

## Article IV. Area and Bulk Regulations

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### A. District Schedule of Area and Bulk Regulations.

The general area and bulk regulations in each zoning district are set forth in the tabular “[District Schedule of Area and Bulk Regulations](#)” at the end of this Article. The Schedule is supplemented, as appropriate, by other provisions of this Zoning Law, including the supplementary regulations found in Article V and the general and additional specific standards for certain Special Permit Uses required by Article VI Sections C and D of this Zoning Law.

All Town and Village of Rhinebeck uses within the unincorporated areas of the Town shall conform to the District Schedule of Area and Bulk Regulations to the greatest extent practicable. Similarly, all other public agency uses shall consider the Town of Rhinebeck *Comprehensive Plan*, the Town of Rhinebeck *Local Waterfront Revitalization Program*, and should consider the District Schedule of Area and Bulk Regulations in planning their capital projects within the Town of Rhinebeck. In consideration of whether other public agency uses must comply with or are exempt from the Town’s Area and Bulk regulations, the Town agency reviewing the project shall endeavor to work with the public agency to weigh the factors enumerated in Article III, Sections A(1) through (10) of the Zoning Law. [\[Back\]](#)

### B. Existing Lots of Record.

1. **Existing Non-conforming Lots of Record.** A building or structure may be erected as a permitted use on any existing lot of record which, as defined in Article XIII of this Zoning Law, does not conform to the lot area requirements of the District Schedule of Area and Bulk Regulations, provided that:
  - a. Section 265-a of the New York State Town Law is complied with if applicable to the specific lot.
  - b. Such lot may not be used for more than one (1) dwelling unit and its associated accessory structures unless specifically authorized under this Chapter including accessory dwelling units, guest and caretakers houses and other ancillary and related dwellings created under the Special Use Permit requirements of Article VI of the Zoning Law.

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- c. Such use shall satisfy all applicable requirements of the Town of Rhinebeck, Dutchess County, and the New York State Departments of Health and Environmental Conservation for potable water supply and sewage disposal facilities.
  - d. All other area and bulk regulations and other applicable provisions of the Town Code are complied with.
  - e. Such lot was lawfully in existence on the effective date of this Zoning Law.
2. **Existing Lots of Record.** An "Existing Lot of Record," as that term is defined in Article XIII of this Zoning Law, in the Town's RC5 district, which consists of less than ten (10) acres, but is at least six (6) acres in area, may be subdivided, on a one-time basis, as follows:
- a. The lot may be subdivided into no more than two (2) lots.
  - b. The minimum lot size for each lot shall be three (3) acres.
  - c. Both lots shall meet the requirements of the Dutchess County Department of Health for installation of a well and septic system.
  - d. The lots shall comply with the bulk requirements as prescribed in the Article IV of this Zoning Law. If a lot cannot comply with one or more of the bulk requirements, approval shall be obtained from the Zoning Board of Appeals for an Area Variance from the requirement(s).
  - e. Applicants shall be required to obtain subdivision approval from the Planning Board, but the Conservation Subdivision provisions and Special Permit requirements of the Zoning Law, as applied to subdivision approval, shall not be required. [\[Back\]](#)

### C. Maximum Density Per Dwelling Unit.

In all districts where residences are permitted, lots may only be improved for residential use in accordance with the density requirements, as defined herein, and other applicable bulk regulations for the district as set forth in the "District Schedule of Area and Bulk Regulations" and for conservation subdivisions in Article V, Section I of the Zoning Law. In the HP20, RA10, ASH-F, and VG Districts, gross density shall be employed for the purpose of calculating maximum density. In all other districts where residences are permitted, net density shall be employed for the purpose of calculating maximum density.

