

Part F: Additional Information

Amendment of §250-78, Freshwater wetlands, watercourses, lakes, ponds and floodplains

The Proposed Action is a local law to amend Chapter 250-78 of the Town of Clinton zoning code. The amendments do not change the intent or protectiveness of the law, but instead serve to clarify the language for implementation. Certain exemptions were added to the law, but these exemptions are not considered significant when compared against the environmental considerations the law sets forth. The following represent the notable amendments made:

1. Where words or terms were repeated or listed in the original law, language has been updated in favor of succinctness and clarity. To this end, the defined term “controlled area” replaces language in many locations throughout the amended code.
2. In general, wetland permitting in this section is related to both **actions** performed within a controlled area, as well as the **impacts** of those actions. For example, altering or modifying natural features and contours or natural drainage patterns (the action) can lead to an “increase or decrease in the flow, velocity, or volume of water” and increased sedimentation within a controlled area (the impact). Edits sought to consolidate language to focus either on an action or an impact as appropriate. This benefits the Building Department, Planning Board and Zoning Board of Appeals when interpreting the law.
3. Section C was amended to describe conditions under which a permit is NOT required under this section, ie, wetlands regulated by the NYS DEC. The new process outlined in this section reflects the new process established by the NYS DEC for making “jurisdictional determinations.” This represents an initial screening step performed at the building department in determining whether Planning Board review is required.
4. Section D now lists activities requiring a permit. This section was mostly edited for clarity, however; the clear cutting of trees “at once or over time” was determined to be a challenging standard to measure. “Clear cut” is not defined anywhere in the code, and impacts due to this action (soil erosion, altering or modifying natural features within a controlled area) remain regulated by this law. It was felt that this statement was redundant, and the requirement was therefore removed.

5. Section E, exempt activities, were edited for clarity as interpretation has proven challenging in the past. Three new exempt activities were added to this section to reduce the burden on homeowners and code enforcement:
 - a. Placement or construction of any structure that does not entail more than thirty (30) cubic feet of ground disturbance;
 - b. Excavation or removal, dumping, filling or depositing of material not to exceed thirty (30) cubic feet;
 - c. Routine maintenance such as mowing and gardening activities.
6. Section F, Application Process, was amended to include consideration of a NYS DEC Jurisdictional Determination, as well as to provide the Planning Board with additional guidance regarding appropriate information that can be requested of an applicant, at their discretion.
7. Section G, Standards for permit decisions, was amended for brevity, where a long list of standards conflated **actions** with **impacts** (see item 2 above). This section has been amended to focus on the extent to which regulated actions (Section D) create certain environmental/watershed impacts.
8. Section H, previously “Waiver of Requirements” is replaced by “findings.” It was determined that an entire section waiving the application requirements was not necessary and the ability to waive a requirement was simply noted in Section F. The waiver provision also includes a number of statements that are an intrinsic matter of process, either as existing agency policy or NYS Town Law, and therefore did not need to be repeated.