

TOWN OF RHINEBECK
CONSERVATION ADVISORY BOARD

CAB RESOURCE GUIDE

Researched by
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Introduction

This research guide was prepared to introduce new members of the CAB to the federal, state and local codes and regulations protecting lands within the confines of the Town of Rhinebeck. It can also be utilized by CAB members at reinforcing their advisory findings regarding projects within the Town of Rhinebeck where the CAB is required to conduct either a site review or an LWRP consistency review, reporting its advisory findings to the Planning Board.

Regarding the federal, state and local codes and regulations, while such laws can be amended, I will review these laws at the end of each year and amend where necessary. I also omitted those local codes and sections that did not apply to the needs of the CAB.

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Chapter I

Federal and New York State Enforcement of Conservation Laws

Sections

1. Federal Law: United States Code
2. New York State Law - Environmental Conservation Law (ECL)
3. NYS General Municipal Laws Regarding Town Conservation Advisory Councils and Boards.
4. Town of Rhinebeck Zoning Code Regarding Conservation Advisory Board.
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1. Federal Law: United States Code

Title 42. The Public Health and Welfare

42 U.S.C.A. § 4321

§ 4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Title 16. Conservation

16 U.S.C.A. § 590a

§ 590a. Purpose - It is recognized that the wastage of soil and moisture resources on farm, grazing, and forest lands of the Nation, resulting from soil erosion, is a menace to the national welfare and that it is declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion to preserve soil, water, and related resources, promote soil and water quality, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment, and the Secretary of Agriculture, from now on, shall coordinate and direct all activities with relation to soil erosion and in order to effectuate this policy is authorized, from time to time:

- (1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive measures needed, to publish the results of any such surveys, investigations, or research, to disseminate information concerning such methods, and to conduct demonstrational projects in areas subject to erosion by wind or water;
- (2) To carry out preventive measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land;
- (3) To cooperate or enter into agreements with, or to furnish financial or other aid to, any agency, governmental or otherwise, or any person, subject to such conditions as he may deem necessary, for the purposes of this chapter; and
- (4) To acquire lands, or rights or interests therein, by purchase, gift, condemnation, or otherwise, whenever necessary for the purposes of this chapter.

2. New York State Law - Environmental Conservation Law (ECL)

§ 8-0103. Legislative Findings and Declaration

The legislature finds and declares that:

1. The maintenance of a quality environment for the people of this state that at all times is healthful and pleasing to the senses and intellect of man now, and in the future, is a matter of statewide concern.
2. Every citizen has a responsibility to contribute to the preservation and enhancement of the quality of the environment.
4. Enhancement of human and community resources depends on a quality physical environment.
5. **The capacity of the environment is limited, and it is the intent of the legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds from being reached.** [Emphasis added.]
7. It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities.

8. It is the intent of the legislature that all agencies conduct their affairs with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations. [Emphasis added.]

9. It is the intent of the legislature that all agencies which regulate activities of individuals, corporations, and public agencies which are found to affect the quality of the environment shall regulate such activities so that due consideration is given to preventing environmental damage. [Emphasis added.]

ECL § 8-0105 - Definitions

Unless the context otherwise requires, the definitions in this section shall govern the construction of the following terms as used in this article:

1. “**State agency**” means any state department, agency, board, public benefit corporation, public authority or commission.

2. “**Local agency**” means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.

6. “**Environment**” means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.

7. “**Environmental impact statement**” (EIS) means a detailed statement setting forth the matters specified in section 8-0109 of this article. It includes any comments on a draft environmental statement which are received pursuant to section 8-0109 of this article, and the agency’s response to such comments, to the extent that such comments raise issues not adequately resolved in the draft environmental statement. (See below.)

ECL § 8-0109 - Preparation of Environmental Impact Statement

1. Agencies shall use all practicable means to realize the policies and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, **minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process.** [Emphasis added.]

2. All agencies (or applicant as hereinafter provided) shall prepare, or cause to be prepared by contract or otherwise an environmental impact statement on any action they propose or approve which may have a significant effect on the environment. Such a statement shall include a detailed statement setting forth the following:

- (a) a description of the proposed action and its environmental setting;
- (b) the environmental impact of the proposed action including short-term and long-term effects;
- (c) any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (d) alternatives to the proposed action;
- (e) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
- (f) mitigation measures proposed to minimize the environmental impact;
- (g) the growth-inducing aspects of the proposed action, where applicable and significant;
- (h) effects of the proposed action on the use and conservation of energy resources, where applicable and significant, provided that in the case of an electric generating facility, the statement shall include a demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent state energy plan;

Conservation Advisory Board

3. NYS General Municipal Laws Regarding Town Conservation Advisory Councils and Boards.

Article 12-F

CONSERVATION ADVISORY COUNCILS AND CONSERVATION BOARDS

(Sections omitted by R. Donaldson.)

§239-X – Creation of Conservation Advisory Council.

1. The local legislative body of any city, town or village may create a conservation advisory council, hereafter called the council, **to advise in the development, management and protection of its natural resources.** [Emphasis added.] Such council shall direct itself towards accomplishing the following:

(a) Conduct researches into the land area of the municipality for which it was created;

(b) Seek to coordinate the activities of unofficial bodies organized for similar purposes and to cooperate with other official municipal bodies active in the area of community planning for the particular municipality;

(c) **It may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work;** [Emphasis added.]

(d) It shall keep an inventory and map as defined in section two hundred thirty-nine of this article, of all open areas within the municipality with the plan of obtaining information pertinent to proper utilization of such open lands including lands owned by the state, any other municipality within the state or by the particular municipality itself;

(e) It shall keep an inventory and map of all open marsh lands, swamps and all other wet lands in a like manner, **and may recommend to the governing body of the municipality a program for ecologically suitable utilization of all such areas;** [Emphasis added.]

(f) It shall keep accurate records of its meetings and actions and shall file an annual report with the local legislative body of the municipality on or before the thirty-first day of December of each and every year. Once approved, such legislative body shall forward a copy of this report to the state commissioner of environmental conservation;

(g) In addition to the foregoing, carry out any other duties, tasks, or responsibilities, consistent with the objectives of this article, assigned to it by resolution of the local legislative body creating the said council.

3. Such council shall consist of **not less than three nor more than nine members** who shall be **appointed by the local legislative body and serve at the pleasure of such body for a term not exceeding two years.** Such local legislative body may, notwithstanding any inconsistent provision of law, appoint up to two members to the council who are between the ages of sixteen and twenty-one.

4. The presiding officer or chairman of the council shall be designated by the local legislative body from among the members so appointed to the council. The local legislative body shall have authority to remove any member of said council so appointed for cause, after a public hearing, if requested. A vacancy shall be filled for the unexpired term in the same manner as an original

appointment. The local legislative body may provide for compensation to be paid to the members of the council and may provide for the payment of the expenses of the members of the council actually and necessarily incurred in the performance of their duties. Such council may appoint such employees as it may from time to time see fit, all within appropriation made therefore.

6. To assist a council in carrying out its functions, powers and duties, it may request the department of environmental conservation to:

- (a) prepare reports outlining objectives, priorities and proposed relationships of the council to the local legislative body;
- (b) prepare description of work to be undertaken, advantageous techniques to be used and suggested roles of council members;
- (c) provide research on conservation facts and procedures;
- (d) provide, on a consulting basis, technical and research assistance as may be required to assist the council in carrying out its work and to enable the council to offer recommendations to the local legislative body; and
- (e) describe particular areas of natural resources within the city, town or village, as the case may be, which require particular attention by the council.

4. Town of Rhinebeck Zoning Code Regarding Conservation Advisory Board.

§125-5 Local Waterfront Advisory (Committee) Program (WAC)

A. The Town of Rhinebeck has adopted a Local Waterfront Revitalization Program (LWRP). The LWRP has been incorporated into the New York State Department of State's Coastal Management Program, with concurrence of this incorporation by the federal Office of Ocean and Coastal Resource Management (OCRM). In accordance with the LWRP, the Supervisor of the Town of Rhinebeck and the Town Board will be responsible for overall management and coordination of the LWRP. Each Town agency will be responsible for determining whether its actions are consistent with the LWRP. A Waterfront Advisory Committee (WAC), as presently constituted pursuant to Town Code Chapter 118 in its entirety of all appointed members of the Town's Conservation Advisory Board, has been and will continue to be appointed by the Town Board to make recommendations to the Town Supervisor, the Town Board and other responsible Town agencies involved in the financing, permitting or approval of projects within the Local Waterfront Revitalization Area (LWRA) concerning consistency of actions with the coastal policies. Actions within the LWRA include the demolition of historic buildings, which are addressed in Article V, § 125-62, of this chapter.

B. Whenever a proposed action is located within the LWRA, the local agency under whose jurisdiction that action falls shall, prior to approving or permitting, funding or undertaking the action, seek the advice of the WAC. The WAC's advice shall be presented in writing and include, along with its consistency recommendation, any suggestions for modifications the referring official or agency might consider that would make the proposed action more consistent with the LWRP or help advance the LWRP policies and standards.

C. Upon receipt of the WAC's report, the local agency with jurisdiction to approve or permit, fund or undertake the proposed action will consider the recommendations of the WAC and make its own determination as to whether the proposed action is consistent to the maximum extent practicable with the LWRP or, absent such a finding, either recommend or impose, as pertinent, modifications that would have to be incorporated in the proposed action to merit a determination of consistency with the LWRP.

D. If the agency determines that the action would cause a substantial hindrance to the achievement of LWRP policy standards and conditions, such action shall not be undertaken unless the agency determines with respect to the proposed action that: **[CAB NB]**

(1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;

(2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions to the maximum extent practicable; and

(3) The action will result in an overriding Town, regional or state-wide public benefit. Such a finding shall constitute a determination that the action is consistent to the maximum extent practicable.

E. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Waterfront Advisory Committee. Such files shall be made available for public inspection upon request.

5. Regarding General Municipal Law §§ 239-x & 239-y (1)(c) and (2) ¹

1. A Conservation Board's report to a municipal body is advisory. [Emphasis added.] The local legislative body may accept a Conservation Advisory Council's open area map as the official map.

¹ Office of the Attorney General State of New York Informal Opinion No. 91-73 (December 11, 1991).

2. The local legislative body of a city, town or village may create a Conservation Advisory Council to render advice in the development, management and protection of the municipality's natural resources. Generally, the Council is responsible for identifying open land areas within the municipality, for obtaining information regarding the proper utilization of this land and for **advising municipal officials regarding the recommended use of this land.** [Emphasis added.]
3. In our view (Office of the Attorney General), **neither the members of a Conservation Advisory Council nor of a Conservation Board are public officers. The members of these bodies do not exercise sovereign powers of government. Their roles are purely advisory.**² [Emphasis added.]
4. While the CAB does comply with the regulations found in NYS's Open Meeting Law (OML), whether the CAB is bound to or not was addressed by the NYS Court of Appeals in 1991 in the case of *Smith v. the City University of New York*, 92 NY2d 707 (1991).

In *Smith*, the New York State Court of Appeals ruled that a committee or association “[f]or which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, . . . or committee or subcommittee or other similar body of such public body” (Public Officers Law § 102[2]), and thus is subject to the requirements found under the OML. *Smith* at 713.

In *Smith*, there was an exception to the requirement to comply with the OML for committees or boards acting in an advisory and non-enforcement capacity. The Court ruled that “[a]n entity exercising only an advisory function would not qualify as a public body within the purview of the Open Meetings Law.” [Emphasis added.] *Smith* at 714. In arriving at this exception to the OML, the Court relied upon *Goodson Todman Enterprises, Ltd. v. Town Bd. of Milan*, 151 A.D.2d 642, (1989).

In *Goodson*, the Appellate Division, 2d Dept. ruled that when a committee's function was purely advisory and did not involve exercise of sovereign power, it was not an entity to which provisions of Open Meetings Law applied. The court added, “[i]t has long been held that the mere giving of advice, even about governmental matters, is not itself a governmental function.” *Goodson* at 643. The court further added, “Accordingly, since the committee's function is purely advisory and does not involve the exercise of sovereign power, it is not an entity to which the provisions of the Open Meetings Law apply.” [Emphasis added.] *Goodson* at 643.

² Office of the Attorney General, State of New York, Informal Opinion No. 90-54 (June 11, 1990)

Chapter II

Historic Sites, Estates Districts, Scenic Views and Scenic Roads

Sections

1. Federal Codes and Regulations
2. Scenic Area of Statewide Significance (SASS)
3. SHPO – NY State Historic Preservation Office
4. Rhinebeck Zoning Codes
5. Town of Rhinebeck Comprehensive Plan
6. Applicable LWRP Policies
7. Terms used in § 125-62: Historic buildings.

1. Federal Codes and Regulations

National Register of Historic Places

The National Historic Preservation Act (NHPA) (Public Law 89-665; 54 U.S.C. 300101 *et seq.*) is legislation intended to preserve historical and archaeological sites in the United States of America. The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices.

For the complete list of the National Register of Historic Places in Rhinebeck, New York, go to: https://en.wikipedia.org/wiki/National_Register_of_Historic_Places_listings_in_Rhinebeck,_New_York

This is intended to be a complete list of properties and districts listed (and one formerly listed) on the National Register of Historic Places in the town and village of Rhinebeck, New York, including in the hamlet of Rhinecliff. The locations of National Register properties and districts (at least for all showing latitude and longitude coordinates below) may be seen in a Google map by clicking on "Map of all coordinates".

The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the **National Historic Preservation Act of 1966**, the National Park Service's National Register of Historic Places is part of a national program to coordinate and

support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.³

The Hudson River National Historic Landmark District

The **Hudson River National Historic Landmark District (HRNHLD)** was designated by the U.S. Secretary of the Interior in 1990. Federal landmark status. This status acknowledges that the historic resources in the heart of the Hudson Valley are of the highest national significance, on par with other National Historic Landmark Districts such as Nantucket Island, the Garden District in New Orleans, and San Francisco's Presidio.

The **HRNHLD** evolved from two previously designated areas: the 16-mile Estates District and the Clermont Estates District. This extraordinary 32-square-mile district stretches from Germantown in Columbia County to Hyde Park in Dutchess County. It is comprised of four towns, four hamlets, two villages, over forty riverfront estates, and the designed landscapes, farmland, and distinctive natural features in between. To a remarkable degree, the character of the Hudson River National Historic Landmark District remains intact. Hudson River Heritage (HRH) sponsored the research and led the process culminating in this prestigious National Historic Landmark designation, and now acts as its federally-recognized steward.⁴

³ Source: National Park Service, found at <https://www.nps.gov/nr/>

⁴ Source: Hudson River Heritage, found at <http://www.hudsonriverheritage.org/the-hudson-river-national-historic-landmark-district/>



Hudson River Valley National Heritage Area

The Hudson River Valley National Heritage Area was designated by Congress in 1996 and is one of the now forty-nine federally-recognized National Heritage Areas throughout the United States. Through a partnership with the National Park Service, Hudson River Valley National Heritage Area collaborates with residents, government agencies, non-profit groups and private partners to interpret, preserve and celebrate the nationally-significant cultural and natural resources of the Hudson River Valley.⁵

In the Hudson River Valley Heritage Area, there are two sites, the **Wilderstein Historic site** and the **Old Rhinebeck Aerodrome**.

2. Scenic Area of Statewide Significance (SASS)

Estates District

The Town of Rhinebeck is included in two scenic districts designated by the state. In 1981, the New York State Legislature established the **Coastal Management Program**, which provided for the designation and protection of Scenic Areas of Statewide Significance (SASS).

The Act (Coastal Management Program) declares that the public policy of the State within the coastal area is ". . . to achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources **while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent damage to ecological systems.**" [Emphasis added.] (Article 42 § 912).

The Hudson River was the first area to be reviewed for SASS designation, and the result is six areas with the stretch of the river from the Troy Dam to New York City. Rhinebeck is included in the **Estates District segment of the Hudson River SASS**. For more information about the SASS designation for Rhinebeck, please see the New York State Department of State's *Scenic Areas of Statewide Significance* publication (July 22, 1993 by the Division of Coastal Resources and Waterfront Revitalization), which is on file at Rhinebeck Town Hall or available through the Department of State.

To research the complete guide to the Estates District (SASS), go to:
https://docs.dos.ny.gov/opd-lwrp/LWRP/Rhinebeck_T/Original/A.pdf

⁵ Source: <http://www.hudsonrivervalley.com/about>

SASS Scenic Policies

In recognition of the scenic value of the coast, New York's Coastal Management Program (CMP) includes two policies which provide for the protection and enhancement of this unique resource. **Policy 24** provides for the designation and protection of scenic areas of statewide significance; and **Policy 25** requires that proposed actions located outside a designated SASS must protect, restore or enhance the overall scenic quality of the coastal area. Both policies call for agencies to determine if a proposed action would impair scenic quality. These policies became part of the Town of Rhinebeck's LWRP in 2007. (See applicable Town of Rhinebeck LWRP Policies at the end of this chapter.)

The policies state that impairment of a landscape's scenic quality can occur in two principal ways:

- 1) through the irreversible modification or destruction of landscape features and architectural elements which contribute significantly to the scenic quality of the coast; and
- 2) through the addition of structures which reduce views or are discordant with the landscape because of their inappropriate scale, form, or construction materials.

Regulations governing the designation of scenic areas of statewide significance are found in 19 NYCRR Part 602.5. (New York Codes, Rules and Regulations)

Both policies include siting and design guidelines which are to be used to evaluate the impact of proposed development, recognizing that each situation is unique and that the guidelines must be applied accordingly. The guidelines address the following:

1. appropriate siting of new structures and other development;
2. the use of scale, form and materials which are compatible with the landscape's existing scenic components;
3. the incorporation of historic elements in new development;
4. the maintenance of existing landforms and vegetation; and
5. the removal and screening of discordant features.

Benefits of Designation

Designation affords special protection from potentially adverse federal or state actions which could impair the scenic quality of the SASS.

Additional protection of SASS can be afforded by municipalities which prepare **Local Waterfront Revitalization Programs (LWRP)**. Local land use authority is an important tool for the protection of scenic resources. **In communities with an approved LWRP all three levels of government - federal, State and local - are working toward a common goal.** [Emphasis added.] This includes the Town of Rhinebeck which ratified the Town of Rhinebeck LWRP on February 13, 2007.

Location

The **Estates District Scenic Area of Statewide Significance (SASS)** consists of the Hudson River and its eastern shorelands in the Towns of Germantown and Clermont, Columbia County, and in the Towns of Red Hook, **Rhinebeck** and Hyde Park and the **Villages of Tivoli and Rhinebeck** in Dutchess County. The western half of the Hudson River lies in the Towns of Saugerties, Ulster, Esopus and Lloyd, the Village of Saugerties and the City of Kingston in Ulster County.

The Estates District SASS is comprised of 29 subunits:

ED-1 Clermont, ED-2 Clermont/Tivoli Estate Farmland, ED-3 Tivoli, ED-4 Montgomery Place/Blithewood, ED-5 Tivoli Bays, ED-6 Bard College, ED-7 Annandale-on-Hudson, ED-8 Barrytown, **ED-9 Astor Point, ED-10 Astor Cove, ED-11 River Road, ED-12 Mount Rutsen, ED-13 Rhinebeck Center, ED-14 Rhinecliff Road, ED-15 Rhinecliff, ED-16 Rhinecliff Woods, ED-17 Mill Road Meadows, ED-18 Vanderburgh Cove**, ED-19 Dinsmore Golf Course, ED-20 Mills State Park, ED-21 Staatsburg, ED-22 Norrie Heights, ED-23 Norrie State Park, ED-24 Vanderbilt Mansion, ED-25 Hyde Park Center, ED-26 Franklin D. Roosevelt Home Estate Entrance and ED-27 Franklin D. Roosevelt Home National Historic Site.

Public Recognition

The Estates District SASS is highly recognized by the public for its scenic and historic values. The landscape and panoramic views of the SASS were frequently the subject matter for artists of the 19th century Hudson River School of Painting, the first indigenous art movement in the United States and of international renown. Many scenes appearing in their works remain relatively unchanged.

The scenic quality of the Estates District SASS is recognized under **Article 49 of the NYS Environmental Conservation Law through designation of the Mid-Hudson Historic Shorelands Scenic District and the following Scenic Roads:**

- In Red Hook, Santage Road from its junction with Woods Road to its junction with Stony Brook Street;
- In Red Hook, Stony Brook Street from its junction with Santage Road to its junction with NY Route 9G;
- In Red Hook, River Road and Annandale Road;
- **In Rhinebeck, Rhinecliff, Morton and South Mill Roads and parts of the road also known as County Route 103;**
- **In Rhinebeck, NY Route 199 from its junction with NY Route 9G west to the Kingston-Rhinecliff Bridge;**
- In Hyde Park, NY Route 9 from the southern border of the Vanderbilt Mansion National Historic Site northerly 2.3 miles;
- In Hyde park, Old Post Road in the hamlet of Staatsburg for its entire length between its intersections with NY Route 9;
- In Hyde Park, Golf Course Road in the Dinsmore Golf Course;

- In Hyde Park, Norrie State Park Roads from the entrance to the park to both Norrie Point and the camping area.

For a complete list of all the designated Scenic Roads in the Town of Rhinebeck, go to **Section V. Town of Rhinebeck Comprehensive Plan (Scenic Roads)** in this chapter.

Local land use authority is an important tool for the protection of scenic resources. **In communities with an approved LWRP all three levels of government – federal, State and local – are working toward a common goal.** [Emphasis added.]

Estate Districts (ED) in the Township of Rhinebeck

SASS ED-10 Astor Cove Subunit

Location - The Astor Cove subunit extends along the Hudson River from just north of the Rhinebeck/Red Hook town line south to just north of Long Dock Road in Rhinecliff. Its northern boundary is a common boundary with the ED-9 Astor Point subunit, and its southern boundary is a common boundary with the ED-14 Rhinecliff Road subunit. The subunit is bounded on the east by the top of the bluffs along the Hudson River, a common boundary with the ED-11 River Road subunit. The western boundary is the mean high tide line on the western shore of the Hudson. The subunit is located in the Towns of Red Hook and Rhinebeck, Dutchess County and in the City of Kingston and the Town of Ulster, Ulster County.

Reason for Inclusion - The Astor Cove subunit is included in the Estates District SASS because it contains a variety of landscape and architectural components including mature woodlands, unique specimen trees and estate plantings associated with notable early 20th century mansions. Contrast exists between the buildings and the natural elements of the surrounding grounds and woods, while the design of the estate grounds and their structures effects a strong unity among these elements.

The subunit is visible to the public from the Hudson River and its western shore and from the Kingston- Rhinecliff Bridge. **The subunit is publicly recognized through its inclusion in the Mid-Hudson Historic Shorelands Scenic District designated under Article 49 of the Environmental Conservation Law.** The Kingston-Rhinecliff Bridge is a designated Scenic Road under Article 49 because of the views it offers, including views of the Astor Cove subunit. **The subunit is also included in the Hudson River National Historic Landmark District and in the Sixteen Mile Historic District listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-11 River Road Subunit

Location - The River Road Subunit extends for almost seven miles between the hamlet of Annandale-on-Hudson on the north and Rhinecliff Road on the south. The subunit's western boundary is a common boundary with the ED-10 Astor Cove, ED-9 Astor Point and ED-8 Barrytown subunits along the Hudson River to the west. Its eastern boundary is coterminous with the boundary of the ED-12 Mount Rutsen subunit to the east, except where the northern and southern ends of the subunit reach east to New York Route 9G. The northern boundary is a common boundary with the ED-7 Annandale-on-Hudson subunit, and the southern boundary is a common boundary with the ED-14 Rhinecliff Road subunit. The subunit is located in the Towns of Red Hook and Rhinebeck, Dutchess County.

Reason for Inclusion - The River Road subunit is included in the Estates District SASS because it contains a great variety of open space, fields and woodlands which are unified by the pastoral estate setting and the general absence of discordant features. There is moderate contrast between the fields, woods and estates. Although some discordant features exist, they do not overwhelm the landscape. The edges of the subunit are visible from the public roadways, including River Road/Annandale Road and NY Routes 9G and 199.

The subunit is recognized through the designations of the Mid-Hudson Historic Shorelands Scenic District and of the River Road/Annandale Road Scenic Road under Article 49 of the Environmental Conservation Law. The subunit is also included in the Hudson River National Historic Landmark District and in the Sixteen Mile Historic District listed on the State and National Registers of Historic Places. [Emphasis added.]

SASS ED-12 Mount Rutsen Subunit

Location - The Mount Rutsen subunit is located northwest of the Village of Rhinebeck adjacent to and including Mt. Rutsen Road. The subunit's northernmost boundary extends to Rokeby Road in the Town of Red Hook. The eastern boundary follows NY Route 9G, Hook Road and Old Post Road. The edge of the farmland north of the Village of Rhinebeck constitutes the southern boundary. The western boundary lies east of the River Road corridor, a common boundary with the ED-9 River Road subunit. The subunit is located in the Towns of Rhinebeck and Red Hook, Dutchess County.

Scenic Components - The Mount Rutsen subunit is dominated by Mount Rutsen, a 350 foot-high hill covered with mature deciduous forest. The remaining terrain is flat to gradually rolling and is primarily forested. The forest on Mount Rutsen is protected as part of the 192-acre Ferncliff Forest Preserve donated by Mrs. Vincent Astor and composed of extensive stands of deciduous trees with white pine and hemlock groves interspersed.

Water features include Snyder Swamp, a 110 acre hardwood swamp with areas of permanent standing water which spawns several woodland creeks. Snyder Swamp, a state-regulated freshwater tidal wetland, is the source for both the Mudder Kill, which meets the Hudson River north of Astor Point, and the Rhinebeck Kill, which joins the Landsman Kill to flow into the Hudson in Vanderburgh Cove.

Reason for Inclusion - Although the Mount Rutsen subunit is not distinctive, **it is included in the Estates District SASS because it lies adjacent to distinctive subunits and contributes positively to the scenic character of their viewsheds.** [Emphasis added.] The forest cover and conservation theme of the Mount Rutsen Ferncliff Forest Preserve unifies the varied terrain and the contrasting fields and water features.

SASS ED-13 Rhinebeck Center Subunit

Location - The Rhinebeck Center subunit consists of the central business district of the Town and Village of Rhinebeck located within the coastal area boundary west of the Old Post Road and New York Route 9. The northern boundary intersects Old Post Road just north of its junction with Mt. Rutsen Road. The western boundary parallels Old Post Road and NY Route 9 and lies along the edge of the open fields that surround the business district. The southern boundary intersects NY Route 9 south of Mill Road. Most of the district lies within the village boundaries. The subunit has common boundaries with the ED-12 Mount Rutsen, ED-9 River Road, ED-14 Rhinecliff Road and ED-17 Mill Road Meadows subunits. The subunit is located in the Town and Village of Rhinebeck, Dutchess County.

Reason for Inclusion - The Rhinebeck Center subunit is included in the Estates District SASS because it exhibits a great variety of architecture styles unified by the intact historic character of the business district. There is some contrast between the building facades and the associated lawns and street trees. The subunit is a unique historic town center that is highly accessible to the public. It is well recognized as a tourist destination and is part of the Mid-Hudson Historic Shorelands Scenic District designated under Article 49 of the Environmental Conservation Law. **The subunit is also included in the Hudson River National Historic Landmark District and the Rhinebeck Village Historic District listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-14 Rhinecliff Road Subunit

Location - The Rhinecliff Road subunit consists of a corridor of land along Rhinecliff Road connecting the hamlet of Rhinecliff with the Village of Rhinebeck. The subunit is bounded on the west by the mean high water line on the west bank of the Hudson River and on the east by the outskirts of the village center, a portion of which is included in the ED-13 Rhinebeck Center subunit. The subunit's northern and southern boundaries are common boundaries with the ED-9 River Road and the ED-17 Mill Road Meadows subunits, respectively. The subunit is located in the Town of Rhinebeck, Dutchess County and in the City of Kingston, Ulster County..

Reason for Inclusion - Although the Rhinecliff Road subunit is not a distinctive landscape, it is included in the Estates District SASS because it lies between and links two distinctive subunits. The subunit has a moderate variety of fields, trees and historic structures which are unified by the highway corridor. The repetitive new development reduces contrast to a moderate level as well.

The subunit is accessible to the public via the Hudson River and Rhinecliff Road, a heavily travelled Scenic Road designated under Article 49 of the Environmental Conservation Law. The land adjacent to the highway corridor is visible from the highway. The bluffs along the Hudson

River are highly visible from the river and its western shore and from the passenger trains that run along the eastern shore. **The subunit is included in the Mid-Hudson Historic Shorelands Scenic District, also designated under Article 49, and in both the Town of Rhinebeck Multi-Resource District and the Sixteen Mile Historic District listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-15 Rhinecliff Subunit

Location - The Rhinecliff subunit consists of the hamlet of Rhinecliff in the Town of Rhinebeck and the associated portion of the Hudson River west to the mean high tide line on its western shore, primarily the mouth of the Rondout Creek. The subunit is bounded on the north by the ED-14 Rhinecliff Road subunit, on the east by the ED-16 Rhinecliff Woods subunit and on the south by the ED-18 Vanderburgh Cove subunit. The subunit is located in the Town of Rhinebeck, Dutchess County and the City of Kingston, Ulster County.

Reason for Inclusion - The Rhinecliff subunit is included in the Estates District SASS because it is a unique scenic and historic Hudson River landing. The Rhinecliff subunit exhibits a variety of architectural styles unified by their historic character and hamlet development pattern. Contrast is found between the hamlet form, the steep bluff and the expansive Hudson River. The subunit is both visually and physically accessible via the Hudson River, the railroad trains and local streets and roads. Rhinecliff is well known for its historic railroad station and river landing. **The hamlet is publicly recognized for its scenic and historic values through the designations of the Mid-Hudson Historic Shorelands Scenic District and the Rhinecliff Road Scenic Road under Article 49 of the Environmental Conservation Law. The hamlet is included in the Hudson River National Historic Landmark District and in the Rhinebeck Multi-Resource Historic District listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-16 Rhinecliff Woods Subunit

Location - The Rhinecliff Woods subunit has two separate sections. The northern section is located east and southeast of the hamlet of Rhinecliff. The southern section, along the Landsman Kill inland and north of Vanderburgh Cove. The subunit has common boundaries with the ED-17 Mill Road Meadows and ED-18 Vanderburgh Cove subunits and is located in the Town of Rhinebeck, Dutchess County.

Reason for Inclusion - Although the subunit is not distinctive, it is included in the Estates District SASS because it is located between and links distinctive subunits and does not detract from the overall scenic quality of the SASS. The forest creates strong visual unity but lacks contrast. The Landsman Kill and its wooded ravine contribute some localized variety. Visual access is limited to the landscape edges along local roads. **The subunit is neither unique nor well-known in itself, but it is part of the Mid-Hudson Historic Shorelands Scenic District and the corridor of the South Mill Road Scenic Road designated under Article 49 of the Environmental Conservation Law. The subunit is also included in the Hudson River National Historic Landmark District and in the Town of Rhinebeck Multi-Resource Historic District listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-17 Mill Road Meadows Subunit

Location - The Mill Road Meadows subunit consists of an extensive area of farmland southwest of the Village of Rhinebeck center. The subunit is bounded on the north by the Village of Rhinebeck center and the corridor of Rhinecliff Road included in the ED-14 Rhinecliff Road subunit. New York Route 9 constitutes the eastern boundary. Its other boundaries are common boundaries with the ED-16 Rhinecliff Woods and ED-18 Vanderburgh Cove subunits. The Mill Road Meadows subunit is located in the Town of Rhinebeck, Dutchess County.

Reason for Inclusion - The Mill Road Meadows subunit is included in the Estates District SASS because it has a variety of vegetation and meadows unified by the agricultural and estate uses. Contrast exists between the forest and the meadows, and the subunit is generally free of discordant features. It is accessible and visible from NY Route 9 and local roads and is publicly recognized through the designation of the Mid-Hudson Historic Shorelands Scenic District and the South Mill Road Scenic Road under Article 49 of the Environmental Conservation Law. **The subunit is also included in the Hudson River National Historic Landmark District and in the Town of Rhinebeck Multi-Resource Historic District which is listed on the State and National Registers of Historic Places.** [Emphasis added.]

SASS ED-18 Vanderburgh Cove Subunit

Location - The Vanderburgh Cove subunit extends from the southern end of Vanderburgh Cove north to Rhinecliff. The subunit is bounded on the north by the hamlet of Rhinecliff in the ED-15 Rhinecliff subunit. Its eastern boundary generally follows the crest of the Hudson River bluffs and is a common boundary with the ED-17 Mill Road Meadows and ED-16 Rhinecliff Woods subunits. The subunit is bounded on the south by the ED-20 Mills State Park subunit and on the west by the mean high tide line on the western shore of the Hudson River. The subunit is located in the Towns of Rhinebeck and Hyde Park, Dutchess County and in the Town of Esopus, Ulster County.

Scenic Components - The physical character of the subunit is composed of steep, wooded bluffs rising prominently 150 feet above Vanderburgh Cove and Suckley Cove, and Hudson River wetlands and shorelands. The northern portion of the subunit curves to the west to form Sturgeon Point. Vegetation consists of mature deciduous forest, estate lawns, specimen trees, and wetlands species.

Water features are the Hudson River and its coves and associated wetlands. The Landsman Kill and Fallsburgh Creek cut through the bluffs and empty into Vanderburgh Cove. The Nature Conservancy and Scenic Hudson, Inc. have collaborated to preserve lands encompassing the lower Fallsburgh Creek, a pristine, partly tidal zone which provides habitat for significant species. This stretch of the Hudson River is about 6,000 feet wide with large shallows and mudflats along both shores.

Reason for Inclusion - The Vanderburgh Cove subunit is included in the Estates District SASS because it is a unique collection of historic estates with designed landscapes that incorporate

dramatic views of the Hudson River, its western shorelands and the distant Catskill Mountains. The landscape exhibits a variety of terrain, water features and architectural styles unified by the estate land uses and views. The contrast between the forests, the estate lawns and the mansions is distinctive. Except for the railroad causeways, the subunit is generally free of discordant features.

The Vanderburgh Cove subunit is publicly recognized through the designations of the Mid-Hudson Historic Shorelands Scenic District and the South Mill Road Scenic Road under Article 49 of the Environmental Conservation Law. The subunit is also included in the Hudson River National Historic Landmark District and in the Sixteen Mile Historic District listed on the State and National Registers of Historic Places. South Mill Road is also part of the Dutchess County system of Historic Tourways. [Emphasis added.]

3. SHPO – NY State Historic Preservation Office

New York's State Historic Preservation Office (SHPO) helps communities identify, evaluate, preserve, and revitalize their historic, archeological, and cultural resources. The SHPO administers programs authorized by both the National Historic Preservation Act of 1966 and the New York State Historic Preservation Act of 1980. These programs, including the Statewide Historic Resources Survey, the New York State and National Registers of Historic Places, the federal historic rehabilitation tax credit, the Certified Local Government program, the state historic preservation grants program, state and federal environmental review, and a wide range of technical assistance, are provided through a network of teams assigned to territories across the state.

What are the results of listing?

1. Registered properties and properties determined eligible for the Registers receive a measure of protection from the effects of federal and/or state agency sponsored, licensed or assisted projects through a notice, review, and consultation process.
2. Owners of depreciable, certified historic properties may take a 20 percent federal income tax credit for the costs of substantial rehabilitation as provided for under the Tax Reform Act of 1986.
3. Municipal and not-for-profit owners of listed historic properties may apply for matching state historic preservation grants.
4. There are no restrictions placed on private owners of registered properties. Private property owners may sell, alter or dispose of their property as they wish.

Source: <http://nysparks.com/shpo/national-register/>

4. Rhinebeck Zoning Codes Regarding Historic Districts, Places and Scenic Areas Within the Town.

Town Code – Chapter 125: Zoning

§ 125-3 Purposes.

A. To guide development of the Town in accordance with the Town of Rhinebeck Comprehensive Plan, so that the Town may realize its potential as a place to live and to work, with the most beneficial and convenient relationships among the residential, commercial and mixed-use areas within the Town and with due consideration to:

- (1) The character of the district and its suitability for particular uses, and
- (2) The existing conditions and trends in population, economic value of buildings and neighborhoods, and
- (3) The limitations imposed upon development by natural and cultural resources; and
- (4) The historical patterns of more compact development in the village and hamlets surrounded by rural, scenic and natural lands, historical features and historic roads.

B. To recognize and continue the rural development patterns that occurred in the Town before the advent of zoning by discouraging the development of greenfield sites, encouraging development and redevelopment of infill sites and allowing flexibility in the design of new development and ownership of open space.

C. To protect and manage the rural, scenic, natural and historic character of the Town.
[Emphasis added.]

D. To preserve the integrity, stability and beauty of the community and the value of the land.

E. To enhance the appearance of the Town, as a whole, by ensuring that all development shall be orderly and beneficial to the Town, by eliminating inappropriate and poor quality design in the provision of site improvements and in the exterior appearance of structures, and by controlling the erection and maintenance of signs throughout the Town. [Emphasis added.]

F. To protect residential areas and to provide privacy for families by the protection of such areas from, among other factors, the visual and noisome intrusion of nonconforming uses. Wherever reasonable and appropriate, nonconforming uses should be brought into compliance with this chapter to the extent permitted by law. [Emphasis added.]

G. To facilitate the provision of transportation, water supply, sewage disposal, school, park and other public facilities and services as needed by the community.

H. To protect the character of specifically identified scenic and historic resources and sensitive environmental areas, including wetlands, floodplains and other water bodies, prime agricultural soils, and steeply sloped areas. [Emphasis added.]

J. To assure that the capital plans of all local, county and state agencies within the Town of Rhinebeck are in compliance with the Town of Rhinebeck Comprehensive Plan. [Emphasis added.]

L. To preserve all designated historic districts, buildings, sites and features for the enjoyment of present and future generations. [Emphasis added.]

N. To preserve the history and integrity of the Hamlet of Rhinecliff and ensure that its strong civic and cultural life is maintained. [Emphasis added.]

O. To preserve and protect the Hudson River and its shorelands, and provide and protect visual and physical access to them. [Emphasis added.]

P. To conserve lands suitable and necessary for agriculture and forestry.

Q. To perpetuate the pattern of mixed uses and higher densities in the Village of Rhinebeck and the Hamlet of Rhinecliff, surrounded by low-density rural uses.

R. To preserve and protect open space and viewsheds, agricultural and forested lands and gateways, as Rhinebeck's housing stock is moderately expanded.

S. To ensure that all new development is pedestrian-friendly. [Emphasis added.]

T. To plan all residential development to be appropriately in keeping with Rhinebeck's unique, small-town character and its historic and architectural heritage. [Emphasis added.]

Y. To encourage tourism in Rhinebeck at a scale that respects the Town's historic and rural character, making visitors feel welcome **while respecting the primary needs of residents.** [Emphasis added.]

§ 125-15 Zoning Districts (Terms).

Residential Districts

Historic Preservation (HP 20)

Neighborhood Residential (NR)

Rural Agricultural (RA 10)

Rural Countryside (RC 5)
Residential Low Density (RL 5)
Residential Medium Density (RM 1)
Village Gateway (VG)
Rhinecliff Hamlet (Rc-H)

Special Purpose Districts

Civic (CIV)	Land Conservation – Trails (LC-T)
Land Conservation (LC)	Rail Transportation Corridor (RT)
Land Conservation Streams (LC-S)	Utility Corridor (UC)

§ 125-15 Zoning Districts.

B. Historic Preservation (HP20). The Historic Preservation (HP20) District recognizes the importance of the community’s historic properties, constituting Rhinebeck’s portion of the Hudson River National Historic Landmark District, the most prestigious designation of historic resources in the nation.

The HP20 District contains numerous scenic viewsheds of importance and contributing National Register properties, many of which were designated for their nationally significant scenic and landscape qualities.

The HP20 District has also been recognized with New York State’s Mid-Hudson Historic Shorelands Scenic District designation, the Estates District Scenic Area of Statewide Significance, contains state scenic byways and a coastal zone area and is within the area designated by the federal government as an American Heritage River.

It is also within the Hudson River Valley National Heritage Area and the state’s Hudson River Valley Greenway. The views from the HP20 District to the west, with the Hudson River and the Catskill Mountains in the distance, are exceptionally desirable and continue to make this area an extremely important asset for Rhinebeck, New York State and the nation.

