

## Chapter 220

### ZONING

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[HISTORY: Adopted by the Board of Trustees of the Village of Briarcliff Manor 9-29-1953, as amended through 4-17-1995. Subsequent amendments noted where applicable.]

#### GENERAL REFERENCES

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| Architectural Review Advisory Committee — See Ch. 5. | Flood damage prevention — See Ch. 127. |
| Planning Board — See Ch. 45.                         | Freshwater wetlands — See Ch. 131.     |
| Zoning Board of Appeals — See Ch. 61.                | Signs — See Ch. 172.                   |
| Building construction — See Ch. 90.                  | Subdivision of land — See Ch. 190.     |
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#### § 220-1. Title; legislative purpose.

- A. This chapter shall be known and may be cited as the "Zoning Ordinance of the Village of Briarcliff Manor, New York."
- B. Statement of legislative purpose for Ordinance 111. This amending ordinance recognizes among the matters with which it is concerned, that various neighborhoods and areas in the Village of Briarcliff Manor have been developed in the past with lots in excess of the

40,000 square foot minimum lot area required in the R40A and R40B Districts, and other neighborhoods and areas have been developed with lots in excess of the 20,000 square foot minimum lot area required in the R20A and R20B Districts, and that said development has occurred in accordance with the highest and best available use of the land, or by reason of the fact that certain tracts of land, either because of propinquity to such neighborhoods or areas or as a result of difficult terrain or for other reasons, are not appropriate for development with lots of 40,000 square feet minimum or 20,000 square feet minimum as the case may be. Acting on the basis of the recent experience of the Village of Briarcliff Manor during the last five or more years with respect to its development and growth, and intending to exercise to the fullest extent the legislative power granted to it in accordance with the legislative purposes set forth in § 7-704 of the Village Law, and particularly the purposes of lessening congestion in the streets, preventing overcrowding of land, avoiding undue concentration of population, facilitating the adequate provision of transportation, water sewerage, schools, and other public requirements, and generally promoting the public health and general welfare, it is accordingly deemed necessary to orderly residential development and to the general welfare of the Village of Briarcliff Manor that the Zoning Chapter be amended to make provision for a new single-family residence district, requiring lots with a minimum area of 60,000 square feet, and with other appropriate regulations; and that certain tracts of land be transferred to this new zoning district; and that certain other tracts of land be transferred from R20A and R20B Districts to R30A, R40A or R40B Districts, or corrections being deemed necessary and proper to be made at the same time. **[Amended 5-21-1998 by L.L. No. 2-1998]**

#### **§ 220-2. Definitions.**

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future and the plural includes the singular. The word "building" includes the word "structure"; and the word "shall" is intended to be mandatory; and the words "occupied" or "used" shall be construed as though followed by the words "or intended, arranged, or designed to be used or occupied."

**ACCESSORY BUILDING** — A building, the use of which is incident to that of the principal building and located on the same lot.

**BUILDING** — Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or property. **[Added 9-3-2003 by L.L. No. 6-2003]**

**COLLOCATION** — The installation of two or more wireless telecommunication services antennas and related appurtenances on the same monopole. For purposes of this chapter, the installation of two or more structurally-mounted wireless telecommunication services antennas on the same building or structure other than a monopole, or the installation of two or more wireless telecommunication services facilities in different locations on the same site, shall not be considered "collocation." **[Added 8-12-1999 by L.L. No. 6-1999]**

**CONTINUING CARE RETIREMENT COMMUNITY (CCRC)** — A for-profit age-restricted institutional development authorized by the State of New York in accordance with Article 46

of the Public Health Law, as it may be amended from time to time, that, by contract, provides a continuum of housing, daily living services and facilities, and health and nursing care for the life of initially healthy seniors from independent residences to assisted living to skilled nursing care generally including: **[Added 5-29-2003 by L.L. No. 3-2003]**

- A. Independent living units (ILU), assisted living units (ALU) and a skilled nursing facility (SNF), together with the provision of board for residents;
- B. A range of medical, health care and social services, including, among other things, home health care, nursing care, hospice care, dementia care, respite care, rehabilitation services, including on-site physician's offices, and services at an on-site or affiliated skilled nursing facility; and
- C. Amenities, facilities and programs specifically designed to enhance the length and quality of life of residents, including common dining, recreation, incidental retail, incidental personal services, and cultural facilities, together with separate overnight accommodations for the guest(s) of any resident, only as may be permitted as a condition of the required special permit.

**COURT** — An open, uncovered and unoccupied space bounded on two or more sides by the walls of a principal building. An inner court is a court entirely within the exterior walls of a building. All other courts are outer courts.

**COVERAGE, BUILDING** — That percentage of the land area covered by the combined area of all buildings on all or that portion of the lot within the same zoning district as the principal building. **[Added 5-29-2003 by L.L. No. 3-2003]**

**DISH ANTENNA** — A device, also known as a "satellite dish" or "earth station," whose purpose is to receive communication signals from orbiting satellites and other extraterrestrial sources and which may include as a component part a low-noise amplifier (LNA), situated at the focal point of the receiving component, whose purpose is to magnify and transfer signals.

**DWELLING UNIT** — A building or portion thereof providing complete housekeeping facilities for one family only.

**ELDERCARE COMMUNITY** — The premises and buildings providing for-profit congregate living arrangements in which at least one person occupying each residential unit meets the definition of "elderly," and in which all other occupants of each residential unit are either the spouse of, or a person required for the physical care or support of, such person meeting the definition of "elderly." An eldercare community shall include one or both of the following:

- A. **ASSISTED LIVING** — Residential facilities accompanied by support services, including the provision of at least one meal per day and personal care services such as medication supervision and assistance with the activities of daily living such as bathing, dressing, grooming, eating and ambulation.
- B. **INDEPENDENT LIVING** — Dwelling units with individual kitchens and bathrooms where at least one meal per day plus one or more of the following services are provided to residents within the dwelling unit or in common facilities on site: laundry, security and housekeeping.

ELDERLY — Persons 60 years of age and older.