In accordance with Section 261-b of New York State Town Law, in the HP20, RA10, RC5, RL5, RM1, VG, and CBS Zoning districts, the Town Board has determined that it is appropriate to offer density bonuses to applicants in exchange for the provision of community benefits and amenities (such as adaptive reuse of historic structures, the provision of affordable housing and compact development consistent with the Neighborhood Design Standards and Guidelines). The Town Board has evaluated the effects of such bonuses by reviewing whether the specified Zoning Districts contained adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection in its Generic Environmental Impact Statement (GEIS) of the Zoning Law completed in 2009. On the basis of such GEIS, the Town Board determined that there will be no significant environmentally damaging consequences and that such bonuses are compatible with the development otherwise permitted.

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In accordance with § 277 of New York State Town Law, lots in a conventional subdivision shall at least comply with the requirements of the District Schedule of Area and Bulk Regulations. The Planning Board has the authority to impose higher planning and design standards than otherwise provided for lots in a conventional subdivision, when there exists good reason in the nature of the land, including but not limited to topography, location, shape, size, drainage, surface and ground water resources, and other physical features of the site as well as the character of the surrounding community.

Exceptions to the maximum density per dwelling unit are as follows:

1. As provided in Article IV, Section B regarding existing non-conforming lots of record; or
  2. In cases where a bonus for affordable housing has been granted in accordance with Article V, Section CC of the Zoning Law.
  3. More specifically, if two (2) or more principal residential structures or dwelling units are located or proposed to be located on the same lot, except for accessory dwellings, guest houses or a residential conversion authorized under this Zoning Law by Special Use Permit, the following shall apply:
    - a. The maximum density per dwelling unit requirement must be complied with;
    - b. All other requirements of this Zoning Law and other applicable laws, rules and regulations must be strictly met;
    - c. A residential lot of required or greater than required area as set forth in this Zoning Law shall not be reduced in area for transfer of ownership if such lot so divided will form two (2) or more lots any of which shall be less than the maximum density required for the district in which the lot or lots are situated.
  4. In the Neighborhood Infill Overlay (NI-O) District, the District Schedule of Area and Bulk Regulations for the RM1 District shall be used to calculate maximum density per dwelling unit.
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### D. Height Exceptions.

The height limitations set forth in the “District Schedule of Area and Bulk Regulations” shall be applicable to principal and accessory buildings and structures. Building elements, such as roof air conditioners or elevator shafts that have the potential to detract from the aesthetics of the building’s architecture, should be designed to appear as if they are an integral architectural element of the structure. No structure, or other exception, shall be used as a place for habitation or for signage not otherwise authorized by this Zoning Law. The height limitations shall not be applicable to the following:

1. Flagpoles, windmills, agricultural barns and silos, and similar structures, which in no case shall exceed eighty (80) feet in height above average finished grade at its base. Special height requirements apply to Communication Towers found in Article VI, Section E.
2. Spires, belfries, chimneys, cupolas, skylights, water or cooling towers, parapets or railings, elevators, stair bulkheads, air conditioning units or similar small-scale structures, that are not to be used for human occupancy, which in their aggregate coverage occupy no more than ten percent (10%) of the roof area of the building of which they are an integral architectural or

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mechanical element. Such features shall be erected only to such minimum height as is necessary to accomplish the purpose for which they are intended and shall not detract from the visual appearance of the structure as determined by the Planning Board. The Town of Rhinebeck encourages the use of non-fossil fuel energy systems such as solar collectors and wind generators. Special height and other regulations apply to solar collectors and wind generators installed on a structure. Please see Article V, Section M of the Zoning Law for these regulations. [\[Back\]](#)

### E. Corner Lots.

1. Required front yards. On a corner lot, each street frontage shall be deemed to be a front street line, and the required yard along each such lot line shall be a required front yard. However, the above notwithstanding, for purposes of this Zoning Law, no lot shall be interpreted to have more than two (2) front yards regardless of how such lot is located or configured. The Code Enforcement Officer, in consultation with the owner, shall establish which of the remaining yards shall be the required side yard and the required rear yard for purposes of this Zoning Law.
2. Obstructions at Street Intersections. For traffic safety purposes, at all street intersections, no obstructions to vision such as a fence, gate, wall, hedge, structure or planting over three (3) feet higher than the center line of the street, as measured above the curb level, if any, or above the existing road level, shall be erected or installed and maintained. [\[Back\]](#)

