

Local Law Filing

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

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(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.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
MAY 15 2000

County _____
City _____ of Clinton
Town _____
Village _____

Alexander F. Picardello
Secretary of State

Local Law No. _____ of the year 2000

A local law . . . A LOCAL LAW OF THE TOWN OF CLINTON, COUNTY OF DUTCHESS, STATE OF NEW YORK, AMENDING THE TOWN OF CLINTON ZONING LAW, LOCAL LAW NO. 3, 1991, IN ORDER TO REGULATE COMMERCIAL COMMUNICATIONS FACILITIES, AMEND THE TOWN OF CLINTON ZONING DISTRICT MAP TO DEFINE A RIDGELINE, SCENIC AND HISTORIC OVERLAY DISTRICT, AND REGULATE WITHIN SUCH RIDGELINE, SCENIC AND HISTORIC OVERLAY DISTRICT, AND REPEALING THE AMENDMENT, MARCH 9, 1999, OF THE SAME SUBJECT.

Be it enacted by the Town Board of the _____
(Name of Legislative Body)

County _____
City _____ of Clinton as follows:
Town _____
Village _____

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out 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 192000 of the (County)(City)(Town)(Village) of Clinton was duly passed by the Town Board on March 28, 192000 in accordance with the applicable provisions of law. (Name of Legislative Body)

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 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19, and was (approved)(not approved)(repassed after disapproval) by the and was deemed duly adopted on 19, in accordance with the applicable provisions of law. (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19, and was (approved)(not approved)(repassed after disapproval) by the on 19. 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 19, in accordance with the applicable provisions of law. (Elective Chief Executive Officer*)

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 19 of the (County)(City)(Town)(Village) of was duly passed by the on 19, and was (approved)(not approved)(repassed after disapproval) by the on 19. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 19, in accordance with the applicable provisions of law. (Elective Chief Executive Officer*)

* 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.

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 19..... 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 _____ 19...., 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 19..... of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19...., 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.

Carol J. [Signature]

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: March 29, 2000

(Seal)

(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]

Signature

ATTORNEY

Title

County
City of CLINTON
Town
Village

Date: April 4, 2000

SECTION 5.17, PAGE 52

The title of existing section 5.17, Communications Antenna or Tower, of the Town of Clinton Zoning Law is hereby amended to read:

5.17-A NON-COMMERCIAL COMMUNICATIONS ANTENNA OR TOWER

There is enacted a new section 5.17-B, Commercial Communications Facility, to read as follows:

5.17-B COMMERCIAL COMMUNICATION FACILITY

A. Purpose

The purpose of this section is to regulate the location, design and use of commercial communication facilities in the Town of Clinton in order to:

1. Protect the health, safety and general welfare of residents of the Town of Clinton.
2. Preserve the historic rural character and irreplaceable scenic qualities of the town by regulating the location, design and architectural treatment of commercial communications facilities in order to minimize their visibility from places within the town, avoid intrusion into scenic vistas, avoid disruption of the natural and built environment, and ensure harmony and compatibility with surrounding land use patterns.
3. Minimize the undue proliferation, height and adverse visual impact of communications towers throughout the community.
4. Meet the wireless communications needs of residents, businesses and travelers within the Town of Clinton.
5. Encourage a stream-lined approval process for facilities and provide a procedural basis for timely review of requests to place, construct, operate or modify facilities.

B. Type of Facilities to be Regulated

1. This law regulates the installation and/or use of all commercial communications facilities including, but not limited to, cellular towers and antennas, accessory buildings and repeaters; facilities for personal communication services (PCS); broadcast towers; and structures maintained or constructed for the purposes of specialized mobile radio services and paging services.
2. This law does not apply to non-commercial or governmental communication facilities. Those facilities are governed by section 5.17A, Communications Antenna or Tower, Non-Commercial.

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

1. The Town Board designates the Planning Board of the Town of Clinton as the reviewing body responsible to determine the lead agency for applications made under this section.
2. The Planning Board and the applicant shall comply with all provisions of SEQRA under Article 8 of the Environmental Quality Review Act and its implementing regulations. An application for a communication facility which conforms to the regulations of this section and the Town of Clinton Zoning Law shall be an Unlisted Action unless otherwise designated by SEQRA. Should any

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variance from these regulations be requested, the application for a Special Permit for the proposed facility shall be considered a Type I Action.

D. Standard Approval Process

1. A special permit shall be required for the installation and/or use of all commercial communication facilities, as specified in Section 3.2, Schedule of Use Regulations, of the Town Zoning Law. The duration of special permits for installation and/or use of commercial communication facilities shall be two years from the date of issue, subject to renewal.
2. If an applicant for a Special Permit proposes a commercial communication facility which does not meet all requirements of the Town of Clinton Zoning Law, including district, height, area and bulk regulations, the Planning Board may, at its discretion and at any point in the review process, suspend review of the application until necessary variances are obtained.
3. Any proposed user of commercial communication facilities shall be an FCC licensed provider of commercial communication services and must acquire a special permit whether or not they will install or own the facilities.
4. Any applicant who is not an FCC licensed provider of commercial communication services but who proposes to provide a facility for use by an FCC licensed carrier shall also acquire a Special Permit and shall meet the following requirements:
 - a. When applying for a special permit, the proposed owner shall name one or more FCC licensed carrier(s) which will use the facility.
 - b. The proposed owner shall provide a written contract between each such FCC licensed carrier and the facility installer/owner that each such FCC licensee will use the facility when installation is complete.
 - c. No special permit shall be granted to the proposed owner for the installation or construction of a facility until a special permit has been granted to a proposed user.
 - d. Each FCC licensee which seeks to use the proposed facility shall have the responsibility of providing evidence of need for the proposed facility, as stated in Section D. 5 below.
 - e. Any addition to the facility by the owner to accommodate an additional user, including the addition of antennas and accessory equipment, shall require an additional special permit to be acquired by the owner.
5. Evidence of need for the proposed facility at the proposed location.
 - a. Any FCC licensed carrier which is applying for a Special Permit to use any existing or proposed facilities shall provide clear and convincing evidence that the proposed facility is needed to provide adequate coverage and capacity (as defined in this law) for licensed communications services which the applicant is unable to provide with existing or other planned facilities. This evidence shall include materials such as radiation propagation studies and coverage maps along with all assumptions, technical parameters, map scales and other data needed for a complete understanding and independent evaluation of the information presented.
 - b. The applicant shall state its signal strength and primary coverage objectives in the town, the specific areas, highways and population centers it wishes to cover, and the signal strength, coverage and grade of service currently existing within those areas.

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- c. The applicant shall provide evidence that any facilities within a four mile radius of the proposed facility, which the applicant currently uses or for which the applicant has an application pending, cannot provide adequate coverage and capacity to locations in the Town of Clinton in place of the proposed facility.
- d. The applicant shall provide evidence that the proposed height and spatial dimensions of the facility are the minimum necessary to provide adequate coverage and capacity to locations in the Town of Clinton which the applicant is unable to serve with existing facilities and/or facilities of a lower height and/or smaller spatial dimensions, and
- e. The applicant shall demonstrate that a conscientious effort has been made to site communications facilities on or within existing tall structures such as utility poles or towers, silos, buildings, church steeples, etc. before approval will be granted to construct a new tower. As evidence of this effort, The applicant shall provide an inventory of all existing structures within a four mile radius of the proposed location that are at least 50 feet high, along with a map showing the exact location of each structure. The inventory shall include an analysis of the availability and suitability of the structures for use by the applicant instead of a proposed new tower. The Planning Board may require the applicant to provide additional information, such as ground elevation, height and radial plots for one or more of these existing structures in order to evaluate their suitability as alternate sites for the proposed facility.

6. Location of Facilities

- a. All of the commercial communication facilities which are covered by one Special Permit, including towers, equipment shelters and accessory buildings, shall be located on one lot and shall meet the area and bulk regulations of the district where located.
- b. Applicants proposing to locate facilities within the Ridgeline, Scenic and Historic Protection Overlay District must meet all requirements listed in Section 3.8.
- c. In the following locations, new commercial communication structures, such as towers, shall be prohibited and commercial communication facilities shall be restricted to antennas or repeaters on existing structures such as buildings, telephone poles or church steeples, along with necessary accessory buildings:
 - i. inside or within 500 feet of any of the Hamlets/Residential Hamlets included on the Town Zoning District Map, and/or
 - ii. inside or within 500 feet of a Medium Density Residential (MR1) District, and/or
 - iii. inside or within 500 feet of a Clustered Residential (CR1) District.
 - iv. inside or within 500 feet of a Critical Environmental Area (CEA).
- d. Location of new commercial communication structures, such as towers, on wooded sites with tall, mature trees shall be encouraged. Location on cleared sites or sites with small or immature trees shall be discouraged.

