

**VIEW DRAFT**  
**June 14, 2017**

**Chapter 120**  
**of the Rhinebeck Village Code**

**ZONING**

[HISTORY: Adopted by the Board of Trustees of the Village of Rhinebeck \_\_\_\_\_, which superseded former Ch. 120, Zoning, 6-12-2001 by L.L. No. 2-2001 and 1-11-1977 by L.L. No.1-1977, as amended. Amendments noted where applicable.]

**GENERAL REFERENCES**

Planning and Zoning Board Alternate Members -- See Ch. 14, Art. I.  
 Building Construction and Fire Prevention --- See Ch. 39  
 Unsafe Buildings -- See Ch. 41.  
 Environmental Quality Review -- See Ch. 49.  
 Fire Prevention and Building Construction -- See Ch. 56.  
 Flood Damage Prevention -- See Ch. 59.  
 Historic Buildings Protection --- See Ch. 64  
 Professional Fees, Payment of --- See Ch. 85  
 Sales, Outdoors ---- See Ch. 89  
 Sewer --- See Ch. 91  
 Streets and Sidewalks --- See Ch. 98  
 Trees ---- See Ch. 106  
 Water --- See Ch. 115  
 Road Specification --- See Ch. A125  
 Subdivision Regulations -- See Ch. A126

**ARTICLE I**

**General Provisions; Purposes and Principles**

**~ 120-1. Legislative authority; purpose.**

This chapter is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, ~ 10 et seq., of the consolidated laws, and under ~ 7-700 of the New York State Village Law, and in accordance with the land use policies, principles and guidance provided by the Village of Rhinebeck Master Plan, to protect and promote public health, safety, morals, comfort, convenience, economy, aesthetics, general welfare, natural and cultural resources, and for the following purposes:

- A. To provide a flexible system of land use regulation that enables the Village to grow, while preserving its most important historic, natural and cultural features.
- B. To preserve the unique character of the Village.
- C. To enhance the sense of community among the Village's residents.
- D. To promote and preserve the Village's historic structures, sites and cultural features.
- E. To enhance the aesthetic and architectural quality of the Village.

- F. To promote a pattern of land use that reinforces the Village as a community center with defined boundaries.
- G. To conserve important natural resources and features and the rural character of the Village.
- H. To protect residences from nuisances, odors, noise, pollution and other unsightly, obtrusive and offensive land use activities.
- I. To allow economic opportunities that are consistent with the character of the Village and meet the needs of its residents.
- J. To provide a broad range of housing options for all present and future Village residents, including young people, families with children, and the elderly.
- K. To regulate building density in order to concentrate population in appropriate locations while allowing reasonable privacy for residences, ensuring access to light and air, conserving open space, facilitating the prevention of fires, and minimizing the cost of municipal services.

**~ 120-2. Interpretation of provisions.**

All provisions of this chapter shall be construed broadly to fulfill the purposes stated in ~ 120-1 above.

**~ 120-3. Application of provisions; effect on other laws.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare. This chapter is not intended to interfere with or abrogate or annul any easement, covenant or other agreement between parties; wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

**~ 120-4. Establishment of districts.**

- A. Land use districts. For the purpose of this chapter, the Village of Rhinebeck is hereby divided into the following districts:

- Residential District (R)
- Village Center District (VC)
- Gateway Business District (GB)
- Medical & Professional District (MP)
- Fairgrounds District (F)

- B. Overlay districts. Overlay districts do not change the use and dimensional requirements of the underlying land use districts unless specifically so stated in this chapter. They are not intended to prohibit development, but rather to assure that the siting and design of development is sensitive to historic and environmental resources. On any given parcel of land, more than one overlay district may apply.

- Historic District Overlay (HDO)
- Special Sensitivity Overlay(SSO)
- Land Conservation Overlay (LCO)

**~ 120-5. Zoning map; interpretation of boundaries; lots in more than one district.**

- A. The boundaries of the land use and overlay districts are hereby established on the map entitled "Village of Rhinebeck Zoning Map" adopted by the Village Board of Trustees and certified by the Village Clerk, which accompanies and is hereby declared to be a part of this chapter. Unofficial photo-reductions of these maps are appended to this chapter for reference purposes only.
- B. Interpretation of district boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
- (1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
  - (2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
  - (3) Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
  - (4) Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.
  - (5) Boundaries indicated as parallel to or extensions of features indicated in Subsection B(1) through (3) shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- C. Lots in more than one district. Where a land use district boundary line divides a lot in single ownership existing at the time of enactment of this chapter, the district requirements of the less restricted portion of the lot shall extend up to a maximum of 35 feet into the more restricted portion of the lot.

**~ 120-6. Allowable uses**

- A. It is the purpose of this chapter to allow flexibility of land use in conformance with the dimensional, use and performance criteria contained herein. In reviewing applications for special permits and site plan approval, it is the responsibility of the Planning Board and, if necessary, the Board of Appeals to attach such conditions as may be necessary to ensure that a proposed use will be compatible with its surroundings and consistent with the purposes of this chapter contained in ~ 120-1. Such Boards shall deny any proposed use which they find will not or cannot be operated in a manner that satisfies the criteria in this chapter. No structure or land shall be used except as provided in the Allowable Use Groups Chart. See ~120-64 for definitions of the use categories. Uses which are not listed in Table 1 are prohibited.
- B. In the following Allowable Use Groups Chart the symbol "p" means the use group is allowed as of right, the symbol "sp" means the use group requires a special permit, and the symbol "X" means the use group is not allowed in that particular district. In the R District an "SSO" designation indicates that those use groups are allowed by special permit where the Special Sensitivity Overlay applies.

**TABLE 1**  
**Allowable Use Groups Chart**

<b>Allowable Use Group*</b>	<b>Village Center</b>	<b>Residential</b>	<b>Medical &amp; Professional</b>	<b>Gateway Business</b>
<b>Business Use Group</b>				
Agricultural use	X	sp	X	p
Amusement facility	sp	X	X	sp
Auto service station	X	X	X	sp
Craft workshop	sp	X, (SSO)	X	sp
Financial Institutions	p	X	X	p
Funeral home	sp	X	sp	sp
Home occupation	sp	sp	sp	X
Professional office	p	X, (SSO)	p	p
Recreational business	X	X	X	sp
Retail business	p	X	X	p
Service business	sp	X	X	sp
Restaurant	sp	X	X	sp
<b>Residential Use Group</b>				
Accessory dwelling unit	sp	sp	sp	X
Alternate-care housing (ACH)	X	sp	sp	X
Apartments	p	X	sp	sp
Bed-and-breakfast establishment	sp	sp	sp	X
Dwelling, single-family	sp	p	p	X
Dwelling, two-family	sp	sp	sp	X
Dwelling, three-family	sp	X	sp	X
Dwelling, multifamily	sp	X	X	X
Lodging facility	p	X, (SSO)	X	sp
Nursing home	sp	sp	X	X
Planned residential development	X	sp	X	X
Room rental home	sp	sp	sp	X
<b>Community Use Group</b>				
Cemetery	sp	sp	X	sp
Day care, family	sp	p	sp	X
Day care, family group	sp	X	sp	X
Educational use	sp	X	X	sp
Hospital	X	sp	X	X
Library	sp	sp	X	sp
Lodge or club	sp	X, (SSO)	X	sp
Municipal use	p	p	X	p
Religious institution	sp	sp	X	sp
Active recreation	sp	sp	X	sp
Passive recreation	sp	p	X	p

\*For Fairgrounds District see Article VII

~ 120-7. Accessory uses.

In all districts, all uses permitted for each district in Table 1, Allowable Use Groups Chart, shall be permitted as accessory uses, provided that the combination of uses shall meet all of the other provisions of this chapter.

~ 120-8. Dimensional table.

**TABLE 2**  
**Dimensional Table\***  
**Yard, Area, Setback and Height Requirements**

	<b>Village Center</b>	<b>Village Center-SSO</b>	<b>Residential**</b>	<b>Gateway Business</b>	<b>Medical &amp; Professional</b>
Minimum lot area (square feet)	4,000	4,000	8,000	15,000	8,000
Minimum front yard setback (feet)	0	10'	10'	20	10
Maximum front yard setback (feet)	5	25	25'	40	25
Minimum side yard setback (feet)	0	10	10	20	10
Maximum side yard setback (feet)	25	--	--	--	--
Minimum rear yard setback (feet)	10	10	10	10	10
Minimum lot frontage (feet)	40	40	60	75	70
Minimum lot width (feet)	40	40	60	75	70
Maximum building height (feet)	40	40	35	35	35
Maximum lot coverage	75%	75%	30%	30%	30%

\*For Fairgrounds District see Article VII

\*\*Note: Notwithstanding the setback provisions established above, the Planning Board may permit structures in the Residential District to be built anywhere within the setbacks, as measured from the street, of the two adjacent structures on the same side of the street. Corner lots may use the setback of the adjacent lot on each side as the average.

~ 120-9. Accessory structures.

Except as otherwise provided by this chapter, accessory structures shall be allowed in all districts, provided that they meet all of the provisions of this chapter.

~ 120-10. Yard setbacks at district boundaries.

Where two properties are separated by a district boundary, the larger of the two required yard setbacks (regardless of which type of yard, front, rear or side yard) applies to the adjoining yards of both properties.

**~ 120-11. Sight triangle.**

A sight triangle shall be maintained free from visual obstructions at a distance of 25 feet in both directions from the corner of a street for a corner lot, or a distance of 10 feet in both directions from the curb cut of a driveway, so as to provide safe sight distance for both vehicles and pedestrians.

**~ 120-12. Permitted yard encroachments.**

- A. The following structures and building features may encroach up to 3 feet into front yard setbacks in all districts: eaves, cornices, bay windows, steps and similar architectural features that are consistent with the neighborhood.
- B. The following structures and building features may encroach up to seven feet into rear yards in all districts: eaves, cornices, decks, grade level patios and steps and similar architectural features which are consistent with the neighborhood.

**~ 120-13. General performance standards.**

No use shall be established or maintained that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other local, state and federal laws, rules and regulations. Continued conformance with such standards shall be a requirement for the maintenance of any certificate of occupancy issued under this chapter.

A. Noise.

(1) No person shall operate or cause to be operated any source of sound, except as set forth below, which exceeds the following limits at any property line of the lot from which the noise is emitted:

- (a) Eighty decibels between the hours of 7:00 a.m. and 8:00 p.m. and
- (b) Seventy decibels between the hours of 8:00 p.m. and 7:00 a.m.

(2) In the Village Center and Gateway Business districts commercial uses shall not be permitted to have outside speakers or outdoor live music, except as approved by the Village Board of Trustees for specific events.

(3) The following uses and activities shall be exempt from these noise regulations:

- (a) Temporary construction or maintenance noises and vibrations between the hours of 7:00 a.m. and 8:00 p.m.
- (b) Transient noises of moving sources such as automobiles, trucks, motorcycles, construction equipment, and snow removal equipment.
- (c) Noise from safety signals, warning devices, and emergency generators.
- (d) The sound of bells or chimes from a place of worship.
- (e) Noises generated by farm activities.

B. Glare and heat. No unreasonable glare or heat shall be produced that is perceptible

beyond the boundaries of the lot on which such use is situated.

- C. Solid wastes. Dumpsters, garbage containers, and other facilities for the storage of solid wastes or recycling materials shall be located behind the front plane of the principal structure and designed to be screened from the street and/or from any adjoining property.
- D. Fire and explosion hazards. All activities involving and all storage of inflammable and/or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry.
- E. Odor. No person, firm or corporation, excluding farms, shall permit the emission of any noxious or offensive odor at the property line of the lot from which the odor is emitted.
- F. Toxic or noxious wastes. No land use or operation shall be permitted which permits or causes the escape of any toxic or noxious fumes, gases or other wastes outside the building in which the use is conducted.
- G. Vibration. No activity shall cause or create a steady state or impact vibration discernible at any lot line.
- H. Maintenance of developed lots. All open portions of any developed lot shall have adequate grading and drainage and shall be continuously maintained in a dust-free and erosion-resistant condition by suitable material.

**~ 120-14. Fences, gates, walls and vegetative screening.**

- A. General provisions.
  - (1) Construction of new, and replacement of existing fences over 36 inches in height, requires a building permit and must comply with or be brought into compliance with this chapter.
  - (2) The height of fences, gates, walls and vegetative screening shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, refuse enclosures, and similar areas.
  - (3) Fences, gates and walls may be built up to, but not on, the property line and must be located entirely on the property of the person constructing the fence, gate or wall. -
  - (4) The finished side of the fence, gate or wall shall face neighboring properties or the street.
  - (5) Fences, gates, walls and vegetative screening shall not encroach on any public right-of-way.
  - (6) The owner of the fence, gate or wall must maintain both sides of the fence, gate or wall in respectable condition.
  - (7) The height of fences, gates walls and vegetative screening located within a corner lot or curb cut sight triangle (see ~ 120-11) shall not exceed 36 inches above the lowest adjoining finished grade.

- (8) Fences, gates, walls and vegetative screening forward of the front plane of the principal structure on a lot or forward of the rear plane of the principal structure on a side that abuts a street (“Front Yard Enclosures”) shall not exceed four feet in height. Fences, gates and walls along rear and side yards shall not exceed six feet in height.
- (9) With the exception of vegetative screening, front yard enclosures shall contain evenly spaced gaps and be at least forty percent (40%) open. Front Yard Enclosures in the Rhinebeck Village Historic District shall be complementary to the principal structure on the lot and may not be constructed of vinyl or other synthetics, concrete block, or stockade style, nor of other materials prohibited in this Chapter.
- (10) Chain link fencing is prohibited along the perimeter or boundary of a lot, except within the area permitted by the setbacks in a rear yard. Fences of cloth, canvas or other like material are prohibited. Wire fencing, including chain link fencing, is prohibited in the Rhinebeck Historic District.

- B. Fences, gates and walls in the Land Conservation Overlay. Fences constructed within the Land Conservation Overlay and within 35 feet of a body of water must be constructed of fencing materials so as to provide at least 60% visibility, i.e., so that the view of the body of water is not occluded by more than 40%.

**~ 120-15. Farm animals.**

In the Village of Rhinebeck, except for farm lots, for every two acres of land there shall not be more than one adult or fully grown horse, cow, hog, beef cattle, sheep, goat or other four-legged domestic-type farm animal or combination thereof. On any nonfarm lot, the keeping of fully grown chickens, ducks, geese or other fowl shall be prohibited.

**~ 120-16. Off-street parking and loading.**

A. Off-street parking

- (1) Findings. The Village finds that large and highly visible parking areas can damage the historic layout and architectural fabric of the Village, interfere with pedestrian accessibility, and reduce the quality of life. The Village also finds that excessive parking requirements can prevent desirable enterprises from locating in the Village, where it is often difficult to provide the off-street parking required by a code based on type and square footage of businesses. However, the Village also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards and inconvenience.
- (2) Establishment of minimum and maximum ranges. In order to balance the need for adequate parking with the need to minimize harm resulting from requiring excessive parking within the Village, off-street parking requirements shall be established within the minimum and maximum ranges shown on the Off-Street Parking Chart. (Please refer to subsection (7): TABLE 3 Off-Street Parking Chart.) The Planning Board will set the number in the course of reviewing applications for site plan and special permit approvals. Uses outside of the Village Center and those that are not subject to site plan review will be required to provide the maximum number of spaces shown for that use on the Off-Street Parking Chart.
- (3) Criteria for number and layout of spaces.



- (a) The final number and layout of parking spaces shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic and scenic resources.
  - (b) The size of a 90-degree parking space shall be at least 9 feet by 18 feet, and parallel spaces shall be at least 7 feet by 22 feet.
  - (c) The minimum 90-degree aisle width with cars parked on both sides of the aisle shall be 24 feet. The Planning Board shall determine dimensions for angled spaces.
  - (d) In determining the parking requirements for any proposed use, the Planning Board shall consider the following criteria:
    - [1] The maximum number of persons who would be parking at the use, such as employees, customers, clients, members, students or other users, at times of peak usage.
    - [2] The size of the structure(s) and the site.
    - [3] The scenic or historic sensitivity of the site.
    - [4] The availability of off-site, off-street parking within 400 feet that is open to the public, owned or controlled by the applicant, or available on a shared-use basis, provided that the applicant dedicates needed off-site land for public parking or demonstrates a deeded right to shared use.
  - (e) In cases where sufficient space for parking cannot be provided on the site or in the vicinity of the site, taking into account the criteria cited above, the Planning Board may require a fee, in lieu of providing the parking spaces, for each space the applicant is unable to provide. See 120-16 (5), a-d.
- (4) Parking access parking bonus.
- (a) Applicants for building and zoning permits who provide and promote public access to the parking spaces that they are required to provide may be granted a discretionary reduction in the number of required spaces. The reduction in the number of spaces shall be determined by the Planning Board based on the criteria listed above.
  - (b) The Planning Board shall determine if the proposed public spaces qualify as publicly accessible.
  - (c) All spaces that qualify the applicant for a parking bonus shall be marked by a directional sign indicating the location of the public parking spaces.
- (5) In-lieu fee.
- (a) The fee in lieu of providing parking spaces shall be based on the minimum number of spaces shown on the Off-Street Parking Chart (Table 3) after subtracting the number of spaces that the applicant actually provides.
  - (b) The fee in lieu of providing parking spaces shall only be implemented when all other reasonable options are exhausted and the number of spaces covered by the fee should not exceed 50% of the permitted minimum number of spaces, as established by the Planning Board.

- (c) The fee shall be set by the Village Board of Trustees at the recommendation of the Planning Board and will be reviewed annually.
- (d) The fee collected for each parking space not provided by the applicant will contribute to the parking replacement cost (PRC) of providing and/or maintaining such parking at another location in or near the Village Center.

(6) Parking fund.

- (a) The fee in lieu of providing parking spaces shall be collected and deposited into a separate fund held by the Village.
- (b) The fund may be used to provide for the acquisition, improvement and maintenance of new and existing parking solutions, including the preparation of a Village parking plan. Acquisition of parking solutions can include, but is not limited to, outright purchase of either property or leases on property or the establishment, and funding of a shuttle service to a parking area either within or outside the Village boundaries. Improvements to parking areas can include lighting, landscaping and redesign. Maintenance includes, among other things, snow removal, landscaping, painting and repaving.

(7) Off-Street Parking Chart.

