

ZONING

Chapter 120

ZONING

ARTICLE I

General Provisions; Purposes and Principles

- § 120-1. Legislative authority; purpose.**
- § 120-2. Interpretation of provisions.**
- § 120-3. Application of provisions; effect on other laws.**
- § 120-4. Establishment of districts.**
- § 120-5. Zoning Map; interpretation of boundaries; lots in more than one district.**
- § 120-6. Allowable Use Groups Chart.**
- § 120-7. Accessory uses.**
- § 120-8. Dimensional Table.**
- § 120-9. Accessory structures.**
- § 120-10. Yard setbacks at district boundaries.**
- § 120-11. Sight triangle.**
- § 120-12. Permitted yard encroachments.**
- § 120-13. Fences and walls.**
- § 120-14. Farm animals on nonfarm lots.**
- § 120-15. Off-street parking.**
- § 120-16. Off-street loading.**
- § 120-17. Signs.**
- § 120-18. Cellular communications towers.**

RHINEBECK CODE

ARTICLE II
Village Center District

- § 120-19. **Village Center principles.**
- § 120-20. **Village Center Allowable Use Groups Chart.**
- § 120-21. **Village Center Dimensional Table.**
- § 120-22. **Apartments in Village Center.**
- § 120-23. **Site plan review.**

ARTICLE III
Residential District

- § 120-24. **Residential principles.**
- § 120-25. **Residential Allowable Use Groups Chart.**
- § 120-26. **Residential Dimensional Table.**
- § 120-27. **Residential general provisions.**
- § 120-28. **Accessory dwelling units and two-family dwellings.**
- § 120-29. **Multiple-family dwellings.**
- § 120-30. **Home occupation performance standards.**
- § 120-31. **Planned residential development (PRD).**
- § 120-32. **Alternate-care housing (ACH).**
- § 120-33. **Site plan approval for subdivisions.**

ARTICLE IV
Gateway Business District

- § 120-34. **Gateway business principles.**
- § 120-35. **Gateway Business Allowable Use Groups Chart.**

ZONING

§ 120-36. Gateway Business Dimensional Table.

§ 120-37. Gateway business performance standards.

ARTICLE IVA
Medical Office District

§ 120-37.1. Medical Office principles.

§ 120-37.2. Medical Office general provisions.

§ 120-37.3. Medical Office District Allowable Use Chart.

§ 120-37.4. Medical Office Dimensional Table.

ARTICLE V
Land Conservation Overlay

§ 120-38. Findings; purpose; standards.

ARTICLE VI
Special Sensitivity Overlay

§ 120-39. Findings; purpose.

§ 120-40. Residential District.

§ 120-41. Village Center.

§ 120-42. Site plan review.

ARTICLE VII
Special Permits and Site Plan Approval

§ 120-43. When required.

§ 120-44. Applications.

§ 120-45. Required information.

RHINEBECK CODE

- § 120-46. **Special permits.**
- § 120-47. **Site plan approval.**

ARTICLE VIII
Variances and Appeals

- § 120-48. **Appeals from official orders, requirements, decisions and determinations.**
- § 120-49. **Appeals for variances.**
- § 120-50. **Imposition of conditions.**
- § 120-51. **Appeal process and procedures.**

ARTICLE IX
Nonconforming Uses, Buildings and Structures

- § 120-52. **Nonconforming uses.**
- § 120-53. **Nonconforming buildings, structures and lots.**
- § 120-54. **Amortization.**

ARTICLE X
Administration

- § 120-55. **Zoning Enforcement Officer.**
- § 120-56. **Board of Appeals.**
- § 120-57. **Planning Board.**

ARTICLE XI
Enforcement

- § 120-58. **Building and zoning permits.**

ZONING

- § 120-59. **Certificates of occupancy.**
- § 120-60. **Fees.**
- § 120-61. **Penalties for offenses.**

ARTICLE XII Word Usage and Definitions

- § 120-62. **Word usage.**
- § 120-63. **Definitions.**

ARTICLE XIII Miscellaneous Provisions

- § 120-64. **Severability.**
- § 120-65. **Amendments.**
- § 120-66. **Amendment procedure.**
- § 120-67. **Precedence of more restrictive standards.**

ARTICLE XIV Referenced Guidelines

- § 120-68. **Guidelines.**
- § 120-69. **Greenway connections.**

[HISTORY: Adopted by the Board of Trustees of the Village of Rhinebeck 6-12-2001 by L.L. No. 2-2001.¹ Amendments noted where applicable.]

¹ Editor's Note: This local law superseded former Ch. 120, Zoning, adopted 1-11-1977 by L.L. No. 1-1977, as amended.

GENERAL REFERENCES

Planning and Zoning Board alternate members — See Ch. 14, Art. I.
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.
Payment of professional fees — See Ch. 85.
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: **[Amended 4-4-2006 by L.L. No. 1-2006]**

Residential District (R)
Village Center District (VC)
Gateway Business District (GB)
Medical Office District (MO)

- 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.

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.²
- 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:

² Editor's Note: The Zoning Map and all amendments thereto are on file in the Village offices.

- (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
 - (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 Use Groups Chart. [Amended 4-4-2006 by L.L. No. 1-2006]

- 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 below. See § 120- 63 for definitions of the use categories. Uses which are not allowed 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

Allowable Use Group	Village Center	Residential	Gateway Business	Medical Office
Business Use Group				
Agricultural use	X	sp	p	X
Amusement facility	sp	X	sp	X
Auto service station	X	X	sp	X
Craft workshop	sp	X, (SSO)	sp	X
Funeral home	sp	X	sp	X
Home occupation	p	sp	X	sp
Medically related office				sp
Professional office	p	X, (SSO)	p	X
Recreational business	X	X	sp	X
Retail business	p	X	p	X
Service business	sp	X	sp	X
Residential Use Group				
Accessory dwelling unit	sp	sp	X	sp
Alternate-care housing (ACH)	X	sp	X	X
Apartments	p	X	sp	sp
Bed-and-breakfast establishment	p	sp	X	X
Bed-and-breakfast home	p	p	X	X
Dwelling, single-family	sp	p	X	p
Dwelling, two-family	sp	sp	X	sp
Dwelling, multifamily	sp	X	X	X

§ 120-6	ZONING		§ 120-8	
Dwelling, multifamily preexisting and registered	X	sp	X	X
Lodging facility	p	X, (SSO)	sp	X
Nursing home	sp	sp	X	X
Planned residential development	X	sp	X	X
Community Use Group				
Cemetery	sp	sp	sp	X
Day care, family	sp	p	X	X
Day care, family group	sp	X	X	X
Educational use	sp	X	sp	X
Hospital	X	sp	X	X
Library	sp	sp	sp	X
Lodge or club	sp	X, (SSO)	X	X
Municipal use	p	p	p	X
Religious institution	sp	sp	sp	X
Land Conservation Use Group				
Active recreation	sp	sp	sp	X
Passive recreation	sp	p	p	X

§ 120-7. Accessory uses.

