

**LEGAL NOTICE  
PUBLIC HEARING  
TOWN OF FISHKILL  
Proposed Amendment to  
Local Law No. C-v1 [Introductory] of 2021**

**NOTICE IS HEREBY GIVEN**, that the Town Board of the Town of Fishkill, New York, will conduct a Public Hearing at the Town Hall, 807 Route 52, Fishkill, New York 12524 on May 5, 2021 at 7:00 p.m. or as soon after as the matter may be heard to consider Amendment of Introductory Local Law No. C-v1 of 2021, Chapter 150, Entitled “Zoning” of the Code of the Town of Fishkill.

The Town of Fishkill will make every effort to assure that the public hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or accommodations should contact the Town Clerk.

By Order of the Town Board  
Town of Fishkill  
Becki Tompkins – Town Clerk

**D R A F T**  
**LOCAL LAW**  
**Amendments to the Code of the Town of Fishkill**  
**Chapter 150 Zoning**

Draft: April 9, 2021

**NOTE: Existing text from the Code of the Town of Fishkill is shown below as regular text, highlighted only as shown in the code. Proposed amended text is shown as underlined text (text). Text that is proposed to be deleted is shown as stricken text (~~text~~).**

**Chapter 150. Zoning**

1. The Code of the Town of Fishkill, Chapter 150 shall be amended to incorporate revisions as described below:

2. Article I, entitled Purposes, Section 150-1 Statement of Purposes shall be revised to read as set forth below:

§ 150-1. Statement of purposes. For the purpose of promoting the health, safety, morals, comfort, convenience, economy, aesthetics, and the preservation of natural, agricultural and cultural resources, and the general welfare of the community, the Town Board of the Town of Fishkill, County of Dutchess and State of New York, under the authority granted by § 261 of the Town Law and in accordance with the procedures in § 264 of the Town Law and § 239-m of the General Municipal Law, hereby adopts this chapter ~~in furtherance of the adopted Town Comprehensive Plan~~ and to promote the purposes set forth in § 263 of the Town Law, including the following:

- A. To guide the future development of the Town ~~to ensure in accordance with a Comprehensive Plan designed to represent and promote~~ the most beneficial and convenient relationship among the residential, commercial, industrial and public areas of the Town, considering the suitability of each area for such uses as indicated by existing conditions, trends and development and changing modes in living, and having due regard for the use of land, building development and social, cultural and economic activity both within the Town and with respect to the relationship of the Town to areas outside thereof.
- B. To secure safety from fire, flood, panic and other dangers.
- C. To provide adequate light, air and privacy.
- D. To prevent overcrowding of the land and ~~and~~ undue congestion of population.
- E. To promote the most beneficial relation between the use of land and buildings and the circulation of vehicle, pedestrian and bicycle traffic throughout the Town, having particular regard to the avoidance of congestion of streets and provision of safe and convenient vehicular, pedestrian and bicycle traffic movement appropriate to the various uses of land and buildings throughout the Town.

F. To facilitate the ~~optimal~~adequate provision of transportation, water, schools, parks and other public ~~facilities~~requirements.

G. To protect and conserve the value of land and buildings and the social and economic stability of all parts of the Town.

H. To ~~encourage the appropriate use, management and preservation~~prevent the pollution of watercourses and wetlands; to safeguard the water table; to promote quality stormwater management practices and to prevent ~~avoid~~ hazardous conditions and ~~excessive~~ damage resulting from stormwater runoff and flooding; and to encourage the appropriate use and sound management of natural resources throughout the Town.

I. To preserve the natural beauty of the physiography of the Town; to protect the Town against unsightly, obtrusive and obnoxious land uses and operations; to enhance the aesthetic aspect of the natural and manmade elements of the Town; to preserve community character; and to ensure ~~optimal~~appropriate development with regard to those elements.

J. To ~~ensure~~ promote the preservation of the existing historic character of the Town and to ~~facilitate~~encourage the development of uses which would add to or be in harmony with this character.

K. To provide ~~optimal~~adequate and suitably located areas for recreation activities.

L. To bring about the ~~phased~~gradual conformity of the uses of land and buildings throughout the Town to the adopted Town Comprehensive Plan and to minimize conflicts among the uses of land and buildings.

M. To support the enforcement of the provisions of this chapter to properly implement the purposes, requirements and standards stated herein.

3. Article II, entitled Definitions, Section 150-6 Word usage; definitions., shall be revised to insert the new definitions as set forth below in the appropriate order:

AS OF RIGHT – See Use, permitted.

PUBLIC RIGHT OF WAY – The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, lane, concourse, tunnel, waterway, public grounds or waters, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or right-of-way dedicated for compatible uses, any other public property or place belonging to the Town or any Special Districts of the Town as the same now exists or may hereafter be extended or altered, and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Town which shall entitle the Town to the use thereof. "Public rights-of-way" shall also mean any easement now or hereafter held by the Town for the purpose of public travel, or for utility or public service use dedicated for compatible uses and shall include other easements or public rights-of-way as shall within their proper use and meaning entitle the Town to the use thereof.

SPECIAL USE – See Use, special.

USE, PERMITTED - Any use which is included in the list of permitted uses in the zoning district in which it is located or proposed to be located.

USE, SPECIAL - Any use which is included in the list of uses in the zoning district in which it is located or proposed to be located, for which conformance to additional standards may be required to address certain aspects of a particular use. Conformance to such additional standards is required so that these particular uses are considered to be special use permit uses in their respective districts. All such uses are declared to possess such unique, special, and individual characteristics that each specific use shall be considered as an individual case.

4. Article III, entitled Establishment of Districts, Section 150-10. Interpretation of district boundaries., section B. shall be revised to read as follows:

B. Where district boundary lines divide a lot or unsubdivided property, the location of any such boundary, if not indicated by dimensions, shall be determined by the use of the map scale on the zoning map appearing thereon.