**TABLE 3  
Off-Street Parking Chart**

<u>Use</u>	<u>Number of Parking Spaces</u>
Active recreation	As determined by site plan review
Alternate-care housing (ACH)	As determined by site plan review
Apartment	1 for each apartment
Amusement facilities	As determined by site plan review
Bed-and-breakfast establishment	2 for owner/resident(s), - plus 1 per guest room
Cemetery	5
Craft workshop	1 per 500 maximum – 1,000 minimum square feet
Day care, family	2 extra spaces above home occupation requirements
Day care, family group	4
Dwelling, accessory unit	1 per unit
Dwelling, multifamily	2 per unit
Dwelling, single-family	2 per unit
Dwelling, two-family	2 per unit

Educational use	1 for each vehicle owned and operated by the school, plus 1 for every 5 minimum to 25 maximum students by design capacity
Funeral home	1 per 300 maximum - 500 minimum square feet
Home occupation	1 additional for each employee
Hospital	1 for each vehicle owned and operated by the hospital, plus 1 per 2 patient beds
Library	1 per 400 maximum - 1,000 minimum square feet
Lodge or club	1 per 200 maximum - 400 minimum square feet
Lodging facility	1.25 per lodging unit
Nursing home	From 0.5 minimum to 1 maximum per unit
Passive recreation	As determined by site plan review
Professional office	1 per 250 maximum – 500 minimum square feet
Recreational business	As determined by site plan review
Religious institution	1 for each 2 maximum – 4 minimum Seats
Restaurants	1 space for every 4 indoor seats and 1 space for every 8 outdoor seats.
Retail and service Businesses	1 per 250 maximum – 500 minimum square feet
Room rental home	2 for owner/resident(s), plus 1 per guest room

(Note: All square-foot requirements refer to the gross leasable area of the building or portion thereof dedicated to the use in question.)

B. Off-street loading. As with parking, loading requirements vary with the specific uses proposed. Loading requirements shall ensure, to the extent feasible, that trucks can unload cargo in a manner that does not interfere with pedestrian and automobile movements on public road. Requirements for the number and location of loading facilities shall be established by the Planning Board during site plan review based upon the following considerations:

- (1) The expected maximum number of vehicles using the loading facilities at times of peak usage.
- (2) The type of business, size of the structure, and size of vehicles to be servicing the structure.
- (3) The need to ensure pedestrian and automobile safety by separating loading operations from pedestrian and automobile circulation.

- (4) The need to screen vehicles and loading facilities from publicly accessible areas as well as from abutting properties, including the need for vegetative screening, buffers and /or fencing.
- (5) The desirability of requiring service roads or alleys to achieve the purposes of this section.
- (6) Applicable planning and engineering standards, adapted to meet the needs of the particular business use proposed.
- (7) Other operational characteristics of the business or physical characteristics of the site deemed appropriate by the reviewing board or official.
- (8) The need to maintain the traditional layout and historic character of the Village, which may preclude the establishment of modern loading facilities in the Village Center. In such cases, on-street loading or other practices that violate Subsections (3) through (6) above may be allowed.

**~ 120-17. Bed and breakfast establishments and room rental homes.**

A Bed and Breakfast Establishment or a Room Rental Home may be allowed in an owner-occupied single-family dwelling, subject to Special Permit and Site Plan approvals and compliance with the following standards:

- A. Each Bed and Breakfast Establishment or Room Rental Home shall be designed, maintained and operated so as to preserve and complement the residential appearance of the site and the existing character of the surrounding area.
- B. A registered resident host of the property shall live on the site throughout the visitors' stay and supervise guests so as not to disrupt the neighborhood.
- C. The guest rooms shall be limited to the principal dwelling and/or one accessory building. Any guest room in an accessory building shall have sanitary facilities.
- D. No guest shall stay for a period of time in excess of 30 days.
- E. The owner shall collect and preserve registration records for a minimum of three years.
- F. The owner or resident host may serve breakfast to guests, but a public dining room, restaurant, bar or other commercial uses are prohibited.
- G. Off-street parking shall be located behind the front plane of the principal structure and shall be consistent with the residential character of the site. Parking shall be consistent with Section 120-16 and Table 3.
- H. One identification sign is permitted, not to exceed four square feet in area and five feet in height, and shall be otherwise in compliance with Section 120-19, Signs and Supporting Structures.
- I. As a condition of the Special Permit, the owner shall give reasonable access for inspections to be conducted to ensure compliance with the provisions of this Chapter and the NYS Building Code.

**~ 120-18. Lighting.**

The purpose of this section is to provide standards for exterior lighting that encourage safety and security, while conserving energy and avoiding excessive lighting, glare, and light pollution over property lines or into the night sky. The following principles and standards apply to all districts:

- A. All illuminating devices shall ensure that the light source comes from a full cut-off fixture or is fully shielded to avoid glare and allow no light to be emitted above the horizontal plane into the night sky. All moving lights, flashing lights, laser lighting, or uplighting, including searchlights, are prohibited.
- B. Lighting should be confined and limited to the minimum extent necessary to meet safety, security and other specific approved site plan purposes. Overlighting, direct glare towards streets and sidewalks and light trespass onto adjacent properties shall be avoided, consistent with the following standards:
  - (1) Light levels at the property line for adjoining parcels shall not exceed 0.1 foot-candle.
  - (2) Average light levels for paths, sidewalks, and parking lots should not exceed one-foot candle.
  - (3) Average light levels from two to a maximum of five foot-candles are only permitted in high security locations, as determined by the Planning Board.
  - (4) Automated teller machine (ATM) lighting shall be in accordance with the New York State ATM Safety Act.
  - (5) Photometric plans may be required during the site plan review process.
  - (6) In the Village Historic District Overlay lighting fixtures and supports shall be compatible with the traditional historic character in the district.
- C. The maximum height to the top of the light-emitting part of any exterior lighting fixture shall be 15 feet above the average finished grade for commercial and other non-residential uses and 12 feet in the Residential District.
- D. Full-spectrum light sources are required for residential, commercial, and pedestrian areas to give natural color quality. Energy efficient LED lighting is encouraged. Mercury vapor, low pressure sodium, and neon lighting are prohibited.
- E. Commercial lighting shall be turned off after business hours, except for window displays and the minimum lighting necessary for site security. Motion-sensor security lighting is recommended to promote safety and to further reduce non-essential lighting in all districts.
- F. Exceptions to these standards may be made by with the written approval of the appropriate municipal reviewing authority to allow for sports and other specialty lighting, lighting for short-term events, holiday lighting or other decorative light sources under 600 lumens.
- G. Light fixture specifications, locations, and lighting levels as determined by the Planning Board during site plan review shall be maintained throughout the activities of the approved use.

#### **~ 120-19. Signs & supporting structures**

The design, color, character, size and scale of signs shall be in keeping with and appropriate to the architectural design of the building or structure upon which the signs are placed, the design of the neighboring properties and adjoining signs, and the character of the Village of Rhinebeck. To the maximum extent practicable, signs shall fit within the existing features of the building façade; signs on adjacent buildings shall be aligned with one another.

A. General provisions.

- (1) Except as otherwise provided, a sign permit from the Village of Rhinebeck is required prior to the erection, relocation, alteration of any sign.
- (2) Signs are not permitted as principal uses.
- (3) In the Village Center and Gateway Business Districts, each building shall be limited to a total sign area of one square foot in area for every two linear feet of public street frontage occupied by the front plane of the principal structure utilized by an establishment, but not exceeding 30 square feet of visible surface.
- (4) In the Village Center and Gateway Business Districts, where the design of an existing building façade incorporates a specific area for signs, the height and length of the signs shall be restricted to the dimensions of this area. Such signs may not, however, exceed 30 square feet for any sign parallel to and flat against the façade of a building or 15 square feet for any other sign.
- (5) No projecting sign may extend more than five feet from the front plane of the principal structure.
- (6) No attached wall sign shall exceed 12 feet in height from the grade or extend above the façade of the building to which it is affixed.
- (7) Projecting signs shall not begin less than seven feet and shall terminate no more than 12 feet from the grade.
- (8) Freestanding signs shall not be permitted unless the front plane of principal structure is at least 20 feet back from the property line.
- (9) No freestanding sign shall exceed 10 feet in height from the grade.
- (10) Freestanding signs larger than eight square feet are subject to the setback and required yard provisions in Table 2, Dimensional Table ~ 120-8.
- (11) Temporary interior sign coverage not permanently affixed shall not exceed 15% of the glass area or window in which it is displayed. Temporary interior glass or window signs not permanently affixed shall not be counted in the total allowable building signage as set forth in 120-19A(3).
- (12) Merchandise sold on the premises and displayed in windows shall not count toward the total signage as long as it is displayed a minimum of 12" from the inside of the window.

B. Permitted signs. The following types of signs are permitted, provided that they comply with all other provisions of this chapter:

- (1) Awning and canopy lettering, as regulated in ~ 120-19E.
- (2) Temporary signs and banners related to political, civic, philanthropic, educational or religious activities. Such signs shall be limited to twenty (20) square feet in area and to display for a period not exceeding 45 days.

- (3) Directional signs larger than two square feet, as otherwise defined under exempt signs in ~ 120-19G.
- (4) Externally illuminated signs, as regulated in ~ 120-19D(1).

C. Measuring signs.

- (1) Sign surface area will be the entire area within a single continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be proportional to the sign and is excluded unless the structure is designed in a way to form an integral background for the display.
- (2) Identical signs arranged back-to-back be counted as one sign.
- (3) The area of a sign consisting of an insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible enclosing the insignia.

D. Illuminated signs.

(1) External illumination.

(a) External illumination of signs shall be allowed.

(b) Down lighting shall be utilized. Light sources shall be enclosed and shielded or screened in a manner not to be seen by passersby from a normal viewing angle and so that it does not interfere with residential or business uses or detract from the safety of motorists or pedestrians.

(c) Light sources shall be located and/or shielded so that the artificial light source shall not cross any property line of a lot on which the sign is situated.

(d) Light sources shall be limited to full spectrum lamps, and light fixtures and shall be designed to cause a reasonably uniform distribution of light over the full extent of the sign and not beyond.

(2) Internally illuminated signage shall be prohibited.

E. Awning and canopy lettering.

(1) Lettering and graphics on awnings and canopies shall count towards the sign area allowance per building.

(2) Awning lettering may contain names, numbers and graphics limited to the business or building name upon which the awning is located.

(3) Lettering may be placed on the front and or side panels of the awning, but not on the slope.

F. Signs in Residential District. Except for the exempt signs as permitted below and those specifically described in Sections 120-17H, Bed and Breakfast establishments and room rental homes, and 120-30, Home occupation performance standards, and Article X, Special Sensitivity Overlay, all signs are prohibited in the Residential District.

G. Exempt signs. The following types of signs may be erected, maintained and removed without permits or fees, provided that they comply with the general and specific requirements of this chapter:

- (1) One construction, renovation or painter signs, not exceeding six square feet, listing the architect, engineer, contractor and/or owner, in connection with a building permit on the lot where the activity is being conducted. Such signs must be removed upon termination of the building permit. Any such signs not in connection with a building permit are permitted only while the activity is in progress.
- (2) Directional signs, defined as any on-premises signs providing directions, instructions or facility information. Such signs must not exceed two square feet and must be for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs.
- (3) Flags of any national, state or municipal government may be displayed, except when displayed for commercial promotion. A flag is defined as any standard made of fabric or a flexible material that depicts a national emblem, a state or municipal seal.
- (4) Historical markers, tablets, memorial signs and plaques, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material, and emblems installed by governmental bodies, religious or nonprofit organizations, not exceeding six square feet.
- (5) Noncommercial sale signs for garage or tag sales, not exceeding four square feet, for a period not exceeding seven days.
- (6) Non-illuminated warning, private drive, posted or no-trespassing signs, not exceeding two square feet.
- (7) Number signs and nameplates identifying residents by name, or residences by number, mounted on a house, apartment or mailbox, not exceeding one square foot in area.
- (8) One sign not exceeding eight square feet for any religious institution.
- (9) Temporary real estate signs located on a property for sale, lease or rent, or holding open houses. Such signs shall not exceed six square feet and may not be illuminated.

H. Prohibited signs. Unless part of an approved site plan, the following signs are prohibited:

- (1) Abandoned signs
- (2) Animated signs
- (3) Billboards
- (4) Illuminated flashing signs.
- (5) Self-illuminated signs
- (6) Inflated signs and tethered balloons.
- (7) Internally illuminated, including digital displays.
- (8) Nonconforming signs
- (9) Off-premise signs
- (10) Portable signs
- (11) Roof signs
- (12) Signs located in windows above the second story of a building.
- (13) Signs on side walls of mid-block buildings.



- (14) Signs incorporating projected images.
- (15) Signs that emit smoke, vapors or particles, sound or colors.
- (16) Signs located in or projecting over a public roadway, except those approved by a government body.
- (17) Signs on parked vehicles or trailers that are visible from a public right-of-way, where the apparent purpose is to advertise a product, service or activity, rather than being used in the day-to-day operation of a business.
- (18) Any sign which does not comply with the regulations established for the issuance of a permit pursuant to this chapter; or which is determined to have its sign permit revoked; or which is deemed to be an abandoned sign; or which is a nonconforming sign for more than 14 months; or which is not maintained in good and complete condition, with lettering and graphics clean, legible and in true alignment and finishes in good repair.

I. Sign repair and removal.

- (1) All signs shall be brought into compliance with this chapter when replaced, relocated or repaired by 25% or more of the material makeup of the sign.
- (2) The business, property and/or sign owner of any prohibited sign(s) shall be in violation of this chapter until such sign(s) are removed. The Village of Rhinebeck may, with 30 days' prior written notice to the property and/or sign owner(s), remove such sign, without further notice or further proceedings, at the expense of the property and/or sign owner. The expense may be recovered by the Village in an action pursuant to this chapter which shall be instituted in the appropriate court having jurisdiction over this matter.

**~ 120-20. Cellular communications towers.**

A. Purpose and objectives.

- (1) The proliferation of the construction and installation of communications equipment, pole-mounted radio towers and other similar equipment and devices must be reasonably regulated in order to protect the health, safety and welfare of the citizens of the Village of Rhinebeck and, to the maximum degree possible, to coordinate and control the same to preserve and protect the aesthetic qualities of the Village of Rhinebeck and its neighbors. The Village recognizes the demand for wireless communications transmission systems and the need for the services they provide. Wherever possible, wireless communications transmission equipment should be located within existing structures. This chapter acknowledges the requirements of the Federal Telecommunications Act of the 1996, as well as the rights and responsibilities it imposes on both communications providers and local governments.
- (2) On February 8, 1996, the United States Congress enacted the Telecommunications Act of 1996 (hereinafter referred to as the "Act"). The purpose of the Act is to provide a more competitive environment for wired and wireless communications services in the United States by deregulating the telecommunications industry. The Act preserves the authority of local government to regulate the placement, construction and modification of personal wireless services antennas, towers and accessory structures in order to protect the health, safety and welfare of the public.
- (3) The purpose of this section of this chapter is to establish predictable and balanced regulations for the siting and screening of personal services antennas, towers and accessory structures. The establishment of such regulations is to accommodate the growth of such systems within the Village of Rhinebeck. Such regulations will further serve to protect the public against any adverse impacts on aesthetic resources.

Additionally, the regulations will eliminate potential damage to adjacent properties from tower failure through structural standards and setback requirements. Finally, the regulations set forth in this chapter will reduce the number of towers needed to service the community by maximizing the use of existing towers and structures.

(4) This chapter is intended to regulate the placement, construction and modification of towers and telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the Village. Specifically, this chapter is intended to:

- (a) Regulate the location of the towers and telecommunications facilities in the Village.
- (b) Protect residential areas and land uses from potential adverse impacts of towers and telecommunications facilities.
- (c) Minimize adverse visual impacts of towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- (d) Promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
- (e) Promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities.
- (f) Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound.
- (g) Ensure that towers and telecommunications facilities are compatible with surrounding land uses. The Communications Act of 1934, as amended by the Act, grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

[1] The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities.

[2] The regulation of radio signal interference among users of the RF spectrum.

(5) The Village's regulation of towers and telecommunications facilities in the Village will not have the effect of prohibiting any person from providing wireless telecommunications services, thus not violating the Act.

#### B. Procedure to obtain special use permit.

(1) No communications tower or antenna system, accessory facility or collocated antenna shall be erected, maintained or permitted within the Village of Rhinebeck, unless a written application shall be made for a special use permit and approved in conformity with this article by the Planning Board of the Village of Rhinebeck.

- (2) The applicant will be responsible for payment of hearing and mailing fees incurred by the Planning Board. Said fee must be paid at the time of application. The applicable fee shall be in accordance with the fee schedule established and annually reviewed by the Village Board of Trustees and available at the Village Clerk's office. Said application fee shall accompany the Planning Board application.
- (3) Notwithstanding permit application fees, the applicant shall also be responsible for all professional fees incurred by the Village for adequate support of the Planning Board's review, all as determined by the Village Fee and Deposit Law. Said fees shall be paid within 10 days of being billed; and, if not paid, the application shall be deemed abandoned.
- (4) The applicant shall submit three copies of the application to the Zoning Enforcement Officer. The application must include all items specified in the section on special permits and must otherwise follow all requirements of that section.
- (5) The height shall be no greater than that necessary to provide signal coverage to areas of the Village currently unable to be served, as demonstrated in a propagation study submitted by the applicant as part of the application. The maximum height shall not exceed 15 feet above the established height limitation as shown in Table 2, ~ 120-8, Dimensional Table. For purposes of this section, height shall be the vertical distance from grade, even if the structure is built upon or attached to another structure.
- (6) Applications for stand-alone towers shall not be granted unless the applicant demonstrates to the satisfaction of the Planning Board that no existing use, structure or alternate technology can accommodate the applicant's proposed use without requiring new construction of such a stand-alone tower.

C. Financial security bond or security deposit.

- (1) The applicant, at the time of obtaining a building permit, must provide a financial security deposit for the construction, maintenance and removal of the telecommunications facility with the Village of Rhinebeck as obligee, in an amount to be approved by the Planning Board, but not less than \$25,000.
- (2) The applicant shall be required to sign an agreement with the Village of Rhinebeck whereby the applicant agrees to remove the tower, antenna(s), cellular accessory structures and other improvements if the telecommunications facility becomes technically obsolete or ceases to be used for its original intended purpose for six consecutive months. The applicant shall further agree that the tower, antennas, cellular accessory structure(s) and other improvements shall be removed within six months of the first date upon which the telecommunications facility becomes technically obsolete or ceases to be used for its original intended purpose for six consecutive months. The aforesaid financial security bond shall be used to guarantee the proper construction, maintenance and removal of the telecommunications facilities should that be required.
- (3) The applicant shall further agree to continually renew the bond throughout the lifetime of the telecommunications facility.
- (4) The Planning Board shall have the continuing authority and right to review said bond and its amount and reasonably modify the amount and terms of the same, if it is not consistent with the intent of this article.

D. Lease subject to review. Any current or future lease between the applicant and the owner of the proposed telecommunications facility site shall be subject to review by the Planning Board to ascertain whether it is consistent with this article.

E. Special permit application requirements.

(1) The following tower and antenna application materials are required:

(a) Site plan application materials, in form and with content acceptable to the Village Planning Board, as specified elsewhere in this chapter under Article XI, Special Permits and Site Plan Approval, and in sufficient detail and accuracy, showing at a minimum:

[1] The exact location of the proposed tower, together with guy wires and guy anchors, if applicable.

[2] The maximum height of the proposed tower or antenna(s), scaled section required.

[3] Construction drawings and sketches sufficient to allow the Village Engineer or other Village experts to determine the safety and suitability of said proposed construction.