In all districts, all uses permitted for each district by 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. [Amended 4-4-2006 by L.L. No. 1-2006]

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

	Village Center	Village Center - SSO	Residential	Gateway Business	Medical Office
Minimum lot area (square feet)	4,000	4,000	8,000	30,000	8,000
Minimum front yard setback (feet)	0	10*	10*	20	20
Maximum front yard	5	25	25*	40	25

§ 120-8	RHINEBECK CODE			§ 120-11	
setback (feet)					
Minimum side yard setback (feet)	0	10	10	20	10
Maximum side yard setback (feet)	25	—	—	—	—
Minimum rear yard setback (feet)	25	25	25	25	25
Minimum lot frontage (feet)	40	40	60	150	70
Minimum lot width (feet)	40	40	60	150	70
Maximum building height (feet)	40	40	35	35	35
Maximum lot coverage area	65%	65%	30%	30%	30%

*Note: Notwithstanding the setback provisions established above, structures in the Residential District may be built anywhere within the setbacks 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 10 feet into front yard setbacks in all districts: eaves, cornices, canopies, bay windows, open porches, verandas, decks, patios, steps, balconies and any other architectural features which are consistent with Rhinebeck's character.
- B. The following structures and building features may encroach up to 10 feet into rear yards in all districts: eaves, cornices, decks, patios, steps, balconies and any other architectural features which are consistent with Rhinebeck's character.

§ 120-13. Fences and walls.

- A. General provisions.
 - (1) Fences and walls of more than 36 inches in height shall require a building permit.
 - (2) The height of fences and walls shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage and similar areas.
 - (3) Fences 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 or wall. In cases where the fence or wall is built up to the property line, the type of fence or wall will be such as to not require maintenance on the side abutting adjacent property. Otherwise, a two-foot setback is required to provide for routine maintenance and a gate to provide access.

- (4) The finished side of the fence shall face neighboring properties or the street.
 - (5) Fences and walls shall not encroach on any public right-of-way.
 - (6) The owner of the fence or wall must maintain both sides of the fence or wall in respectable condition.
 - (7) The height of fences and walls located within a corner lot or curb cut sight triangle (see § 120-11 above) shall not exceed 36 inches above the lowest adjoining finished grade.
 - (8) The height of fences and walls shall not exceed four feet in front yards, six feet in side yards, and six feet in rear yards.
- B. Fences 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%.

§ 120-14. Farm animals on nonfarm lots.

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.

§ 120-15. Off-street parking.

- A. 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.

- B. 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 G, 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.
- C. Criteria for number and layout of spaces.
 - (1) 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.
 - (2) The size of a parking space shall be 9 feet by 18 feet.
 - (3) The minimum aisle width with cars parked on both sides of the aisle shall be 20 feet.
 - (4) In determining the parking requirements for any proposed use, the Planning Board shall consider the following criteria:
 - (a) The maximum number of persons who would be parking at the use as employees, customers,

clients, members, students or other users, at times of peak usage.

- (b) The size of the structure(s) and the site.
 - (c) The scenic or historic sensitivity of the site.
 - (d) 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.
- (5) 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 applicant may furnish a fee, in lieu of providing the parking spaces, for each space the applicant is unable to provide.

D. Parking access parking bonus.

- (1) 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.
- (2) The Planning Board shall determine if the proposed public spaces qualify as publicly accessible.
- (3) 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.

E. In-lieu fee.

- (1) 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 below) after

subtracting the number of spaces that the applicant actually provides.

- (2) The fee in lieu of providing parking spaces shall only be implemented when all other reasonable options are exhausted.
- (3) The fee shall be set by the Village Board of Trustees at the recommendation of the Planning Board and will be reviewed annually.
- (4) The fee collected for each parking space not provided by the applicant will represent the parking replacement cost (PRC) of providing and maintaining such parking at another location in or near the Village Center.

F. Parking fund.

- (1) The fee in lieu of providing parking spaces shall be collected and deposited into a separate fund held by the Village.
- (2) 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.

G. Off-Street Parking Chart. [Amended 4-4-2006 by L.L. No. 1-2006]

**TABLE 3
Off-Street Parking Chart**

Use	Number of Parking Spaces
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TABLE 3
Off-Street Parking Chart

Use	Number of Parking Spaces
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	1 for each resident and 1 per guest room
Bed-and-breakfast home	1 for each resident and 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 200 maximum – 500 minimum square feet
Home occupation	1 additional for each employee
Hospital	1 for each vehicle owned and operated by the hospital, plus

**TABLE 3
Off-Street Parking Chart**

Use	Number of Parking Spaces
	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
Medical office	1 per 200 maximum — 1,000 minimum square feet
Nursing home	From 0.5 minimum to 1 maximum per unit
Passive recreation	As determined by site plan review
Professional office	1 per 200 maximum – 1,000 minimum square feet
Recreational business	As determined by site plan review
Religious institution	1 for each 2 maximum – 8 minimum seats
Retail and service businesses	1 per 200 maximum – 1,000 minimum square feet

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

§ 120-16. 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 roads. 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:

- A. The expected maximum number of vehicles using the loading facilities at times of peak usage.
- B. The type of business, size of the structure, and size of vehicles to be servicing the structure.
- C. The need to ensure pedestrian and automobile safety by separating loading operations from pedestrian and automobile circulation.
- D. 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.
- E. The desirability of requiring service roads or alleys to achieve the purposes of this section.
- F. Applicable planning and engineering standards, adapted to meet the needs of the particular business use proposed.
- G. Other operational characteristics of the business or physical characteristics of the site deemed appropriate by the reviewing board or official.
- H. 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 C through F above may be allowed.

§ 120-17. Signs.