7. Co-location

- a. New communication structures, such as towers, and their accessory buildings shall be of a type and design which will allow co-location.
- b. Applicants who seek a special permit for the installation and/or use of a new commercial communication structure or who wish to locate facilities on an existing structure shall agree in writing to accept co-location by other carriers on the same structure, so long as 1) such co-location does not cause transmission interference and 2) the existing structure and lot can

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accommodate the additional facilities, such as antennas and accessory buildings, that would be required by the applicant for co-location.

- c. Co-location on an existing structure is required unless:
 - i. There are no usable existing structures in the service area, or
 - ii. The applicant is unable to secure permission from existing structure owner(s) or landowner(s), or
 - iii. Co-location at existing sites does not achieve the minimum reasonable technical needs of the proposed facility, or
 - iv. Structural or engineering limitations of the existing structure(s) prohibit co-location.

8. Height.

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

b. New towers or other supporting structures, including masts, antennas and other accessory facilities, shall not exceed the minimum height necessary to provide adequate coverage and capacity (as defined by this law) for the FCC licensed carrier which proposes to use the facility. In cleared areas where there are fewer than 20 trees within 100 feet surrounding the proposed location, these structures shall not exceed 80 feet above the natural ground. If there are at least 20 trees within 100 feet surrounding the proposed location, the total height of the proposed facility shall be limited to 25 feet above the average tree canopy, or 100 feet, whichever is lower. New towers proposed for locations within the Ridgeline, Scenic and Historic Protection Overlay District shall not exceed the height limitations for that District, as set forth in Section 3.8 of the Zoning Law.

c. Applicants may be required to achieve coverage objectives by using multiple existing or new lower structures rather than new, taller structures, which shall not exceed the height limitations in 8-b. above.

d. Antennas mounted on electric utility towers, buildings or other existing structures shall not exceed the height of the existing tower or structure by more than 15 feet nor result in a total height greater than 100 feet.

9. It shall be the responsibility of the holder of the special permit to inform the Town of Clinton of any change in or termination of contractual agreements which affect the Special Permit within 30 days of such change. Any material change in the conditions under which a special permit was granted shall result in the immediate termination of the Special Permit unless agreement has been obtained from the Planning Board prior to the change. These material changes include but are not limited to:

a. changes in supporting structures (such as towers), accessory buildings or access roads. A change in ownership of the facility or the property on which the facility is installed shall require notification to the Zoning Enforcement Officer by the holder of the Special Permit but will not terminate the Special Permit.

b. cessation of use by the FCC licensed carrier which has a Special Permit for use of the facility.

c. a change in the FCC licensed user of the specially permitted facility. Nothing herein shall prohibit another FCC licensed carrier from using the facility so long as that carrier provides evidence of need to use that facility and acquires a special permit under this law.

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d. loss of the user's FCC license to provide commercial communications services within the Town of Clinton.

e. violation of the Town of Clinton Zoning Law, on or with regard to the facility by the holder(s) of the special permit or the owner of the land on which the facility is installed.

10. Installation of communication facilities on existing structures

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

- i. will aid in the camouflage of communications facilities by allowing them to be hidden inside roofs, steeples or other portions of the existing structure and,
- ii. is compatible with the appearance of the existing structure and surrounding structures and environment and,
- iii. will not compromise the structural integrity of the existing structure and will not increase threat to safety from fire, wind or other adverse occurrence, and this is certified by a licensed engineer.

b. No other modification of the existing structure except that which is necessary for the addition and/or camouflage of antennas and accessory structures shall be permitted, except as deemed necessary by the Planning Board. This restriction is not intended to prohibit modifications which are required for maintenance and/or repair of the existing structure.

11. Design of new towers

a. Tower designs shall be the least obtrusive and the most appropriate to the proposed site, as determined by the Planning Board. Use of structures made from natural materials, such as laminated wood poles, and antenna panels that mount directly to the pole rather than on platforms, shall be encouraged. The use of designs which require guy wires to support a tower shall be discouraged. If requested by the Planning Board, applicants shall submit alternatives to any design proposed for the purpose of determining minimum necessary height and spatial dimensions and/or compatibility with nearby structures or landscape.

b. Towers shall be designed and constructed in a manner which will accommodate future sharing, and applicant shall provide a written statement that co-location on the tower will be permitted and the extent and dimensions thereof. The design and site plan shall include future potential buildout to accommodate the number of future potential co-locators proposed.

12. Camouflage of commercial communication facilities

a. The Planning Board may require communications facilities, including new towers and antennas installed on existing structures, to be camouflaged in order to make them compatible with surrounding scenery and/or structures if, in its judgment, the location, height and/or design of a proposed facility compromises the scenic, historic or residential character of the Town. Such camouflage may be required by the Planning Board at any location in the Town.

b. In particular, facilities located in or visible from areas with scenic and/or historic importance to the Town or with potential for higher residential density may require camouflage. These include, but are not limited to, facilities located on lands which are:

- i. 500 feet or more above sea level, and/or
- ii. within that portion of the Taconic State Parkway viewshed which lies within the Town, and/or

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- iii. within or adjacent to one of the hamlets included on the Town Zoning District Map, and/or
 - iv. within or adjacent to a Critical Environmental Area (CEA)
 - v. within or adjacent to districts designated as clustered residential (CR1) or medium density residential (MRI) on the Town Zoning District Map.
 - vi. within view of a historic district or landmark.
- c. Camouflage devices may include, but are not limited to silos and church steeples with special roofs which allow antennas to be hidden inside them; towers and antennas disguised as flag poles or artificial trees which are appropriate to the surrounding wooded area; structures designed to appear as churches, with accessory equipment and antenna installed within a single structure, and antennas disguised as components of existing buildings.
13. **Clustering.** Clustering of towers and structures on the same site may be considered if co-location cannot be facilitated. However, clustering may be ruled out for a particular location if the Planning Board judges that it will create or increase a negative effect on the scenic, historic or residential character of the Town.
14. **Yard setbacks**
- a. New towers shall be set back at least two times the height of the tower from all lot boundaries, or must comply with other setback requirements listed in the Town Zoning Law, whichever are more restrictive.
 - b. New towers must be at least 500 ft. from existing habitable structures, or planned habitable structures for which a Town of Clinton building permit has been issued.
15. **Cleared area, buffer strip and landscaping requirements for new towers.** Unless otherwise specified by the Planning Board:
- a. There shall be a cleared area surrounding any new tower not to exceed 75 ft. from the outer edge of the tower's footprint.
 - b. A buffer strip composed of trees or other vegetation shall be required to serve as a visual screen around the cleared area and proposed free-standing facilities, unless the Planning Board determines that the buffer strip will be detrimental to the aesthetics of the site or neighboring parcels.
 - c. If a buffer strip is required by the Planning Board, it shall contain or be planted with vegetation of sufficient height, depth and density to completely screen the bottom of the tower and any accessory buildings, as viewed from outside the buffer strip. Vegetation in the buffer strip shall be maintained in a healthy state or replaced as necessary.
 - d. The buffer strip shall be free of any manmade structures including fences and facilities, except for an access road.
16. **Accessory buildings**
- a. Accessory buildings shall be the minimum size necessary to meet the needs of the specific site.
 - b. If the accessory building is at a site which can accommodate future co-locators, the accessory structure design and the site plan shall include future potential buildout to accommodate the number of potential co-locators proposed.

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- c. All buildings shall be used only for housing of equipment related to that particular facility and site.
 - d. Buildings shall be similar in size, materials, colors and design and shall be compatible with nearby structures and/or vegetation, as judged by the Planning Board.
17. Alteration of facility or location. After specially permitted facilities are installed, they shall not be altered with regard to height, color, design or any other aspect without Planning Board approval. If a facility is to be moved from one lot to another, a new special permit shall be required.
18. Fencing. New towers and their accompanying accessory buildings shall be enclosed by a fence and gated. When antennas are installed on or within existing structures such as silos, the Planning Board shall determine whether the existing structure and any accessory structures will require fencing. The Planning Board shall approve the height and design of the fence to ensure that it will be secure and visually attractive and that accessory buildings and the lower portion of the tower will be hidden when viewed from lots surrounding the proposed site. If a new tower and accessory structures are camouflaged, the Planning Board may waive this requirement if, in their judgment, a fence is not required for the security of the facility.
19. Color. The finish of a new tower shall blend with the sky and/or trees, as required by the Planning Board. Antennas and supporting electrical and mechanical equipment shall be of a color identical to or closely compatible with the color of the supporting structure. Colors and materials of all exterior surfaces shall be maintained in their original condition.
20. Noise. Steps shall be taken to minimize to the full extent possible, the amount of noise heard off-site from all temporary or permanent power equipment. Generators shall include hospital grade mufflers.
21. Lighting or special painting.
- a. No externally visible lighting of towers or facilities shall be permitted, except manually operated emergency lights for use only when operating personnel are on site.
 - b. The applicant shall submit, as part of the application, a written statement regarding whether the proposed facility requires lighting and/or special painting to meet the requirements of the FAA or other authority, and if so, what type of lighting or special painting would be required.
 - c. New structures that would be classified as an obstruction or hazard or would require any special lighting or special painting under FAA regulations (currently 14CFR21) shall not be permitted.
 - d. If, after installation of the facility, the FAA or any other government authority requires that lights be installed, the owner of the facility must notify the Zoning Enforcement Officer at least 60 days before any such lights are installed.
22. Electric power supply and telephone service lines. All service lines to new towers and accompanying facilities shall be installed underground from the existing power source.
23. Fuel tanks. All fuel tanks must be above ground and protected against potential damage from vandalism or other adverse occurrence.
24. Signs. One sign no greater than 3 sq. ft. with the name of the facility owner/operator and a 24

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hour emergency telephone number, plus no-trespassing/warning signs no larger than 1 1/2 square feet are permitted. Signs shall meet all requirements of Section 5.43, Signs, of the Town Zoning Law.