### F. Architectural Features Permitted in Required Yards.

The following architectural features of a building may extend into a required yard subject to the limitations provided herein:

1. Ordinary projections of window sills, belt courses, cornices, eaves and other architectural features, provided, however, that such features shall not project more than three (3) feet into any required yard;
2. Chimneys or pilasters;
3. Open arbor or trellis;
4. Unroofed steps, patio or terrace not less than twenty (20) feet from the highway right-of-way nor less than ten (10) feet from any side or rear lot line provided that the building complies with the yard requirements of this Zoning Law and that no objectionable or offensive lighting inhibits the reasonable enjoyment of neighboring properties;
5. Awning or movable canopy not to exceed ten (10) feet in height, nor projecting more than six (6) feet into any required yard; and
6. Required exterior fire stairways on the side or rear of a building and extending not more than eight (8) feet from the principal building or closer than five (5) feet to any lot line.
7. Bay windows, including their cornices and eaves, may project into any required yard not more than three feet; provided, however, that the sum of such projections on any wall does not exceed one-third ( $\frac{1}{3}$ ) of the length of said wall. [\[Back\]](#)

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### G. Accessory Structures.

1. Except for structures used for agricultural purposes when conducted using “Sound Agricultural Practices” as defined by the New York State Department of Agriculture and Markets, for *bona fide* works of art such as sculptures, for Class 2 Home Occupations for which a Special Use Permit has been granted, or for detached accessory dwelling units permitted in accordance with the Special Use Permit requirements of Article VI of this Chapter, the following limitations shall apply to all accessory structures as defined in Article XIII of this Zoning Law:
  - a. No such structure shall exceed twenty (20) feet in height in any residence district.
  - b. No such structure shall be set back less than twenty (20) feet from any lot line.
  - c. Except for agricultural structures, guest or caretakers houses, no such structure shall project closer to the fronting street than the principal building on the lot.
  - d. All roofed accessory structures, except for agricultural buildings, shall in the aggregate comprise not more floor area than either the principal building on the lot or one thousand five hundred (1,500) square feet, whichever is more restrictive.
  - e. All such structures in the aggregate shall not occupy more than twenty percent (20%) or, in the case of roofed structures, more than one thousand (1,000) square feet of any required yard.
  - f. Not more than three (3) such accessory structures, other than a permitted sign or agricultural buildings, of which no more than one shall be a private garage, shall be permitted on an individual lot in a residential district. In the event the lot exceeds ten (10) acres, additional accessory structures may be sited if a Special Use Permit is granted in accordance with Article VI of this Zoning Law.
2. A single portable accessory building with a maximum floor area of eighty (80) square feet may be installed or constructed and used on any lot without the issuance of a Building Permit or Certificate of Occupancy, provided that:
  - a. The structure does not have a permanent foundation.
  - b. The structure is not served by any utility such as electricity, gas or plumbing.
  - c. The structure does not exceed ten (10) feet in height.
  - d. The structure is never used for human habitation.
  - e. All other requirements of this Zoning Law related to accessory structures are fully met.
3. Fences, gates and walls may be located in required yard areas where in full compliance with the standards provided within Article V, Section D of this Zoning Law. [\[Back\]](#)

### H. Distance Between Principal Buildings on Same Lot.

Except for agricultural structures, where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot than the height of the taller of said buildings. [\[Back\]](#)

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### I. Modification of Front Yard Setbacks.