ENCLOSED PORCH or ENCLOSED BREEZEWAY — Any porch or breezeway that has walls, windows, screens or other elements that restrict movement to or from the porch or breezeway, except that an open porch or breezeway may have walls with a height of up to three feet six inches above finished floor elevation so long as 80% of the area above that height to the height of the ceiling remains open. **[Added 8-16-2007 by L.L. No. 7-2007]**

FAMILY — Two or more persons related by blood or marriage, or not more than four unrelated persons, occupying a dwelling unit and living together as a single housekeeping unit may be considered as a family.

FLAT — A dwelling unit located completely within one floor of a multifamily dwelling. **[Added 10-18-2001 by L.L. No. 2-2001]**

FLOOR AREA, GROSS — The sum of the horizontal areas of the floors of the building or buildings, excluding attics and any floor area used for off-street parking or loading purposes (except for one-family residences), measured from the exterior walls or, in the case of a common wall separating two buildings, from the center line of such a common wall and including any two-story space or enclosed porch or enclosed breezeway. For single-family residences, the following areas shall also be included in the gross floor area: **[Added 5-29-2003 by L.L. No. 3-2003; amended 9-3-2003 by L.L. No. 6-2003; 8-16-2007 by L.L. No. 7-2007]**

- A. The sum of the area of the building coverage multiplied by the percentage of the building perimeter with exposed walls of seven feet or greater below the first floor elevation.
- B. Any floor area with a floor to ceiling height of 16 feet or greater shall be doubled for the purpose of calculating gross floor area.
- C. The portion of the total area of any deck(s) elevated above ground (not patio) on the lot that is in excess of the square footage set forth below for the zoning district in which the lot is located.

District	Square Feet
R60A	600
R40A	400
R40B	400
R30A	300
R20A	200
R20B	200
R12B	180
R10B	150
RT4B	100

FLOOR AREA RATIO (FAR) — The gross floor area of all buildings on a lot divided by the area of such lot. **[Added 5-29-2003 by L.L. No. 3-2003]**

**GARAGE, PUBLIC** — A building or part thereof used for the storage, care, or repair of motor vehicles for remuneration, including any sale of motor vehicle accessories, gasoline or oil, or for keeping vehicles for hire. <sup>1</sup>

**HEIGHT OF BUILDING** — The vertical distance from the mean level of the finished grade of the land immediately adjacent to the building to the level of the highest point of the roof beams, except that in the case of pitched roofs, it is the vertical distance from such level of the land to the mid-point between the eave and ridgeline of the roof above the highest wall or walls, or the top of the highest window, whichever is greater. [Amended 9-3-2003 by L.L. No. 6-2003]

**HOME OCCUPATION** — Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incident and secondary to the use of the dwelling for dwelling purposes. The conduct of a clinic, hospital, barber shop, beauty parlor, tea room, tourist home or animal hospital shall not be deemed to be a home occupation.

**HOSPITAL** — Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

**LEARNED PROFESSIONAL** — Of or pertaining to the learned professions, defined as and limited to the practice of architects, engineers, physicians, lawyers and dentists, as distinguished from the practice of a trade, business, or profession in general.

**LIVABLE FLOOR AREA** — The area within the exterior or party walls of the dwelling unit, excluding garages, cellars, heater rooms, basements, porches, and breezeways, but including all heated livable rooms, kitchens, utility rooms, bathrooms, closets and hallways.

**LOADING SPACE** — Any off-street space available for the loading and unloading of goods to or from vehicles.

**LODGE** — A local society or branch having a charter from a duly organized fraternal order.

**LOT** — A piece, plot or parcel of land or assemblage of contiguous parcels of land occupied or to be occupied by a single principal building or use and its accessory buildings and uses.

**LOT, CORNER** — A lot at the junction of and abutting on two intersecting streets when the interior angle of intersection does not exceed 135°.

**LOT, WIDTH** — To comply with Column 5 of the schedule the width of a lot shall be measured along a line parallel to the street line and located at the minimum distance from the street line as required in Column 8 of the schedule. <sup>2</sup>

**MONOPOLE** — A freestanding pole having a single point of location on the ground comprising a part of a wireless telecommunication services facility. For purposes of this

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1. Editor's Note: The definition of "gross area of ground floor of a dwelling," which immediately followed this definition, was repealed 9-3-2003 by L.L. No. 6-2003.

2. Editor's Note: The schedule is included at the end of this chapter.

chapter, the term "monopole" shall include, in addition to the pole, all other components of the wireless telecommunications services facility. **[Added 5-5-1997 by L.L. No. 2-1997]**

**MULTIFAMILY DWELLING** — A building containing two or more dwelling units or a part of a building above a permitted business use containing two or more dwelling units.

**NIER** — Nonionizing electromagnetic radiation. **[Added 5-15-1997 by L.L. No. 2-1997]**

**NURSERY SCHOOL** — A building or buildings or portion thereof together with surrounding grounds used for the purpose of educating or supervising the play of preschool age children.

**OFFICE BUILDING** — A building occupied or used for business or professional offices of individuals, partnerships, associations or corporations, in which no commercial goods, materials or products other than services are sold at retail or offered for retail sale from the premises, no stock-in-trade other than samples is displayed or stored, and no commercial goods, materials or products are manufactured, assembled, or commercially serviced or repaired.

**PARKING AREA** — An off-street area containing one or more parking spaces with vehicular circulation ways and driveways, and internal and peripheral drainage facilities, lighting facilities, landscaping, signs, curbs, fences, walls, pedestrian walks and areas and other incidental facilities and appurtenances thereto. **[Amended 5-21-1998 by L.L. No. 2-1998]**

**PARKING SPACE** — A specific off-street location available for the parking of one motor vehicle on a transient basis, normally located within a parking area, and having usable and relatively direct access to a street.

**PRINCIPAL BUILDING** — A building in which is conducted the principal use of the lot on which it is situated.

**PUBLIC UTILITY** — Persons, firms or corporations supplying gas, electricity, water, power, transportation, television, cable or telephone service to the general public, including wireless telecommunication services which are regulated separately under this chapter. **[Added 5-15-1997 by L.L. No. 2-1997]**

**REAR LOT LINE** — The lot line generally opposite the street line. If the rear lot line is less than 10 feet long, or the lot comes to a point, the rear lot line shall be deemed to be a line within the lot not less than 10 feet long parallel to and farthest from the street line.