25. Access and parking

- a. A road and parking plan shall be provided to ensure adequate emergency and service access and shall meet the requirements of the Planning Board. Any driveway shall meet the requirements of the Planning Board and the highway authority for the road on which driveway fronts.
- b. Maximum use of existing public and private roads shall be made, consistent with safety and aesthetic considerations.
- c. Road construction shall minimize ground and vegetation disturbance. Road grades shall follow natural contours to reduce soil erosion potential and to ensure that roads are aesthetically compatible with the character of the surrounding area.
- d. The Planning Board may require an erosion and sedimentation control plan and may refer the site plan to the Town Highway Superintendent, Building Inspector and/or the Town Engineer for review.
- e. Unpaved roads shall be considered unless conditions require paving, as determined by the Planning Board, in consultation with the appropriate authorities or consultants.

26. Maintenance, testing and inspection

- a. The original appearance of the exteriors of all towers, accessory buildings and any other structures must be retained through regular maintenance by the applicant.
- b. Before commercial transmission begins, the applicant shall acquire certification by a licensed professional engineer that the facility will not exceed the maximum permissible exposure limits for the level of electromagnetic radiation using standards in accordance with FCC OET Bulletin Number 65.

27. Removal of facilities

- a. Towers and antennas shall be removed if the owner's or user's special permit for these facilities has expired or been terminated or if the facilities are no longer being used by the FCC licensee. Towers and antennas shall be removed if there is not at least one operator with a valid special permit using the tower. Potential or planned future use of any facility for commercial communication service is not sufficient to avoid the requirement for removal.
- b. If the removal of towers and antennas is required, accessory buildings and other structures shall also be removed unless:
 - i. the landowner wishes to retain these structures and communicates this in writing to the Planning Board and
 - ii. the retention of these structures will comply with the Zoning Law and
 - iii. the Planning Board agrees that removal of these structures is not required.
- c. Each applicant seeking a special permit for a commercial communications facility shall provide a written contract with the Town of Clinton agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal, of antennas, accessory buildings and

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supporting structures such as towers when removal is required by the Town of Clinton Zoning Law.

d. If a proposed commercial communications facility will be owned by an entity other than an FCC licensed carrier which will use that facility, the carrier shall provide to the Planning Board a copy of a contract between the facility owner and the FCC licensed carrier in which the owner agrees to remove the facility including any tower, antennas and accessory structures, and indemnify the Town for the costs of such removal, when these facilities are no longer being used by an FCC licensed operator with a valid Town of Clinton Special Permit.

e. A decision to require removal shall be the responsibility of the Planning Board after consulting with the Zoning Enforcement Officer and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period, the Town shall have the right to compel removal, with all costs to be borne by the Special Permit holder who owns and/or previously used the facilities. Removal costs may also be recovered from the owner of the tax parcel on which the facilities are located.

f. When towers are removed, site reclamation shall be completed, in conformance with the reclamation plan contained in the original application and to the satisfaction of the Planning Board, within 180 days of structure removal. Reclamation shall include landscaping, removal of structures, utility lines and accessory structures, and shall encompass the building site and buffer area controlled by the facility owner.

28. **Bonding.** Before obtaining or renewing a Special Permit, the applicant shall provide financial surety in an amount acceptable to the Town Board (in consultation with the Planning Board and the Attorney for the Town) to ensure full and complete performance of all conditions imposed by the Planning Board as a requirement of the special permit.
29. **Application fee.** In addition to other relevant fees outlined in the Town of Clinton Fee Schedule, the applicant shall pay an application fee of \$500, or other amount for application fees as indicated in the Town of Clinton Fee Schedule, due upon submission of the application to the Planning Board, to defray the costs of review of the application by the Town.
30. **Consultant fees.** The Planning Board and/or Zoning Board of Appeals may retain consultants to assist in reviewing the application, its renewal, or an application for a variance related to a pending application, with consultant fees to be paid by the applicant. These consultants may include the Town Engineer, the Town's Attorney, one or more commercial communication facility consultants, or other consultants as determined by the Planning Board and/or Zoning Board of Appeals. At the beginning of the review process the Planning Board may require the applicant to fund an escrow account from which the Town may draw to ensure reimbursement of consultant fees. During review of the application, the Planning Board may require the applicant to add funds to the escrow account as the Planning Board deems necessary. If the required funds are not added to the escrow account, review of the application by the Planning Board shall be suspended until such time, if any, as payment of said funds is made. Any remaining funds in the escrow account after payment of all consultant fees will be returned to the applicant.
31. **Insurance.** Facilities shall be insured by the owner(s) of the towers and/or the antennas thereon against damage to persons or property. The owner(s) of the towers and/or antennas thereon shall provide annually to the Town Clerk a Certificate of Insurance in the minimum amount of \$1,000,000, or a higher amount if required by the Planning Board in consultation with the Town Board, in which the Town of Clinton shall be an additional named insured. This insurance

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shall insure against damage or loss arriving from all structures, towers or antennas on the property.

32. **Application Requirements for Commercial Communications Facilities.** In addition to other requirements and fees outlined in the Town Zoning Law and fee schedule, an applicant seeking a Special Permit for installation or use of a commercial communication facility in the Town of Clinton shall also submit the following data and/or take the following actions:

a. Applicants proposing to locate facilities within a Ridgeline, Scenic and Historic Protection Overlay District must also meet all requirements of Section 3.8 of the Town Zoning Law regulating development in these Protection Overlay Areas.

b. The applicant shall provide clear and convincing evidence such as radial maps and engineering studies that:

i. the proposed facility is necessary to provide licensed communications services to locations in the Town which the applicant is unable to serve with existing or other planned facilities.

ii. the proposed height and spatial dimensions of the facility are the minimum necessary to provide licensed communication services to locations in the Town which the applicant is unable to serve with one or more existing facilities and/or one or more facilities of a lower height and/or smaller spatial dimensions.

iii. the visual, aesthetic and community character intrusion impacts have been minimized to the maximum extent practicable.

iv. the applicant has conducted a careful review of alternative sites, technologies and design considerations which include but are not limited to structure types and heights, materials, colors, multiple smaller structures versus one larger structure, or other design parameters as may be requested by the Planning Board.

v. any proposed new structure has the ability to handle the additional facilities of possible future co-locators. The maximum number of co-locators which could be supported on the structure must be identified.

c. The applicant shall provide:

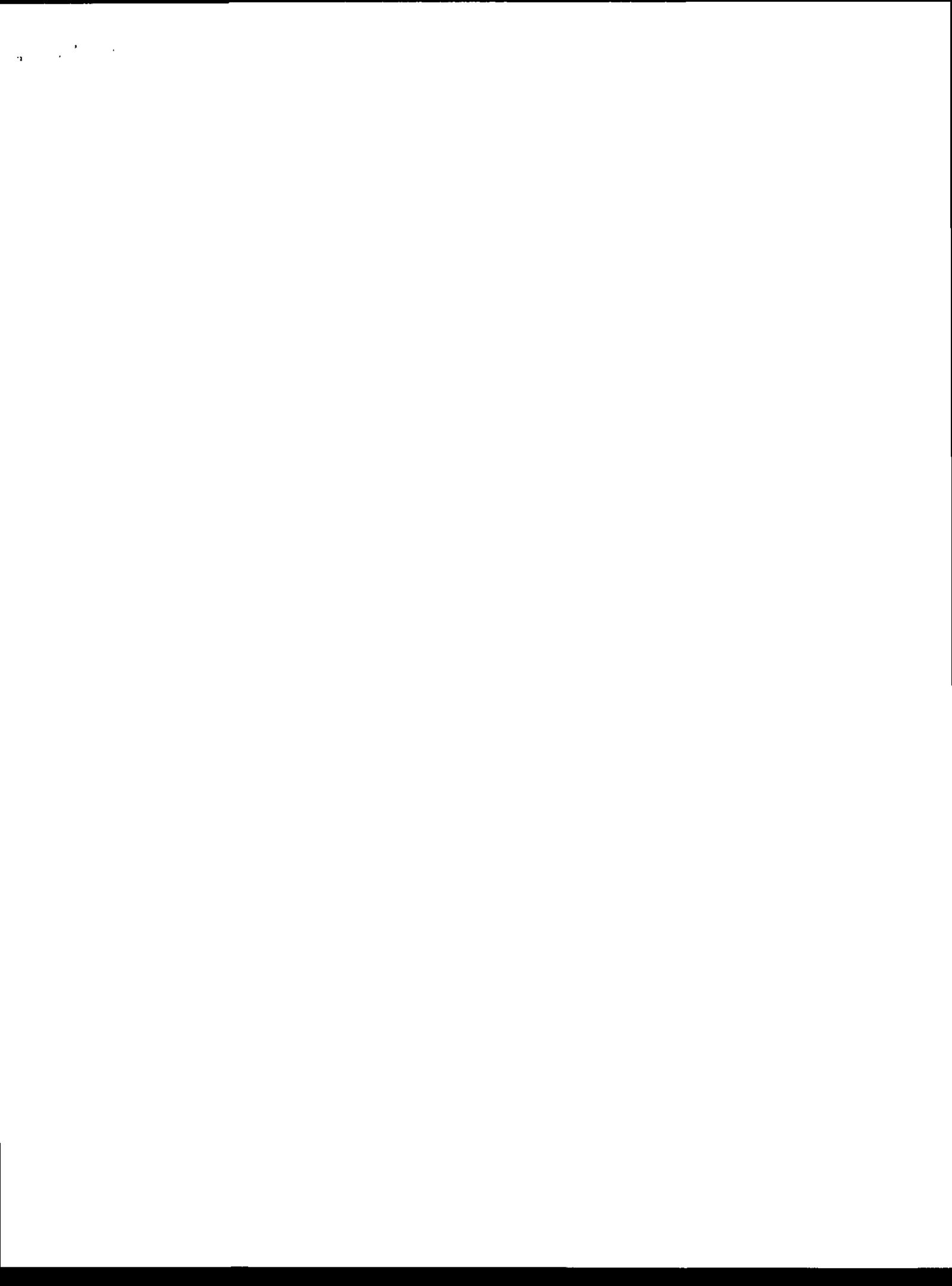
i. A completed Town of Clinton Application For A Commercial Communication Facility, a site plan, and all other requirements of the Town Zoning Law.

ii. Payment of the application fee (\$500, unless otherwise indicated by the Town fee schedule) when the completed application is submitted to the Planning Board.

iii. A completed SEQRA Full Environmental Assessment Form (Parts I, II, and III) and such other SEQRA forms as may be required by the Planning Board.

iv. A written agreement with the owner(s) of the structure and/or the real property to allow installation of the communication facility.

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



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vi. Certification that proposed radio-frequency emissions will comply with FCC standards and that the facility will not cause interference with existing communication devices. This radio-frequency emission certificate shall be prepared using the methods and techniques prescribed in the most current edition of FCC OET Bulletin No. 65 (or current equivalent) and must show all calculations, formulas and assumptions used.

vii. A five (5) year buildout plan for the proposed site and other sites within the Town and within adjacent towns, which shows the applicant's plans for other structures, proposed application and building dates and justification for additional structures. Additionally, the 5 year buildout plan must take into consideration known and potential changes in technology which may have an effect on the number, design, and type of facilities needed in the near future. In keeping with the buildout plan, the applicant shall also notify the Planning Boards of all adjacent communities and the coordinator of the Dutchess County Office of Emergency Response concerning the location and height of the proposed facility.

viii. An inventory of all tall structures within 4 miles of the proposed location which are at least 50 feet high. The inventory shall include an analysis of availability and suitability of these structures for use by the applicant in place of the proposed facility.

ix. If a communications facility is proposed for installation on an existing structure, an engineer's report that the proposed use will not diminish existing structural integrity and public safety.

x. A copy of the applicant's liability insurance which shall name the Town as an additional insured party.

xi. A copy of the applicant's FCC licenses for service in the proposed area and a copy of FCC Form 854 (or current equivalent).

xii. A copy of FAA Form 7460-1 (or current equivalent), if required (with aeronautical study, if required) or a statement from a recognized aeronautical consultant.

xiii. A copy of the Federal Environmental Impact Statement, if required.

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

xv. For a new tower, landscaping and reclamation plans in the event of future structure removal. This plan shall include provisions for site reclamation, landscaping, removal of structures, utility lines, and accessory structures, and shall cover the building site and buffer area controlled by the facility owner.

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

xvii. Additional information as requested by the Planning Board, Zoning Enforcement Officer or the Town of Clinton *Application For A Commercial Communication Facility*

33. Renewal Application Requirements for Commercial Communications Facilities

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- a. Special permits shall be reviewed every two years by the Zoning Enforcement Officer to determine whether the applicant is in conformance with the conditions of the original approval and has provided the information necessary for renewal. When the Zoning Enforcement Officer confirms that these conditions have been met, renewal of the special permit shall be reviewed for approval by the Planning Board.
 - b. A renewal application shall include the following:
 - i. The original date of issue for the Special Permit.
 - ii. A current, updated buildout plan, if a 5-year buildout plan was originally required.
 - iii. Proof of continued need for the facility, including the original evidence for need which was reviewed by the Planning Board, updated to reflect current conditions, plus any other new information relevant to the applicant's need for the facility in order to provide FCC licensed commercial communications services to areas within the Town of Clinton.
 - iv. A copy of the current FCC license.
 - v. A current certificate of insurance in the minimum amount of \$1,000,000 annually in which the Town of Clinton shall be an additional named insured (as in Section D. 31, above).
 - vi. A written agreement with the owner(s) of the structure and/or the real property to allow the continued installation and/or use of the communication facilities.
 - vii. Certification that electromagnetic radio-frequency emissions continue to meet FCC requirements.
 - c. A renewal application for a Special Permit must be submitted no less than 60 days prior to the expiration of the permit. If the application is not submitted within such time, the Special Permit shall expire unless an extension is requested from and granted by the Planning Board.
 - d. If the applicant wishes to renew a Special Permit after it has expired, a new application for a special permit shall be required.
 - e. During the renewal review process the Planning Board may modify, add to or delete the previous conditions associated with the approval of the Special Permit, and may require a revised site plan, based upon the circumstances existing at the time of the renewal review process.
 - f. Conforming to the renewal process and timing requirements is the applicant's responsibility.
 - g. Any costs which result from the renewal application, including but not limited to consultant fees and advertising costs for public hearing notification, shall be borne by the applicant.
34. **Violations.** Any person, entity or property owner who violates any provision of this law, or permits or allows such violation, shall be subject to the penalties set forth in Section 7.14, Violations, of the Town Zoning Law.
35. **Severability.** If any part or provision of this amendment or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this amendment or the application thereof to other persons or circumstances and the Town Board hereby declares that it would have enacted this amendment or the remainder thereof if

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the invalidity of such provision or application thereof had been apparent.

E. Stream-lined Approval Process

1. In order to encourage the appropriate location, co-location and design of commercial communication facilities in the Town of Clinton, applications which meet the criteria listed in this section shall be given the benefit of a stream-lined approval process.
2. Criteria.
 - a. Facilities must be located on or within existing structures such as silos, buildings, church steeples, etc., or on high tension electric towers located within electric utility right of way strips which pass through the town, and
 - b. Facilities must not be located in Ridgeline, Scenic and Historic Protection Overlay Areas unless the applicant agrees to camouflage the facility, such that, in the judgment of the Planning Board it is compatible with the surrounding scenery and structures in the overlay areas, and
 - c. The applicant must agree to abide by all applicable requirements of the Standard Approval Process of the Town Zoning Law pertaining to commercial communication facilities, without a variance.
3. Stream-lined Application Process
 - a. The applicant may complete a short Environmental Assessment Form and visual EAF addendum instead of a SEQRA Full Environmental Assessment Form (Parts I, II and III), unless otherwise required by the Planning Board.
 - b. The applicant shall not be required to provide a five (5) year buildout plan for the proposed site as specified above.
 - c. The applicant shall not be required to provide an inventory of all tall structures within four (4) miles of the proposed location which are at least 50 feet high, as specified above.
 - d. The Planning Board may waive the visual analysis or any part thereof, and rely instead on the visual representations provided in the site plan.

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SECTION 3.2, SCHEDULE OF USE REGULATIONS - PRINCIPAL USES, PAGE 11

Section 3.2, the table for Schedule of Use Regulations - Principal Uses is hereby amended as follows: The existing entry for Communication antenna or tower, commercial, is deleted and replaced by the following, to be listed in the appropriate alphabetical order [new text is underlined]:

	Supplementary Regulations Section	Site Plan Required	C	AR5	AR3	MR1	CR1
<u>Commercial Communication Facility</u>	<u>5.17-B</u>	<u>yes</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP*</u>	<u>SP*</u>
	RH	H	I	F			
	<u>SP*</u>	<u>SP*</u>	<u>SP</u>	-			

SECTION 3.2, SCHEDULE OF USE REGULATIONS - ACCESSORY USES, PAGE 15

Section 3.2, the table for Schedule of Use Regulations - Accessory Uses is hereby amended as follows [new text is underlined]:

The Supplementary Regulations Section for Communications antenna or tower, non-commercial, is changed from 5.17 to 5.17A.