On streets, roads or highways with less than a fifty (50) foot right-of-way or which are considered user highways, the front setback shall be measured perpendicularly from the centerline of the existing street, road or highway with twenty-five (25) feet added to the required front yard setback to establish the building line (i.e.  $25' + x' = \text{Building Line}$  where  $x'$  = the Minimum Building Setback for the Front Yard of a lot). For example, in the RC5 Zoning District, where the required Front Yard Setback is 100 feet, the Building Line would be  $100' + 25' = 125'$  as the Minimum Front Yard Setback. [\[Back\]](#)

### J. Minimum Lot Width and Frontage Exceptions.

In its review and approval of a conventional subdivision plat in accordance with Section 276 of the Town Law, the Land Subdivision Regulations of the Town of Rhinebeck, the Special Use Permit requirements of Section VI of the Zoning Law, and where lots are being platted exclusively for residential use, the Planning Board may, and shall be authorized to permit the following exceptions to the minimum lot width and minimum lot frontage requirements set forth in the “District Schedule of Area and Bulk Regulations.”

1. That in the case of any proposed lot with not less than seventy-five percent (75%) of its frontage on the circumference of the turnaround of a permanent cul-de-sac to be installed within the subdivision, the following reduced minimum requirements in the respective districts may be applied for creation of a conforming lot:
  - a. In the Historic Preservation (HP20) District, minimum lot frontage of five hundred 500 feet and minimum lot width of five hundred 500 feet.
  - b. In the Rural Agricultural (RA10) District, minimum lot frontage of four hundred 400 feet and minimum lot width of four hundred 400 feet.
  - c. In the Rural Countryside (RC5) District, minimum lot frontage of one hundred sixty 160 feet and minimum lot width of two hundred forty 240 feet.
  - d. In the Residential Low Density (RL5) District, minimum lot frontage of one hundred sixty (160) feet and minimum lot width of two hundred forty (240) feet.
  - e. In the Residential Medium Density (RM1) District, minimum lot frontage of ninety (90) feet and minimum lot width of one hundred twenty (120) feet.
2. “Flag lots” in conventional subdivisions and as defined in Article XIII of this Zoning Law, may be authorized as conforming lots within the HP20 and RA10 Zoning Districts. That in a limited number of occurrences in all other residential Zoning districts, except the Village Gateway, and Rc-H districts, where the Planning Board finds it to be essential to permit reasonable use of the subdivision tract without adverse environmental impact or in contravention of the public health, safety and welfare, “flag lots” may be authorized as conforming lots provided that the guidelines set forth in Subsections a through d below are considered. The Planning Board, before authorizing a flag lot or lots in a subdivision, should consider the uniqueness of the property, owing to topography, remoteness of location, protection of open space, biodiversity resources, surface water resources, and viewsheds:

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- a. That the number of flag lots authorized on any subdivision plat should be related to the total number of lots shown on the final plat and should not exceed one flag lot for every six lots unless the Planning Board determines it is appropriate to do so based upon the nature of the land including but not limited to topography, location, shape, size, drainage, surface and ground water resources, and other physical features of the site as well as the character of the surrounding community.
- b. That any authorized flag lot have a minimum lot frontage of forty (40) feet and, if contiguous to another lot with less than the minimum frontage prescribed in the District Schedule of Area and Bulk Regulations, share a common access point and driveway with such adjacent lot.
- c. That any authorized flag lot have not less than the minimum lot width specified for the zoning district at the building line established on the subdivision plat, rather than at the minimum required front setback line, as otherwise required by this Zoning Law. The building line so established may not be less than one hundred (100) feet in the HP20, RA10 and RC5 Districts, seventy-five (75) feet in the RL5 District and fifty (50) feet in the RM1 District further from the lot frontage than the line at which the minimum lot width specified for the zoning district is first achieved.
- d. That any authorized flag lot satisfy the minimum lot area requirement specified for the zoning district by consideration of only that land which lies further from the lot frontage than the line at which the minimum lot width specified in the “District Schedule of Area and Bulk Regulations” for the zoning district is first achieved. [\[Back\]](#)