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 facade; 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 or relocation 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 ground-floor street frontage occupied by an establishment, but not exceeding 30 square feet for any sign parallel to and flat against the facade of a building or 15 square feet for any other sign.
- (4) In the Village Center and Gateway Business Districts, where the design of an existing building facade 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 facade of a building or 15 square feet for any other sign.
- (5) No attached sign may extend more than four feet over the street right-of-way/property line.
- (6) Freestanding signs shall not be permitted where the building is set less than 10 feet back from the property line.
- (7) Projecting signs shall not be less than seven feet from the ground.
- (8) No sign shall exceed 10 feet in height or extend above the facade of the building to which it is attached.

- (9) Freestanding signs larger than eight square feet are subject to the setback and required yard provisions in Table 2, § 120-8.
- (10) Interior sign coverage shall not exceed 30% of the glass area or window in which it is displayed.

B. 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 excluded unless the structure is designed in a way to form an integral background for the display.
- (2) Back-to-back signs, identical signs arranged back-to-back or diverging by less than 30° from a common line or point may 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.

C. Illuminated signs.

- (1) Externally illuminated.
 - (a) Externally illuminated signs shall be allowed subject to dimension and placement provisions above.
 - (b) 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.
 - (c) Light sources shall be so located and/or shielded so that the edge of the beam of any artificial light source shall not cross any property line of a lot on which the sign is situated. For this

purpose, the “edge of the beam” is defined as the surface at which the intensity of the light does not exceed 10% of the luminescence of the center of the beam.

(d) Light sources shall be limited to natural white lamps, and light fixtures and shall be designed to cause a reasonably uniform distribution of light over the full extent of the sign.

(2) Internally illuminated. Internally illuminated signage shall be prohibited.

D. 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.

E. Signs in Residential District and Medical Office District. Except for the exempt signs as permitted below and those specifically described in § 120-30, Home occupation performance standards, and Article VI, Special Sensitivity Overlay, all signs are prohibited in the Residential District and the Medical Office District. Medical offices in the Medical Office District shall conform to the sign standards for the Special Sensitivity Overlay District. **[Amended 4-4-2006 by L.L. No. 1-2006]**

F. 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) Construction, renovation or painting signs, not exceeding six square feet, listing the architect,

engineer, contractor and/or owner, on the lot where the activity is being conducted 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) Nonilluminated warning, private drive, posted or no-trespassing signs, not exceeding two square feet.
- (7) Number 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) Real estate signs which are any temporary signs identifying that the real estate upon which the sign is located is for sale, lease or rent, or holding open

houses. Such signs must not exceed six square feet, and only an external light source may illuminate such signs.

G. 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 § 120-17D.
- (2) Banners: any sign made from fabric or any nonrigid material supported at two or more points.
- (3) Directional signs larger than two square feet, as otherwise defined under exempt signs in § 120-17F.
- (4) Directory signs: any sign containing multiple names located at an off-street shopping plaza or building used to identify multiple businesses or professional offices.
- (5) Externally illuminated signs, as regulated in § 120-17C(1).

H. Prohibited signs. Unless otherwise specifically stated, the following signs are prohibited:

- (1) Abandoned signs: Any sign which is located on 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.
- (2) Animated signs: any sign manifesting kinetic or illusory motion caused by natural, mechanical, manual, electrical or other means.
- (3) Billboards: See Subsection H(9), Off-premises signs.
- (4) Illuminated flashing signs.

- (5) Self-illuminated signs, wherein the light source itself is shaped, and utilized to form the sign (e.g., neon or an array of individual lamps).
- (6) Inflated signs and tethered balloons.
- (7) 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.
- (8) Nonconforming signs: 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.
- (9) Off-premise signs: any sign which advertises an establishment, products, services or entertainment not present, sold or distributed on the lot where the sign is located.
- (10) Portable signs: 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.
- (11) Roof signs: any sign mounted over or on the roof or parapet of a building.
- (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 erected by a governmental body.

I. Sign removal.

- (1) 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, is prohibited and shall be brought into compliance with this chapter.
- (2) The business, property and/or sign owner of such 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.

§ 120-18. 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. 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.³

- (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

³ Editor's Note: See Article VII, Special Permits and Site Plan Approval.

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 VII, 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 governmental agencies, that the proposed telecommunications facility will have no adverse impact on air or surface traffic within $\frac{1}{2}$ 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. Local 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 a 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 55 feet.
 - (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 § 120-46B, 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 Village Center District

§ 120-19. Village Center principles.

The Village Center is the cultural and commercial hub of this historic Hudson River community. The enhancement and preservation of its character are essential elements of the economic base of the Rhinebeck community. 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. Ground floors shall primarily contain active, publicly accessible uses.
- D. 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.
- E. Buildings will typically be located on small lots with small or nonexistent front and side yard setbacks.
- F. Buildings shall be constructed close to the sidewalk.
- G. Well-defined crosswalks and well-maintained sidewalks will clearly define pedestrian space.
- H. 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.
- I. Multiple routes between destinations (in an interconnected network of streets) will allow pedestrians and motorists a choice of the most direct or most interesting routes.
- J. Streets shall be designed to accommodate multiple users, including cars and pedestrians.
- K. 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 and pedestrians.
- L. 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.
- M. Any off-street parking shall generally be located behind buildings, and in the interior of lots.

- N. 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.
- O. New construction shall conform to general architectural principles common to the existing historic character of the Village Center by conforming to the existing Village Center architectural design elements, including but not be limited to building orientation, fenestration, building materials, heights and rooflines, but may exhibit a variety of consistent styles.

§ 120-20. Village Center Allowable Use Groups Chart.

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 is not allowed.

**TABLE 4
VC Allowable Use Groups Chart**

Allowable Use Group	Village Center
Business Use Group	
Agricultural use	X
Amusement facility	sp
Auto service station	X
Craft workshop	sp
Funeral home	sp
Home occupation	p
Professional office	p
Recreational business	X
Retail business	p
Service business	sp
Residential Use Group	
Accessory dwelling unit	sp
Alternate-care housing (ACH)	X
Apartments	p
Bed-and-breakfast establishment	p
Bed-and-breakfast home	p

Allowable Use Group	Village Center
Dwelling, single-family	sp
Dwelling, two-family	sp
Dwelling, multifamily	sp
Dwelling, multifamily preexisting and registered	X
Lodging facility	p
Nursing home	sp
Planned residential development	X
Community Use Group	
Cemetery	sp
Day care, family	sp
Day care, family group	sp
Educational use	sp
Hospital	X
Library	sp
Lodge or club	sp
Municipal use	p
Religious institution	sp
Land Conservation Use Group	
Active recreation	sp
Passive recreation	sp

§ 120-21. Village Center Dimensional Table.