**RESEARCH LABORATORY** — A building for experimentation in pure or applied research, design, development, and production of prototype machines or devices, or of new products and uses necessary thereto; wherein products are not manufactured or assembled primarily for wholesale or retail sale wherein commercial servicing or repair of commercial products is not performed, and where there is no display of any materials or products for sale.

**RESIDENTIAL UNIT** — One or more rooms providing sleeping facilities for the occupants thereof, and which may also include provisions for cooking, living and sanitary facilities.

**SIDE LOT LINE** — The line connecting the street line of the lot with the rear lot line and running along the side thereof.

**SOLAR ENERGY COLLECTOR** — A device or combination of devices which relies upon solar radiation as an energy source and that is employed for the purpose of heating or cooling a building, the heating of water or the generation of electricity.

**STORY** — That portion of a building between the surface of any floor and the surface of the floor next above it or, if there be none, between the surface of the floor and the ceiling or rafters above it. A basement shall be counted as a story if the finished floor level directly above the basement is more than six feet above the average finished grade of the ground adjacent thereto, or except for one-family residences if it is used for business purposes other than storage or for dwelling purposes other than for a janitor or watchman. **[Amended 9-3-2003 by L.L. No. 6-2003; 8-16-2007 by L.L. No. 7-2007]**

**STORY, ONE-HALF** — A story with at least two opposite exterior sides meeting a sloping roof at the floor of such story, and the area of the attic space with a floor-to-rafter height of seven feet or greater is less than 60% of the area of the floor as measured on the floor directly below. **[Amended 9-3-2003 by L.L. No. 6-2003]**

**STREET** — A thoroughfare which has been placed and designated on the Official Map as a street, and which affords the principal means of access to abutting property.

**STREET LINE** — Synonymous with "front line" and being the line of the lot coinciding with the line of the street on which it fronts and for purposes of this chapter disregarding any lines showing lands in the same ownership lying within the bed of a street.

**STRUCTURE** — Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to buildings, signs, swimming pools, tennis courts. **[Added 9-3-2003 by L.L. No. 6-2003]**

**STUDIO** — The working place space or room for creative artists, defined as and limited to that for a painter, sculptor, or musician who is the owner and occupant of the main dwelling and shall only be applicable when no employees are associated with this activity. Tutoring and instruction, including art, music, voice, musical instrument, shall be limited to a single pupil at a time.

**SWIMMING POOL** — Any noncommercial private outdoor structure, excavation, pond, body of water or receptacle for water, having a depth at any point greater than two feet, together with the apparatus and equipment, if any, pertaining thereto, used or intended to be used for swimming or bathing by residents of the premises and their guests, without charge for admission and not for the purpose of profit, located on a lot as an accessory use to the residence or dwelling thereon.

**SWIMMING POOL BUBBLE** — An accessory use to a swimming pool constructed for the purpose of enclosing an outdoor swimming pool in order to enable swimming without exposure to the elements at such times when the outside temperature and/or conditions makes unprotected swimming uncomfortable or less desirable. It is commonly known as a "bubble" and may be used with or without a heating apparatus.

**TENNIS COURT** — An accessory use constructed for the purpose of facilitating the playing of tennis, within the confines of said court and which requires the erection of a fence, wall or other enclosure or the grading and/or paving of an area in excess of 3,000 square feet.

TOWNHOME — A dwelling unit sharing a common side or rear wall or walls with another dwelling unit or units, but occupying the entire volume within its portion of the building from the lowest level to the roof, and having its own separate entrance or entrances to the outside.  
**[Added 10-18-2001 by L.L. No. 2-2001]**

USE, ACCESSORY — A use customarily incident and subordinate to the principal use of a lot or building located on the same lot therewith or otherwise permitted under this chapter to be construed as accessory thereto.

USE, PRINCIPAL — The specific purpose for which land is used or a building is designed or used or for which it is or may be occupied or maintained.

**WIRELESS TELECOMMUNICATION SERVICES** — The provision of wireless telecommunications services, including those more commonly referred to as "cellular phones," which services are regulated by the Federal Communications Commission (FCC) in accordance with and as the term "personal wireless service" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), or as hereafter amended. **[Added 5-15-1997 by L.L. No. 2-1997]**

**WIRELESS TELECOMMUNICATION SERVICES FACILITY** — Any equipment used in connection with the commercial operation of wireless telecommunication services, as defined herein, and as the term "personal wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, monopoles, equipment, appurtenances and structures. **[Added 5-15-1997 by L.L. No. 2-1997]**

**YARD** — An open space, unoccupied except as permitted under this chapter, lying between a lot line and a line parallel to such line and tangent to the nearest part of the principal building.

**YARD, FRONT** — A yard extending the full width of the lot and lying between the line of the street upon which the lot fronts, as shown on the Official Map, and a line parallel thereto, tangent to the nearest part of the front of the principal building.

**YARD, REAR** — A yard extending the full width of the lot, unoccupied except as permitted under this chapter, lying between the rear lot line and a line parallel thereto and tangent to the nearest part of the rear of the principal building.

**YARD, SIDE** — A yard, unoccupied except as permitted under the chapter, extending from the inner line of the front yard to the inner line of the rear yard and lying between a side lot line and a line parallel thereto and tangent to the nearest part of the principal building.

