashes, paper, or other rubbish, or permits, allows, or acquiesces in their agent or employee so doing, shall be guilty of a Violation B, punishable as set forth in Chapter 137, Fines and Penalties.”

## **Chapter 201, Attachment 1, Highway Specifications**

1. Section 10-1 is amended to change "welfare and safety" to "health, welfare and safety."
2. Section 10-2.01 is amended to change "Chief Fiscal Officer of the Town" to "Town Supervisor."

## **Chapter 206 – Subdivision of Land**

1. Section 206-42A is amended to read as follows: "A violation of this chapter is hereby declared to be Violation Zoning, punishable as set forth in Chapter 137, Fines and Penalties."
2. Section 206-45 is amended to read as follows: "Subdivision fees shall be as set from time to time by resolution of the Town Board."

## **Chapter 210, Article II – Nonprofit Organizations Tax Exemption**

Section 210-3 is amended to change the statutory reference to "§ 421 of the Real Property Tax Law" to "§ 420-a of the Real Property Tax Law."

## **Chapter 210, Article V – Senior Citizens Tax Exemption**

1. The table in § 210-9A is amended to read as follows:

<b>Annual Income</b>	<b>Percentage of Assessed Valuation Exempt From Taxation</b>
Less than \$24,000	50%
More than \$24,000, but less than \$25,000	45%
\$25,000 or more, but less than \$26,000	40%
\$26,000 or more, but less than \$27,000	35%
\$27,000 or more, but less than \$27,900	30%
\$27,900 or more, but less than \$28,800	25%
\$28,800 or more, but less than \$29,700	20%
\$29,700 or more, but less than \$30,600	15%
\$30,600 or more, but less than \$31,500	10%
\$31,500 or more, but less than \$32,400	5%
More than \$32,400	0%

2. Section 210-9B is amended to read as follows: "Annual income" shall include the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making an application for exemption. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return, or if not such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or the wife, or ex-husband or ex-wife, is absent from the property as provided in Real Property Tax Law § 467(ii)(d), then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include but not be limited to social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income

tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or monies earned through employment in the federal foster grandparent program, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. The provisions of this subsection notwithstanding, such income shall not include veterans disability compensation, as defined in Title 38 of the United States Code. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income;

3. Section 210-9C(1) is amended to read as follows: “Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 12 consecutive months prior to the date of the making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 12 consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes or computing such period of 12 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exception:”
4. Section 210-9C(3)(b) is amended to read as follows: “The real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment, and an exemption was previously granted when both resided in the residence, provided the person remaining on the real property is 62 years of age or over and all other provisions of this section are met.”
5. Section 210-10C is amended to change “State Board of Equalization and Assessment” to “State Board of Real Property Services.”

#### **Chapter 214, Town-Owned Property and Facilities**

1. Section 214-3 is added as follows:

##### **§ 214-3. Use for fund-raising events.**

Use of the Town of Clinton facilities for fund raising will be limited to groups organized to benefit all the residents of the Town and officially sanctioned charitable organizations and political events. Profits generated from the sale of

any goods, services, games, or donations shall benefit only the organization sponsoring the event; not any individual. Furthermore, any questions as to the eligibility status of any group or there being benefit to the residents of the Town of Clinton for purposes of fund raising on Town property shall be decided by the Town Board prior to any use by that group or organization.

2. Section 214-19 is amended to read as follows: "Any person who shall violate the provisions of this chapter or rules and regulations adopted hereunder shall be guilty of a Violation B, subject to the fines and penalties set forth in Chapter 137, Fines and Penalties, including restitution, if appropriate, for each and every such offense. The commission of each of the listed prohibited activities shall be deemed a separate offense. Nothing herein contained shall prohibit the prosecution of a person or persons for any other violation of the laws of the State of New York as a result of activities described herein, and the remedies herein are deemed cumulative."

### **Chapter 218 – Trailers and Trailer Parks**

1. Section 218-6J is amended to read as follows: "Electrical service and connections. Each trailer park shall provide weatherproof electric service connections and outlets for each camp unit, all such connections and outlets to be of a type approved by a qualified inspection agency approved by the Town. There is no requirement of electric service connections and outlets for a camping trailer camp, but where they have been provided they must be of a type approved by a qualified inspection agency approved by the Town."
2. Section 218-10 is amended to change "the fee provided in § 164-5D" to "the fee provided in the Fee Schedule Resolution."
3. Section 218-14 is amended to read as follows: "Any person who violates any provision hereof shall be guilty of a Violation Zoning, punishable as set forth in Chapter 137, Fines and Penalties. The application of the above penalty or penalties or the prosecution for the violation of the provisions hereof shall not be deemed to prevent the revocation of any permit issued pursuant thereto or the enforced removal of conditions prohibited herein."

### **Chapter 229 – Motor-Driven Recreational Vehicles**

Section 219-6B is amended to read as follows: "Any person, firm or corporation violating or permitting the violation of any provision of this chapter shall be guilty of a Violation B, punishable as set forth in Chapter 137, Fines and Penalties. In the case of a second or subsequent violation, the court may order confiscation of said vehicle or conveyance which, if confiscated pursuant to this section, will be sold at public auction according to appropriate procedures and laws affecting public auctions by municipalities."

### **Chapter 233 – Removal of Vehicles**

Section 233-1 is amended to update the statutory reference to Municipal Home Rule Law § 10(1)(ii)(a)(6) and 10(4)(a) and (b).