**TABLE 5
VC Dimensional Table
Yard, Area, Setback and Height Requirements**

	Village Center
Minimum lot area (square feet)	4,000
Minimum front yard setback (feet)	0
Maximum front yard setback (feet)	5
Minimum side yard setback (feet)	0
Maximum side yard setback (feet)	25
Minimum rear yard setback (feet)	25
Minimum lot frontage (feet)	40
Minimum lot width (feet)	40
Maximum building height (feet)	40
Maximum lot coverage area	65%

§ 120-22. 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. Apartments shall not be permitted over an auto service station or establishments storing or retailing flammable or fume-producing goods.
- B. The habitable area of each apartment shall be at least 500 square feet.
- C. Each apartment shall be a separate dwelling unit with provisions for complete living, including sanitary and sleeping facilities for year-round use by one family.
- D. Apartments shall not be located on 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.
- E. Apartments shall have access to the outside of the building which must be distinct from the access to uses on the first floor.
- F. Each apartment shall have off-street parking in accordance with § 120-15.

§ 120-23. Site plan review.

All building and zoning permit applications in the VC 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 III
Residential District

§ 120-24. Residential principles.

The Residential District is established to create a safe haven for people to live in and conduct their domestic activities. A degree of privacy is expected, especially in the house and the rear yard, while the front yard and the front porch (when existent) 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. Building entrances shall be clearly defined and face the street.
- D. Garages shall not dominate the building facade.
- 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 consistent with the Village’s historical architectural character.
- 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 core.
- H. Dead-ends, culs-de-sac and loop roads are discouraged unless unusual topography or other physical characteristics of the land make this necessary.

- I. Streets and sidewalks shall be designed to accommodate multiple users, including cars and pedestrians. Sidewalks shall be required for new construction where applicable.
- J. Sidewalks shall be separated from the roadway by a planting strip and street trees.
- K. On-street parallel parking shall be permitted on one or both sides of the street as established by the Village Board of Trustees.

§ 120-25. Residential Allowable Use Groups Chart.

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 groups requires a special permit, and the symbol “X” means the use group is not allowed. In the Residential District, an “SSO” designation indicates that those uses groups are allowed by special permit where the Special Sensitivity Overlay applies.

TABLE 6
R Allowable Use Groups Chart

Allowable Use Group	Residential
Business Use Group	
Agricultural use	sp
Amusement facility	X
Auto service station	X
Craft workshop	X, (SSO)
Funeral home	X
Home occupation	sp
Professional office	X, (SSO)
Recreational business	X
Retail business	X
Service business	X
Residential Use Group	
Accessory dwelling unit	sp
Alternate-care housing (ACH)	sp
Apartments	X
Bed-and-breakfast establishment	sp
Bed-and-breakfast home	p
Dwelling, single-family	p
Dwelling, two-family	sp
Dwelling, multifamily	X
Dwelling, multifamily preexisting and registered	sp
Lodging facility	X, (SSO)
Nursing home	sp
Planned residential development	sp
Community Use Group	
Cemetery	sp
Day care, family	p
Day care, family group	X
Educational use	X
Hospital	sp
Library	sp
Lodge or club	X, (SSO)
Municipal use	p
Religious institution	sp

Allowable Use Group	Residential
Land Conservation Use Groups	
Active recreation	sp
Passive recreation	p

§ 120-26. Residential Dimensional Table.

**TABLE 7
R Dimensional Table
Yard, Area, Setback and Height Requirements**

**TABLE 6
R Allowable Use Groups Chart**

R Allowable Use Group Chart	Residential
Minimum lot area (square feet)	8,000
Minimum front yard setback (feet)	10*
Maximum front yard setback (feet)	25
Minimum side yard setback (feet)	10
Maximum side yard setback (feet)	—
Minimum rear yard setback (feet)	25
Minimum lot frontage (feet)	70
Minimum lot width (feet)	70
Maximum building height (feet)	35
Maximum lot coverage area	30%

*Note: Notwithstanding the setback provisions established above, structures in the Residential District may be built anywhere within the setbacks 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.

§ 120-27. Residential general provisions.

A. Accessory structures.

- (1) Playhouses, greenhouses, toolsheds, garden sheds and other similar structures not exceeding 300 square feet must be set back a minimum of five feet from the side and rear property lines and are not

permitted within the front yard setbacks, but in no case in front of the front building line.

- (2) Accessory structures do not count towards the footprint of new buildings.

B. Swimming pools.

- (1) Private swimming pool may be installed or maintained for the private use of the owner or occupant of such dwelling or building and his or her family, guests or employees.
- (2) Any such pool shall be completely enclosed by a security fence not less than four feet in height, with all gates or doors opening through such enclosure equipped with self-closing and self-latching devices designed to keep and be capable of keeping such gates or doors securely closed at all times when not in actual use.
- (3) Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- (4) Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed and maintained as not to interfere with the quiet and peaceful enjoyment of the occupants of any adjoining property.

C. Yard storage. Within the setbacks of residential dwelling units, outdoor storage or parking of the following is prohibited: boat, boat and trailer, trailer, camp trailer, cargo trailer, motor home or commercial vehicle. Within the remaining yard of residential dwelling units, outdoor storage is limited to no more than one of any of the preceding list.

D. Specific Residential District parking provisions.

- (1) Garages or open parking shall only be for persons visiting or residing on 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's 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), no required front yard or portion thereof in the Residential District shall be utilized to provide 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) Maintain the character of the neighborhood;
 - (2) Ensure the peace, privacy, quiet and dignity of the area; and
 - (3) Avoid excessive noise, traffic, nuisance, fire hazard and other adverse effects of increasing residential density.
- B. General performance standards.
 - (1) Accessory dwelling units and two-family dwellings shall not infringe on the privacy of neighbors or their quiet and peaceful enjoyment of their property.

- (2) 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.
- (3) 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 § 120-15.
- (4) Parking shall be provided only on the side and rear area of the lot and shall not encroach into the required setbacks.

C. Accessory dwelling units.

- (1) Accessory dwellings shall be dwelling units with provisions for complete living, including sanitary and sleeping facilities for year-round use by one family.
- (2) Accessory dwelling units shall be incidental and secondary to the primary dwelling unit. Accessory dwelling units may not have a floor area greater than 25% of the primary 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.
- (4) The minimum floor area for accessory dwelling units shall be 300 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.