### **§ 220-3. Districts and maps.**

- A. Districts. For the purpose of this chapter the Village of Briarcliff Manor is hereby divided into the following classes of districts: **[Amended 12-17-2009 by L.L. No. 5-2009]**

#### **Single-Family Residence Districts**

R80A	Minimum lot area: 80,000 square feet
R60A	Minimum lot area: 60,000 square feet
R40A	Minimum lot area: 40,000 square feet
R40B	Minimum lot area: 40,000 square feet
R30A	Minimum lot area: 30,000 square feet
R20A	Minimum lot area: 20,000 square feet
R20B	Minimum lot area: 20,000 square feet
R12B	Minimum lot area: 12,000 square feet

- R10B Minimum lot area: 10,000 square feet  
 RT4B Minimum lot area: 7,260 to 10,890 square feet

**Multifamily Residence District**

- R30M Minimum lot area: 5,000 square feet  
 EC Eldercare Community Residence District

**Business Districts**

- B1 Retail Business  
 B2 General Business, including light industry  
 B Planned Office Building and Laboratory  
 BT Business Transitional

- B. Map. The boundaries of such districts are hereby established as shown on the map entitled "Zoning Map, Village of Briarcliff Manor, New York, dated October 29, 1958," last revised on December 17, 2009, which map accompanies and is hereby made a part of this chapter. Such map replaces in entirety the Zoning Map of June 1953 as heretofore amended from time to time.<sup>3</sup> [Amended 12-17-2009 by L.L. No. 5-2009]
- C. Boundaries. Except where referenced to a street line or other designated line shown on the Zoning Map by distance in feet therefrom, the district lines are intended to follow lot lines, or the center lines of streets, railroads, streams or aqueducts, or the boundaries of the Village, and where any district abuts upon the Hudson River the boundary lines thereof shall be deemed to extend outward to the boundary of the Village in such river. In unsubdivided land, or where a district boundary divides a parcel or lot, the location of such boundary, if not indicated by dimensions shown upon such map, shall be determined by the use of the scale appearing thereon.

**§ 220-4. Schedule controlling lands and buildings.**

- A. Purpose and adoption. To facilitate public understanding of this chapter and for the better administration thereof the regulations limiting the use of buildings and land and the location, arrangement, bulk and minimum size of buildings are set forth in the annexed schedule for each of the districts established by § 220-3 of this chapter. Such schedule, hereinafter referred to as the "schedule," is hereby adopted and declared to be a part of this chapter and may be amended in the same manner as any other part of this chapter.<sup>4</sup>
- B. Districts, more restricted or less restricted. In the order of their vertical placement in the schedule, districts shall be deemed to be more restricted than those appearing below them and less restricted than those appearing above them.
- C. Application. All limitations for any district as to use, percentage of area, permissible height, required yards and minimum sizes thereof, minimum sizes of dwellings and all other requirements shall be those set forth in the schedule which, in the case of each

3. Editor's Note: The Zoning Map is on file in the office of the Village Clerk.

4. Editor's Note: The schedule is included at the end of this chapter.

district named, shall be read across the schedule from left to right. The listing of any use in the schedule either as being permitted in, or as being excluded from, any particular district shall be deemed to be an exclusion of such use from any more restricted district,



unless such use is permitted in such more restricted district under the language set forth in the schedule applying to such district. Except as may be specifically provided in other provisions of this chapter, only those uses specifically listed as being permitted shall be permitted, as regulated herein, within the Village of Briarcliff Manor.

**§ 220-5. Planned Office Building and Laboratory B District.**

- A. Statement of purpose. This chapter recognizes that it is necessary to the orderly economic development of the Village of Briarcliff Manor to encourage the use of property for office buildings of a proprietary character occupied by a single owner or tenant, and research laboratory buildings similarly occupied, erected in accordance with suitable standards, and at appropriate locations and supported by accessory uses considered appropriate.
- B. Procedure on applications.
- (1) Before any petition shall be taken up for consideration by the Board of Trustees for an amendment to the Zoning Map, Village of Briarcliff Manor, New York, October 29, 1953, as amended, for the purpose of placing any lot or tract of land in a Planned Office Building and Laboratory B District, the applicant or his agent shall first file an application with the Planning Board, which application shall include, to the extent deemed appropriate by the Planning Board:
    - (a) Site plan showing total acreage involved, dimensions and place of buildings, contours of the ground elevation at not more than five-foot intervals, arrangement of proposed streets and driveways, layout of off-street parking and loading areas with their capacity stormwater drainage system, sewage disposal system, water supply system and landscaping plan.
    - (b) Gradients of all streets and driveways.
    - (c) Grading plan for the entire tract.
    - (d) Preliminary floor plans, sections, and elevations of all proposed buildings.
    - (e) Detailed statement of the uses to which all proposed buildings and open lands are to be devoted, with estimate of the number of employees to be employed at any one time, and statement as to whether more than one shift is to be used.
    - (f) Evidence that the applicant has clear title in fee simple to the entire tract of land, or alternately that applicant has executed a formal contract to purchase such tract, contingent only upon its being rezoned to the Planned Office Building and Laboratory B District.
    - (g) Applicant's covenant in proper form for recording, and to run with the land, that if the application is granted and the Zoning Chapter and Zoning Map are amended pursuant thereto by the Board of Trustees, any application for a building permit subsequently filed with respect to such tract shall comply

substantially with the information contained in such application for the change of zone.

- (2) Within 45 days after an application has been filed, the Planning Board shall, after notice given in the manner provided by law, hold a public hearing on such application and related documents described in Subsection B(1) above.
- (3) In its deliberations on such application, the Planning Board shall give due weight and consideration to the following:
  - (a) Reports of the Village Engineer and Fire Chief.
  - (b) Estimate of traffic generated by the proposed development during peak hours, and capacity of existing streets and highways to accommodate such traffic, as a surcharge upon existing and prospective traffic volumes from other generators, and report of Chief of Police with respect thereto.
  - (c) The sufficiency of the street frontage of the tract for the purpose of providing adequate entrances and exits, adequacy of access and driveways and provision for interior circulation of vehicles and pedestrians.
  - (d) The quality of the architectural features of building design which are subject to public view from any public place; and their attractiveness and harmony of style and appearance, and the functional plans of individual buildings and their relationship to other buildings in the same ownership.
  - (e) The appropriateness of the landscaping plan and the attention given to conservation of existing trees.
  - (f) The adequacy of parking areas and the landscaping thereof.
- (4) Within 60 days after an application has been filed, the Planned Board shall make written recommendation to the Village Board of Trustees with respect thereto.
- (5) Within 45 days after receipt of the recommendation from the Planning Board, the Board of Trustees shall, after notice given in the manner provided by law, hold a public hearing with respect to the application. If after such public hearing, the Board of Trustees determines that the application shall be granted, it shall thereupon amend the Zoning Chapter and the Zoning Map which is a part thereof by classifying the tract covered by the said application as a Planned Office Building and Research Laboratory B District.