Sensitive handling of all development in this area is crucial to maintaining the estate character that lends so much importance to Rhinebeck’s nationally significant historic, environmental and scenic assets. [Emphasis added.]

Flexibility in the design of conservation developments is needed to preserve open space, to preserve the rural and historic estates character of the district and to respect the environmental and scenic resources contained there. These unique attributes also requires flexibility of open space ownership to be considered. The HP20 Zoning District has been designated as a sending area for the transfer of development rights to lands within the RA10 and RL5 Zoning Districts. The TDR program promotes preservation of historic resources, farmland, viewsheds and other important community resources (see Article V, § 125-64, for details).

Rhinebeck Zoning Codes Regarding Scenic Roads (Special; setbacks).

§ 125-33 Special setbacks on scenic roads and in scenic areas.

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

B. Minimum roadside buffers are required as follows:

(1) On lots having frontage on a designated scenic road or on lots having frontage on a road within a designated scenic or other aforementioned cultural resource area, all native and natural vegetation between a house and road shall be maintained from the property boundary in the direction of the front setback line, the width of which will be determined by the lot area, width and frontage. **In determining the need for minimum roadside buffers, the Town agency responsible for review of development proposals should refer such application to the CAB for an advisory opinion.** [Emphasis added.] The indigenous natural vegetation on a lot having frontage on any such area is herein restricted and shall be maintained from the property line adjacent to the regulated road towards the principal building or structure setback line for a distance equal to at least 10% of the depth of the parcel.

(2) Removal and/or maintenance of dangerous dead wood and non-native invasive species is permitted. A list of non-native invasive species is on file in the Town offices.

(3) **Upon completion of any project requiring a building permit and additional clearing, a survey will be required that includes existing clearing lines and calculations to ensure compliance with this section before a certificate of occupancy may be issued.** [Emphasis added.]

(4) The construction of a driveway and the installation of underground utilities is permitted through the buffer area, provided that native and natural vegetation is maintained to the extent practicable and both erosion and siltation controls and tree protection measures approved by the Zoning Enforcement Officer are installed prior to the commencement of any construction work on site and are properly maintained throughout the construction period.

(5) Notwithstanding the foregoing provisions, these regulations do not apply to any lands used for agricultural purposes using sound agricultural practices as determined by the New York State Department of Agriculture and Markets nor forestry operations conducted in a manner consistent with the Timber Harvesting Guidelines as published by the New York State Department of Environmental Conservation.

§ 125-55 Preservation of natural and cultural features; design standards.

D. Preservation of scenic features. In any application subject to this section, features that provide scenic importance should be preserved to the greatest extent possible. These features include but are not limited to individual healthy trees within open fields that are at least six inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.

(2) (a) **Visibility.** All structures should be sited to avoid occupying or obstructing public views of land from any location listed on the SEQR visual environmental assessment form addendum (V-EAF) pursuant to 6 NYCRR 617.20, Appendix B. These locations are frequented by the public and offer unobstructed views of the Town's ridgelines, hilltops, scenic landscapes and scenic roads. Visibility shall be measured using a condition of no leaves on trees.

(c) **Vegetation.** Existing vegetation should be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views. Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used if feasible to increase the screening of buildings. Buildings shall be sited so that they do not protrude above treetops, ridgelines and hilltops as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees, ridgelines or hilltops.

§ 125-62 Historic Buildings. (RTZC)

(4) **Use requirements.** The Planning Board may grant relief to the use requirements listed under Article III of this chapter, without the approval of the Zoning Board of Appeals. In reviewing the application for an adaptive reuse special use permit to allow business and professional offices, an artisans shop and gallery, and an antiques shop within a designated historic building, the Planning Board shall consider the extent to which the proposal meets the following objectives:

(e) Site new construction to have a minimum impact on the natural environment. Unique natural areas and open spaces such as streams, ponds, wetlands, steeply sloped areas, **woodlands**, and other sensitive environments shall be preserved to the greatest extent practicable. Where preservation is not practicable, appropriate mitigation measures shall be used to avoid or reduce impacts on such natural resources, as required by SEQR. **CAB NB**

(g) The development shall be in harmony with the objectives of the Town Comprehensive Plan and the Local Waterfront Revitalization Program. **CAB NB**

5. Town of Rhinebeck Comprehensive Plan Regarding Scenic Resources, Districts and Roads

Scenic Resources

Much of Rhinebeck's unique character is recognized in an historic shorelands scenic district. **The Mid-Hudson Historic Shorelands Scenic District, designated as scenic under Article 49 of New York State Environmental Conservation Law,** [Emphasis added.] covers the east bank of the Hudson River, from Hyde Park to Germantown. The section within Rhinebeck extends eastward from the centerline of the Hudson to a line 500 feet east of Lemon Lane, Hook Road, Old Post Road and Route 9. It offers panoramic views of the River, with impressive landscapes enhanced by the Catskill Mountains to the west.

Portions of this area were also listed as historic districts on the National Register of Historic Places in 1979. The Twenty-Mile Historic District is within the Scenic District and is composed of the surviving estates built in the area throughout the 18th and 19th centuries. The magnificent homes of this district span more than two centuries. They represent the architectural and social history of the times, and served as residences of several successful and powerful New York families. Included in this group of estates is Ferncliff, home of the Astor family.

The estates assumed additional importance through the role that many of their occupants played in state and national history. However, the special significance of the area is derived from its location along the Hudson River, with views of the Catskill Mountain range adding a dimension that rivals and enhances its historic and architectural significance.

Scenic Districts

The Town of Rhinebeck is included in two scenic districts designated by the state. **In 1981, the New York State Legislature established the Coastal Management Program, which provided for the designation and protection of scenic areas of statewide significance (SASS). Rhinebeck is included in the Estates District segment of the Hudson River SASS.** [Emphasis added.]

Town of Rhinebeck Scenic Roads

Roadways that have been designated as scenic roads by the New York State Department of Environmental Conservation New York (now under the auspices of the New York State Department of Transportation's Scenic By-Ways Program), include:

- NYS Route 199 from the Dutchess/Ulster County line on the Kingston/Rhinecliff Bridge to the intersection with NYS Route 9G.
- River Road from the intersection with Rhinecliff Road to the Red Hook/Rhinebeck town line.
- NYS Route 9 from the Hyde Park/Rhinebeck town line to the intersection with South Mill Road.
- South Mill Road from the intersection with NYS Route 9 to the intersection with Morton Road.
- Morton Road from the intersection with South Mill Road to the intersection with Kelley Street.
- Mill Road from the intersection with Morton Road to the intersection with NYS Route 9.

Roadways that have been locally designated as having scenic significance include:

- Kelly Street from the intersection with Morton Road to the intersection with Rhinecliff Road.
- Charles Street from the intersection with Kelly Street to the intersection with Rhinecliff Road.
- Rhinecliff Road from the intersection with Charles Street to the intersection with NYS Route 9.
- NYS Route 9 from the intersection with South Mill Road to the intersection with Montgomery Street in the Village of Rhinebeck.
- Astor Drive from the intersection with River Road to the intersection with Montgomery Street in the Village of Rhinebeck.
- Montgomery Street from the intersection with NYS Route 9 to the intersection with Old Post Road on the town/village line.
- Mt. Rutsen Road from the intersection with Old Post Road (just north of the village of Rhinebeck) to the intersection with River Road.
- Old Post Road from the intersection with Montgomery Street to the intersection with Route 9G.

6. Applicable LWRP Policies for Historic Structures and Scenic Views.

Section II - B. Existing Land Use

11. Analysis of Existing Land Use

Preservation of Scenic and Historic Structures and Scenic Views - It is desirable to maintain the scenic and historic qualities of the estates as they are viewed from major roads and from the River, or from the western shore of the Hudson River. Thus, preservation and restoration of existing historic structures, e.g., Wilderstein, siting of development relative to roads and to River frontage, and preservation of natural features along the roads and the riverside must be important planning considerations.

Section II - G. Historic and Scenic Features

- The Mid-Hudson Historic Shorelands Scenic District, so designated, includes not only the Sixteen Mile Historic District (discussed below) and the Clermont Historic District, but also the River landings and pastoral lands connecting the River and the major State road paralleling the River.
- A Management Plan for the Scenic District was completed in 1983 and endorsed by the communities in the District. Moreover, since the scenic quality of the District is greatly enhanced by views across the Hudson River, the Management Plan included a description of the Scenic Zone which encompasses the river frontage extending 2,000 feet west of the high tide line. **Thus, portions of the Towns of Esopus, Kingston, Ulster and Saugerties, the City of Kingston and Village of Saugerties in Ulster County and the Town of Catskill in Greene County are considered part of the viewscape communities in the Scenic District. Sections of the City of Kingston and Towns of Ulster and of Esopus are notably directly across the Hudson River from Rhinebeck. [CAB NB]**

HISTORIC AND SCENIC RESOURCES POLICIES

LWRP Policies

CAB NB: Whether within or outside a designated Scenic Area of Statewide Significance (SASS) all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource. Emphasis added.]

The Rhinebeck LWRA is located wholly within the Estates District and Esopus Lloyd District Scenic Areas of Statewide Significance (SASS) which consists of the Hudson River and its eastern shorelands extending from north to south for a distance of approximately 27 miles in the Towns of Germantown and Clermont, Columbia County, and in the Towns of Red Hook, Rhinebeck and Hyde Park and the Villages of Tivoli and Rhinebeck in Dutchess County.

POLICY 23 - PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

Explanation of Policy

Structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the State, its communities, or the Nation comprise the following resources:

1. A resource, which is in a Federal or State park established, among other reasons, to protect and preserve the resource.
2. **A resource on, nominated to be on, or determined eligible to be on the National or State Registers of Historic Places.** [Emphasis added.]
3. A resource designated by the State Nature and Historic Preserve Trust.
4. An archaeological resource which is on the State Department of Education's inventory of archaeological sites or identified by the State Office at Parks, Recreation and Historic Preservation.
5. **A designated local landmark, a park, or locally designated historic district that is located within the boundary of the Rhinebeck Local Waterfront Revitalization Area / Mid-Hudson Historic Shorelands Scenic District.** [Emphasis added.]

All practicable means to protect structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the Town, the State, its communities or the Nation include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to such significant structures, districts, areas or sites.

1. Alteration of or addition to one or more of the architectural, structural, ornamental or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. **(CAB NB)**
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features described in (a) above plus any other appurtenant fixtures associated with a building structure or earthwork. **(CAB NB)**

3. **All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource.** [Emphasis added.]

Primary considerations to be used in making a judgment about compatibility should focus on the visual and location relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. **Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. With historic districts, this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.** [Emphasis added.]

This policy shall not prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthworks, or component thereof of a recognized historic, cultural or archaeological resource which has been officially certified as being imminently dangerous to life or public health. **Further, this policy shall not prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resource.** [Emphasis added.]

About 400 buildings in the Village of Rhinebeck have also been designated as a historic district, which was placed on the National Register of Historic Places in 1979. There are also a number of individual residences and other structures of historic interest located throughout the Town and the hamlet of Rhinecliff that were incorporated into the Rhinebeck Multi-Resource Area Historic District (1987), including Grasmere, which have been listed on the National Register. In addition, Wilderstein, the Quitman House, the Old Stone Church and the Palatine Farmstead, the latter three located to the north of the LWRA, have been designated as "local landmarks" by the Town of Rhinebeck.

Most of the Local Waterfront Revitalization Area along the Hudson River shoreline of the Town (excluding the Rhinecliff hamlet area) is zoned Residential 5-Acre (R5A) District. This limited density zoning classification assists the Town in preserving its rural, low density qualities and appearance and in protecting the scenic, historic and natural features of the waterfront areas of the Town. Permitted uses in the R5A District include primarily agriculture, conservation and forestry uses, private stables, one- and two-family dwellings (preferably in cluster configuration), home occupations and government buildings. Special permit uses in this District include elderly housing, alternate care housing; cemetery; crematorium; educational institutions; golf course; hospital; conference center; rod and gun club; waterfront uses such as marinas, boat clubs, docks and ramps. This range of uses provides opportunity for adaptive re-use of historic estates which helps to preserve the historic and scenic areas of the Town.

POLICY 23A - CONSERVE, PROTECT, PRESERVE AND PROMOTE THE ADAPTIVE RE-USE OF PLACES, SITES, STRUCTURES, VIEWS AND FEATURES IN THE COASTAL AREA OF THE TOWN OF RHINEBECK OF SPECIAL HISTORIC, CULTURAL OR ARCHAEOLOGICAL SIGNIFICANCE OR WHICH BY REASON OF ASSOCIATION WITH NOTABLE PERSONS OR EVENTS, THE ANTIQUITY OR UNIQUENESS OF ARCHITECTURAL AND LANDSCAPE DESIGN ARE OF PARTICULAR SIGNIFICANCE TO THE HERITAGE OF THE TOWN.

A majority of the sites, structures, buildings and features in the waterfront area of the Town, which contribute to the historic and scenic character of the area, have been listed on the State or National Registers of Historic Places, whether by individual listing or inclusion within the Hudson River National Historic Landmark District. Additional buildings, sites, cemeteries and other features that need to be protected and preserved may be important locally and contribute to the historic and scenic qualities of the Town.

Public and private efforts will be undertaken to maintain and preserve the important features of the area, such as the trees and stone walls lining many roads within the LWRP area. Education programs will be established on techniques for preservation and repair of stone walls. **Existing stone walls, stone culverts and bridges, and trees along roads shall also be protected through such measures as setting up a public/private maintenance program for wall repair and stabilization; working with highway/transportation departments to plan road improvements together with the protection of these features; and making their preservation a priority in site plan and subdivision review. Trees and walls will be protected along scenic roads by requiring the provision of scenic easements along the roads.** [Emphasis added.]

Policies 24 (A-C)

LWRP Policies 24 (A-C) provide that when considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. The determination would involve:

- (1) a review of the coastal area map to ascertain if it shows an identified scenic resource which could be affected by the proposed action, and
- (2) a review of the types of activities proposed to determine if they would be likely to impair the scenic beauty of an identified resource.

Impairment includes:

1. (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and

2. (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

POLICY 24

PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE AS IDENTIFIED ON THE COASTAL AREA MAP. IMPAIRMENT SHALL INCLUDE:

(i) THE IRREVERSIBLE MODIFICATION OF GEOLOGIC FORMS, THE DESTRUCTION OR REMOVAL OF STRUCTURES, WHENEVER THE GEOLOGIC FORMS, VEGETATION OR STRUCTURES ARE SIGNIFICANT TO THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE; AND

(ii) THE ADDITION OF STRUCTURES WHICH BECAUSE OF SITING OR SCALE WILL REDUCE IDENTIFIED VIEWS OR WHICH BECAUSE OF SCALE, FORM, OR MATERIALS WILL DIMINISH THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE.

POLICY 24A

PREVENT IMPAIRMENT OF SCENIC RESOURCES INCORPORATED WITHIN THE MID-HUDSON HISTORIC SHORELANDS SCENIC DISTRICT AND THE ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE.

The following siting and facility-related guidelines will be used to review proposed development, and should be included in the design of new projects to avoid impairment of scenic resources, recognizing that each development situation is unique and that guidelines will have to be applied accordingly:

1. Siting structures and other development such as highways, power lines, and signs, back from shorelines, roadways, or in other inconspicuous locations to maintain the attractive quality of these areas and to retain views to and from important resources;
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
3. Incorporating structurally sound, existing structures (especially historic buildings) into the overall development scheme;
4. Removing deteriorated and/or degrading features;
5. Maintaining or restoring the original land form and vegetation, except when changes screen unattractive features and/or add appropriate interest;
6. Maintaining or adding vegetation and appropriately pruning or trimming trees to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive features, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of important resources such as historic resources, open lands, the Catskill Mountains or the Hudson River;
7. Maintaining and enhancing landscaped grounds of estate areas;

8. Wherever possible, placing utility lines underground or minimizing the number of poles by combining wires to the extent possible to diminish negative visual impacts;
9. Maintaining and preserving stone walls, gateways to estates and landscape features along roadways;
10. Using appropriate scales, forms and materials to ensure buildings and other structures are compatible with and add interest to the landscape;
11. Minimizing the effects, as much as possible, of facility operation (i.e., lighting, noise and odor); and
12. Providing waterfront access whenever possible.

The State-designated Mid-Hudson Historic Shorelands Scenic District, which is co-terminus with the Local Waterfront Revitalization Area of the Town, contains several historic districts noteworthy for their historic and scenic qualities. The historic aspects are discussed in the Inventory and Analysis section and under Policy 23.

The Sixteen Mile Historic District, later expanded to the Hudson River National Historic Landmark District and listed on the National Register of Historic Places, contains a series of estates along the River which are scenic resources of great worth based primarily on the architecture of the structures, the landscaped grounds and open space surrounding the primary buildings, and the scenic views of the Hudson River and the Catskill Mountains. These estates and other historic structures, such as those in the Town of Rhinebeck Multi-Resource Area Historic District included on the National Register, need to be protected and enhanced. Any re-use or redevelopment of the east bank estates will follow the guidelines set forth above. Identification and protection of existing trees of a significant size, that is eight inches or over in diameter, and of stone walls will be required through special permit, site plan and subdivision review requirements. Limitations on signs as to type, size and placement is regulated through the zoning ordinance. **In addition, efforts will be undertaken through the environmental review process to attempt to protect the viewscape on the west bank of the River from any significant deterioration or alteration.** [Emphasis added.]

Views and scenic vistas must be protected wherever they occur in the coastal area. Most of Rhinebeck's vistas are located along the "scenic roads" of the Town. [Emphasis added.]

POLICY 24B

PROTECT AND ENHANCE THE SCENIC QUALITIES OF ROADS IN THE TOWN NOMINATED AS SCENIC ROADS UNDER THE HUDSON VALLEY SCENIC ROADS PROGRAM AND THOSE DESIGNATED AS SCENIC ROADS BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

The Heritage Task Force for the Hudson River Valley, Inc., established by the New York State Department of Environmental Conservation in 1980, was responsible for the preparation of the study to nominate scenic highways in the Hudson River Valley and develop programs for their preservation and enhancement. These roadways plus others identified by the Town Board, listed in the Inventory and Analysis Section, are considered important cultural and scenic features in the landscape which provide a means of visual and physical access to the Hudson River. The goals of

the Scenic Roads Program are appropriate to this LWRP policy: preserve and enhance the appearance of the roadways and surrounding areas, provide opportunities for better viewing of scenic vistas, create a greater public awareness of the importance of the scenic resources and recommend preservation and enhancement measures.

POLICY 24C

REVENT IMPAIRMENT OF THE ESTATES DISTRICT AND ESOPUS/LLOYD SCENIC AREAS OF STATEWIDE SIGNIFICANCE.

The Town of Rhinebeck is included in both the Estates District Scenic Area of Statewide Significance and Esopus/Lloyd Scenic Area of Statewide Significance (SASS), as designated by the Secretary of State. The Estates District and Esopus/Lloyd SASS are of statewide aesthetic significance by virtue of the combined aesthetic values of landscape character, uniqueness, public accessibility and public recognition. . . The section of the Estates District SASS within the Town of Rhinebeck is included within the following subunits:

- ED-10 Astor Cove
- ED-11 River Road
- ED-12 Mount Rutsen,
- ED-13 Rhinebeck Center
- ED-14 Rhinecliff Road
- ED-15 Rhinecliff
- ED-16 Rhinecliff Woods
- ED-17 Mill Road Meadows
- ED-18 Vanderburgh Cove

The section of the Esopus/Lloyd SASS within the Town of Lloyd is included within the following subunits:

- EL-1, Big Rock and Hemlock Points
- EL-2, Esopus Uplands
- EL-3, Esopus Bluffs

When considering a proposed action, agencies shall determine whether the action could affect the Estates District or Esopus/Lloyd SASS and, if so, whether the types of activities proposed would be likely to impair the quality of an identified resource. Impairment includes:

1. (i) the irreversible modification of geologic forms; the destruction or removal of vegetation; the modification, destruction, or removal of structures, whenever the geologic forms, vegetation or structures are significant to the scenic quality of an identified resource; and
2. (ii) the addition of structures which because of siting or scale will reduce identified views or which because of scale, form, or materials will diminish the scenic quality of an identified resource.

The following siting and facility-related guidelines will be used to review proposed development, redevelopment or re-use plans and should be included in the design of new projects to avoid impairment of scenic resources, recognizing that each development situation is unique and that guidelines will have to be applied accordingly. Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore;

1. Clustering or orienting structures to retain views, save open space and provide visual organization to a development;
2. Incorporating sound, existing structures (especially historic buildings) into the overall development scheme;
3. Removing deteriorated and/or degrading elements;
4. Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest;
5. Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of coastal waters;
6. Using appropriate materials, in addition to vegetation, to screen unattractive elements; and
7. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

COMMENT: The most notable of views available in the SASS are the panoramic views which include lawns or fields, the Hudson River and its shoreline and the distant Catskill Mountains. The siting of structures in a manner that causes them to intrude upon, block, alter the composition of or introduce discordant features into these views would impair the scenic quality of the SASS.

Interior views are less well known but equally contribute to the aesthetic significance of the landscape. They tend to be views down winding rural roads and carriage trails and glimpses of small clearings framed by vegetation. The essential character of these views is of pastoral or forested landscapes. **If commercial or industrial structures or large scale residential structures were introduced into these views, they would constitute discordant features, impairing the scenic quality of the views and, consequently, the scenic quality of the SASS.** [Emphasis added.]

COMMENT: Two types of views are found in the SASS. These are:

1. panoramic views, generally including fields or lawns, the Hudson River and its western shorelands ; and

2. intimate views of a pastoral or forested nature. If care were not taken to cluster and orient structures to retain these views, discordant features would be introduced into the views, reducing their scenic quality and impairing the scenic quality of the SASS.

Other types of open space in the SASS include estate lawns and forests. The latter provide an opportunity to screen new development on the estates. **Failure to preserve forested areas and to cluster structures within them, in order to retain the open lawns of the estates, would reduce open space and contrast in the landscape, impairing the scenic quality of the SASS.** [Emphasis added.]

Failure to maintain the forests and use them to screen new development would eliminate the contrast between the open lawns and forested areas and impair the scenic quality of the SASS. Siting of structures in the lawn areas would alter the composition of the views, reduce open space and, in some cases, block views in the SASS, a significant component of its scenic quality.

The forested shorelands also contribute open space to the landscape composition and provide an opportunity to screen new development. [Emphasis added.]

Failure to retain the forests to the maximum extent practicable and screen new development within them would change the open space character of the Hudson River corridor, reduce the amount of texture and contrast of the SASS, impair the visual organization and verdant character of the Hudson River corridor and impair the scenic quality of the SASS.

The expanse of the Hudson River is itself a significant open space element in the SASS. Its ever-changing surface provides a variety of contrasts with its forested shores and settled landings. **The siting of extensive dock and mooring facilities would reduce the open space of the Hudson and the alternately tossing and reflective surface of the water. This would reduce the variety and contrast of the landscape, impairing the scenic quality of the SASS.** [Emphasis added.]

COMMENT: The historic structures in the SASS relate the story of the cultural landscape as well as contribute to the landscape and provide focal points in views. Architectural gems such as the Hudson River lighthouses along the western shore, estate and farm structures, streetscapes and specimen trees are examples of focal points. **Other cultural elements include the estate houses and their designed landscape environs including the expansive lawns; other estate features such as gateways and entrance roads, historic barns and stone walls; historic streetscapes in the villages and river landings;** [Emphasis added.] and the vernacular village and farm architecture reflecting earlier agricultural practices. **Failure to preserve these historic structures through incorporation in an overall development scheme would alter the cultural landscape, reduce variety and contrast of the landscape and eliminate focal points from views, impairing the scenic quality of the SASS. Loss of historic structures would also reduce the visible story of the landscape, reducing its symbolic value and reducing public recognition of that history and value.** [Emphasis added.]

COMMENT: Some historic elements are deteriorated, such as stone walls and certain historic structures, but removal of these important landscape components would result in the loss of important cultural features and focal points in views as well as reduce the variety and contrast of the landscape, thus impairing the SASS. **Rehabilitation rather than removal is the more appropriate action for historic structures.** [Emphasis added.]

The SASS is generally free of discordant features. The railroad tracks are discordant when they figure prominently in the landscape, however. This occurs primarily when the viewer is close to the tracks. **Therefore, avoiding the application of herbicides in the railroad corridor which renders vegetation unsightly or failure to control scrub growth along the corridor to maintain views, can impair the scenic quality of the SASS.** [Emphasis added.]

In addition, leaching of other pollutants from the tracks into the adjacent marshes, if such leaching were to adversely affect the viability and visual character of the marsh vegetation, would change the color and texture of the marsh and impair the scenic quality of the SASS. This loss of vegetation and marsh viability could result in a reduction of wildlife populations, reducing ephemeral elements of the SASS and impairing its scenic quality.

Bulkheads and docks in the river landings are evidencing signs of deterioration, and some waterfront areas are cluttered with abandoned structures and discarded materials. Failure to invest in the river landings, such as Rhinecliff, Barrytown and Tivoli, through repair of bulkheads and docks may increase deterioration to the extent that the bulkheads and docks become discordant features.

Rehabilitation of these docks has the added advantage of preserving opportunities to increase public access to the SASS in the future via passenger vessels and to reinforce the historic ties to the Hudson River. Increased tourism could support the continued economic health of the public and private attractions as well as of the landings and community centers, thus maintaining the character and good repair of significant scenic elements of the SASS.

COMMENT: The shoreline of the Hudson River is characterized by coves, marshes and scattered islands which contribute to the variety and contrast of the SASS and the interest of an undulating shoreline in many locations. Meandering streams cross the upland fields and rush through ravines as they approach the river. **Actions and development which would alter the configuration of the shorelines or the relationship between water and land elements would impair the scenic quality of the SASS.** [Emphasis added.]

The bluffs along the Hudson River are highly erodible and subject to slumping and sliding. Their wooded character in certain portions of the Hudson River corridor significantly contributes to its scenic quality. Failure to maintain the undisturbed nature of the bluffs and their woodlands would alter the natural character of the landscape and the river corridor and impair the scenic quality of the SASS.

The topography behind the bluffs is generally rolling with some promontories. Alteration of this underlying form would diminish a unifying element of the landscape and impair the scenic quality of the SASS.

COMMENT: The variety, type and arrangement of vegetation in the SASS contributes significantly to the scenic quality. From marshes to wooded slopes to forests, to gardens and working farms, the natural and designed landscapes exhibit a wide range of color and texture. Vegetation screens discordant features, defines edges, softens harsh contrasts, frames views and provides focal points such as specimen trees. The wildlife supported by the various vegetation constitutes ephemeral effects on the landscape. **Tree-lined scenic roads and carriage trails constitute important access ways for public experience of the landscape. Failure to preserve vegetation and provide for its continuance to the maximum extent practicable would alter the composition of the landscape, introduce discordant features through the failure to screen development, change the nature of views and significantly impair the SASS.** [Emphasis added.]

Vegetation also provides a buffer between the SASS and discordant elements outside the SASS and preserves the ambience of historic landscapes by screening adjacent incompatible development. As development and related traffic increase in the SASS, the importance of this buffer increases. **Loss of vegetation along the edge of the scenic district and the edges of historic sites would adversely impact the historic context of the historic sites and impair the scenic quality of the SASS.** [Emphasis added.]

COMMENT: The SASS is a living landscape which has successfully absorbed change over time because each new period of development has been compatible with the scale, design and materials of previous periods. **Failure to use appropriate materials, the color and texture of which would blend new development into the historic and natural landscape, would introduce discordant features into the landscape which singularly or collectively would disrupt the unity of the SASS and impair its scenic quality.** [Emphasis added.]

COMMENT: The SASS is a living landscape which has successfully absorbed change over time because each new period of development has been compatible with the scale, design and materials of previous periods. **Failure to continue to use appropriate scales, forms and materials in new development that are compatible with neighboring structures and do not dominate the landscape would introduce discordant features into the landscape which singularly or collectively would disrupt the unity of the SASS and impair its scenic quality.** [Emphasis added.]

POLICY 25

PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.

Because of the NYSDOS designation as the Estates District Scenic Area of Statewide Significance and the Esopus/Lloyd Scenic Area of Statewide Significance and because the entire Local Waterfront Revitalization Area of Rhinebeck is co-terminus with the DEC-designated Mid-Hudson Historic Shorelands Scenic District, the scenic resources of this waterfront area are discussed under policies 24A, 24B, and 24C as local resources of State-wide significance.

6. Terms used in § 125-62 Historic Buildings.

As used principally, if not exclusively, within Article V, § 125-62, Historic buildings, the following terms shall have the meanings indicated:

APPURTENANCES - Any structures and/or features, such as entrance gates, fences, gazebos, gardens, landscapes, stone walls, hitching posts and signs, which are accessory to the historic building, or the historic buildings, on the property.

CERTIFICATE OF ECONOMIC HARDSHIP - A certificate issued by the Planning Board authorizing removal or demolition of an historic building, or portion thereof, even though a certificate of removal or demolition has previously been denied.

CERTIFICATE OF REMOVAL OR DEMOLITION - A certificate issued by the Planning Board indicating its approval of plans for removal or demolition of an historic building, or portion thereof.

CONTRIBUTING BUILDING - Any building, including residential, commercial, public, institutional and agricultural structures, having one or more of the following characteristics: (1) designated as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District; (2) included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Register Historic Districts; (3) listed as individual buildings, or building complexes, on the National Register of Historic Places; (4) designated as a "local landmark" by the Town of Rhinebeck; all of which are referred to in Article V, § 125-62, as a "historic building" or "historic buildings." The term "contributing building" shall also apply to any building, or any other structure, that in the future is designated and included as an individual building, or building complex, or a contributing building within a district on the National and/or State Register of Historic Places and/or designated as a local landmark by the Town of Rhinebeck.

DEMOLITION - Any act or process that destroys an historic building or portion thereof.

DEMOLITION PERMIT - A type of building permit issued by the Town Zoning Enforcement Officer pursuant to § 125-106 of this chapter, which is required before an historic building is removed or demolished.

HISTORIC BUILDING

A. Any building having one or more of the following characteristics:

(1) Designated as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District.

(2) Included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Register Historic Districts.

(3) Listed as individual buildings, or building complexes, on the National Register of Historic Places.

(4) Designated as a "local landmark" by the Town of Rhinebeck.

B. The term "historic building" shall also apply to any building that in the future may be included on the National and/or State Register of Historic Places and/or designated as a local landmark by the Town of Rhinebeck.

LOCAL LANDMARK - Any building designated as a "local landmark" by the Town Board and referred to in this chapter as an "historic building."

NONCONTRIBUTING BUILDING - Any building neither identified as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District, included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Historic Districts, nor either listed as an individual building, or part of a building complex, on the National Register of Historic Places, and/or designated as a "local landmark" by the Town of Rhinebeck.

PARTIAL or PORTION THEREOF - As applied to either of the terms "demolition" or "removal," a change in exterior building mass involving any modification in either roofline or any reduction in building footprint.

REMOVAL - Any relocation of an historic building or portion thereof within its site or to another site.

Chapter III

Rhinebeck's Local Waterfront Recovery Program

Sections

1. Background Information
2. Management and Coordination of the LWRP
3. Review of Actions
4. Enforcement
5. LWRA Boundaries
6. Significant Environmental Features of the LWRP
7. Significant Fish and Wildlife Habitats
8. Analysis of Environmental Features
9. Local Waterfront Revitalization Program Policies

1. Background Information

The Town of Rhinebeck **Local Waterfront Revitalization Program (LWRP)** was prepared pursuant to provisions of the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the **New York State Coastal Management Program (NYS CMP)**. The Rhinebeck LWRP is a comprehensive management program for the Town's Hudson River waterfront resources that is based on the policies of the NYS CMP. Rhinebeck' LWRP was ratified by the Town Board on February 13, 2007.

Rhinebeck's LWRP is a program prepared and adopted by the local, town government and approved by the Secretary of State pursuant to NYS Executive Law, Article 42; which contains **policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.** [Emphasis added.]

2. § 118-4 Management and Coordination of the LWRP (RTC)

A. The Town of Rhinebeck Conservation Advisory Board shall be responsible for coordinating review of actions in the Town's coastal area for consistency with the LWRP and will advise, assist and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.

B. The Council shall coordinate with the New York State Department of State regarding consistency review of actions by federal agencies and with state agencies regarding consistency review of their actions.

C. The Council shall assist the Town Board in making applications for funding from state, federal, or other sources to finance projects under the LWRP.

D. The Council shall perform other functions regarding the coastal area and direct such actions or projects as the Town Board may deem appropriate, to implement the LWRP.

3. § 118-5 Review of Actions (RTC)

G. In the event the Council's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of-consistency, the agency shall elaborate, in writing, the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.

H. Actions to be undertaken within the coastal area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Town of Rhinebeck LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to: (Applicable policies)

(1) Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for uses dependent on a waterfront location and compatible with the historic and scenic character of the area (Policy 1).

(2) Encourage tourism through preservation, enhancement and/or appropriate resources of historic, scenic and recreational interest (Policy 1A);

(3) Retain and encourage the development of water-dependent uses on or near coastal waters (Policy 2);

(4) Ensure that development occurs where adequate public infrastructure is available (Policy 5);

- (6) Protect and preserve fish and wildlife habitats of local importance and those which DOS has identified as significant, from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D, 7E and 8);
- (7) Maintain and expand the recreational use of existing fish and wildlife resources (Policy 9);
- (9) Minimize flooding and erosion hazards through proper siting of buildings and structures; protection of natural protective features; construction of carefully selected, long-term structural measures; and the use of appropriate nonstructural means (Policies 11, 12, 13, 14, 15 and 17);
- (10) Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16);
- (11) Safeguard vital economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18);
- (12) Maintain and improve public access to the shoreline and to water-related recreational resources, while protecting the environment and adjacent land uses (Policies 19, 20, and 20A);
- (13) Encourage and facilitate water-dependent and water-enhanced recreational resources and facilities near coastal waters (Policies 21, 21A and 21B);
- (14) Encourage the development of water-related recreational resources and facilities, as multiple uses, in appropriate locations within the shore zone. (Policy 22);
- (15) Protect and enhance scenic and aesthetic resources (Policies 23, 23A);
- (16) Protect and enhance scenic and aesthetic resources (Policies 24A, 24B, 24C and 25);
- (17) Conserve and protect agricultural lands (Policy 26);
- (18) Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a shorefront location and in such a manner as to avoid adverse environmental impacts when in operation (Policies 27 and 40);
- (19) Undertake ice-management practices to avoid adverse coastal impacts (Policy 28);
- (20) Protect surface waters and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 36, 37 and 38);
- (21) Ensure that dredging and dredge spoil disposal are undertaken in a manner protective of natural resources (Policies 15 and 35);

(22) Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policy 39);

(23) Protect air quality (Policies 41, 42, and 43); and

(24) Preserve and protect tidal and freshwater wetlands (Policy 44).

4. § 118-6 Enforcement (RTC)

No action within the Rhinebeck coastal area which is subject to review under this chapter shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town's LWRP policy standards. In the event that an activity is being performed in violation of this law or any conditions imposed thereunder, the Building Inspector or any other authorized official of the Town shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect. The Town Building Inspector, Town Attorney, Code Enforcement Officer and Police Department shall be responsible for enforcing this chapter.

5. Boundaries of Rhinebeck's LWRA

Beginning at the Town's municipal boundary with the Town of Red Hook within the mid-channel of the Hudson River, the LWRA proceeds east along the Rhinebeck-Red Hook municipal boundary to a point 500 feet east of the centerline of Lemon Lane; then south along a line 500 feet east of, and parallel to, Lemon Lane to a point 500 feet north of the centerline of Hook Road; then east along a line 500 feet north of, and parallel to, Hook Road to a point 500 feet east of Old Post Road; then south along a line 500 feet east of, and parallel to, Old Post Road to the Village of Rhinebeck municipal boundary; then west, south, and east along the Village of Rhinebeck municipal boundary to a point 500 feet east of the centerline of U.S. Route 9; then south along a line 500 feet east of, and parallel to, U.S. Route 9 to the Town of Hyde Park boundary; then west along the Rhinebeck-Hyde Park boundary to the Town's boundary in the Hudson River; then north along the Town's municipal boundary within the Hudson River to the point of origin.

The rule of thumb at determining whether or not a site is within the LWRA is to determine if the site is located west, 500 feet east of the center line of Route 9, north and south of the Village of Rhinebeck. The area of the LWRA also includes riverfront area east (facing the Dutchess County area) of the mid-channel of the Hudson River.

For a detailed map outlining the LWRA, go to Map 1, "Waterfront Revitalization Area Boundary", which displays the location of the LWRA, located towards the end of the LWRP site at https://docs.dos.ny.gov/opd-lwrp/LWRP/Rhinebeck_T/Original/Rhinebeck_T_LWRP.pdf.

6. Significant Environmental Features of the LWRP

The Hudson River

The Hudson, within the waterfront area of the Town, also provides a deep-water estuary system unique in the northeastern United States. The deep holes off Sturgeon Point serve as a winter habitat area for much of the resident population of the short-nose sturgeon (an endangered species); the River also serves as a spawning area for the American shad. Two deep water areas within the Town portion of the River have been categorized as significant habitat areas by the New York Department of Environmental Conservation.

Freshwater Wetlands Affected by Tides

These habitats are among the Town's most significant scenic and biological resources. The wetlands are found in the natural and railroad-impacted coves of the Town, supporting extensive and varied vegetation and animal life.

The Dutchess County Environmental Management Council (EMC) has also named **Astor Cove**, the **Vanderburgh Cove** with surrounding ridges, Jones Island, **Suckley Cove**, and nearby shallows of the Hudson River as a **Significant Natural Area**. Astor Cove, a habitat which also supports extensive fish and birdlife, is particularly important because its stand of wild rice provides a valuable feeding area for ducks.

Forested Areas

Ferncliff Forest, is the highest point of land in the waterfront area. . . Also within Ferncliff Forest, Mt. Rutsen Pond, a semi-natural pond, drains into nearby Snyder Swamp. . . Ferncliff Forest has been zoned for Land Conservation, which limits development of the site.

Ferncliff Forest has been designated together with Snyder Swamp and the Mudder Kill, as a **Significant Natural Area** by the Dutchess County Environmental Management Council.

7. Significant Fish and Wildlife Habitats

Four of the thirty-nine **Significant Coastal Fish and Wildlife Habitats** within the Hudson Region lie within or adjacent to the Rhinebeck LWRA, as designated by the Department of State Division of Coastal Resources.

1. **Vanderburgh Cove and Shallows.** Vanderburgh Cove and Shallows is located on the east side of the Hudson River, approximately four miles south of the Village of Rhinebeck, in the Towns of Rhinebeck and Hyde Park. Vanderburgh Cove is an approximate 100 acre, shallow, (less than 10 feet deep at mean low water), tidal, freshwater bay, separated from the open river by the Conrail tracks and land. The cove is connected by hydrology to the

River via two bridges under the railroad tracks, and contains dense beds of water chestnut, wild celery, Eurasian water milfoil, pickerel weed, and yellow pond lily. Emergent marsh vegetation (e.g., river bulrush and cattail) is present only around the margin of Vanderburgh Cove. Outside of the railroad is an approximate 1,000-foot-wide extension of the shallow water area in Vanderburgh Cove, encompassing approximately 300 acres. The latter area is predominantly sub-tidal, with a silt substrate and beds of aquatic vegetation.

Vanderburgh Cove and Shallows is one of the largest contiguous areas of shallow, freshwater, sub-tidal flats in Dutchess County. Areas such as this are extremely valuable fish and wildlife habitats. [Emphasis added.] However, the importance of this area is limited somewhat by its small size relative to similar habitats elsewhere in the Hudson River, and possibly by the abundance of water chestnut within Vanderburgh Cove. Suckley Cove is a high quality portion of the habitat, with minimal human disturbance.

Vanderburgh Cove and Shallows is a productive littoral area located near the lowest reaches of shallow freshwater in the Hudson River, which is a critical area for many fish species. **The shallow, sub-tidal beds provide spawning, nursery, and feeding habitats for anadromous species such as striped bass, American shad, and white perch, and for a variety of resident freshwater species, such as largemouth bass, carp, brown bullhead, yellow perch, and shiners.** [Emphasis added.]