5. Article III, entitled Establishment of Districts, Section 150-11. Lots in two or more districts. shall be revised to read as follows:

In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less-restricted district, the regulations prescribed by this chapter for the less-restricted district may be extended by the Board of Appeals to such portion of the more restricted portion of said lot which lies within 50 feet of such district boundary. For purposes of this section, the more-restricted district shall be deemed to be that district which is subject to regulations that prohibit the use intended to be made of said lot or that require higher standards with respect to density, coverage, yards, screening, landscaping, parking, loading and similar requirements. ~~Where a lot in one ownership of record is divided by one or more district boundary lines, the regulations for the less restrictive portion of such lot shall not extend more than 50 feet into the more restricted portion.~~

6. Article IV, entitled Application of Regulations, Section 150-16. Conformance required. shall be revised to add new text at the end of subsection 150-16. B. as follows:

Article IV. Application of Regulations.

§ 150-16. Conformance required.

Add the following to the end of subsection 150-16. B. Refer to Article XIX. Enforcement.

7. Article IV, entitled Application of Regulations, Section 150-18. Conflicting standards. shall be revised to read as follows:

Where this chapter requires a greater width or size of yards or other open spaces, or a lower height of building, or a fewer number of stories, or a greater percentage of lot area to be left unoccupied, or otherwise imposes greater restrictions than required by any other statute, bylaw, ordinance or regulation, the provisions of this chapter shall govern. ~~Where the provisions of any other statute, bylaw, ordinance or regulation require a greater width or size of yards or other open spaces, or a lower height of building, or a fewer number of stories, or a greater percentage of lot area to be left unoccupied, or otherwise impose greater restrictions than are required by this chapter, the provisions of such statute, bylaw, ordinance or regulation shall govern.~~

8. Article IV, entitled Application of Regulations, Section 150-19. Uses permitted and prohibited., section B. shall be revised to read as set forth below.

Section 150-19. A. shall remain as it is in Chapter 150.

#B. When a use is not specifically permitted in this Zoning Ordinance as either a use permitted by right or by special use permit, it shall be understood that the use may be allowed by special use permit of the Planning Board if it is determined by the Planning Board with input from the Building Inspector that the use is substantially similar to other uses listed in the district and is consistent with the stated purposes of the district.

(1) This section establishes the Planning Board's special use permit authority pursuant to Article XI of this chapter to compare a proposed use and measure it against those listed in the applicable zoning district for determining substantial similarity. In determining substantial similarity, the Planning Board shall make all of the following findings prior to approval:

(a) The proposed uses shall meet the intent of, and be consistent with, the goals, objectives and policies of the Comprehensive Plan.

(b) The proposed use shall meet the stated purpose and legislative intent of the district in which the use is proposed to be located per the legislative intent of given district regulations, or those given in § 150-13.

(c) The proposed use shall not adversely impact the public health, safety and general welfare of the residents.

(d) The proposed use shall share characteristics in common with, and not be of greater intensity, density, or generate more environmental impact, including but not limited to, having no greater adverse effects upon traffic, noise, air quality, parking, or any other reasonably relevant attribute than those uses listed in the zoning district in which it is to be located.

9. Article VI, entitled General Regulations, Section 150-39. Landscaping and lighting. shall be revised to create two new sections, the first of which shall be section 150-39.1. Exterior lighting; and the second of which shall be section 150-39.2. Landscaping, screening and buffer areas., to be revised to read as follows:

## § 150-39.1. Lighting, Landscape and lighting.

~~Where considered appropriate by the reviewing body, the Greenway Compact Guide provisions, especially Greenway Guide section E, Site Specific Provisions, shall be utilized if the Board has discretion.~~

### #A. General regulations.

(1) No artificial lighting shall shine directly upon any neighboring residential property located in a residential district or be so established that it shall shine directly upon any residential property or shall shine directly on or into any room or rooms, porches or patios of any residential property, nor shall any artificial lighting be maintained or operated from any structure or land in such a manner so as to be a nuisance or an annoyance to neighboring residential properties or so as to interfere with the physical comfort of the occupants of residential properties.

(2) Flashing sources of illumination are prohibited.

(3) Lighting that moves or has moving parts is prohibited.

(4) Strip lighting outlining commercial structures and used to attract attention to the nonresidential use, and strings of light bulbs used in any connection with a nonresidential use premises, is prohibited unless fully shielded.

(5) Vegetation screens should not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved through the use of such means as cut-off fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

(6) Exterior lighting shall enhance the building design and the adjoining landscape. Lighting shall be provided at all entrances, walkways and outdoor seating and dining areas. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas, as determined by the Planning Board.

(7) Security lighting should use the lowest possible illumination to effectively allow surveillance.

(8) Under-canopy lighting for such uses as gasoline service stations shall be recessed so that the lens cover is fully recessed, or flush, with the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 85° or less from vertical.

(9) Luminaries used for playing fields and outdoor recreational uses shall be exempt from the height restriction, provided all other provisions of this section are met and such lighting is used only while the field is in use.

(10) Awnings and canopies used for building accents over doors, windows, walkways, and the like shall not be internally illuminated (i.e., not lit from underneath or behind).

(11) Fixtures and lighting systems used for safety and security shall be in good working order and shall be maintained in a manner that serves the original design intent of the system.

### B. General guidelines.

(1) Where practical, exterior lighting installations should include timers, dimmers, sensors, or photocell controllers that turn the lights off during daylight hours or hours when lighting is not needed, to reduce overall energy consumption and eliminate unneeded lighting.

(2) Exterior lighting installations should be designed to avoid harsh contrasts in lighting levels.