D. Two-family dwellings.

- (1) Single-family dwellings converted to two-family dwellings shall be allowed, provided that no exterior changes are made which, in the judgment of the Planning Board, do not conform to the character of the neighborhood. Newly constructed two-family dwellings shall be allowed, provided that, in the judgment of the Planning Board, they conform to the character of the neighborhood.
- (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.

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. However, new multiple-family dwellings are prohibited in the Residential and Gateway Business Districts, as well as those areas covered in the Land Conservation and Special Sensitivity Overlays.

- A. Registration and continuation. All multiple-family dwelling uses which existed lawfully at the time of enactment of this chapter may be continued, provided that they are 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 will cause the use to be viewed as having been discontinued. Multiple-family dwellings that have registered shall not be considered nonconforming and may remain subject to the other relevant provisions of 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 of the same lot.
 - (3) Multiple-family dwellings may increase their density and add up to 10% of the number of dwelling units existing at the adoption of this chapter. Only preexisting multiple-family dwellings with 10 or more units qualify for this increase in density. When calculating such an increase, partial dwelling units of $\frac{1}{2}$ or more shall be rounded up to 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 7, R Dimensional Table of Yard, Area, Setback and Height Requirements,⁴ and shall conform to the purposes, principles and provisions of the Residential District.
- C. Destruction and restoration. If a multiple-family dwelling is hereafter removed, or 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.

⁴ Editor's Note: See § 120-26, Residential Dimensional Table.

- D. Discontinuance. If a multiple-family dwelling 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.

§ 120-30. Home occupation performance standards.

Home occupations may be permitted, in existing and new homes, 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, quiet and dignity 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 § 120-15. 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 § 120-17.
- 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 shall 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. Site plan approval shall be contingent upon the applicant's ability to demonstrate that the proposal adheres to the following performance standards:

- A. PRDs shall be interwoven into the community and should not stand alone.
- B. PRDs are subject to all of the same provisions established for the Residential District.
- C. Residential lot areas, yard areas and frontages may vary and shall be determined by the dimensional chart provided above in § 120-26, Table 7, R Dimensional Table of Yard, Area, Setback and Height Requirements.
- D. Planned residential developments shall be comprised of only single-family and/or two-family homes.
- E. A single-family home may also have one accessory dwelling unit.
- F. 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.
- G. 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.
- H. Sidewalks and street trees shall be required on both sides of the street.

- I. 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.
- J. Building orientation, fenestration, building materials, rooflines, building height and other architectural elements shall be consistent with the Village's historical architectural character.

§ 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 all Residential Districts 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(ies).
- (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) shall be submitted to the Planing Board.
- (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 Code⁵ and shall be subject to Health and Fire Department regulations and approvals.

⁵ Editor's Note: See Ch. 56, Fire Prevention and Building Construction.

- (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.

§ 120-33. Site plan approval for subdivisions.

Any subdivision of more than two lots shall require site plan approval by the Planning Board prior to, or concurrent with, subdivision approval.

ARTICLE IV

Gateway Business District

§ 120-34. 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 more representative of 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.

§ 120-35. Gateway Business Allowable Use Groups Chart.

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 is not allowed.

**TABLE 8
GB Allowable Use Groups Chart**

Allowable Use Group	Gateway Business
Business Use Group	
Agricultural use	p
Amusement facility	sp
Auto service station	sp
Craft workshop	sp
Funeral home	sp
Home occupation	X
Professional office	p
Recreational business	sp
Retail business	p
Service business	sp
Residential Use Group	
Accessory dwelling unit	X
Alternate-care housing (ACH)	X
Apartments	sp
Bed-and-breakfast establishment	X
Bed-and-breakfast home	X
Dwelling, single-family	X
Dwelling, two-family	X
Dwelling, multifamily	X
Dwelling, multifamily preexisting and registered	X
Lodging facility	sp
Nursing home	X
Planned residential development	X

**TABLE 8
GB Allowable Use Groups Chart**

Allowable Use Group	Gateway Business
Community Use Group	
Cemetery	sp
Day care, family	X
Day care, family group	X
Educational use	sp
Hospital	X
Library	sp
Lodge or club	X
Municipal use	p
Religious institution	sp
Land Conservation Use Group	
Active recreation	sp
Passive recreation	p

§ 120-36. Gateway Business Dimensional Table.

**TABLE 9
GB Dimensional Table
Yard, Area, Setback and Height Requirements**

	Gateway Business
Minimum lot area (square feet)	30,000
Minimum front yard setback (feet)	20
Maximum front yard setback (feet)	40
Minimum side yard setback (feet)	20
Maximum side yard setback (feet)	—
Minimum rear yard setback (feet)	25
Minimum lot frontage (feet)	150
Minimum lot width (feet)	150
Maximum building height (feet)	35
Maximum lot coverage area	30%

§ 120-37. 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) Apartments shall not be permitted over an auto service station or establishments storing or retailing flammable or fume-producing goods.
 - (2) The habitable area of each apartment shall be at least 500 square feet.
 - (3) Each apartment shall be a separate dwelling unit with provisions for complete living, including sanitary and sleeping facilities for year-round use by one family.
 - (4) Apartments shall not be located on 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.
 - (5) Apartments shall have access to the outside of the building which must be distinct from the access to uses on the first floor.
 - (6) Each apartment shall have off-street parking in accordance with § 120-15.
- 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 on Route 9.

- (3) Buildings in the GB 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 create 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.

C. Parking.

- (1) Uses that generate vehicular visits must provide adequate parking in accord with the parking chart shown in § 120-15 and in a manner and style that enhances the entrance to the Village.
- (2) Parking shall be located behind the front facade line of the principal structure on the lot or behind the building, and it shall be suitably buffered with plantings and/or fencing.

D. Lighting.

- (1) Lighting of walks and entrances shall be accomplished with low-level lighting, with a maximum height of 12 feet for any freestanding light fixture.
- (2) Light fixtures in parking areas shall be designed to focus light downward to minimize glare.
- (3) Floodlights for the illumination of signs, buildings or other structures shall be so located and/or shielded as not to interfere with the enjoyment of any residential use or detract from the safety of motorists. The edge of the beam of any artificial light source shall not cross any property line of a lot on which the illuminated object is situated. For this purpose, the "edge of the beam" is defined as the

surface at which the intensity of the light does not exceed 10% of the luminescence of the center of the beam.