[4] The color or colors of the tower and/or antenna(s).

[5] The location, type and intensity of lighting, if any, proposed to be located on the tower.

[6] Surveyed boundaries of the property upon which the telecommunications facility is located.

[7] The location of all structures within the one-hundred-percent-clear zone, along with the distance to those structures.

[8] The location, nature and extent of any proposed fencing, landscaping, screening and buffering.

[9] The location and nature of proposed utility easements and access road(s), if required.

[10] Building elevations of cellular accessory structures or facilities or utility service facilities.

[11] Proposed parking, paving and lighting and location of same at the lot upon which the tower is located.

(b) "Before" and "after" propagation studies prepared by a qualified radio frequency (RF) engineer demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility. The applicant shall provide a professional resume for the above-referenced RF engineer.

(c) Evidence of compliance with Federal Communications Commission (FCC) regulations, non-ionizing electromagnetic radiation (NIER) levels and electromagnetic field (EMF) standards.

- (d) A search ring prepared by a qualified RF engineer and overlaid on an appropriate background map demonstrating the area within which the antenna needs to be located in order to provide proper signal strength and coverage to the target cell. The applicant must be prepared to explain to the Planning Board why he or she selected the proposed site and discuss the availability or lack of availability of suitable existing structure(s) within the search ring, which would have allowed for collocated antenna(s) elsewhere.
- (e) An affidavit from the applicant identifying specific attempts to collocate an antenna within the search area and that such efforts were entirely unsuccessful.
- (f) A line-of-sight or visual impact study, as follows:
  - [1] Drawings, photographs or computer-generated graphic representation(s) of the views from 1,000 feet away from the north, south, east and west of all natural and man-made features and structures within those views, including the proposed tower and other improvements.
  - [2] A statement as to the potential visual and aesthetic impacts of the proposed telecommunications tower on all adjacent properties including comment on decreased property values.
  - [3] The visual impact analysis shall be prepared and sealed by an engineer or landscape architect registered in New York State.
- (g) An engineer's statement, or statements from appropriate government agencies, that the proposed telecommunications facility will have no adverse impact on air or surface traffic within 1/2 mile of the tower. In addition to all conditions specified herein, the applicant shall meet all requirements imposed for similar proposed construction within the Village of Rhinebeck.
- (h) An engineer's certified statement that the reception and/or transmission function of the telecommunications facility will not interfere with the usual and customary transmission or reception of radio, television, etc., services of adjacent properties.
- (i) For sites in close proximity to significant historical sites or important preservation/conservation areas, the Village will request additional site plans and tower special use permit requirements. These requirements can include specially designed towers, additional screening, greater setbacks and improved landscaping. Siting in these areas should be avoided to the maximum extent possible.
- (j) Such other additional information, studies, alternative sites and assessments as may be required by the Planning Board to fully review and evaluate the potential impact and location of the proposed tower or antenna.

#### F. Siting regulations.

- (1) The Village hereby declares, not in order of preference, that the following are the expressed preferred locations of the communications towers and antenna:

- (a) Property with the least visual impact (tower should be located in the least visible area of the Village).
  - (b) Collocation on existing towers or existing structures.
  - (c) Municipal or government-owned property.
- (2) It is the obligation of the applicant to submit proof that, after diligent efforts, the above-stated preferences are unavailable, before applying for the location of a tower in the Residential District. The Village of Rhinebeck declares that location of a tower or antenna in a Residential District would result in a more adverse change in the particular district's character and would pose greater difficulty in minimizing the effect of the location of a tower in said district.
  - (3) Any location of a tower, antenna or support system upon an existing structure or building shall be attached, affixed or placed thereon in a manner which is safe for the lifetime of the building or structure and which is safe for the people and structures in and around said tower, antenna and support system.
  - (4) The number and location of antennas or other receiving or transmitting devices and their support system on an existing structure or building shall be as many as is structurally and technically feasible.
  - (5) Notwithstanding other provisions in this article, no tower may be erected closer than twice the radius of the one-hundred-percent-clear zone to any other structure or playground.

#### G. Use regulations.

- (1) No approved telecommunications facility, antenna or support systems shall hereafter be used, erected, moved, reconstructed, changed or altered unless approved by the Planning Board in conformity with this article. Furthermore, no change in applicant's technology shall be authorized with Planning Board approval. This provision does not require approval for routine maintenance of the telecommunications facility.
- (2) Where this article conflicts with other laws of the State of New York or the United States, the more restrictive regulation(s) shall apply, except for tower height restrictions, which are governed by this chapter.

#### H. Use standards.

- (1) Preferred design. Monopoles are the preferred design, followed by guyed towers and then freestanding towers. The Planning Board may, with good cause shown, require one tower design over other tower designs.
- (2) Visual impacts. Any tower, antenna(s) and accessory facility shall be constructed and designed to have the least practical visual impact on the area within reasonable proximity to the tower, antenna(s) or accessory facility.
- (3) Landscaping and security of structures and lighting. Landscaping shall be installed on the outside of any fencing. Existing on-site vegetation shall be preserved to the maximum extent practicable. The base of the tower and any cellular accessory structures shall be landscaped. Towers and cellular accessory structures shall be provided with security fencing to prevent unauthorized entry. There shall be reasonable lighting at the base of the structure for security purposes and to further deter unauthorized access. The lighting shall be downcast and directed toward the

interior of the enclosed area. The applicant shall be responsible for maintaining fencing, landscaping and lighting during the duration of facility operation.

- (4) The applicant must submit with his/her application a landscaping plan for review and approval by the Village Planning Board.
- (5) Color. The Planning Board may require the color or colors that are acceptable as long as said colors are permitted by the FAA. The Planning Board may require a pattern of colors, depending on the proposed location and its visual impact on the area wherein the tower is to be located. The tower color, once approved by the Planning Board, shall not be changed without Planning Board approval.
- (6) Tower lighting. Communications towers shall be designed and located to avoid, whenever possible, applications of FAA lighting and painting requirements. The Planning Board may, however, require lighting even in the absence of such requirements by the FAA.
- (7) Signs. The Planning Board may require that "No Trespassing," "High Voltage," or other appropriate warning signs be placed on the lot.
- (8) Height. The tower height is to be measured from the grade.
  - (a) The maximum height of a tower is 15 feet above the established height limitation as shown in Table 2, ~120-8, Dimensional Table.
  - (b) The height of a tower shall be based on propagation studies obtained by the applicant and based on collocation considerations.
- (9) Access road and parking. An access road and parking shall be provided for emergency access, where required by the Planning Board.
- (10) Accessory building and equipment storage.
  - (a) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
  - (b) Accessory buildings and equipment storage buildings are permitted as long as they are used in direct conjunction with the tower and its operation and they are used on a permanent basis. No accessory building can be used for residential purposes.
  - (c) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the communications tower, unless actively engaged in maintenance or repairs to the tower.
- (11) Radio frequency. The Planning Board may impose a condition on the applicant that the communications antenna(s) may be operated at FCC-designated frequencies and power levels and/or EPA technical exposure limits, and that the applicant provide competent documentation to support the requirement that maximum allowable frequencies, power levels and exposure levels for radiation will not be exceeded.
- (12) Other conditions. The Planning Board shall have the authority to impose such other reasonable conditions and restrictions as are directly related to and incidental to the health, safety and general welfare of the citizens of the Village regarding the

location, construction, maintenance, design and removal of a proposed communications tower and its special use permit or site plan.

I. Inspection.

- (1) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the Building Code and all other construction standards set forth by the Village's Code and federal and state law. For new monopole towers, such certification shall be submitted before initial operation and every five years thereafter. For existing monopole towers, certification shall be submitted within 60 days of the effective date of this chapter and then every two years thereafter. The tower owner may be required by the Village to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (2) The Village or its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the Village local law and all other construction standards provided by the Village local law and federal and state laws and regulations.
- (3) The Village reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the Village shall be borne by the tower owner.

J. Maintenance. The communications tower, antenna(s), support system and surrounding ground area shall be kept in good order, repair and condition. It shall be the affirmative duty of the applicant, his or her successor, assignee, grantee or transferee to make all repairs and maintenance necessary to make the telecommunications facilities and surrounding grounds safe, secure and visually compliant with the Village local laws and the Planning Board's conditions and terms of approval.

K. Collocation requirement.

- (1) It is the preference of the Village to have future antenna(s) and other communications receivers or transmitters collocated on existing towers to the extent that such towers will accommodate additional transmission devices.
- (2) Any lease must include a clause, term, provision or condition that permits collocation. The applicant shall provide a copy of all lease agreements to the Village Planning Board as proof of same.
- (3) Where there are existing communications towers in the Village, the applicant shall be required to submit a report demonstrating good-faith efforts to secure collocation and that said collocation efforts were denied.
- (4) As part of the application process, an applicant shall supply a statement to the Village that the applicant will, as a continuing condition of a permit under this article, allow collocation on the applicant's tower to the extent technically feasible.

L. Exempt telecommunications facilities. The following telecommunications facilities are exempted from this article:

- (1) Fire, police and other emergency dispatch services where telecommunications facilities are less than 55 feet above grade.



- (2) Non-business television or radio reception, private citizen band, amateur radio and other similar communications systems utilizing a tower and antenna, which do not exceed 55 feet above grade. "Non-business" means a use for which money, property or something of value is not charged, earned or received by the owner, operator, lessee or person(s) in control of the telecommunications facility.

M. Time limits.

- (1) Once a communications tower or antenna application is approved by the Planning Board, the applicant shall obtain a building permit within the time limits established by ~ 120-48B, Scope, expiration, revocation and enforcement.
- (2) Each applicant for an antenna and/or tower and/or the proposed user for an antenna and/or tower shall provide to the Planning Board an inventory of his/her existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Village of Rhinebeck or within the borders of the Town of Rhinebeck, including specific information about the location, height and design of each tower. The Planning Board may share such information with other applicants applying for administrative approvals or special use permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the Village of Rhinebeck; provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

## **ARTICLE II**

### **Referenced Guidelines**

**~ 120-21. Guidelines.**

- A. The Village Board of Trustees, the Planning Board and the Zoning Board of Appeals may consider the principles, policies, standards, guides and examples contained in the following Village-approved referenced guidelines. Such Village-approved referenced guidelines are advisory and are not intended to be binding upon the Village. The Village-approved referenced guidelines for planning purposes shall include but not be limited to the following:

- (1) Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities.
- (2) Town of Rhinebeck Design Standards.
- (3) List of New York State Professions, published by the Office of the Professions of the New York State Education Department.
- (4) Hamlet Design Guidelines, prepared by the Dutchess County Department of Planning and Development.
- (5) Building Form Guidelines, prepared by the Dutchess County Department of Planning and Development.
- (6) Worth Walking, The Report of the Rhinebeck Village Pedestrian Task Force.

- B. Copies of these referenced guidelines may be found at the Village Planning Clerk's office.

**~ 120-22. Greenway Connections. [Added 5-11-2004 by L.L. No. 1-2004]**

Greenway Connections. By Local Law No. 1 of the year 2004 the Village of Rhinebeck has adopted *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities*, as amended from time to time, as a statement of land use policies, principles and guides to supplement other established land use policies in the Village. In its discretionary actions under this Zoning Code, the reviewing agency may take into consideration said statement of policies, principles and guides, as appropriate and when in harmony with the Village Master Plan.

### **ARTICLE III Village Center District**

#### **~ 120-23. Village Center principles.**

The Village Center is the cultural and commercial hub of the community. The enhancement and preservation of its character are essential elements of the Rhinebeck community and the Hudson Valley. Therefore, zoning in the Village Center will adhere to the following principles:

- A. New buildings shall be appropriately integrated into the traditional Village fabric.
- B. The Village Center shall be characterized by a mix of commercial (retail and office) and residential uses that will encourage social interaction and economic activity.
- C. Outdoor storage or display of merchandise is prohibited, except as permitted in Chapter 89, Outdoor Sales.
- D. Ground floors shall primarily contain active, publicly accessible uses. Retail uses are encouraged and each retail establishment shall have a minimum of 400 square feet.
- E. Building height and short setbacks will create the feel of an "outdoor room" so that streets and sidewalks function as the primary public spaces in the community.
- F. Buildings will typically be located on small lots with small or nonexistent front and side yard setbacks and shall have a minimum footprint of 650 square feet.
- G. Buildings shall be constructed close to the sidewalk.
- H. Well-defined crosswalks and well-maintained sidewalks will clearly define pedestrian space.
- I. Streets shall form a modified grid, or interconnected network. Dead-ends, culs-de-sac and loop roads shall be prohibited unless unusual topography or other physical characteristics of the land make these necessary.
- J. Multiple routes between destinations (in an interconnected network of streets) shall allow pedestrians, bicyclists and motorists a choice of the most direct or most interesting routes.
- K. Streets and publicly-used spaces shall be designed to accommodate multiple users, including cars, bicycles, pedestrians and persons with disabilities.
- L. On-street parallel parking, and the planting of street trees between the curb and sidewalk, will be encouraged in order to provide a buffer between moving vehicles, pedestrians and persons with disabilities.
- M. On-street parallel parking shall be permitted on both sides of the street, unless otherwise prohibited by the agency with jurisdiction over that segment of street.
- N. Any off-street parking shall generally be located behind buildings, and in the interior of lots.

- O. Opportunities for municipally controlled parking and/or shared parking arrangements between private entities will be preferred to the fragmentation of the intact Village fabric with large expanses of private parking.
- P. New construction shall be compatible with general architectural principles common to the existing historic character of the Village Center and the finding, purposes and standard of the Historic District Overlay (120-39A).
- Q. Well maintained landscape areas and publicly accessible green space shall be integrated into site plans whenever possible.
- R. Mechanical equipment shall be located and operated so as to minimize visual, auditory or other disruptive impacts on the neighboring properties.

**~ 120-24. Apartments in Village Center.**

Buildings in the Village Center District may have apartments as a subordinate use to the primary ground floor use subject to the following provisions:

- A. The habitable area of each apartment shall be at least 500 square feet.
- B. Each apartment shall be a separate dwelling unit with provisions for complete living, including kitchen, sanitary and sleeping facilities for year-round use by one family.
- C. Apartments shall not be located in the front half of the first floor of the building, and each apartment shall contain all services for safe and convenient habitation meeting the New York State Fire, Building, Health and Environmental Codes.
- D. Apartments shall have access to the outside of the building, in compliance with the building code of the State of New York.
- E. Each apartment shall have off-street parking in accordance with ~120-16A, Off-street parking.

**~ 120-25. Site plan review.**

All building and zoning permit applications in the Village Center District shall be subject to site plan approval. During site plan review, preexisting nonconformity with this chapter shall be reduced to the maximum extent practicable.

**ARTICLE IV  
Residential District**

**~ 120-26. Residential principles.**

The Residential District is established to create a safe and comfortable place for people to live in. While a degree of privacy is expected, especially in the house and the rear yard, the front yard and the front porch should provide a transition to the public realm of the street. Zoning in the Residential District shall adhere to the following principles:

- A. Setback distance will vary from street to street but will be generally uniform for most houses on a block.

- B. Building height and setbacks will create the feel of an outdoor room so that streets and sidewalks function as the primary public spaces in the community.
- C. Principal entrances shall be clearly defined and face the street.
- D. Garages shall be recessed from the front plane of the principal structure and shall not dominate the building façade.
- E. Front porches will be encouraged for new homes. These provide an important transition between the public realm (street and sidewalk) and the private home.
- F. Building orientation, fenestration, building materials, rooflines, building height and other architectural elements shall be compatible with the adjacent properties' and neighboring buildings' character. Special care shall be taken when working with properties within the Historic District Overlay.
- G. Residential streets shall be integrated into the Village's interconnected street network, creating easy and varied pedestrian routes throughout the Village and, in particular, to the Village Center, school areas and recreational areas.
- H. Dead ends, culs-de-sac and loop roads are discouraged unless unusual topography or other physical characteristics of the land make them necessary.
- I. Streets and sidewalks shall be designed to accommodate multiple users, including cars and pedestrians. Sidewalks shall be required for new construction where necessary and appropriate.
- J. Sidewalks shall be separated from the roadway by a planting strip and street trees where practicable.
- K. On-street parallel parking shall be permitted on one or both sides of the street as established by the Village Board of Trustees.
- L. Where applicable, street curbing shall be installed with new construction.

**~ 120-27. Residential general provisions.**

- A. Accessory structures.
  - (1) Garages not exceeding 530 square feet, and playhouses, greenhouses, toolsheds, garden sheds, and other similar structures not exceeding 144 square feet, shall be set back a minimum of five feet from the side or rear property lines and are not permitted forward of the front plane of the principal structure.
  - (2) The combined footprint of all accessory buildings shall not exceed 75% of the principal structure. No more than three accessory buildings, including no more than one garage, shall be permitted on a lot in the Residential District. No accessory structure may exceed 26 feet in height in the Residential District.
- B. Yard storage is prohibited forward of the front plane of the principal structure. Within the setbacks of residential dwelling units, outdoor storage or parking of the following is prohibited: boat and trailer, trailer, motor home, commercial vehicle of more than one-ton capacity or any other similar recreational vehicle within 10 feet of the side and rear property

lines. Within the remaining yard of residential dwelling units, outdoor storage is limited to no more than two of any of the preceding list.

C. Specific Residential District parking provisions.

- (1) Garages or open parking shall only be for persons residing on or visiting the lot.
- (2) Driveways shall not intersect street lines less than 50 feet from any intersection of two street lines.
- (3) No commercial vehicle of more than one-ton capacity shall be parked or stored overnight in any yard or on the street in any Residential District.
- (4) Except in a driveway (which may not exceed 18 feet in width and must be delineated), parking is not allowed in the front yard or any portion thereof forward of the front plane of the principal structure, nor shall this area be utilized to provide any parking space required in this chapter.

**~ 120-28. Accessory dwelling units and two-family dwellings.**

In the Residential District, accessory dwelling units and two-family dwellings shall be allowed by special permit when the applicant can, to the Planning Board's satisfaction, show that the new use will meet all of the following criteria and standards:

A. Special permit standards. The intensification of activity will be compatible with the neighborhood, and such accessory use will:

- (1) Ensure the peace, privacy, quiet and character of the neighborhood; and
- (2) Avoid excessive noise, traffic, nuisance, fire hazard and other adverse effects of increasing residential density.

B. General performance standards.

- (1) Accessory dwelling units shall only be permitted where the new dwelling unit and the existing dwelling unit meet all dimensional, use and performance standards of this chapter.
- (2) Accessory dwelling units and two-family dwellings shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling above and beyond the parking already required by ~ 120-16.
- (3) Except in a driveway (which may not exceed 18 feet in width and must be delineated), parking is not allowed in the front yard or any portion thereof forward of the front plane of the principal structure, nor shall this area be utilized to provide any parking space required in this chapter.