The Landsman Kill and Fallsburg Creek also attract spawning runs of smelt, alewife, and blue-back herring, although the extent of reproduction has not been documented. . **Vanderburgh Cove and Shallows may also serve as a feeding area for populations of short-nose sturgeon wintering in the adjacent deep-water channel.** [Emphasis added.]

- 2. Kingston Deepwater Habitat.** The Kingston Deepwater Habitat encompasses a six-mile stretch of the Hudson River extending approximately from the City of Kingston in Ulster County and the hamlet of Rhinecliff in Dutchess County south to the southern boundary of the Margaret Lewis Norrie State Park in Dutchess County. The area is located in the Towns of Rhinebeck and Hyde Park in Dutchess County and the Town of Esopus in Ulster County. The significant habitat area is a nearly continuous river bottom trench, where water depths of 50 feet or greater occur.

The Kingston Deepwater Habitat is the northern-most extensive section of deepwater habitat in the Hudson River. Deepwater estuaries such as this are rare in the eastern United States and the Hudson River is the only river in New York State that contains these ecosystems.

Deepwater areas trap pockets of denser saline water, providing wintering habitat for short-nose sturgeon and supporting a diversity of marine species in the Hudson River. [Emphasis added.] Recent fisheries investigations of the Hudson River in this area indicate spawning, as well as wintering of sturgeon in the Kingston Deepwater Habitat area. This area is also significant since it is largely responsible for the abundance of marine species upriver (the northern range limit for many in New York), especially during periods of low

freshwater flows (summer). The majority of both Atlantic and short-nose sturgeon taken for age-growth analysis during the 1936 biological survey came from Rhinecliff and Port Ewen. During the spring spawning run of shad, commercial drift netting takes place in the area.

- 3. The Flats.** The Flats is located in the middle of the Hudson River, roughly between the hamlet of Barrytown and the City of Kingston, in the Town of Ulster and City of Kingston, Ulster County, and the Towns of Red Hook and Rhinebeck, Dutchess County. The fish and wildlife habitat is an approximate four and one-half mile long underwater ridge, most of which is shallow (less than 10 feet deep at mean low water), fresh-water, inter-tidal mud flats, and sub-tidal aquatic beds (predominantly wild celery and Eurasian water milfoil). The Flats is bordered to the west by the Hudson River navigation channel, resulting in potential habitat disturbance from periodic maintenance dredging.

The Flats is one of the largest contiguous areas of shallow, freshwater, tidal flats in the Hudson River. Areas such as this are extremely valuable fish and wildlife habitats, and are not found in other coastal regions of New York State. [Emphasis added.]

The Flats is one of the primary Hudson River spawning grounds for American shad. [Emphasis added.] Between mid-March and June, adult shad concentrate between Kingston and Coxsackie, and spawning occurs primarily on extensive flats, shoals, sandbars, and shallow areas near the mouths of tributary creeks. . . . Reproduction by shad in the Flats area supports much of the commercial gillnet fishery for this species on the Hudson River, which is one of the largest such fisheries in the U.S. The importance of the Flats is highlighted by the fact that it is the only area on the Hudson where commercial fishing is prohibited during the shad spawning period. **The Flats also serves as spawning, nursery, and feeding habitat for striped bass, white perch, and various resident freshwater species. Concentrations of the early developmental stages of several anadromous species occur in this area.** [Emphasis added.]

Short-nose sturgeon and Atlantic sturgeon may also use the area to feed (especially during slack water in late spring and summer), [Emphasis added.] or as a resting area during river-wide movements, or as a slightly preferable habitat when water temperatures are warmer than in adjacent deeper waters (i.e., in early spring and fall). High catches of short-nose sturgeon occur in channels adjoining the Flats, particularly on the east side. The abundant fisheries resources in this area provide an excellent recreational fishery, attracting anglers from nearby portions of Ulster and Dutchess Counties.

Significant concentrations of waterfowl also occur in The Flats area. Dense growths of wild celery provide valuable feeding areas for many species of ducks, and are especially important during spring (March-April) and fall (mid-September-- early December) migrations. Concentrations of diving ducks, such as redhead, canvasback, common goldeneye, and mergansers, are regularly found out in the Flats. During calm weather, this open river area is also used by dabbling ducks, including mallard, black duck and blue-winged teal, and provides a refuge from hunting pressure in shoreline areas.

8. Analysis of Environmental Features

Protection of Ground and Surface Water. It is important to protect the Town ground and surface waters against pollution from a variety of residential, commercial and industrial sources. These include contamination and runoff from inadequate septic systems, road salting and the use of herbicides, pesticides and/or fertilizers by farmers, home gardeners and railroad maintenance crews. Any negative impacts on streams tend to affect the cove and ultimately the River as well.

Moreover, since the Hudson River serves as a source of drinking water for some communities, including the Village of Rhinebeck water system, as well as an important ecological habitat, all efforts to protect and improve the quality of the water should be encouraged and activities which could threaten the quality of the water should be discouraged.

Protection of Environmentally Sensitive Areas. Environmentally sensitive areas of the Town need to be retained and protected from alteration and pollution.

Among the Town's most valuable natural resources are the tidal coves and wetlands, particularly the Astor Cove and the Vanderburgh and Suckley Cove areas, which are being threatened to some extent by various development factors including pollution of streams (e.g., by runoff from road maintenance practices and agricultural uses, but particularly by railroad maintenance practices). The railroad practices historically included: (1) the spraying of the railroad bed and surrounding area with herbicides to limit the growth of vegetation near the tracks, a practice which may kill plant life in the cove wetland areas and threaten fish, animals and bird life and habitats, and (2) scattering of old railroad ties permeated with creosote or other wood preservatives that can both add chemicals to the coves which can harm plant, fish and animal life within the cove and can block water passing through areas under railroad bridges (thus interfering with tidal flow), which also affects plant, fish and wildlife in the cove areas.

The freshwater wetland/standing water areas of the Town, especially the large **Snyder Swamp area**, also need to be protected against pollution and encroachment or alteration -- as do the several creeks and forested areas of the Town. Snyder Swamp, while regulated under the NYS Freshwater Wetlands Act, may be under some future pressure, particularly along its outer edges, since the property is entirely in privately hands and zoned for residential use.

Impact Assessments for Significant Habitat Areas. Impact assessments are essential in dealing with the following significant habitat areas either within or adjacent to the Rhinebeck LWRA:

1. **Vanderburgh Cove and Shallows** - Any activity that would substantially degrade water quality in Vanderburgh Cove and Shallows could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Continued efforts should be made to improve water quality in the Hudson River, which is primarily dependent upon controlling discharges from combined sewer overflows, industrial point sources, and ships. **Application of herbicides or insecticides along the railroad right-of-way or adjacent uplands may result in adverse impacts on the fish and wildlife resources of the area.** [Emphasis

added.] . . . Any physical disturbance of the habitat, through dredging or filling (including dredge spoil disposal), would result in a direct loss of valuable habitat area; . . . Significant human encroachment into adjacent areas may limit use of Vanderburgh and Suckley Coves by certain species, but potential impacts may be mitigated somewhat by controlling soil erosion and discharges of polluted runoff. Existing areas of natural vegetation bordering Vanderburgh Cove and Shallows should be maintained for their value as cover, perch sites, and buffer zones. Enhancement of public access to increase compatible human uses of fish and wildlife resources in the area may be desirable.

2. **Kingston Deepwater Habitat.** Activities that would affect the water quality, temperature, turbidity or freshwater to saline distribution in the deep-water portions of the River may adversely impact on the estuarine community. Major reduction in overall depths within the deep-water trench may also have adverse effects on the sturgeon spawning, wintering, and continued use of the habitat. Deposition of dredged material or natural sediments, especially if contaminated, may degrade the quality of this unusual area.

3. **The Flats.** Any activity that would substantially degrade water quality in the Flats could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Continued efforts should be made to improve water quality in the Hudson River, which is primarily dependent upon controlling discharges from combined sewer overflows, industrial point sources, and ships. Oil and other hazardous substance spills are an especially significant threat to this area, because the biological activity of tidal flats is concentrated at the soil surface, much of which may be directly exposed to these pollutants.

9. LWRP Policies

Local Waterfront Revitalization Program Policies

The following LWRP policies can be utilized when preparing a consistency review of a site/project within the LWRA. Remember that the information presented here is only a brief outline of each policy and should be used only as a guide as to what policies are pertinent to your research and consistency review. When preparing the LWRP consistency review, one should examine and use the applicable information from the policies, listed on the town's website.

Note: Policies 3, 4, and 29 do not apply to the Town of Rhinebeck.

DEVELOPMENT POLICIES

(Policies 1, 1A, 2, 5 and 6)

POLICY 1

RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.

This policy covers residential or commercial development in areas west of the Village of Rhinebeck and the Hamlet of Rhinecliff.

One can also utilize policies 19A, 20A, 22, 23 and 23A for additional information regarding such a project within the LWRA.

POLICY 1A

ENCOURAGE GROWTH OF THE TOURISM SECTOR OF THE TOWN ECONOMY THROUGH: (1) REVITALIZATION, REDEVELOPMENT, PRESERVATION OR ENHANCEMENT OF AREAS AND STRUCTURES WITHIN THE WATERFRONT REVITALIZATION AREA / HISTORIC SHORELAND SCENIC DISTRICT / ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE AND (2) TAKING STEPS TO INFORM THE PUBLIC OF EXISTING AREAS OF HISTORIC, SCENIC, AND RECREATIONAL INTEREST.

Efforts to promote recreational fishing and boating, cultural activities, marinas, water-related recreational facilities, historic preservation, natural resource preservation, the preservation of vistas and views, and other activities which will make the waterfront area vital for residential, commercial and recreational usage and appealing for tourists in appropriate locations will be pursued. This will be accomplished through promoting the use of historic estates for cultural purposes, working with railroad interests to secure access to Long Dock, Slate Dock and Morton's Dock, creative use of low density zoning, clustering, and conservation easements.

One can also utilize policies 1, 2, 19A, 23, 23A, 24A, 24B for additional information regarding such a project within the LWRA.

POLICY 2

FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

This policy deals with commercial development and support facilities in Rhinecliff which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short-term storage facilities).

One can utilize policies 1, 19A, 20A, 21, 21A, 22 for additional information regarding such a project within the LWRA.

POLICY 5

ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHEN SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.

Any development within the LWRA will be encouraged to locate within or in close proximity to areas where infrastructure and public services are adequate or can easily be expanded, **and where topography, geology and other environmental conditions are suitable for, and able to, accommodate development.** [Emphasis added.]

POLICY 6

EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.

For specific types of development activities, and in areas suitable for such development, the Town will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, and will work with Federal and State agencies to coordinate procedures as long as the integrity of the regulations' objectives is not jeopardized.

FISH AND WILDLIFE POLICIES

(Policies 7, 7A, 7B, 7C, 7D, 7E, 8, 9 and 10)

(Includes Vanderburgh Cove, Kingston Deepwater, the Flats, Ferncliff Forest, Synder Swamp, Mudder Kill, Landsman Kill, Astor Cove, Slate Dock Cove, and other streams and creeks Area)

POLICY 7

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICABLE, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection.

A "habitat impairment test" must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

POLICY 7A

THE VANDERBURGH COVE AND SHALLOWS HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Note: The Vanderburgh Cove is a State DEC-designated habitat area.

Any activity that would substantially degrade water quality in **Vanderburgh Cove** and **Shallows** could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal.

POLICY 7B

THE KINGSTON DEEPWATER HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Activities that could affect the water quality, temperature, turbidity or freshwater to saline distribution in the deepwater portions of the river may adversely impact on the estuarine community.

POLICY 7C

THE FLATS HABITAT SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

Any activity that would substantially degrade water quality in the **Flats** could affect the biological productivity of this area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal.

POLICY 7D

SUPPORT EFFORTS TO PROTECT AND ENHANCE THE NATURAL RESOURCES OF FERNCLIFF FOREST, SNYDER SWAMP AND THE MUDDER KILL.

POLICY 7E

PROTECT THE CREEKS, FRESHWATER TIDAL WETLANDS, AND FRESHWATER TIDAL COVE AREAS DRAINING INTO AND ADJACENT TO THE HUDSON RIVER FROM ALTERATION AND/OR POLLUTANT DISCHARGE BY RESIDENTIAL, COMMERCIAL, AGRICULTURAL OR INDUSTRIAL USES.

The **Landsman Kill** and **Rhinebeck Kill** which join and flow into **Vanderburgh Cove** (a **State DEC-designated habitat area**), as does the Fallsburg Creek, must be protected. These creeks contain a variety of fresh water fish and the Landsman Kill is regularly stocked with trout. The Suckley-Vanderburgh freshwater-tidal cove area is considered a significant habitat of local and regional importance because of its size, uniqueness and relatively unspoiled estuarine condition. It is important to spawning and feeding fish and migrating ducks and serves as an osprey feeding area. It is used by marsh wrens, herons, and egrets in the late summer. The Astor Cove and Slate Dock Cove areas, as well as other freshwater-tidal cove areas of the Town that need to be protected.

Ferncliff Forest, with its stands of mature hardwood trees with scattered white pine and hemlock groves is an area of local and county-wide significance. Ferncliff Forest is part of a larger ecological area with **Snyder Swamp**, a freshwater wetland area, and the **Mudder Kill**, which flows in a northerly direction.

POLICY 8

PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law [Section 27-0901(3)] as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed."

Fish and wildlife resources in the Hudson River (source of drinking water for the Village of Rhinebeck and hamlet of Rhinecliff and significant fish habitat and spawning area), as well as in Town creeks need to be protected. Monitoring of streams, the former Town landfill, and any other landfill sites will be used to identify pollutants from existing or prior uses.

See Policies 7A, 7C, 30, 33, 34, 36, 37, 39, 40.

POLICY 9

EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILD-LIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

Recreational uses of coastal fish and wildlife resources include consumptive uses, such as fishing and hunting, and non-consumptive uses, such as wildlife photography, bird watching and nature study. **Any efforts to increase recreational usage of these resources in or along Rhinebeck's creeks, cove areas and Hudson River shoreline must be made in a manner which does not negatively affect existing resources or activities.** [Emphasis added.]

See Policies 1, 7A, 19, 19A, 20, 21, 21A, 22 and 31.

POLICY 10

FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH, AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY: (1) ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; (2) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; AND (3) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

The renovation of the Town Dock facilities in Rhinecliff may in the future provide some opportunity and impetus to increasing commercial fishing in the Town, which is currently limited by the fact that there is only one species, the shad, that is commercially caught and legally sold (PCB concentrations limit sales of other species such as striped bass), and by the fact that there are limited docking facilities and some waning of interest by Hudson River east bank fishermen.

FLOODING AND EROSION HAZARDS POLICIES

Policies 11, 12, 13, 14, 15, 16, 17 and 18 deal with coastal erosion and flooding.

PUBLIC ACCESS POLICIES

Policies 19, 20, and 20A deal with access to riverfront areas along the Hudson River.

RECREATION POLICIES

Policies 21, 21A, 21B, and 22 deal with water-front area and water-related activities along the Hudson River.

HISTORIC AND SCENIC RESOURCES POLICIES

Information on policies 23 and 23A can be found in Chapter II: Historic Sites, Estates Districts, Scenic Views and Scenic Roads, Section 5: Town of Rhinebeck Comprehensive Plan & Applicable LWRP Policies, pp. 32– 35.

SCENIC QUALITY POLICIES

Information on policies 24A, 24B and 24C and 25 can be found in Chapter II: Historic Sites, Estates Districts, Scenic Views and Scenic Roads, Section 5: Town of Rhinebeck Comprehensive Plan & Applicable LWRP Policies, pp. 35 - 43.

AGRICULTURAL LANDS POLICY

POLICY 26

TO CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA, AN ACTION SHALL NOT RESULT IN A LOSS, NOR IMPAIR THE PRODUCTIVITY, OF IMPORTANT AGRICULTURAL LANDS, AS IDENTIFIED ON THE COASTAL AREA MAP, IF THAT LOSS OR IMPAIRMENT WOULD ADVERSELY AFFECT THE VIABILITY OF AGRICULTURE IN AN AGRICULTURAL DISTRICT OR IF THERE IS NO AGRICULTURAL DISTRICT, IN THE AREA SURROUNDING SUCH LANDS.

ENERGY AND ICE MANAGEMENT POLICIES

POLICIES 27 and 28

WATER AND AIR RESOURCES POLICIES

POLICY 30

MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.

Municipal, industrial and commercial discharges include not only "end-of-the pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the waterways of the Town or State. The Town utilizes the Hudson River water for drinking water and recreational purposes.

POLICY 31

STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

POLICY 32

ENCOURAGE THE USE OF ALTERNATIVE OR INNOVATING SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.

POLICY 33

BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and sewer overflows.

Explanation of Policy

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and sewer overflows. The hamlet of Rhinecliff has historically had a problem with failing septic systems caused by poor soil

conditions and a moderately-dense pattern of development. The Town continues to explore the feasibility of extending the Village sewer system to the hamlet or providing alternative and affordable means for addressing this environmental issue. Installation of new combination sanitary/storm water sewer systems is not permitted. All newly installed facilities must be separate. **The construction of on-site retention basins or other on-site retention facilities will be encouraged and/or required for new developments, as necessary, to maintain or reduce runoff to the Hudson or other water bodies.** [Emphasis added.] In addition, non-structural approaches, such as improved street cleaning and reduced use of road salt, will be encouraged to reduce pollution in runoff.

POLICY 34

DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated (Navigation Law 33-C, provides for the disposal of sewage and litter in waterways). Significant fish and wildlife habitats, beaches, and public water supply intakes need protection from contamination by vessel waste.

POLICY 35

DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.

Dredging is often essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources.

POLICY 36

ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.

POLICY 37

BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS AND ERODED SOILS INTO COASTAL WATERS.

Important fish and wildlife habitats and public water supply areas need protection from contamination by non-point discharge of excess nutrients, organics and eroded soils. Actions to control stormwater surface runoff, minimize erosion and to encourage the use of alternative (organic) methods of fertilization and pest control will greatly minimize discharge.

Explanation of Policy

Important fish and wildlife habitats and public water supply areas need protection from contamination by non-point discharge of excess nutrients, organics and eroded soils. **Actions to control stormwater surface runoff, minimize erosion and to encourage the use of alternative (organic) methods of fertilization and pest control will greatly minimize discharge.** [Emphasis added.] By promoting such activities and providing information on organic methods, surface drainage control and erosion control, and by carrying out thorough site plan and subdivision review processes, natural habitats and resources, recreational areas and water quality of the Town will be maintained and/or protected. Environmental Quality Review practices and application of Land Subdivision and Site Plan Review regulations will be used to ensure that best management practices are employed to mitigate construction impacts.

POLICY 38

THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUND-WATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.

Both surface and groundwater are the sources of drinking water in the Town and therefore must be protected. The Hudson River is already the source of water for the Rhinebeck Water District, which includes the Village of Rhinebeck, the hamlet of Rhinecliff and some limited portions of the Town. A high level of water treatment and sewage treatment will be maintained. The River should be protected as a water supply to meet unknown future demands.

POLICY 39

THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES.

Explanation of Policy

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, **demolition and construction debris and industrial and commercial and agricultural wastes, as well as unused biocides, paints, lubricants, fuels, etc., which may become more solid than liquid.** [Emphasis added.]

POLICY 40

EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.

A number of factors must be considered when reviewing a proposed site for facility construction. One of these factors is the facility discharge no effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters. The effects of thermal discharges on water quality and aquatic organisms will be considered by State agencies or, if applicable, a siting board when evaluating any applicant's request to construct a new steam electric generating facility.

POLICY 41

LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE ARE QUALITY STANDARDS TO BE VIOLATED.

Explanation of Policy

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, **transportation**, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

Proposed or existing land use in the waterfront of the Town or adjacent areas shall not cause the generation of significant amounts of nitrates or sulfates. The Town will utilize environmental quality review procedures to examine applications for proposed commercial, light industrial and institutional uses and ensure that appropriate air quality permits have been granted before any project approvals are given to assist in the State's efforts to control acid rain. **These efforts will**

enhance the continued viability of coastal fish and wildlife habitat areas, agricultural areas, historic and scenic resources, and water resources. [Emphasis added.]

POLICY 42

COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

POLICY 43

LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF ACID RAIN PRECURSORS: NITRATES AND SULFATES.

POLICY 44

PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

Explanation of Policy

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act. Some of the wetlands along the Hudson River shore are subject to tidal action and may be called freshwater-tidal wetlands.

The benefits derived from the preservation of freshwater wetlands include, but are not limited to:

1. habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties, and contribution to associated aquatic food chains;
2. erosion, flood and storm control;
3. natural pollution treatment;
4. groundwater protection;
5. recreational opportunities;
6. educational and scientific opportunities; and
7. aesthetic open space.

Freshwater wetlands affected by tides are among the Town's most significant scenic and biological resources. These wetlands, found in the natural and railroad-created coves of the Town, support a variety of vegetation types and wildlife habitats. Cove areas from north to south within the Town are: Mandara South Cove, Matambeson Cove, Clifton Point Cove, **Astor Cove, Slate Dock Cove North, Slate Dove Middle, Long Cove, Cattail Cove, Stream Cove, Suckley Cove and Vanderburgh Cove.** **Of the several natural coves in the Town, Vanderburgh, Suckley, and Astor Coves are considered the most ecologically significant.** [Emphasis added.]

Vanderburgh Cove, together with **Suckley Cove** and adjacent shallows areas, has been designated a Significant Coastal Fish and Wildlife Habitat by the NYS Department of State and a Significant Natural Area by the Dutchess County Environmental Management Council (EMC). It is important to spawning and feeding fish, migrating ducks and as an osprey feeding area. It is used by resting marsh wrens and by herons and egrets in late summer.

Astor Cove, also named a Significant Natural Area by the EMC, supports extensive fish and birdlife. It is unique because of its stand of wild rice and as a valuable feeding area for ducks.

To protect wetlands it will be necessary to:

1. Avoid negative effects of various development factors including pollution of streams, e.g., by runoff from railroad and highway maintenance practices and agricultural areas.
2. Work with the railroad to ensure that the railroad either stops (or does not resume) particularly negative railroad maintenance practices including:
 - a. the spraying of the railroad bed and surrounding area with herbicides to limit the growth of vegetation near the tracks which may kill plant life in the cove wetland areas and threaten wildlife habitats;
 - b. scattering of old railroad ties permeated with creosote or other wood preservatives that can both add chemicals to the coves and can block water passing through areas under railroad bridges interfering with tidal flow; and
 - c. pushing vegetation into the coves which can increase the herbicide and nitrogen levels of the coves.
3. Utilize strict enforcement of applicable wetland regulations, both State regulations as promulgated and administered by NYSDEC and Federal regulations as promulgated and administered by the U.S. Army Corps of Engineers.

Chapter IV

Wetlands

Sections

1. Introduction: Wetlands
2. NYS Freshwater Wetlands Program
3. NYS Environmental Conservation Law: Wetlands
4. NYS Environmental Conservation Law: Freshwater Wetlands Regulations (ECL)
5. Town of Rhinebeck Zoning Codes: Wetlands
6. Rhinebeck Town Code: Wetlands
7. Wetlands' Resources and Maps

1. Introduction: Wetlands

Wetlands (swamps, marshes, bogs, fens and similar areas) are areas saturated by surface or ground water sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soil.⁶

New York has an estimated 2.4 million acres of wetlands. The wettest ecoregions are the Lake Plains and the Adirondacks. Together they encompass 74% of the wetlands in New York state. The most common wetland covertype is forested (70%), followed by shrub/scrub (16%), emergent (9%), and wetland open water (5%). We are gaining forested and wetland open water as covertypes. We are losing shrub/scrub and emergent wetlands as covertypes.

In New York State, two main types of wetlands are the focus of protection: tidal wetlands around Long Island, New York City and up the Hudson River all the way to Troy Dam; and **freshwater wetlands found on river and lake floodplains across the state.** [Emphasis added.]

2. NYS Freshwater Wetlands Program⁷

Why Are Wetlands Valuable? (NYS DEC) - Wetlands are known by many names, such as marshes, swamps, bogs, and wet meadows. Wetlands are transition areas between uplands and aquatic habitats. Wetlands provide habitat for fish, wildlife and a variety of plants. Wetlands are

⁶ Source: <http://www.dec.ny.gov/lands/305.html>

⁷ Source: <http://www.dec.ny.gov/lands/4937.html>

nurseries for many saltwater and freshwater fishes and shellfish of commercial and recreational importance. Wetlands are important landscape features because they hold and slowly release flood water and snow melt, recharge groundwater, act as filters to cleanse water of impurities, recycle nutrients, and provide recreation and wildlife viewing opportunities for millions of people.⁸

Standing water is only one clue that a wetland may be present. Many wetlands only have visible water during certain seasons of the year. Some of the functions and benefits that wetlands perform include:

- **Flood and Storm Water Control** – Wetlands provide critical flood and stormwater control functions. They absorb, store, and slow down the movement of rain and melt water, minimizing flooding and stabilizing water flow.
- **Surface and Groundwater Protection** – Wetlands often serve as groundwater discharge sites; maintaining base flow in streams and rivers; and supporting ponds and lakes. In some places, wetlands are very important in recharging groundwater supplies. Wetlands also improve water quality by absorbing pollutants and reducing turbidity.
- **Erosion Control** – Wetlands slow water velocity and filter sediments, protecting streams, lakes, reservoirs and navigational channels. They also buffer shorelines and agricultural soils from water erosion.
- **Pollution Treatment and Nutrient Cycling** – Wetlands cleanse water by filtering out natural and many manmade pollutants, which are then broken down or immobilized. In wetlands, organic materials are also broken down and recycled back into the environment, where they support the food chain.
- **Fish and Wildlife Habitat** – Wetlands are one of the most productive habitats for feeding, nesting, spawning, resting and cover for fish and wildlife, including many rare and endangered species.
- **Public Enjoyment** – Wetlands provide areas for recreation, education and research. They also provide valuable open space, especially in developing areas where they may be the only green space remaining.

Woodland (Vernal) Pools⁹

During the winter months, small seasonal wetlands or woodland (vernal) pools ponds are covered with snow and ice. During the spring and fall, they contain standing water and in the heat of the summer months, these pools dry up. Wetlands of all sizes provide are important to our rural area. They recharge groundwater, mitigate floods, and cleanse pollutants out of runoff water.

⁸ National Wetlands Inventory: What Are Wetlands? Found at <https://www.fws.gov/wetlands/other/What-are-wetlands.html>.

⁹ Earthwise: Local Woodland Pools Vital for Habitat Health, *The Poughkeepsie Journal*, April 30, 2015. Smaller Wetlands Enhance Ecosystems, *The Poughkeepsie Journal*, July 16, 2015.

During the spring, these wetlands are breeding grounds for amphibians, which control mosquitoes. Amphibians that breed in these pools include spotted salamanders, Jefferson salamanders, marble salamanders, and wood frogs. Pools are also home to dragonflies and damselflies, water beetles and caddisflies.

These small depressions capture surface runoff water from thundershowers, reducing the risk of flooding in downslope regions. Each pool can hold some 60,000 gallons of water. A forest area with twenty pools can retain more than a million gallons of water.

Freshwater Wetlands Act (NYS DEC)

The State Legislature passed the **Freshwater Wetlands Act** in 1975 with the intent to preserve, protect and conserve freshwater wetlands and their benefits, consistent with the general welfare and beneficial economic, social and agricultural development of the state.

The Act identifies wetlands on the basis of vegetation because certain types of plants out-compete others when they are in wet soils, and so are good indicators of wet conditions over time. These characteristic plants include wetland trees and shrubs, such as willows and alders; emergent plants such as cattails and sedges; aquatic plants, such as water lily, and bog mat vegetation, such as sphagnum moss.

To be protected under the Freshwater Wetlands Act, a wetland must be 12.4 acres (5 hectares or larger). Wetlands smaller than this may be protected if they are considered of unusual local importance. Around every wetland is an ‘adjacent area’ of 100 feet that is also regulated to provide protection for the wetland. [Emphasis added.]

Certain activities are exempt from regulation; other activities that could have negative impact on wetlands are regulated. (See Regulated Activities section below.) **A permit is required to conduct any regulated activity in a protected wetland or its adjacent area. The permit standards in the regulations require that impacts to wetlands be avoided and minimized.** If the proposed activity will not seriously affect the wetland, a permit with various conditions is usually issued. **If the proposed activity will affect the wetland, the benefits gained by allowing the action to occur must outweigh the wetland benefits lost, in order for a permit to be issued. Compensatory mitigation often is required for significant impacts to wetlands. This may include creating or restoring wetlands to replace the benefits lost by the proposed project.** [Emphasis added.]

The U.S. Army Corps of Engineers (ACOE) also protects wetlands, irrespective of size, under Section 404 of the Clean Water Act. Although the ACOE definition of wetland is slightly different than the state definition, the Clean Water Act protects basically the same thing – areas of water or wet soils that support wetland plants.

Wetland Maps (NYS DEC)

The Freshwater Wetlands Act requires the DEC to map all those wetlands regulated by the Act. Landowners who are within the regulated adjacent area (usually 100 ft.) surrounding the wetland or whose properties include regulated wetland are notified of that fact. The maps also allow other interested parties to know where jurisdictional wetlands exist. DEC prepares draft maps, notifies landowners whose property may contain protected wetlands, and provides an opportunity for comment on the accuracy of the maps. DEC then reviews the comments received, adjusts the maps if necessary, and then officially files the final maps with the clerks of all local governments.

The US Army Corps of Engineers (Corps) regulates most wetlands in New York State. There are no regulatory maps identifying wetlands regulated by the U.S. Army Corps of Engineers under the Clean Water Act. Wetlands shown on the DEC maps usually are also regulated by the Corps, but the Corps also regulates additional wetlands not shown on the DEC maps. That is because DEC does not map wetlands smaller than 12.4 acres in size unless they are designated as ‘wetlands of unusual local importance’ (ULI). [Emphasis added.]

Wetland Classification (NYS DEC)

Different wetlands provide different functions and benefits and in varying degrees. The Act requires DEC to rank wetlands in classes based on the benefits and values provided by each wetland. The wetland class helps to determine the best uses for each wetland. Higher class wetlands provide the greatest level of benefits and are afforded a higher level of protection. Lower class wetlands still provide important functions and benefits, but typically require less protection to continue to provide these functions. The permit requirements are more stringent for a higher class wetland than for a lower class wetland.

Freshwater Wetlands Permit Program: Do I Need A Permit?

Except in the Adirondack Park, where the Adirondack Park Agency administers the Freshwater Wetlands Act and employs a lower threshold, **a wetland must be 12.4 acres or larger for protection under the Freshwater Wetlands Act. Smaller wetlands may be protected when the commissioner determines they have unusual local importance in providing one or more of the functions described in Article 24 of the Environmental Conservation Law (see below). Adjacent areas are outside wetlands. They extend 100 feet from the wetland boundary, measured horizontally.** [Emphasis added.]

Note: For CAB members doing a site visit where an applicant is seeking mitigation regarding an existing wetlands area on the applicant’s property, the applicant must meet the standards in 6 NY-CRR 663 (New York Code of Rules and Regulations) and demonstrate that:

- The impacts to the wetlands cannot be avoided entirely; **AND**
- Then demonstrate that unavoidable losses or impacts on the functions and benefits of the wetland have been minimized; **AND**
- Finally, fully compensate for (replace) any remaining loss of wetland acreage and function

unless it can be shown that the losses are inconsequential, or that, on balance, economic or social need for the project outweigh the losses.

For a more in depth legal explanation regarding mitigation for an existing wetlands area on the applicant's property, go to Google and type in 6 NYCRR and click on the Westlaw page. Once on Westlaw, go to 663.5 Standards for issuing of permits and letters of permission.

Regulated Activities:

Under the Freshwater Wetlands Act, DEC regulates activities in freshwater wetlands and in their adjacent areas. DEC regulates such activities to prevent, or at least to minimize, impairment of wetland functions.

The wetland categories used in the regulations are identified by the types of vegetation present. The regulations identify classifications of uses procedures for conducting activities in wetlands requirements for conducting activities in wetlands. Almost any activity which may adversely impact the natural values of the wetlands or their adjacent areas is regulated. Some activities requiring a permit include:

- * Construction of buildings, roadways, septic systems, bulkheads, dikes, or dams;
- * Placement of fill, excavation, or grading;
- * Modification, expansion, or extensive restoration of existing structures;
- * Drainage, except for agriculture; and
- * Application of pesticides in wetlands.

Exempt Activities Do Not Require a Permit (NYS DEC)

The following are the most common activities exempted from regulation. No DEC permit is required for:

- * Normal agricultural practices, except filling, clear cutting of trees, or construction of non-agricultural structures;
- * The harvesting of natural products and recreational activities (fishing, hunting, trapping, hiking, swimming, picnicking, or firewood collection);
- * Continuance of lawfully existing land uses;

- * Routine maintenance of existing functional structures such as repairing broken docks, repainting structures, or resurfacing paved areas; and
- * Selective cutting of trees and harvesting of fuel wood (not clear cutting).

3. NYS Environmental Conservation Law: Wetlands

ARTICLE 24 ¹⁰

Freshwater Wetlands

§24-0107. Definitions.

1. “Freshwater wetlands” means lands and waters of the state as shown on the freshwater wetlands map which contain any or all of the following:

(a) lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation of the following types:

(1) wetland trees, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other trees; including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*); swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), black ash (*Fraxinus nigra*), silver maple (*Acer saccharinum*), American elm (*Ulmus 71mericana*), and Larch (*Larix laricina*);

(2) wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other shrubs; including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), dogwoods (*Cornus* spp.), and leatherleaf (*Chamaedaphne calyculata*);

(3) emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania 71merica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago-aquatica*);

¹⁰ NYS Department of Environmental Conservation, found at http://www.dec.ny.gov/docs/wildlife_pdf/wetart24b.pdf

(4) rooted, floating-leaved vegetation; including, among others, water-lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*), and spatterdock (*Nuphar* spp.);

(5) free-floating vegetation; including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.);

(6) wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give it a competitive advantage over other open land vegetation; including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and „pikerush (*Eleocharis* spp.);

(7) bog mat vegetation; including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon* and *V. oxycoccus*);

(8) submergent vegetation; including, among others, pondweeds (*Potamogeton* spp.), naiads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria spiralis*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), water weeds (*Elodea* spp.), and water smartweed (*Polygonum amphibium*);

(b) lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided further that such conditions can be expected to persist indefinitely, barring human intervention;

(c) lands and waters substantially enclosed by aquatic or semi-aquatic vegetation as set forth in paragraph (a) or by dead vegetation as set forth in paragraph (b) the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation as set forth in paragraph (a) or by dead vegetation as set forth in paragraph (b) the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation; and

(d) the waters overlying the areas set forth in (a) and (b) and the lands underlying 8. 2. “Freshwater wetlands map” shall mean a map promulgated by the department pursuant to section 24-0301 of this article on which are indicated the boundaries of any freshwater wetlands.

9. “Pollution” shall mean the presence in the environment of man-induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or wildlife, or other animal life or to property.

4. NYS Environmental Conservation Law: Freshwater Wetlands Regulations.

§ 24-0701. Permits.

1. After issuance of the official freshwater wetlands map of the state, or of any selected section or region thereof, **any person desiring to conduct on freshwater wetlands as so designated thereon any of the regulated activities set forth in subdivision two of this section must obtain a permit as provided in this title.** [Emphasis added.]

2. **Activities subject to regulation shall include any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland, either directly or indirectly; and any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in section 24-0105 of this article. These activities are subject to regulation whether or not they occur upon the wetland itself, if they impinge upon or otherwise substantially affect the wetlands and are located not more than one hundred feet from the boundary of such wetland. Provided, that a greater distance from any such wetland may be regulated pursuant to this article by the appropriate local government or by the department, whichever has jurisdiction over such wetland, where necessary to protect and preserve the wetland.** [Emphasis added.]

4. **The activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under subdivision one hereof, except that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded hereunder, and provided that the use of land designated as a freshwater wetland upon the freshwater wetlands map at the effective date thereof for uses other than those referred to in this subdivision shall be subject to the provisions of this article. (N.B.)** [Emphasis added.]

Levels of Compatibility

C – Usually compatible means that a regulated activity may be compatible with a wetland and its functions and benefits, although in some circumstances the proposed action may be incompatible.

N – Usually incompatible means that a regulated activity is usually incompatible with a wetland and its functions or benefits, although in some cases the proposed action may be insignificant enough to be compatible.

X – Incompatible means that a regulated activity is incompatible with a wetland and its functions and benefits.

Exempt Activities

The following activities either have been exempted from regulation by the act or are not regulated because they will not substantially impair any of the functions and benefits of freshwater wetlands.

1. Continuing lawfully existing uses and continuing all activities normally and directly associated with any such use, except for those activities covered by items 38, 39, 40 and 41, where such continuance does not involve expansion or significant alteration of the existing use and does not affect additional wetland area.
2. Establishing scenic, historic, wildlife and scientific preserves, where no significant impairment of the wetland or its benefits is involved.
3. Boating, hiking, swimming, camping, picnicking and other similar nonmotorized forms of outdoor activity, where no significant impairment of the wetland or its benefits is involved.
4. Depositing or removing the natural products of wetlands in the process of recreational or commercial fishing, shellfishing, aquaculture, hunting or trapping, including the erection and maintenance of temporary hides or blinds.
5. Conducting educational and scientific research activities where no significant impairment of the wetland or its benefits is involved
6. Establishing walking trails, where no significant impairment of the wetland or its benefits is involved.
7. Establishing an individual recreational mooring.
8. Gathering fuelwood.
9. Conducting an agricultural activity, as defined in the act or section 663.2 of this Part.

Existing Structures and Facilities

Normally, maintenance, repair or restoration of existing facilities will not cause adverse impacts on wetlands. This is not always true, however, for construction activities that are associated with

such maintenance, repair or restoration, such as the placing of access roads, staging areas and utilities. Expansion or substantial restoration or reconstruction of existing structures and facilities can have significant impacts on the functions and benefits of wetlands. These impacts can be greater than those caused by the total replacement of the structures or facilities or by their construction in a different location.

10. Ordinary maintenance and repair of existing functional structures, facilities or improved areas, including but not limited to bridges, roads, highways, curverts, railroad beds, bulkheads, docks, beaches, piers, wharves, pilings, dolphins, utility rights-of-way, buildings, landscaped or paved areas, lawns and mosquito control ditches. Such maintenance and repair might include, for example, replacing broken boards in docks, repainting structures, re-driving pilings, resurfacing paved areas, and installing and removing docks on a seasonal basis.

Draining, Filling, Grading, Clear-cutting and Dredging

Draining of wetlands lowers groundwater levels, may increase downstream peak flows, and may decrease water storage capacity and downstream base flow. It may also cause changes in vegetation and water temperature, increased stream bed scouring, and sediment deposition.

Draining can totally destroy a wetland. [Emphasis added.]

Filling decreases the number and size of wetlands, thereby decreasing their ability to collect runoff and prevent erosion and sediment deposition downstream. Certain fill materials may adversely affect water quality. Disposal of dredged material may result in erosion and cause turbidity and sediment deposition. **Filling eliminates wetland habitat for fish and wildlife, may alter the water table and groundwater flow and adversely affect groundwater recharge, and can irreversibly destroy a wetland.** [Emphasis added.]

Grading a wetland or adjacent area can substantially alter surface water drainage and flow patterns, may temporarily increase erosion, and may eliminate fish and wildlife habitat. [Emphasis added.]

Clear-cutting removes the vegetative cover of wetlands and may reduce their ability to absorb water and serve as habitat. It may also cause soil erosion.

Dredging or excavation may increase water depth and remove wetland vegetation, thus altering the basic characteristics of, and perhaps destroying, wetlands. Fish and wildlife feeding or reproductive capacities may be altered, as may cover types, turbidity, sediment deposition, and erosion patterns. [Emphasis added.]

Any of these activities can cause the permanent loss of benefits provided by wetlands, and may, in fact, destroy wetlands entirely.