E. Signs. Signs shall be in compliance with § 120-17.

ARTICLE IVA
Medical Office District
[Added 4-4-2006 by L.L. No. 1-2006]

§ 120-37.1. Medical office principles.

The Medical Office District is created to recognize that the Village of Rhinebeck has a discrete area where medical offices can be particularly well located, with easy access to the Northern Dutchess Hospital and no adverse impact on neighboring residences, sited within structures with a historic residential use and character, for the benefit of the patients of doctors connected to the Northern Dutchess Hospital and other physicians. Medical offices and residential uses connected to the hospital can preserve and enhance the Village's architectural character in this small district. Historically, doctors' offices were located within their residences in the Village, and while this is not required in this district, the appearance should be that these structures are occupied. Toward that end, single-family homes, two-family homes and accessory apartments are also permitted in the district.

§ 120-37.2. Medical office 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 historical residential architectural character.
- B. Accessory structures, swimming pools, yard storage and parking provisions. The same provisions as set forth for the Residential District, § 120-27, regarding accessory

§ 120-37.2

RHINEBECK CODE

§ 120-37.3

structures, swimming pools, yard storage and parking shall apply in the Medical Office 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.

§ 120-37.3. Medical Office District Allowable Use Chart.

Allowable Use Group	Medical Office
Business Use Group	
Agricultural use	x
Amusement facility	x
Auto service station	x
Craft workshop	x
Funeral home	x
Home occupation	sp
Medically related office	sp
Professional office	x
Recreational business	x
Retail business	x
Service business	x
Residential Use Group	
Accessory dwelling unit	sp
Alternate-care housing (ACH)	x
Apartments	sp
Bed-and-breakfast establishment	x
Bed-and-breakfast home	x
Dwelling, single-family	p
Dwelling, two-family	sp
Dwelling, multifamily	x
Dwelling, multifamily preexisting and registered	x
Lodging facility	x
Nursing home	x
Planned residential development	x

§ 120-37.3	ZONING	§ 120-38
Community Use Group		
Cemetery		x
Day care, family		x
Day care, family group		x
Educational use		x
Hospital		x
Library		x
Lodge or club		x
Municipal use		x
Religious institution		x
Land Conservation Use Group		
Active recreation		x
Passive recreation		x

§ 120-37.4. Medical Office Dimensional Table.

	Table 10
	Medical Office
Minimum lot area (square feet)	8,000
Minimum front yard setback (feet)	10
Maximum front yard setback (feet)	25
Minimum side yard setback (feet)	10
Maximum side yard setback (feet)	—
Minimum rear yard setback (feet)	25
Minimum lot frontage (feet)	70
Minimum lot width (feet)	70
Maximum building height (feet)	35
Maximum lot coverage	30%

ARTICLE V
Land Conservation Overlay

§ 120-38. 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 stormwater 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 stormwater 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 VI

Special Sensitivity Overlay

§ 120-39. 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.

§ 120-40. Residential District.

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 § 120-15G and in a manner and style that does not diminish the residential quality of the neighborhood.
- (2) Parking shall be located behind the front facade line of the principal dwelling unit on the lot or behind the building, and it shall be suitably screened with plantings and/or fencing.

F. Lighting.

- (1) All exterior lighting, including lighting fixtures and lighting of walks and of parking areas, shall be accomplished with low-level lighting in a residential style.
- (2) Maximum height of any freestanding light fixture shall be eight feet.
- (3) No light source shall be positioned or installed so as to cause glare or spillage into neighboring property beyond that normally associated by residential use.
- (4) Lighting fixtures shall include a cutoff-type luminary to prevent glare and spillage of direct light above the fixture, with no light above the horizontal level of the night sky.

G. Signs.

- (1) Business uses shall have no more than one sign.
- (2) Maximum sign area will be one square foot in area for every 10 linear feet of lot frontage, but not exceeding 15 square feet.
- (3) Lighting of such sign is permitted by direct illumination (no backlit or translucent signs permitted), provided that the lighting source is entirely screened from view and otherwise consistent with § 120-17C and H.
- (4) Signs shall otherwise be consistent with the provisions of § 120-17.

§ 120-41. Village Center.

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, as shown below.

**TABLE 10
VC—SSO Dimensional Table
Yard, Area, Setback and Height Requirements**

Village Center — SSO

Minimum lot area (square feet)	4,000
Minimum front yard setback (feet)	10*
Maximum front yard setback (feet)	25
Minimum side yard setback (feet)	10
Maximum side yard setback (feet)	—
Minimum rear yard setback (feet)	25
Minimum lot frontage (feet)	40
Minimum lot width (feet)	40
Maximum building height (feet)	40
Maximum lot coverage area	65%

*Note: Notwithstanding the setback provisions established above, structures in the Residential District may be built within the setbacks of the two adjacent structures on the same side of the street. Corner lots may use the setback of the single adjacent lot on each side as the average.

§ 120-42. Site plan review.

All building and zoning permits applications 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 VII

Special Permits and Site Plan Approval

§ 120-43. When required.

Site plan approval by the Planning Board is required prior to the issuance of all building and zoning 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.

§ 120-44. Applications.

Application for a building or zoning permit shall be made to the Zoning Enforcement Officer, in accordance with § 120-Section 11.1.1 below, 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, at its discretion. 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 in the official newspaper at least five days prior to the hearing date. Such notice of hearing shall be mailed directly to all land owners 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 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 Planning Agency 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, along with a resolution setting forth the reasons for such contrary action.

§ 120-45. 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 six 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. Such a sketch may be superimposed on a United States Geological Survey map of the area.
- C. Site plan, drawn at a scale of eight feet to the inch (one inch equals eight feet) or such other scale as the Planning Board may deem appropriate.

- (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 and private ways, 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) Location, type and screening details of waste disposal containers and outdoor storage areas.
- (5) The location, height, intensity and bulb type of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties.
- (6) The location, height, size, materials and design of all proposed signage.
- (7) The location of all present and proposed utility systems including sewage or septic, water supply, telephone, cable and electric.
- (8) Storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
- (9) Plans to prevent the pollution of surface water or groundwater, erosion, excessive runoff, and flooding of other properties both during and after construction.
- (10) Topographic information about the property, drawn at the same scale as required for site plan under

Subsection C above or as the Planning Board may deem appropriate, showing existing and proposed topography at one-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.

- (11) 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 four or more inches in diameter, forest cover, ponds, lakes, wetlands, watercourses, aquifers and floodplains.
- (12) 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.
- (13) Define and quantify 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, maximum seating capacity and the number of parking spaces existing and required for each intended use.