C. Supplemental provisions and regulations.

- (1) Use.
  - (a) No research laboratory shall be permitted which may be expected to cause offensive noises, gases, fumes, odors or vibrations beyond the boundaries of its tract; nor to involve any operation which presents a hazard to the general public; nor to discharge waste products of a character creating a nuisance.

- (b) No animal quarters other than in the principal building or a fully enclosed accessory building shall be permitted.
  - (c) On sites entirely or partly within an existing nonresidential district and having frontage on and direct access to state highways, designated Business Transitional (BT) as provided in Subsection C(6) below, substantial portions of the floor area may be used for warehouse and storage purposes in the interest of controlling the generation of traffic. The establishment of said warehouse or storage use as a principal or accessory use shall be subject to a finding by the Planning Board that said use can be accommodated in a safe and aesthetically satisfactory manner. **[Amended 12-19-2002 by L.L. No. 4-2002]**
  - (d) No personal care, medical or dental office shall be permitted, except as otherwise set forth in § 220-6 and the related Schedule Limiting the Use of Buildings<sup>5</sup>; provided, however, that medical research laboratory use shall not be prohibited. **[Added 3-21-1996 by L.L. No. 4-1996; amended 1-19-2006 by L.L. No. 3-2006]**
- (2) Height. Notwithstanding the maximum height limitations contained in the schedule, the building height may be increased one foot for each three additional feet that it is set back from all lot lines; provided, however, that in no case shall such building exceed 75 feet in height.
  - (3) Building area. The sum of the combined total gross floor areas of all floors in principal and accessory buildings shall not exceed 40% of the lot area.
  - (4) Loading. Access for trucks and service vehicles shall include loading bays adjacent to or within buildings, which bays shall not be located within parking lots for passenger vehicles or within the required minimum front yard. The minimum dimensions of a loading bay shall be 10 feet in width by 30 feet in depth and 14 feet in height.
  - (5) Parking units. Parking units may not be located within the minimum front yard. The side and rear yards may be used for parking units except that no parking unit may be located wholly or partly within 50 feet from any property line. Parking areas shall be landscaped attractively with trees and shrubbery along their boundaries and between rows of parking units, when appropriate, and shall be screened by trees and shrubbery from adjacent properties.
  - (6) Building coverage. Notwithstanding other provisions in this § 220-5 regulating Planned Office Building and Laboratory B District development and the standards for said district listed in § 220-5, sites which qualify for Planned Office Building and Laboratory B District use and which lie wholly or in part within a nonresidential district or districts shall be designated Business Transitional (BT) and permitted a building coverage as follows:

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5. Editor's Note: Said schedule is included at the end of this chapter.

- (a) If at least 20% of the minimum lot size (400,000 square feet) listed in Column 4 of the schedule<sup>6</sup> is comprised of nonresidential district(s), that portion of the site comprising the minimum lot size and located having frontage and access to a state highway, may be developed at a maximum intensity of 20% coverage of the minimum lot size.
- (b) Any additional lands on the site in excess of the minimum lot size shall be developed at an intensity no greater than 10% coverage.
- (c) The sum of the combined total gross floor areas of all floors in principal and accessory buildings shall not exceed 25% of the lot area, so as to reduce building bulk and related traffic and functional ramifications.
- (d) The maximum building height shall be reduced from that allowed in the B District to a maximum potential height of 40 feet, also so as to reduce bulk factors.

#### § 220-6. Special permit uses.

- A. Statement of purpose. All uses listed as subject to approval as set forth in this section are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform, but not be limited, to the following general requirements, as well as the pertinent specific requirements.
- B. General provisions. The special uses listed in Subsection J, Subsection K and Subsection L for which conformance to additional standards is required by this Zoning Chapter shall be deemed to be permitted uses subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements as set forth in this Zoning Chapter. **[Amended 3-21-1996 by L.L. No. 4-1996]**
- C. Application, public hearing and general standards. Application for required special permits shall be made to the Village Board. Each such application shall be referred to the Planning Board for a report, which report shall be rendered prior to the date of public hearing on the application, and in its referral, the Board of Trustees may specify particular questions and issues for the Planning Board to address in its report. A public hearing for the special permit application shall be held within 62 days of receipt of a complete application and shall require the same notice required by law for zoning amendments. Within 62 days of the close of the public hearing, the Village Board shall decide whether to approve, approve with modifications or disapprove the special permit application. The time at which the Village Board must arrive at its decision may be extended at the request of the applicant or as necessary for the Village Board to complete all necessary environmental review requirements pursuant to the State Environmental Quality Review Act (SEQRA). A copy of the Board's decision shall be filed in the office of the Village Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. The Village Board may authorize the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met and may deny such application which in its judgment is not in accordance with

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6. Editor's Note: The schedule is included at the end of this chapter.

- (1) The location and size of the use, the nature and intensity of the operations and traffic involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to the type, arrangement and capacity



- (1) The location and size of the use, the nature and intensity of the operations and traffic involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to the type, arrangement and capacity



of streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

- (2) The location, nature and height of buildings, walls and fences, and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (3) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibrations, lighting or flashing of lights, than would be the operations of any permitted use not requiring a special permit.
- (4) Parking areas will be of adequate size for the particular use properly located and suitably screened from any adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
- (5) Each special use shall be of such character, intensity, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.
- (6) Each special use sought in a residential district shall be so located on the lot involved that it shall not impair the use, enjoyment and value of adjacent residential properties.
- (7) The nature and intensity of a special use sought in a residential district and the traffic generated by it shall not be hazardous, incongruous or detrimental to the prevailing residential character of the neighborhood.
- (8) Each special use in a business district shall be harmonious with the district in which its location is sought, shall not create undue pedestrian or vehicular traffic hazards and shall not include any display of signs, noise, fumes or lights that will hinder the normal development of the district or impair the use, enjoyment and value of adjacent land and buildings.