The existing entry for Communication antenna or tower, commercial, is deleted and replaced by the following, to be listed in the appropriate alphabetical order:

	Supplementary Regulations Section	Site Plan Required	C	AR5	AR3	MR1	CR1
<u>Commercial Communication Facility</u>	<u>5.17-B</u>	<u>yes</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP*</u>	<u>SP*</u>
	RH	H	I	F			
	<u>SP*</u>	<u>SP*</u>	<u>SP</u>	-			

* Commercial Communications Facilities are limited to facilities installed on or within existing structures, as stated in Section 6-c above.

ARTICLE 4, AREA AND BULK REGULATIONS, PAGE 28

The entry for 4.5.A is amended to read as follows [new text underlined]:

Flagpoles, radio or television antennas, transmission towers or cables, windmills, agricultural barns and silos, and similar features, any of which shall be restricted to a maximum height of eighty (80) feet above average finished grade at its base, except as otherwise provided in section 5.17-B.

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ARTICLE 5, SUPPLEMENTARY REGULATIONS

The entry for 5.17 is amended to read as follows [new text underlined]:

5.17-A Non-Commercial Communications Antenna or Tower

A new entry is enacted as follows:

5.17-B Commercial Communications Facility

SECTION 5.40, PAGE 77

The title of section 5.40, PUBLIC UTILITIES AND TRANSMISSION LINES, is amended to read as follows:

5.40 PUBLIC UTILITIES AND TRANSMISSION LINES (other than commercial communications facilities, which are regulated by section 5.17B)

SECTION 5.41, PAGE 78

The title of section 5.41, SATELLITE DISH ANTENNA, is amended to read as follows [new text underlined]:

5.41 SATELLITE DISH ANTENNA (other than commercial communications facilities, which are regulated by section 5.17B)

SECTION 8.2, PAGE 147

Existing section 8.2, Definitions, is hereby amended as follows: The definition section which begins "Communication Antenna or Tower, Commercial" is deleted. The definition for Satellite Dish Antenna is amended as follows [new text is underlined]:

Satellite Dish Antenna - Any parabolic dish, antenna, or other device or equipment of whatever nature or kind, more than two (2) feet in diameter, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites. This does not include any device which transmits and receives electromagnetic waves in order to provide commercial communication services.

The following definition sections are added in alphabetical order:

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Adequate Coverage - Coverage for commercial communications facilities is considered to be "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is greater than -90 dbm for at least 80% of the intended coverage area. It is acceptable for there to be holes within the area of adequate coverage where the signal strength declines further away from the base station (e.g. - 95 dbm rather than - 90 dbm). For the limited purpose of determining whether the use of a repeater is necessary, there shall be deemed to be inadequate coverage within said holes. The outer boundary of the area of adequate coverage is that location past which the signal does not regain a strength equal to or greater than - 90 dbm.

Adequate Capacity - Capacity for commercial communications facilities is considered to be "adequate" if the Grade of Service (GOS) is p .02 or better for median tele-traffic levels offered during the typical busy hours, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the land line or radio portions of a wireless network, Adequate Capacity for the purpose of this law shall apply only to the capacity of the radio components.

Average Tree Canopy - The average height of a stand of trees. For the purpose of determining the maximum height of a commercial communications facility to be installed on a wooded lot having at least 20 trees within 100 feet of the proposed site, the average height of the trees located within 200 feet of the proposed site shall be used to determine the average tree canopy.

Camouflage of Commercial Communications Facilities - When facilities are installed on an existing building or structure, camouflage will partially or wholly conceal antennas and other auxiliary equipment by incorporating them into the appearance of the existing structure. When facilities include a new tower or other tall structure, camouflage will conceal both the tall structure and the accompanying antennas and other equipment through use of technology which gives these facilities the appearance of structures which are compatible with the surrounding area. These disguised structures may have the appearance of concrete silos, flag poles, churches with steeples, trees, or other suitable structures.

Carrier - An FCC licensed operator which uses commercial communications facilities to provide wireless services to customers.

Co-locator, Commercial Communication Facility - A provider of commercial communication services which installs an antenna or other communications facility on an existing structure which already supports one or more facilities used by other commercial communication providers.

Communication Antenna, Commercial - A device, including but not limited to whips, dishes or panels, for transmitting and receiving electromagnetic waves, with or without connecting wires, as part of a business activity.

Communication Accessory Building or Equipment Shelter, Commercial - An enclosed structure, cabinet, shed or box containing batteries, electrical equipment and other devices needed in the operation of communication equipment.

Communication Co-location, Commercial - The use of a single mount on the ground by more than one carrier and/or several communications mounts on a building or structure by more than one carrier.

Communication Facility, Commercial - A term intended to include all of the various structures and devices which transmit and/or receive electromagnetic waves in order to provide commercial communication services, including, but not limited to, cellular telephone service and personal communication services. Facilities include towers, antennas and any accessory structures or equipment designed and constructed for use by a commercial provider of such services.

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Communication Repeater, Commercial - A receiver/relay transmitter designed to enhance the strength of a signal which is transmitted from a different location.

Communications Structure, Commercial - A man-made combination of materials assembled at a fixed location to give support or shelter to a device for transmitting and receiving electromagnetic waves, including but not limited to a tower, dwelling, accessory building, trailer, platform, fence, sign, flagpole, silo or other building.

Communications Tower, Commercial - An erect structure or framework, either self-supporting or secured to the ground or other surface by diagonal cables, designed to support devices which transmit and/or receive electromagnetic waves in order to provide commercial communication services, including but not limited to receiving and/or relaying antennas and/or equipment; electrical or cable power lines of any transmission or conductance range; or any other equipment or device. A tower includes both the primary structure and any supporting apparatus which is attached to it.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

Electronics Industry Association/Telecommunications Industry Association 222E - The Electronics Industry and Telecommunications Industry Associations' structural standards for steel antenna towers and antenna supporting structures.

FAA - Federal Aviation Agency. The Government Agency responsible for regulating aeronautical activities in the United States and the structures and actions which affect them.

FAA 14CF21 regulation - That portion of the FAA regulations referring to tall structures, which induces requirements for reporting, lighting, special painting, etc.

FAA Form 7460-1 - The notice of construction or alteration required by the FAA for tall structures.

FCC - Federal Communications Commission. The Government Agency responsible for regulating telecommunication in the United States.

FCC Form 854 - The inventory form for the Tower Structure Registration Program of the FCC.

FCC OET Bulletin No. 65 - The FCC manual titled "Evaluating Compliance With FCC Specified Guidelines For Human Exposure To Radio Frequency Radiation."

Grade Of Service - A measure of the percentage of calls which are able to connect to the base station during the busiest hour of the day, expressed as the remainder percentage of calls which are unable to connect. For example, p .05 means that 95% of callers will connect on their first try. A lower number (e.g. p .04) indicates a better grade of service (96% of callers are able to connect on their first try).

Radiation Propagation Studies or Radial Plots - Computer generated estimates of the radiation emanating from antennas or repeaters located on a specific tower or structure. The height above ground, and above mean sea level, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these simulations.

Ridgeline Protection Overlay Area - This area includes all lands in the Town of Clinton which are 500 feet above mean sea level or higher.

Ridgeline, Scenic and Historic Protection Overlay District - Lands of particular scenic and historic importance to the Town of Clinton, which are subject to regulations which exempt single family

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residences and agricultural uses. Included are the Ridgeline Protection Overlay Area and the Scenic and Historic Protection Overlay Area.

Scenic and Historic Protection Overlay Area - This area includes lands which are within the Taconic State Parkway Viewshed, within the hamlets included on the Town Zoning District Map and within Clinton's seven Critical Environmental Areas.

Taconic State Parkway Viewshed - For the purposes of this law, this area includes all lands in the Town of Clinton which are within 3,000 feet of the paved surface of the Taconic State Parkway.

Tree Canopy - The average height of a stand of trees.

User (of a commercial communications facility) - A provider of FCC licensed commercial communications services which operates on a facility it owns or leases from another owner. For the purposes of this law, users do not include the customers of FCC licensed carriers, who may use wireless services provided by these carriers.

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TOWN OF CLINTON RIDGELINE, SCENIC AND HISTORIC
PROTECTION OVERLAY DISTRICT

TABLE OF CONTENTS

The Table of Contents of the Town of Clinton Zoning Law is hereby amended as follows [new text is underlined]:

Under ARTICLE 3 DISTRICT REGULATIONS the following is added in numerical order:

3.8 RIDGELINE, SCENIC AND HISTORIC PROTECTION OVERLAY DISTRICT REGULATIONS

ARTICLE 1, PURPOSES, PAGE 1

Section 1.2, is hereby amended as follows [new text underlined]:

K. To preserve the visual beauty of the Town by encouraging development below ridgelines and maintaining critical viewsheds.