### **Chapter 250 – Zoning**

1. This chapter is amended to change "special permit" to "special use permit" throughout.
2. Section 250-2 is amended to add the following Subsection L: "

2. Section 250-55 is amended to change “General Municipal Law § 119” to “General Municipal Law § 119-aa et seq.”
3. Section 250-95D(2) and J is amended to change the reference to § 274 of the Town Law to § 271 of the Town Law.
4. Section 250-15H, Violations, is deleted.
5. Section 250-23D(1) is amended to read as follows: “Ordinary building projections, including, but not limited to, bay windows, fireplaces, fire escapes, chimneys, uncovered stairs, landings, balconies and cornices, canopies, eaves, or other architectural features not required for structural support, up to three feet into the required yard;”
6. Section 250-29B(6) is amended to change “Article 3, Part 711.1 of the NYS Uniform Fire Prevention and Building Code” to “the NYS Uniform Fire Prevention and Building Code.”
7. Section 250-42A is revised to change “§ 281 of the Town Law” to “§ 278 of the Town Law” and to change “§ 281(a)” to “§ 278.”
8. Section 250-44D(32)(c)[11] is revised to add the description “Application for Antenna Structure Registration” after the phrase “Form 854.”
9. Section 250-44D(32)(c)[12] is revised to add the description “Notice of Proposed Construction or Alteration” after the phrase “Form 7460-1.”
10. Section 250-44(33)(g) is revised to read as follows: “Any costs which result from the renewal application, including but not limited to consultant fees and advertising costs for public hearing notification and legal fees, shall be borne by the applicant.”
11. Former § 250-44E, Violations, is deleted.
12. Section 250-63J(3) is amended to change “650 light square feet of gross floor area” to “650 light manufacturing square feet of gross floor area.”
13. Section 250-74A(3) is added as follows:
  - (3) All residential swimming pools and commercial pools installed, constructed or substantially modified (which means the cost of modification exceeds 50% of the market value of the pool before the damage occurred), after December 14, 2006, must be equipped with an approved pool alarm which:
    - (a) Is capable of detecting a child entering the water and giving an audible alarm when it detects a child entering the water.
    - (b) Is audible poolside and at another location on the premises where the swimming pool is located.
    - (c) Is installed, used and maintained in accordance with the manufacturer's instructions.
    - (d) Meets ASTM F2208, Standard Specifications for Pool Alarms.
    - (e) Is not an alarm device which is located on a person(s) or which is dependent on a device(s) located on a person(s) for its proper operation.

14. Section 250-91B(3), “agency” is changed to “agent.”
15. Section 250-94C(1)(a) is amended to change “Part 606 of the Uniform Code” to “the Uniform Code.”
16. Section 250-95A(3) is amended to increase the term of the Planning Board members from five years to seven years.
17. Section 250-95B(5) is amended to read as follows: "Fees. The Planning Board, in exercising the full power and authority conferred on it under Town Law Article 16 and this 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 for the Planning Board to hire its own independent surveyor, engineer, planning consultant, attorney and/or similar expert."
18. Section 250-96B(3)(d) is amended to change “45 days” to “62 days”; and the following sentence is added: “The Planning Board shall mail notice of said hearing to the applicant at least 10 days before the hearing.”
19. Section 250-96B(3)(e) is amended to read as follows: “Conditions. In acting to approve, with or without modifications, a site plan application, the Planning Board shall attach such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan.”
20. Section 250-96B(3)(g) is amended to read as follows: “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 site plan. The decision of the Planning Board shall be expressed in the report to the Zoning Administrator, which report shall be binding. 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.
21. Section 250-97A(6) is amended to change “45 days” to “62 days.”
22. Section 250-97A(7) is amended to change “45 days” to “62 days.”
23. Section 250-98A(2) is amended to decrease the Zoning Board of Appeals membership from seven to five members.
24. Section 250-98B(1) is amended to read as follows: “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 Board may determine. On the five-member board, a quorum shall consist of three members. In order to reverse a decision of the Zoning Administrator or Building Inspector or authorize a variance, or to decide contrary to the recommendation of the Planning Board, an affirmative vote of at least three members shall be required. A favorable vote of a majority plus one, i.e., of at least four 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.”

25. Section 250-98B(6) is amended to read as follows: “Decisions. Every decision of the Zoning Board of Appeals on an appeal or application shall be made within 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 by resolution of the Board, with such decision being filed in the office of the Town Clerk within five 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 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 and the Board.”
26. Section 250-98D(1) is amended to read as follows:
- (1) Area 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 chapter, to grant 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 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:
      - [1] 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;
      - [2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
      - [3] Whether the requested area variance is substantial;
      - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
      - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
    - (c) The power of the Zoning Board of Appeals to grant a variance is to be sparingly exercised. Not every applicant for an 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.

27. Section 250-102C is amended to read as follows: “A violation of this chapter is hereby declared to be a Violation Zoning, punishable as set forth in Chapter 137, Fines and Penalties. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.
28. Section 250-105 is amended to add the following definition:  
  
DEMOLITION – Any dismantling, intentional destruction or removal of buildings or structures, not including accessory structures defined in § 250-22B.
29. The definition of “hazardous material” in § 250-105 is amended to read as follows:  
  
HAZARDOUS SUBSTANCE – Means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law or any other applicable environmental law and the regulations promulgated thereunder.
30. The term “hazardous material” is changed to “hazardous substance” throughout this chapter.
31. The Schedule of Use Regulations is amended to change the requirements for a church or place of worship, which may include meeting hall, parish house and similar facilities, to the following:
  - In the C and AR5 Districts, “SP” is changed to “SP5A”
  - In the AR3 District, “SP” is changed to “SP3A”