17. Draining and altering water levels, except as part of an agricultural activity.
18. Removing or breaching beaver dams
19. Constructing, expanding or substantially modifying drainage ditches, except as part of an agricultural activity.
20. Filling, including filling for agricultural purposes.
21. Installing or creating a dry well, retention basin, filter, open swale, or pond
22. Clear-cutting timber.
23. Clear-cutting vegetation other than trees, except as part of an agricultural activity.
24. Cutting but not elimination or destruction of vegetation, such that the functions and benefits of the wetland are not significantly adversely affected.
26. Dredging less than 400 cubic meters (approximately 523 cubic yards) to maintain present navigation channels.
27. Mining.
28. Constructing roads, except for winter truck roads as described in section 663.2© of this Part.
29. Drilling a water well to serve an individual residence.
30. Drilling a well.

Dams, Docks and Bulkheads

Generally, structures of this type are indicative of associated development which may increase disruptive human use or occupancy of wetland areas.

A structure sometimes interferes with surface or subsurface water flow, increases water levels, or otherwise affects wetland water supply. The impact of such a structure is related to its size, location and design. For example, docks on piles are generally more compatible with the functions and benefits of wetlands than are docks on fill.

Dams alter normal flow patterns and often increase water levels, thus eliminating or altering the natural vegetation. Depending on the size of the structure, entire wetlands can be destroyed. Procedure and Compatibility by Area.

31. Installing a dock, pier, wharf or other structure built on floats or open-work supports and having a top surface area of 20 square meters (approximately 200 square feet) or less.

32. Installing any dock, pier, wharf or other structure used as a landing place on water, except for activities covered by item 31.

33. Constructing groins, bulkheads and other shoreline stabilization structures.

34. Constructing or removing berms, levees, dikes, dams and other control structures.

Utilities

Installing utilities in or adjacent to wetlands will be presumed to cause less damage to those wetlands if little or no additional clearing and grading is necessary. Where extensive clearing and construction of access or maintenance roads occurs, erosion and sedimentation may be the most serious problems. Installing overhead lines, while often spanning wetlands and thereby minimizing construction impacts, will result in a permanent adverse aesthetic impact on wetlands. Overhead power lines may also result in higher bird mortality rates, either through collision or electrocution.

Procedure and Compatibility by Area

35. Installing utility service to an individual residence.

36. Installing electric, telephone or other utilities from an existing utility distribution facility to a structure, except for activities covered by item 35, where no major modifications or construction activities in the wetland are necessary.

Pollution and Pesticides

Introduction of sewage effluent, runoff or pesticides, or disposal of toxic substances into wetlands or adjacent areas may contaminate ground and surface water with undesirable chemicals, nutrients and organisms. [Emphasis added.]

The contamination may be temporary or permanent. It may result from activities located directly in wetlands or within adjacent areas, but, due to runoff and drainage patterns, it may also be caused by activities located some distance away. Distant activities can have adverse effects as severe as those caused by activities within or adjacent to wetlands. The presence of pollutants or pesticides in wetlands or adjacent areas may increase mortality rates among fish and wildlife, alter their behavior or reproductive capability, and adversely affect their value as a food source. Excessive nutrients alter vegetative cover, fish and wildlife distribution, and water potability. Resulting organisms may also create a health hazard.

38. Introducing or storing any substance, including any chemical, petrochemical, solid waste, nuclear waste, toxic material, sewage effluent or other pollutant.

5. Town of Rhinebeck Zoning Codes: Wetlands

§ 125-32 Freshwater wetlands and floodplains.

No more than 25% of the required minimum lot area in a conventional subdivision, for any lot in any district, may be fulfilled by land which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, regulated by the United States Army Corps of Engineers and/or the Town of Rhinebeck, which lies under water, or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the FF-O District. [Emphasis added.]

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

§ 125-40 Development near streams, rivers, wetlands and other water bodies.

A. In order to preserve the open character along major streams and other surface water bodies for environmental and ecological reasons while fostering conformance with the objectives stated at § 125-55, Preservation of natural and cultural features; design standards, of this chapter, all development activity proposed within the following areas shall be subject to issuance of special use permit in accordance with Article VI of this chapter.

- (1) Within 100 feet of the mean high water mark (normal streambank) of any DEC-classified stream within the Town of Rhinebeck;
- (2) Within the Land Conservation Stream Corridor (LC-S) District;
- (3) Within 1,000 feet of the mean high water mark of the Hudson River;

(4) Within 100 feet of the boundary of a freshwater wetland as mapped by the New York State Department of Environmental Conservation (DEC). A copy of the freshwater wetlands permit application filed with the DEC shall be provided to the Town Zoning Enforcement Officer;

(5) Within 100 feet of a federal jurisdictional wetland;

(6) Within 100 feet of a wetland regulated under the Town of Rhinebeck Freshwater Wetlands Law (See Chapter 120 of the Town Code for additional requirements for a Town wetlands permit.);

(7) Within 100 feet of the mean high water mark of any pond, reservoir or other water body in excess of 1/4 acre of water surface area, provided that the pond, reservoir, or other water body has not been created as a site element which was earlier subject to site plan or subdivision plat review and approval by the Town Planning Board.

B. In cases where the development activity is proposed to occur entirely within wetlands or adjacent area regulated under Town Code Chapter 120, Wetlands Law, and is subject to compliance with the more comprehensive application submission and permit review and approval requirements set forth therein, a separate application for a special use permit under this section shall not be required.

C. For purposes of this section, development activity shall not be construed as including either the normal maintenance of structures of all types in their continuing use or either maintenance which should be performed on a periodic basis, including landscaping of properties, or the substantially identical replacement by design, location, dimension and material of residential site lighting, fencing, walkways, driveways and other site appurtenances on single-family and two-family premises.

D. Also refer to § 125-32, Freshwater wetlands and floodplains; § 125-39, Excavation as part of site preparation; § 125-41, Development within Flood Fringe Overlay (FF-O) District; and § 125-54, Development within Water Resources Protection Overlay (WR-O) District, of this chapter and Town Code Chapter 120, Wetlands.

§ 125-43 Zoning Codes – Conservation Subdivisions.

(3) - The Planning Board may deny a special use permit for a conventional subdivision and require a conservation subdivision where it finds any one of the following elements present, as determined through review of an existing resources map and site analysis plan as described herein, justifying conservation of natural, cultural or historic resources, open space, scenic features, or preservation of neighborhood character:

(b) Water resources: wetlands, wetland buffers, municipal water supply watershed areas, New York State protected streams and aquifer and aquifer recharge areas, stream corridors and flood-prone areas as shown on the Town of Rhinebeck Water Resource Protection Overlay District map; or

(c) Agricultural lands: farmland within a New York State certified agricultural district, lands within 500 feet of a New York State certified agricultural district, or soils classified in Groups 1 to 3 (prime farmland soils) of the New York State Soil Classification System; or

(d) Forest management: sites where active growing, harvesting or processing of timber is conducted in a manner generally consistent with § 480-a of the New York State Real Property Tax Law; or

(f) Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law; or

(g) Important open space areas: lands contiguous to publicly owned or designated open space areas, privately owned designated natural areas, areas identified in the Town of Rhinebeck Open Space and Affordable Housing Plan, areas of biodiversity identified in the Town of Rhinebeck Significant Habitats report or other areas of important open space identified by a conservation organization, a local land trust or government agency; or

(h) Historic and prehistoric structures and sites: historic and prehistoric structures or areas of national, state or local importance such as lands within the Hudson River National Historic Landmark District, the Mid-Hudson Historic Shorelands Scenic District, the Estates District Scenic Area of Statewide Significance, and a structure or site listed on the National Register of Historic Places, a multiple resource district, local waterfront revitalization area, and local landmarks; or

(i) Scenic viewsheds and special features: sites bordering designated state, county or Town scenic roads, “special features” identified in the Town’s Comprehensive Plan, lands within the Waterfront Revitalization Area, and any other significant feature of community importance identified in a Town planning document.

6. Rhinebeck Town Code: Wetlands

Chapter 120: Wetlands

§120-2 Purposes and Intent

B. This chapter is intended to preserve, protect and conserve wetlands through careful regulation and control so that the multiple functions and benefits they provide may continue, thereby helping to protect property from damages caused by flooding and other losses due to wetlands destruction. This chapter is also intended to protect regional watersheds because portions of the headwaters of the Crum Elbow Creek, Landsman Kill, and Saw Kill are located within the Town and several tributaries of the Hudson River feed directly into an area of the river where several public water supply intakes are located.

§120-3 Findings - The Town Board of the Town of Rhinebeck finds and affirms the following:

C. It is the policy of the Town of Rhinebeck to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom; to prevent their despoliation and destruction; and to regulate development in wetlands and their adjacent upland buffers in order to secure the multiple benefits derived therefrom, consistent with the economic, social and environmental welfare of the community. [Emphasis added.]

D. Federal, state, and local agencies as well as private researchers have increasingly understood and documented numerous values and beneficial services of wetlands and their adjacent upland areas. These values and services are essential to the health, safety and welfare of residents of the Town of Rhinebeck. These valuable natural resources benefit the entire Town and the surrounding region. The integrity of these water resources and maintenance of their full functions and benefits is inextricably linked to the presence of intact, surrounding natural communities on adjacent upland buffer areas. The essential functions and values provided by wetlands and adjacent buffer areas include but are not limited to:

(1) Water quality protection and improvement. Wetlands act as settling ponds, filtering and trapping nutrients, like nitrogen and phosphorus, and other pollutants from stormwater runoff and facilitating chemical breakdown of pollutants. Wetlands also act as chemical and biological oxidation basins, treating pollutants including toxic substances through natural biological degradation and chemical oxidation. Natural buffer zones surrounding these wetlands filter overland runoff, protecting surface waters from eutrophication and reducing or removing pollutants from stormwater runoff before they reach wetlands and streams.

(2) Watersheds. Wetlands are an important component of watersheds, upon which thousands of Northern Dutchess County and Ulster County residents depend for a clean water supply. Public health and property in one area of a watershed may be affected by loss of wetland functions in another area of the same watershed.

(3) Groundwater recharge and discharge. Wetlands recharge groundwater aquifers upon which almost all of Rhinebeck's residents, outside of the Village of Rhinebeck, depend as a source of drinking water.

(4) Wetlands comprise the surface water sources (headwaters) of the Landsman Kill, Saw Kill, Fallsburg Creek, Rhinebeck Kill, and Crumb Elbow Creek as well as several tributaries that flow directly into the Hudson River, helping to maintain stream flow and an unpolluted source for surface water supplies.

(5) Flood control. Wetlands store and slowly release floodwaters conveying floodwater flows from upstream to downstream points, reducing stream flows during periods of high water and maintaining base flows during droughts. Natural upland buffer zones intercept, slow, and absorb overland runoff, protecting floodplains, and providing for the gradual release of floodwater flows within watersheds.

(6) Sediment control. Wetlands function as settling basins for naturally occurring sedimentation. Wetland vegetation binds soil particles and retards the movement of sediment in slowly moving waters, thereby helping maintain water quality.

(7) Recreation. Wetlands and their adjacent buffer areas provide recreation areas for hunting, fishing, boating, hiking, bird-watching, photography, and other beneficial recreational uses.

(8) Food chain support and nutrient cycling. Wetlands and streams supply food and organic detritus that support fish and wildlife of adjacent waters and they facilitate nutrient export to other habitats.

(9) Wildlife habitat. Wetlands serve as nursery and sanctuary for freshwater fish and they provide important nesting, breeding, feeding, migratory cover, and wintering habitat for diverse amphibians, reptiles, fish and other wildlife species, including species of conservation concern such as those listed by New York State as endangered, threatened, and special concern. The viability of scores of species depends upon wetlands, including vernal pools and other water resources. Natural buffer zones provide important and often critical travel corridors and wetland-to-upland transitional habitats vital to the survival of many wetland and stream-dependent species. Undisturbed natural buffers are an irreplaceable habitat link in the life cycles of many species. Stream buffers of at least 100 feet on both sides of a stream, with sufficient undisturbed native vegetation, are critical for the maintenance of viable trout and other fisheries.

(10) Biodiversity. Wetlands are characterized by very high productivity and support a significant biological diversity of species, including many rare plants. More than 40% of the world's species are estimated to inhabit freshwater wetlands. Native biological diversity is diminishing in Rhinebeck and elsewhere at a pace that is of great concern to scientists and other

(11) Turtles. The Hudson Valley, including the Town of Rhinebeck, has one of the most diverse turtle populations in the country. Preservation of healthy wetlands and natural buffer zone habitat is critical to their survival.

(12) Natural areas. Wetlands, streams and natural buffer areas preserve natural open space and rural character; provide visual and aesthetic relief from development and a sense of connection with the natural world.

(13) Education and research. Wetlands, streams and natural buffer areas provide outdoor laboratories for research and living classrooms for schoolchildren in hands-on environmental studies.

(14) Ecosystem values. Ecosystem values were estimated in a 1997 peer-reviewed article in the Journal Nature to be as high as \$7,924 (\$10,673 in 2009 dollars) per acre per year for wetlands and floodplains. These factors are extremely important ones for Rhinebeck from an economic as well as an ecological perspective.

(15) Climate change mitigation. Wetlands have been estimated to store as much as 40% of global terrestrial carbon. Destruction of wetland areas causes the release of carbon dioxide, the gas that accounts for a majority of the global warming effect.

E. Wetland buffer zones provide benefits that are important to maintaining a wetland’s functional integrity by providing protection against the impacts to the wetland from activities in adjacent upland areas. **It is the intent of the Town of Rhinebeck to ensure that activities in and adjacent to wetlands do not unduly impact the public safety, the natural environment or cause environmental degradation.** [Emphasis added.]

F. Population growth in Rhinebeck along with its attendant economic and recreational activities, has made and will continue to make new and greater demands on water resources for boating, fishing, bathing and water sports, and the lands adjacent thereto for access areas and recreation. **Uncontrolled development in and adjacent to wetlands and streams has resulted in the filling in, diversion and destruction of wetlands and watercourses, destroying aquatic habitats and lessening supplies of water for multiple use purposes. The uncontrolled and unnecessary interference with and disturbance of wetlands and streams can create hazards to the health, safety and welfare of the Town’s residents, causing great economic loss by erosion of soil, increased costs of water purification and treatment, flooding, the destruction and failure of natural propagation of fish and aquatic resources and the loss of water for domestic, municipal, agricultural, recreational and other beneficial uses and purposes. The Town of Rhinebeck has the responsibility to preserve, protect and conserve such resources from destruction and damage and to promote the natural propagation of associated biota.** [Emphasis added.]

G. Runoff from land use development activities, also known as “**non-point source pollution,**” is the primary cause of water quality degradation. Non-point source pollution results from the activities of the population as a whole and is increased every time additional impervious surfaces are constructed. Town regulations are needed to avoid the destructive impacts of such activities, by protecting wetlands and their associated natural buffers, thereby reducing the damage from water-polluting and –degrading activities.

§ 120-5 Regulated areas.

Regulated areas protected under this chapter include the following:

A. Freshwater wetlands as defined herein.

B. Associated buffer areas as defined herein. In certain circumstances, for the purposes of protecting water quality or wildlife habitats based upon the findings of the wetland delineation, habitat assessment report or other information ascertained during the wetlands permit review process, the Planning Board may increase the minimum buffer area. Examples include, but are not limited to, the following: watershed protection, trout streams, steep eroding banks, or riparian habitat for species of conservation concern.

§120-6 Controlled Acts.

A. Prohibited acts. The following activities are prohibited within regulated areas, except as otherwise noted, because of their potential to significantly disrupt the ecological functioning of regulated areas:

(1) Draining. The depletion of water, directly or indirectly, except for agricultural purposes as noted in Subsection C(7).

(2) Discharging substances and materials that are toxic or otherwise harmful to the biota and ecological functioning of regulated areas, including, but not limited to:

(a) Chemicals, including pesticides, herbicides, fungicides, dye, fertilizers, fuels, and deicing materials, except as necessary for wetland restoration projects;

(b) Influent of sufficiently high thermal content to cause harm to regulated area biota;

(c) Sewage or sanitary sewage disposal system effluent, untreated or insufficiently treated effluent or other liquid wastes, including untreated stormwater runoff; and

(d) Radioactive wastes.

(3) Removal of vegetation:

(a) Clear cutting, as defined herein, or removal of trees, shrubs, and other vegetation except for activities listed under Subsection C(1) and (5), or as necessary for wetland restoration projects [Subsection B(10)].

(b) Replacement of buffer vegetation with lawn.

(4) Commercial soil mining activities.

(5) The location of animal feed lots or pens, manure stockpiles or similar animal storage areas.

(6) The use of all motorized vehicles except for maintenance, agriculture or forestry purposes as defined in the Town of Rhinebeck Zoning Law.

B. Regulated acts. Regulated acts are any activities that have the potential to cause substantial adverse impacts in regulated areas. It shall be unlawful to perform any of the following activities within regulated areas without a wetlands permit from the Town of Rhinebeck:

(1) Dredging or grading: the removal of soil, mud, sand, gravel, peat, silt or other earth materials; alteration of natural drainage patterns; diversion or alteration of any flow of a wetland.

(2) Filling: placement of fill materials of any type, including but not limited to soil, gravel, sand, wood chips, stones, and solid waste except as noted in Subsection **C(7)** for agricultural purposes.

(a) The dumping of biodegradable yard waste (including grass clippings) is prohibited within wetlands, but is a nonregulated act within buffer areas [see Subsection **C(6)**].

(b) Sanitary sewage disposal systems: replacement of existing sanitary sewage disposal systems on previously approved lots, or installation of a new system for a previously approved lot where no other alternative location is available.

(3) Construction: all construction activities within associated buffer areas, including but not limited to:

(a) Placement of any impervious surface or new structure or facility, including but not limited to gazebos, sheds, garages, swimming pools, and additions to existing structures that enlarge the structure's footprint.

(b) Storage of construction materials, stockpiles, machinery or equipment.

(c) Construction or expansion of paved or unpaved public or private roads or driveways or other pathways for motorized vehicles.

(d) Installation of pipes, wells, service lines, conduits or cables.

(4) Limited construction is regulated within buffer areas [see Subsection **B(3)**], but any new construction of structures within a wetland is a prohibited act, except for agricultural purposes [see Subsection **C(7)**] or as noted in § **120-7C**.

(5) Construction of stormwater management facilities, including detention/retention basins and ponds.

(6) The installation of a sanitary sewage disposal system for new construction [for replacement or repair of sanitary sewage disposal systems on previously approved lots see Subsection **B(2)**].

(7) Docks, dams, and other water control devices, pilings or bridges, whether or not they change the flow of the water.

(8) Expansion, restoration, or modification of existing structures, including but not limited to:

(a) Buildings, wells, bridges, driveways, walkways, walls, and fences.

(b) Structures associated with Town, county or state highways or streets, including stormwater facilities.

(9) Acts that affect hydrology: activities that result in direct or indirect alteration of existing wetland hydrology, hydroperiod, or water flow, including the following

(a) Operation and maintenance of existing dams and water control devices involving the adjustment of water elevations over 18 inches in height.

(b) Displacement or destruction of beaver lodges and dams (where beaver impoundments are impacting existing structures, roads or driveways) which would result in negative impacts on the hydrology or biota of regulated areas, except as lawfully permitted under Environmental Conservation Law § 11-0505.

(10) Wetland restoration projects, including removal of invasive plant species and revegetation.

C. Nonregulated acts. The following acts are considered nonregulated acts that may proceed within regulated areas without a wetlands permit, provided that they do not constitute a pollution or erosion hazard, interfere with proper drainage or adversely affect reasonable water use by others. Such nonregulated acts shall conform to the Town of Rhinebeck Zoning Law and all other applicable laws.

(1) Normal maintenance of existing landscaped areas and residential gardens, including existing lawn areas, and trimming and removal of dead or diseased vegetation, including trees.

(2) Ordinary maintenance and repair of existing structures, including but not limited to sanitary sewage disposal systems, wells, bridges, highways, streets, driveways, walkways, walls, docks, and fences which do not involve expansion, restoration, or modification.

(3) Maintenance of existing drainage channels where impedance of flow may cause flooding or threaten public safety on highways or in dwellings or other structures.

(4) Operation and maintenance of existing dams and water control devices, excluding the adjustment of water elevations over 18 inches in height.

(5) Removal of vegetation as specified: removal of naturally occurring vegetation within regulated areas for the following purposes, provided that such actions do not impair the natural function(s) of a regulated area:

(a) Creation of non-paved footpaths with a maximum width of three feet.

(b) Annual or periodic removal of trees to provide firewood for normal residential use, provided no mechanical equipment, other than hand-operated chainsaws and similar equipment, is used. This does not include removal of trees for commercial use or sale. Clear cutting is a prohibited act

(c) Selective harvesting and sustained-yield forestry when conducted in accordance with a forest management plan prepared by a New York State DEC of Cooperating Forester in accordance with New York State's Forestry Best Management Practices for Water Quality, Timber Harvesting Guidelines and Forest Road Construction Handbook.

(6) Biodegradable yard waste in buffers. The placement of biodegradable yard waste typically associated with residential yard maintenance, including grass clippings, within the associated buffer area only (placement of these materials within a wetland is a regulated act).

(7) Specified agricultural activities on agricultural lands. Activities associated with commercial grazing and watering livestock, crop production and making reasonable use of water resources on agricultural lands as defined in the Town of Rhinebeck Zoning Law, including:

(a) Harvesting the natural products of wetlands.

(b) Clear-cutting of vegetation, other than trees, for growing agricultural products.

(c) Constructing winter truck roads of less than five meters (approximately 16 feet) in width for removing trees cut in accordance with 6 NYCRR 663.2©(1)(iv), where such construction is limited to cutting vegetation and compacting ice and does not alter water flows.

(d) Operating motor vehicles for agricultural purposes.

(e) Draining for growing agricultural products.

(f) Erecting structures, including fences, required to enhance or maintain the agricultural productivity of the land.

(g) Using chemicals and fertilizers according to sound agricultural practices, as defined by the New York State Agriculture and Markets Law, in order to grow crops for human and animal consumption, in or adjacent to wetlands, where authorized by other state, federal or local laws, including application of stabilized sludge as fertilizer when applied at agronomic loading rates in accordance with a valid 6 NYCRR Part 360 or Part 364 land spreading permit.

(h) Otherwise engaging in the use of wetlands for growing agricultural products such as crops, vegetables, fruits, or flowers

§ 120-8 Waivers.

A. Where the Planning Board, after consulting with the CAC, finds that compliance with the standards herein would cause extraordinary difficulties due to exceptional conditions of topography, access, location, shape, or other physical features of the site, the minimum requirements of these regulations may be waived in order to mitigate the difficulty, provided that the public interest is protected, the wetlands permit is in keeping with the general spirit and intent of these regulations and full compliance with SEQR is still provided. Waivers shall be considered upon specific request by an applicant by resolution of the Planning Board.

B. All applicant requests for waivers from the standards herein shall be submitted in writing, shall be expressly set forth in the minutes of the Board, shall be noted on the wetlands permit and shall include the following:

(1) Document existing conditions.

(2) Describe the applicant's intentions.

(3) Cite the specific sections of the regulations for which relief is requested and the proposal for relief.

(4) Describe how the proposal relates to the purposes of this chapter.

C. No such waiver may be granted if it would have the effect of nullifying the intent and purposes of this chapter, the Town Comprehensive Plan, or Town Zoning Law.

D. The Planning Board may, in granting waivers to the standards herein, incorporate such reasonable conditions as will, in its judgment, substantially secure the objectives of the requirements so waived.

E. The Planning Board shall make a determination to approve or deny a request for a waiver within 45 days of a request submitted by an applicant.

§ 120-10 Standards for wetlands permit decisions.

A. Considerations. In approving, approving with modifications, or denying any wetlands permit application, the Planning Board shall consider the following:

(1) All evidence offered at or before any public hearing.

(2) All reports from federal, state or Town agencies and other municipal boards.

(3) Habitat assessment as described in Article V, § 125-59, of the Zoning Law, including advice of the CAC.

(4) Avoidance of impacts to regulated areas by keeping regulated acts outside regulated areas, shall be considered the highest priority. Regulated acts that can be located outside regulated areas shall be so located.

(5) If avoidance of impacts is not possible, then mitigation for impacts on regulated areas is required as determined during the Planning Board's SEQR review process. The Planning Board shall review and approve the mitigation plan for a regulated area. The plan shall be prepared and approved as part of the wetlands permit application process. It shall include an assessment of specific impacts, regulated area functions to be replaced or restored, criteria for determining mitigation success and a monitoring plan that extends over at least two growing seasons.

Mitigation plans are subject to modification based on Planning Board review and comment as part of the SEQR review process.

(6) Additional requested information reasonably necessary to make a decision on the wetlands permit.

(7) All relevant facts and circumstances, including but not limited to the following:

(a) The environmental impacts of the proposed action, specifically including, but not limited to: cumulative impacts, watershed impacts, habitat impacts, and impacts on species of conservation concern.

(b) The alternatives to the proposed action available if no other is physically or economically feasible. This does not mean that the most profitable or least costly alternative is the only feasible one nor that the least profitable or most costly alternative is the only feasible one.

(c) Irreversible and irretrievable commitments of resources involved in the proposed activity.

(d) The character and degree of injury to or interference with safety, health or the reasonable use of property which is impacted or threatened.

(e) The suitability or unsuitability of such activity to the area for which it is proposed.

(f) The effect of the proposed activity with reference to the protection or enhancement of the functions of wetlands and the benefits they provide, which are set forth herein.

(g) The use of chemicals and fertilizers according to normally accepted agricultural practices on agricultural lands.

(h) The possibility of further avoiding adverse impacts to the wetlands' natural capacity to support desirable biological life by application of recommended management guidelines to vernal pool critical terrestrial habitat, based on pool quality and specific site conditions. All applicants are encouraged to protect as much of the critical terrestrial habitats possible, including consideration for inclusion within land protection agreements in accordance with Best Development Practices' recommended management guidelines (copies available from the Planning Board Secretary).

(8) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of other reasonable locations.

(a) The availability of further technical improvements or safeguards which could feasibly be added to the plan or action.

(b) The possibility of further avoiding adverse impacts to wetland functions, including, but not limited to: the wetlands' natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage and provide recreation and open space.

(c) Avoidance of adverse impacts to the water quality and temperature of trout streams, taking into consideration the existing conditions of the associated buffer area, including slope, soils and vegetation.

(d) The extent to which the exercise of property rights and the public benefit derived from such use may or may not outweigh or justify the possible degradation of the wetland, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety or welfare.

(9) Findings. No wetlands permit shall be issued pursuant to this chapter unless the Planning Board shall find that:

(a) The proposed regulated activity is consistent with the intent and purposes of this chapter to preserve, protect and conserve wetlands and the benefits they provide, to prevent their despoliation and destruction, and to regulate the development of such areas in order to secure their natural benefits consistent with the general welfare and beneficial economic, social and agricultural development of the Town.

(b) The proposed regulated activity is consistent with the Town of Rhinebeck Zoning Law.

(c) The proposed regulated activity is compatible with the public health, safety and welfare.

(d) The proposed regulated activity minimizes degradation to or loss of any part of the wetland or its associated buffer and minimizes adverse impacts to the greatest extent practicable on the functions and benefits which said areas provide.

7. Wetlands' Resources and Maps

To examine the entire **Article 24, Freshwater Wetlands** (Title 23 of Article 71 of the Environmental Conservation Law of New York State), go to the NYS DEC site at http://www.dec.ny.gov/docs/wildlife_pdf/wwetart24b.pdf

To examine the **NYS DEC Woodland Pool Wildlife: A Photo Identification Guide**, go to <http://www.dec.ny.gov/lands/64759.html>

To examine the **List of Endangered, Threatened and Special Concern Fish & Wildlife Species of New York State**, go to <http://www.dec.ny.gov/animals/7494.html>

Maps

To view wetland areas in the Town of Rhinebeck, go to the **NYS Department of Environmental Conservation** website page, **Environmental Resource Mapper**, at <http://www.dec.ny.gov/animals/38801.html>.

- Scroll down to Enter Environmental Resource Mapper and click the Enter site page box. You will now be in the Environmental Resource Mapper page.
- Click on the Search tab and type in Rhinebeck, NY. You will now be in the Town of Rhinebeck mapping area.
- Click on *Layers and Legends* and then *All Layers*.
- Click on *Other Wetland Layers* and then *National Wetland Inventory*.
- Click on *Reference Layers* and then click on *All Layers*.
- Move in the direction of the site you are to visit and see if there are any DEC “mapped” wetland areas in or near the site.

To view the U.S. Fish and Wildlife Service (**National Wetlands Inventory**), go to <https://www.fws.gov/wetlands/nwi/index.html>. Go to **National Wetlands Inventory – V2** and move cursor to New York State and click again and again until you are over Rhinebeck. Then move cursor to the area where the site visitation will take place.

For complete information on NYS Wetlands, go to “NYS Freshwater Wetlands Delineation Manual (July, 1995), found at http://www.dec.ny.gov/docs/wildlife_pdf/wdelman.pdf

Additionally, go to the site below to find the Freshwater Wetlands: The Rhinebeck Plan, Figure 9.1, outlining freshwater wetland areas within the town of Rhinebeck, according to the Dutchess County Environmental management Council (2008).

http://www.greenplan.org/GREENPLAN_Website/Our_Work_Documents/Rhinebeck/Rhinebeck%20Adopted%20Plan/Figures/Fig%209-1.pdf

Chapter V

Trees

Sections

1. Rhinebeck Town Codes Regarding Trees
2. Rhinebeck Town Zoning Codes Regarding Trees
3. Invasive Species

1. Rhinebeck Town Codes Regarding Trees

§ 76-11 {117} Clearing of land, excavation of objectionable materials.

A. The developer shall clear the entire area within the limits of:

- (1) The street or highway right-of-way, exclusive of trees or other features designated by the Town Planning Board to remain.
- (2) Stream channels and ditches.
- (3) Easement areas.

B. All roots, stumps and other objectionable material shall be grubbed, excavated and removed from the above areas.

§ 76-14 Restoration of disturbed areas within right-of-way.

B. The removal of all equipment and parts, junk, rubbish, excess material, debris of all kind and trees damaged beyond repair shall be included in the restoration work.

§ 101-3 {17} Improvements (Definitions).

A physical change to the land or installation of certain services necessary to produce usable lots or sites from raw acreage, including, but not limited to, water and sewer facilities, recreation and open space areas, grading, pavement, curbs, gutters, stormwater management facilities, sidewalks and other pedestrian ways, bicycle paths, lanes or routes, street signs, shade trees, sodding or seeding, buffer plantings and monuments, and lighting, whether such improvement is intended to be dedicated and maintained by the public, or held in private ownership.

§ 101-6.1 General requirements.

A subdivider who proposes to develop a subdivision in the Town of Rhinebeck shall observe all general requirements for land subdivision as herein provided.

B. Preservation of existing features. The Planning Board **may require**, in subdivision design and through the subsequent dedication of conservation easements, **the preservation of natural and cultural features which add value to residential developments and to the community, such as active farmland, large trees or forested areas**, water resources, beaches, historic structures and features, scenic views, ridgelines, steep slopes, rock outcrops, stone walls, hedgerows, biodiversity and wildlife habitats, and similar irreplaceable assets.

§ 101-6.2 Subdivision design standards.

(2) In the event that an area to be used for park or public open space is required to be shown, the subdivider shall submit, prior to final plat approval, to the Clerk of the Planning Board, drawings of such area at a scale of not less than 20 feet to the inch and showing the following features thereof:

(b) Existing features such as streams, ponds, clusters of trees, rock outcrops and structures, existing and proposed.

I. Street trees. Trees shall be planted on both sides of a newly installed street, in locations approved by the Planning Board, except where unnecessary due to the presence of significant, preservable existing vegetation, which shall be identified on the subdivision plat. Street trees shall generally:

(1) Be located near the property line, in a manner that will not obstruct sight distance nor impede street maintenance, and be spaced approximately 30 feet to 40 feet apart, subject to variations made necessary by driveways and street corners as well as by the species of trees planted;

§ 101-7.3 Preliminary plat submission requirements for major subdivisions.

B. The preliminary plat (a plot of land or a map of the proposed site of construction) shall include, to the extent applicable, all information identified for sketch plan approval and as outlined below:

(1) Information on existing site conditions:

(h) Location of rock outcrops, wooded areas, stands of trees and significant preservable trees, structures, stone walls and other significant existing features for the proposed subdivision area and within 200 feet thereof;

(2) Information on proposed site development:

(a) Streets.

(3) Required improvement plans and profiles.

(h) Recreation and community improvements. Landscape plans prepared by a registered landscape architect, architect or professional engineer indicating proposed changes in existing grades and landscaping, including the following items: play areas, walkways, incidental shelters, lighting, walls, **new trees and shrubs (location, caliper and botanical name)**, and other required improvements.

§ 101-7.4 Final plat submission requirements for major subdivisions.

B. To the extent applicable, the following information will be submitted for approval and shall constitute a final plat:

(3) Required improvement plans and profiles.

(h) Recreation and community improvements. Landscape plans prepared by a registered landscape architect, architect or professional engineer indicating proposed changes in existing grades and landscaping, including the following items: play areas, walkways, incidental shelters, lighting, walls, **new trees and shrubs (location, caliper and botanical name)**, and other required improvements.

§ 120-6 Controlled acts.

A. **Prohibited acts.** The following activities are prohibited within regulated areas, except as otherwise noted, because of their potential to significantly disrupt the ecological functioning of regulated areas:

(3) Removal of vegetation:

(a) **Clear cutting, as defined herein, or removal of trees, shrubs, and other vegetation except for activities listed under Subsection C(1) and (5), or as necessary for wetland restoration projects [Subsection B(10)].**

C. **Nonregulated acts.** The following acts are considered nonregulated acts that may proceed within regulated areas without a wetlands permit, provided that they do not constitute a pollution or erosion hazard, interfere with proper drainage or adversely affect reasonable water use by others.

(1) Normal maintenance of existing landscaped areas and residential gardens, including existing lawn areas, and trimming and removal of dead or diseased vegetation, including trees.

(5) Removal of vegetation as specified: removal of naturally occurring vegetation within regulated areas for the following purposes, provided that such actions do not impair the natural function(s) of a regulated area:

(b) **Annual or periodic removal of trees to provide firewood for normal residential use, provided no mechanical equipment, other than hand-operated chainsaws and similar equipment, is used. This does not include removal of trees for commercial use or sale. Clear cutting is a prohibited act [see Subsection A(3)(a)].**

2. Zoning Codes Regarding Trees

Article V: Supplementary Regulations

§ 125-36 Off Street and Loading Standards.

P. Landscaping requirements. Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. See Article V, § 125-57, for landscaping requirements of all uses requiring special use permits and/or site plan approval. A minimum of 20% of the area between the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the minimum twenty-percent requirement. **In all parking lots providing eight or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least three inches and 10 shrubs shall be planted for each eight parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers, landscape islands or such other locations as may be determined by the Planning Board to relieve the monotonous expanse of asphalt and provide shade for parked vehicles.**

Q. Parking lot landscaping principles.

(1) **Landscape materials should be limited to the use of native species since such species are tolerant of Southeastern New York's climate, are generally disease-resistant, do not create unusual maintenance problems, and are readily available from local nurseries. A variety of shade tree species to provide visual interest, to protect against same species die-out or disease, and be tolerant of road salt shall be used. Large-leafed and/or fruiting trees that may be considered a nuisance should be avoided.**

(2) **To reduce or, if possible, eliminate the visual impact of the parking lot, provide a ten-foot-wide landscape strip around the perimeter of the lot, to be planted with shade trees and low shrubs. Existing natural vegetation that is preserved may substitute for the ten-foot landscapistrip as long as it is thickly vegetated year-round. Provide a minimum of one shade tree for every 35 feet of lot perimeter but not necessarily at 35 feet on-center. In the judgment of the Planning Board, additional shade trees and sufficient shrubs may be necessary to effectively shade/screen the parking lot.**

(5) Divide the rows of parking with planting strips and trees, averaging a tree every six to 10 spaces. Planting strips should be a minimum of eight feet in width.

(6) Provide diamond-shaped tree islands six feet wide for every four to six parking stalls.

(7) Reduce visual impacts by breaking up large parking lots into smaller parking groves and parking courts with a significant number of shade trees and surrounded by low hedges, stone walls, or attractive fencing. Avoid more than 10 parking spaces in a continuous row and more than 20 spaces in any single parking area defined by landscaping.

(8) Create large planting islands (over 500 square feet) to be located throughout the lot and planted with shade trees, low shrubs, and/or ground cover. These should preferably be located at the ends of parking rows.

(9) Provide planting islands between every 10 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree.

(11) Use existing **woodlands**, if located on the site, by preserving as much as possible along the perimeter of the lot. Provide additional evergreen shrubs if needed.

(12) The use of evergreen trees is discouraged as shade trees, but evergreen trees may be included as part of a complete landscape plan.

(15) In large parking lots, separate pedestrian walkways should be provided to allow safe movement within the lots. These facilities should generally be oriented perpendicular to and between parking bays. **Adjacent to the walks, trees should be planted.** Coordinate pedestrian walkways with access for public transit if available or planned.

S. Design standards.

(2) Parking spaces shall have wheel stops or curbs to prevent injury to trees and shrubs planted in landscaped islands.

(8) Streetscapes adjoining parking areas shall be unified with continuous street trees and, where possible, with planted medians to prevent unlimited left turns.

§ 125-43 Conservation subdivisions.

B. Purposes. In conformance with the Town's Comprehensive Plan, the purposes of conservation subdivision are as follows:

(3) To provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, hedgerows and tree lines, significant wildlife habitats, historic buildings and sites, and fieldstone walls;

D. Authorization

(3) **The Planning Board may deny a special use permit for a conventional subdivision and require a conservation subdivision where it finds any one of the following elements present,** as determined through review of an existing resources map and site analysis plan as described herein, justifying conservation of natural, cultural or historic resources, open space, scenic features, or preservation of neighborhood character:

(j) Significant natural areas and features: areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species as determined by the New York State Department of Environmental Conservation (Natural Heritage Program), **mature forests over 100 years old**, locally important vegetation (such as trees over 24 inches in diameter at breast height or unique species), or unique natural or geological formations;

(2) Preliminary plan documents. A preliminary conservation subdivision plan shall consist of and be prepared in accordance with the following requirements, which are designed to supplement and, where appropriate, replace the requirements of the Subdivision Regulations.

[2] The following information shall be included in this plan:

[c] Vegetative cover conditions on the property according to general cover type, including cultivated land, permanent grass land, old field, hedgerow, woodland and wetland, isolated trees with a caliper in excess of six inches or trees of significance by virtue of their species, stands of unique trees, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, relative age, condition, and value for biodiversity as established by the Town of Rhinebeck Biodiversity Assessment mapping and Habitat Management Guidelines.

I. Standards for protected open space.

(4) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations on nonagricultural lands. To minimize land use conflicts, land used for agricultural purposes shall be buffered from residential uses by a setback, on the lands used for residential purposes, of at least 200 feet. No clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Planning Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive plant and tree species.

§125-54 Development within Water Resources Overlay (WR-O) District.

C. Stream corridors.

(1) The regulated stream corridor designation strictly limits activities within the designated area. **There shall be no construction, filling, excavation, clearing of mature trees t six inches in diameter at breast height or greater, grading or other alteration of the natural landscape or application of fertilizers, pesticides or herbicides without the prior issuance of a special use permit by the Planning Board.**

§ 125-55 Preservation of natural (scenic) and cultural features; design standards.

D. Preservation of scenic features. In any application subject to this section, features that provide scenic importance should be preserved to the greatest extent possible. These features include but are not limited to individual healthy trees within open fields that are at least six inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls. [Emphasis added.]

(e) Landscaping.

[1] As a condition of approval, the area around each principal and accessory structure shall include at least one tree of a species with a mature height of at least 60 feet for each 2,500 square feet of lot or parcel area; provided, however, that this requirement shall not require any single-family residential lot to contain more than eight trees unless growing naturally on the site. Trees installed to meet the requirements of this subsection shall be a minimum of three inches in diameter at breast height if deciduous, eight feet tall if coniferous, when planted, and shall be planted before a certificate of occupancy is issued for the principal structure, or if that is not possible due to planting season or weather conditions, then within one month of the planting season for the species. Landscaping survivability shall be assured for a period of three years from the date of planting as specified in Article V, § 125-57.