(3) Vegetation and landscaping shall be maintained in a manner that does not obstruct security lighting.

(4) Site lighting shall minimize light spill into the dark night sky.

### C. Exterior lighting plan review.

(1) An application for site plan approval shall include an exterior lighting plan depicting the number, location, mounting height, and type of proposed lighting fixtures and level of illumination on the site and at the property lines. The exterior lighting plan shall include at least the following:

(a) Manufacturer specification sheets, cut-sheets or other manufacturer-provided information indicating the specifications for all proposed lighting fixtures.

(b) The proposed location, mounting height, and aiming point of all exterior lighting fixtures.

(c) If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the luminance levels of the elevations, and the aiming point for any remote light fixture.

(d) Computer-generated photometric grid showing footcandle readings every 10 feet within the property or site, and 10 feet beyond the property lines. Iso-footcandle contour line style plans are also acceptable.

(2) Additional information may be requested following the initial lighting plan review,

D. Residential district lighting. Within a residential district, all new parking lot lighting and site lighting for developments, other than single-family dwellings, shall be comply with the following:

(1) Illumination at the property line shall not exceed 0.1 footcandle.

(2) Luminaries shall be full cut-off type unless otherwise determined by the Planning Board.

(3) Outdoor light fixtures equipped with floodlights are prohibited.

(4) Wall pack outdoor light fixtures located on a front or side facade of a building or structure shall be full cut-off.

(5) Non-cut-off outdoor light fixtures shall be limited to walkways, outdoor seating areas or other areas approved for such fixtures as part of a development plan.

(6) Lights that may produce glare so as to cause illumination beyond the boundaries of the property on which they are located are prohibited.

(7) Freestanding lights shall be appropriate to the design of the structures and shall not exceed 15 feet in height. Freestanding lighting of pedestrian ways shall not exceed 12 feet in height. Wall-mounted light fixtures shall not be mounted higher than 12 feet above the ground level immediately below the location of the light fixture. Both freestanding and wall-mounted fixtures shall be fitted with movable shields to allow for the redirection of light to avoid glare and the splaying of light to off-site locations.

E. Centers, business, commercial and industrial district lighting.

(1) Within centers, business, commercial and industrial districts, all parking lot lighting, and site lighting shall comply with the following:

(a) Illumination at the property line shall not exceed 0.1 footcandle.

(b) Luminaries shall be full cut-off, or semi cut-off as determined by the Planning Board.

(c) Freestanding lights shall be appropriate to the design of the structures and shall not exceed 20 feet in height in parking areas. Freestanding lighting of pedestrian ways shall not exceed 12 feet in height. Wall-mounted light fixtures shall not be mounted higher than 15 feet above the ground level immediately below the location of the light fixture. Both freestanding and wall-mounted fixtures shall be fitted with movable shields to allow for the redirection of light to avoid glare and the splaying of light to off-site locations.

(d) Wall pack outdoor light fixtures oriented toward an adjacent residential property or a residential district shall be full cut-off.

(e) Non-cut-off outdoor light fixtures shall be limited to walkways, outdoor seating areas or other areas approved for such fixtures as part of a development plan.

(f) For exterior lighting installations and fixtures within 50 feet of a residential property or a residential district, freestanding lighting fixtures shall be no higher than 15 feet above grade and shall be full cut-off.

(g) All outdoor light fixtures on single-use site, shopping center, integrated center, business park or industrial park, including those on freestanding light poles and those attached to buildings, security lights, and architectural lights, shall be of consistent or compatible style, pole height, mounting height, color, intensity, design, and materials with other outdoor light fixtures within the lot, outlot, single-use site, integrated center, business park or industrial park.

(h) No artificial lighting shall shine directly upon any neighboring residential property or residential district, or be so established that it shall shine directly upon any residential property or shall shine directly on or into any room or rooms, porches or patios of any residential property, nor shall any artificial lighting be maintained or operated from any structure or land in such a manner as to be a nuisance or an annoyance to neighboring residential properties or as to interfere with the physical comfort of the occupants of residential properties.

~~(1) All exterior lighting should be fully shielded to prevent glare and protect the night sky. The maximum lighting levels at property lines shall be 0.1 footcandles. (2) The Planning Board may limit hours of site lighting or times when lighting should be reduced to minimum security levels based on hours of operation of a particular use and proximity to sensitive receptors. (3) Lighting on commercial sites and within pedestrian areas should be designed to complement the architecture of surrounding development and should be pedestrian-scaled. Maximum height for lamp posts in commercial parking areas should be 20 feet, and lamp posts in pedestrian areas shall not exceed 15 feet. (4) The Planning Board may consult the Dutchess County Greenway Guides on additional lighting guidelines.~~

#### § 150-39.2 Landscaping, screening, and buffer areas.

#A. Existing wooded areas and other existing natural vegetation shall be retained to the maximum extent practicable and shall be incorporated in landscaping plans.

#B. ~~(1)~~ Visibility at intersections. On a corner lot, no fence, wall, hedge or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are 30 feet distant from the point of intersection, measured along said street right-of-way line. The height of three feet shall be measured above the road surface at the nearest edge of road traveled way. This subsection shall not apply to existing trees, provided that no branches are closer than six feet to the ground.

#C. ~~(2)~~ Multifamily and nonresidential uses.

~~(1)(a)~~ All portions of multifamily and nonresidential properties which are not used for locations for buildings, structures, off-street parking and loading areas, sidewalks or similar purposes shall be landscaped and permanently maintained in such manner as to minimize erosion and stormwater runoff and harmoniously blend such uses with the residential character of the Town as a whole. Landscaping should consist of a mix of native evergreen, deciduous and ornamental plantings. Invasive species shall be avoided. Lawn area shall not exceed sixty percent (60%) of total landscaped area. A landscaping plan shall be submitted to the Planning Board as part of site plan review.