C. Accessory dwelling units.

- (1) Accessory dwellings units shall have provisions for complete living, including sanitary, kitchen and sleeping facilities for year-round use by one family.
- (2) Accessory dwelling units shall be secondary to the principal dwelling unit and shall maintain an appearance compatible with the architectural features of the principal dwelling unit.
- (3) Owner occupancy is required where a special permit has been granted for an accessory dwelling unit to a single-family home; the owner shall reside in at least one of the two dwelling units on the lot for at least six months of the year.
- (4) The minimum floor area for accessory dwelling units shall be 400 square feet, and they may not have a floor area greater than 25% of the primary dwelling unit, not to exceed 750 square feet.
- (5) There shall be no more than one accessory dwelling unit per single-family home.
- (6) Accessory dwelling units are subject to the dimensional requirements provided for the underlying district and shall be counted toward the maximum allowable lot coverage area.
- (7) No accessory dwelling unit shall be subdivided onto a separate lot unless each new lot created meets all of the dimensional and other requirements for its district established by this chapter.
- (8) No accessory dwelling unit shall be used for a vacation rental.

D. Two-family dwellings.

- (1) Single-family dwellings converted to two-family dwellings shall be allowed, provided that no exterior changes are made which are inconsistent with the original dwelling or do not conform to the character of the neighborhood. Newly constructed two-family dwellings shall be allowed, provided they are consistent in scale and architectural type with existing houses on the street.
- (2) Each of the two units created in the two-family dwelling must have a minimum of 750 square feet of interior habitable area.

**~ 120-29. Multiple-family dwellings.**

- A. Multiple-family dwellings existing in the Residential District at the time of the adoption of this chapter may retain their special permit status and remain as a special permit use subject to the following provisions. New multiple-family dwellings are prohibited in the Residential District, except as specifically permitted in this chapter,
- B. Alteration or addition. With special permit approval and subject to the following provisions, multiple-family dwellings may be replaced, enlarged, extended or moved and may increase their density.
  - (1) All building and zoning permit applications for the alteration of a multiple-family dwelling shall be subject to special permit and site plan approval.
  - (2) Multiple-family dwelling structures may be enlarged, extended or moved, in whole or in part, beyond the area occupied by such use at the time of adoption of this chapter, to an area on the same lot.

- (3) Multiple-family dwellings may increase their density and add up to 10% of the number of dwelling units. Only preexisting multiple-family dwellings with 10 or more units qualify for this increase in density. When calculating such an increase,—quantities of 1/2 or more shall equal a full dwelling unit.
  - (4) Multiple-family dwellings may not expand onto any additional lot not currently containing a multiple-family dwelling, nor may any other lot be merged with a lot containing a multiple-family dwelling.
  - (5) When a multiple-family dwelling is added to or enlarged in any manner, the building and structures shall conform to Table 2, Dimensional Table of Yard, Area, Setback and Height Requirements ~ 120-8, and shall conform to the purposes, principles and provisions of the Residential District.
- C. If a multiple-family dwelling is hereafter destroyed by fire, wind, explosion, structural failure or other natural cause, it may be repaired or rebuilt, subject to special permit as granted by the Planning Board and non-conforming use provisions.
  - D. If a multiple-family dwelling is discontinued for a period of 18 consecutive months, it shall not be renewed, and any subsequent use on that lot shall be subject to review by the planning and zoning boards, as applicable.

**~ 120-30. Home occupation performance standards.**

Home occupations may be permitted in existing and new residences, in outbuildings and in garages, subject to site plan approval and the receipt of a special permit, when the applicant can show to the Planning Board's satisfaction that the business activity will comply with the following criteria and standards.

- A. Home occupations shall:
  - (1) Be compatible with the other uses allowed in the district.
  - (2) Maintain the character of the neighborhood.
  - (3) Ensure the peace, privacy and quiet of the area.
  - (4) Avoid excessive noise, traffic, nuisance, fire hazard and other adverse effects of business uses.
- B. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. Such uses shall occupy an area no greater than 25% of the gross habitable area on the lot. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
- C. Home occupations shall be conducted in a manner which does not give the outward appearance of a business.
- D. Home occupations must not infringe on the privacy of neighbors or their quiet and peaceful enjoyment of their property.
- E. Home occupations shall be limited to one per lot.
- F. Home occupations shall be conducted only by a resident of the lot.

- G. Home occupations shall allow no more than two nonresident assistants, interns or employees at any one time per home occupation.
- H. Home occupations shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling above and beyond the parking already required by ~ 120-16. Such parking shall be provided in a manner and style that does not diminish the residential quality of the neighborhood.
- I. Each home occupations shall only have one sign which shall not exceed two square feet. The sign shall otherwise be in compliance with ~ 120-19.
- J. Home occupations shall be conducted within the home or accessory structure. Such use shall not alter the external appearance from a residential character.
- K. Home occupations shall not generate auto and truck traffic that would exceed the volume of traffic that would otherwise be generated by typical residential use.
- L. Home occupations shall have no external storage of materials, equipment, containers, finished products or associated vehicles outside the home, outbuilding or garage other than that which is normally associated with residential use.
- M. Home occupations shall not create offensive noise, vibration, smoke, electrical interference, dust, odors, heat or light.
- N. Home occupations shall not use substances which endanger public health or safety or which pollute the air or water.

**~ 120-31. Planned residential development (PRD).**

Planned residential development may be permitted by special permit in the Residential District. A planned residential development shall require site plan approval by the Planning Board prior to, or concurrent with, subdivision approval. The Planning Board may also reject a conventional subdivision approach and require a PRD to accomplish one or more of the following purposes.

A. Purposes of a PRD.

- (1) To conserve portions of the parcel with sensitive natural features, such as steep slopes, floodplains, wetlands, stream corridors, or significant wildlife habitats, by permanently setting them aside from future development;
- (2) To protect the historic character and surroundings of structures or sites in the Rhinebeck Village Historic District or on the National Register of Historic Places; or
- (3) To provide a more creative and land-efficient development layout with a range of housing choices compatible with the village character, while reducing the need for excessive clearing, regrading, paving, and/or longer utility lines;

B. Requirements for a PRD.

- (1) The existing parcel shall be six acres or larger.
- (2) The maximum number of dwelling units permitted in a PRD shall not exceed the number of units that, in the Planning Board's judgment, would be permitted if the land was subdivided into conventional lots conforming to all Residential District standards.



- (3) The applicant shall prepare at least two initial sketch plans before submitting any engineered drawings: a conceptual plan consistent with all Residential District standards to help determine a total unit count, and conceptual development plan(s) under the PRD standards for preliminary discussions of design alternatives with the Planning Board.
  - (4) The Planning Board, as part of its approvals, shall establish conditions of ownership, use, and maintenance of any common areas, conserved land, parks, streets, and utilities.
- D. PRD performance standards. Special permit and site plan approval shall be contingent upon the applicant's ability to demonstrate that the proposal adheres to the following performance standards:
- (1) PRDs are subject to the same provisions established for the Residential District, except as provided in this section.
  - (1) The Planning Board may vary residential lot areas, yard areas, coverages, widths, and frontages from the dimensional chart provided in ~ 120-8, Table 2, Dimensional Table of Yard, Area, Setback and Height Requirements. All perimeter lots shall have a minimum rear yard setback of 25 feet. The maximum height requirement remains at 35 feet.
  - (2) Planned residential developments may be comprised of single-family, two-family, townhouse and multi-family dwellings. A PRD shall have a balanced mix of at least two housing types.
  - (4) A single-family home may also have one accessory dwelling unit.
  - (5) Streets in a PRD shall be integrated into the Village's interconnected street network, creating easy and varied pedestrian routes throughout the Village and, in particular, to the Village core. There must be multiple entrances to the PRD, and these shall be designed as extensions to existing Village streets.
  - (6) PRDs shall be interwoven into the community and should not stand alone. Streets within a PRD shall form an interconnected network of short blocks. Dead-ends, culs-de-sac and loop roads are discouraged unless unusual topography or other physical characteristics of the land make them necessary.
  - (7) Sidewalks and street trees shall be required on both sides of the street.
  - (8) Front porches are encouraged for all homes in a PRD, providing an important transition between the public realm (street and sidewalk) and the private home.
  - (9) Building orientation, fenestration, building materials, rooflines, building height and other architectural elements shall be consistent with the Village's historical architectural character or the character of the neighborhood.

**~ 120-32. Alternate-care housing (ACH).**

The permitting of alternate-care housing community residences, family-care homes, domiciliary-care facilities or residence schools for the developmentally disabled in the Residential Districts and Medical & Professional District by special permit shall be in accordance with the intent, objectives and standards as follows:

- A. Intent. The intent is to make alternate-care housing possible for those persons who are unable to live independently at a particular time; also, to assist New York State institutions for the mentally disabled in the de institutionalization process through the utilization of alternate-care housing without altering the character of each neighborhood of the Village of Rhinebeck.
- B. Objectives:
- (1) A well-balanced population through the utilization of a controlled growth approach.
  - (2) An acceptance of integration of alternate-care housing residence into the community without creating a negative environment for the residents of the alternate-care facility, as well as the residents of the community.
  - (3) Harmony with the objectives of the Master Plan.
- C. Project description. In addition to site plan approval, the Planning Board shall request that a community impact statement be submitted by the applicant. The statement shall include the following information:
- (1) Specific classification of the residence and the name of the regulatory agency or agencies.
  - (2) The person, agency or institution responsible for the financial support of the residents.
  - (3) Copies of all correspondence between the applicant and the regulatory agencies.
  - (4) Classification and description of residents to be housed.
  - (5) Current and projected number of residents.
  - (6) A statement as to whether residents will need employment.
  - (7) A description of the plan to integrate the residents into the community.
  - (8) The number of staff employees residing on the lot.
  - (9) The number of nonresident staff employees.
  - (10) A statement of community services required, including water, utilities, sewerage and community hall.
  - (11) A transportation plan.
  - (12) A recreation plan, describing planned active and passive activities providing pleasant occupations, amusement and diversions.
  - (13) The age of the prospective residents and whether any will become the responsibility of the Rhinebeck Central School.
  - (14) A vicinity map: Indicate all other health-related and alternate-care facilities within a radius of one mile of this facility.
  - (15) A description of a five-year operating plan as it pertains to the previously mentioned items.

#### D. Standards.

- (1) The community environment standards reported in a statement of principle by the State Department of Mental Hygiene and the State Board of Social Welfare states that: "A concentration of residences in a single neighborhood would be detrimental not only to the community but to the clients of the facility as well." To avoid a negative impact on the neighborhood as well as on the residents of alternate-care housing:
  - (a) The approval shall be limited to one facility per block face.
  - (b) No two facilities shall be within a radius of 1,320 feet of each other.
  - (c) An ACH dwelling shall have no more than six unrelated people per lot.
  - (d) An alternate-care facility housing more than six ACH residents shall require a site of not less than one acre, and the total population for ACH lots of any size, including residents and staff employees, shall not exceed 10 persons per acre.
  - (e) No facility shall be approved, if at the time of application the number of ACH residents within the Village exceeds 2% of the Village population.
  - (f) The facility shall conform to and be in harmony with the overall character and appearance of the surrounding neighborhood.
- (2) New and existing structures shall be constructed, altered and renovated in accordance with the New York State Uniform Fire Prevention and Building Code and shall be subject to Health and Fire Department regulations and approvals.
- (3) Alternate-care facilities shall not erect any sign that identifies or advertises the use or occupancy of the home.
- (4) Planning Board approval is subject to the licensing procedures of the county and State Department of Mental Hygiene, Department of Social Welfare, and the Board of Social Welfare. A certificate of occupancy shall not be issued by the Zoning Enforcement Officer until a license is granted and a copy presented to the Planning Board.
- (5) Regular conformance review of each alternate-care facility granted a special permit shall be performed once every year upon the anniversary date of the facility's original permit. This review will be done by the Planning Board.
- (6) Any change to the current status shall require a new special permit application to the Planning Board.

### **ARTICLE V Gateway Business District**

#### **~ 120-33. Gateway business principles.**

The Gateway Business District is created to recognize the existing business uses that occupy the entrance to the historic Village of Rhinebeck adjacent to the Town of Rhinebeck. The standards established below are designed to encourage architecture compatible with historic Rhinebeck. As the

uses in the Gateway Business District evolve, high-quality landscaping is encouraged to unify the district. Improved pedestrian access between the businesses should be encouraged to reduce vehicle trips, and signage should be brought into compliance.

**~ 120-34. Gateway business performance standards.**

A. Apartments in the Gateway Business District. Buildings in the Gateway Business District may have apartments as a subordinate use to the primary ground floor use subject to the following provisions:

- (1) The habitable area of each apartment shall be at least 500 square feet.
- (2) Each apartment shall be a separate dwelling unit with provisions for complete living, including kitchen, sanitary and sleeping facilities for year-round use by one family.
- (3) Apartments shall not be located in the front half of the first floor of the building, and each apartment shall contain all services for safe and convenient habitation meeting the New York State Fire, Building, Health and Environmental Codes.
- (4) Apartments shall have access to the outside of the building which must be distinct from the access to uses on the first floor.
- (5) Each apartment shall have off-street parking in accordance with ~ 120-16.

B. Site plan review.

- (1) All building and zoning permit applications in the GB District shall be subject to site plan approval. Preexisting nonconformities with this chapter shall be reduced to the maximum extent practicable.
- (2) During site plan review, the Planning Board may require vehicle or pedestrian interconnections between neighboring properties in order to protect the safety of the public and to reduce congestion. Sidewalks are required along the primary street frontages.
- (3) Buildings in the GB District shall be located, designed, constructed, landscaped and decorated so that the appearance of the principal building creates a positive impression for the entry to the Village.
- (4) All use conversions/site modifications shall respect the vernacular architectural and landscape design of the Village setting, history and surroundings. Any improvements shall be completed in a style compatible with historic Rhinebeck.
- (5) Outdoor storage or display of merchandise is prohibited, except as permitted in Chapter 89, Outdoor Sales.

C. Parking.

- (1) Uses that generate vehicular visits must provide adequate parking in accord with the parking chart shown in ~ 120-16 and in a manner and style that enhances the entrance to the Village.
- (2) Parking shall be located behind the front plane of the principal structure on the lot or behind the building, and it shall be suitably buffered with plantings and/or fencing.

D. Signs. Signs shall be in compliance with ~ 120-19.

## **ARTICLE VI Medical & Professional District**

### **~ 120-35. Medical & Professional District principles.**

The Medical & Professional District is created to recognize that the Village of Rhinebeck has a discrete area where medical and professional offices can be particularly well located. Medical and professional offices and residential uses can preserve and enhance the Village's architectural character in this small district when the combination of single-family homes, two-family homes and accessory apartments and medical and professional offices are permitted in the district.

### **~ 120-36. Medical & Professional District general provisions.**

- A. Architecture, building orientation, fenestration, building materials, roofline, building height and other architectural elements, and exterior lighting, shall be consistent with the Village's residential architectural character.
- B. The provisions as set forth for the Residential District, ~ 120-27, regarding accessory structures, yard storage and parking shall apply in the Medical & Professional District.
- C. Exterior enlargements or demolition or alteration of the exteriors of existing structures, or additions to exterior lighting or parking in the district shall require a special use permit.
- D. No more than three dwelling units will be situated on a single parcel.

## **ARTICLE VII Fairgrounds District**

### **~ 120-37 Fairgrounds District purpose.**

The Fairgrounds District is created for the purpose of promoting agricultural, horticultural, mechanical, and domestic arts, fine arts, and allied sciences consistent with the mission of the Dutchess County Agricultural Society which operates the Dutchess County Fairgrounds, including but not limited to temporary and seasonal educational, exhibition and entertainment events, and to ensure that new construction and activities on the Fairgrounds are undertaken in a manner that are harmonious with the residential and commercial development patterns of adjacent and nearby property.

### **~ 120-38 Fairgrounds District general provisions**

- A. Activities, uses, and improvements in the Fairgrounds District shall:
  - (1) Serve and promote the public convenience of fairgrounds visitors and the general welfare of Village residents.
  - (2) Result in development compatible with the historic settlement patterns of the Village and that would not alter the essential character of the Village as expressed in the Village of Rhinebeck Master Plan.
  - (3) Not result in significant depreciation of residential or commercial property in the Village.
  - (4) Be consistent with the goals and objectives of the Village of Rhinebeck Master Plan.

B. Site plan review. All building and zoning permit applications in the Fairgrounds District shall be subject to site plan approval in accordance with Article XI of this chapter. Any improvements and structures developed or constructed after the effective date of this section shall be compatible with the agricultural and educational uses and architectural context of the Fairgrounds. Improvements, structures, uses, and lot lines as depicted on a map entitled "As-Built Survey and Fairgrounds District Map" prepared by Mark Graminski, P. E. & L. S. dated October 23, 2012 and bearing a latest revision date of November 13, 2013 ("Fairgrounds Map") shall be deemed conforming for purposes of this section. Upon the adoption of this section the Chairman of the Village Planning Board shall sign the said As-Built Survey which shall be deemed the approved site plan for the Fairgrounds District.

C. Permitted principal uses.

- (1) Agricultural fairs and exhibits, including antique displays and agricultural production and tasting demonstrations.
- (2) Boarding, training, breeding and keeping of livestock, horses, and other animals.
- (3) Auctions, craft fairs, antique shows, car shows, boat shows, recreational vehicle shows and gatherings, gem and mineral shows, swap meets, including but not limited to other similar seasonal and temporary events.
- (4) Concerts, theatrical and religious events, dance and variety shows, and other similar forms of live entertainment in conjunction with permitted activities and events in the District. Such entertainment events shall be designed to direct noise away from residences and to limit noise and other impacts on surrounding residential districts.
- (5) Temporary and seasonal day camps and supervised youth programs, community sponsored programs, reunions, weddings, and other public and private assembly and mass gathering events, which adhere to the purposes and principles set forth in the Fairgrounds District and Section 120-1 of the Village Code.
- (6) 4H events and 4H dormitories, and 4H administration.
- (7) Passive and active recreational activities consistent with the Master Plan and of this Chapter.
- (8) Exhibit buildings and related structures for temporary and seasonal uses and events.
- (9) Winter storage of motor homes, campers, boats and other vehicles.
- (10) Restaurant and food services in conjunction with permitted activities and events in the district, including indoor and outdoor seating, and kiosk food vendors where no seating is provided.

D. Permitted accessory uses.

- (1) Administrative offices including first aid and emergency services.
- (2) Storage, maintenance, and repair; including outdoor storage of bulk materials such as gravel, stone, mulch, sand and other similar materials used in the maintenance of roads and landscaping and general grounds maintenance.
- (3) Indoor and outdoor vehicle and equipment storage; maintenance and repair for vehicles and equipment used as part of the Fairgrounds operation.

- (4) Greenhouses.
- (5) Up to three (3) caretaker residences.
- (6) Tents, canopies, amusement park rides, kiosks and other temporary structures in conjunction with permitted activities and events in the district.
- (7) Parking for permitted uses and events.
- (8) Temporary camping and overnight parking of campers provided that such uses are For vendors, competitors, employees, and attendees of an approved event on the grounds.
- (9) Roads and driveways to serve the principal and accessory uses permitted herein.
- (10) Communication transmission towers and their related facilities subject to the provision of Section 120-20 of this chapter.
- (11) Christmas tree sales.
- (12) Seasonal outdoor displays.