ARTICLE 2, ESTABLISHMENT OF DISTRICTS, PAGE 3

Section 2.1 is hereby amended as follows [new text underlined]:

2.1 ZONING DISTRICTS

For the purposes of this law, the Town of Clinton is hereby divided into the following ten (10) districts:

C	Conservation Agricultural Residential
AR5	Very Low Density Agricultural Residential
AR3	Low Density Agricultural Residential
H	Hamlet
RH	Residential Hamlet
MR1	Medium Density Residential
CR1	Clustered Residential
I	Office-Light Industry
F	Flood Plain
<u>RS&H</u>	<u>Ridgeline, Scenic and Historic Protection Overlay</u>

Section 2.2 is hereby amended as follows [new text underlined]:

2.2 ZONING MAP

The location and boundaries of said districts are shown on the “ZONING DISTRICT, RIDGELINE PROTECTION OVERLAY, and SCENIC AND HISTORIC PROTECTION OVERLAY MAPS OF THE TOWN OF CLINTON,” which are hereby adopted and declared to be a part of this law. Zoning District Maps shall be kept up-to-date and shall be located in the Town Clerk’s office for public use.

SECTION 2.5, PURPOSE OF EACH DISTRICT, PAGE 4

New section 2.5, J is hereby adopted

J. Ridgeline, Scenic and Historic Protection Overlay District

High ridgelines are found throughout the town, but primarily are located in the northern districts designated as AR5 and C. These ridgelines and hilltops are exceptional aesthetic and ecological resources, visible from many perspectives and distances, and typify Clinton's rolling, often rugged, rural topography. The Ridgeline Protection Overlay Area includes lands that are 500 feet or more above sea level. The Scenic and Historic Protection Overlay includes the Taconic Parkway Viewshed, the hamlets included on the Town Zoning District Map and Clinton's seven Critical Environmental Areas. The Taconic Viewshed is defined as lands in the Town of Clinton which are within 3,000 feet of the paved surface of the Taconic State Parkway. This viewshed is a critical part of Clinton's rural scenery, is the first introduction to Clinton for many travelers, and is frequently viewed by residents of the Town. Clinton's hamlets have historic value and are important to the character of the Town. Their location and boundaries are shown on Clinton's Zoning District Map. Clinton's Critical Environmental Areas have been designated by the Town Board to have scenic, environmental, cultural or historic characteristics which merit special protection. Other areas which offer exceptional viewsheds frequently enjoyed by residents and visitors and/or contain structures or sites of historic importance may be designated as part of the Scenic and Historic Protection Overlay by the Clinton Town Board.

Ensuring that tree lines are uninterrupted, ridgetops are free from manmade structures, and new structures are compatible with surroundings in these overlay areas will prevent the degradation of the rural, historic character and beauty of the Town. Building permit and special permit applicants are encouraged to: 1) Site projects off of ridgetops and hilltops, out of sight lines from valleys, and below tree canopies in Ridgeline Protection Overlay Areas, and 2) Build structures that are compatible in height and design with other buildings and the surrounding environment in Scenic and Historic Protection Overlay Areas.

ARTICLE 3, DISTRICT REGULATIONS, PAGE 24

New section 3.8 is hereby enacted.

3.8 RIDGELINE, SCENIC AND HISTORIC PROTECTION OVERLAY DISTRICT REGULATIONS

A. Purpose

1. It is the purpose of the overlay district to protect the aesthetic, scenic and ecological character and nature of higher elevation areas and designated scenic and historic areas. The purpose of the overlay areas is not to regulate the use of land for agriculture or single family residential development.
2. These overlay areas provide standards for regulating the number, height, design, placement and impacts of structures 1) on lands which are 500 feet or more above sea level, and 2) in designated scenic and historic areas, in order to minimize structural intrusions upon the visual landscape, preserve ecological integrity and maintain the rural character of the Town.
3. These standards shall be applied in addition to all other provisions of Town Zoning Law.

B. Location

The Ridgeline, Scenic and Historic Protection Overlay District is comprised of:

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1. Lands which are 500 or more feet above mean sea level. These lands are shown on an overlay to the Town of Clinton Zoning Map.
2. Lands which are within 3,000 feet of the paved surface of the Taconic State Parkway. Lands within the 3,000 foot corridor are shown on an overlay to the Town of Clinton Zoning Map.
3. Clinton's hamlets which are included on the Town Zoning District Map.
4. Clinton's seven Critical Environmental Areas.

C. Applicability

Regulations contained in this section apply to all commercial uses in the overlay district and to those residential uses which, according to Article 3 of the Town Zoning Law, require a Special Permit and Site Plan. Single family residences and agricultural uses are excluded. In addition, these regulations do not apply to non-commercial or governmental communications facilities installed for personal wireless communication or emergency service. These facilities are governed by section 5.17-A, Non-Commercial Communications Antenna or Tower.

D. General Provisions

1. SEQRA. Any proposed new construction or development within the Protection Overlay District which requires a variance from the regulations in this section is considered a Type I Action under SEQRA.
2. Applications. Application for development within this area requires a special permit, as outlined in item F in this section, "Application Procedures for Special Permits for Development in Ridgeline, Scenic and Historic Protection District," which supplements the procedures and requirements of section 7.10 "Special Permits."

E. Standards. In considering its decision concerning any project development plan application, the Planning Board shall consider the standards detailed in all other sections of the Town of Clinton Zoning Law as well as the following:

1. Height.
 - a. The total height of any structure or accessory elements attached to any structure shall be measured from the natural ground level to the top of the structure or the top of uppermost accessory affixed to the structure, whichever is higher.
 - b. The total height of proposed structures shall not extend more than 35 feet above ground level in cleared areas without at least 20 trees within 100 feet of the proposed site.
 - c. If there are at least 20 trees within 100 feet surrounding the proposed location, the total height of the proposed structure shall be limited to 25 feet above the average tree canopy, or 100 feet, whichever is lower.
 - d. Structures shall comply with other height provisions of the Town Zoning Law if they are more restrictive.
2. Design. As stipulated in section 7.9 of the Town Zoning Law, Planning Board approval shall be required for the design of two family and multi-family residential buildings and non-residential structures to ensure that they will be compatible with other buildings and the natural environment in

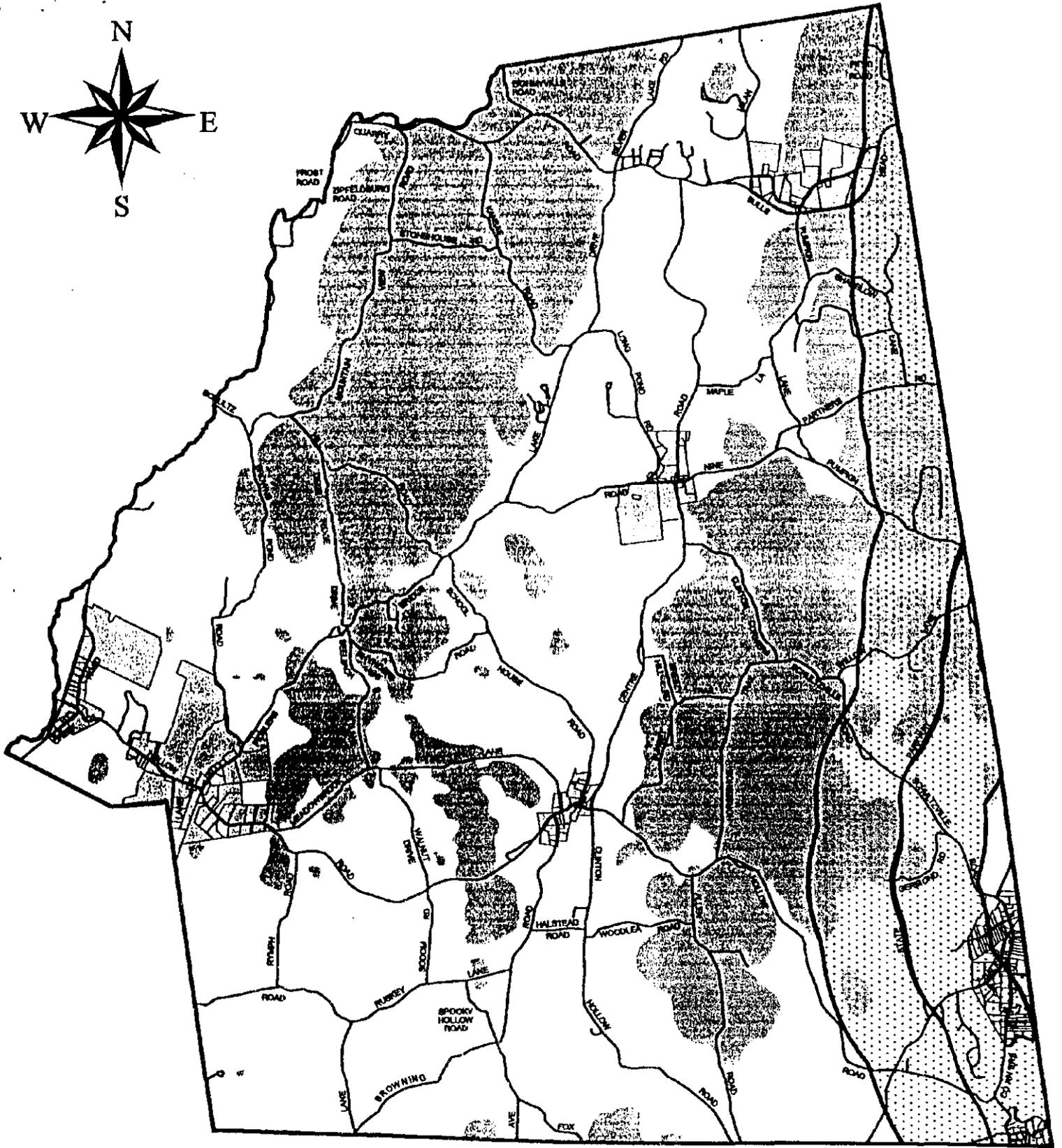
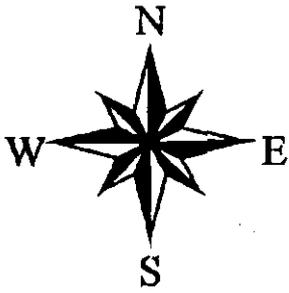
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Overlay Protection Areas. As stipulated in section 5.17-B of the Town Zoning Law, the Planning Board may require camouflage of commercial communication facilities in Overlay Protection Areas.