~~(2)(b)~~ In connection with the review of any site development plan or special permit application for a multifamily or nonresidential use abutting or directly across a local street from any property in a residence district, a buffer strip shall be required along all such property lines. Such buffer strip shall comply with at least the following minimum standards:



~~(a)[1]~~ It shall be of evergreen planting of such type, height, spacing and arrangement as in the discretion of the Planning Board will effectively screen the activity of the lot from the neighboring residential area. Nonevergreen planting may be included to supplement evergreen planting but not to take its place.

~~(b)[2]~~ It shall be at least 20 feet in width.

~~(c)[3]~~ A wall or fence of location, height, design and materials approved by the Planning Board may be substituted for part or all of the required planting and buffer area.

~~(d)[4]~~ Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

~~(3)(c)~~ All plantings shown on an approved site development plan or special permit plan shall be maintained in a vigorous growing condition throughout the duration of the use, and plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

~~(4)(d)~~ Parking areas should be screened from view from offsite properties and shall be designed with planted islands. A minimum of 10 square feet of landscaping should be provided in and around parking areas for every parking space provided. Landscaping should be protected from vehicle damage by curbs or other barriers.

10. Article VI, entitled General Regulations, Section 150-43. Signs. Sections C., and G. shall be revised as set forth below. Sections A., B., D. through F., and H. through N. shall remain as they are in the code.

#C. Exempt signs., shall be revised to include a new subsection (8) as follows:

(8) Drive through menu boards.

Subsections 150-43. C. (1) through (7) shall remain as they are in Chapter 150.

#G. Permanent signs within other districts., subsection (2) RB, PB, PSC, GB, and PI districts. (a) and (d)[1] shall be revised to read as follows:

(2)(a) Not more than two wall signs shall be permitted per establishment, announcing the name or insignia, or both, of the establishment or business located on the lot. For buildings that measure 100 feet or less in length on their longest side, the combined aggregate area of such signs shall not exceed two square feet for each linear foot of the length of the longest side of the building or 40 square feet, whichever is less. Buildings that are more than 100 feet in length on their longest side shall be allowed a combined aggregate sign area of 40 square feet plus an additional one square foot of sign area per five linear feet of building length greater than 100 feet. A sign bonus shall be available where the building is greater than 150 feet from the road. In such case, the sign shall be allowed to be increase in square footage by 25%. Where a building has more than 1 tenant occupying space there shall be an allowance for each tenant to have their own signage in conformance with the Sign Code.

(2)(d)[1] Not more than one primary sign shall be permitted per establishment. Such sign shall be a wall sign located on the establishment's principal facade and may be as large as 40 square feet in area. A sign bonus shall be available where the building is greater than 150 feet from the road. In such case, the sign shall be allowed to be increase in square footage by 25%. Where a building has more than 1 tenant occupying space there shall be an allowance for each tenant to have their own signage in conformance with the Sign Code. Freestanding signs may not be displayed by individual establishments located within a shopping center.

11. Article VI, entitled General Regulations, Section 150-44. Wetlands and watercourses; hilltops, ridgelines and steep slopes; water quantity and quality. Section A. and D. shall be revised to read as set forth below. Sections B. and C. shall remain as they are in the code.

#A. Alteration of wetlands or watercourses. In any district, no regulated activity, as defined by Chapter 82 of the Town Code shall be undertaken within wetlands or watercourses or the associated buffer area, as also defined therein, whether by removal or deposition of material or by grading or otherwise, shall be permitted except where a permit pursuant to that chapter has been obtained, ~~or where otherwise determined to be exempt under Town regulations.~~

#D. Water quantity and quality. Upon application for a rezoning, site plan approval, subdivision approval or any other approval in an area of the Town which is known to have conditions of uncertain water quantity or quality, based upon the latest geodetic information, the reviewing or approving board ~~may~~ shall require that a hydrological study, addressing parameter specified by the agency, be prepared by a trained hydrologist and submitted by the applicant to the appropriate reviewing or approving board.

12. Article VII, entitled District Regulations, Section 150-48. Schedules of Regulations, subsections A. and B. shall remain as written, however, the schedules themselves shall be revised to set forth the following changes:

a. The prefatory paragraph at the top row of the “Schedule of Regulations for Residential Districts”, on each page of the schedule, shall be revised to read as follows:

“No building or premises shall be used and no building or part of a building shall be erected or altered which is arranged intended or designed to be used, in whole or in part, for any uses except the following. Any use not specifically listed shall ~~be~~ refer to § 150-19. A use marked with an asterisk (\*) is subject to the special use permit approval procedure set forth in Articles XI and XII and shall conform to any additional requirements made in connection with such approval. All floodprone areas shall be subject to additional standards as set forth in Article IX.”

b. The prefatory paragraph at the top row of the “Schedule of Regulations for Residential Districts”, on each page of the schedule, shall be revised to read as follows:

“No building shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following. Any use not specifically listed shall refer to § 150-19. All uses marked with an asterisk (\*) shall be subject to the special use permit procedure set forth in Articles XI and XII. All other uses shall be subject to the site plan approval procedures set forth in Article X. All flood-prone areas shall be subject to additional standards as set forth in Article IX, Also see Note (c)”

c. The “Permitted Accessory Uses” column of the “Schedule of Regulations for Residential Districts” shall be revised so that the asterisk (\*) is deleted in front of the use “Offices or studios, provided that: ...” so that special use permit approval is no longer required.

d. The “Permitted Accessory Uses” column of the “Schedule of Regulations for Residential Districts” shall be revised so that the asterisk (\*) is deleted in front of the use ~~EDIT~~ → “Offices or studios, provided that: ...” so that special use permit approval is no longer required.