[2] Existing trees that meet the height requirements are counted towards satisfaction of the tree requirements, regardless of whether they are coniferous or deciduous. Concurrently with the review and approval process, the applicant submitting such plan may request approval of a landscape plan in which the vegetation requirements for certain lots or tracts may be increased, decreased or deleted, to reflect the degree of visibility of structures located in various portions of the subdivision or site. Additionally, such applicant may request alternative placement of landscaping on certain lots and tracts if such placement provides adequate mitigation of the visual impact of the roofline of the principal structure. Landscaping required by this section shall be credited against the landscaping requirements imposed by any other section of the Zoning Law.

§ 125-57 Landscaping Standards.

A. Intent and purpose.

(1) The Town of Rhinebeck finds that landscaping provides many unique services and values to the community. Landscaping softens the edges of buildings, screens undesirable places, makes large buildings appear smaller and more human scale, helps maintain biodiversity, and can create places for social gathering. Vegetation recycles the air and water, absorbs pollution and sequesters carbon, buffers noise, and provides shade, air-cooling and windbreak protection. This also helps control flooding and erosion of topsoil, and provides habitat for birds and other wildlife species. Good landscaping buffers incompatible uses, enhances property values and beautifies the community.

(2) Existing vegetation should be preserved as much as possible by minimizing clearing and grading in new developments. Removal of existing vegetation alters the appearance of the landscape, which takes years to recreate through replacement plantings. **Existing mature vegetation provides numerous environmental benefits such as providing shade, reducing soil erosion, absorbing stormwater runoff, and protecting wildlife habitats. Preserving existing vegetation also helps to screen new development. Mature trees in particular make an important contribution to the character of the community. Studies have shown that a parcel of land with trees is worth more to buyers than a similar lot that has no trees. These benefits are lost when existing vegetation is removed and merely replaced with small trees.** [Emphasis added.]

(3) **New development should be generously landscaped to provide visual interest in all four seasons by including deciduous trees, conifers, perennials and bulbs.** Landscape plans that are limited to deciduous trees and shrubs leave a barren winter landscape that fails to screen new development from the roadway and from neighboring properties. The landscaping of a site should blend in with the prevailing scale, appearance and neighboring uses, or should effectively screen the development from its neighbors.

B. Landscaping and screening.

The Planning Board is responsible for determining the adequacy of landscaping during the review of site plans, special permit uses and subdivisions. The general landscaping of a site shall be in character with that generally prevailing in the community. **All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and roads. Existing trees six inches or more in diameter at breast height (dbh), or trees of lesser diameter but determined by the Planning Board to be locally important, shall be preserved to the maximum extent practical. Locally important trees include, but are not limited to, rare or unusual species, trees associated with historic events or persons, or trees that contribute to an identified scenic view shed. Roadside plantings shall be in conformance with the standards found herein and/or with the Scenic Roads Handbook (see Appendix G of the Town's Comprehensive Plan), which is referenced herein.**

C. Plan submission requirements.

Information that shall be shown on proposed site plans and, if required, subdivision plans shall include the location and boundaries of all existing natural land features on the property,

including rock outcrops, isolated trees six inches or more in diameter at breast height (dbh) and all trees over 16 inches in dbh (whether isolated or in a forested area), existing vegetative and forest cover, mapped significant habitat areas, orchards, hedgerows and/or other landscaping, street trees, stone walls, soil types and boundaries, active farmlands and prime agricultural soils, visually prominent agricultural landscape features such as fields, pastures, and meadows on knolls and hilltops, woodlands along roadways, property lines, and streams, scenic vistas, steep slopes in excess of 15%, and water features. Water features include the Hudson River, ponds, lakes, wetlands, streams and other watercourses, aquifers, aquifer recharge areas, floodplains, and drainage retention/detention areas. Additional plan submission requirements include the following:

(3) A landscape plan showing all proposed changes to existing natural land features, including size and type of plant material, and the number, size, types and locations of all trees, shrubs and ground covers to be added. A planting schedule and a landscape maintenance plan shall be included. Trees to be saved shall be noted on site plans and, if required, subdivision plans and appropriate measures shall be outlined to protect the tree stock from damage during construction. Open space and recreational areas shall be identified. The location and proposed development of all buffer areas between the proposed site and adjacent properties, including existing vegetative cover and that portion that will be preserved or enhanced, shall be also indicated. The applicant's site plans and, if required, subdivision plans shall show all plant materials and non-plant materials, such as those described herein, to be installed on the site in order to meet the landscape requirement. The landscape plan shall also include an analysis of how the site is to be prepared for plant material installation with an emphasis on soil quality and available depth. All parking, storage, waste, and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character with that generally prevailing in the community. **Existing trees to be preserved shall be protected during construction. Designated existing trees to be preserved shall be identified as to caliper and species and located on the landscape plan.** Parking lot landscaping shall comply with Subsection D in addition to the requirements of this subsection. Where conflicts exist, the more restrictive provisions apply. Agriculture and forestry are generally exempt from the landscaping requirements of this chapter, except as specifically identified herein.

(a) In all zoning districts allowing nonresidential uses, and in the case of all nonresidential uses in residential zoning districts, a landscaped strip shall be provided on the property adjacent to the right-of-way. Where parking lots are immediately adjacent to the public right-of-way, the provisions of Subsection E apply. The landscaped strip may not include any paved area except pedestrian sidewalks or trails which cross the landscaped strip. Any of the following landscaped strip treatments may be used singly or in combination:

[1] Provide a minimum twenty-foot-wide landscaped strip to be planted with a minimum one shade or evergreen tree and 10 shrubs per 35 linear feet of frontage, excluding driveway openings. Trees shall be appropriately sized for their mature height in cases involving landscaping under aboveground utilities such as electric, telephone and cable.

[2] **Maintain existing mature woodlands.**

[3] **Where the plantings required in Subsection C(3)(a)[1] or [2] above would result in an inappropriate or impractical design due to the presence of underground utilities, overhead wires, or other factors that limit the mature height of a tree, the following will apply: two ornamental trees may be substituted for one shade tree; two evergreen trees may be substituted for one shade tree; one evergreen tree may be substituted for five shrubs as determined appropriate by the Planning Board.**

(b) **Site plans shall specify the location, type, and size of major existing plant materials, including trees, with information and justification as to which such materials shall be removed and which shall be retained or relocated. Such plans shall also specify the location, size, type, quantity, and spacing of all proposed plantings and other landscape materials, including irrigation systems.**

D. General design standards.

(2) **Landscape plantings of shrubs, ground cover, and shade and evergreen trees, as well as perennials and annuals and other materials such as rocks, water, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian-scale spaces and to maintain a landscape continuity within the community as determined by the Planning Board. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character.** This shall be accomplished through the inclusion of native plant material and the retention of existing natural vegetation, thereby reducing or eliminating the need for irrigation, pesticides, herbicides, and fertilizers. Sculpture and art may be integrated into the landscape plan as approved by the Planning Board.

(4) **Existing isolated tree stock six or more inches in diameter at breast height, all trees t16 or more inches in diameter at breast height and all locally important trees shall be protected and preserved to the maximum extent practical to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees. Define a tree's dripline to avoid any disturbance near the tree's root system.** [Emphasis added.]

(5) **Landscaping shall be used to create boundaries and transitions between areas of differing development intensities, as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native and/or nonnative and noninvasive trees and shrubs of sufficient width to screen a nonresidential use from a neighboring residential use shall be required.** A buffer zone as determined by the Planning Board shall be provided on the subject parcel of any residential development occurring adjacent to a farm. The Planning Board may require landscaping between businesses.

(9) **Design landscaping to maximize energy conservation. Plant deciduous trees to shade southern and southwestern exposures during the summer, and plant evergreens on northerly and northwesterly exposures to help break cold, northerly winds in the winter.**

(10) Berms, if used, shall emulate natural landforms of local terrain, and should be as wide as the mature branch spread of the tree species planted on them.

(11) Deciduous trees shall have a minimum caliper of three inches. Evergreens shall have a minimum height of eight feet at time of planting. Small flowering trees shall have a minimum caliper of two inches at time of planting.

(13) Use existing woodlands by preserving as much as possible along the perimeter of the lot. Provide additional evergreen shrubs if needed.

E. Parking lot landscape standards.

(1) Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. In parking lots of 1/2 acre or more, at least 20% of the area within the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the twenty-percent requirement. In all parking lots providing eight or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least three inches and 10 shrubs shall be planted for each eight parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers wide enough to fit mature trees, landscape islands or such other locations as may be determined by the Planning Board to relieve the monotonous expanse of asphalt and provide shade for parked vehicles.

(a) Use of native species is highly encouraged since such species are tolerant of Hudson Valley's climate, are generally disease-resistant, do not create unusual maintenance problems, and are readily available from local nurseries. Use a variety of tree t species to provide visual interest, to protect against same species die-out or disease, and be tolerant of road salt. Large-leafed and/or fruiting trees should be avoided.

(b) To reduce the visual impact of the parking lot, provide a twenty-foot-wide landscape strip around the perimeter of the lot, to be planted with a mix of shade trees, evergreen trees and shrubs. Provide a minimum of one tree t for every 35 feet of lot perimeter but not necessarily at 35 feet on-center. In the judgment of the Planning Board, additional trees and sufficient shrubs may be necessary to effectively shade/screen the parking lot.

(d) Divide the rows of parking with planting strips and trees, averaging a tree every six spaces. Planting strips should be a minimum of 10 feet in width.

(e) Provide diamond-shaped tree islands six feet wide for every four to six parking stalls.

(f) Reduce visual impacts by breaking up large parking lots into smaller parking areas with a significant number of shade and evergreen trees t and surrounded by hedges, stone walls or attractive fencing. Avoid more than 10 parking spaces in a continuous row and more than 60 spaces in any single parking area defined by landscaping.

(h) **Create large planting islands (over 500 square feet) to be located throughout the lot and planted with shade and evergreen trees, low shrubs, and/or ground cover.** These should preferably be located at the ends of parking rows, provided they do not interfere with safety sight distances.

(i) **Provide planting islands between every 10 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree.**

(k) Use existing woodlands, if located on the site, by preserving as much as possible along the perimeter of the lot. Provide additional evergreen shrubs if needed.

(l) **Lighting should complement the landscaping and architectural features on the site, should be distinctive and human-scale, and should avoid excessive glare or wasted light.** See Article V, § 125-56, for lighting standards.

[1] Separate pedestrian walkways should be provided, where needed, to allow safe movement within the lots and to and from adjoining properties. These facilities should generally be oriented perpendicular to and between parking bays. **Adjacent to the walks, trees should be planted.** Coordinate pedestrian walkways with access for public transit if available or planned. The following walkway guidelines also apply:

(q) Parking spaces shall have wheel stops or curbs to prevent injury to pedestrians as well as trees and shrubs planted in landscaped islands, unless the stormwater management plan recommends no curbs, with the determination to be made by the Planning Board.

H. Street trees. Trees planted along Rhinebeck's roads and streets are perhaps the single most effective physical addition to make them more welcoming and more suitable for pedestrians and bicyclists. Street trees provide shade, and they have the added benefit of helping to slow traffic by narrowing the field of vision. **Street trees should be selected based upon their salt tolerance and should be placed close to the road, in a manner that will not obstruct sight distance nor impede street maintenance, and to each other to create a parklike canopy.** They should be located between the sidewalk (if applicable) and road to form a protective row that makes pedestrians feel safely separated from traffic. The following principles shall be considered in designing the placement of street trees. It is recognized that each road is different due to topography, the presence of surface water resources, utility line placements, and other factors such as snow removal.

(1) Street trees should be planted for all developments that are subject to subdivision or site plan review.

(2) **Provide street trees along each side of all streets, public or private, existing or proposed, but not including alleys. In locations where healthy and mature shade trees currently exist, the requirements for new trees may be waived or modified. However, trees that are diseased or dead should be replaced.**

(3) Plant street trees in planting strips located between the street curb and the sidewalk where provided, or in sidewalk tree wells located between the street curb and the sidewalk on streets without planting strips.

(4) Street trees should be species native to the Rhinebeck area and appropriate to the site conditions with broad canopies, should have a minimum caliper of 2 1/2 inches measured at chest height at time of planting, and should be spaced a maximum of 25 feet to 30 feet on center, with exact spacing to be evaluated on a site-specific basis depending upon species selected and mature canopy spread. In general, street trees should be located near the property line, in a manner that will not obstruct sight distance nor impede street maintenance.

(5) No more than 20% of the street trees should be of one species. The particular species of trees should be determined upon specific locational requirements. Species should be selected to cast moderate shade to dense shade in summer, survive more than 60 years, have a mature height of at least 50 feet, be tolerant of pollution, heat, and salt, require little maintenance by being mechanically strong (not brittle), and be insect- and disease-resistant. Care should be taken to avoid species that suffer limb drop and splitting, heavy fruit or nut crops, invasive root systems, or allergen production. In the nonresidential districts, the street treescape should consist of deciduous species that branch above eight feet to facilitate viewing of storefronts and signage. The Town CAC should review the list of recommended street trees periodically and make adjustments as needed. [Emphasis added.]

(6) Street trees should be grown to at least American Nursery Association Standards, should be balled and burlap or crated nursery stock, and should be irrigated for a minimum of two years after installation. **Any tree that dies within three years of planting or any tree that is removed shall be replaced with a tree of equal value, to be determined by the CAC. {Emphasis added.}**

§ 125-55 Preservation of natural and cultural features; design standards.

D. Preservation of scenic features. In any application subject to this section, features that provide scenic importance should be preserved to the greatest extent possible. These features include but are not limited to individual healthy trees within open fields that are at least six inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls. [Emphasis added.]

(2) (a) **Visibility.** All structures should be sited to avoid occupying or obstructing public views of land from any location listed on the SEQR visual environmental assessment form addendum (V-EAF) pursuant to 6 NYCRR 617.20, Appendix B. These locations are frequented by the public and offer unobstructed views of the Town's ridgelines, hilltops, scenic landscapes and scenic roads. Visibility shall be measured using a condition of no leaves on trees.

(c) **Vegetation.** Existing vegetation should be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from

public roads or parks or other public views. Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used if feasible to increase the screening of buildings. Buildings shall be sited so that they do not protrude above treetops, ridgelines and hilltops as seen from public places and roads. This shall not be interpreted to mean that the buildings should not be seen, only that they should not protrude above the trees, ridgelines or hilltops.

(d) **Forest management.** This section is not intended to limit forest management when practiced in accordance with environmentally sound and sustainable silvicultural principles. Forest management constitutes a beneficial and desirable use of the Town's forest resources and makes vital contributions to the economy, environment and aesthetic features of Rhinebeck. **The tradition of using Rhinebeck's forest resources for the production of forest products and related commercial activities, for recreation, and for sustenance of the Town's wildlife is essential to a favorable quality of life.** [Emphasis added.]

(e) Landscaping.

[1] As a condition of approval, the area around each principal and accessory structure shall include at least one tree of a species with a mature height of at least 60 feet for each 2,500 square feet of lot or parcel area; provided, however, that this requirement shall not require any single-family residential lot to contain more than eight trees unless growing naturally on the site. Trees installed to meet the requirements of this subsection shall be a minimum of three inches in diameter at breast height if deciduous, eight feet tall if coniferous, when planted, and shall be planted before a certificate of occupancy is issued for the principal structure, or if that is not possible due to planting season or weather conditions, then within one month of the planting season for the species. Landscaping survivability shall be assured for a period of three years from the date of planting as specified in Article V, § 125-57.

[2] Existing trees that meet the height requirements are counted towards satisfaction of the tree requirements, regardless of whether they are coniferous or deciduous. Concurrently with the review and approval process, the applicant submitting such plan may request approval of a landscape plan in which the vegetation requirements for certain lots or tracts may be increased, decreased or deleted, to reflect the degree of visibility of structures located in various portions of the subdivision or site. Additionally, such applicant may request alternative placement of landscaping on certain lots and tracts if such placement provides adequate mitigation of the visual impact of the roofline of the principal structure. Landscaping required by this section shall be credited against the landscaping requirements imposed by any other section of the Zoning Law.

(f) **Tree cutting.** All timber harvesting shall comply with the most recent versions of Timber Harvesting Guidelines for New York and best management practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Building Department. There may be situations where strict adherence to certain provisions of the Timber Harvesting Guidelines for New York and best management practices are impossible or impractical to attain. Alternate measures exist that can be substituted for such guidelines in appropriate circumstances. In such cases, the Planning Board, with the assistance of a consulting

professional forester, may grant a waiver from the strict application of the guidelines where reasonable and necessary.

[1] Selective **timber harvests**, as defined herein, are allowed in all districts that permit forestry as specified in the District Schedule of Use Regulations. . . . Selective timber harvests in excess of 1/4 acre are allowed by permit from the Zoning Enforcement Officer after referral to the CAC for an advisory opinion.

[2] Clear-cutting of all trees in a single contiguous area, as defined herein, shall be prohibited except for major excavation and tree clearing that has been granted a special use permit in accordance with Article VI, § 125-68NN. This Subsection E(2)(f)[2] shall not apply to:

[a] Christmas tree culture or other existing tree plantation.

[c] Tree clearing for farm purposes within Agricultural District No. 20 established pursuant to the New York State Agriculture and Markets Law.

[e] Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State Department of Environmental Conservation forester, a member of the New York Institute of Consulting Foresters, or a cooperating consultant forester.

§ 125-59 Habitat and natural resource management.

(f) General assessment of habitat quality or condition must be included. Quality measures, depending on habitat type, may include the following:

[1] Extent (e.g., forests or meadows).

[2] Connectivity with other habitats or corridors.

[3] Age or size of trees.

(4) Results. Use of tables to present results for habitat types and species of special concern is preferred (see example below). Any species of conservation concern observed, likely to occur, or potentially occurring on or near the site must be listed in the table.

(a) Site overview with descriptions of bedrock geology and soils.

(b) Habitat descriptions (see list below).

(c) Indicators of habitat quality (e.g., size of trees, degree of disturbance, invasive species, abundance of species or groups, vegetation characteristics, relationships to off-site or adjacent habitats, extent of habitat).

Article VI: Special Use Permit Requirements

§ 125-67. General standards.

The Planning Board shall carefully review the specific requirements set forth in this article for the special permit uses, the applicable supplementary regulations enumerated in Article V of this chapter, and the following general standards for any use requiring special use permit authorization by the Planning Board:

Special note to CAB: [Make note of the following two subsections.]

E. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the maximum extent practicable. [Emphasis added.]

J. The proposed use shall not have an unmitigated significant adverse environmental impact as defined by the New York State Environmental Quality Review Act (SEQR). Such determination shall be made by the Town Planning Board or other designated lead agency (Planning Board). [Emphasis added.]

L. The use shall be consistent with the Town's Comprehensive Plan, Design Standards, Local Waterfront Revitalization Plan and other applicable planning documents adopted by the Town. [Emphasis added]

§ 125-69 Rhinecliff Overlay (Rc-O) District.

B. Objectives. All proposed development and redevelopment within the boundaries of the Rc-O District shall be consistent with the following objectives:

(3) Promote greater pedestrian safety while allowing for continued but more restricted traffic movements, providing shared means of ingress and egress to developed and developing properties. Ensure that existing hamlet streets are not widened, but rather maintained as rural thoroughfares. Implement traffic calming measures which designate pedestrian comfort as a primary consideration of all hamlet streets. Resolve design conflicts between vehicular and pedestrian movements in favor of the pedestrian. Ensure safe, attractive streetscapes and pedestrian amenities by:

(a) Providing pedestrian-scale lighting, street trees, and landscaping along sidewalks;

E. Special use permits and site plan approval. Special use permits granted for uses, expansions, modifications and other development of land in the Rc-O District shall include such conditions as the Planning Board shall determine to be necessary to assure that any new use, or greater intensity

or density of use authorized hereunder, will be accomplished with the minimum possible modification of and impact on the existing features of the particular parcel or parcels, and without impairment of the uses for which the hamlet area is reasonably adapted.

(1) **Concept plan.** A concept sketch plan shall be presented to the Planning Board for its review and approval. Such plan shall include a rendering of how the building will appear from the street frontage. Architectural guidelines are as follows. "Objectives" are statements describing a desired outcome within the hamlet. "Guidelines" are statements of what is considered acceptable in the community.

[5] Minimize site disturbance for construction of additions to reduce the possibility of destroying site features and/or existing trees.

[6] **Landscaping.** Landscaping is an important and integral feature of the hamlet. The site plan for new construction projects should identify existing trees, walls, walks, or other features, which should be incorporated into the landscape design, and every effort should be made to save existing trees, shrubs, and landscape features, which have important value.

(d) Guidelines for new construction.

[6] Incorporate existing large trees, historic landscape and other features, such as stone walls, scenic views and paper roads, into the proposed site plan. During construction, protect trees and site features to be retained by temporary fencing, and do not disturb or contaminate the soil or store construction materials within the root zone of trees to be saved.

Article VII: Site Plan Review and Approval

§ 125-75 Application for site plan approval.

(1) Site plan drawings. A site plan showing the following information:

(e) Location and boundaries of all existing natural land and water features on the property, including: rock outcrops; isolated trees six inches or more in diameter at breast height (dbh), all trees over 18 inches in dbh (whether isolated or in a forested area) and locally significant trees; existing vegetative and forest cover, orchards, hedgerows and other ornamental landscaping; stone walls; soil types and boundaries; active farmlands and prime agricultural soils; visually prominent agricultural landscape features such as fields, pastures, and meadows on knolls and hilltops; woodlands along roadways and property lines; scenic vistas; steep slopes in excess of 15% illustrated by shading; and water features. Water features include ponds, lakes, perennial and intermittent streams, wetlands and watercourses, aquifers, aquifer recharge areas, floodplains; and swales, retention/detention areas, and other stormwater management practices. **Locally significant trees include, but are not limited to, rare or unusual species, trees associated with historic events or persons, or trees that contribute to an identified scenic viewshed.** [Emphasis added.]

§ 125-76 Site plan design criteria.

D. Landscape, buffering and site treatment. Landscaping shall be in accordance with Article V, § 125-57, and as follows:

(6) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.

(7) Parking areas and traffic ways shall be enhanced with landscaped islands, containing trees and tree groupings.

Article VIII: Neighborhood Design Standards and Guidelines

§ 125-85 Purpose.

B. Nonresidential development.

(1) The specific purposes of the neighborhood design standards and guidelines, as applied to nonresidential development, are to:

(c) Help to unify the streetscape of Route 9 with generous landscaping, continuous street trees and, if possible, planted medians, reminiscent of a boulevard.

(d) On the east side of Route 9, fill in the front of the large parking areas by replacing them with buildings. Site new buildings back from the road and buffer the buildings with trees, berms, landscaping, and other natural elements to protect the viewsapes and complement the open space areas on the west side of Route 9.

§ 125-89 Guidelines applicable to both residential and nonresidential development.

H. General landscape standards.

(1) A minimum of one tree ^t to match the species of street trees on the public frontage shall be planted for each 30 feet of frontage line as illustrated in Figures 1, 3, and 5.

Article XIII: Definitions

§ 125-135 {73} Development.

Any activity other than conservation, agriculture conducted in a manner consistent with sound agricultural practices as determined by the New York State Department of Agriculture and Markets, or forestry conducted in a manner consistent with the Timber Harvesting Guidelines and best management practices as published by the New York State Department of Environmental Conservation, which materially affects the existing condition of land or improvements, including, but not limited to:

A. Removal of trees **or** other natural vegetative cover.

§ 125-135 {117} Forestry.

Sustainable forest management for the production of goods to meet the needs and desires of landowners and that serves the public good, both for present and future generations. Forestry is further defined as the maintenance of property in an undeveloped state that currently contains trees of any size, or is suitable for the growing of trees. **Forest uses may include conservation of wildlife habitat, provision of outdoor recreation, production of timber and forest crops, protection of water quality, regulation of water flows, conservation of soil, carbon sequestration and protection of aesthetic qualities.** [Emphasis added.]

§125-135 {175} Open Space.

That lot area of a lot which shall, in accordance with the requirements of this chapter, be properly maintained with a combination of natural, not artificial, lawn, shrubs, trees and other plant material and related ground covers and which may be protected by conservation easement or other means.

3. Invasive Species

New York State Department of Environmental Conservation NYCRR Part 575 Invasive Species Regulations

Found at http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf

What are invasive species?

Invasive species means a species that is nonnative to a particular ecosystem, and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Why are invasive species a problem?

Invasive species can harm natural communities and systems (plants and animals found in particular physical environments) by out-competing native species, reducing biological diversity, altering community structure and, in some cases, changing ecosystems. Invasive species threaten New York's food supply, not only agriculture but also harvested wildlife, fish and shell fish; our landscaping, parks, gardens, and pets; and our recreation resources and even animal and human health.

What is the difference between prohibited and regulated invasive species?

Prohibited invasive species cannot be knowingly possessed with the intent to sell, import, purchase, transport or introduce. In addition, no person shall sell, import, purchase, transport, introduce or propagate prohibited invasive species. Regulated invasive species, on the other hand, are species which cannot be knowingly introduced into a free-living state, or introduced by a means that one should have known would lead to such an introduction, although such species shall be legal to possess, sell, buy, propagate and transport.

Prohibited and Regulated Plants (partial listing): (For a complete list of prohibited and regulated plants, go to the DEC website at

http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf.

Prohibited Terrestrial Plants

Amur Cork Tree
Amur Honeysuckle
Autumn Olive
Black Locust
Bohemian Knotweed
Canada Thistle
Golden Bamboo
Japanese Angelica Tree
Kudzu
Oriental Bittersweet
Russian Olive
Smooth Buckthorn
Sycamore Maple
Yellow Groove Bamboo

Prohibited Wetland Plants

Common Weed Grass
Purple Loosestrife

Regulated Terrestrial Plants:

Chinese Silver Grass

Norway Maple

Winter Creeper

For more information regarding considerations for selecting and planting trees, go to the DOT website at https://www.dot.ny.gov/divisions/engineering/design/landscape/trees/rs_selections

Chapter VI

Solar and Wind Energy Systems

Note: Certain sections of the town zoning code regarding solar and wind energy systems appearing in this chapter of the Resource Guide have been omitted. Those codes appearing below directly apply to CAB concerns and can be incorporated in any site review or LWRP consistency review.

§ 125-47 Solar Energy Systems [Added to the Zoning Code 5/22/2017]

A. Purpose and intent. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is both a necessary and priority component of the Town of Rhinebeck's current and long-term sustainability agenda. It is also consistent with the commitment of Rhinebeck to be a "climate smart" community. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight **while minimizing adverse impacts on neighboring properties so as to protect the public health, safety and welfare.**[Emphasis added.]

B. Definitions. As used in this section, the following terms shall have the meanings indicated, unless the context or subject matter requires others. The definitions set forth in Article XIII, Definitions, § 125-135, of this chapter shall also apply where appropriate.

ALTERNATIVE ENERGY SYSTEM - Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or be separate from the principal structure.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEM - A solar energy system that consists of integrating photovoltaic modules into the building envelope system such as vertical facades including glass and other material, semi-transparent skylight systems, roofing materials, and shading over windows.

COLLECTIVE SOLAR - Solar installations owned collectively through subdivision homeowner associations, condominium associations, "adopt-a-solar panel" programs, or other similar collective arrangements.

FLUSH-MOUNTED SOLAR PANEL - A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

PERMIT GRANTING AUTHORITY - The Town's Zoning Enforcement Officer and Code Enforcement Officer, who are together charged with granting permits for the operation of solar energy systems.

PHOTOVOLTAIC (PV) SYSTEM - A solar energy system that produces electricity by the use of semiconductor devices, called "photovoltaic cells," that generate electricity whenever light strikes them.

PRIMARILY - For purposes of this section, description of an amount of projected on-site energy demand not less than 90% of projected energy generation.

QUALIFIED SOLAR INSTALLER - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar installers if the Town's permit granting authority or such other Town officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

ROOFTOP OR BUILDING-MOUNTED SOLAR SYSTEM - A solar energy system in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SETBACK The required minimum horizontal distance from a front, side or rear property line of a parcel within which a freestanding or ground-mounted solar energy system is installed.

SMALL-SCALE SOLAR - For purposes of this chapter, the term "small-scale solar" refers to a solar photovoltaic system or solar thermal system serving primarily the building or buildings on the parcel on which the system is located and limited to those rooftop and building-mounted solar collectors, freestanding and ground-mounted solar collectors, building-integrated photovoltaic systems and solar thermal systems subject, respectively, to the permitting and approval

requirements set forth within Subsection **D**, Paragraphs (1) through (3), (7) and (8), and the additional requirements set forth within Subsections **E**, **F** and **G**.

SOLAR ACCESS - Space open to the sun and clear of overhangs or shade, including the orientation of streets and parcels to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

SOLAR COLLECTOR - A solar photovoltaic cell, panel or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT - An easement recorded pursuant to New York Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY SYSTEM - Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar energy systems include solar thermal and photovoltaic applications. For the purposes of this chapter, a solar energy system does not include any system with a solar collector of four square feet or less in surface area.

SOLAR MODULE SURFACE AREA - The aggregate square footage of all solar panels part of a solar energy system installation, as calculated based upon the outer dimension length times width of each of the modules.

SOLAR PANEL - A photovoltaic device capable of collecting and directly converting solar energy into electricity. May also be referred to as "solar module."

SOLAR POWER PLANT - Energy generation facility, whether a ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity. May also be referred to as "solar plant" or "solar farm."

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

SOLAR THERMAL SYSTEM - Solar energy system that directly heats air, water or other liquid using sunlight. The heated air, water or other liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

SUBSTANTIAL - For purposes of this section, description of an amount of projected surplus energy generation not greater than 10% of projected on-site energy demand.

C. Applicability.

(3) All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Code") as well as may be required by Public Service Commission regulations.

(5) All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent private properties and public roadways. [Emphasis added.]

D. Permitting and approval requirements.

(2) Rooftop or building-mounted solar energy systems which are to be located in the Rhinecliff (Rc-O) District shall, in addition to a solar energy system building permit, require site plan approval by the Planning Board. **Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this section; the visual effect of the proposed solar installation; impact on community character; and any mitigation of impact that may be deemed reasonably undertaken. [Emphasis added.]**

(3) Freestanding or ground-mounted solar energy systems that generate electricity primarily for on-site consumption shall be permitted as an accessory use in all zoning districts, subject to the issuance of a solar energy system building permit and both authorization of a special use permit and grant of site plan approval by the Planning Board. Any system located within either the Water Resources (WR-O) or Flood-Fringe Overlay (FF-O) Zoning District shall require one or more additional special use permits from the Planning Board. **Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this section, the visual effect of the proposed solar installation, including on scenic and historic resources and viewsheds; impact on community character; the effect of the proposed installation on ecologically sensitive land or water resources; and any related mitigation that may be deemed reasonably undertaken. [Emphasis added.]**

(4) Solar power plants shall be permitted as a ground-mounted and/or roof-mounted installation in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Gateway North (Gw-N), Business Park (BP), Office Research Park (ORP), Utility Corridor (UC), Civic 2 (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay) Zoning Districts subject to issuance of a solar energy system building permit and both authorization of a special use permit and grant of site plan approval by the Planning Board for the proposed solar power plant. If located within either the Water Resource Overlay (WR-O) or Flood-Fringe Overlay (FF-O) Zoning District, one or more additional special use permit(s) shall be required.

(a) Review by the Planning Board shall include, but not be limited to, consideration of the requirements of this section, the compatibility of the proposed solar power plant with adjacent and other nearby land uses; the visual effect of the proposed solar installation, including on scenic and

historic resources and viewsheds; impact on community character; the effect of the proposed installation on ecologically sensitive land or water resources; and any mitigation of impact that may be deemed reasonably undertaken.

(b) In the course of its review of a proposal for development of a solar power plant, the Planning Board may require an applicant to submit a viewshed analysis meeting the procedures identified within the New York State Department of Environmental Conservation's SEQRA publication entitled "Assessing and Mitigating Environmental Impacts." [Emphasis added.]

F. Additional requirements for small-scale solar freestanding and ground-mounted solar collectors.

(6) Accessory ground-mounted and freestanding solar collectors shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally appearing blend of deciduous and coniferous species, fencing or other features which will harmonize with the character of the property and surrounding area. Proposed screening shall not, however, interfere with the normal operation of the solar collectors.

(7) Solar energy equipment shall be located in a manner to reasonably minimize shading of property to the north while still providing adequate solar access for collectors.

(8) Solar energy equipment shall not be sited within any buffer areas such as set forth within § 125-33 of this chapter in the matter of "special setbacks on scenic roads and areas" or any other "greenbelt" that may be established through conservation easement, subdivision plat approval or other legal means. [Emphasis added.]

I. Solar power plants. Solar power plants shall be permitted as a principal or co-principal "electric generating" use in the Historic Preservation (HP20), Rural Agricultural (RA10), Rural Countryside (RC5), Residential Low Density (RL5), Business Park (BP), Gateway-North (Gw-N), Office Research Park (ORP), Utility Corridor (UC), Civic (CIV), Civic 2 (CIV2), Water Resource Overlay (WR-O) and Mi-O (Mining Overlay) Zoning Districts subject to both authorization of special use permit and grant of site plan approval by the Planning Board, and including but not limited to conformance with the following supplementary regulations:

(7) The location of the solar power plant shall not encroach on any ecologically sensitive land or water resource nor remove prime agricultural land (Class I through IV agricultural soils) from potential agricultural production. [Emphasis added.]

(8) The installation of the solar power plant shall cause neither the cutting, within or at the periphery of a forested or woodland area, of more than 50% of trees of six inches or more in diameter at breast height over any contiguous land area of one-fourth acre nor overall site disturbance caused by grading, tree removal or other work on the solar plant site and its access exceeding a total of one acre. [Emphasis added.]

(11) The ground within the fenced perimeter of a solar power plant installation shall not be tamped, compressed, or otherwise specially conditioned with herbicides, pesticides or similar other treatments to inhibit the growth of natural vegetation. [Emphasis added.]

(13) Solar power plant buildings and accessory structures shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment. [Emphasis added.]

(14) Appropriate landscaping and/or site design features, including both the maintenance of existing natural vegetation and the introduction of new plantings consisting of a naturally appearing blend of deciduous and coniferous species, shall be required to [help] screen the solar power plant and accessory structures from scenic roadways, park lands, historic properties and neighboring residences. [Emphasis added.]

(16) Solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent private properties and public roadways. [Emphasis added.]

(17) There shall be no outdoor lighting associated with the solar power plant except as considered desirable for activation in the case of an emergency and approved by the Planning Board. [Emphasis added.]

(19) Decommissioning plan.

(b) The following requirements shall be met for decommissioning:

[1] Solar power plants or solar farms including ground-mounted installations which have not been in active and continuous service for a period of one year shall be removed at the owners' or operators' expense within six months of the date of expiration of the one-year period.

[3] The site shall be restored to as natural a condition as possible within six months of the removal of all equipment, structures and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and revegetation of restored soil areas with native seed mixes. [Emphasis added.]

Chapter VII

Miscellaneous Items

Sections

1. Stormwater Management
2. Lighting Regulations (RTZC)
3. Roadside Stands
4. Mass Gatherings, Public
5. Noise regulations (RTZC)
6. Generators
7. Environmental Performance Standards (Paved Parking Areas)
8. Fences, Gates, Walls and Berms
9. Zoning Districts

1. § 125-60 Stormwater management. (RTZC)

A. Purposes and findings. The purpose of this section of the Zoning Law is to establish minimum requirements for the control of stormwater runoff, soil erosion and sedimentation of surface waters to protect and safeguard the general health, safety and welfare of the residents and to address the following findings:

- (1) Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and/or sediment transport and deposition.
- (2) This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other species.
- (3) Clearing and grading during construction increases soil erosion and adds to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- (4) Improper design and construction of stormwater management facilities and practices can increase the velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation.
- (5) Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- (6) Substantial economic losses can result from these adverse impacts on the waters of the Town.
- (7) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- (8) The regulation of stormwater runoff discharges from land development activities, in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion; stream channel erosion, and nonpoint source pollution associated with stormwater runoff, is in the public interest and will minimize threats to public health and safety.

(9) Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed, and thereby mitigate the adverse effects of erosion and sedimentation from development.

B. Objectives of stormwater management. Establishing minimum stormwater management requirements and controls will address the findings of fact cited above by achieving the following objectives:

- (1) Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activity GP-0-15-002 or as amended or revised;
- (2) Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels and associated wildlife habitats;
- (3) Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- (4) Control the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (5) Manage stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

D. Exemptions. The following activities shall be exempt from review under this section:

- (1) Agriculture conducted in a manner consistent with sound agricultural practices, as determined by the New York State Department of Agriculture and Markets.
- (2) Forestry conducted in a manner consistent with the Timber Harvesting Guidelines as published by the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this section.
- (3) Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the ZEO.
- (5) Any part of a subdivision, if a plat for the subdivision has been approved by the Town of Rhinebeck Planning Board on or before the effective date of this chapter.
- (6) Land development activities for which a building permit has been approved on or before the effective date of this chapter.
- (7) Cemetery graves.
- (8) Installation of fence, sign, telephone, and electric poles, and other kinds of posts or poles, but not including installation of transmission equipment.
- (9) Emergency activity immediately necessary to protect life, property or natural resources.
- (10) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants, primarily for use by that person and his or her family.

2. § 125-56 Lighting Regulations (RTZC)

A. Intent and purpose. The intent and purpose of this section is to provide standards for outdoor lighting to maintain and protect the scenic and aesthetic character of the Town, to encourage conservation of energy and nonrenewable resources while providing safety, utility and security; to minimize glare; to protect the privacy of residences; to reduce atmospheric light pollution in the rural Town; to ensure that development fits into its natural and rural surroundings rather than being superimposed as a dominant element in the countryside; to avoid impacts on nearby residential properties; and to enhance the Town's nighttime ambience and rural and historic character. These regulations apply in all zoning and lighting districts in the Town and are designed to be compatible with the Town of Rhinebeck Design Standards.

C. Applicability and submission of plans. An application for any work involving outdoor lighting fixtures that requires subdivision, special use permit and/or site plan approval or involving a lighting district established pursuant to Article 12 of the Town Law shall submit, as part of the application, evidence that the proposed work shall comply with the standards of this section. The submission shall contain the following:

- (1) Plans indicating the location, height, orientation, type of illuminating device, and wattage of each outdoor lighting fixture.
- (2) Location and use of adjacent properties.
- (3) Nearby properties that may be affected by the proposed lighting plan.
- (4) Description of the illuminating fixtures, lamps, supports, reflectors, and other devices, including, but not limited to, catalog cut sheets by manufacturers and drawings (including sections where required), glare reduction/control devices, on-off cycle control devices, and mounting devices.
- (5) Photometric data showing an isolux/isofootcandle plot or lux/footcandle grid that demonstrates intensities and uniformity of light emissions.
- (6) Statement of the proposed hours and days of the week when the luminaires will be on and when they will be extinguished.
- (7) Additional information that the Planning Board or Code Enforcement Officer determines is necessary.

F. General (Lighting) requirements for all zoning districts.

(1) General standards. All outdoor lights and illuminated signs shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The Town encourages, and, in some cases, requires that the minimum lighting levels be used to attain efficient and effective use of outdoor lighting. The latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IESNA) shall be observed.

(2) Nonconforming outdoor lighting. All outdoor lighting fixtures already installed prior to June 12, 1989, shall be brought into compliance with the provisions of this section within five years from the effective date of this chapter. No replacement or installation of new luminaires shall be permitted unless in conformance with this section. Nonconforming outdoor lighting that is the subject of subdivision, special use permit and/or site plan applications, certificates of occupancy,

no-violation letters, or other permit, approval, entitlement, or authorization from the Town of Rhinebeck shall be subject to all of the terms and conditions of this section.

(3) **Prohibitions.** The following forms of lighting are prohibited:

- (a) **Uplighting is prohibited**, with the exception of flags, as defined herein. The Town of Rhinebeck encourages the lowering of flags at sunset so that nighttime illumination of flags is unnecessary. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping, and other objects lit for aesthetic or similar purposes shall be lit from the top and shine downward.
- (b) Roof-mounted area lighting.
- (c) Laser lighting for outdoor advertising or entertainment.
- (d) The use of and the operation of searchlights for advertising purposes.
- (e) The use of mercury vapor lamps, which cast a very bright, unattractive light.
- (f) Unshielded wallpack-type fixtures.
- (g) Neon roping or trimming.