D. Required plan.

- (1) A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit. The plan shall be drawn to some convenient scale, and shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, special features, and any other pertinent information, including such information about neighboring properties as may be necessary to determine and provide for the enforcement of this Zoning Chapter.
- (2) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any special permit approval that qualifies or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter

184, Article I. The approved special permit shall be consistent with the provisions of Chapter 184, Article I. [Added 12-20-2007 by L.L. No. 9-2007]

- E. Conditions and safeguards. The Village Board shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.
- F. Time limitations of permit.
  - (1) The Village Board may issue a temporary special permit subject to adequate guarantees that the use will be terminated, at the end of the period specified in the Board's approval, or it may issue a special permit for a stated period, subject to an application for renewal or extension of said permit.
  - (2) Two violations of any condition or safeguard imposed by the Village Board may be the basis for the Village Board to deny the renewal or extension of a special permit.
- G. Expiration. A special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if said use or uses shall cease for more than 12 months for any reason.
- H. Existing violations. No permit shall be issued for a special use for a property upon which there is an existing Zoning Chapter violation.
- I. Preexisting uses deemed to be conforming. Any lawful use existing at the time of the adoption of this chapter or any amendment thereof which, if newly created under this chapter, would require a special permit in the district in which it is situated may be continued and shall be deemed to be a conforming use, but any modification, change or extension thereof shall be subject to the issuance of a special permit as provided in this chapter.
- J. Special uses in residence districts.
  - (1) Places of worship. Includes parish houses and religious school buildings.
  - (2) Institutions of higher learning. Includes preparatory schools, junior colleges, seminaries, convents, colleges and universities (not including private trade, technical, industrial or vocational schools), provided that no hall or place of assembly shall be used for a separate service or activity conducted primarily for gain.
  - (3) Excavation of natural products. The excavation of clay, sand or gravel for commercial purposes on a temporary permit for not to exceed two years, provided that:
    - (a) The final slope of any material in any excavation does not exceed the normal angle of repose of any such material.
    - (b) Neither the base nor the top of any such slope is nearer than 50 feet to any street or lot line nor more than 50 feet above or below the level of the street or lot line nearest thereto.

- (c) The size and weight of vehicles and loads used in removal of such products be specified by the Village Board as necessary for the protection of the surface of the residential streets.
- (d) A bond in such sum as the Village Board shall determine and satisfactory to the Village Attorney as to form and sufficiency of guaranty is executed by the applicant to assure that at the expiration of the permit the property will be



suitably graded so as to minimize and conceal so far as practicable the effects of the excavation.

- (4) Dumping of waste materials for regrading or landscaping only. The dumping or depositing of rubbish, refuse, or other waste materials for purposes of regrading or landscaping, provided that:
  - (a) No decomposable animal or vegetable material is dumped or deposited;
  - (b) It does not create a nuisance by reason of dust, fumes, smoke, odor, insects, rodents or otherwise adversely affecting the public comfort, convenience, sightliness, health or safety;
  - (c) It is not contrary to the County Sanitary Code; and
  - (d) It does not interfere with drainage to the detriment of adjacent lands or buildings.
- (5) Building, for sale of agricultural products. The establishment and maintenance of a separate building for the sale of only such agricultural products as have been grown on the same land, provided that:
  - (a) Any such building is distant at least 75 feet from any side or rear lot line and at least 40 feet from any street line; and
  - (b) That not less than 10 off-street parking units are provided in connection therewith.
- (6) Clubs, lodges and other recreational facilities not operated for gain. On lots of five acres or more, clubs, lodges and social recreational buildings, not operated for gain, provided that:
  - (a) Any dance hall, gymnasium, locker room, bowling alley, swimming pool or ground for games or sports is located at such distance from any lot line as the Board of Appeals finds necessary in a particular case, but in any event not less than 100 feet from any lot line;
  - (b) Wherever required, the State and County Departments of Health certify that such installation complies with their respective codes and regulations; and
  - (c) There is not less than one off-street parking unit for each three members of a golf, swimming or country club and one such unit for each five members in other clubs or lodges.
- (7) Convalescent or nursing home or homes for the aged. On lots of five acres or more a convalescent or nursing home or a home for the aged, provided that:
  - (a) Such home is located at least 75 feet from any street or lot line and contains accommodations for not more than 10 patients or staff members per acre; and

- (b) There is provided not less than one off-street parking unit for each medical or nursing staff member, one unit for each three beds for patients or guests and one unit for each two service employees.
- (8) Hospitals and other philanthropic institutions. On lots of 10 acres or more hospitals, sanitariums or philanthropic or eleemosynary institutions other than those for correctional purposes, provided that:
- (a) With respect to all such uses none includes the care of persons with contagious diseases, epileptics, drug addicts, alcoholics or persons who are insane or feebleminded;
  - (b) Any building so used is located at least 100 feet from any lot line;
  - (c) The total population therein, including patients and staff, does not exceed 10 persons per acre; and
  - (d) There is provided not less than one off-street parking unit for each medical or nursing staff member, one unit for each three beds for patients or guests and one unit for each two service employees.
- (9) Conversion to multifamily occupancy. On lots of 10 acres or more the conversion of a residential building in existence at the time of the enactment of this chapter to a multifamily use, provided that:
- (a) The number of dwelling units therein does not exceed the lot area thereof divided by the minimum lot area per family specified in the schedule for the district in which it is situated;
  - (b) Such building is located at least 100 feet from any side or rear lot line;
  - (c) The average livable floor area per dwelling unit therein is not less than 750 square feet; and
  - (d) There is provided one off-street parking unit for each dwelling unit therein.
- (10) Privately operated nursery schools. On lots of two acres or more, privately operated day-nursery schools not operated for profit having appropriate enclosed play space of not less than 50 square feet per pupil located not less than 75 feet from any side or rear lot line, and having a minimum of eight off-street parking units with four additional units for each classroom exceeding one.
- (10A) Privately operated for-profit nursery schools.
- (a) Ancillary to another special permit use in a residential district under this section and organized under either the New York Business Corporation Law, Partnership Law or the Limited Liability Company Law, with the consent of the Commissioner of Education of the New York State Education Department, provided that the nursery school: **[Added 8-21-2008 by L.L. No. 2-2008]**