e. The use “drive-through service” shall be listed in the third column of the “Schedule of Regulations for Nonresidential Districts”, which is “Permitted Accessory Uses”, for specific nonresidential uses in each zoning district as numbered and set forth below:

In the LHC Local Historic Center row, add Permitted Accessory Use number 6. Drive through service for professional, banking, business, or governmental offices.<sup>(n)</sup>

In the RB Restricted Business row, add Permitted Accessory Use number 6. Drive through service for restaurants, or other places serving food or beverage; and professional offices, including medical and dental clinics.<sup>(n)</sup>

In the PB Planned Business row, add Permitted Accessory Use number 7. Drive through service for professional, banking, business, or governmental offices.<sup>(n)</sup>

In the PSC Planned Shopping Center row, add Permitted Accessory Use number 6. Drive through service for stores and shops for retail business; professional, banking, business, or governmental offices; and restaurants, or other places serving food or beverage, including fast food establishments.<sup>(n)</sup>

In the GB General Business row, add Permitted Accessory Use number ... 6. Drive through service for stores and shops for retail business; professional, banking, business, or governmental offices; professional offices, including medical and dental clinics; restaurants, or other places serving food or beverage, including fast food establishments; and laundry and dry-cleaning establishments.<sup>(n)</sup>

f. The footnote <sup>(n)</sup> at the end of each of the above listed accessory use provisions, shall correspond to a new footnote <sup>(n)</sup>, which shall be added at the end of the “Schedule of Regulations for Nonresidential Districts” to read as follows: “(n) Drive through facilities, including service speakers, order lists or menus, order and pick up windows shall be located: no less than one-hundred and fifty feet (150’) from any property in a residential zoning district; and to the rear of the principal building or if along the sides, shall be minimally visible from the site frontage. Access to and from drive through service shall not obstruct pedestrian or vehicular traffic and shall not be located in any required yard areas.”

g. The use “self-storage facility” shall be listed in the second column of the “Schedule of Regulations for Nonresidential Districts”, which is “Permitted Principal Uses”, for three of the nonresidential zoning districts as numbered and set forth below:

In the PSC Planned Shopping Center row, revise Permitted Principal Use number 7 to read as follows: 7. Any self-storage facility, industrial, warehousing or manufacturing use, including fabrication, converting, processing, altering or other handling of products, provided that all equipment, materials and all activities shall be in fully enclosed buildings.

In the GB General Business row, revise Permitted Principal Use number 4 to read as follows: 4. Self-storage facilities, warehouses and the storage and sale of building materials, plumbing, electrical and similar contractor’s establishments, provided any outdoor storage is suitably screened from streets and adjoining properties in accordance with a plan approved by the planning board.

In the PI Planned Industry row, revise Permitted Principal Use number 4 to read as follows: 4. Any self-storage facility, industrial, warehousing or manufacturing use, including fabrication, converting, processing, altering or other handling of products, provided that all equipment, materials and all activities shall be in fully enclosed buildings. ... These building enclosure requirements shall not apply, however, to the storage, stockpiling or processing of natural resources extracted from the earth, or to the accessory manufacture of bituminous or asphaltic paving products.

13. Article VIIB Beacon Hills District, Section 150-59. Legislative intent; purpose; permit procedure., B. Permit procedure., (2) (a) [1] through [8] shall be revised to read as follows:

B. Building Inspector review of application. In addition to Planning Board approval where necessary and pursuant to the requirements of Article X, Site Development Plan Approval, all applications under this section shall be submitted to and filed with the Building Department for review and processing pursuant to the following procedure:

(1) The Building Inspector and the Planning Board are hereby designated to administer and implement this section through the granting or denying of land development permits. All permits or approvals issued by the Town, particularly but not limited to building permits and certificates of occupancy, shall incorporate by reference the terms and conditions of any land development permit issued pursuant to this section.

(2) Building Inspector review of application. In addition to Planning Board approval where necessary and pursuant to the requirements of Article X, Site Development Plan Approval, all applications under this section shall be submitted to and filed with the Building Department for review and processing pursuant to the following procedure:

(a) Issuance of land development permit by Building Inspector. If the Building Inspector determines that the application is complete in accordance with Subsection B.(4) of this Section, the landowner may be entitled to a land development permit from the Building Inspector if the proposed activity is one of the following and the proposed activity is not also one of the activities subject to mandatory referral to the Planning Board under Subsection B.(2)(b):

[1] The placement of a shed onto the real property, but only when the shed is no larger than 20~~10~~ feet by 20~~10~~ feet in size and the placement of the shed will comply with all zoning laws (i.e., no variances are required from the ZBA); or

[2] An addition to or the modification of an existing structure if there will be no increase in the footprint of the existing structure and no associated land disturbance; the conversion of a deck or garage into habitable space; or the construction of an additional floor onto an existing structure; or

[3] A retaining wall which:

[a] Will not be located within a required yard; and

[b] Has a maximum exposed height of four~~two~~ feet; and

[c] Will result in no more than 2,000~~1,000~~ square feet of associated land disturbance; or

[4] The construction of an aboveground pool where the associated land disturbance is no greater than 1,000~~350~~ square feet; or

[5] The maintenance or replacement of walkways or driveways, constructed on or before December 30, 2008, if there will be no increase in the footprint of the existing walkway or driveway; or

[6] The construction of a new sidewalk on real property devoted to residential use. However, this activity may require the submission of an erosion and sediment control plan; or

[7] A pervious driveway may be converted to a paved driveway if the total impervious surface area of the converted driveway is greater than 200 square feet but less than 2,000~~1,000~~ square feet and provided that the completed slope is not greater than 3%; or

[8] A retaining wall located within a required yard which has a maximum exposed height of two feet and will result in no more than 2,000~~1,000~~ feet of associated land disturbance. However, this activity shall require the submission of an erosion and sediment control plan.