E. Permitted temporary accessory uses.

- (1) Parking and directional signs.
- (2) Storage of equipment during the construction of roads or developments.
- (3) Temporary storage of structures or equipment (including boats or recreational vehicles).

F. Signage.

- (1) Within the Fairgrounds District the following signage shall be permitted:
  - (a) On-site vehicle and pedestrian directional signs.
  - (b) On-site vendor signs advertising on-site vendor locations and wares and not intended to be viewed from a public street.
  - (c) Off-site vehicle and pedestrian directional signs provided that any one directional sign shall not exceed 15 square feet nor shall be mounted at a height greater than six feet.

G. Fairgrounds District Dimensional Table.

- (1) The area and bulk regulations for the Parent Parcel within the Fairgrounds District shall be as follows:
  - (a) Minimum lot area: 3 acres
  - (b) Route 9 setback 25 feet (75' when adjacent to residential districts)
  - (c) Minimum side yard setback 25 feet

- (d) Minimum rear yard setback 25 feet
- (e) Minimum lot frontage 200 feet
- (f) Minimum lot width 200 feet
- (g) Maximum building height 35 feet
- (h) Maximum building coverage 20 percent
- (i) Maximum impervious coverage 40 percent

F. Buffer Zone. Within the Fairgrounds District there is hereby established a Buffer Zone as depicted on the Fairgrounds Map. Within the Buffer Zone any new utility lines shall be placed underground. Within the Buffer Zone, improvements may be erected, altered or used, and the land may be used for only the following purposes and for no other:

- (1) Temporary parking and temporary accessory uses permitted herein.
- (2) Roads and driveways to serve the principal and accessory uses permitted herein.

G. Screening. Screening of service yards, commercial vehicles, trailers, passenger vehicles, Parking areas, refuse containers, and other features and places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of these, with all such enclosures being compatible in material, texture, and color with the principal building or buildings on the site. Except as depicted on the approved Site Plan all camping and overnight parking of campers shall be located no less than twenty-five (25) feet from any residential district and such sites shall be screened from direct view to adjoining residences by plantings or fencing as approved by the Planning Board.

#### J. Fairgrounds District Definitions

- (1) Building Coverage - The total of the areas taken on a horizontal plane at the main grade level of any permanent principal building and any accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.
- (2) Caretaker Residence— A permanent on-site residential unit occupied only by an employee of the Dutchess County Fairgrounds and their immediate family. The caretaker residence shall be occupied solely for single family use, and only so long as the site of the residence shall be owned by the Dutchess County Fairgrounds. At no time shall it be rented or leased to any party other than someone directly employed by the Dutchess County Fairgrounds. The caretaker residence shall provide a permanent kitchen, toilet facilities, sleeping, eating, and living facilities, and shall comply with all applicable state and local building and fire codes. The floor area of the caretaker residence shall not exceed one thousand five hundred (1,500) square feet.
- (3) Impervious Coverage - That percentage of the lot covered by permanent impervious surfaces, including buildings, pavement, concrete and metal surfaces.
- (4) Parent Parcel — For purposes of the Fairgrounds District the Parent Parcel shall be deemed to be all of the lots, parcels, and tracts of land owned by the Dutchess County Agricultural, Inc., the Dutchess County Farm Bureau, and the 4H Club as shown on the records of the Town of Rhinebeck Assessor's Office as of the effective date of this local law, and which collectively comprise the



Dutchess County Fairgrounds, and 4H Club properties located in the Village of Rhinebeck.

- (5) Sign, Directional - A sign used to direct the public to specific uses, areas or places for their safety or convenience on the premises of the business or activity where the sign is located.

## **ARTICLE VIII**

### **Historic District Overlay**

#### **~ 120-39. Findings; purpose; standards.**

- A. In order to promote key purposes of this Chapter, summarized in Section 120-1, to preserve the unique character of the Village and its historic structures, sites, cultural features, and architectural qualities, the Village finds that properties listed on the United States Department of Interior's National Register of Historic Places deserve an extra level of protection under a locally designated Historic District Overlay (HDO). This HDO includes all the properties in the Rhinebeck Village Historic District together with the Astor Home for Children on Mill Road (6369 Mill Street), the Benner House (1 Mill Street), and The Maples (Rhinebeck Health Center, 108 Montgomery Street), as identified in the 1993 Village of Rhinebeck Master Plan page 24. The Village Board of Trustees may designate historic districts and landmark protection measures under General Municipal Law, Sections 96a and 119-aa, and amend the boundaries and properties of the HDO and map at any time, using the amendment procedure in Section 120-67 of this Chapter.
- B. The historic characteristics of the HDO are an essential component of Rhinebeck's distinctive identity, the quality of life for its residents, and the Village's economic success through attraction of new investments and promotion of tourism. The HDO is enacted for the following purposes:
- (1) to protect and enrich recognized historic structures and properties as important and irreplaceable features of Rhinebeck's historic, architectural, and cultural heritage;
  - (2) to foster civic pride in the accomplishments and craftsmanship of the past;
  - (3) to enhance the village's attractiveness to residents and visitors as a stimulus to the local economy;
  - (4) to provide a careful evaluation of any proposed action that may diminish the quality of the HDO and affect the values of neighboring properties; and
  - (5) to ensure the healthy, orderly, and efficient development of the Village and promote the cultural, educational, economic, and general welfare of the public.
- C. Within the HDO, all new construction and major exterior additions/modifications to existing buildings, shall require site plan approval from the Planning Board, consistent with the provisions in Article XI of Chapter 120 of the Village of Rhinebeck Code. This includes single-family dwellings and their accessory structures over 250 square feet. Major exterior additions or modifications shall include new replacement siding materials and changes to significant architectural features, as determined by the Zoning Enforcement Officer, but shall not include landscaping, paint colors consistent with subsection D(9) below, roofing material changes, normal repair and maintenance or replacement of existing features in kind.
- D. In reviewing applications for site plan approval in the HDO, the Planning Board's decision shall be based on the following standards:

- (1) Whenever possible, structures listed as contributing buildings as defined in Chapter 64 of the Historic Buildings Protection Law shall be retained and their exterior historic features shall not be significantly altered. In order to maintain existing carriage houses, barns and other contributing accessory structures, conversion to active allowable uses, such as a home occupation or accessory apartment should be considered, including consideration of any reasonable area variances.
- (2) Any new construction or alteration of an existing structure shall be compatible with the contributing historic property itself and surrounding historic properties in terms of height, setbacks, roof shapes and cornice features, proportions for facades and window openings, porch details, materials, and rhythm of spacing along the street;
- (3) Individual window proportions shall be greater in height than width, although the Planning Board may permit exceptions for transom and other specialty windows. mirrored, reflective or darkly tinted glass all-glass walls (except for greenhouses) are prohibited. Any shutters shall match the size of the window openings and appear functional;
- (4) Commercial buildings in the Village Center District shall have at least 70 percent glass on the first floor façade;
- (5) Structures on the same lot shall be designed to create a cohesive visual relationship between buildings;
- (6) Recommended façade materials include wood, brick, stone, stucco, solid PVC or fiber cement siding and trim. Vinyl or aluminum siding, sheet trim, shutters, and awnings, and artificial stone or brick, exposed concrete blocks or concrete walls, plywood or other large prefabricated panels and unpainted lumber shall be prohibited;
- (7) Although landscaping changes alone do not require site plan approval for existing single-family dwellings, the Village strongly recommends the preservation of mature trees and the use of native species, whenever possible. For new building construction, landscaping elements are within the scope of site plan review;
- (8) A broad range of colors is permitted, but brighter, more vivid shades should only be used as accent colors, not primary surface colors. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible painted patterns, shall be prohibited. Color choices should be designed to be compatible with the architectural style of the structure and to complement surrounding historic buildings;
- (9) Since the Historic District Overlay includes an eclectic mix of buildings with a period of significance from 1700-1930, adding interest and variety to the streetscape is appropriate. New structures can be differentiated from historic buildings and show progress over time, primarily in the details and variations on overall historically compatible themes;
- (10) The Planning Board may also use the Village-approved reference guidelines listed in Article II, Section 120-21.

E. The Planning Board shall have the discretion upon application to vary or waive the criteria standards set forth in D above based on the following criteria:

- (1) the general design, character, and appropriateness to the property of the

- proposed alteration or new construction;
- (2) the scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
- (3) texture, materials, and color and their relation to similar features or other properties in the neighborhood;
- (4) visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of the spacing of properties on the street, including setback;
- (5) the importance of historic, architectural, or other features to the significance of the property.

## **ARTICLE IX**

### **Land Conservation Overlay**

#### **~ 120-40. Findings; purpose; standards.**

- A. Natural resources contribute to the scenic value, quality of life and character of Rhinebeck. The protection of lakes, stream corridors, wetlands and floodplains is an important public purpose, and, to the extent practicable, future development in the Village shall minimize disturbances in these areas. Important environmental features in the Village, such as the Landsman Kill, Crystal Lake and areas of state or federally regulated wetlands, shall be protected from negative impacts related to development. Existing state and federal regulations shall be carefully enforced and incorporated into all project reviews.
- B. The Land Conservation Overlay (LCO) adds an additional layer of protection to those properties that are adjacent to and incorporate portions of lakes, stream corridors, wetlands and floodplains. Those properties covered by the LCO are still subject to all of the underlying provisions of the district, along with the following additional restrictions:
  - (1) Site plan review. All building and zoning permit applications in the LCO District shall be subject to site plan approval.
  - (2) Excavation. If during site plan review the Board finds any construction, filling or excavation in excess of 300 square feet, or grading or other alteration of more than 3,000 square feet, on a lot within the proceeding three-year period, the Planning Board shall ensure that such construction, filling, excavation, grading or alteration meets the buffer requirements provided below and will not result in erosion or in wetland, stream or lake pollution from surface or subsurface runoff, before it shall grant approval.
  - (3) Buffers.
    - (a) Buffers shall be required adjacent to lakes, stream corridors and wetlands. Buffers shall serve as an ecological transition zone and as an integral portion of the ecosystem. Their boundaries may vary over time due to hydrologic or climatological effects. Buffers also serve as a sediment and storm water control zone to reduce the impacts of development upon these areas.
    - (b) All buildings, roofed or covered areas, or impervious paved roadways or parking areas, shall be set back a minimum of 40 feet from the edge of lakes, stream corridors and wetlands. The buffer area shall at all times be vegetated with native trees, shrubs and grasses.

- (c) All excavation undertaken for any reason must employ best management practices (BMPs) to prevent storm water runoff. Guidance on current BMPs shall come from the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers.

## **ARTICLE X**

### **Special Sensitivity Overlay**

#### **~ 120-41. Findings; purpose.**

- A. The Village finds that a certain group of properties which are located in both the Village Center and Residential Districts and which are either contained within the Village Historic District or form a gateway to this historic area require special attention. The Special Sensitivity Overlay (SSO) will serve to encourage the preservation of the historical character of the Village and maintain the integrity of the residential character of the Route 9 corridor despite the impact of heavy traffic. The economic vitality and historic fabric of the Village will be compromised if the character of these properties is allowed to disappear.
- B. Those properties covered by the SSO and located in the Residential District have been or have the potential to be adaptively reused for low-intensity commercial uses. In order to maintain and protect the small-scale historic residential quality of these properties, the adaptive reuse of these properties will be allowed, as long as such use abides by the performance standards established below. As these properties face increasing pressure to house business uses, the overlay will protect the residential quality by retaining, strengthening and enhancing their residential characteristics and ensuring that the new low-intensity commercial uses respect the continuing residential uses.
- C. The properties covered by the SSO located in the Village Center are subject to different pressures, which could ultimately result in the same deterioration of the traditional Village fabric. The SSO enters the Village Center and provides areas where the residential character from the rest of the Village crosses into the Village Center, but without the more stringent residential use restrictions. By limiting parts of the Village Center to a building envelope closer in scale to the residential area, the traditional and historic varied texture will remain, thus preserving one of Rhinebeck's greatest strengths.
- D. The following special sensitivity performance and traditional zoning standards apply to the overlay portions of the Residential and to the Village Center Districts, respectively. In both cases the special sensitivity standards will be in addition to the underlying provisions from those districts and will only replace specific provisions where stated. Buildings in the Residential SSO that will require a new certificate of occupancy, either through a change in use or because they were undergoing new construction, are subject to Residential District provisions below. Buildings in the Village Center SSO that will require a new certificate of occupancy, either through a change in use, a site modification or as a result of new construction, are subject to Village Center District provisions below.

#### **~ 120-42. Residential district (SSO).**

Special sensitivity uses shall be allowed, by special permit, in the areas of the Residential District that are covered by the SSO. A special permit for such use will be granted when the Planning Board is satisfied that the use will meet the following performance standards:

- A. Use and occupancy.

- (1) Only one SSO permitted use shall be allowed for each lot.

- (2) Owner occupancy is required where a special permit has been granted for an SSO use; the owner shall occupy a dwelling unit on the same lot.

B. Appearance.

- (1) Business uses shall be conducted in a manner which does not give the outward appearance of a business.
- (2) Business uses must not infringe on the privacy of neighbors or their quiet and peaceful enjoyment of their property.
- (3) Business uses shall be conducted inside the building, outbuilding or garage, and such use will be allowed, provided that any exterior changes made, in the judgment of the Planning Board, conform to the historic character of the neighborhood.
- (4) Business uses shall have no external storage of materials, equipment, containers, finished products or associated vehicles outside the building, outbuilding or garage other than that which is normally associated with residential use.
- (5) Business uses shall not create offensive noise, vibration, smoke, electrical interference, dust, odors, heat or light.

C. Traffic generation.

- (1) Trip generation as determined by the Planning Board shall maintain the integrity of the residential character of that neighborhood.
- (2) The Planning Board during site plan review may require vehicle or pedestrian interconnections between neighboring properties in order to protect the safety of the public and to reduce congestion on Route 9.

D. New construction. New buildings and all use conversions/site modifications in the SSO Residential District shall be located, designed, constructed, landscaped and decorated in such a manner that, to the maximum extent feasible, the appearance of the principal building will remain as a single detached dwelling. Such new buildings, use conversions/site modifications shall respect the existing architectural and landscape design of their residential setting, considering the overall context of the site and building in terms of its history, surroundings and the aesthetics of its original design. Improvements shall be completed in a residential style and shall be compatible with the adjacent structures and neighborhood.

E. Parking.

- (1) Business uses that generate vehicular visits must provide adequate parking in accord with the parking chart shown in ~ 120-16A and in a manner and style that does not diminish the residential quality of the neighborhood.
- (2) Parking shall be located behind the front plane of the principal dwelling unit on the lot or behind the building, and it shall be suitably screened with plantings and/or fencing.

F. Signs.

- (1) Business uses shall have no more than two signs.

- (2) Maximum sign area will be one square foot in area for every 10 linear feet of public street frontage occupied by the front plane of the principal structure, but not exceeding 15 square feet.
- (3) Lighting of signs shall be consistent with Sections 120-18 and 120-19D and H.
- (4) Signs shall otherwise be consistent with the provisions of ~ 120-19.

**~ 120-43. Village Center district (SSO).**

Properties covered by the SSO in the Village Center District are subject to the same use restrictions as the rest of the Village Center. However, buildings in the overlay must conform to the yard and setback requirements for Residential Districts.

**~ 120-44. Site plan review.**

All building permits in the SSO District shall be subject to site plan approval. Preexisting nonconformity with this chapter shall be reduced to the maximum extent practicable.

## **ARTICLE XI Special Permits and Site Plan Approval**

**~ 120-45. When required.**

- A. Site plan approval by the Planning Board is required prior to the issuance of all permits in the Village Center and Gateway Business Districts and in the Land Conservation and the Special Sensitivity Overlay Districts and for all special permit uses in all districts. Special permit approval is required for the uses specified in the Allowable Use Groups Chart in ~ 120-6. The site plan approval process, when applied to a project that does not require a special permit, is focused primarily on whether a particular development site complies with the purposes, principles and performance criteria contained in this chapter. The site plan approval process, when used in conjunction with the special permit process, becomes a significant factor in whether the use in question is appropriate for a particular site.
- B. Any subdivision of more than two lots shall require site plan approval by the Planning Board prior to, or concurrent with, subdivision approval.

**~ 120-46. Applications.**

Application for a building permit shall be made to the Zoning Enforcement Officer, in accordance with ~120-59D, prior to the commencement of the demolition, construction, excavation or use of any structure or land. Routine maintenance and repair, such as electrical upgrades and other minor nonstructural changes, may not require site plan approval. If the Zoning Enforcement Officer shall determine, according to the provisions of this chapter, that the applicant will need a special permit with site plan approval, or site plan approval, then he or she shall forward the application to the Planning Board.

**A. Planning Board action.**

- (1) Upon receipt of the application, the Planning Board shall notify the applicant, in writing, of the place, date and time of an initial workshop meeting with the Planning Board.

- (2) During the initial workshop meeting, the Planning Board will either accept the application as complete or inform the applicant what is required for the application to be considered complete.
- (3) If no public hearing is required for site plan approval, the Planning Board shall approve, approve with modifications or conditions, or disapprove within 62 days of the date of the meeting at which the application was considered complete for receipt by the Planning Board. The Planning Board defines an application as having been received by the Planning Board as the date of the Planning Board meeting at which the Planning Board reviewed all of the information provided by the applicant and voted to accept the application as complete.
- (4) The applicant may request a preliminary informal discussion. Such discussion would occur prior to the initial workshop meeting. The purpose of such a discussion would be a conceptual review of a preliminary application. For such a discussion to be considered, the applicant would need to submit a brief narrative describing the proposed use, a vicinity map (as defined below), and a sketch plan (a freehand sketch showing the proposed use in relation to existing conditions).
- (5) All special permits require a public hearing. The Planning Board may also require a public hearing for some site plans. In all cases requiring a public hearing, the Planning Board will schedule such a hearing within 62 days of the date of the meeting at which the application was considered complete for receipt by the Planning Board. The Village shall give public notice of such a hearing by causing publication of a notice of hearing on the village website and in the official newspaper at least five days prior to the hearing date. Such notice of hearing shall be mailed directly to all those owning land within 200 feet of the property line at least 10 days prior to the hearing date.
- (6) After a public hearing covering only a site plan, the Planning Board shall approve, approve with modifications or conditions, or disapprove within 62 days. A conditional site plan approval shall expire at the end of 180 days if the conditions have not been satisfied; however, the Planning Board may consent to an extension of up to another 180 days.
- (7) The decision of the Planning Board shall be filed in the office of the Village Clerk, and a copy thereof mailed to the applicant.
- (8) After the conclusion of a public hearing for a special permit including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions, the special permit within 62 days.
- (9) The conditions for granting a special permit will contain any modification or conditions to the site that the Planning Board deems necessary to conform to the criteria established below.