### **K. Transition Requirements Between Zoning Districts.**

Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more restricted zoning district, there shall be provided along both sides of such abutting lot line or lines, side or rear yards equal to those required in the more restricted zoning district. [\[Back\]](#)

### **L. Freshwater Wetlands and Floodplains.**

No more than twenty-five percent (25%) of the required minimum lot area in a conventional subdivision, for any lot in any district may be fulfilled by land which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, regulated by the US Army Corps of Engineers and/or the Town of Rhinebeck, which lies under water, or which is subject to periodic flooding under conditions of a 100-year flood, as delineated by the FF-O District. When calculating the dimensional standards to be applied in a conservation subdivision, no more than twenty-five percent (25%) of the house lot area may be fulfilled by land which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, regulated by the US Army Corps of Engineers and/or the Town of Rhinebeck, which lies under water, or which is subject to periodic flooding under conditions of a 100-year flood, as delineated by the FF-O District. All minimum front, side and rear yard requirements must be satisfied by measurement wholly on dry land, except that, for purposes of this paragraph, land which is covered by an isolated pond not exceeding one hundred fifty (150) square feet in surface area at normal high water level, shall not be considered as being under water.

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Chapter 120 of the Town Code, the Town of Rhinebeck Freshwater Wetlands Law, also imposes additional requirements and may require issuance of a Wetlands Permit by the Town Planning Board. Applicants for development should consult Chapter 120 and, as applicable, State and Federal agency requirements, to obtain a complete understanding of the regulations in place on sites containing freshwater wetlands. [\[Back\]](#)

### M. Special Setbacks on Scenic Roads and Scenic Areas.

The scenic beauty of Rhinebeck and its surroundings are exceptionally desirable and are an extremely important asset for Rhinebeck, New York State and the Nation. As a result of the presence of these assets, Rhinebeck has received numerous designations by Federal and State agencies including the Hudson River National Historic Landmark District, State and National Registers of Historic Places properties, New York State's Mid-Hudson Historic Shorelands Scenic District, the Estates District Scenic Area of Statewide Significance, State Scenic Byways, and a Coastal Zone area. Sensitive planning of all development in this area is crucial to maintaining the rural and scenic character that lends so much importance to Rhinebeck's nationally significant environmental assets. In furtherance of protecting such scenic and rural quality, the Town of Rhinebeck requires the protection of roadside buffers that equal at least ten percent (10%) of the depth of a parcel proposed for subdivision, when located on lots having frontage within designated scenic roads or on lots with frontage on any of the aforementioned designated scenic and other areas. Minimum roadside buffers are required as follows:

1. On lots having frontage on a designated scenic road or on lots having frontage on a road within a designated scenic or other aforementioned cultural resource area, all native and natural vegetation between a house and road shall be maintained from the property boundary in the direction of the front setback line, the width of which will be determined by the lot size. In determining the need for minimum roadside buffers, the Town agency responsible for review of development proposals should refer such application to the CAC for an advisory opinion. The indigenous natural vegetation on a lot, having frontage on any such area is herein restricted and, shall be maintained from the property line adjacent to the regulated road towards the principal building or structure setback line for a distance equal to at least ten percent (10%) of the depth of the parcel.
2. Removal and/or maintenance of dangerous dead wood and non-native invasive species is permitted. A list of non-native invasive species can be found in the Town's Design Standards in Appendix A of this Zoning Law.
3. Upon completion of any project requiring a building permit and additional clearing, a survey will be required that includes existing clearing lines and calculations to ensure compliance with this Section before a certificate of occupancy may be issued.
4. The construction of a driveway is permitted through the buffer area.
5. Notwithstanding the foregoing provisions, these regulations do not apply to any lands used for agricultural purposes using "Sound Agricultural Practices" as determined by the New York State Department of Agriculture and Markets nor forestry operations conducted in a manner consistent with the "Timber Harvesting Guidelines" as published by the New York State Department of Environmental Conservation. [\[Back\]](#)