The rest of 150-59, B. shall remain as it is in Chapter 150.

14. In Article VIII C, Hudson River District, Section 150-63. Applicability; special permit use required; standards; application procedures. The article heading and text within the sections and subsections of the article shall be revised such that the phrase “special permit use” shall be changed to the phrase “special use permit”, as follows:

Section 150-63. Applicability; special use permit ~~use~~ required; standards; application procedures.

In section 150-63., subsection B. The first line shall read:

Town Board special use permit ~~use~~ required. A special use permit ~~use~~ may be...

In section 150-63., subsection B., shall be revised to read as follows:

#B. Town Board special use permit ~~use~~ required. A special use permit ~~use~~ may be granted, after public hearing by the Town Board, relating to the alteration and/or use of the lands submerged within the Hudson River, including development and/or use of areas above the river where said alteration and/or use is found to be accessory and subordinate to, as well as dependent upon, a larger development project subject to City of Beacon review and approval, and where the owner and/or applicant are the same.

In section 150-63., subsection C., shall be revised to read as follows:

#C. Permitted special use permit ~~uses~~. Permitted principal and accessory uses are intended to be consistent with the permitted principal and accessory uses as allowed in the City of Beacon Waterfront Development (WD) Zone. The uses listed in § 150-48A are consistent with the New York State Coastal Management Program and are allowed in the HRD by special use permit ~~use~~ of the Town Board in accordance with the procedures outlined herein. In reviewing special use permit ~~use~~ applications, the Town Board shall determine that the use(s) and site development proposed are compatible in terms of location, size, design and function.

In section 150-63., subsections D. through F., shall remain as they are in Chapter 150.

15. Article X, entitled Site Development Plan Approval, Section 150-97. Referral of application to and processing by planning board., shall be revised: to eliminate reference to specific steps in the SEQRA process in section 150-97, B. Formal review.; and to create a new section, which shall be section 150-97, D. Performance bond.; and existing Sections 150-97. D. and E. shall be renumbered accordingly as E. and F. New section 150-97. D. Revised subsection section 150-97, B.; and section 150-97, D. shall read as follows:

#B. Formal review. A public hearing shall be conducted in conformance with the requirements of Chapter **114** of the Town of Fishkill Code. Notice of such public hearing shall be posted, published and mailed as required by Chapter **114** before said hearing is held. The applicant and/or his representative must attend the public hearing. ~~Prior to scheduling a public hearing on the application, SEQRA must be completed. If an EIS is prepared, a joint hearing may be held.~~ Within 62 days after the close of the public hearing, the Planning Board shall forward its findings to the applicant and the Zoning Administrator. The Zoning Administrator shall also notify the applicant whether the preliminary application has been approved, disapproved or approved with modifications. Within seven days the Planning Board shall also file a copy of its findings in the office of the Town Clerk. The Planning Board's findings regarding a

preliminary application shall expire six months from the date of approval if no application for final approval is submitted within such period, except where such time limit is extended by mutual consent of the applicant and the Planning Board. ~~{Amended 4-3-2019 by L.L. No. 1-2019}~~

Subparagraph 150-97, B. (1) shall remain as it is in Chapter 150.

#D. Performance bond. As a condition of approval under this article the Planning Board shall require the posting of a performance bond with supporting security. The purpose of the bond is to cover the cost of site improvements required by the site plan approval including but not limited to grading, erosion and sediment controls, landscaping, stormwater management improvements, sidewalks, etc., but not including building construction. The amount of such bond shall be based on an estimate submitted by the applicant, reviewed, and approved by the Planning Board's engineer and approved by the Town Board. The performance bond shall be in a form acceptable to the Town Attorney, and the supporting security shall be in the form of a cash deposit, the assignment of a bank account, or the posting of a letter of credit.

16. Article XI, entitled Special Permit Uses, Sections 150-105 through 150-112, shall be revised to read as set forth below.

Article XI, Special Use Permits ~~Uses~~

§ 150-105. General provisions

- A. All special use permits ~~use~~ for which conformance to additional standards are required are considered to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in this article and such additional requirements as may be specified by the Planning Board according to the provisions of § 150-48 and the corresponding Schedules of Regulations and § 150-110 herein, in addition to all other requirements of this chapter. All such uses are declared to possess such unique, special and individual characteristics that each specific use shall be considered as an individual case.
- B. As a condition of approval under this article, an inspection fee in an amount determined necessary by the Town Engineer, but not in excess of 7% of the estimated cost of constructing all private roads, sidewalks, water supply, sewerage and storm drainage systems, grading, landscaping and all other site improvements, not including building construction, shall be paid to the Town of Fishkill. Such fee shall be used to cover costs incurred by the Town in conducting inspections of such development as it progresses, and upon completion.
- C. All special use permits ~~uses~~ are subject to site plan approval.

§ 150-106. Application for special use permit. ~~{Amended 4-3-2019 by L.L. No. 1-2019}~~ Application for required special use permits with the exception of designed multiple-use development, Hudson River District development associated with abutting lands located in the City of Beacon Waterfront Development (WD) Zone and mobile home parks shall be made to the Zoning Administrator. The Zoning Administrator shall transmit each such application to the Planning Board as per § 150-48 and the corresponding Schedules of Regulations. A public hearing shall be conducted in conformance with the requirements of Chapter 114 of the Town of Fishkill Code, including all notification procedures and requirements. ~~Notice of such public hearing shall be posted, published and mailed as required by~~

~~Chapter 114 before said hearing is held.~~ Within 45 days of the close of the public hearing, the Planning Board shall file with the Building Inspector a decision on said application. The Planning Board shall also file its decision with the Town Clerk and forward a copy of said decision to the applicant. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The Planning Board may authorize the issuance of a special use permit, provided that it finds that all of the following conditions and standards have been met:

In § 150-106, subsections A. through D. shall remain as they are in Chapter 150.