(6) **Light trespass.** Light trespass from a property shall be designed not to exceed 0.25 footcandle at the property line. Adjacent to residential property, no direct light source shall be visible at the property line at ground level or above. Mitigation to avoid or minimize light trespass may include landscaping and berming.

(7) **Height.** Unless specified elsewhere herein, the maximum allowable height of a freestanding luminaire shall be 15 feet above the average finished grade. The maximum allowable height of a building or structure-mounted luminaire shall be 15 feet. [Emphasis added.]

(8) **Spacing.** The space between fixtures should be approximately four times the height or as determined by the Planning Board.

(9) **Time controls.** All nonessential lighting shall be turned off after business hours, leaving only the necessary lighting for site security, which shall be reduced to the minimum level necessary. "Nonessential" can apply to display, aesthetic, parking and sign lighting. Motion-sensor security lighting may be used to promote safety and reduce the amount of night lighting in the Town, as determined by the Planning Board.

§ 125-39 Terms used in § 125-56, Lighting regulations. (RTZC)

As used principally, if not exclusively, within Article V, § 125-56, Lighting regulations, the following terms shall have the meanings indicated:

FULLY SHIELDED FIXTURE - An outdoor lighting fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above the horizontal plane from the base of the fixture. Fully shielded fixtures must be installed in a horizontal position as designed, or the purpose of the design is defeated and direct glare will result.

GLARE - Line-of-sight contact with a direct light source that causes annoyance, discomfort, or loss in visual performance and ability.

HEIGHT OF THE LUMINAIRE - The vertical distance from the ground directly below the center line of the luminaire to the lowest direct-light-emitting part of the luminaire.

ILLUMINANCE - The emitted or reflected light on a surface. The unit of measurement for illuminance is footcandle or lux.

LIGHT TRESPASS - Light from an artificial light source that intrudes into an area where it is not wanted or does not belong. Light trespass includes glare from direct light, as well as unwanted spill light.

OUTDOOR LIGHTING - The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

OUTDOOR LIGHTING FIXTURE - An electrically powered illuminating device or other outdoor lighting fixture, including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot, flood, and area lighting for, buildings and structures, recreational areas, parking areas, landscaping, signs (advertising and other), streets, product display areas, building overhangs, and open canopies.

SPILL LIGHT - Light shining beyond a facility that is unwanted and which, because of quantitative, directional, or spectral attributes in a given context, gives rise to annoyance, discomfort, distraction, or a reduction in the ability to see essential information.

3. § 125-51 Roadside stands. (RTZC)

Roadside stands, as defined in Article **XIII** of this chapter, shall be permitted in the HP20, RA10, RC5, RL5 and RM1 Districts as an accessory use, provided:

- A.** Such stand shall not exceed 200 square feet in gross floor area.
- B.** Such stand shall be located not less than 20 feet from the edge of pavement, and there shall be a suitable area provided where vehicles can safely park while visiting the roadside stand.
- C.** Such stand shall be solely for seasonal display and sale of agricultural products grown principally on the premises or, in limited quantity, elsewhere by the operator of the roadside stand.
- D.** Signage shall be limited to a single sign, not greater than three square feet in sign area per side and located not less than 15 feet from the edge of pavement.
- E.** Also refer to § 125-37, Sign regulations.

4. Part II, General Legislation

§ 83 Mass Gatherings, Public

§ 83-1 Purpose.

This Town Board, in order to promote proper government and to ensure the proper protection, order, conduct, safety, health, welfare and well-being of persons and property within the Town of Rhinebeck, County of Dutchess and State of New York, consistent with the balance of the rights of peaceful assembly, finds it is in the public interest to enact this chapter.

§ 83-3 Special permit required.

No person, group of persons, partnership, association or corporation, organization, landowner, lessee or any combination thereof, shall maintain, conduct, promote or operate on any private lands or premises within the unincorporated area of the Town of Rhinebeck other than in established theaters, auditoriums or other places licensed or permitted for public occupancy as limited by law, any use thereof for the purpose of any gathering or assembly which is to or shall reasonably attract 500 or more people and to continue even less than 24 hours except pursuant to a special permit issued therefor by the Town Board of the Town of Rhinebeck, as hereinafter provided.

§ 83-5 Materials to accompany application.

Application for such permit shall be by verified petition addressed to the Rhinebeck Town Board and shall be filed in compliance with the provisions of § 83-3 of this chapter. Such application shall include the following material:

A. A certificate from the Dutchess County Department of Health to the effect that sanitation facilities to be provided for such assembly or gathering are adequate to accommodate the needs of the persons to be assembled and attending the public musical entertainment, amusement or assembly.

D. A survey map prepared by a professional engineer licensed by the State of New York, showing the size of the property; the names of the record owners of the adjoining properties; the streets or highways abutting said property; the size and location of any existing building, buildings or other structures or facilities to be erected thereon for the purpose of the assembly; the placement of the proposed distribution system of water; the location of any parking areas for automobiles and other vehicles and the means of ingress and egress to such parking area; and all service and other roads serving the camping area, food services, toilet facilities, garbage and refuse collection facilities and entertainment and performance areas.

E. A detailed plan and statement, with drawings showing the methods to be used for the disposal of sanitary sewage.

F. A detailed plan and statement, with drawings showing the distribution and supply system for supply, storage, treatment and distribution of drinking water.

G. A detailed plan and statement, with drawings showing the layout of any parking area for automobiles and other vehicles and the methods of traffic control to be used thereon. Such parking areas shall provide parking space of acceptable size for one motor vehicle for every four persons in attendance.

H. A detailed plan and statement, with drawings showing the facilities for the preparation, storage, sale and distribution of food and the means of servicing such area. Such plan shall also detail the method and means of disposing of any garbage, trash, rubbish and other refuse.

M. A subscribed authorization from the landowner and the applicant to the Town of Rhinebeck and the County of Dutchess to permit the Town and County and their lawful agents to go upon the property for the purpose of inspecting the same to determine if there is compliance with the requirements of this chapter and the permit, if granted, for providing adequate police and fire protection and protecting persons and property from danger.

5. § 125-58 Noise Regulations (RTZC)

A. Intent and Purpose

(1) The Town of Rhinebeck finds that it is necessary to reduce ambient noise levels in the Town so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the Town, to prevent injury to both humans and animal life, and to prevent injury to property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the rural character of the Town. There is also a substantial body of science and technology that exists demonstrating that noise may be substantially abated.

(2) The intent of the noise regulations is to control noise that is continuous such as air conditioners or frequently occurring noises such as lawn mowers, boom boxes or barking dogs. It acknowledges that noises are necessary in a civilized society. Limits are established which allows certain activities to take place at higher levels during daytime hours while lower levels are enforced at other times. Noise events which are temporary of short duration and nonrepeating will not be enforced unless the noise may injure the human hearing system.

(3) The following regulations are applicable to all uses and all zoning districts within the Town of Rhinebeck unless otherwise provided herein. No use shall be established and/or maintained that does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other local, state and federal laws, rules or regulations. No person, firm or corporation shall operate or cause to be operated any source of sound, except as set forth below, which exceeds the limit set forth below when measured by a sound level meter having an A-weighted filter and constructed in accordance with the specifications of the American National Standards Institute (ANSI)

B. Examples of specific acts or events intended to be controlled.

- (1) Sound-reproduction systems such as playing of a radio, phonograph, tape player, compact disc player, television, receiver or similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device.
- (2) Loudspeakers and public-address systems.
- (3) Domestic animals and birds that frequently or for continued duration make or create a noise disturbance across a residential real property line. A noise disturbance is created, for example, by a dog barking or a rooster crowing continually for more than 10 minutes or intermittently for more than 30 minutes. Noise associated with agriculture or forestry, as defined herein, is exempt from the noise regulations.
- (4) Loading and unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects.
- (5) Motor vehicles:
 - (a) Operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance or that is otherwise not in compliance with the provisions of any state or federal law, including but not limited to §§ 375 and 386 of the New York State Vehicle and Traffic Law.
 - (b) Allowing noise from a motor vehicle alarm to continue in excess of five minutes' duration after it has been activated.
- (6) Construction, repair and demolition.
- (7) Impulsive noise or short bursts of acoustical energy such as from firearms, pile drivers, Jake brakes, or punch presses.
- (8) Air conditioning, refrigeration, ventilation, machinery, or other similar noise generators.
- (9) Landscape maintenance devices such as lawn mowers, leaf blowers, grass trimmers, and snow blowers.
- (10) Recreational vehicles such as jet skis, motorized boats, all-terrain vehicles, off-road motorcycles, and snowmobiles.

§ 125-141 Terms used in § 125-58, Noise regulations. (RTZC)

As used principally, if not exclusively, within Article V, § 125-58, Noise regulations, the following terms shall have the meanings indicated:

AMBIENT NOISE - The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

A-WEIGHTED SOUND LEVEL - The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA."

DBA - The abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting, also known as "dBA." All references to "decibel" or "db" shall be presumed to mean "dBA" unless otherwise specified.

DECIBEL - The practical unit of measurement for sound pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

EMERGENCY - Any occurrence or circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency that demands immediate action.

MUFFLER - A device or system for abating the sound of escaping gases of an internal combustion engine.

NOISE - Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans in the Town.

SOUND - An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL - The weighted sound pressure level obtained by the use of a sound level meter and dBA frequency weighting network.

SOUND LEVEL METER - An instrument, including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner and which complies with standards established by the American National Standards Institute (ANSI) specifications for sound level meters.

6. § 125-64.3 Generators. (RTZC)

Any generator proposed to be sited at a fixed location on a parcel within the Rhinecliff Overlay (Rc-O) or Neighborhood Infill (NI-O) Districts or to be sited at a fixed location on a parcel in any other residential district within 200 feet of a property boundary or other dwelling shall be designed and/or equipped with **noise-dampening features**, such as, but not limited to, **insulated housing**

and/or silencing mufflers determined suitable by the Zoning Enforcement Officer to achieve reasonable compliance with Town noise standards prior to the issuance of a building permit for the generator’s installation. This provision shall not apply to portable generators.

7. §125-35 Environmental Performance Standards (Paved Parking Areas). (RTZC)

No use shall be established through the subdivision, site plan, and special use permit approval processes, nor maintained in conformance with this chapter, that does not comply with the following environmental performance standards of use, occupancy and operation, in addition to all relevant provisions of other local, county, state and federal laws, rules or regulations. **Continued conformance with such standards, once applicable, shall be a requirement for the continuance of any certificate of occupancy.** [Emphasis added.]

D. Wastes. No solid or liquid wastes shall be discharged into any public sewer, common or private sewage disposal system, stream or on or into the ground, except in strict conformance with the standards approved by the New York State Health Department, the New York State Department of Environmental Conservation, Dutchess County and/or other duly empowered agency. Facilities for the storage of solid wastes shall be so located and designed as to be screened from the street and/or from any adjoining property and so as to discourage the harboring of rodents or insects.

§125.36 – Off-Street Parking (RTZC)

A. Intent and purposes. The Town of Rhinebeck finds that large and highly visible parking areas can damage the rural, scenic and historic character of the community, can encourage vehicle travel while discouraging travel by foot, bicycle and public transit and can increase energy consumption, traffic congestion and air pollution and can reduce the quality of life. The Town of Rhinebeck wishes to promote public transit, walking, bicycling, park-and-ride facilities, and car- and van pooling where feasible while reducing the cost of housing, and encourages applicants to limit the number of parking spaces provided. Therefore, with the exception of the minimum handicapped parking spaces required by Subsection **I**, the parking standards provided herein are maximums.

B. Parking is subordinate to principal use. The purpose of the off-street parking and loading standards is to ensure that such uses are treated as accessory uses, do not predominate the site, are properly placed in relation to buildings to minimize their visibility, and feature quality landscaping and architecture along the road frontage to reduce the visual impact of glare, headlights, and parking lot lights to roadways and neighboring properties. Off-street parking areas should complement the buildings on a site, improve the visual appearance of the Town of Rhinebeck, protect the character of residential, business, institutional, and commercial areas, and conserve the value of land and buildings on surrounding properties.

C. Parking space requirements. Permanent off-street parking and loading spaces shall be provided in all districts for all uses in accordance with the criteria set forth below, except for single-family dwellings, unless such single-family dwellings require subdivision, site plan and/or special use permit approval:

- (1) When any new building or structure is erected;
- (2) When any existing building or structure is enlarged or increased in capacity;
- (3) When adding dwelling units, guest rooms, seats or floor area to an existing or lawfully approved structure;
- (4) When a new use is established;
- (5) When an existing use is changed to another use; or
- (6) When a new business activity is added.

G. Water quality protection. Special care is required for development of impervious surface parking lots in the Water Resources Protection Overlay District. See Article V, § 125-54C, for the Town of Rhinebeck stormwater management regulations pertaining to impervious surfaces. **All surfacing, grading and drainage shall facilitate groundwater recharge by minimizing impervious pavement, and all peak or overflow parking areas shall be permeable.** . . . The Planning Board remains responsible for the determination of which measures are warranted:

- (1) Rain gardens and bioretention.
- (2) Rooftop gardens (also known as "vegetated" or "green" roofs).
- (3) Vegetated swales, buffers, and strips.
- (4) Tree preservation.
- (5) Roof leader disconnection.
- (6) Rain barrels and cisterns.
- (7) Permeable pavers, permeable asphalt, permeable concrete.
- (8) Soil amendments.
- (9) Impervious surface reduction and disconnection.
- (10) Pollution prevention and good housekeeping.
- (11) Sidewalk storage.
- (12) Planter boxes.
- (13) Tree box filters.
- (14) Pocket wetlands.

M. Screening. Within any district, parking may be located anywhere on the site only if it is screened from public roads and adjoining properties or it is part of a commercial development which is not visible from any public road, designated open space area, public building, or residential property.

O. Drainage and surfacing. All parking areas shall be properly drained, and all such areas of over 10 spaces shall be provided with a suitable surface as specified by the Town Engineer. See also Article V, § 125-60C, for additional stormwater management requirements of parking areas.

P. Landscaping requirements. Parking lot landscaping is in addition to all other landscaping requirements of the Zoning Law. See Article V, § 125-57, for landscaping requirements of all uses requiring special use permits and/or site plan approval. A minimum of 20% of the area between the inside perimeter of the parking surface of the parking area shall be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board. Natural landscaping can count as part of the minimum twenty-percent requirement. In all parking lots providing eight or more off-street parking spaces, a minimum of one canopy tree having a caliper of at least three inches and 10 shrubs shall be planted for each eight parking spaces and any additional portion thereof, said tree(s) to be planted in median dividers, landscape islands or such other locations as may be determined by the Planning Board to relieve the monotonous expanse of asphalt and provide shade for parked vehicles.

Q. Parking lot landscaping principles. The following principles of off-street parking lot design shall be considered in developing a landscape plan. It is recognized that each site is different due to topography, the presence of surface water resources, and other factors such as snow removal. Therefore, while the use of all principles is encouraged in parking lot design, each may not be attainable on every site. The Planning Board is responsible for determining the use of the parking lot landscaping principles.

(1) Landscape materials should be limited to the use of native species since such species are tolerant of Southeastern New York's climate, are generally disease-resistant, do not create unusual maintenance problems, and are readily available from local nurseries. [Emphasis added.] A variety of shade tree species to provide visual interest, to protect against same species die-out or disease, and be tolerant of road salt shall be used. Large-leafed and/or fruiting trees that may be considered a nuisance should be avoided.

(2) To reduce or, if possible, eliminate the visual impact of the parking lot, provide a ten-foot-wide landscape strip around the perimeter of the lot, to be planted with shade trees and low shrubs. Existing natural vegetation that is preserved may substitute for the ten-foot landscape strip as long as it is thickly vegetated year-round. Provide a minimum of one shade tree for every 35 feet of lot perimeter but not necessarily at 35 feet on-center. In the judgment of the Planning Board, additional shade trees and sufficient shrubs may be necessary to effectively shade/screen the parking lot. [Emphasis added.]

(3) If possible, eliminate blacktop and reduce stormwater runoff by using porous or pervious surfaces such as paving blocks, porous concrete, porous asphalt and bricks, pavers, or textured surfaces for crosswalks. [Emphasis added.] For uses subject to seasonal fluctuations, establish overflow parking using pervious surfaces such as cellular concrete blocks or recycled plastic ring-forms where the interstices are filled with earth

and planted with grass. The Planning Board remains responsible for determination of the adequacy of parking supply demand.

(4) Direct runoff to rain gardens landscaped with native plants. A rain garden is a shallow depression that captures runoff from impervious surfaces and filters out non-point source pollutants. If possible, capture not only parking lot runoff but rooftop runoff as well. If rooftop runoff cannot be captured, then use green roofs, where rooftops are planted with vegetation.

(5) Divide the rows of parking with planting strips and trees, averaging a tree every six to 10 spaces. Planting strips should be a minimum of eight feet in width.

(6) Provide diamond-shaped tree islands six feet wide for every four to six parking stalls.

(7) Reduce visual impacts by breaking up large parking lots into smaller parking groves and parking courts with a significant number of shade trees and surrounded by low hedges, stone walls, or attractive fencing. Avoid more than 10 parking spaces in a continuous row and more than 20 spaces in any single parking area defined by landscaping.

(8) Create large planting islands (over 500 square feet) to be located throughout the lot and planted with shade trees, low shrubs, and/or ground cover. These should preferably be located at the ends of parking rows.

(9) Provide planting islands between every 10 spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one shade tree.

(10) Landscaping should be used to delineate vehicular and pedestrian patterns. Clear and legible signs, different color and texture paving materials, raised or inverted areas, and other techniques should be used to further direct the flow of both vehicular and pedestrian traffic within the lot.

(11) Use existing woodlands, if located on the site, by preserving as much as possible along the perimeter of the lot. Provide additional evergreen shrubs if needed.

(12) The use of evergreen trees is discouraged as shade trees, but evergreen trees may be included as part of a complete landscape plan.

(13) The use of non-plant materials as part of the landscape plan is encouraged, especially where such materials exist on the subject site. These materials may include the following: large landscape-quality boulders, water features, wood or concrete soil-retaining devices, gravels, concrete garden amenities, and approved mulch materials.

(14) Lighting should complement the landscaping and architectural features on the site, should be distinctive and human-scale, and shall avoid excessive glare, uplighting or wasted light. See Article V, § 125-56, of this article for lighting standards applying to all parking areas.

(15) In large parking lots, separate pedestrian walkways should be provided to allow safe movement within the lots. These facilities should generally be oriented perpendicular to and between parking bays. Adjacent to the walks, trees should be planted. Coordinate pedestrian walkways with access for public transit if available or planned. The following walkway guidelines also apply:

- (a) One walkway can serve as a collector for up to four bays of parked cars.
- (b) The walkway should be a minimum of four feet wide, allowing an additional 30 inches on each side for overhanging of automobiles.
- (c) All walkways should be raised to a standard sidewalk height and should be constructed of different paving material than the parking lot.
- (d) Provide pedestrian and bicycle amenities such as benches, shade, human-scale lighting, and bicycle racks.

R. Plant survivability. All plant material used to landscape parking lots is to be maintained at all times in a living and growing condition. Assurance for survivability shall be in accordance with the landscape requirements found in Article V, § 125-57.

W. Private garages. All private garages shall be of similar or better quality than the principal dwelling or structure. Except for agricultural pole barns, steel pole buildings and steel pole garages are prohibited in any residential or mixed-use district. Temporary portable garage structures of any type, installed for more than 30 days, are prohibited in any district.

8. §125-38 Fences, Gates, Walls and Berms (RTZC)

A. Fences, gates and walls shall as a permitted use not exceed six feet in height when erected in a required side or rear yard nor exceed four feet in height when erected within 50 feet of the front lot line or highway right-of-way. Except where accessory to agriculture and forestry uses, any fencing which exceeds six feet in height or which consists of a solid fence or wall that does not allow for the passage of views shall be subject to the issuance of a special use permit by the Planning Board in accordance with Article VI of this chapter.

B. All fences, gates and walls within 50 feet of the front lot line or highway right-of-way on a state-designated scenic road or a Town road designated as a critical environmental area (CEA) shall be subject to issuance of a special use permit in accordance with Article VI of this chapter. A list of state-designated scenic roads and Town roads designated as CEAs is available from the Town Clerk at Town Hall.

C. All fences, gates and walls shall conform to the requirements of Article IV, § 125-25B, as pertains to corner lots where special sight clearance considerations are necessary to protect traffic safety.

D. All fences, gates, and walls, including new stone walls, shall be set back a minimum of 15 feet from the edge of pavement to allow sufficient room for wintertime snow removal. Stone walls in existence on the effective date of this chapter shall not be subject to the fifteen-foot setback requirement.

E. In any zoning district, all such fences, gates and walls shall have the face of the fence or wall directed toward the abutting property and, unless agreed to in writing by the abutting property owner, be located so as to permit maintenance of both sides of the fence without trespass on the abutting property.

F. A berm shall be deemed to be a fence, gate or wall within the meaning of this section if the berm is constructed and landscaped to provide a property boundary delineation, protection or privacy to a property owner, and has not received Planning Board approval in accordance with either subdivision plat and/or site plan review and approval procedures.

H. The installation of fences consisting of flexible plastic, vinyl mesh or any other nonrigid material and constructed in a manner without posts and supports of the type associated with permanent construction is prohibited in all districts. The above prohibition shall not apply to either of the following:

(1) Siltation fence or similar protective barrier employed during the course of land development or construction work for which required permits and approvals have been granted by the Town, county or state; or

(2) Natural burlap or black plastic or vinyl fence mesh fence employed on a seasonal basis to protect natural landscaping from snow, deer and other damage, with, however, the use of more visible color mesh or other material prohibited for this purpose.

9. § 125-15 Zoning Districts. (RTZC)

D. Rural Countryside (RC5). The Rural Countryside (RC5) District recognizes the pattern of rural-density development in an area of the Town where significant environmental constraints are abundant. The purpose of the RC5 District is to maintain the Town's historic pattern of rural, forested and agricultural settlements, characterized by large expanses of open space and unspoiled views from the road, a scattering of residences, farms, and rural businesses, and clustered development surrounded by open space. Development should continue to be clustered to preserve open space, to preserve the rural character of the RC5 District and to respect the environmental, scenic and agricultural resources contained there. Flexibility in the design of conservation developments is needed to preserve open space and the rural and agricultural character of the district. These unique attributes also require flexibility of open space ownership to be considered.

I. Rhinecliff Hamlet (Rc-H). The Rhinecliff Hamlet (Rc-H) District recognizes Rhinecliff's importance as a mid-19th Century planned traditional neighborhood in the Town of Rhinebeck. Containing over 100 historic structures, Rhinecliff is a small center for civic life, culture and limited commercial activity. While Rhinecliff has some limited potential for growth, its historic character must always be preserved and protected. The hamlet's unique qualities of architectural design and scale demand that new development be in harmony with existing development, preserve the pedestrian character of the Hamlet, improve its visual character, protect residential uses and enhance the hamlet as a secondary cultural center for the Town.

J. Rhinecliff - Hamlet Transition (Rc-HT). The Rhinecliff Hamlet Transition (Rc-HT) District applies to property that has the potential to be adaptively reused for low-intensity mixed uses as a transition between the Rhinecliff Business and Rhinecliff Hamlet Districts. To maintain and protect the small-scale historic residential quality of this property, adaptive reuse is allowed, subject to conditions designed to protect the residential quality of the structures and those contiguous thereto, by retaining, strengthening, and enhancing their residential characteristics and ensuring that new low-intensity business uses respect the continuing residential uses.

K. Rhinecliff - Business (Rc-B). The Rhinecliff Business (Rc-B) District is intended to allow small-scale commercial uses to serve the local needs of the Rhinecliff Hamlet. Careful review of both site and architectural elements is intended in this and other commercial districts to enhance the overall quality of site development and to promote architectural design that is compatible with the overall historic character of the hamlet.

P. Gateway - South (Gw-S). The Gateway - South (Gw-S) District is intended to allow a place for small-scale professional, administrative and related office uses at the southern gateway to the village and Town. Restrictions on building height and lot coverage, coupled with careful review of both site and architectural elements, are intended to promote a scale and quality of development compatible with the rural and historic character of the community

Q. Gateway - East (Gw-E). The Gateway - East (Gw-E) District is intended to provide a place for small-scale retail farm and related uses at the eastern gateway to the village and Town. Restrictions on building height and lot coverage, coupled with careful review of both site and architectural elements is intended to promote a scale and quality of development compatible with the rural and historic character of the community.

R. Gateway - North (Gw-N). The Gateway - North (Gw-N) District is intended to provide a place for small-scale professional, administrative office and hospitality uses at the northern gateway to the Town of Rhinebeck. Restrictions on building height, setbacks and lot coverage, and minimizing access to Route 9G while providing linkages between business establishments on adjacent parcels are required through unified site design and careful review of both site and architectural elements. This district is intended to promote a scale and quality of new development architecturally compatible with the rural and historic character of the community.

W. Land Conservation (LC). The Land Conservation (LC) District is intended to provide for conservation of natural and cultural resources, open space, agriculture, forestry and limited recreational use of the Town's most ecologically sensitive lands, including those most closely related to the principal watercourses and wetlands throughout the Town. The LC District also includes lands protected by conservation easements, dedicated to public use and enjoyment of the natural scenic qualities of lands, and those parcels dedicated to recreational or conservation and conservation-related uses.

X. Land Conservation - Streams (LC-S). The Land Conservation - Streams (LC-S) District is intended to provide for conservation of water resources, which represent some of the most sensitive environmental features found in the Town.

Y. Land Conservation - Trails (LC-T). The Land Conservation - Trails (LC-T) District is intended to provide for conservation, open space and eventual public recreational use of the former Hucklebush rail corridor as shown on the Zoning Map. The Hucklebush rail corridor has been recommended as a multi-use trail corridor for over 30 years by the Town of Rhinebeck and is recommended as a trail corridor on the New York State Greenway Trails Plan. Development proposals should include reservation of the rail corridor area for future trail and open space use, but such proposals shall not be penalized for reserving the rail corridor acreage when calculating density. If public access or recreational use is not feasible on an individual parcel of land when development proposals are approved, then such proposals should include reservation of these lands for future conservation and open space use.

AA. Rhinecliff Overlay (Rc-O). The Rhinecliff Overlay (Rc-O) District delineates an historic area that has grown with unique characteristics, creating a special identity for the entire Hamlet of Rhinecliff. The Rc-O District is intended to preserve the integrity of the hamlet through zoning requirements designed to protect its unique qualities. It is also intended that such zoning requirements regulate development and redevelopment, architectural design and scale, landscaping, streets and streetscapes, scenic views, signage, transportation and historic preservation. The Rc-O District is intended to encourage the continuation of uses that are in harmony with the small scale of the hamlet and the surrounding area (especially its unpretentious homes), to preserve and enhance the pedestrian character of the hamlet, to improve its visual character, protect residential uses and enhance the Hamlet as a secondary cultural center for the Town.

Chapter VIII

Glossary of Terms

Sections

1. Terms, A to Z
2. Terms used in § 125-37, Sign regulations
3. Terms used in § 125-68BBB, Communications facilities and towers.

A

ACCESSORY STRUCTURE - A structure or building, the use of which is customarily incidental and subordinate to that of the principal structure or building and which is attached thereto, or is located on the same lot or premises. Except for an accessory dwelling unit, guest cottage or ECHO (elder cottage housing opportunity) unit approved under Articles **VI** and/or **VII** of this chapter, accessory structures are not for the purpose of human habitation and may include such structures or buildings as garages, swimming pools, spas, whirlpools or hot tubs, tennis courts, garden or tool sheds, barns, studios, greenhouses, and playhouses, and such elements as generators, satellite dish antennas, and solar and wind energy systems. (Chapter 125: Zoning, Article XIII: Definitions)

ACCESSORY USE - A use, occupancy or tenancy which is clearly and customarily incidental and subordinate to the principal use, occupancy, or tenancy, and located on the same lot or premises. Except for uses accessory to a dwelling unit, any use which is accessory to a special permit use shall also require a special use permit. Any use which is accessory to a permitted use shall be considered a permitted use. (Chapter 125: Zoning, Article XIII: Definitions)

ACTIONS – All of the following, except minor actions: (RTC - Chapter 118: Waterfront Consistency Review)

A. Projects or physical activities, such as construction or any other activities that may affect natural, man-made or other resources in the coastal area or the environment by changing the use, appearance or condition of any resource or structure, that:

- (1) Are directly undertaken by an agency; or
- (2) Involve funding by an agency; or
- (3) Require one or more new or modified approvals, permits, or review from an agency or agencies;

B. Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;

C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and

D. Any combination of the above.

AGENCY - Any board, agency, department, office, other body, or officer of the Town of Rhinebeck. (RTC - § 118-3. Definitions)

AGRICULTURE - Any activity connected with the raising of crops, livestock or production of livestock products, including, but not limited to: field crops, fruits, vegetables, horticultural specialties; livestock and livestock products; maple sap; Christmas trees; aquaculture products; and woody biomass. This shall encompass any activity or use now permitted by law, engaged in by or on behalf of a farmer in connection with farming, including, but not limited to: housing for farm workers; stables and other tourist activities; the collection, transportation, distribution and storage of animal and poultry waste; storage, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of fertilizers and limes, and lawfully permitted and applied insecticides, herbicides, and fungicides; construction of farm structures and facilities, including farm wineries and other on-farm food processing; construction and maintenance of fences and other enclosures; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agricultural practices. Agriculture shall also include value-added processing, wholesale and retail marketing of the agricultural output of the farm, including U-pick sales, and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products as long as a major portion of the annual gross sales of the farm stand have been grown on said farm. (Chapter 125: Zoning, Article XIII: Definitions)

ALTER - To change, move or disturb any vegetation, soil, drainageway or other natural material or system within a wetland or associated buffer area as defined by this chapter. (RTC, Chapter 120: Wetlands)

ALTERATION - As applied to a building or structure, any change, rearrangement, enlargement, addition to or diminution of a building or other structure, whether vertically or horizontally, other than repairs; any modification in construction, or in building equipment, or the moving of a building or structure from one location to another. (Chapter 125: Zoning, Article XIII: Definitions)

APPURTENANCES - Any structures and/or features, such as entrance gates, fences, gazebos, gardens, landscapes, stone walls, hitching posts and signs, which are accessory to the historic building, or the historic buildings, on the property. (RTZC §125-138 Terms used in § 125-62, Historic buildings.)

AQUIFER - A geologic formation or groups of geologic formations that contain saturated, permeable material, such as sand and gravel, limestone or limestone overlaid with sand and gravel, sufficient to yield significant and usable quantities of water to drinking wells and springs. (RTC, Chapter 120: Wetlands)

AQUIFER PROTECTION AREA - The areas identified as such on the Water Resources Protection Overlay (WR-O) District Map based on surveys, analysis and research to accurately delineate the location of an aquifer. (Chapter 125: Zoning, Article XIII: Definitions)

AREA AND BULK REGULATIONS - The combination of controls set forth within Article IV which, in combination with supplemental regulations set forth within Article V and special permit standards set forth within Article VI, establish the minimum area of a lot, the minimum extent of yards and open space areas and the maximum dimension of buildings and other improvements and their location on such lot. This term may also be referred to as "bulk regulations." (Chapter 125: Zoning, Article XIII: Definitions)

ARMY CORPS OF ENGINEERS (ACOE)

ARBORCULTURE - The cultivation of trees and shrubs, including the study of how they grow and respond to cultural practices and the environment, as well as aspects of cultivation such as selection, planting, care and removal. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

ARBORIST - Trained specialist certified by the International Society of Arboriculture or one of its chapters or other nationally recognized arboricultural organizations with expertise in tree management. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

ASSOCIATED BUFFER - A regulated upland area surrounding a wetland, that is intended to provide protection to the wetland from human activity and other encroachments. The associated buffer shall be that area extending a minimum of 100 feet horizontally away from and parallel to the wetland boundary, or in the case of a stream that qualifies as a wetland 100 feet on both sides of the stream. The buffer may extend beyond 100 feet where slopes are steep. The Planning Board may require larger buffers for effective protection and preservation of habitat and water quality pursuant to the standards enumerated in Article 24-0701.2 of the New York State Freshwater Wetlands Act and 6 NYCRR Part 664.7. Such an extension of the associated buffer shall be in relation to the nature and importance of the wetland's benefits and the fragility and vulnerability of the wetland and its benefits and shall be made only after the Planning Board has made a written finding of the necessity of such a larger buffer. (RTC, Chapter 120: Wetlands)

B

BERM - A mound of earth with sloping sides that is located between areas of approximately the same elevation and typically intended for one or a combination of the following functions: creating a noise barrier; separating areas of conflicting uses; screening undesirable views; creating a private area; directing drainage; providing wind protection; or enhancing a landscape design. (Chapter 125: Zoning, Article XIII: Definitions)

BIODIVERSITY - "Biodiversity" describes the variety of life and its processes. The term refers to all the variation in nature, including ecosystems, biological communities, species and their genes. It also refers to the interactions of organisms with each other, and with the non-biological

components of their environments such as soil, water, air and sunlight. Habitats with a high species richness (i.e., number of species) and habitats with low species richness may be equally important to overall biodiversity. (RTC – Article III, §101-3 Definitions)

BOUNDARY OF A WETLAND - The outer limit of a regulated area characterized by wetland soils, wetland hydrology, and wetland vegetation as defined herein under "wetland/freshwater wetland." (RTC, Chapter 120: Wetlands)

BUFFER - A strip of land established and suitably developed with fencing and/or berms or natural vegetation to visually separate one use from another and to shield or block noise, light or other nuisances. The term "buffer" or "screen" also applies, when used throughout this chapter, to the act of establishing and maintaining a buffer as defined herein. Buffers may also apply to protected wetland areas. See the Town of Rhinebeck Freshwater Wetlands Law for the definition of "associated buffer." (Chapter 125: Zoning, Article XIII: Definitions)

BUILDING LINE - The line established by law, ordinance, or regulation beyond which no part of a building, other than parts expressly excepted, may extend. (Chapter 125: Zoning, Article XIII: Definitions)

BUILDING LINE, FRONT - A line generally parallel to the street or road beyond which the front of a building may not project into the required front yard as specified for the district in which the lot is situated. The front yard setback begins where the minimum lot width is achieved. (Chapter 125: Zoning, Article XIII: Definitions)

C

CALIPER - The diameter of a tree trunk, taken six inches aboveground for up to and including four-inch caliper size, and the diameter at breast height for larger trees. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

CANOPY COVER - A measurement of projection of the total crown size that a tree or trees in a specified area will attain at maturity. (Rhinebeck Village Codes: § 106-2. Definitions (Trees))

CERTIFICATE OF ECONOMIC HARDSHIP - A certificate issued by the Planning Board authorizing removal or demolition of an historic building, or portion thereof, even though a certificate of removal or demolition has previously been denied. (§ 125-138 Terms used in § 125-62, Historic buildings.)

CERTIFICATE OF REMOVAL OR DEMOLITION - A certificate issued by the Planning Board indicating its approval of plans for removal or demolition of an historic building, or portion thereof. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

CLEAR-CUTTING - The indiscriminate removal of all or most trees, regardless of size or maturity, for a purpose other than development. This definition shall not include the selective

removal of tree species according to a forest management plan consistent with § 480-a of the New York State Real Property Tax Law or the New York State Timber Harvesting Guidelines or the New York State Cooperating Forester Program, and in accordance with environmentally sound and sustainable silvicultural principles; removal of dead trees; or removal of trees in accordance with a subdivision plat or site plan approved by the Town of Rhinebeck Planning Board. (RTC, Chapter 120: Wetlands) (§ 120-15B {6})

COASTAL AREA - That portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Rhinebeck, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town of Rhinebeck Local Waterfront Revitalization Program (LWRP). (RTC, Chapter 118: Waterfront Consistency Review)

COASTAL ASSESSMENT FORM (CAF) - The form, a sample of which is appended to this chapter, used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program. (RTC, Chapter 118: Waterfront Consistency Review)

COMPREHENSIVE PLAN - The official Town Board adopted document that provides a consistent policy direction to guide the immediate and long-range protection, enhancement, and development of the Town of Rhinebeck. As described in § 272-a of the New York State Town Law, the Comprehensive Plan consists of materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports, elements, appendices, and other descriptive material. Such materials identify goals, objectives, principles, guidelines, policies, standards, devices and instruments for the unincorporated area of the Town outside the Village of Rhinebeck. The Town of Rhinebeck Comprehensive Plan may also be referred to as either the "The Rhinebeck Plan," the "Town Plan" or the "Town Comprehensive Plan." (RTC – Article III, §101-3 Definitions)

CONSERVANCY LOT - A large, privately owned lot comprising part of an area of open land as prescribed by Article V, § 125-43, of this chapter. The purpose of the conservancy lot is to provide surrounding residents with visual access to open protected space, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be permanently protected through conservation easements and used in conformance with standards for protected open space. Public access to conservancy lots is not required. (Chapter 125: Zoning, Article XIII: Definitions)

CONSERVATION AREA - Land left in its natural and essentially undeveloped state, including vegetation and terrain, for the purpose of preserving habitats for plants and animals, scenic views, open space, aesthetic appreciation, passive recreation and other conservation purposes. (Chapter 125: Zoning, Article XIII: Definitions)

CONSERVATION EASEMENT - A legal agreement in the form of an easement, covenant, restriction or other interest in real property created under and subject to the provisions of Article 49, Title 3, of the Environmental Conservation Law, held by a local land trust and filed at the Dutchess County Clerk's office, which limits or restricts the development, management or use of such real property in perpetuity for the purpose of preserving or maintaining the scenic,

agricultural, open, historic, recreational, archaeological, architectural or natural condition, character, significance or amenities of the property. (RTC – Article III, §101-3 Definitions)

CONSERVATION SUBDIVISION - A subdivision which is designed in accordance with the provisions of Article V, § 125-43, of this chapter and which is specifically intended to conserve significant features of the natural and cultural landscape, and which achieves this result through flexibility in lot areas, depths and widths and dimensions and permanent designation of protected open space. (Chapter 125: Zoning, Article XIII: Definitions) Conservation subdivision is a more flexible approach to land development than conventional subdivision. It is intended as an alternative to conventional subdivision's rigid and sprawling pattern of suburban development that occurs when lots and dwelling units are laid out in a uniform pattern over the landscape, generally with little regard for valued natural, cultural and scenic resources. (§125-43 RTZC)

CONVENTIONAL SUBDIVISION - A subdivision in which lots are laid out in accordance with the basic dimensional standards of the district in which the property is located, as set forth in the Schedule of Area and Bulk Regulations,¹⁶¹ and for which a special use permit and site plan approval are required pursuant to Articles VI and VII of this chapter. (Chapter 125: Zoning, Article XIII: Definitions)

CONSISTENT - That the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them. (RTC. Chapter 118: Waterfront Consistency Review)

CONTRIBUTING BUILDING - Any building, including residential, commercial, public, institutional and agricultural structures, having one or more of the following characteristics: (1) designated as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District; (2) included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Register Historic Districts; (3) listed as individual buildings, or building complexes, on the National Register of Historic Places; (4) designated as a "local landmark" by the Town of Rhinebeck; all of which are referred to in Article V, § 125-62, as a "historic building" or "historic buildings." The term "contributing building" shall also apply to any building, or any other structure, that in the future is designated and included as an individual building, or building complex, or a contributing building within a district on the National and/or State Register of Historic Places and/or designated as a local landmark by the Town of Rhinebeck. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

CONVERSION - A change in use or occupancy of a building, generally by alteration or by other reorganization. (Chapter 125: Zoning, Article XIII: Definitions)

COUNTRY INN - A building or group of buildings which provides commercial hospitality lodgings and which shall include residential accommodation for the owner or caretaker. The Zoning Law permits, subject to issuance of a special use permit, a **Country Inn 1** and **Country Inn 2** as described more fully in Article VI, § 125-68LL and MM, of this chapter. (Chapter 125: Zoning, Article XIII: Definitions)

Article VI, § 125-68LL. Country Inn 1, provided:

- (1) A minimum lot area of 20 contiguous acres is required for a Country Inn 1.
- (2) The minimum number of guest rooms in a Country Inn 1 shall be six, and the maximum number of guest rooms in a Country Inn 1 shall be 12.
- (3) Accessory recreational uses may include tennis, riding stables, swimming pool, hiking trails, Par 3 golf, cross-country skiing and similar low-impact facilities, such recreational facilities limited to guests of the country inn.
- (4) Access to a Country Inn 1 shall be from a state, county or through Town road.