- [1] Is for the care and/or instruction of six or more children, who are up to seven years in age, for up to six hours daily, such children not to live on the premises;
  - [2] Is located on either a major or secondary street, as defined in Village Code § 190-27;
  - [3] Minimum lot size: two acres;
  - [4] Minimum enclosed play space per pupil: 50 square feet;
  - [5] Enclosed play space located at least 75 feet from any side or rear lot line;
  - [6] Minimum of eight off-street parking units with four additional units for each classroom exceeding one; and
  - [7] At a minimum, the nursery school must comply with the following safety features and must receive a positive health inspection report from the Westchester County Department of Health: separate girls and boys' bathrooms, posted evacuation routes, illuminated fire exit sign and fire extinguishers.
- (b) Prior to occupancy and/or use of such nursery school pursuant to this subsection, the property owner shall notify each municipal assessor with jurisdiction over the premises of the change in use to "for profit" for which a special permit is granted. Each municipal assessor shall make such real property tax adjustments, reassessments and/or determinations as may be appropriate and lawfully permitted as a result of such nursery school's occupancy and/or use of the premises on a for-profit basis.
- (11) Museums and art galleries not operated for gain. On lots of two acres or more museums and art galleries not operated for gain, provided that:
- (a) The grounds and exterior of all buildings are maintained in conformity with the prevailing standards of the surrounding residential neighborhood; and
  - (b) There is provided one off-street parking unit for each person employed therein and 10 units for the use of visitors thereto.



- (12) (Intentionally omitted)<sup>7</sup>
- (13) Wireless telecommunication services facility. **[Added 5-15-1997 by L.L. No. 2-1997; amended 8-12-1999 by L.L. No. 6-1999; 6-1-2006 by L.L. No. 6-2006]**
- (a) The following special permit standards and requirements shall apply to all wireless telecommunication services facilities.
- (b) Purpose. The purpose of these special regulations is to reasonably control the location, construction and maintenance of wireless telecommunication facilities in order to encourage the siting of wireless telecommunication services facilities in nonresidential areas and to protect, to the maximum extent practicable, aesthetic impacts, the open space character of the Village of Briarcliff Manor, the property values of the community, the health and safety of citizens, and a citizen's ability to receive communication signals without interference from other communication providers, while not unreasonably limiting competition among telecommunication providers.
- (c) Use. Except as provided hereinafter, no wireless telecommunication services facility shall be located, constructed or maintained on any lot, building, structure or land area in the Village of Briarcliff Manor, except in conformity with the requirements of this chapter and all other applicable regulations.
- (d) Location and access. Subject to the Village Board of Trustee's review and evaluation of technological, structural, safety and financial considerations associated with alternative locations for the siting of wireless telecommunication services facilities, the following locational priorities shall apply in the order specified, consistent with the Village's objective to create the least amount of aesthetic impact and preserve both the scenic values and the property values of the Village:
- [1] Collocation on existing wireless telecommunication services facilities previously approved by a duly authorized board of the Village, as identified on an inventory of existing wireless telecommunication services facilities which shall be maintained by the Village (the Eligible Collocation Sites Inventory). Collocation shall be required unless it has been demonstrated to the satisfaction of the Village Board of Trustees that:
- [a] None of the sites identified on the Eligible Collocation Sites Inventory within the service area can accommodate the proposed wireless telecommunication services facility in a reasonably financially and technologically feasible manner consistent with the wireless communications service carrier's system requirements;
- [b] None of the sites identified on the Eligible Collocation Sites Inventory within the service area can accommodate the proposed wireless telecommunications services facility with respect to

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7. Editor's Note: Former Subsection J(12), Solar energy collectors, was repealed 6-15-2006 by L.L. No. 8-2006.

structural or other engineering limitations, including frequency incompatibilities; or

- [c] The owners of the sites identified on the Eligible Collocation Sites Inventory within the service area lawfully refuse to permit the applicant use of the site.
- [2] Nonresidential sites, buildings and structures located in business districts containing any other type of existing communications antenna previously approved by a duly authorized board of the Village.
- [3] Other lands in business districts.
- [4] Lands used for nonresidential purposes in a residence district.
- [5] Other lands in a residence district.
- (e) All new wireless communication services facilities and premises shall be of proper size, location and design to accommodate collocation of other service providers' facilities, unless otherwise permitted by the Village Board of Trustees. Wherever possible, such facility shall be attached to an existing building or structure. To the maximum extent practicable, existing roadways shall be used to provide access to the site of a wireless telecommunication services facility.
- (f) Setbacks. Wireless telecommunication services facilities, except those structurally mounted to an existing building or structure, shall be located not less than two times the otherwise applicable setback requirements for principal structures for the district in which the property is located, or the height of the facility plus the otherwise applicable setback requirements for principal structures for the district in which the property is located, whichever shall be greater. Wireless telecommunication services facilities structurally mounted to the roof of an existing building or structure shall be set back from the side of the building or structure so as to minimize its visibility, but in no case less than 10 feet.
- (g) Freestanding structures. No freestanding wireless telecommunication services facility shall be permitted except for a monopole.
- (h) Height limitations. Notwithstanding the following height limitations, in no case shall a wireless telecommunication services facility exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.
  - [1] The height of any antennas or other associated equipment, structurally mounted as part of a wireless telecommunication services facility, shall not exceed by more than 15 feet the highest point of the existing structure on which such antennas or equipment are affixed.
  - [2] The height of any monopole utilized in a wireless telecommunication services facility shall not exceed 100 feet in height measured from the

highest point of such facility to the finished grade elevation of the ground immediately adjacent to the structure.