- D. Elevations at a scale of $\frac{1}{4}$ inch equals one foot for all exterior facades, showing design features and indicating the type of materials to be used.
- E. State Environmental Quality Review Act (SEQRA) submission consisting of either a short-form environmental assessment form (EAF), a long-form EAF and/or a draft environmental impact statement (DEIS), as determined by the Planning Board.

§ 120-46. Special permits.

- A. Conditions for approval. 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 attached criteria, will satisfy the standards set forth herein. In order to reach positive findings in support of the special permit, the Planning Board may require conditions and/or 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. Such special permits, however, 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 and compatibility with the intent of the principles of the district and with the natural and built environment and with the purposes set forth in this chapter.
 - (2) The historic character and use of the structure or structures and the historic character on site and in the surrounding area.
 - (3) Adequacy of parking for the proposed use, and its accessibility to fire, police and emergency vehicles.

- (4) 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, 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 practiced by the Village of Rhinebeck.
- B. Expiration, revocation and enforcement.
- (1) A special permit shall be deemed to authorize only the particular special use or uses permitted.
 - (2) Special permits will expire 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, 18 months after approval.
 - (3) A special permit will expire if the special use or uses shall cease for more than 24 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 deemed a violation of this chapter, and shall be subject to enforcement action as provided herein.

§ 120-47. 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, Gateway Business, and Residential principles established in those respective sections.
 - (3) The effect of the proposed change on the general historic and/or architectural character of the structures in the area.
 - (4) The proposed location of main and accessory buildings on the site and their relation to one another; 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) In addition, the Planning Board shall consider drainage, road alignment and any other engineering aspects of such site plan and may require the review of such factors by professional consultants appointed by the Village.

B. 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 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, 12 months after 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 deemed a violation of this chapter and shall be subject to enforcement action as provided herein.

ARTICLE VIII**Variances and Appeals****§ 120-48. 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, board or bureau 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.

§ 120-49. 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.

§ 120-50. 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.

§ 120-51. 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 § 120-45, 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, 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 one year of the date the decision is filed.

ARTICLE IX

Nonconforming Uses, Buildings and Structures

§ 120-52. 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. Nonconforming uses may not increase their intensity by increasing the number of people working at a nonconforming business.
- 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 a special permit is granted by the Planning Board.
- F. Discontinuance. If 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.

§ 120-53. 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 which 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 the building or structure is vacant for one year 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.

§ 120-54. Amortization.

The Board of Appeals shall consider the following criteria in determining if it is appropriate to provide for an amortization period and, if appropriate, the duration of such amortization period prior to the removal of a discontinued nonconforming use, building or structure:

- A. The nature of any existing business.
- B. The amount of the investment in the business, building or structure.
- C. The detriment which may be caused by the removal of the nonconforming use, building or structure.
- D. The character of the neighborhood.
- E. The amount of additional time requested by the owner to amortize the alleged unrecoverable investment.

ARTICLE X
Administration

§ 120-55. 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.

§ 120-56. 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.⁶
- (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

⁶ Editor's Note: See Ch. 14, Planning and Zoning Boards, Art. I, Alternate Members.

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.

§ 120-57. 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 therefor 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 therefor.
- 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.⁷

- (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

⁷ Editor's Note: See Ch. 14, Planning and Zoning Boards, Art. I, Alternate Members.

other Planning Boards shall also apply to alternate members.

ARTICLE XI
Enforcement

§ 120-58. Building and zoning permits.

- A. Application for building and zoning permits shall be made to the Zoning Enforcement Officer, in accordance with § 120-58D 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, shall 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 immediately 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.

§ 120-59. 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.

§ 120-60. 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.

§ 120-61. 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 which 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 of 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 XII

Word Usage and Definitions

§ 120-62. 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 "building" includes the word "structure." 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.

§ 120-63. 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.

ACH RESIDENT — A person who is unable to live independently and is housed in a facility designed and approved for his or her specific needs.

AGRICULTURAL USE — The raising for profit/gain of fruits, grains, vegetables and the like and structures incident thereto on a farm or other parcel, but not including the raising or keeping of animals. "Agriculture," 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 which affords generally a secondary public means of vehicular access to abutting property.

ALTERATION — Any change to a structure which 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 of 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 — A single dwelling unit that is subordinate to a permitted use, located above the ground floor, subject to the floor area requirements of § 120-22 or 120-37A, and with the approval of the Dutchess County Department of Health and the Village of Rhinebeck Fire Inspector.

APPLICANT — The person applying for any permit, certificate of occupancy, variance or any other process or remedy under this chapter, who must be the property owner. While the owner may authorize someone else to represent him or her before the Planning Board, Zoning Board of Appeals or Zoning Enforcement Officer, the application must be signed by the owner before it can be considered valid.

APPLICATION — The process by which the owner of a lot within the Village submits a request to develop, construct, build, modify or erect a tower or 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.

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

AUTO SERVICE STATION — A building or lot used for the repair, sale and/or servicing of motor vehicles and any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel.

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

BED-AND-BREAKFAST ESTABLISHMENT — A dwelling having a 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 occupants as lodgers.

BED-AND-BREAKFAST HOME — A dwelling having a 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 bed-and-breakfast home shall not have more than four 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.

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

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 any building may be erected, moved, altered, rebuilt or enlarged, or any land or building may be used to begin construction.

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. An example of such facilities would include but not be limited to transmission equipment and storage sheds.

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.

CHANGE OF USE — Includes changes from one use group to another as well as any change within such land use groups and changes to any other use within the same use group, e.g., in the “Professional Office” group, a change from a real estate office to an insurance office is a change of use and from a law office to an engineer’s office is a change of use, and in the “Retail Business” group, a change from a drugstore to a grocery is a change of use and a change from a clothing store to a stationery store is a change of use.

COLLOCATED ANTENNA — Telecommunications facilities which utilize existing towers, buildings or other

structures for placement of antennas and do not require construction of a new communications tower.

CONSTRUCTION TRADE SHOP — A service business for use by the practitioner of a building trade, such as a carpenter, welder, plumber, electrician, builder, mason or similar occupation.

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 building components so as to cause an effective removal of an existing building. Demolition does not include partial removal of structural elements to facilitate restoration.

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

DEVELOPABLE AREA — See “lot” definition.

DRIVE-THROUGH FOOD ESTABLISHMENT — A retail business establishment that offers quick food service, which is accomplished utilizing a drive-through window where orders are placed and/or received from a customer's vehicle.