Article VI, § 125-68MM. Country Inn 2, provided:

- (1) A Country Inn 2 provides commercial hospitality lodgings in spacious settings that are principally intended for vacationing, relaxation, and conference activities. Permitted are lodging accommodations such as hotels and guest, golf or family cottages or lodges with commonly incidental recreation-oriented uses, including spa facilities, horseback riding facilities, and hiking, swimming, tennis and other similar outdoor activities. The provision of hiking trails, that provide opportunities for public use, shall be incorporated into the overall plan for the Country Inn 2 to the greatest extent practicable. Extended vacation and recreation-oriented use, membership club(s) and lodging programs shall be allowed, but in no event shall a lodging unit be used as a primary residence.
- (2) Facilities that may be contained within the Country Inn 2, in addition to lodging units, include but are not limited to a restaurant, library, reception facilities, conservatories, health spa, banquet facility, child care to accommodate guests, game rooms, athletic facilities, business and/or meeting rooms, retail sales incidental to the uses provided, and the various support functions such as laundries, kitchens and administrative offices.
- (3) Accessory buildings may include but are not limited to stables, barns, retreat buildings, clubhouses, athletic-related structures to support permitted outdoor activities and maintenance structures. Temporary and/or seasonal structures for events require Planning Board approval.
- (4) **The maximum number of lodging units is 100.** Applicants proposing adaptive reuse and/or rehabilitation of structures listed on the National Register of Historic Places may be eligible for a bonus of up to 10% in the number of lodging units, provided such adaptive reuse and/or rehabilitation complies with Article V, § 125-62G, of this chapter.
- (5) Primary access shall be from a state highway. Alternative transportation methods shall be considered to minimize potential traffic impacts.

(6) A minimum lot area of 250 gross acres is required for a Country Inn 2. When an applicant proposes a Country Inn 2 development on a parcel or combined parcels of land in excess of 250 acres, the applicant shall retain the right to develop that portion of the property in excess of 250 acres which is not dedicated to, or used in conjunction with, the Country Inn 2 development, for other uses permitted, or specially permitted in the Zoning Law provided:

(a) The additional development is not incompatible with the Country Inn 2 development.

(7) A public, private or semi-private golf course is allowed as accessory to a Country Inn 2 by issuance of an additional special use permit, provided the golf course meets the additional special use permit conditions in Subsection **OO** herein, but excluding the additional acreage required for the golf course.

(8) No building or parking area associated with the outdoor recreational use shall be located closer than 100 feet to any property line or within 250 feet of any existing neighboring residence. Any such building or parking area shall be effectively screened by intervening an landform or natural vegetation from all neighboring properties and public rights-of-way.

(9) Specific plans for public address systems and/or lighting for outdoor recreational facilities shall be submitted to and approved by the Planning Board, which approval must be preceded by a clear demonstration by the facility owner and/or operator that the features are both essential and will create no adverse effect on neighboring residential properties. Such facilities shall comply with the Town's lighting and noise regulations found in Article **V**, §§ **125-56** and **125-58**.

(10) No facility for active recreational use shall be located within 250 feet of any property line.

(11) No single new building constructed in connection with an outdoor recreational use or facility authorized under this subsection shall exceed 5,000 square feet of gross floor area. The square footage of the clubhouse shall be determined to meet the required needs and services of the Country Inn 2, and shall be designed to be sensitive to the overall site. Any buildings used for agricultural activities in connection with the Country Inn 2, such as barns or stables, shall be exempt from the 5,000 square foot limitation.

(12) Except as may be further restricted by the Planning Board in its consideration of a specific application for a special use permit, hours of operation for any outdoor recreational use or facility authorized under this subsection shall be limited to the period 7:00 a.m. through 9:00 p.m. daily.

(13) The following objectives shall be satisfied:

(a) The exterior of existing dwellings, barns and related structures, if applicable, shall be restored whenever feasible. Consideration shall be given to quality of original

architecture and subsequent modifications, current condition and relationship of the structures to the overall property or area when considering the feasibility of restoration.

(b) Existing formal and informal landscaping, stone wall and entrance gates shall be restored whenever feasible.

(c) New construction shall be sited so as to have a minimum impact on the natural environment. Unique natural areas and open spaces such as streams, ponds, wetlands, steeply sloped areas, woodlands, and other sensitive environments shall be preserved to the greatest extent practicable. Where preservation is not practicable, appropriate mitigation measures shall be used to avoid or reduce impacts on such natural resources, as required by SEQRA. Where preservation is practicable, an open space plan shall be prepared by the applicant and approved by the Planning Board, that demonstrates how such open space areas and other lands will be preserved. Open space areas shall be permanently preserved by a conservation easement, in accordance with the requirements set forth in Article V, § 125-43L, of this chapter.

(e) The development shall be found to be in harmony with the objectives of the Town Comprehensive Plan and the Local Waterfront Revitalization Program.

COVERAGE, LOT - That percentage of the plot or lot area covered by the composite building area or extended to the ground plane of all principal and accessory buildings or structures, roads, parking lots and parking areas and all other impervious surfaces as defined herein. (Chapter 125: Zoning, Article XIII: Definitions)

CRITICAL ENVIRONMENTAL AREA (CEA) - Local agencies may designate specific geographic areas within their boundaries as "Critical Environmental Areas" (CEAs). To be designated as a CEA, an area must have an exceptional or unique character with respect to one or more of the following:

- * a benefit or threat to human health;
- * a natural setting (e.g., fish and wildlife habitat, forest and vegetation, open space and areas of important aesthetic or scenic quality);
- * agricultural, social, cultural, historic, archaeological, recreational, or educational values; or
- * an inherent ecological, geological or hydrological sensitivity to change that may be adversely affected by any change.

Following designation, the potential impact of any Type I or Unlisted Action on the environmental characteristics of the CEA is a relevant area of environmental concern and must be evaluated in the determination of significance prepared pursuant to Section 617.7 of SEQRA.

CROWN - All portions of a tree, excluding the trunk and roots, such as branches and foliage. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

D

DAMS AND WATER CONTROL MEASURES AND DEVICES - Barriers which regulate or obstruct the flow of water or raise, lower or maintain the level of water in ponds, lakes, natural drainage systems and wetlands. (RTC, Chapter 120: Wetlands)

DEMOLITION - Any act or process that destroys an historic building or portion thereof. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

DEMOLITION PERMIT - A type of building permit issued by the Town Zoning Enforcement Officer pursuant to § **125-106** of this chapter, which is required before an historic building is removed or demolished. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

DENSITY - The ratio of land area per dwelling unit on a lot. (Chapter 125: Zoning, Article XIII: Definitions)

A. GROSS DENSITY - The ratio of dwelling units to the land area of the total lot.

B. NET DENSITY - The ratio of dwelling units to the land area of the lot after subtracting nonbuildable areas, including one-hundred-year floodplains, wetlands, regulated wetland buffers, ponds, streams, and steep slopes over 25% gradient.

DEPOSIT - The act of filling, grading, discharging, emitting, dumping, or the placement of any material, but not including stormwater. (RTC, Chapter 120: Wetlands)

DEVELOPMENT - Any activity other than conservation, agriculture conducted in a manner consistent with sound agricultural practices as determined by the New York State Department of Agriculture and Markets, or forestry conducted in a manner consistent with the Timber Harvesting Guidelines and best management practices as published by the New York State Department of Environmental Conservation, which materially affects the existing condition of land or improvements, including, but not limited to: (Chapter 125: Zoning, Article XIII: Definitions)

A. Removal of trees or other natural vegetative cover;

B. Substantial excavation or deposit of earth or other fill, including alteration of the banks of any stream or body of water;

C. Construction, reconstruction, alteration or demolition of any building, structure or other improvement;

D. Dumping or parking of any object or material, whether mobile, liquid or solid;

E. Commencement of any use of the land and improvements thereto and any change in the type or intensity of such use; and

F. Commencement or change in type or intensity of any noise, light, smoke or other emission, in contravention of the general performance standards .

DBH (diameter at breast height) – The diameter or caliper of a tree trunk at the height of 4 1/2 feet aboveground. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

DISCHARGE - The emission of any water, substance or material into a wetland or its associated buffer, whether or not such substance causes pollution. (RTC, Chapter 120: Wetlands)

DOMINANT(S) or DOMINANCE - A dominant species is either the dominant plant species (i.e., the only species dominating a vegetative unit) or a co-dominant species (i.e., when two or more species dominate a vegetative unit). The measures of spatial extent are percent area cover for all vegetation units other than trees and basal area for trees. In this chapter, "dominance" refers to the spatial extent of a vegetative species because spatial extent is directly measurable or discernible in the field. (RTC, Chapter 120: Wetlands)

DRAIN - To deplete or empty of water by drawing off by degrees or in increments. (RTC, Chapter 120: Wetlands)

DREDGE - To excavate or remove sediment, sand, soil, mud, shells, gravel or other aggregate from a wetland or watercourse. (RTC, Chapter 120: Wetlands)

DWELLING - A building designed or used principally as the living quarters for one or more families. (Chapter 125: Zoning, Article XIII: Definitions)

DWELLING, MULTIFAMILY - A building containing separate living units for three or more families, including apartment buildings, townhouses, and row houses, regardless of the form of ownership (condominium, fee simple, rental). (Chapter 125: Zoning, Article XIII: Definitions)

DWELLING, ONE-FAMILY - A detached building containing one dwelling unit only. (Chapter 125: Zoning, Article XIII: Definitions)

DWELLING, TWO-FAMILY - A detached or semidetached building containing two dwelling units only. (Chapter 125: Zoning, Article XIII: Definitions)

DWELLING UNIT - A building, or entirely self-contained portion thereof, containing complete housekeeping facilities for one family. A dormitory, hotel, motel, country inn, nursing home, fraternity, sorority or other similar building shall not be deemed to constitute a dwelling unit. (Chapter 125: Zoning, Article XIII: Definitions)

DWELLING UNIT, ACCESSORY - A separate and complete dwelling unit that is contained within the structure of a single-family dwelling or in a building or structure accessory to a single-family dwelling. (Chapter 125: Zoning, Article XIII: Definitions)

E

EASEMENT – An acquired right of use on the property of another, for a specified purpose on a designated part of that property. (RTC – Article III, §101-3 Definitions)

ENVIRONMENT - All conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the coastal area. (RTC - § 118-3. Definitions)

ENVIRONMENTAL ASSESSMENT FORM (EAF) - Environmental Assessment Form, either short- or long-form, for the review of potential environmental impacts under the New York State Environmental Quality Review Act. (RTC – Article III, §101-3 Definitions)

ENVIRONMENTAL CONSERVATION LAW – The Environmental Conservation Law of the State of New York, Chapter 43-B of the Consolidated Laws. (RTC – Article III, §101-3 Definitions)

ENVIRONMENTAL IMPACT STATEMENT (EIS) Draft EIS (DEIS) and Final EIS (FEIS) - An Environmental Impact Statement (EIS) concisely describes and analyzes a proposed action which may have a significant **impact** on the environment. (NYSDEC)

ENVIRONMENTAL PERFORMANCE STANDARDS - Regulations for the control of dangerous or objectionable uses having potential adverse impacts as described for nonresidential and nonagricultural uses in Article V, § 125-35, of this chapter. (Chapter 125: Zoning, Article XIII: Definitions)

EXCAVATE - To dig out, move, or remove any material either by hand or machine. (RTC, Chapter 120: Wetlands)

EXCAVATION, MAJOR - Removal, replacement or recontouring of earth materials meeting one or more of the following criteria. No use or activity classified as a "major excavation" may be so intensive as to constitute either an "extractive operation" or "soil mining" as defined under this chapter. (Chapter 125: Zoning, Article XIII: Definitions)

- A. Involving more than 200 cubic yards of material; or
- B. Affecting more than 10,000 square feet of land area; or
- C. The changing of existing drainage patterns affecting neighboring properties.

EXCAVATION, MINOR - Removal, replacement or recontouring of earth materials meeting all of the following criteria:

- A. Involving less than 200 cubic yards of material; and
- B. Affecting less than 10,000 square feet of land area; and
- C. Which will not affect the character or pattern of drainage to neighboring properties.

F

FACULTATIVE SPECIES - Vegetative species that can occur in both wetland and upland systems. There are three subcategories of facultative species: facultative wetland (FACW), facultative (FAC), and facultative upland (FACU). Under natural conditions a facultative wetland species is usually (estimated probability 67% to 99%) found in wetlands, but occasionally in

uplands. A facultative species has a similar likelihood (estimated probability of 34% to 66%) of occurring in both wetlands and uplands. The facultative upland species is usually (estimated probability 67% to 99%) found in uplands, but occasionally in wetlands. Facultative species for the Northeast are listed in the National List of Plant Species that Occur in Wetlands, New York State (1988), or as amended and updated. (RTC, Chapter 120: Wetlands)

FLAGGING - Placement of visible markers at the wetland boundary, which, upon Town verification by the Town of Rhinebeck, may be located in the field and transferred by a licensed land surveyor onto a survey, or a proposed subdivision plan, site plan or other development project map. (RTC, Chapter 120: Wetlands)

FLOOD OR FLOODING (RTC, Chapter 73: Flood Damage Prevention, Article II: Terminology)

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) above.

FLOODPLAIN or FLOOD-PRONE AREAS - A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded. (Chapter 125: Zoning, Article XIII: Definitions)

FORESTRY - Sustainable forest management for the production of goods to meet the needs and desires of landowners and that serves the public good, both for present and future generations. Forestry is further defined as the maintenance of property in an undeveloped state that currently contains trees of any size, or is suitable for the growing of trees. Forest uses may include conservation of wildlife habitat, provision of outdoor recreation, production of timber and forest crops, protection of water quality, regulation of water flows, conservation of soil, carbon sequestration and protection of aesthetic qualities. (Chapter 125: Zoning, Article XIII: Definitions)

G

GENERALLY ACCEPTED AGRICULTURAL AND FARM MANAGEMENT PRACTICES - Those activities and practices including but not limited to business and administrative activities related to the operation of a farm; operation of farm equipment; production, preservation, processing and marketing of farm products; proper use of legal agricultural chemicals and other crop protection methods; and construction, maintenance, repair

and use of farm structures, including such buildings used to store farm equipment and to store and/or process farm products; and such other improvements that are necessary to the operation of the farm. Said practices are those that either have been or would be determined sound agricultural practices by the New York State Commissioner of Agriculture and Markets upon application of the guidelines recommended for the Commissioner's use by the NYS Advisory Council on Agriculture, including but not limited to 1) the practice should be legal 2) the practice should not cause bodily harm or damage property off the farm; 3) the practice should achieve the results intended in a reasonable and supportable way; and 4) the practice should be necessary. (Chapter 125: Zoning, Article XIII: Definitions)

GRADE, FINISHED - The elevation at which the finished surface of the surrounding lot, either naturally occurring or upon completion of any change in contour, intersects the walls and supports of a structure. (Chapter 125: Zoning, Article XIII: Definitions)

GRADING - Excavation or fill of material, including the resulting conditions thereof. (Chapter 125: Zoning, Article XIII: Definitions)

H

HABITAT DESTRUCTION - "Habitat destruction" is defined as the loss of fish or wild life use through direct physical alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

"Significant impairment" is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include, but are not limited to, reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality. (Policy 7, Town of Rhinebeck LWRP.)

HABITAT IMPAIRMENT TEST - A "habitat impairment test" must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area. (Policy 7, Town of Rhinebeck LWRP.)

HAZARDOUS MATERIAL - Material that may pose a present or potential hazard to human health or the environment when improperly stored, transported or disposed of or otherwise managed, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and related implementing regulations. (Chapter 125: Zoning, Article XIII: Definitions)

HAZARDOUS TREE – Any tree which constitutes a public nuisance by virtue of having an infectious disease or insect problem, being dead or dying, having limbs that obstruct street lights,

traffic lights, etc., or a tree that poses a threat to public safety from falling limbs. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

HERITAGE TREE – A tree identified by inventory, or other study of the Village Tree Commission, which has certain unique or noteworthy characteristics or values to make that tree deserving of special protection under this chapter. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

HISTORIC BUILDING

A. Any building having one or more of the following characteristics:

- (1) Designated as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District.
- (2) Included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Register Historic Districts.
- (3) Listed as individual buildings, or building complexes, on the National Register of Historic Places.
- (4) Designated as a "local landmark" by the Town of Rhinebeck.

B. The term "historic building" shall also apply to any building that in the future may be included on the National and/or State Register of Historic Places and/or designated as a local landmark by the Town of Rhinebeck. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

HISTORIC AND CULTURAL RESOURCES – Buildings or other structures, objects, landscapes, archaeological resources, or sites listed or eligible for listing on the State or National Registers of Historic Places or locally designated as an historic or cultural resource by the Town Board. (RTC – Article III, §101-3 Definitions)

HISTORIC STRUCTURE – (RTC, Chapter 73: Flood Damage Prevention, Article II: Terminology) Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

HUDSONIA - Hudsonia Ltd., founded in 1981, is a not-for-profit institute for research, education, and technical assistance in the environmental sciences. Hudsonia professionals make the most of available information and original data to help other professionals and the public make the best decisions regarding our environment and natural resources. Hudsonia is a non-advocacy, public interest organization and does not support or oppose development proposals or projects, but works for better conservation and management of the environment. The scientists, applying long experience in regional ecology and natural history, collect and analyze data and recommend measures to reduce or mitigate impacts of land development on the local environment. Hudsonia is located on the Bard College campus at Annandale, NY.

HYDROPERIOD - The seasonal pattern of water level fluctuations in a wetland. (RTC, Chapter 120: Wetlands)

I

IMPERVIOUS SURFACE - Any artificial structure that cannot effectively infiltrate rainfall, snowmelt and water, which replaces naturally pervious soil with impervious construction materials such as roofed or other solid structures or materials covering the ground, including but not limited to concrete, oil and stone, tar or asphalt pavement, or compacted soil or gravel. Regardless of the construction materials used, any area which is used for driveway or parking purposes, including disturbed grass, ground cover, or dirt, shall be considered an impervious surface. (Chapter 125: Zoning, Article XIII: Definitions)

IMPROVEMENTS – A physical change to the land or installation of certain services necessary to produce usable lots or sites from raw acreage, including, but not limited to, water and sewer facilities, recreation and open space areas, grading, pavement, curbs, gutters, stormwater management facilities, sidewalks and other pedestrian ways, bicycle paths, lanes or routes, street signs, shade trees, sodding or seeding, buffer plantings and monuments, and lighting, whether such improvement is intended to be dedicated and maintained by the public, or held in private ownership. (RTC – Article III, §101-3 Definitions)

INVASIVE SPECIES - Invasive species means a species that is non-native to the ecosystem under consideration; and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. (NYS DEC)

J

JUNKYARD, MOTOR VEHICLE - An area of land, with or without buildings, used for or occupied by a deposit, collection, or storage outside a completely enclosed building of used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, savage, sale, or other use or disposition of the same. A deposit, collection, or storage on a lot of two or more vehicles no longer in condition for legal use on the public highways, i.e., registered and inspected, or parts thereof for one month or more in a residential district or three months or more in any nonresidential district shall constitute a motor vehicle junkyard. (Chapter 125: Zoning, Article XIII: Definitions)

L

LAND PROTECTION AGREEMENT - An imposition on lands by deed restriction or, preferably, by conservation easement pursuant to Article 49 of the New York State Environmental Conservation Law, to preserve the environmental, ecological, biological, hydrological, or other functional values of regulated areas. Such a restriction shall run with the land and bind subsequent landowners, and be documented on a survey map or plan, which shall be in such form as is adequate to provide notice of the restriction as approved by the Planning Board Attorney, and which shall be recorded in the office of the Dutchess County Clerk. A conservation restriction does not require a dedication of lands for public use, and the owners of the property, their successors and assigns otherwise retain their rights to full use and quiet enjoyment of their property. (RTC, Chapter 120: Wetlands)

LEAD AGENCY – The agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement (EIS) is required in connection with the action, and for the preparation and filing the statement if one is required.

LOCAL LANDMARK - Any building designated as a "local landmark" by the Town Board and referred to in this chapter as an "historic building." (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

LOCAL WATERFRONT REVITALIZATION AREA or **LWRA** - That area within the Town of Rhinebeck, the boundary of which was established upon local adoption and state approval of the Town's Local Waterfront Revitalization Program (LWRP), and within which all permits, approvals and other actions by Town, county, state and federal agencies require consideration for their consistency with pertinent coastal policies set forth within the LWRP; may be cited as "LWRA." (Chapter 125: Zoning, Article XIII: Definitions)

LOCAL WATERFRONT REVITALIZATION PROGRAM or **LWRP** - The Local Waterfront Revitalization Program of the Town of Rhinebeck, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the office of the Clerk of the Town of Rhinebeck. (RTC. Chapter 118: Waterfront Consistency Review)

LOT - A parcel of land having defined boundaries and considered as a unit, devoted to or intended to be devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including customary accessory structures, uses, open spaces and yards, which parcel shall have frontage on a street, or on such other means of access as may be deemed sufficient in accordance with the applicable provisions of § 280-a of the Town Law to provide suitable access as a condition precedent to the issuance of a building permit. (Chapter 125: Zoning, Article XIII: Definitions)

LOT AREA - The total land area of a lot within the property lines excluding any area devoted to external streets, e.g., in the case of a user highway. (Chapter 125: Zoning, Article XIII: Definitions)

LOT, CORNER - A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135°. The point of intersection of the street right-of-way lines is the "corner." (Chapter 125: Zoning, Article XIII: Definitions)

LOT COVERAGE - See "coverage, lot." (Chapter 125: Zoning, Article XIII: Definitions)

LOT DEPTH - The horizontal distance from the street line of a lot to the rear lot line of such lot, measured along the median between the two side lines. (Chapter 125: Zoning, Article XIII: Definitions)

LOT, FLAG - A lot with less than the minimum required lot frontage which generally consists of a narrow accessway or the "flagpole," leading to the buildable rear portion of the lot or the "flag." (Chapter 125: Zoning, Article XIII: Definitions)

LOT FRONTAGE - That side of a lot measured along the right-of-way of any dedicated Town, county or New York State highway, along a line 24.75 feet from the center line of any user highway or along any private road created pursuant to § 280-a of the New York State Town Law. For purposes of this chapter, the width of any lot shall not be less than its frontage throughout its entire depth leading to the buildable portion of the lot, i.e., that portion of the lot with at least the minimum prescribed lot width. A corner lot shall be considered to have two such frontages. (Chapter 125: Zoning, Article XIII: Definitions)

LOT, INTERIOR - Any lot other than a corner lot. (Chapter 125: Zoning, Article XIII: Definitions)

LOT LINE - The line dividing one lot from another, or from a street or other public space. (Chapter 125: Zoning, Article XIII: Definitions)

LOT OF RECORD - A legally existing lot at the time of adoption of this chapter on December 29, 2009, duly filed and recorded in the Dutchess County Clerk's office as either an individual parcel of land or part of an approved subdivision, in accordance with the Town's Land Subdivision Regulations and applicable provisions of Town Law. (Chapter 125: Zoning, Article XIII: Definitions)

LOT, THROUGH - An interior lot having frontage on two parallel, or approximately parallel, streets. (Chapter 125: Zoning, Article XIII: Definitions)

LOT WIDTH - The minimum horizontal distance between the side lot lines measured at right angles to the lot depth along the rear line of the required front yard (i.e., at the minimum front setback) as established within the District Schedule of Area and Bulk Regulations. (Chapter 125: Zoning, Article XIII: Definitions)

M

MINOR ACTIONS - Include the following actions, which are not subject to review under this chapter: (RTC - § 118-3. Definitions)

- A.** Maintenance or repair involving no substantial changes in an existing structure or facility;
- B.** Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- E.** Maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within significant coastal fish and wildlife habitat areas;
- F.** Granting of individual setback and lot-line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- G.** Minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- H.** Installation of traffic-control devices on existing streets, roads and highways;
- I.** Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- J.** Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- K.** Official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code.

L. Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

M. Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;

P. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

U. Adoption of a moratorium on land development or construction;

V. Interpreting an existing code, rule or regulation;

W. Designation of local landmarks or their inclusion within historic districts;

X. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance practicable under the circumstances to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this chapter.

MITIGATION PLAN - The plan prepared by an applicant for a wetlands permit to compensate for the proposed wetland and wetland buffer impacts pursuant to the standards and requirements of this chapter and SEQR. (RTC, Chapter 120: Wetlands)

MIXED-USE - A building containing both residential and commercial floor space conceived and designed as a single environment in which both commercial and residential amenities are provided. (Chapter 125: Zoning, Article XIII: Definitions)

N

NONCOMPLYING BUILDING OR STRUCTURE - A legal existing building or structure which does not conform to the applicable district regulations under either the District Schedule of Area and Bulk Regulations and/or supplementary regulations for minimum lot area, width or depth; minimum front, rear or side yard; maximum height; maximum principal and/or aggregate accessory structure coverage; parking requirements; or density after the adoption on December 29, 2009, or subsequent amendment of this chapter. This condition may also be cited as "noncomplying bulk." (Chapter 125: Zoning, Article XIII: Definitions)

NONCONFORMING USE - A legal existing use of a building or land which does not conform to the applicable use regulations set forth within the District Schedule of Use Regulations for the zoning district in which the use is located after the adoption on December 29, 2009, or subsequent amendment of this chapter. (Chapter 125: Zoning, Article XIII: Definitions)

NONCONTRIBUTING BUILDING - Any building neither identified as a "contributing building" within the National Register Hudson River National Historic Landmark District and its predecessor Sixteen Mile District, included within the Evangelical Lutheran Church of St. Peter, Grasmere and Rock Ledge National Historic Districts, nor either listed as an individual building, or part of a building complex, on the National Register of Historic Places, and/or designated as a "local landmark" by the Town of Rhinebeck. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

O

OBLIGATE UPLAND SPECIES - Plant species that, under natural conditions, always occur in uplands (i.e., 99% of the time). (RTC, Chapter 120: Wetlands)

OBLIGATE WETLAND SPECIES (RTC, Chapter 120: Wetlands)

(1) Plant species that, under natural conditions, always occur in wetlands (i.e., greater than 99% of the time); and/or

(2) Animal species that depend on vernal pools for successful breeding.

OCCUPIED SPACE - An area, enclosed or covered, providing a ceiling height of seven feet zero inch or more, intended for normal use by people on an occasional or more frequent basis. Occupied space may include basements, cellars, penthouses, attic space and interior balconies or mezzanines if the space is intended for use or habitation. (Chapter 125: Zoning, Article XIII: Definitions)

OPEN SPACE - That lot area of a lot which shall, in accordance with the requirements of this chapter, be properly maintained with a combination of natural, not artificial, lawn, shrubs, trees and other plant material and related ground covers and which may be protected by conservation easement or other means. (Chapter 125: Zoning, Article XIII: Definitions)

P

PARTIAL or PORTION THEREOF - As applied to either of the terms "demolition" or "removal," a change in exterior building mass involving any modification in either roofline or any reduction in building footprint. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

PERMITTED USE - A specific use noted in Article III, District Schedule of Use Regulations, of this chapter for which land, lots, buildings or structures may be used, occupied or maintained under this chapter as a matter of right and which may be subject to site plan approval. (Chapter 125: Zoning, Article XIII: Definitions)

PERMEABLE PAVEMENT - Permeable pavement can be either asphalt or concrete. As with permeable pavers, water is allowed to pass through voids and infiltrate into the underlying soil. Permeable pavement lacks most of the fine material found in conventional pavements, allowing water to flow through voids in the aggregate. (Chapter 125: Zoning, Attachment 4, schedule A)

PERMEABLE PAVERS - Permeable pavers allow water to seep through regularly interspersed void areas in order to reduce runoff and pollutants. Runoff may be detained in the gravel bed, infiltrated into the underlying soil, or both. By reducing the volume of runoff, permeable pavers help to decrease downstream flooding and the thermal pollution of sensitive waters. (Chapter 125: Zoning, Attachment 4, schedule A)

PHRAGMITES - Non-native Phragmites, also known as common reed, is a perennial, aggressive wetland grass that outcompetes native plants and displaces native animals. Because of its height and its distinctive, fluffy seedheads, Phragmites is easy to spot, even by traveling motorists. Genetic studies have confirmed that there IS a native variety of Phragmites along the Eastern seaboard of the United States. Native Phragmites stands have been found in a few New England marshes. However, native Phragmites has always been a rare, non-invasive species that grows in mixed wetland plant communities. (U.S. Fish & Wildlife Service)

PLAT – The map of a subdivision showing the location, boundaries and proposed ownership of individual properties and associated improvements. (RTC – Article III, §101-3 Definitions)

PRELIMINARY PLAT – The maps, drawings and other data showing the layout of a proposed subdivision, as specified in Article VII, § 101-7.3, of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout and improvements within such proposed subdivision.

PROTECTED OPEN SPACE - That portion of a tract that is set aside in perpetuity for the protection of sensitive natural features, farmland, forests, historic or other cultural features, scenic views, and other unique environmental resources. Protected open space may be accessible to the residents of the subdivision and/or the Town, or it may contain areas of large farm, forestry or conservancy lots which are not accessible to the public and includes open space that is set aside in accordance with Article V, § 125-43. (Chapter 125: Zoning, Article XIII: Definitions)

Q

QUALIFIED EASEMENT HOLDER (RTC – Article III, §101-3 Definitions)

A. A not-for-profit corporation organized, inter alia, for the conservation or preservation of real property and which has the power to acquire interests in real property. Such organization must have qualified as exempt for federal tax purposes pursuant to § 501I(3) of the Internal Revenue Code or any similar successor statutory provision; or

B. The state or a municipal corporation as that term is defined in § 2 of the General Municipal Law.

R

REGULATED ACTIVITY - Those activities to be conducted in wetlands and associated buffers that require a wetlands permit from the Town Planning Board. (RTC, Chapter 120: Wetlands)

REMOVAL - Any relocation of an historic building or portion thereof within its site or to another site. (RTZC § 125-138 Terms used in § 125-62, Historic buildings.)

RESOURCE ANALYSIS - The review and evaluation of the natural, historical and cultural resources on a site, resulting in the identification of resources to be protected and establishing preliminary building envelopes, also known as "potential development areas." (RTC, Article III, §101-3 Definitions)

RESUBDIVISION – Any change in the plat of a subdivision which has previously been filed in the Office of the Dutchess County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or changes the area or any other dimension of any lot shown thereon. A resubdivision shall be considered a subdivision for the purposes of these regulations. (RTC, Article III, §101-3 Definitions)

S

SASS - Scenic Area of Statewide Significance.

SEQR – The New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and the implementing regulations in 6 NYCRR 617. (RTC, Article III, §101-3 Definitions).

When this act was passed in 1975 and amended in July, 2000, it was the Legislature's intention that all (state and local) agencies conduct their affairs with an awareness that they are stewards of air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations. SEQR requires that all state and local government agencies to consider environmental impacts equally with with social and economic factors during the discretionary decision-making.

SETBACK - The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on a lot, except necessary driveways. (Chapter 125: Zoning, Article XIII: Definitions)

SIGHT DISTANCE – The distance an object 18 inches off the pavement (e.g., a tail light) is visible from an eye level 54 inches above pavement (i.e., an average seated driver's eye) measured 10 feet from the edge of the traveled portion of the street or such distance as the Planning Board

deems appropriate. Standards promulgated by the Institute of Transportation Engineers (ITE) or the American Association of State Highway and Transportation Officials (AASHTO) may also be used in calculating sight distance. (RTC, Article III, §101-3 Definitions)

SIGNIFICANTLY - An amount exceeding 20% of the cost of the system or decreasing the efficiency of the solar and/or wind energy system by an amount exceeding 20%, as originally specified and proposed. (RTC §125-47 Solar and wind energy systems)

SITE PLAN - That map or drawing and all related information which together constitute a complete application, submitted for review by the Planning Board in accordance with the requirements and procedures specified in Article VII of this chapter and which shows, among other things, the arrangement, layout and design of the proposed use of a single parcel of land. (Chapter 125: Zoning, Article XIII: Definitions)

SKETCH PLAN – A sketch of a proposed subdivision showing the information required by these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and the objectives of these regulations. A sketch plan shall be drawn to scale but need not have the accuracy of an engineering drawing. (RTC, Article III, §101-3 Definitions)

SOIL MINING - The use of any land for the excavation, extraction or removal of more than 800 cubic yards or 1,000 tons of sand, gravel, clay, stone, loam, humus, topsoil or other earth materials within a period of 12 calendar months for sale or exchange or for use other than on the property from which the material is extracted, such use being a regulated activity under both this chapter and the New York State Mined Land Reclamation Law (see "extractive operation") or which otherwise requires a permit in accordance with the New York State Mined Land Reclamation Law. (Chapter 125: Zoning, Article XIII: Definitions)

SOLAR ENERGY SYSTEM - A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting, or to provide for the collection, storage, conversion, and/or distribution of solar energy for space heating or cooling, water heating, or electricity generation and may be referred to as a "solar collector." (RTC §125-47 Solar and wind energy systems)

SOLID WASTE - Unwanted or discarded material, including solid, liquid, semisolid or contained gaseous material. (Chapter 125: Zoning, Article XIII: Definitions)

SPECIMEN TREE – A healthy tree which has a minimum diameter of 36 inches at four feet aboveground or a minimum crown spread of 15 feet. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

STORMWATER MANAGEMENT AREA - The area for which stormwater has been addressed in a stormwater pollution prevention plan (SWPPP) prepared pursuant to the Environmental Protection Agency's (EPA) and New York State Department of Environmental Conservation's (NYSDEC) Phase II Stormwater Regulations or as amended or updated. (RTC, Chapter 120: Wetlands)

STRUCTURE - A static construction, or assembly, or materials, the use or occupancy of which requires a fixed location on the ground or attachment to an object having such a fixed location. Structures shall include, among others, buildings, stadiums, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, tennis courts, gasoline pumps, billboards, signs, artwork, and mobile dwellings. Structures shall not include utility poles, wire and related equipment. (RTC, Chapter 120: Wetlands)

SUBDIVIDER – Any person, firm, corporation, partnership or association who or which shall lay out, for the purpose of development, sale or lease, any subdivision or part thereof, as defined herein, either for himself, herself, itself or for others.

SUBDIVISION – The division of any parcel of land into two or more lots, plots, sites, or other division of land for the purpose, whether immediate or future, of lot line alteration, transfer of ownership, lease for other than recreation, conservation or agricultural purposes, or building development. Such division shall include lot line adjustments or resubdivision of any parcel of land for which an approved plat has already been filed in the Office of the Dutchess County Clerk. (RTC, Article III, §101-3 Definitions)

A. LOT CONSOLIDATION – A type of minor subdivision effected through alteration of lot lines, in this instance the elimination of one or more lot lines, and resulting in the merger in their entirety of two or more lots as depicted on a filed subdivision plat or otherwise set forth on the Town Real Property Tax Map. The Planning Board may exercise discretion to waive the full subdivision procedures for lot consolidation if deemed appropriate in accordance with Article X of these regulations.

B. LOT LINE ALTERATION – Also known as a “resubdivision,” a type of minor subdivision resulting in any other modification in either the boundary of an existing, legally established lot or in deeded easement providing for driveway access to the lot access which neither results in the creation of any new lot nor creates or increases any noncomplying condition with respect to any area or bulk or other dimensional requirement established by the Town Zoning Law,¹⁶¹ or other regulations administered by the Dutchess County Health Department, the New York State Uniform Fire Prevention and Building Code, or other pertinent law, rule or regulation.

C. MINOR SUBDIVISION – Any subdivision containing not more than four lots, each fronting on an existing street, not involving any new public or private street or road, or the extension of Town or other municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining properties, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Town Zoning Law,¹⁷¹ Freshwater Wetlands Law,¹⁸¹ Local Waterfront Revitalization Program,¹⁹¹ or these regulations.

D. MAJOR SUBDIVISION – Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots, or any

size subdivision requiring any new street or any extension of Town or other municipality's facilities.

E. CONSERVATION SUBDIVISION – A subdivision which is designed in accordance with the provisions of Article V, § 125-43, of the Town of Rhinebeck Zoning Law and which is specifically intended to conserve significant features of the natural and cultural landscape, and which achieves this result through flexibility in lot area and dimensions and permanent designation of protected open space through conservation easements as defined herein.

F. CONVENTIONAL SUBDIVISION – A subdivision in which lots are laid out in accordance with the basic dimensional standards of the zoning district in which the property is located, as set forth in the Schedule of Area and Bulk Regulations,^[10] and for which a special use permit and site plan approval is required pursuant to Articles VI and VII of the Town of Rhinebeck Zoning Law.

SUBDIVISION PLAT or FINAL PLAT – The final maps, drawings and charts on which the subdivider's plan of subdivision, containing all information or detail required by law and by these regulations, is presented to the Planning Board for approval, and which, if approved, shall be submitted to the Dutchess County Clerk for filing or recording in order to complete the subdivision approval process. (RTC , Article III, §101-3 Definitions)

SUBSTANTIAL ALTERATION OR IMPROVEMENT (Chapter 125: Zoning, Article XIII: Definitions)

A. For the purposes of Article VI, § 125-68AAA, of this chapter, "substantial alteration or improvement" shall mean any repair, reconstruction or improvement of a structure, the cost of which exceeds 50% of the full assessed valuation of the structure either:

- (1) Before the improvement or repairs started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

B. Substantial alteration or improvement is considered to occur when the first alteration to any wall, ceiling, floor or other nonstructural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing county or state health, sanitary or safety code specifications which are solely necessary to assure safe and healthful living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places, which is subject to the Town of Rhinebeck Historic Buildings Protection Law.

SUBSTANTIAL IMPROVEMENT (RTC, Chapter 73: Flood Damage Prevention, Article II: Terminology) - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. Substantial improvement also means "cumulative substantial improvement." The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

T

TREE BOX FILTERS - In-ground containers typically containing street trees. These filters can be effective at controlling runoff water quality, especially when numerous units are distributed throughout a site. Runoff is directed to the tree box, where it is filtered by vegetation and soil before entering a catch basin. (Chapter 125: Zoning, Attachment 4, schedule A)

TREE CUTTING – Any removal, breaking, pruning, destruction or injury of any tree covered by the provisions of this chapter. (Rhinebeck Village Codes: § 106-2 Definitions (Trees))

U

USE - The specific purpose for which land, a building or a building group is designed, arranged, intended, or for which it is or may be occupied or maintained. See related definitions of "accessory use," "nonconforming use," "principal use" and "prohibited use." (Chapter 125: Zoning, Article XIII: Definitions)

USE, CHANGE OF - A change of use shall include changes from one use group to another under the Table of Use Regulations^[11] as well as any change within such land use groups; changes to any other use within the same group, such as in the "business and professional office" group, a change from a real estate office to an insurance office is a change of use, 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 store is a change of use. (Chapter 125: Zoning, Article XIII: Definitions)

V

VARIANCE - A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter. (RTC, Chapter 73: Flood Damage Prevention, Article II: Terminology)

VERNAL POOL - A type of wetland as defined herein. In general, vernal pools are seasonal bodies of water that attain maximum depths in spring or fall and lack permanent surface water connections with other wetlands or water bodies. Pools fill with snow melt or runoff in the spring, although some may be fed primarily by groundwater sources. The duration of surface flooding (hydroperiod) varies depending upon the pool and the year; vernal pool hydroperiods range from a continuum of less than 30 days to more than a year. Pools are generally small in size (less than two acres), with the extent of vegetation varying widely. They lack established fish populations, usually as a result of periodic drying, and support communities dominated by animals adapted to living in temporary, fishless pools. Vernal pools provide essential breeding habitat for pool-breeding wildlife such as fairy shrimp, marbled salamander, blue-spotted salamander, Jefferson's salamander, and wood frog. (RTC, Chapter 120: Wetlands)

W

WATERFRONT ADVISORY COMMITTEE (WAC) - A Waterfront Advisory Committee (WAC), as presently constituted in its entirety of all appointed members of the Town's Conservation Advisory Board, has been and will continue to be appointed by the Town Board to make recommendations to the Town Supervisor, the Town Board and other responsible Town agencies involved in the financing, permitting or approval of projects within the Local Waterfront Revitalization Area (LWRA) concerning consistency of actions with the coastal policies. (RTC, §125-5 Local Waterfront Revitalization Program)

WATER BODY - Any natural or artificial pond, lake, reservoir or other surface water area which usually or intermittently contains water and which has a discernible shoreline. RTC, Chapter 120: Wetlands)

WATERSHED - A region of land that drains downgradient to a particular body of water. A watershed has interconnected streams, lakes, wetlands, and underground waters moving generally downhill to the body of water for which the watershed is named. (RTC, Chapter 120: Wetlands)

WETLAND DELINEATION - Wetland delineation consists of methods that are described in detail in Part IV of the Wetland Delineation Manual. These are grouped into two general types. Routine delineation (Part IV, Section D) involves simple, rapidly applied methods that result in sufficient qualitative data for determining a wetland boundary. Comprehensive methods (Part IV, Section E) should be used when the project area is complex and/or when the determination requires rigorous documentation. Use of the comprehensive method will result in maximum information for use in making determinations. Delineation on atypical sites and problem areas, as described in

the Part IV, Sections F and G, shall comply with the delineation methods described in those sections. (RTC, Chapter 120: Wetlands)

WETLAND; FRESHWATER WETLAND (RTC, Chapter 120: Wetlands)

(1) - Wetlands are lands inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, fens, intermittent streams, vernal pools, and shallow water zones of rivers, lakes, ponds and other water bodies. Wetlands have the following environmental characteristics:

(a) Wetland vegetation. The prevalent vegetation is typically adapted to areas having hydrologic and soil conditions described above. Wetland vegetation is present if more than 50% of the dominant species are listed as obligate, facultative wet, or facultative on the USFWS Wetland Plant List (National List of Plant Species that Occur in Wetlands: 1988 National Summary). Additional indicators of vegetation associated with wetlands are listed in Paragraph 35 of the Wetland Delineation Manual.