B. SEQRA Compliance; county approval.

- (1) Upon receipt of a complete application, the Planning Board shall initiate the New York State environmental quality review process by issuing a determination of significance.
- (2) The Village of Rhinebeck Planning Board shall refer to the Dutchess County Department of Planning any complete application for site plan approval or special permit approval affecting real property within 500 feet of the boundary of the Village of Rhinebeck, or the boundary of any existing or proposed county or state park or

other recreation area, or the boundary or any existing or proposed county or state roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the county for which the county has established channel lines, or the boundary of any existing or proposed county or state-owned land on which a public building or institution is situated, pursuant to §§ 239-l and 239-m of the General Municipal Law.

- (3) No action shall be taken on applications referred to the County Planning Agency until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless both the county and the Village agree to an extension beyond the thirty-day limit.
- (4) A recommendation of disapproval from the County Planning Agency can be overridden by the Rhinebeck Planning Board with a majority plus one vote of the entire board membership, along with a resolution setting forth the reasons for such contrary action.

**~ 120-47. Required information.**

Site plan and special permit approval may require that any or all of the information listed below be presented in order for the application to be considered complete by the Planning Board. The Planning Board is not limited to this list and may request additional information if it deems it necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the type of use, the location, the size and potential impact of the project. The applicant shall submit three copies of the information required by the Planning Board, at least ten business days prior to the date of the meeting of the Planning Board. The plans and descriptive information presented at the meeting shall be sufficient to portray clearly the intentions of the applicant.

- A. A brief narrative describing the proposed use.
- B. A vicinity map showing the relationship of the proposal to existing buildings, parking areas, driveways and any other significant features on surrounding parcels, and community facilities that may affect or serve it, such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets, easements and the zoning district boundaries within 500 feet of the property.
- C. Site plan, drawn at a scale of 20 feet to the inch (one inch equals 20 feet) or other scale as deemed appropriate by the Zoning Enforcement Officer.
  - (1) The site plan map shall show the location and use of all existing and proposed structures, including all dimensions of height and floor area, all exterior entrances, fenestration and all anticipated future additions and alterations. The site plan map shall include a floor plan of all levels of existing and proposed structures on the site.
  - (2) The locations of all present and proposed public streets, sidewalks, ramps, curbs, paths, retaining walls, fences and landscaping.
  - (3) The locations of all present and proposed off-street parking, parking for commercial vehicles while loading and unloading, the location and width of all driveways.
  - (4) The location, type and screening details of waste disposal containers and outdoor storage areas.
  - (5) The present or proposed location, type, specifications, screening and sound attenuation plan for exterior audio devices, HVAC units, mechanical equipment and generators.



- (6) The location, height, lumens and specifications of all external lighting fixtures and methods to eliminate glare onto adjoining properties. See ~ 120-18 Lighting. A photometric plan may be required.
- (7) The location, height, size, materials and design of all present and proposed signage.
- (8) The location of all present and proposed utility systems including sewage or septic, water supply, telephone, cable, satellite dish, electric and alternative energy systems.
- (9) The location of the storm drainage system, including present and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes and drainage swales.
- (10) Plans to prevent the pollution of surface water or groundwater, erosion, excessive runoff and flooding of other properties both during and after construction.
- (11) Topographic information about the property, drawn at the same scale as required for site plan under Subsection C above or as the Zoning Enforcement Officer may deem appropriate, showing existing and proposed topography at two-foot-contour intervals; also showing any portion of the lot that lies within the one-hundred-year floodplain, and areas on the property, and within 50 feet of the proposed site, where soil removal or filling is required.
- (12) Landscape information showing all pertinent natural land features that may influence the design of the proposed use, such as rock outcrops and single trees of six or more inches in diameter, forest cover, ponds, lakes, regulated wetlands, watercourses, and floodplains.
- (13) Traffic flow patterns within the site, entrances, exits and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for larger projects or for those in heavy traffic areas, which can include: the projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak traffic levels; the projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; the impact of this traffic on existing abutting public and private ways in relation to existing road capacities; and existing and proposed daily peak-hour traffic levels as well as road capacity levels.
- (14) The locations of all present and proposed off-street parking, parking for commercial vehicles while loading and unloading, the location and width of all driveways and accessibility for fire and other emergency vehicles.
- (15) Description and magnitude of each use within the site, specifying what each area is to be, such as retail, office, dwellings, etc. Include the estimated number of residents and/or employees attributable to each use, occupancy, maximum seating capacity and the number of parking spaces existing and required for each intended use.

- D. Elevations at an appropriate scale for all exterior façades, showing design features and indicating the type and color of materials to be used.
- E. State Environmental Quality Review Act (SEQRA) submission consisting of either a short-environmental assessment form (EAF), a full EAF and/or a draft environmental impact statement (DEIS), as determined by the Planning Board.

**~ 120-48. Special permits.**

- A. Process. The Planning Board shall not issue a special permit unless it makes a recorded finding, based upon the facts of the application, that the proposed use, if conducted pursuant to the following criteria, will satisfy the standards set forth herein. The Planning Board may impose conditions and/or require modifications to the project. Such conditions must relate to the impact of the project.

If the Planning Board does not make such a finding, it shall deny the special permit. In issuance of such denial, the record of the Planning Board must address the standards outlined below and include the facts and reasons upon which such denial was based. Special permits may be authorized by the Planning Board only upon satisfaction of the following standards and conditions:

- (1) Compatibility of the proposed use with adjoining properties, with the standards and principles of the district, with the natural and built environment and with the purposes set forth in this Chapter.
  - (2) Compatibility with the established architectural character and use of the structure or structures and the historic context of the site and in the surrounding area.
  - (3) Adequacy of parking for the proposed use, and its accessibility to fire, police and emergency vehicles.
  - (4) Determination that the proposed use will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare or any other nuisances.
  - (5) Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the village.
  - (6) Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the commercial viability of the Village of Rhinebeck.
  - (7) Consistency with the principles established in the Village Center, Residential, Medical & Professional, Fairgrounds and Gateway Business sections of this chapter.
  - (8) Consistency with the requirements for site plan approval established above.
  - (9) Compatibility with generally accepted planning standards utilized by the Village of Rhinebeck.
- B. Scope, Expiration, revocation and enforcement.
    - (1) A special permit shall authorize only the particular special use or uses permitted.

- (2) Special permits will expire 18 months after approval if the applicant fails to obtain a building permit or fails to comply with the conditions of the special permit, unless other provisions are set forth by the Planning Board in connection with its approval.
- (3) A special permit will expire if the special use or uses shall cease for more than 18 consecutive months for any reason.
- (4) A special permit may be revoked by the Board of Appeals if the conditions of the special permit are violated.
- (5) Any violation of the conditions of a special permit or a violation of any applicable performance criteria from this chapter shall be subject to enforcement action as provided herein.

**~ 120-49. Site plan approval.**

A. In acting on any proposed site plan, the Planning Board shall take into consideration:

- (1) Consistency with the Village Master Plan.
- (2) Consistency with the Village Center, Medical and Professional, Gateway Business, Fairgrounds and Residential principles established in those respective sections.
- (3) Compatibility with the general historic and/or architectural character of the structures in the area.
- (4) The location of main and accessory buildings and of their relation to one another on the proposed site; traffic circulation within the site; height and bulk of buildings; provision of off-street parking space; provision of buffer areas and other open spaces on the site; the display of signs; provision that the project will improve and promote pedestrian circulation and will harmoniously fit into the adjoining street system and with contiguous land, buildings and neighborhoods.
- (5) Any engineering aspects of a proposed site plan. This may require review by professional consultants appointed by the Village, with the cost borne by the applicant.

B. Scope, expiration, revocation and enforcement

- (1) Site plan approval shall authorize only the particular lot layout or configuration depicted on the approved site plan.
- (2) Site plan approval will expire 18 months after approval if the applicant fails to obtain a building permit or fails to comply with the conditions of the approval, unless other provisions are set forth by the Planning Board in connection with its approval.
- (3) Site plan approval may be discontinued by the Board of Appeals if the conditions of the approval are not being upheld.
- (4) Any violation of the conditions of the site plan approval or a violation of any applicable performance criteria from within this chapter shall be subject to enforcement action as provided herein.

**ARTICLE XII**  
**Variances and Appeals**

**~ 120-50. Appeals from official orders, requirements, decisions and determinations.**

- A. The Board of Appeals shall perform the duties and powers prescribed by the laws of New York State and by this chapter in connection with requests for variances from this chapter and appeals to review any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this chapter. Unless otherwise provided by this chapter, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative officials charged with the enforcement of this chapter.
- B. Administrative review. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, interpretation or determination of any such administrative official or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department or board of the Village. The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this chapter. In so doing, the Board of Appeals shall have all of the powers of such officials in granting relief in the form of reversal, modification, affirmation, interpretation or determination.

**~ 120-51. Appeals for variances.**

The Board of Appeals shall have the power to vary or modify the application of this chapter, where it imposes practical difficulties or unnecessary hardship. Upon appeal for a variance and after public notice and hearing, the Board of Appeals may grant such variances relating to the use, area, construction or alteration of structures or use of land, so that the spirit of this chapter is observed, public safety and welfare secured and substantial justice done.

A. Use variances.

- (1) Use variances shall not be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused an unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the zoning regulations for the particular district where the property is located:
- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence;
  - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
  - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (d) The alleged hardship has not been self-created.
- (2) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary

hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Area variances.

- (1) In its consideration of area variances, the Board of Appeals shall take into account 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 of Appeals shall also consider:
  - (a) 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;
  - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) Whether the requested area variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) 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.
- (2) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**~ 120-52. Imposition of conditions.**

The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the Village of Rhinebeck.

**~ 120-53. Appeal process and procedures.**

- A. Application. Application for appeal shall be in writing and must be filed with the Zoning Enforcement Officer within 60 days after the filing of the order, requirement, decision, interpretation or determination that is being appealed. Such application shall refer to the specific provisions of this chapter involved and shall specify the grounds for the variance requested, the interpretation claimed or the reversal of an order, requirement, decision or determination of an administrative official and the relief sought. The Zoning Enforcement Officer shall forward the application to the Board of Appeals. The Board of Appeals may request additional information, including but not limited to any or all of the items listed in ~ 120-47, Required information.

B. Referrals.

- (1) County Planning Agency.

- (a) The Village of Rhinebeck Board of Appeals shall refer to the Dutchess County Planning Agency any complete application for an area or use variance affecting real property within 500 feet of the boundary of the Village of Rhinebeck, or the boundary of any existing or proposed county or state park or other recreation area, or the boundary of any existing or proposed county or state roadway, or the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the county for which the county has established channel lines, or the boundary of any existing or proposed county or state-owned land on which a public building or institution is situated, pursuant to ~ 239-l and 239-m of the General Municipal Law.
  - (b) No action shall be taken on applications referred to the County Planning Agency until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless both the county and Village agree to an extension beyond the 30-day limit.
  - (c) A recommendation of disapproval from the County Planning Agency can be overridden by the Rhinebeck Board of Appeals with a majority plus one vote of the entire board membership, along with a resolution setting forth the reasons for such contrary action.
- (2) Village Planning Board. The Board of Appeals shall refer all appeals to the Planning Board for an advisory opinion. The appeal shall be transmitted to the Planning Board at least 30 days prior to the public hearing. The Planning Board shall submit to the Board of Appeals its advisory opinion prior to the public hearing. The failure of the Planning Board to submit such opinion shall be interpreted as a neutral opinion on the appeal.
- C. SEQRA. The Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.
  - D. Meetings. Meetings of the Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
  - E. Assistance of employees. The Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board of Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
  - F. Hearing on appeal. The Board of Appeals shall fix a reasonable time within 62 days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney.
  - G. Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after such hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board of Appeals.

- H. Filing requirements and notice of decision. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk and shall be a public record. Decisions of the Board of Appeals on appeal shall be filed within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- I. Action. The Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this chapter. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.
- J. Rehearing. A motion for the Board of Appeals to hold a rehearing to review any order, decision or determination of the Board of Appeals not previously reheard may be made by any member of the Board of Appeals. A unanimous vote of all members of the Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- K. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and on due cause shown.
- L. Expiration of appeal decision. Unless otherwise specified by the Board of Appeals and without any further hearing by the Board of Appeals, a decision on any appeal including the granting of area and use variances shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within 12 months of the date the decision is filed.

### **ARTICLE XIII**

#### **Nonconforming Uses, Buildings and Structures**

##### **~ 120-54. Nonconforming uses.**

- A. Registration and continuation. Any nonconforming use which existed lawfully at the time of enactment of this chapter may be continued, provided that it is registered with the Zoning Enforcement Officer by the owner or agent within 12 months of the date of adoption of this chapter and subject to the following provisions. Failure to register such use, after being informed by the Village in writing, will cause the use to be viewed as having been discontinued.
- B. Expansion or intensification. A nonconforming use shall not be enlarged or extended beyond the area occupied by such use at the time of the adoption of this chapter. The volume or intensity of a nonconforming use may not be increased.

- C. Relocation. A nonconforming use may not be moved in whole or in part to any other portion of the lot occupied by such nonconforming use.
- D. Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be changed to any other use within the same use group as shown on the Allowable Use Groups Chart, ~ 120-6, without prior approval by the Board of Appeals and then only to a use which, as determined by the Board of Appeals, is of the same or a more restricted nature.
- E. Destruction. If any building or structure in which a nonconforming use is conducted is hereafter removed, or destroyed by fire, wind, explosion, structural failure or other natural cause, to the extent of 50% or more of its true market value at the time of such damage, as adjusted from assessed value based upon State Board of Equalization rates, it shall not be repaired or rebuilt, unless the appropriate variance is granted by the Board of Appeals.
- F. Discontinuance. If the Zoning Enforcement Officer determines that a nonconforming use is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use on that lot shall conform to the regulations of the district in which it is located.

**~ 120-55. Nonconforming buildings, structures and lots.**

- A. Where a lawful structure, building or lot exists at the effective date of adoption or amendment of this chapter that could not be built under such adoption or amendment by restriction on the lot area, lot coverage area, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.
- B. Nothing in this Chapter shall prevent the strengthening or alteration to a safe condition of all or part of a building or structure that is nonconforming, provided that the repair or alteration will not increase the height, size or volume of the building or structure or otherwise increase the nonconformity.
- C. Additions, alterations, maintenance and repairs.
  - (1) A nonconforming building, structure or lot shall not be added to or enlarged or altered in any manner, in a way that increases its nonconformity.
  - (2) Should such structure or building be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (3) A nonconforming building or structure is hereby required to be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
- D. Discontinuance. A building or structure or a portion thereof shall be deemed discontinued if, as determined by the Zoning Enforcement Officer, the building or structure is vacant for 12 months or if, in a lesser period of time, there is a manifestation of a clear intent on the part of the owner to abandon the nonconforming building or structure. If deemed discontinued, such building or structure shall not be reestablished, and any subsequent use shall not commence until the building or structure is brought into conformity with the provisions of the district in which the lot is located.
- E. Restoration. A nonconforming building or structure destroyed or damaged by fire, wind, explosion, structural failure or other natural cause to the extent of 50% or more of its fair market value at the time of such damage, as adjusted from assessed value, based upon



State Board of Equalization rates, shall not be repaired or rebuilt, unless the appropriate variances are granted by the Board of Appeals.

F. Validity of building and zoning permits.

- (1) A building permit for a structure that would be nonconforming under this chapter will be valid only if the permit has been lawfully granted and under which construction has been started and diligently pursued before the adoption of this chapter.
- (2) No structure designed for or intended to be used for a nonconforming use under this chapter shall be constructed, reconstructed or altered unless construction, reconstruction or alteration is already underway and is being diligently pursued so that such building or structure will be completed within 12 months from the time of the adoption or amendment of this chapter unless the following provision is observed.
- (3) Not more than 30 days after the enactment of this chapter, a permit shall be obtained from the Zoning Enforcement Officer for each building or structure under construction as of the date of adoption. Irrespective of whether such construction conforms to the terms of this chapter, any structure so permitted shall be allowed to be completed in accordance with plans filed at the time of the application for the permit. After filing of plans with the Zoning Enforcement Officer, no alterations or additions are permitted unless they are in conformity with the provisions of this chapter.

## **ARTICLE XIV Administration**

### **~ 120-56. Zoning Enforcement Officer.**

A. Appointment; authority. The provisions of this chapter shall be administered and enforced by the Zoning Enforcement Officer, who shall be appointed by the Village Board of Trustees and who shall serve at its pleasure. The Zoning Enforcement Officer shall have the power to make inspections of buildings or lot necessary to carry out his or her duties in the enforcement of this chapter. The Village Board of Trustees may appoint a Deputy Zoning Enforcement Officer to exercise any or all of the duties of the Zoning Enforcement Officer.

B. Duties.

- (1) The Zoning Enforcement Officer shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all other laws and ordinances of the Village.
- (2) The Zoning Enforcement Officer shall maintain files, open to the public, of all applications for certificates of occupancy and building permits along with plans submitted therewith as well as final certificates and permits.
- (3) The Zoning Enforcement Officer shall also maintain records, open to the public, of every complaint of a violation of the provisions of this chapter as well as action taken as a result of such complaints.
- (4) The Zoning Enforcement Officer shall submit to the Village Board of Trustees, for insertion in the Board minutes, a written report summarizing for the month all building

permits and certificates of occupancy issued as well as complaints of violations and action taken as a result of such complaints.

**~ 120-57. Board of Appeals.**

- A. Appointment of members. Each Village Board of Trustees which adopts a local law and any amendments thereto pursuant to the powers granted by this Chapter shall create a Board of Appeals consisting of three or five members as shall be determined by such local law. In the absence of a Chairperson, the Board of Appeals may designate a member to serve as Acting Chairperson. In making such appointment, the Village Board of Trustees may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Village Board of Trustees may, as part of the local law creating said Board of Appeals, provide for the compensation of Board of Appeals members. The Village Board of Trustees may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Village Board of Trustees for such purpose.
- B. Board of Trustees ineligible. No person who is a member of the Village Board of Trustees shall be eligible for membership on such Board of Appeals.
- C. Terms of members first appointed. In the creation of a new Board of Appeals, or the reestablishment of terms of an existing Board of Appeals, the appointment of members to the Board of Appeals shall be of terms so fixed that one member's term shall expire at the end of the Village official year in which such members were initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of each official year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed by the Village Board of Trustees for a term which shall be equal in years to the number of members of the Board of Appeals.
- D. Terms of members now in office. Members now holding office for terms which do not expire at the end of the Village official year shall, upon the expiration of their term, hold office until the end of the Village official year, and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board of Appeals.
- E. Increasing membership. The Village Board of Trustees may, by local law, increase a three-member Board of Appeals to five members. Additional members shall be first appointed for single terms as provided by resolution in order that the terms of members shall expire in each of five successive years, and their successors shall thereafter be appointed for full terms of five years. No such additional member shall take part in the consideration of any matter for which an application was on file with the Board of Appeals at the time of his or her appointment.
- F. Decreasing membership. When the Village Board of Trustees has increased the number of members of the Board of Appeals to five, it may, by local law, decrease the number of members of the Board of Appeals to three to take effect upon the next two expirations of terms.
- G. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Village Board of Trustees shall appoint the new member for the unexpired term.
- H. Removal of members. The Village Board of Trustees shall have the power to remove, after public hearing, any member of the Board of Appeals for cause. Any Board of Appeals member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.