DRIVEWAY — A private way for vehicular traffic which affords the principal means of vehicular access to the property, which complies with the regulations of the Village of Rhinebeck, County of Dutchess or State of New York.

DWELLING, MULTIPLE-FAMILY — A structure, or group of structures, containing three or more dwelling units physically connected by a common wall and/or roof. This includes condominiums, townhouses and cooperatives, excluding apartments located over commercial uses in the Village Center and Gateway Business Districts.

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

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

DWELLING UNIT — One or more rooms with provisions for complete living, including sanitary and sleeping facilities for year-round use by one family. The minimum floor area for such a dwelling unit shall be 500 square feet.

DWELLING UNIT, ACCESSORY — A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate structure, on the same lot as the primary dwelling. The minimum floor area for such a dwelling unit shall be 300 square feet.

EDUCATIONAL USE — Use of land, buildings and structures for providing learning in a general range of subjects, including related support and accessory uses,

associated with the educational purpose of the institution, on land owned or leased by the state or any of its agencies, subdivisions or bodies politic, or by a nonprofit educational entity, including day-care center.

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

ESTIMATED CONSTRUCTION COSTS (ECC) — The average rate per square foot of new building 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 from a lot, including but not limited to sand, gravel, soil, loam and mineral products, including mining as defined by New York State law. The removal of earth products which is incidental to and in connection with the necessary excavation and grading of a site for a building or structure and its appurtenant driveways or parking facilities for which a permit has been granted by the Zoning Enforcement Officer, or the construction of a street approved under the Subdivision Regulations, shall not be considered as earth removal for the purposes of this provision.

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

FARM — Any lot containing at least 10 acres which is used for 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 2-1991,⁸ 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 and including the area of roofed porches and roofed terraces.

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 performance of autopsies and other surgical procedures; 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.

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.

GUYED TOWER — A communications tower consisting of a single pole constructed with guy wires and ground anchors.

HABITABLE AREA — Area in a structure for living, sleeping, eating or cooking. Maintenance or utility space, parking garages and similar areas are not considered habitable space.

⁸ Editor's Note: See Ch. 59, Flood Damage Prevention.

HOME OCCUPATION — An occupation or profession carried on within a dwelling unit or an accessory structure that meets dwelling unit setbacks, principally by a resident of the lot, and which is clearly incidental to the use of the dwelling unit for residential purposes and does not change the character thereof. In order to be classified as a “home occupation,” the use in question must have an impact beyond what a typical residential use would have, on at least one of the following: 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, deformity or physical condition, including a general hospital, but excluding professional medical offices. 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.

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

LIBRARY — A building containing printed and pictorial 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 the Internal Revenue Service) which is characterized by 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 both bed-and-breakfast homes and bed-and-breakfast establishments).

LOT — A parcel of land considered as a unit, occupied or capable of being occupied by one building, with or without accessory buildings or uses, or by a group of buildings united by a common use or interest, and including such open spaces, including parking and loading, as are required by this chapter, and having its principal frontage upon a street.

LOT AREA — The total horizontal area included within lot lines, except that 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 corner 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 owner may designate either street line as the lot frontage.

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

MEDICAL OFFICE — A medical office is a place where medical care is provided to persons on an out-patient basis by one or more members of the medical profession, dentists, chiropractors, osteopaths, therapists, or other licensed professionals. Medical offices, together with residential uses, are specially permitted in the Medical Office District. **[Added 4-4-2006 by L.L. No. 1-2006]**

MOBILE HOME — A movable or portable unit, including but not limited to a trailer designed and constructed to be towed on its own chassis and connected to utilities. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity, as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. “Mobile home” shall mean units designed to be used exclusively for residential purposes, excluding travel trailers. Note that 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 and at the time of the adoption or amendment of this chapter or any preceding zoning law or ordinance, which use is not permitted by or does not conform with the permitted 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 — To reside in a dwelling unit as owner on a permanent basis. Where owner-occupancy is required, the lot must be the person's legal home, where the person is domiciled.

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.

PERSON — Any natural person, 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 subdivision that encompasses an area of 10 or more

acres, or three or more lots located anywhere in the residential zone.

PLAYGROUND — An area of open space equipped with children's equipment, such as slides, swings or play facilities.

PROFESSIONAL OFFICE — Includes attorneys, planners and those professions licensed by the New York State Education Department, with the exception of pharmacists and pharmacy establishments.

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

RECREATION, ACTIVE — A defined area reserved for and specifically designed to accommodate outdoor sports and outdoor activities, such as, but not limited to, racquet sports, ice skating, roller skating, swimming, baseball, soccer and softball.

RECREATIONAL BUSINESS — Outdoor facilities, 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, PASSIVE — A defined area reserved for and specifically designed to accommodate general uses, such as, but not limited to, jogging, walking and recreation trails and paths, picnic areas and scenic views.

RELIGIOUS INSTITUTION — Use of land, building and structures by a tax-exempt institution, a bona fide religious sect or denomination where religious worship or related activity is conducted.

RESTAURANT — A retail business (excluding drive-through food establishments) where food and beverages are sold within a building 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.

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

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

SETBACK — The horizontal distance from the center line of the street right-of-way, measured at right angles to such center line, to the nearest part of any building or structure on the lot.

SIGN — Any material, structure or device, including awnings, 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 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.”

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 public 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, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, swimming pools, tennis courts, gasoline pumps, canopies, playhouses, greenhouses, toolsheds and garden sheds.

STRUCTURE, ACCESSORY — A structure subordinate or supplemental to the main building on the same lot. Such structures do not include accessory dwelling units.

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 two meters 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 in diameter regardless of zoning category.

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 § 120-18L of this chapter.

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 as an accessory use by the licensed veterinarian, facilities for their cremation. Outdoor facilities for cremation and boarding 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 required open area on a lot along the lot lines. A yard shall be unobstructed except for obstructions permitted by this chapter.

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

ARTICLE XIII

Miscellaneous Provisions

§ 120-64. 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.

§ 120-65. 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 $\frac{3}{4}$ 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.

§ 120-66. 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.

§ 120-67. 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.

ARTICLE XIV
Referenced Guidelines

§ 120-68. 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) Design Review in Historic Districts (with Design Guidelines #2185), prepared by the National Trust for Historic Preservation.

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

§ 120-69. 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

§ 120-68

ZONING

§ 120-69

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.