Section 150-107. Required plan., shall revised so that the first line shall read as shown below, and the rest of the paragraph shall remain as it is in Chapter 150.

§ 150-107. Required plan.

A plan for the proposed development of a lot for a special use permit ~~use~~ shall be submitted with an application for a site plan.

§ 150-108. Review by other agencies.

Upon receipt of a completed application for a special use permit, the Planning Board shall forward, where appropriate, one copy each to the Town Engineer, the Superintendent of Highways, the Town Conservation Board, the Dutchess County Soil and Water Conservation District and the Dutchess County Department of Health. In addition, copies shall be forwarded to the Dutchess County Planning Department when such proposed development abuts a state or county highway, park, drainage channel or building site, and to the clerk of any abutting municipality where the property proposed for such development is located within 500 feet of such municipality, and other agencies, such as the Hudson River Valley Commission or the New York State Department of Environmental Conservation, which may have jurisdiction, together with a request for review and report by said agency. Each agency may submit a report, including its recommendations, which report, if it is to be considered, should be returned to the Planning Board within 30 days of the date that such referral was submitted.

§ 150-109. Notice to abutting property owners.

The Planning Board shall provide public hearing notification about any application for a special use permit in accordance with the requirements of Code Chapter 114. ~~within that comes out notify by mail all abutting landowners with respect to the application for a special permit use, in writing, in the same manner as set forth in § 150-97B(1) of this chapter.~~

§ 150-110. Conditions and safeguards.

In § 150-110, subsection A. shall remain as it is in Chapter 150.

#B. To offset the costs incurred by the Town in making drainage improvements resulting from development taking place within the Town, all applicants for approval of special use permit uses involving the construction of any buildings, streets or other improvements shall be required to submit a downstream drainage improvements fee, payable to the Town of Fishkill, in accordance with the current fee schedule.

§ 150-111. Action by Building Inspector.

In § 150-111, subsection A. shall remain as it is in Chapter 150.

§ 150-112. Expiration of special use permit.

- A A special use permit shall be deemed to authorize only the particular use or uses specified in the permit, and, unless other provisions are set forth by the Planning Board in connection with its issuance of that permit, it shall expire if work is not initiated pursuant thereto within 12 months or if said use or uses shall cease for more than one year for any reason or if all required improvements are not completed within two years from the date of issue or if all such required improvements are not maintained and all conditions and standards are not complied with throughout the duration of the use.

17. Article XII entitled Individual Standards and Requirements for Particular Special Permit Uses, Section 150-120. Shall be revised to delete subsection C. as shown below and the subsequent sections D. through I., shall be renumbered as C. through H.

- A. ~~No proposed site shall be located within 1,500 feet of any existing public garage or filling station or any site previously approved for such use and not as yet terminated as provided for in this chapter.~~

18. Article XII entitled Individual Standards and Requirements for Particular Special Permit Uses, Sections 150-117 through 150-127., shall be revised to change all references to “special permit use” to correctly refer to “special use permit” as set forth below. Any subsections not specifically identified below for such revisions shall remain as they are in Chapter 150. Article XII:

§ 150-117. Conformance required. A special use permit ~~use~~ shall conform to the following individual standards and regulations, where applicable, in addition to all other regulations for the zoning district in which the special use permit use is located.

§ 150-118. Extraction or removal of natural resources.

A special use permit ~~use~~ may be granted, after public hearing by the Town Board These provisions shall apply to special permits for the extraction and processing of natural resources, where permitted, involving the regrading, removal or excavation of more than 1,000 tons or 750 yards of natural resources, whichever is less, within 12 successive calendar months, or a volume of more than 100 cubic yards of natural resources from or adjacent to any body of water not subject to the jurisdiction of Article 15 of the Environmental Conservation Law.

- A. Scope of special use permit review. Any special use permit ~~use~~ shall be limited in scope to review of the following matters and potential conditions related thereto:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.



- B. Application requirements. All special use permit ~~use~~ applications must be accompanied by the following:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

- C. Enforcement of special use permit ~~use~~ conditions. If, at any time, the Town Zoning Administrator determines that the recipient of a special permit, as set forth herein, does not maintain the required improvements and/ or does not comply with any and all conditions attached thereto, the Town Zoning Administrator shall order that the owner and/or the operator of all soil mining uses comply with all aspects of the special use permit ~~use~~. Failures to abide such direction shall constitute separate violations, subject to the enforcement remedies found within Article XIV of this chapter.

§ 150-119. Mobile home parks.

A special use permit ~~use~~ may be granted, after public hearing by the Town Board, for a mobile home park in any residential district where the general land use and development plan, prepared by a licensed architect or professional engineer, for such mobile home park is found to comply with the standards of the Mobile Home Park Ordinance (Ordinance No. 3, adopted July 7, 1952, as amended)<sup>5</sup> and all applicable sections of this chapter. Furthermore, except as set forth in § 106-39 of the Town Code with respect to preexisting nonconforming parks, such mobile home park shall not exceed the density of single-family homes that would be permitted in the zoning district in which it is located.

§ 150-120. Gasoline filling stations. A special use permit ~~use~~ may be granted, after a public hearing by the Planning Board, for a gasoline filling station, provided that:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

§ 150-121. Animal hospital and kennel. A special use permit ~~use~~ may be granted, after a public hearing by the Planning Board, for an animal hospital or kennel, provided that:

Corresponding subsections A. through C. shall remain as they are in Chapter 150. Article XII. Subsection D. shall be revised as follows:

- D. Animals shall not be permitted beyond the boundaries of the special use permit ~~use~~.