- I. Chairperson duties. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board of Appeals may determine. Such Chairperson or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses.
- J. Alternate members.
  - (1) The Village Board of Trustees may, by local law or as a part of the local law creating the Board of Appeals, establish alternate Board of Appeals member positions for purposes of substituting for a member in the event that such member is unable to participate because of a conflict of interest. Alternate members of the Board of Appeals shall be appointed by the Village Board of Trustees, for terms established by the Village Board of Trustees.
  - (2) The Chairperson of the Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board of Appeals. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board of Appeals. Such designation shall be entered into the minutes of the initial Board of Appeals meeting at which the substitution is made.
  - (3) All provisions of this section relating to Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members.
- K. Board of Appeals procedure.
  - (1) Meetings, minutes, records. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
  - (2) Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five business days and shall be a public record.
  - (3) Assistance to Board of Appeals. Such Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board of Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
  - (4) Hearing appeals. Unless otherwise provided by local law, the jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative official charged with the enforcement of any local law adopted pursuant to this chapter. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Village.

- (5) Time of appeal. Such appeal shall be taken within 60 days after the filing in the Village Clerk's office of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such local law by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- (6) Filing of decision; notice prior to hearing; SEQRA compliance.
- (a) The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- (b) At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties, to the regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal, and to the County Planning Board or agency or the regional planning council as required by ~ 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of ~ 239-m of the General Municipal Law.
- (c) The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617, of the New York Codes, Rules and Regulations.

#### **~ 120-58. Planning Board.**

##### **A. Creation and appointment.**

- (1) Authorization. The Village Board of Trustees is authorized to create a Planning Board consisting of five or seven members. Members and the Chairperson of such Planning Board shall be appointed by the Village Board of Trustees. In the absence of a Chairperson, the Planning Board may designate a member to serve as Chairperson. The Village Board of Trustees may, as part of the local law creating said Planning Board, provide for the compensation of Planning Board members. In making such appointments, the Village Board of Trustees may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
- (2) Appropriation for expenses. The Village Board of Trustees is hereby authorized and empowered to make such appropriation as it may see fit for Planning Board expenses. The Planning Board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Village Board of Trustees for such Planning Board.
- (3) Village Board of Trustees ineligible. No person who is a member of the Village Board of Trustees shall be eligible for membership on such Planning Board.
- (4) Terms of members first appointed. The terms of members of the Planning Board first appointed shall be so fixed that the term of one member shall expire at the end of the Village official year in which such members were initially appointed. The terms of the remaining members first appointed shall be so fixed that one term shall expire at the

end of each official year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the Planning Board.

- (5) Terms of members now in office. Members now holding office for terms which do not expire at the end of the Village official year shall, upon the expiration of their term, hold office until the end of the Village official year, and their successors shall then be appointed for terms which shall be equal to five years.
  - (6) Increasing membership. The Village Board of Trustees may, by local law, increase a five-member Planning Board to seven members. If two new members are appointed in the same year, the first shall be appointed to a four-year term, and the second to a five-year term. No such additional member shall take part in the consideration of any matter for which an application was on file with the Planning Board at the time of his or her appointment.
  - (7) Decreasing membership. A Village Board of Trustees which has seven members on the Planning Board may, by local law, decrease the membership to five, to take effect upon the next two expirations of terms. However, no incumbent shall be removed from office except upon the expiration of his or her term, except as hereinafter provided.
  - (8) Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Village Board of Trustees shall appoint the new member for the unexpired term.
  - (9) Removal of members. The Village Board of Trustees shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Village Board of Trustees by local law.
- B. Chairperson duties. All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Planning Board may determine. Such Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
  - C. Appointment of agricultural member. Notwithstanding any provisions of this chapter or any general, special or local law, the Village Board of Trustees may, if an agricultural district created pursuant to ~ 303 of Article 25-AA of the Agriculture and Markets Law exists wholly or partly within the boundaries of such Village, include on the Planning Board one or more members each of whom derives an annual gross income of \$10,000 or more from agricultural pursuits in said Village. As used in this subdivision, the term "agricultural pursuits" means the production of crops, livestock and livestock products, agricultural products, and woodland products as defined in ~ 301 of the Agriculture and Markets Law.
  - D. Service on other planning boards. No person shall be disqualified from serving as a member of the Village Planning Board by reason of serving as a member of the town or county planning agency.
  - E. Rules and regulations. The Planning Board may recommend to the Village Board of Trustees regulations relating to any subject matter over which the Planning Board has jurisdiction under this chapter or any other statute, or under any local law of the Village. Adoption of any such recommendations by the Village Board of Trustees shall be by local law.
  - F. Report on referred matters; general reports.

- (1) The Village Board of Trustees may seek input from the Planning Board where its input would help the Trustees make a more informed decision. The Village Board of Trustees may by resolution provide for the reference of any matter or class of matters, other than those referred to in subdivision ten of this section, to the Planning Board before final action is taken thereon by the Village Board of Trustees or other office or officer of said Village having final authority over said matter. The Village Board of Trustees may further stipulate that final action thereon shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time, to be fixed by the Village Board of Trustees in said resolution, to submit the report.
  - (2) The Planning Board may review and make recommendations on a proposed Village comprehensive plan or amendment thereto. In addition, the Planning Board shall have the full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the Village as it seems desirable, provided that the total expenditures of said Planning Board shall not exceed the appropriation provided therefore.
- G. Planning Commission. When a Planning Commission is created under Article 12-A of the General Municipal Law, the Village Board of Trustees, instead of authorizing the appointment of a Planning Board under this chapter, may provide that the existing Commission shall continue, the members thereof thereafter to be appointed in accordance with the provisions of such Article 12-A, and to have the powers and duties as specified for a Planning Board appointed under this chapter; provided, however, that in the Village ~ 238 of the General Municipal Law shall not be in force.
- H. Alternate members.
- (1) The Village Board of Trustees may, by local law or as a part of the local law creating the Planning Board, establish alternate Planning Board member positions for purposes of substituting for a member in the event that such member is unable to participate because of a conflict of interest. Alternate members of the Planning Board shall be appointed by the Village Board of Trustees, subject to the approval of the Village Board of Trustees, for terms established by the Village Board of Trustees.
  - (2) The Chairperson of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Planning Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Planning Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
  - (3) All provisions of this section relating to Planning Board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other Planning Boards shall also apply to alternate members.

## **ARTICLE XV Enforcement**

### **~ 120-59. Building and zoning permits.**

- A. Application for building and zoning permits shall be made to the Zoning Enforcement Officer, in accordance with ~ 120-59D below.

- B. It shall be unlawful to commence excavation, demolition or the construction of any building or structure, including accessory buildings, or to commence the moving or alteration of any building or structure, including accessory buildings and signs, or to change a use until the Zoning Enforcement Officer or Building Inspector has issued building and zoning permits for such work.
- C. Application forms for building and zoning permits shall be obtained and filed in the office of the Village Clerk.
- D. Permit application. In applying for building and zoning permits, the applicant shall submit an "Application for Building or Zoning" completed with the appropriate specifications and a dimensioned plan, to scale, indicating the shape, size, height and location in exact relation to all property lines and to street or road lines of all buildings or structures to be erected, altered or moved and of any building or structure already on the lot. The Building Inspector or Zoning Enforcement Officer shall have the authority to require that this plan be accompanied by a written statement from a qualified engineer or other satisfactory evidence, to the effect that the line of the bounding street or road has been accurately located and staked on the ground. The applicant shall also state the existing or intended occupancy and use of all such buildings and land and supply other information as may be required to ensure that the provisions of this chapter are being observed.
- E. Permit display. The building permit, when signed and issued by the Zoning Enforcement Officer or the Building Inspector, will be posted conspicuously on the lot facing the street or road where the permit authorizes the work to be done. Said building permit shall remain posted until all such construction for which the permit was issued has been completed.
- F. Permit refusal. If a building or zoning permit is refused, the Zoning Enforcement Officer or Building Inspector shall state such refusal in writing, with the cause, and shall mail notice of such refusal to the applicant at the address indicated on the application.
- G. Permit effect. The issuance of a permit shall in no case be construed as waiving any provisions of this chapter. No building permit shall be issued except in compliance with the provisions of this chapter and any amendment thereto, or as directed by either the Planning Board or the Board of Appeals.
- H. Permit term.
  - (1) A building permit for a conforming use shall expire in six months from the date of issuance, unless substantial progress has been made since that date. If other government approvals are needed, the building permit shall be treated as if issued on the date the final approval is received. The building and zoning permit may be renewed for one six-month period, if the particular situation warrants such an extension, without the payment of an additional fee. Construction shall be initiated within six months of the date of extension of the permit. Failure to do so shall nullify the permit.
  - (2) All building and zoning permits issued prior to the date of enactment of this chapter shall become void six months after the date of enactment of this chapter unless substantial progress has been made on the project.

**~ 120-60. Certificates of occupancy.**

- A. A certificate of occupancy is required for any of the following:

- (1) Occupation and use of a building hereafter erected, altered, moved or extended.
  - (2) Change in the use of an existing building or portion thereof.
  - (3) Occupancy and use of vacant land, except for agricultural use.
  - (4) Change in the use of land, except for agricultural use.
- B. No certificate shall be issued unless the work has been substantially completed in accordance with the plans and specifications.
  - C. Issuance. Within 10 days, Saturdays, Sundays and legal holidays excepted, after written notification that a building or structure or lot or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection and issue a certificate of occupancy if the land, building, structure or part thereof is found to conform with the provisions of this chapter. Failure to make such inspection and determination within the specified period of time shall not be deemed to be an approval or a disapproval of the application for certificate of occupancy.
  - D. Refusal. If the Building Inspector, after such final inspection, refuses to issue a certificate of occupancy, he or she shall state such refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the written notification.

**~ 120-61. Fees.**

- A. Fee schedule. Applicants under this chapter shall pay the applicable fee in accordance with the fee schedule established and annually reviewed by the Village Board of Trustees.
- B. Escrow deposits. In connection with any application for site plan approval, special permit applications or variances, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable and necessary cost of reviewing such application. Such cost may include consultant fees covering planning, engineering, environmental analysis, legal review and other technical services required for a proper and thorough professional review of the application. The Chairperson of the reviewing board shall review any statements reviewed for such costs and certify that the work was requested, the statement fairly and fully sets out the work performed and the work was reasonable and necessary to review the application.

**~ 120-62. Penalties for offenses.**

- A. Violations. Any person or corporation, whether as owner or lessee, agent or employee, who shall violate any of the provisions of this chapter or who fails to comply with any order or regulation made hereunder, or who erects, alters, moves or uses any building or uses any land in violation of any detailed statement of plans submitted by him and approved under the provisions of this chapter, shall be guilty of a violation. Each week's continued violation shall constitute a separate additional violation. The Zoning Enforcement Officer shall have the authority to issue a citation to property owners who are in violation of this chapter.
- B. Fines and imprisonment. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a



period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.

C. Courts.

(1) 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.

(2) A person or corporation who in violation of this chapter constructs a structure which is in violation of the terms of this chapter or uses the lot in violation of this chapter shall be presumed to have knowledge of those sections of the chapter that are violated. Said person or corporation shall have no benefit whatsoever by already having completed construction or engaged in use of the lot in violation of this chapter at such time as such construction or use is subsequently being considered and/or determined by the Planning Board, Board of Appeals or any enforcement and/or administrative officials of the Village of Rhinebeck.

D. Restraint and reparation. In case any building or structure is erected, constructed, reconstructed, altered, dismantled, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks or sites in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such lot.

E. Citizen suit provision. Upon the written refusal of the proper local officer, board or body of the Village to institute any such appropriate action or proceeding after written request by a resident or taxpayer of the Village to proceed, any three residents or taxpayers to the Village owning or residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the Village is authorized to do.

## **ARTICLE XVI**

### **Word Usage and Definitions**

#### **~ 120-63. Word usage.**

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future tense; words in the singular number include the plural, and the plural the singular. The word "lot" includes the word "plot." The word "shall" is intended to be mandatory; the word "should" is intended as a recommendation that may be required at the Planning Board's discretion; the word "may" is intended to identify an option. The word "occupied" or the word "used" shall be considered as though followed by "or intended, arranged or designed to be used or occupied." The word "person" includes individual, partnership, association, corporation, company or organization. Doubt as to the precise meaning of any word used in this chapter shall be clarified by the Board of Appeals under its power of interpretation by appeal.

#### **~ 120-64 Definitions.**

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

**ACCESSORY USE** — A use subordinate or supplemental to a main use on the same lot.

**AGRICULTURAL USE** — The raising for profit/gain of fruits, grains, vegetables and the like and structures incident thereto on a farm or other parcel, including the raising or keeping of animals, consistent with Section 120-15. "Agricultural Use," as defined in this chapter, does not include all of the uses defined as agricultural uses in New York's Agriculture and Markets Law.

**ALLEY** — A service-way that affords a secondary public means of vehicular access to abutting property.

**ALTERATION** — Any change to a structure that is not merely a repair or replacement of an existing part, or any change which would:

- A. Enlarge or diminish the habitable area of the structure or any part thereof.
- B. Change the number of dwelling units contained in any structure.
- C. Cause a change in the location or height of the exterior walls or roof of the structure.
- D. Move the structure from one position to another.
- E. Change any exit or entry facilities.
- F. Change or rearrange the structural parts, including bearing walls, beams, girders and columns.
- G. Change a use.

**ALTERNATE-CARE HOUSING (ACH)** — A facility designed for those persons who are unable to live independently at a particular time. The following is a list of the specific types of alternate care housing:

- A. **COMMUNITY RESIDENCE** — A dwelling providing room and board, recreation and rehabilitative services for the mentally disturbed under supervision.
- B. **HALFWAY HOUSE** — A community residence providing twenty-four-hour, on-site supervisory staff for short-term residents.
- C. **SUPERVISED-LIVING FACILITY (GROUP HOME)** — A community residence providing twenty-four-hour, on-site supervisory staff for long-term residents.
- D. **SUPPORTIVE-LIVING FACILITY** — A community residence providing supervision for residents.
- E. **FAMILY-CARE HOME** — A dwelling providing room, board and supervision for patients who are maintained on in-patient status by a state psychiatric facility.
- F. **PRIVATE PROPRIETARY HOME FOR ADULTS** — A dwelling providing room, board, recreation and responsible supervision for persons who cannot function without personal assistance in their daily living.
- G. **PROPRIETARY RESIDENCE FOR ADULTS** — A dwelling providing room, board, recreation and housekeeping service for persons requiring such services.

**AMUSEMENT FACILITY** — Indoor facilities open to the public, such as a theater, cinema or video arcade, and bowling.

**ANTENNA** — The actual device which transmits and/or receives radio frequency signal electromagnetic waves.

**ANTENNA SUPPORT STRUCTURE** — Any building or structure other than a tower which can be used for location of telecommunications facilities.

**APARTMENT** – An individual dwelling unit that is part of a mixed-use building, located above or to the rear half of the ground floor, subject to the floor area requirements of ~ 120-24 or 120-34A,

**APPLICANT** — The person applying for any permit, certificate of occupancy, variance or other process or remedy under this chapter. The owner may authorize in writing someone else to represent him or her.

**APPLICATION** — The process by which the owner or authorized representative of the owner of a lot within the Village submits a request to develop, construct, build, modify or erect any structure. "Application" includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the Village concerning such a request under this chapter. The application must be signed by the owner before it can be considered valid.

**AREA VARIANCE** — The authorization by the Board of Appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**AUTO SALES** – A retail operation that sells, leases or rents motor vehicles as a part of that retail operation.

**AUTO SERVICE STATION** – An enclosed building or lot used for the repair, and/or servicing of motor vehicles.

**BANNER** - any sign made from fabric or any nonrigid material supported at two or more points.

**BAR** — An establishment licensed under the laws of New York State primarily for the sale of alcoholic beverages and their consumption on the lot.

**BED-AND-BREAKFAST ESTABLISHMENT** — A dwelling having a registered resident host in a private single-family home in which at least three and not more than five rooms are provided for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The bed-and-breakfast establishment shall not have more than 10 adult occupants as lodgers.

**BEST MANAGEMENT PRACTICES (BMPs)** — A practice, or a combination of practices, that are determined to be effective, practical means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals. Guidance on current BMPs can be obtained from the New York State Department of Environmental Conservation and the U.S. Army Corps of Engineers. Examples of BMPs include but are not limited to soil management, vegetation control, sediment/erosion control and buffer zones.

**BOND, PERFORMANCE** – A bond held by the municipality pending completion within established time limits of conditions agreed upon orally or in writing.

**BUILDING** — Any roofed structure intended for the shelter, housing or enclosure of persons, animals or personal property.

**BUILDING, ACCESSORY** – Garages, playhouses, greenhouses, tool sheds, garden sheds and other similar roofed structures, subordinate to the principal building on the same lot.

**BUILDING ENVELOPE** – The three-dimensional space on a zoned lot within which a structure can be built, as permitted by applicable height, setbacks and Board of Health requirements.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the finished or proposed finished grade across the street frontage of the building to the highest point of a flat roof or to the mean height between the eaves and the ridge of a gable, hip or gambrel roof.

**BUILDING PERMIT** — Official authorization issued by the Zoning Enforcement Officer before the erecting, moving, altering, rebuilding or enlarging of any building or structure.

**CELLULAR ACCESSORY STRUCTURE** — Accessory buildings and structures, including base stations designed and used to shelter equipment and/or to support personal wireless services. The term "accessory structure" does not include offices; long-term storage of vehicles or other equipment storage, or broadcast studios. An accessory structure serves the principal use, is subordinate in area, extent and purpose to the principal use and is located on the same lot as the principal use.

**CEMETERY** — Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**CERTIFICATE OF OCCUPANCY** – A document issued by the municipality certifying compliance of a building and/or property with applicable building, construction, fire prevention codes and zoning codes.

**CHANGE OF USE** —A change from one allowable use listed in Table 1 to another, e.g., in "Professional office", a change from a real estate office to an insurance office is not a change of use, but a change from "Retail Business" to "Restaurant," is a change of use.

**COLLOCATED ANTENNA** -- Telecommunications facilities that utilize existing towers, buildings or other structures for placement of antennas and do not require construction of a new communications tower.

**COMMERCIAL VEHICLE** – A vehicle with gross vehicle weight in excess of 9,000 lbs. that is used for commercial purposes to include trucks, trailers, busses and other motorized equipment.

**CONVENIENCE STORE** – A retail store that carries a limited selection of household and food items and may be open for extended hours. A convenience store may sell fuel and other disposable automobile products but may not sell or service motor vehicles.

**CRAFT WORKSHOP** — A place where artists, artisans, craftsman and other skilled tradespeople produce custom-made art or craft products, including but not limited to baskets, cabinets, ceramics, clothing, flower arrangements, jewelry, metal work, musical instruments, paintings, pottery, sculpture, toys and weaving.