3. **Lighting.** The location, height, design, arrangement and intensity of outside lighting shall minimize glare and shall be directed and shaded such that light shall not be directed off-site, and shall meet all other requirements of section 7.9 of the Town Zoning Law. Commercial communication facilities shall also comply with the lighting requirements of section 517-B of the Town Zoning Law.
4. **Clearing.** In the Ridgeline Protection Overlay Area the maximum area permitted to be clear cut shall be no more than 75 feet in extent from the outer edge of the primary structure's footprint. During construction and installation of facilities and structures, only the minimum amount of existing vegetation shall be cleared. The location of any sewage disposal system footprint which is needed to support the primary structure shall be exempt from the clearing requirement.
5. **Buffer Strip.** In the Ridgeline Protection Overlay Area, a buffer strip is required to minimize to the maximum extent possible, any visual impacts of the proposed free-standing facilities. In the Scenic and Historic Overlay Areas, the Planning Board may require a buffer if the Board judges it to be necessary to protect the character of the area.
 - a. The buffer shall be a minimum of 25' wide, and shall begin at the outer edge of the cleared area which surrounds the primary structure. The buffer strip shall contain, or be planted with, vegetation of sufficient height and density as determined by the Planning Board.
 - b. The buffer strip shall be free of any manmade structures, excluding fences and an access driveway.
 - c. For commercial communications facilities, the requirements of section 5.17-B of the Town Zoning Law shall apply.
6. **Setbacks.** The proposed yard setbacks from the property line must be no less than two times the height of the proposed structure or the setback requirements in other zoning regulations, whichever are greater.
7. **Signs.** In addition to other regulations of the Town Zoning Law pertaining to signs, no signs are permitted which will be visible above the existing tree canopy.
- F. Application Procedures for Special Permits for Development in Ridgeline, Scenic Or Historic Protection Districts. When applying for a Special Permit, the applicant shall follow all procedures and submit all forms, plans, documentation and fees required by this or any other section of the Town of Clinton Zoning Law. In addition to requirements of other sections of the Zoning Law, an applicant shall provide the following:
 1. A SEQRA Full Environmental Assessment Form (Parts I, II, III) and such other SEQRA forms as required by the Planning Board.
 2. A site plan, as described in section 7.9 of the Zoning Law.
 3. A visual analysis, the methodology of which is to be approved by the Planning Board prior to the commencement of this analysis. This may include drawings of the proposed structure(s) overlaid on photographs of the site from various distances and perspectives.
 4. Identification and reclamation plans of proposed landscaping and buffer screening areas.
 5. Additional information as requested by the Planning Board and/or the Zoning Enforcement Officer.

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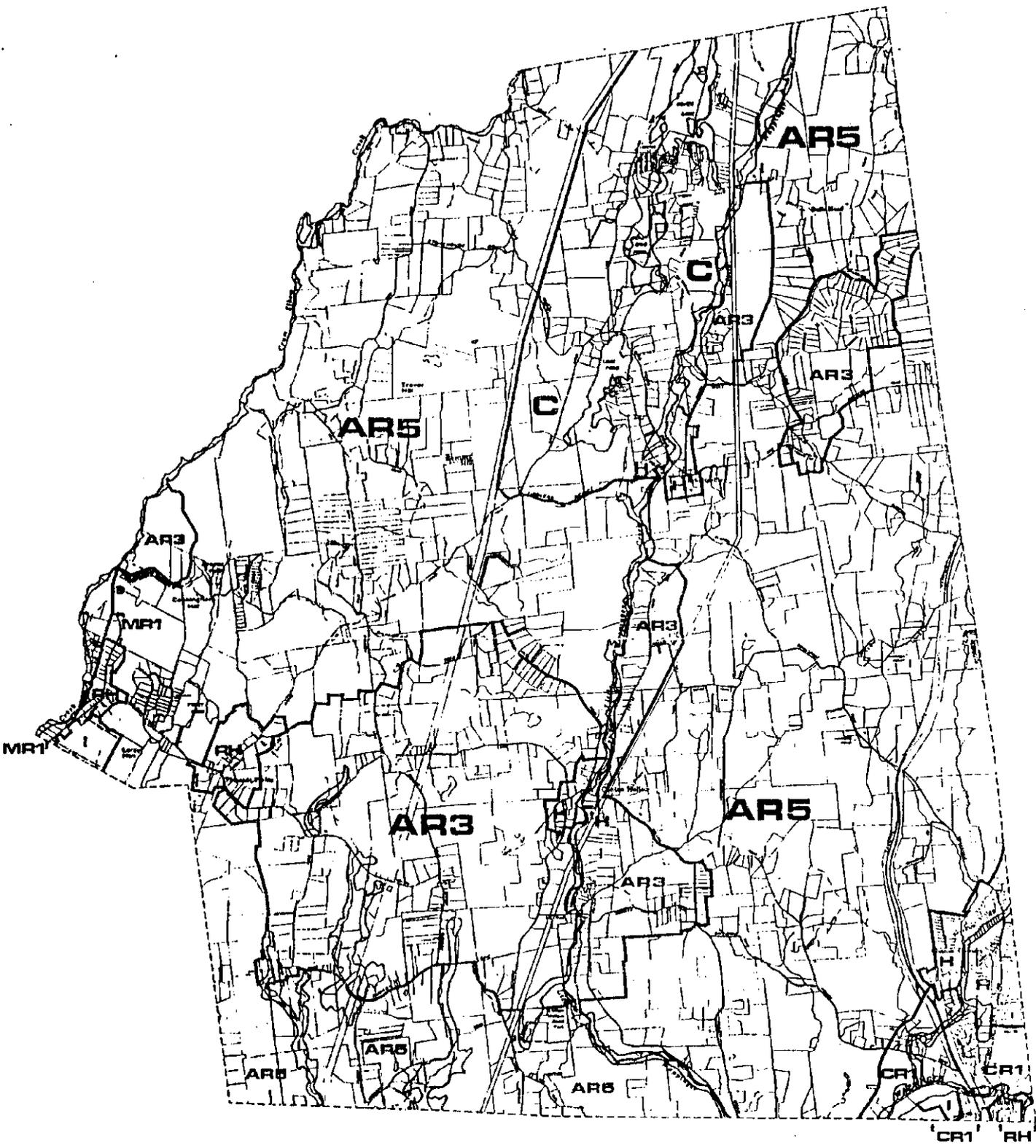
- G. Alterations. All modifications to a structure or construction of additional structures which require a building permit shall require that the applicant submit a new special permit application to the Planning Board. Exceptions which conform to "1" and "2" below shall not require a new special permit but shall require a building permit:
1. Increasing the originally approved size of any structure's building footprint by no more than 250 square feet, and/or
 2. Increasing the originally approved height of the structure no more than ten (10) feet, so long as the total maximum height restriction is not exceeded.
- H Violations. Any person, entity or property owner who violates any provision of this amendment, or permits or allows such violation, shall be subject to the penalties set forth in section 7.14 of the Town Zoning Law.
- I. Severability. If any part or provision of this amendment or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this amendment or the application thereof to other persons or circumstances and the Town Board hereby declares that it would have enacted this amendment or the remainder thereof if the invalidity of such provision or application thereof had been apparent.