§ 150-122. Commercial riding establishments. A special use permit ~~use~~ may be granted, after a public hearing by the Planning Board, for commercial riding establishments, provided that:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

§ 150-123. Dental clinics. A special use permit ~~use~~ may be granted by the Planning Board within any residence district for a dental clinic, provided that:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

§ 150-124. Funeral home use in residence district. On a lot of one acre or more, a special use permit ~~use~~ may be granted by the Planning Board for a funeral home use within an existing residence having an existing usable floor area of not less than 2,000 square feet, provided that:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

§ 150-125. Adult entertainment cabarets. A special use permit ~~use~~ may be granted by the Planning Board for adult entertainment cabarets, subject to the conditions set forth in this section.

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

§ 150-126. Telecommunications towers and telecommunications facilities requirements. A special use permit ~~use~~ may be granted by the Planning Board for telecommunications towers and facilities, subject to the conditions set forth in this section.

Section 150-126. B. (3) and (4) shall be revised as follows:

(3) New telecommunications tower construction within Industrial, General Business, Planned Shopping, Planned Business, R-4A and Restricted Business Zoning Districts is subject to obtaining a special use permit ~~use~~ from the Planning Board pursuant to the requirements of Subsection F and Article XI of this chapter. Such construction shall also comply with the requirements set forth in Subsections F through S below, as determined by the Planning Board as part of the special permit process.

(4) New telecommunications tower construction or the location or colocation of communications equipment on an approved communications tower or tall structure within Zoning Districts R-2A, R-MF-3 and R-MF-5 is subject to obtaining a special use permit ~~use~~ from the Planning Board in accordance with Subsection F and Article XI. Such construction and colocation shall also comply with the requirements set forth in Subsections F through S below, as determined by the Planning Board as part of the special permit process.

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

Section 150-126. E. shall be revised as follows:

- E. New towers: future shared use. Applicants shall design proposed new telecommunications towers to accommodate future demand for reception and transmitting facilities. Applications for new telecommunications towers shall include an agreement committing the owner of the proposed new telecommunications tower, and its successors in interest, to negotiate in good faith for shared use of said tower by other providers of communications in the future. This agreement shall be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the agreement shall be grounds for the revocation of the special use permit ~~use~~. The agreement shall commit the telecommunications tower owner and lessee and its successors in interest to:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

Section 150-126. F. shall be revised as follows:

- F. Site plan/ special use permit ~~use~~ review; submission requirements.

Section 150-126. F. (2) shall be revised as follows:

(2) special use permit ~~use~~ applications. Applications to the Planning Board for a special use permit ~~use~~ shall be made in accordance with Article XI and shall include the following:

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

19. Article XIX entitled enforcement, section 150 - 175. Engineering, legal, consulting and review fees. A. shall be revised to read as follows:

- A. Where the Town Board, Planning Board or the Zoning Board of Appeals uses the services of private engineers, attorneys or other consultants for purposes of engineering, scientific land use planning, environmental or legal reviews of the adequacy or substantive details of applications, or issues raised during the course of review of such applications, for special use permit approvals under Articles VIII through XII of this chapter, site plan approvals under Article XI of this chapter, subdivision approvals under Chapter 132, Subdivision of Land, of the Town Code, review of sign permit applications under § 150-43 of this chapter, use or area variances under Article XX of this chapter, applications for rezoning of parcels to accommodate site-specific land development proposals or otherwise, applications for permits to extract topsoil or natural resources under Chapter 128 of the Town Code, land development permits for the BH District, or for any other principal or ancillary land use or development permits or approvals required under the Town Code, as well as to assist in assuring or enforcing an applicant's compliance with the terms and conditions of all the aforementioned administrative and legislative permits or approvals, the applicant and landowner, if different, shall be jointly and severally responsible for payment of all the reasonable and necessary costs of such services. In no event shall that responsibility be greater than the actual cost to the Town of such engineering, legal or other consulting services.

Corresponding subsections shall remain as they are in Chapter 150. Article XII.

20. Article XXI, entitled Building Permits, shall be revised to create two new sections, which shall be section 150-186.1, Sprinkler systems.; and 150-186.2, Plumbing and electrical licenses required., which shall read as follows:

§ 150-186.1. Sprinkler systems.

- A. In addition to the provisions of code chapters 50 and 74, regarding building construction and fire prevention, all new residential buildings, including one-family dwellings shall have a fire sprinkler system conforming to current national fire protection association (NFPA) standards.
- B. Prior to issuance of a Building Permit, each builder shall submit two sets of proposed plans to the Building Inspector depicting the fire Sprinkler System. These plans must be signed and sealed by a licensed New York State professional engineer, NICET (Level 3 or above) or a licensed New York State fire protection engineer.

- C. For any existing building, structure or occupancy, except a one- or two-family residence, which does not contain a sprinkler system conforming to NFPA standards where the total floor area is increased by 50% or more or for which the cost of any alterations, additions or repairs made within a six-month period exceeds 50% of the cost of replacement of the building at the beginning of that six-month period or where the use is converted to an A occupancy, as defined by the Uniform Code, and NFPA, plans shall be submitted in accordance with § 150-186.1 B. and a fire Sprinkler System shall be installed.
- D. No Certificate of Occupancy shall be issued for occupancy or use of any residential building, structure or portion thereof required to have a fire Sprinkler System unless such system is installed, inspected, tested, and approved in accordance with NFPA standards.

§ 150-186.2. Plumbing and electrical licenses required.

- A. In addition to the provisions of code chapter 50, regarding building construction, all new commercial construction of plumbing and electrical systems shall be performed by plumbers and electricians licensed in the State of New York. Alternatively, such construction shall be supervised, inspected, and certified by plumbers and electricians licensed in the State of New York.