**DAY-CARE CENTER** — A facility which is not a dwelling unit in which care is provided on a regular basis to three or more people for more than three hours per day per person as defined in NYCRR ~ 418.

**DAY CARE, FAMILY** — A dwelling unit which is a personal residence and occupied as a family residence which provides day care on a regular basis for more than three hours a day to three to six people, as defined in NYCRR ~ 417.

**DAY CARE, FAMILY GROUP** — A dwelling unit which is a personal residence and occupied as a family residence which provides day care to seven to 12 people, as defined in NYCRR ~ 416.

**DEMOLITION** — The razing of any existing building, including substantial removal of structural components so as to cause an effective removal of an existing building. Demolition does not include restoration or repair of existing structural elements with in kind materials.

**DENSITY** — The total number of dwelling units divided by the total number of acres within the lot.

**DEVELOPABLE AREA** – Area within a lot, excluding required setbacks.

**DRIVE-THROUGH** – An accessory to a business which provides services, utilizing a window, to a customer's vehicle. Drive-throughs are restricted to retail banks.

**DRIVEWAY** –An area reserved on a lot, plot, site or parcel of land for the purpose of providing vehicular access connecting off-street parking or a parking lot with a public or private street and finished and maintained with a stabilized, all-weather surface material, such as asphalt, concrete, permeable pavement, paving stone, crushed stone or gravel.

**DWELLING, MULTIPLE-FAMILY** – A building or group of buildings containing three or more dwelling units on a lot. This includes condominiums, townhouses and cooperatives, and excludes apartments located over commercial uses in the Village Center, Medical and Professional and Gateway Business Districts.

**DWELLING, SINGLE-FAMILY** — A detached building, other than a mobile home or other temporary structure, containing one dwelling unit.

**DWELLING, TOWNHOUSE** – A one-family dwelling attached in a row of at least three such units with each home having its own front and rear access to the outside.

**DWELLING, TWO-FAMILY** — A detached building, other than a mobile home or other temporary structure, containing two dwelling units.

**DWELLING UNIT** — One or more rooms-that contain lawful cooking and sanitary facilities, inhabited by one or more persons living together and maintaining a common household, in a residential building or residential portion of a building. The minimum floor area for a dwelling unit shall be 400 square feet.

**DWELLING UNIT, ACCESSORY** — A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate building, on the same lot as the primary dwelling.

**EDUCATIONAL USE** –An operation whose primary use is to convey knowledge, skills, values, beliefs and habits to groups of people through organized instruction. An educational use can function as a public, for-profit or a not-for-profit entity and must comply with all applicable New York State Education laws.

**ENGINEER** — Any engineer licensed by the State of New York.

**ESTIMATED CONSTRUCTION COSTS (ECC)** — The average rate per square foot of new building and site improvement costs as determined by the Zoning Enforcement Officer. This cost will be determined yearly and submitted to the Village Board of Trustees.

**EXCAVATION** — The removal of earth products on a lot, including but not limited to sand, gravel, soil, loam and mineral products.

**FAÇADE** – Those exterior portions of a building, including walls, porches, chimneys, balconies, parapets, fenestrations and roof portions, which face a public street or right-of-way.

**FAMILY** — One or more persons occupying a premises and living as a single nonprofit housekeeping unit.

**FARM** — Any lot containing at least seven acres which is used for commercial agriculture.

**FENCES AND WALLS** — An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**FLOODPLAIN** — Any area adjacent to a water body which is subject to inundation from high water and/or wave action and at a minimum that area subject to a one-percent-or-greater chance of flooding in any given year. All areas designated as special flood hazard zones by the Federal Insurance

Administration's Official Map for the Village shall be considered as floodplain areas. Further determination of the extent or existence of floodplains shall be based on the best available information, including but not limited to Flood Damage Prevention, Village of Rhinebeck Local Law 2-1991, the United States Army Corps of Engineers floodplain studies, the United States Department of Agriculture Soil Conservation Service studies, soils, vegetation, hydrologic and geologic data.

**FLOOR AREA** — The sum of the gross area of the several floors, including any full story height below grade and accessory buildings on the same lot, measured from the exterior walls.

**FREESTANDING SIGN** – A sign supported by uprights or braces placed upon on into the ground and detached from any building.

**FRONT PLANE** — The façade of a building nearest the front property line which is parallel to or at an angle of 45 degrees or less to a public street or public right-of-way excluding porches, decks or patios.

**FRONTAGE, BUILDING** — The side or face of the building which is parallel to or is at an angle of 45 degrees or less to a public street or a public parking area.

**FUNERAL HOME** — A building or part thereof used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in preparation of the dead for burial; the storage of caskets, funeral urns and other related funeral supplies; or the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**GRADE** — The natural surface of the ground or surface after the completion of any approved change in contour.

**GROSS HABITABLE AREA** – An area in a building used for living, sleeping, eating or cooking, not including utility, storage, and storage rooms or garages.

**GROSS LEASABLE AREA** — A number, in square feet, representing the entire area occupied by a building, including common areas, storage, mechanical areas and space occupied by interior structures and partitions.

**HOME OCCUPATION** — An occupation or profession carried on by a resident of the lot within a dwelling unit or an accessory structure that meets dwelling unit setbacks, which is clearly incidental to the residential use of the dwelling unit and does not change the character thereof. In order to be classified as a home occupation, the use in question would generally have an impact beyond that of a typical residential use, such as noise, traffic, pollution, signs and parking.

**HOSPITAL** — A facility or institution engaged principally in providing services by or under the supervision of a physician or for the prevention, diagnosis or treatment of human disease, pain, injury or physical condition, including a general hospital. The term "hospital" shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the Department of Mental Hygiene, except for those distinct parts of such a facility which provide hospital service.

**HOUSEHOLD** – A domestic unit that may include both related and non-related people with shared cohabitation within the same dwelling.

**KENNEL** — A commercial establishment licensed to operate a facility housing dogs, cats or other household pets and/or where breeding, boarding, training or selling of animals is conducted as a business. This use is not permitted in any zoning district.

**LANDSCAPING PLAN** – A detailed lot plan showing the site grading, pavement areas, building footprint, landscape design, green space, trees and other plantings.

**LIBRARY** — A building containing printed, pictorial, digital and archival material for public use for purposes of study and reference.

**LODGE or CLUB** — A facility, excluding overnight lodging facilities and public restaurant facilities, used by a noncommercial, not-for-profit organization (as defined by New York State law) which has formal written membership requirements.

**LODGING FACILITY** — Any hotel, motel or inn providing sleeping accommodations for transient guests, with or without a dining room or restaurant, excluding bed-and-breakfast homes, bed-and-breakfast establishments, and vacation rentals.

**LOT** — A lawfully created parcel of land fronting upon a street and considered as a unit, occupied or capable of being occupied by one building or by a group of buildings united by a common use or interest.

**LOT AREA** — The total horizontal area included within lot lines; no part of the area within a public right-of-way may be included in the computation of lot area.

**LOT, CORNER** — A lot abutting upon two or more streets at their intersection, and having an interior angle at the point of intersection of less than 135°.

**LOT COVERAGE AREA** — The total ground area or footprint of all structures, expressed as a percentage of the lot area, exclusive of uncovered porches, parapets, steps and terraces.

**LOT FRONTAGE** — That portion of the lot abutting the street line. In the case of a lot that abuts more than one street, the Planning Board may designate either street line as the lot frontage.

**LOT WIDTH** — The average horizontal distance between the side lot lines.

**MANUFACTURED OR MOBILE HOME** — A movable or portable unit designed and constructed to be towed on its own chassis and connected to utilities. This excludes travel trailers. This use is not permitted in any zoning district.

**MONOPOLE** — A communications tower consisting of a single pole constructed without guy wires and ground anchors.

**MUNICIPAL USE** — Use of land, building and structures by the Town of Rhinebeck, Village of Rhinebeck and other governmental bodies.

**NONCONFORMING LOT** — A lot of record which does not comply with the area, shape, frontage or locational provisions of this chapter for the district in which it is located.

**NONCONFORMING STRUCTURE** — A structure, including buildings, which does not satisfy the dimensional requirements of this chapter for the district in which it is located, but which was not in violation of applicable requirements when constructed.

**NONCONFORMING USE** — Any use lawfully existing prior to the adoption of this chapter—or any preceding zoning law or ordinance—which does not conform with the use provisions of this chapter for the district in which it is located.

**NURSING HOME** — An extended or intermediate-care facility licensed by the New York State Department of Health to provide full-time convalescent or chronic care of persons with, or recuperating

from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

**ONE-HUNDRED-PERCENT-CLEAR ZONE** — The area where, in the event of a tower failure, the entire height of the tower would fall completely within the boundaries of the property in which it is located.

**OWNER** — The holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, and lessees under leases having an unexpired term of at least 10 years.

**OWNER-OCCUPANCY** – Where owner-occupancy is required, the lot and dwelling unit must be the owner's legal home, where the owner resides on a permanent basis for at least six months of the year.

**PARKING LOT** — An area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off- street parking.

**PARKING REPLACEMENT COST** — The parking replacement cost shall be based on the actual cost of providing a given number of parking spaces at or near the use in question. Such cost shall be based on the purchase, improvement and maintenance of suitable property.

**PASTURE LAND** – Land covered with grass or low plants suitable for grazing.

**PERSON** — Any individual, firm, corporation, partnership, association, company or other legal entity, private or public, whether for profit or not for profit.

**PERSONAL WIRELESS SERVICES** — Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by Section 704 the Federal Telecommunications Act.

**PLANNED RESIDENTIAL DEVELOPMENT** —A form of development on larger parcels that permits flexibility in lot area, bulk standards, and housing types, with no increase in the total number of potential housing units, in order to permanently preserve natural areas, create park land, or protect environmentally or historically sensitive features.

**PLAYGROUND** — An open space dedicated to the use of children's play equipment, such as slides, swings or play facilities.

**PROFESSIONAL OFFICE** –Offices and related spaces for provision of services by medical practitioners, attorneys, architects, engineers, brokers and similar professions.

**PROPAGATION STUDY** — A study which demonstrates the existing signal coverage and the signal coverage resulting from the proposed communications facility.

**RECREATION AREA, ACTIVE** — A defined area reserved for and specifically designed to accommodate outdoor sports and activities.

**RECREATIONAL BUSINESS** –A facility operated as a business and open to the public, with facilities for uses such as tennis, horseback riding, swimming, golf, miniature golf, driving ranges and open-air live theater.

**RECREATION AREA, PASSIVE** — A defined area reserved for and specifically designed to accommodate uses such as, but not limited to, recreation trails or paths and picnic areas.

**RELIGIOUS INSTITUTION** —A tax-exempt organization that regularly conducts religious worship or related activity.



**RESTAURANT** — A retail business (excluding drive-through food establishments) where food and beverages are sold to customers for consumption at a table or counter, or on a patio, or off the premises as carry-out orders.

**RETAIL BUSINESS** — Any establishment selling goods to the general public for personal and household consumption, including restaurants and bars, and excluding all other uses that are separately defined herein.

**ROOM RENTAL HOME**— A dwelling having a registered resident host in the primary dwelling of a private single-family or two-family home in which at least one and not more than two rooms are provided for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained. The room rental home shall not have more than four adult occupants as lodgers.

**SERVICE BUSINESS** — Any business or nonprofit that provides services to the public, including barbershops, dry cleaners, appliance repair, building trades and banks, and excluding all other uses that are separately defined herein.

**SETBACK** — The horizontal distance from the property line, measured at right angles as set forth in Table 2.

**SIGN** — Any material, structure or device, including awnings or umbrellas, composed of letters, pictures or symbols designed or used for the purpose of attracting, or which does attract, the attention of the public to the subject matter thereof and located out-of-doors, on the exterior of a building, or inside the building within two feet of the window or in a manner to be viewed primarily by passersby. Any distinct striping, lighting, corporate color schemes and other graphic design intended to serve as an attraction or to call attention to the site will be defined as a "sign."

**SIGN, ABANDONED** — Any sign associated with a building which becomes vacant and remains unoccupied; or which pertains to a time, event or purpose that no longer applies; or which remains in place that no longer advertises a bona fide business or activity; or which pertains to a product or service other than the one offered on such lot, shall be deemed to have been abandoned after a period of three months or more.

**SIGN, ANIMATED** — Any sign manifesting kinetic or illusory motion caused by natural, mechanical, manual, electrical or other means.

**SIGN, BILLBOARD** - See SIGN, OFF-PREMISE below

**SIGN, DIRECTORY** — Any sign containing multiple names located at a shopping plaza or building used to identify multiple businesses or professional offices that are located on site.

**SIGN, INTERNALLY ILLUMINATED** — Signs wherein a translucent or opaque material which forms the sign is back-lit by the light source and the light is enclosed from direct view.

**SIGN, NONCONFORMING** — Any sign that is not in compliance with this chapter from the date of original enactment, or from any future date on which this chapter may be amended.

**SIGN, OFF-PREMISE** — Any sign which advertises an establishment, products, services or entertainment not present, sold or distributed on the lot where the sign is located.

**SIGN, PORTABLE** — Any sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, structure or other sign, including A-frame easel, and sandwich-board-style signs.

**SIGN, ROOF** — Any sign mounted over or on the roof or parapet of a building.

**SIGN, SELF-ILLUMINATED** – Any sign wherein the light source itself is shaped, and utilized to form the sign (e.g., neon or an array of individual lamps).

**STEALTH** — Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including but not limited to architecturally screened roof-mounted antennas, antennas integrated into architectural elements, towers designed to look other than like a tower, such as light poles, power poles and trees. The term "stealth" does not necessarily exclude the use of uncamouflaged lattice or monopole tower designs.

**STREET** – Any approved public or private way, which may include a sidewalk, street, avenue or road.

**STRUCTURE** — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures shall include, among other things, buildings, decks, sheds, fences, storage bins, reviewing and display stands, platforms, towers, swimming pools, tennis courts, gasoline pumps, canopies, playhouses, greenhouses, gazebos, pergolas, toolsheds and garden sheds. Sidewalks, ground-level parking lots, driveways and patios are not structures.

**STRUCTURE, ACCESSORY** — A structure subordinate or supplemental to the main building on the same lot.

**TELECOMMUNICATIONS FACILITIES** -- Any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include any satellite earth station antenna one meter in diameter or less which is located in the Village Center or Gateway Business Districts or any satellite earth station antenna one meter or less.

**TOWER** — A structure which supports telecommunications facilities, whether a self-supporting lattice or monopole structure constructed from grade as a freestanding structure or a guyed tower or any other structure erected in connection with a building or other permanent structure or equipment capable of containing or intended for the use of one or more antennas for transmitting and/or receiving radio, television, digital, telephone, cellular, microwave or other similar electronic communications. The term "tower" shall not include amateur radio operators' equipment, as licensed by the FCC, and as exempted in ~ 120-20L of this chapter.

**TOWER, GUYED** — A communications tower constructed with guy wires and ground anchors.

**TOWER, SELF-SUPPORTED** — A communications tower, other than a monopole, that is constructed without guy wires and ground anchors.

**USE VARIANCE** — The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

**VETERINARIAN'S OFFICE** — An establishment for the medical and/or surgical care of sick or injured animals, including facilities for their temporary occupancy and, when operated by a licensed veterinarian, for their cremation. Outdoor facilities for boarding and cremation are not permitted. Use of a veterinarian's office for retail purposes is prohibited, except for those items either prescribed by a doctor of veterinarian medicine or those items necessary for the treatment of animal health problems.

**YARD** – The area between the lot lines and the required setbacks. A yard shall be unobstructed except for elements permitted by this chapter.

ZONING PERMIT — A permit issued by the Zoning Enforcement Officer in accordance with Article XV of this chapter, either in conjunction with a building permit or on its own before the commencement of any activity as governed under this chapter.

## **ARTICLE XVII**

### **Miscellaneous Provisions**

#### **~ 120-65. Severability.**

If any part or provision of this chapter 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 chapter or the application thereof to other persons or circumstances, and the Village Board of Trustees hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent.

#### **~ 120-66. Amendments.**

This chapter may from time to time be amended. An amendment shall be effected by a simple majority vote of the Village Board of Trustees, or by 3/4 of the members of the Village Board of Trustees in the event that such amendment is the subject of a written protest presented to the Board and signed by:

- A. The owners of 20% or more of the area of land included in such proposed change; or
- B. The owners of 20% or more of the area of land immediately adjacent to that land included in such proposed change, extending 100 feet therefrom; or
- C. The owners of 20% or more of the area of land directly opposite thereto, extending 100 feet from the lot frontage of such opposite land.

#### **~ 120-67. Amendment procedure.**

- A. The Village Board of Trustees shall provide for the manner in which such regulations, restrictions and the boundaries of such districts, including any amendments thereto, shall be determined, established and enforced. However, no such regulations, restrictions or boundaries shall become effective until after a public hearing in relation thereto, at which the public shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing shall be published in a paper of general circulation in the Village.
- B. Service of written notice. At least ten days prior to the date of the public hearing, written notice of any proposed regulations, restrictions or boundaries of such districts, including amendments thereto, affecting property within 500 feet of the following shall be served personally or by mail by the Village upon each person or persons as listed below:
  - (1) The property of the housing authority erecting or owning a housing project authorized under the Public Housing Law: upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto.
  - (2) The boundary of a city, Village or town: upon the Clerk thereof.
  - (3) The boundary of a county: upon the Clerk of the Board of Supervisors or other person performing like duties.

- (4) The boundary of a state park or parkway: upon the regional State Park Commission having jurisdiction over such state park or parkway.
- C. Public hearing. The public, including those served notice pursuant to Subsection B of this section, shall have the opportunity to be heard at the public hearing. Those parties set forth in Subsection B(1), (2), (3) and (4) above, however, shall not have the right of review by a court as hereinafter provided.
- D. Additional requirements. The procedural requirements set forth herein shall be in addition to the requirements of the provisions of ~ 239-l and 239-m of the General Municipal Law relating to review by a county planning agency or regional planning council; the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations which are codified in Part 617 of Title 6 of the New York Codes, Rules and Regulations and any other general laws relating to land use and any amendments thereto.
- E. Filing. Every zoning law and every amendment thereto (excluding any map incorporated therein) adopted shall be entered in the minutes of the Village Board, and a copy, summary or abstract thereof (exclusive of any map incorporated therein) shall be published once in the official newspaper, and a copy of such local law or amendment, together with a summary or abstract of any map incorporated therein, shall be posted conspicuously at or near the main entrance to the office of the Village Clerk, and affidavits of the publication and posting thereof shall be filed with the Village Clerk. Such minutes shall describe and refer to any map adopted in connection with such local law or amendment.
- F. Map. Each Village Clerk shall maintain every map adopted in connection with a zoning local law or amendment.
- G. Effective date. Such local laws shall take effect upon filing in the office of the Secretary of State, but such local laws or amendments shall take effect from their date of service as against a person served personally with a copy thereof, certified by the Village Clerk, and showing the date of passage and entry in the minutes.

**~ 120-68. Precedence of more restrictive standards.**

Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.