-  Clinton Town Boundary
-  Taconic Parkway Viewshed
-  Text Roads
-  Roads
-  Critical Environmental Areas
-  Ridgeline Protection Overlay Area



Map Prepared for the Town of Clinton by the
 Dutchess County Environmental Management
 Council GIS Lab - C. Stackpoole
 March 15, 2000

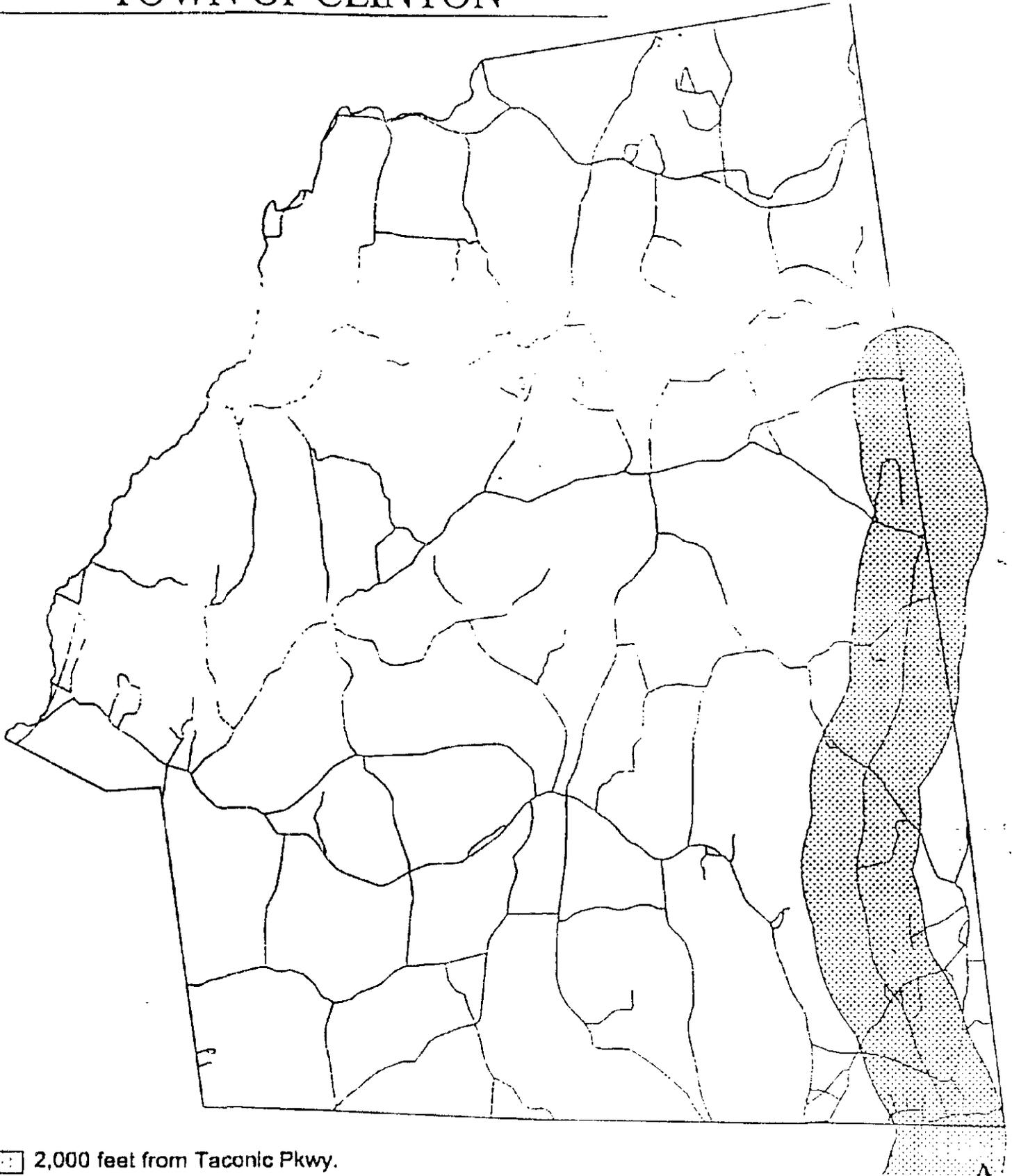


**TOWN OF CLINTON
ZONING DISTRICT MAP**

C CONSERVATION AGRICULTURAL RESIDENTIAL
 AR5 VERY LOW DENSITY AGRICULTURAL RESIDENTIAL
 AR3 LOW DENSITY AGRICULTURAL RESIDENTIAL
 MR1 MEDIUM DENSITY RESIDENTIAL
 CR1 CLUSTERED RESIDENTIAL
 H HAMLET
 RH RESIDENTIAL HAMLET
 O OFFICE - LIGHT INDUSTRY
 FLOODPLAIN - AS DEFINED BY FEDERAL EMERGENCY MANAGEMENT AGENCY MAPS



TACONIC PARKWAY VIEWSHED TOWN OF CLINTON



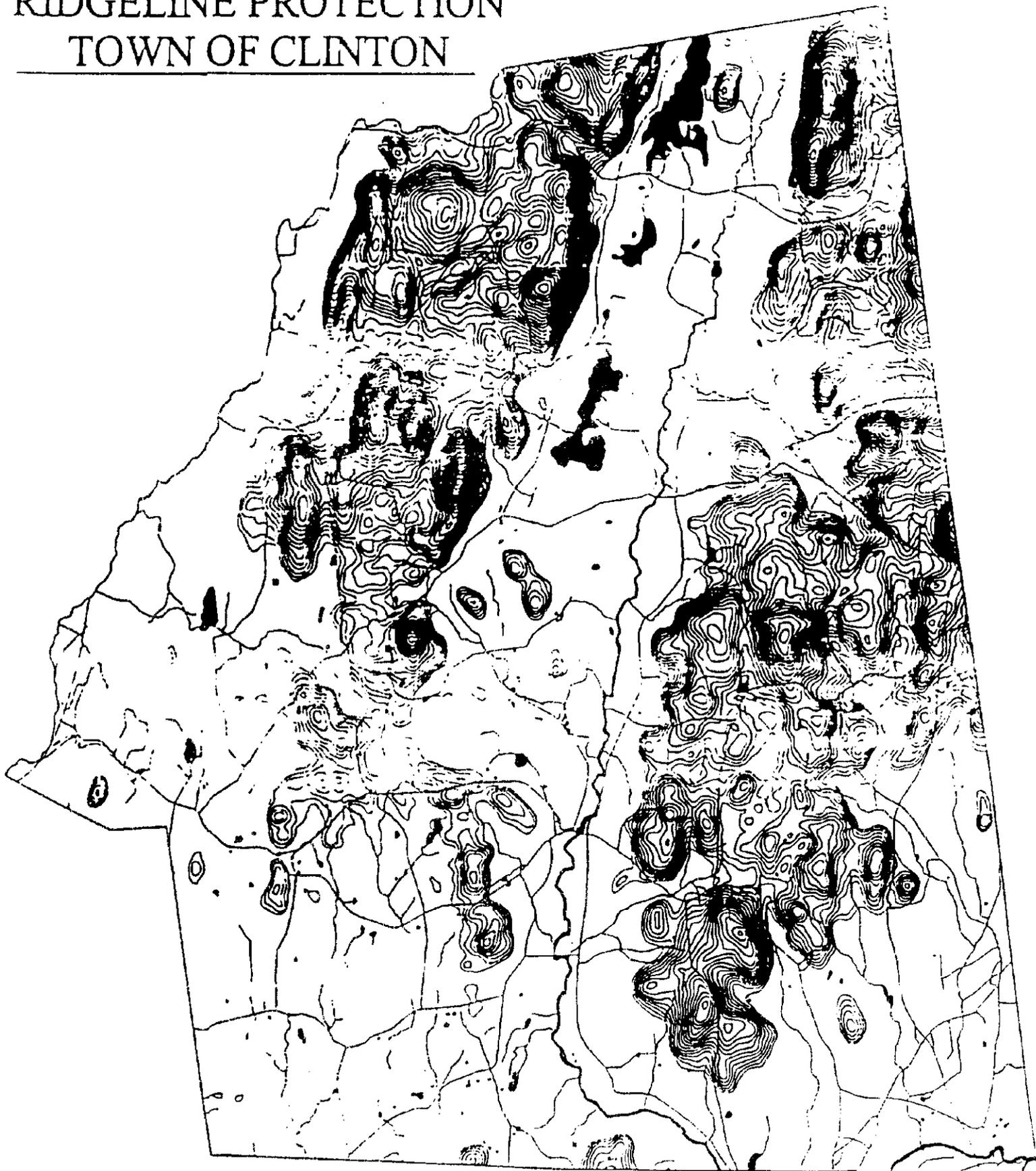
 2,000 feet from Taconic Pkwy.

Scale 1:60,000
One inch = 5,000 feet

7000 0 7000 14000 Feet

 Roads

RIDGELINE PROTECTION TOWN OF CLINTON



- Contours > 600'
- Contours from 551' to 600'
- Contours from 500' to 550'
- Streams and rivers
- Water bodies
- Roads

Scale 1:56,000
One inch = 4,667 feet