(b) Wetland soil. Soils are present and have been classified as hydric, or they possess characteristics that are associated with saturated soil conditions. Indicators of these soils are listed in Paragraphs 44 and 45 of the Wetland Delineation Manual.

(c) Wetland hydrology. Wetlands are inundated either permanently or periodically at mean water depths equal to or less than 6.6 feet, or the soil is saturated to the surface at some time during the growing season. Indicators of hydrologic conditions that occur in wetlands are listed in Paragraph 49 of the Wetland Delineation Manual.

(2) This definition is from the Wetland Delineation Manual. Except in certain situations, such as disturbed areas described in the Wetland Delineation Manual, evidence of a minimum of one positive wetland indicator from each parameter (vegetation, soils, and hydrology) must be found in order to make a positive wetland determination.

WETLANDS – New York State Department of Environmental Conservation designated freshwater wetlands and those adjacent upland areas within 100 feet of the delineated wetland; federal wetlands regulated by the U.S. Army Corps of Engineers; and wetlands and the adjacent upland areas within 100 feet of the delineated wetland protected by the Town of Rhinebeck Freshwater Wetlands Law. (RTC – Article III, §101-3 Definitions)

WIND ENERGY SYSTEM - Converts mechanical energy to electricity using a machine called a wind generator, wind turbine, wind power unit (WPU) or wind energy converter (WEC) and may be referred to as a "wind generator." Wind power technology has been around for nearly two millennia and usually involves use of a wind turbine to power a pump or grinding stones, in which case the machine is usually called a "windmill." (RTC §125-47 Solar and wind energy systems)

Z

ZBA – Zoning board of Appeals.

ZEO – Zoning Enforcement officer.

2. Terms used in § 125-37, Sign regulations.

As used principally, if not exclusively, within Article V, § 125-37, Sign regulations, the following terms shall have the meanings indicated:

AWNING - Any nonrigid material such as fabric or flexible plastic that is supported by a frame that is attached to an exterior wall.

AWNING SIGN - Any visual message on an awning.

BACKLIT SIGN - A wall sign or monument sign that is externally lighted by use of a low level of light shining out from behind solid lettering, creating a soft glow around the outside of the letters.

BILLBOARD - An off-premises sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, or service rendered, or commodity sold at a location other than where the sign is located.

CHANGEABLE SIGN - A sign with the capability of content change by means of manual or remote input.

FLAG - Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, or other entity.

FREESTANDING SIGN - Any sign independent of any building but permanently affixed, by any other means, to the ground; included are monument and post-and-arm signs.

HEIGHT - The height of a freestanding sign shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including support structures. Elevation added by artificial beams, mounds or similar forms shall be excluded from the calculation of average grade.

INTERNALLY ILLUMINATED SIGN - A sign lighted by or exposed to artificial lighting that shines through a plastic or other translucent or transparent covering. Neon signs and other similar signs are considered internally illuminated. Internally illuminated signs shall not include backlit signs, as defined herein.

LIGHTING - External light used to illuminate a sign.

MARQUEE - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN - Any sign attached to, in any manner, or made a part of a marquee.

MONUMENT SIGN - A freestanding sign either with a base affixed to the ground or mounted on short poles no greater than two feet high.

NONCOMMERCIAL SIGN - A sign containing copy which does not promote a business, commodity, service, or entertainment.

OFF-PREMISES SIGN - A sign which promotes products, services or activities conducted, sold or offered somewhere other than upon the same premises where the sign is located.

PENNANT - Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PORTABLE SIGN - A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not permanently affixed to the ground, a building, structure or another sign. Included are signs displayed on a parked or moving vehicle or trailer or other vehicle and functioning primarily as a sign. This definition does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

POST-AND-ARM SIGN - A freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which the sign hangs.

POSTER - A sign affixed to trees, other natural vegetation, rocks, or utility poles.

PRIMARY SIGN - An establishment's principal sign, i.e., the sign which identifies the business to passersby.

PRINCIPAL FACADE - The face of a building which contains the primary entrance to the establishment.

PROJECTING SIGN - A sign attached to a building wall or structure that projects horizontally or at a right angle more than nine inches from the face of the building. Such signs shall be securely anchored and shall not swing or move in any manner.

PYLON OR POLE SIGN - A freestanding sign with the base of the actual sign area at least five feet above the ground supported by a vertical pole.

REAL ESTATE SIGN - A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

ROOF SIGN - A sign erected on a roof or extending in height above the main roofline of the building on which the sign is erected.

SECONDARY SIGN - A sign which communicates accessory information, e.g., hours of operation, different products sold.

SETBACK - The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly from the property line.

SIGN - Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out of doors, or on the exterior of any building, including window signs over two square feet in area located within three feet of the window surface and intended to be viewed from the exterior of the building, displaying an advertisement, announcement notice or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall include any declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business or cause when the same is placed in view of the general public.

SIGN AREA - Includes all faces of a sign measured as follows:

- A.** When any sign is framed or outlined, all of the area of the frame or outline shall be included.
- B.** Sign measurement shall be based upon the entire area of the sign with a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural supports if they are not used for advertising purposes.
- C.** The area of a sign consisting of an insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible enclosing the insignia.
- D.** The area of a window sign consisting only of letters and symbols affixed or painted on glass shall be calculated as the smallest polygon or circle possible enclosing all of the letters and symbols.

TEMPORARY SIGN - Any sign that is displayed only for a specified period of time and is not permanently mounted.

WALL SIGN - A sign that is painted on or attached directly to the outside wall of a building, with the face of the sign parallel to the wall and having a visible edge or border extending not more than nine inches from the face of the wall.

WINDOW SIGN - A sign visible from the exterior of the window but affixed or painted on glass or other window material in the interior of the building or structure.

3. Terms used in § 125-68BBB, Communications facilities and towers.

As used principally, if not exclusively, in Article VI, § 125-68BBB, the following terms shall have the meanings indicated:

ADEQUATE CAPACITY - Capacity is considered to be "adequate" if the grade of service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of application, as measured using direct traffic measurement of the communications facility in question, where the cell blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE - Coverage is considered to be "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is greater than -95 dbm. It is acceptable for there to be holes within the area of adequate coverage where the signal is less than -95 dbm, as long as the signal regains its strength to greater than -95 dbm further away from the base station. For the limited purpose of determining whether the use of a repeater is necessary or desirable, there shall be deemed not to be adequate coverage within said holes. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain a strength of greater than -95 dbm.

ANTENNA - A device which is attached to a communications facility or tower and/or other structure for transmitting and receiving electromagnetic waves.

AVAILABLE SPACE - The space on a communications facility or tower or other structure to which antennas of a communications provider are both structurally able and electronically able to be attached.

BASE STATION - The primary sending and receiving site in a wireless communications network. More than one base station and/or more than one variety of communications provider can be located on a single tower or other structure.

CAMOUFLAGED - A communications facility, including a tower, that is disguised, hidden, part of an existing or proposed structure, placed within an existing or proposed structure or completely hidden by surrounding vegetation is considered camouflaged.

COMMUNICATIONS EQUIPMENT SHELTER - A structure located at a base station designed principally to enclose equipment used in connection with a communications provider's transmissions.

COMMUNICATIONS FACILITY - All equipment (including any repeaters) with which a communications provider broadcasts and receives the radiofrequency waves or other signals which carry their services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or other structures owned and permitted by another owner or entity.

COMMUNICATIONS PROVIDER - An entity providing communications services to individuals, businesses, institutions or persons, whether such entity is licensed by the FCC or unlicensed.

DBM - The unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to one milliwatt.

ELECTROMAGNETICALLY CAPABLE - The determination that the new signal from and to the proposed new antennas will not significantly interfere with the existing signals from and to other facilities located on the same communications facility or tower or other structure as determined by a qualified professional telecommunications engineer. The use of available technologies to alleviate such interference shall be considered when making this determination.

EMF - Electromagnetic frequency radiation.

FAA - The Federal Aviation Administration.

FACILITY SITE - A property, or any part thereof, which is owned or leased by one or more communications providers and upon which one or more communications facility(ies) and required landscaping is located; also known as "project site."

FCC - The Federal Communications Commission. The government agency responsible for regulating telecommunications in the United States.

FCC 96-326 - A report and order which sets national standards for levels of radiofrequency emissions from FCC-regulated transmitters.

GHZ - Gigahertz; one billion hertz.

GRADE OF SERVICE - A measure of the percentage of calls which are able to connect to the base station during the busiest hour of the day. Grade of service is expressed as a number, such as p.05, which means that 95% of callers will connect on their first attempt. A lower number, e.g., p.04, indicates a better grade of service.

HERTZ - One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

MAJOR MODIFICATION OF AN EXISTING FACILITY - Any change, or proposed change, in power output, number of antennas, change in antenna type or model, repositioning of antenna(s), change in number of channels per antenna above the maximum number approved under an existing special use permit.

MAJOR MODIFICATION OF EXISTING TOWER - Any increase, or proposed increase, in dimensions of an existing and permitted tower or other structure designed to support a communications provider's transmission, receiving or relaying antennas and/or equipment.

MHZ - Megahertz; one million hertz.

MONITORING - The measurement, by the use of instruments, in the field, of the radiation from a site as a whole, or from individual communications facilities or towers, antennas or repeaters.

MONITORING PROTOCOL - The testing protocol, initially the Cobbs Protocol but subject to state-of-the-art advance as technology changes, which is to be used to monitor the emissions from existing and new communications facilities.

MONOPOLE - A single self-supporting vertical pole with no guy wire anchors, with below-grade foundations.

RADIATION PROPAGATION STUDIES - Computer-generated estimates of the radiation emanating from antennas or repeaters sited on a specific communications tower or other structure. The height above ground, power input and output, frequency output, type of antenna, antenna gain, and the topography of the site and its surroundings are all taken into account to create such simulations. These simulations are the primary tool for determining whether a site will provide adequate coverage for the communications facility proposed for that site; also known as "radial plots."

REPEATER - A small receiver/relay transmitter designed to provide service to areas which are not able to receive adequate coverage directly from a base station; also known as "rerad."

STRUCTURALLY CAPABLE - The determination that a tower or other structure is capable of carrying the load imposed by the proposed new antenna(s) under all reasonably predictable conditions as determined by professional structural engineering analysis. This condition may also be referred to as "structurally able."

TELEPORT - A facility utilizing satellite dishes of greater than 2.0 meters in diameter designed to uplink to communications satellites for transmitting in the microwave band.

TOWER - A structure that is designed to support a communications provider's transmission, receiving and/or relaying antennas and/or equipment.

Chapter IX

Site Reports and LWRP Consistency Reviews

Before going to a site visit, it would be helpful if you were to check information about the site and project. If you do not have the actual filing/application information, you can still gather information about the project and site by doing the following:

- Hopefully the information on the project was downloaded and sent to you through an email. If that hasn't happened, contact Gretchen, the PB secretary at GSmith@rhinebeckny.gov and ask that it be forwarded to you. If Gretchen cannot forward an electronic version of the project, you could do the following.
- Go to the town hall and go downstairs to the filing cabinets. Open the cabinet that contains the CAB folder and look for the packet containing the project information, EAF information, along with the survey map and architectural designs. If you cannot get to the town hall, or that information is not in the CAB folder, there is another way to obtain information about the site project.
- Go to the Town of Rhinebeck website at <http://www.rhinebeck-ny.gov>. Click on **Town Government** and then click on **Town Boards**. Go to **Planning Board**. Now click on **Past Planning Agendas** and scroll down through the agenda pages until you find the specific project you are researching. The information contained there will give you an idea of what the owner is applying to do at that site.
- You can then go to the **Dutchess County Parcel Access** at <http://geoaccess.co.dutchess.ny.us/parcelaccess/>. Click on **Parcel Mapping**. Click on **Launch to Mapping Access**. Move your cursor over to the Rhinebeck section and continue to click to increase the area size. Locate the street and then the property section. Type in name of the owner to see if it is correct, and then click on information about the property. You can also click on the **Parcel Number** in the section at the top right-hand corner to obtain property information.
- Once you have positively identified the property, you can then do the following:
 1. You can click on the **Wetlands Legend** section at the top of the page and then click on **NYS DEC** and **Fed. NWI** (info tabs) to show designated wetland areas on the map.
 2. You can also click on the **Identify** tab at the top of the page to see the exact property lines at the site.

3. If the property is registered as historic, you can look to the right-hand column and click on **HRS** link to obtain historical information that can be added to the report or LWRP consistency review.
4. You can also print that section of the map to bring with you to the site visit, along with including such in your report or LWRP consistency review.

Try practicing with this site and find other information that you can add to your report or LWRP.

The following are samples of site and LWRP consistency reviews that I prepared over the years. Please use or modify the format to your particular needs and information you would need to include in your report. In some of the examples, I have taken the liberty at removing the name(s) of the applicants, along with the house number.

Example #1

This is a site visit report that included a separate environmental concern, using supplementary information, as well as expressing the concern from a neighbor regarding a 19th century structure on the applicant's property. This site visit report used information found in the "CAB Resource Guide."

Conservation Advisory Board (CAB)

April 24, 2017

Applicant: Baptist Home of Rhinebeck
46 Brookmeade Drive
Rhinebeck, NY 12572

135089-6170-00-996215-0000

Background

Applicant currently operates a senior living retirement community on a 75-acre parcel in the Town of Rhinebeck. Applicant is planning to construct and/or install the following:

- a single 17,862 SF building that would provide skilled nursing and adult rehab care for 45 seniors;
- an 11,000 SF community center building that would accommodate 190 persons;
- a new, paved 43-space parking/loading and access driveway to the buildings;
- to remove and replace the existing 630 SF wastewater treatment plant with a new WWTP designed to treat a daily flow of 30,000 gallons a day;

- a new, paved 49-space parking area for community center events' parking area, replacing the existing gravel lot located off Mountain Laurel Lane;
- new lighting along the parking areas and complex buildings; and
- installation of a stormwater runoff catch basin within a 100' agriculture buffer zone on the western side of the property.

The proposed additions to the Baptist Home are located on property of an existing adult care facility situated off Rt. 308 in the Town of Rhinebeck and is part of the Gateway - East (Gw-E) section of the town.

On Wednesday, April 12, 2017, CAB members Melanie Gates and Robert Donaldson, along with town Planning Board members, met with Patrick Roberts, Project Architect and Baptist Home officials and conducted a site review on the project.

The following is the CAB's report on its findings.

1. As stated in the EAF Form, Part 1 (January 31, 2017), the NYSDEC Natural Heritage Program reported that the site is located within 4.3 miles of a documented winter hibernaculum of Northern Long-eared Bats (NLEB), a *threatened species*. The EAF states that a number of trees will be removed from the proposed buildings, WWTP and parking area, to be replaced with other, non-invasive trees.

The CAB recommends that the replacement trees be compatible to support the habitation of these bats.

2. The EAF states that the project site is located within a known archeologically sensitive area, and that the project information has been shared with NYSOPHRP, requesting a review of the proposed project.

The CAB recommends that any commencement of the ground construction phase of this project be placed on hold until NYSOPHRP presents its findings and such findings be shared with the Town of Rhinebeck Planning and Conservation Advisory Boards.

3. Some concern has been expressed that the project might involve removal of buildings found on the property that were once part of the 1871 former Maplehurst Estate/William Thomson House. While an application has been submitted for State and National Registers of Historic Places eligibility by an adjoining property neighbor, it is the opinion of the State Historic Preservation Office (SHPO) that the mansion meets the criteria for listing to the Registers. However, the finding is only for evaluation of eligibility and that any determination cannot be granted without the consent of the property owner(s). In this case, any approval would have to rely on consent of the Baptist Home.

Mr. Roberts informed me that the Baptist Home **does not have any plans at making any changes or demolishing any of the contributing structures, including the mansion.** [Emphasis added.]

Still. The CAB recommends that the Baptist Home officials, as caretakers of these historic structures, do the following:

- a. Upgrade and maintain security devices within the buildings and on the property that will protect such from the dangers of fire and acts of vandalism.
 - b. In its yearly budget, provide the necessary funding for yearly maintenance that will protect the mansion and structures from destructive rot and decay.
 - c. The CAB also recommends that the Baptist Home follow through on the proposed bioretention planting areas that would provide a natural boarder between the proposed parking area and building and that of the former estate.
4. Regarding the two proposed parking areas, the CAB recommends that the Baptist Home adhere to town zoning codes regarding landscaping and lighting in parking areas and pedestrian walkways, by establishing a minimum of 20% of the area between the inside perimeter of the parking surface of the parking area to be landscaped and maintained with trees, shrubs and other plant materials, as determined necessary by the Planning Board.

Landscape materials should be limited to the use of native species since such species are tolerant of Southeastern New York's climate, are generally disease-resistant, do not create unusual maintenance problems, and are readily available from local nurseries. A variety of shade tree species to provide visual interest, to protect against same species die-out or disease, and be tolerant of road salt shall be used. Large-leafed and/or fruit trees that may be considered a nuisance should be avoided.

To reduce or, if possible, eliminate the visual impact of the parking lot, with adjoining estate and farm properties, the CAB recommends that the Baptist Home provide a ten-foot-wide landscape strip around the perimeter of the lot, to be planted with shade trees and high shrubs. Lighting in the parking areas and along the pedestrian walkways should complement the landscaping and architectural features on the site, and should adhere to the following guidelines found in Town Codes:

- a. minimize glare;
 - b. reduce atmospheric light pollution in the rural Town;
 - c. ensure that development fits into its natural and rural surroundings rather than being superimposed as a dominant element in the countryside;
 - d. avoid negative impacts on nearby residential properties; and
 - e. to enhance the town's nighttime ambience and rural and historic character.
5. It was mentioned that a stormwater runoff catch basin would be placed on the western section of the project within a 100' agricultural buffer area. The CAB asks that no other construction activities will take place within this zone during and after the construction phase of this project.
6. Regarding the construction of the new WWTP designed to treat a daily flow of 30,000 gallons at the entire site, the CAB recommends that all efforts be made to eliminate or reduce any discharge of disposed pharmaceuticals at this adult facility prior to being released back into any waterways. Recent news articles have brought the issue of studies

showing an increase of discharged pharmaceutical micropollutants entering the Hudson and other waterways within this state., having a major impact on river wildlife.

In a recent article in the *North Jersey Record*, it reported the following:

Most pharmaceutical pollution is believed to come from human waste, everyday medication that passes through a person unabsorbed. It also comes from people improperly disposing of their old medication in a toilet. **Sewage plants are not capable of filtering pharmaceuticals before treated waste is released back into waterways.** [Emphasis added.] Water samples taken two years ago found 83 of 117 targeted chemicals in the Hudson, ranging from the anti-depressants to blood pressure medication to the insect repellent DEET. ¹¹

In a 2016 *River Keeper* article, it was reported that:

These chemicals (micropollutants) in the water may affect aquatic life even at these low concentrations. For example, some chemicals are known to inhibit photosynthesis in algae or disrupt the nervous system of aquatic organisms. Other chemicals may impair the reproduction of fish. These processes can have cascading effects through food chains and ecosystems.¹²

¹¹ “How Bad Is Pharmaceutical Pollution in the Hudson?”, *The Record*, North Jersey.com, found at <http://www.northjersey.com/story/news/environment/2017/04/10/how-bad-pharmaceutical-pollution-hudson/100127134/>

¹² “Study Finds Diverse Set of Pharmaceuticals and other ‘Micropollutants’ in Hudson River Estuary,” *Riverkeeper*, found at <https://www.riverkeeper.org/news-events/news/water-quality/study-finds-diverse-set-pharmaceuticals-micropollutants-hudson-river-estuary/>

Example #2

The following is a Consistency Review for a project located on property adjacent to Morton Road in the Hamlet of Rhinecliff. This property is located within the Rhinecliff Overlay (Rc-O), Historic Preservation (HP20) Zoning District, as well as the Hudson River National Historic Landmark District and in the Rhinebeck Multi-Resource Historic District listed on the State and National Registers of Historic Places.

**Conservation Advisory Board (CAB)
Local Waterfront Revitalization Program (LWRP)
Waterfront Advisory Committee (WAC)
Town of Rhinebeck**

April 25, 2017

Consistency Review for LWRP

Residence
Morton Road
Rhinebeck, NY 12572

135089-6069-00-43XXXX-0000
Rhinecliff

Background

Owners are planning to replace an existing, screened-in porch on the south side of the building with an enclosed mudroom, bath and laundry room. The house is located on property adjacent to Morton Road in the Hamlet of Rhinecliff, which is located within the Rhinecliff Overlay (Rc-O), Historic Preservation (HP20) Zoning District, as well as the Hudson River National Historic Landmark District and in the Rhinebeck Multi-Resource Historic District listed on the State and National Registers of Historic Places. The site also comes under New York's Coastal Management Program (CMP) as part of the Scenic Area of Statewide Significance and is covered under Policies 23, 24-B and 33 of the Town of Rhinebeck's LWRP.

Whether within or outside a designated Scenic Area of Statewide Significance (SASS) all proposed actions subject to review under federal and state coastal acts or a Local Waterfront Revitalization Program (LWRP) must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource

On Thursday, April 20, 2017, Conservation Advisory Board members Ryan Dowden and Robert Donaldson, along with Planning Board members, met with David Freeman, architect of the project, and conducted a site review.

WAC/CAB Comments

POLICY 23 - PROTECT, ENHANCE AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

The replacement of an existing porch and entrance steps with an enclosed mudroom, bathroom and laundry room will not affect the historic elements of the architecture of the house.

Based on the architectural drawing of the project, along with the description provided by Mr. Freeman, the enclosed structure is compatible with the existing and adjacent structures in its architectural style, design material, scale, proportion, composition, mass, color, detail, and related items of the proposed actions.

POLICY 24A - PREVENT IMPAIRMENT OF SCENIC RESOURCES INCORPORATED WITHIN THE MID-HUDSON HISTORIC SHORELANDS SCENIC DISTRICT AND THE ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE.

Again, based on the architectural drawing of the project, along with the description provided by Mr. Freeman, the enclosed structure is compatible with the landscape.

POLICY 24B - PROTECT AND ENHANCE THE SCENIC QUALITIES OF ROADS IN THE TOWN NOMINATED AS SCENIC ROADS UNDER THE HUDSON VALLEY SCENIC ROADS PROGRAM AND THOSE DESIGNATED AS SCENIC ROADS BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

The location of the house on property adjacent to Morton Road, a designated Scenic Road, will not have any negative impact on the scenic quality and view from the road.

POLICY 33 - BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

The WAC recommends that owners apply best management practices during the porch removal and construction phases of this project.

Example #3

During the site visit for the following Consistency Review, I felt that there was a need for pictures to be incorporated in the report to give the Planning Board members an ideas of the issues raised by the WAC/CAB.

**Conservation Advisory Board (CAB)
Local Waterfront Revitalization Program (LWRP)
Waterfront Advisory Committee (WAC)
Town of Rhinebeck**

October 28, 2015

Consistency Review for LWRP

_____ Project
Ryan Road

Background

Applicant _____ plans to build an 8,880 sq. ft. single-family home with associated site improvements and accessory structures, including a pool and electric generator on an existing 14.963 acres site with .99 acre being used for proposed single-family residence and accessory structures.

On Tuesday, October 20, 2015, Town Planning Board member Erich Blohm and Conservation Advisory Board member Robert Donaldson met with George Rodenhauser, Esq., attorney for _____ and Scott Dutton, project engineer at the Ryan Road site.

The following is the CAB's report on its findings.

- The proposed single-family home and accessory structures will be erected on an elevated hill on the lot encompassing .99 acres of the lot's 14.963 acres.
- The site is part of the Estates District Statewide Area of Scenic Significance (SASS) designated by the New York State Department of State. The site is located along both River and Ryan Roads. While River Road has been designated as a "Scenic Road" by the New York State Department of Environmental Conservation and the Town of Rhinebeck, Ryan Road is a narrow, rural, scenic road used by bikers, walkers and joggers.
- It should be noted that there is an existing stream/vernal pool on the western side of the elevated hill. Evidence of a patch of Phragmites demonstrates that this area is a seasonally affected by melted snow and rain runoff.

In general, vernal pools are seasonal bodies of water that attain maximum depths in spring or fall and lack permanent surface water connections with other wetlands or water bodies. Pools fill with snow melt or runoff in the spring, although some may be fed primarily by groundwater sources. The duration of surface flooding (hydroperiod) varies depending upon the pool and the year; vernal pool hydroperiods range from a continuum of less than 30 days to more than a year. Pools are generally small in size (less than two acres), with the extent of vegetation varying widely. They lack established fish populations, usually as a result of periodic drying, and support communities dominated by animals adapted to living in temporary, fishless pools. Vernal pools provide essential breeding habitat for pool-breeding wildlife such as fairy shrimp, marbled salamander, blue-spotted salamander, Jefferson's salamander, and wood frog. (Rhinebeck Town Code, § 120-15 References, definitions and word usage.) (See Picture #1.)



Picture #1

- There is also an existing pond and wet area to the north, northeast section of the property.

Freshwater wetlands are lands inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, fens, intermittent streams,

vernal pools, and shallow water zones of rivers, lakes, ponds and other water bodies. (Rhinebeck Town Code, § 120-15 References, definitions and word usage.) (See Pictures #'s 2 & 3.)



Picture # 2



Picture #3

- The area where the proposed roadway enters the elevated area and encircles the house will encroach upon the edge of the elevated buffer area on both the pond and wet area on the northeast, as well as the vernal pool/stream area located on the western side of the property.

Wetland buffer zones provide benefits that are important to maintaining a wetland's functional integrity by providing protection against the impacts to the wetland from activities in adjacent upland areas. It is the intent of the Town of Rhinebeck to ensure that activities in and adjacent to wetlands do not unduly impact the public safety, the natural environment or cause environmental degradation. (Rhinebeck Town Code, § 120-3 [E] Findings.) (See Picture # 4)



Picture #4

Local Waterfront Revitalization Program. (Applicable Policies)

Section II

B. EXISTING LAND USE

13. Analysis of Existing Land Use

b. Preservation of Scenic and Historic Structures and Scenic Views.

It is desirable to maintain the scenic and historic qualities of the estates as they are viewed from major roads and from the River, or from the western shore of the Hudson River. Thus, preservation

and restoration of existing historic structures, siting of development relative to roads and to River frontage, and preservation of natural features along the roads and the riverside must be important planning considerations.

G. HISTORIC AND SCENIC FEATURES

6. Scenic Roads and Scenic Vistas - These scenic roadways are considered important cultural and scenic features in the landscape, providing visual and physical access to the Hudson River. Preserving and enhancing the appearance of the roadway and surrounding areas, as well as providing opportunities for better viewing of scenic vistas, are among the goals of the Scenic Roads Program . . . The Rhinebeck Town Board, as well as the New York State Department of Environmental Conservation has determined that River Road from the intersection with NY Route 308 to the Red Hook/Rhinebeck town line as a designated scenic road.

WAC/CAB Comments

It is evident that the house and accessory structures could be seen from both River and Ryan Roads. Being that River Road is a designated scenic road by both the Town of Rhinebeck and New York State, the CAB/WAC suggests that the owner, and it was suggested to the project engineer, that a local garden service be consulted and recommend the planting of native and non-invasive, non-native species for landscaping and discourage the use of invasive plant species. Such plantings would limit the view of the house and accessory structures from a designated (River Road) scenic road and the rural Ryan Road. (See Pictures 5 & 6.)



Picture #5 - (Looking at the property from River Road.)



Picture #6 - (Looking at the property from River Road.)

SECTION III

POLICY 7E - PROTECT THE CREEKS, FRESHWATER TIDAL WETLANDS, AND FRESHWATER TIDAL COVE AREAS DRAINING INTO AND ADJACENT TO THE HUDSON RIVER FROM ALTERATION AND/OR POLLUTANT DISCHARGE BY RESIDENTIAL, COMMERCIAL, AGRICULTURAL OR INDUSTRIAL USES.

Protection will be achieved through application of a combination of implementation tools, including: strict enforcement of wetland regulations; Hudson River shoreline areas, including **wetlands** and bluffs; preservation of open space areas through environmental quality review, special use permit review (for all development within **100 feet of the normal streambank of a classified stream or NYSDEC Freshwater Wetland**) and **site plan review to determine that any proposed development will not be inconsistent with habitat protection.**

POLICY 24 – PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE.

This policy is applicable to the Mid-Hudson Historic Shorelands Scenic District; scenic roads, the Estates District Scenic Area of Statewide Significance.

Example #4

The following Consistency Review was the first time I incorporated applicable information found throughout the “CAB Resource Guide.” At the Planning Board meeting, this information, especially the State, Local Zoning Codes and LWRP policies used to support the WAC’s recommendations addressed and answered concerns raised by one of the PB members. You will also note that at the end of the review, I summarized the main issues and substantive justifications for such.

**Conservation Advisory Board (CAB)
Waterfront Advisory Committee (WAC)
Local Waterfront Revitalization Program (LWRP)
Town of Rhinebeck**

June 27, 2017

Consistency Review for LWRP

Ferncliff Forest, Inc.
68 Mount Rutsen Road
Rhinebeck, NY 12572

HP-20
135089-6171-00-100300

Background

Ferncliff Forest Preserve is a 192-acre forest located along Mount Rutsen and River Roads in the Town of Rhinebeck. The preserve is used in many ways by members of the community and visitors for hiking, camping, mountain biking, cross country skiing, fishing, and picnics. Along the 4 miles of trails are the remains of hand-dug wells, cisterns, root cellars and old foundations of a former community and church.¹³

Ferncliff Forest Preserve is located within the **Hudson River National Historic Landmark District** (HRNHLD) and the **Estates District Scenic Areas of Statewide Significance (SASS) - ED-12 Mount Rutsen Subunit**. Any projects in this area also come under the town’s Zoning Codes (Historic Preservation - HP20 District), the **Town of Rhinebeck’s Comprehensive Plan** and its **Local Waterfront Recovery Program (LWRP)**. Additionally, Ferncliff Forest has been designated as a **Significant Natural Area** by the Dutchess County Environmental Management Council.

¹³ *Brief History of Ferncliff Forest*, found at <http://www.ferncliffforest.org/History/index.php>.

Trustees of the Ferncliff Forest Preserve have submitted an application outlining the proposed construction of an 815 sf.- covered pavilion, measuring 20' by 40' and 18' height, located south, along the eastern side of an existing trail and the South Pond.

On Wednesday, June 21, 2017, Town Planning Board members Edna Lachmund and Eric Blohm, along with Conservation Advisory Board member, Robert Donaldson, met with Warren Temple Smith (architect) at the site of the proposed project.

This WAC/CAB's report covers its findings regarding the following:

- architectural style of the pavilion;
- location of the pavilion;
- existing trees at the site of the pavilion and along the trails from the parking area to the project site; and
- historic stone wall located along the western side of the trail at the site and along the trail near the site.

Applicable SASS Scenic Policies

Regulations governing the designation of scenic areas of statewide significance are found in 19 NYCRR Part 602.5. (New York Codes, Rules and Regulations)

Regulatory policies include siting and design guidelines which are to be used to evaluate the impact of proposed development, recognizing that each situation is unique and that the guidelines must be applied accordingly. The following guidelines are applicable to this project:

6. appropriate siting of new structures and other development;
7. the use of scale, form and materials which are compatible with the landscape's existing scenic components;
8. the maintenance of existing landforms and vegetation; and
9. the removal and screening of discordant features.

Applicable Town of Rhinebeck Zoning Codes

§ 125-3 Purposes.

L. To preserve all designated historic districts, buildings, sites and features for the enjoyment of present and future generations. [Emphasis added.]

§ 125-15 Zoning Districts.

B. Historic Preservation (HP20).

Sensitive handling of all development in this area is crucial to maintaining the estate character that lends so much importance to Rhinebeck’s nationally significant historic, environmental and scenic assets. [Emphasis added.]

§ 125-55 Preservation of natural and cultural features; design standards.

D. Preservation of scenic features. In any application subject to this section, features that provide scenic importance should be preserved to the greatest extent possible. These features include but are not limited to **individual healthy trees** [Emphasis added.] within open fields that are at least six inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and **stone walls.** [Emphasis added]

(c) **Vegetation.** Existing vegetation should be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures, as seen from public roads or parks or other public views.

§ 125-62 Historic Buildings.

(4) **Use requirements.** The Planning Board . . . shall consider the extent to which the proposal meets the following objectives:

(e) Site new construction to have a minimum impact on the natural environment. Unique natural areas and open spaces such as streams, ponds, wetlands, steeply sloped areas, **woodlands**, and other sensitive environments shall be preserved to the greatest extent practicable.

(g) **The development shall be in harmony with the objectives of the Town Comprehensive Plan and the Local Waterfront Revitalization Program.** [Emphasis added.]

WAC/CAB Comments

Regarding the siting of the pavilion, the WAC/CAB recommends that the large oak trees (individual healthy trees) within the vicinity of the site be preserved and that the pavilion be sited and angled in such a manner to avoid removing the noted trees.

Regarding the design of the pavilion, the WAC/CAB does not find any issue, noting that the design does blend in with other lean-to structures located along the pond front.

The WAC/CAB recommends that the engineers of the project make every effort to protect and preserve the large, old individual healthy trees when moving heavy equipment from the parking area, along the trails up to and including the project site.

The WAC/CAB recommends that the engineers make every effort to protect and preserve the historic stone walls located between the trail and pond area.

The WAC/CAB recommends that existing vegetation between the pavilion site and the pond should be preserved to the maximum extent practical. Every attempt should be made to limit any cutting necessary for either construction or the opening of views from the site to the pond area.

Applicable LWRP Policies

SECTION II INVENTORY AND ANALYSIS

G. HISTORIC AND SCENIC FEATURES

3. Stone Walls

Of the landscape appurtenances mentioned in the Mid-Hudson Historic Shorelands Scenic District Management Plan, stone walls were determined to be the most significant. . . **Found throughout the coastal area are dry-laid schist walls; both lining the roads and dividing farm fields. These walls form a picturesque contrast with their more formal counterparts, giving a pleasantly rustic character to the landscape.** [Emphasis added.]

WAC/CAB Comments

The WAC/CAB recommends that historic stone wall located along the western side of the trail at the site and along the trail near the site be protected and maintained throughout the construction phase of this project.

POLICY 7D

SUPPORT EFFORTS TO PROTECT AND ENHANCE THE NATURAL RESOURCES OF FERNCLIFF FOREST, SNYDER SWAMP AND THE MUDDER KILL.

WAC/CAB Comments

The WAC/CAB recommends that efforts be made at preserving the large, old individual healthy trees along the trail, as well as at the site location of the proposed pavilion. Additionally, the WAC/CAB recommends that the historic stone wall located between the trail and pond area be protected and preserved throughout the construction phase of this project.

POLICY 23A

CONSERVE, PROTECT, PRESERVE AND PROMOTE THE ADAPTIVE RE-USE OF PLACES, SITES, STRUCTURES, VIEWS AND FEATURES IN THE COASTAL AREA OF THE TOWN OF RHINEBECK OF SPECIAL HISTORIC, CULTURAL OR ARCHAEOLOGICAL SIGNIFICANCE OR WHICH BY REASON OF ASSOCIATION WITH NOTABLE PERSONS OR EVENTS, THE ANTIQUITY OR UNIQUENESS OF ARCHITECTURAL AND LANDSCAPE DESIGN ARE OF PARTICULAR SIGNIFICANCE TO THE HERITAGE OF THE TOWN.

Public and private efforts will be undertaken to maintain and preserve the important features of the area, such as the **trees and stone walls** lining many roads within the LWRP area.

WAC/CAB Comments

Again, the WAC/CAB recommends that the engineers of the project follow the best management practices of the LWRP and make every effort to protect and preserve the large, old individual healthy trees when moving heavy equipment from the parking area, along the trails up to and including the project site, and that the engineers make every effort to protect and preserve the historic stone walls located between the trail and pond area.

POLICY 24A

PREVENT IMPAIRMENT OF SCENIC RESOURCES INCORPORATED WITHIN THE MID-HUDSON HISTORIC SHORELANDS SCENIC DISTRICT AND THE ESTATES DISTRICT SCENIC AREA OF STATEWIDE SIGNIFICANCE.

The following siting and facility-related guidelines will be used to review proposed development, and should be included in the design of new projects to avoid impairment of scenic resources, recognizing that each development situation is unique and that guidelines will have to be applied accordingly:

13. Siting structures and other development such as highways, **power lines**, and signs, back from shorelines, roadways, or in other inconspicuous locations to maintain the attractive quality of these areas and to retain views to and from important resources;
14. Maintaining or restoring the original land form and vegetation, except when changes screen unattractive features and/or add appropriate interest;
15. Maintaining or adding vegetation and appropriately pruning or trimming trees to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive features, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing creates views of important resources such as historic resources, open lands, the Catskill Mountains or the Hudson River;

16. **Wherever possible, placing utility lines underground or minimizing the number of poles by combining wires to the extent possible to diminish negative visual impacts.**

WAC/CAB Comments

The architectural style and location of the pavilion would not impair the scenic beauty of the preserve's resources.

At the June Planning Board meeting, it was recommended by Planning Board member, Woody Dierze, that the trustees consider installing security measures to protect the pavilion from vandalism. Should the trustees decide to install such devices, powered by electricity, the installation of such power cables should be laid underground to avoid any negative visual impacts.

POLICY 24C

PREVENT IMPAIRMENT OF THE ESTATES DISTRICT AND ESOPUS/LLOYD SCENIC AREAS OF STATEWIDE SIGNIFICANCE.

Failure to use appropriate materials, the color and texture of which would blend new development into the historic and natural landscape, would introduce discordant features into the landscape which singularly or collectively would disrupt the unity of the SASS and impair its scenic quality. [Emphasis added.]

WAC/CAB Comments

The architectural style and location of the pavilion would not would not introduce discordant features into the landscape which singularly or collectively would disrupt the unity of the SASS and impair its scenic quality.

Summary

The WAC/CAB finds no issues or concerns regarding the architectural style of the pavilion to be erected near the South Pond at the Ferncliff Preserve.

Being that Ferncliff Forest is located within the Hudson River National Historic Landmark District and the Estates District Scenic Areas of Statewide Significance - ED-12 Mount Rutsen Subunit, along with being included in the Town of Rhinebeck's Comprehensive Plan and its Local Waterfront Recovery Area (Program), the WAC/CAB recommends that the project architect/engineers follow the policies mentioned in this consistency review; especially in regards to preserving the individual healthy trees located along the trail to the site project and at the site project, as well as the historic stone wall located along the trail near the site. These recommendations are supported by New York Codes, Rules and Regulations, Town of Rhinebeck Zoning Codes, the town's Comprehensive Plan and policies found in the town's LWRP.