- (i) Visual mitigation. The applicant/provider shall prepare a visual impact assessment of the proposed wireless telecommunication services facility based upon appropriate modeling, photography and other pertinent analytical techniques as required by the Village Board of Trustees. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, use of neutral or compatible coloring and materials, or alternative construction and transmission technologies shall be required to minimize the visual impact of such facility from public thoroughfares, important viewsheds and vantage points and surrounding properties to the extent practicable, as determined by the Village Board of Trustees. No signs shall be erected on any wireless telecommunication services facility except as may be required by the Village Board of Trustees for security or safety purposes.
- (j) Lighting. The wireless telecommunication services facility shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
- (k) Operational characteristics. Unless otherwise superseded by the Federal Communications Commission (FCC), the design and use of the proposed wireless telecommunication services facility, including its cumulative impact with other existing and approved facilities, shall be certified to conform with the maximum NIER exposure standards promulgated by the FCC, as amended. Said certification shall include a report by a licensed professional electrical engineer with expertise in radio communication facilities and/or health physicist acceptable to the Village Board of Trustees. Except as otherwise provided by law, the applicant shall provide an annual certification of conformance with the applicable emissions standards and the requirements and conditions of special permit and site plan approval. Additionally, copies of certification reports shall be submitted to the Village Board of Trustees whenever they are required to be submitted to the FCC. The Village Board of Trustees may hire a qualified professional of its choosing to review and confirm such initial and annual certification report, the cost of which shall be reimbursed by the applicant in accordance with the escrow account procedures established for the reimbursement of professional review fees for subdivision, site plan and special permit applications. Any violation of the emissions standards shall require immediate discontinuation and correction of the use responsible for the violation. Any such violation of these requirements of the Zoning Law or the conditions of special permit or site plan approval shall be deemed to be an offense punishable by fine and/or imprisonment in accordance with § 220-18C of this Zoning Chapter.
- (l) Noise. Noise-producing equipment shall be sited and/or insulated to prevent any detectable increase in noise above ambient levels as measured at the property line.

- (m) Utility service. Electrical and land-based telephone lines extended to serve the wireless telecommunication services facility sites shall be installed underground.
- (n) Safety provisions. A wireless telecommunication services facility shall be designed and erected so that, in the event of structural failure, it will fall within the required setback area and, to the maximum extent possible, away from adjacent development.
- (o) Security provisions. A security program shall be formulated and implemented for the site of a wireless telecommunication services facility. Such program may include physical features such as fencing, anti-climbing devices or elevating ladders on monopoles and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.
- (p) Annual structural inspection and report. A monopole over 50 feet in height shall be inspected annually at the expense of the service provider by a licensed professional engineer, or at any other time upon a determination by the Building Inspector that the monopole may have sustained structural damage, and a copy of the inspection report shall be submitted to the Building Inspector.
- (q) Lease agreement. In the case of an application for approval of a wireless telecommunication services facility to be located on lands owned by a party other than the applicant or the Village, a copy of the lease agreement with the property owner absent the financial terms of such agreement, together with any subsequent modifications thereof, shall be provided to the Village Board of Trustees and a copy shall be filed with the Village Clerk.
- (r) Removal. A wireless telecommunication services facility shall be dismantled and removed from the property on which it is located within 60 days when it has been inoperative or abandoned for a period of one year or more from the date on which it ceased operation. The applicant shall provide to the Village written notification, including identification of the date the use of the facility was discontinued or abandoned by one or more of the service providers, acknowledgment of the requirement to remove the facility and identification of the plans for the future of the facility.
- (s) Application procedure.
  - [1] An application for approval of a wireless telecommunication services facility shall be submitted on the relevant forms for special use permit and site plan approval. Site development plan approval by the Planning Board in accordance with § 220-14 shall be required.
  - [2] The operator of the wireless telecommunication service shall submit a certificate of public utility unless it can be demonstrated to the satisfaction of the Village Board of Trustees that the operator of such facility is exempt from such requirement pursuant to New York State law. The operator of such facility shall also demonstrate to the

satisfaction of the Village Board of Trustees that there is a compelling public need for such facility at the location(s) proposed by the applicant. Such demonstration shall include the preparation of existing and master effective service area plans which:

- [a] Minimize the number of such facilities within the service area(s);
  - [b] Maximize collocation of wireless telecommunication services facilities;
  - [c] Identify all existing and proposed wireless telecommunication facilities which impact upon the service area covering the Village of Briarcliff Manor, including but not limited to topographic maps of the Village with service coverage and service gap grids and all proposed and other functionally acceptable locations for such facility(ies); and
  - [d] Analyze feasible alternatives to reasonably minimize the visual impacts and exposure levels.
- [3] Any application for a wireless telecommunication services facility shall include a statement and appropriate documentation demonstrating that the Village's existing facilities inventory has been reviewed and, to the extent relevant to provide wireless telecommunication services in the area which is the subject of such application, that all reasonable efforts have been made to collocate such facility on all sites identified in such existing facilities inventory and all other existing sites with communication antennas within the service area.
- [4] As a condition of special permit approval, the applicant shall be required to provide a written agreement, in recordable form suitable for filing and prepared to the satisfaction of the Village Attorney, acknowledging that it shall be required to allow the collocation of other future wireless telecommunication service facilities unless otherwise unreasonably limited by technological, structural or other engineering considerations.
- [5] Where collocation of a wireless telecommunication services facility is proposed, the added wireless telecommunication services facility shall be permitted as an amendment to the existing special use permit for the site containing such facility by submission of an application for a building permit and without the need for an application for an amended special permit or site plan approval, provided such facility meets all of the otherwise applicable requirements of this chapter and no physical modification other than the attachment of the antennas and the installation of associated equipment to be located on the ground is required. An amended written narrative and certification report indicating conformance with all of the special permit standards and conditions of site development plan approval shall be provided in addition to all required information in support of the required building

permit. An as-built drawing of the modified facilities shall be filed with the Building Department. The Building Inspector shall provide written notification to the Village Board of Trustees of such application for building permit.

- [6] The applicant and all future owners of the premises and the wireless telecommunication services facility shall at all times keep on file in the office of the Village Clerk the name, address, and telephone number of the owner and operator of such facility and of at least one individual who shall have authority to arrange for the maintenance of the premises and facility, and who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and facility and to bind the owner to any settlement, fine, judgment, or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the Village against such owner and/or operator(s).
- (t) In order to further facilitate the shared use of public utilities and wireless telecommunication services facilities, the Village Board of Trustees may, by resolution, waive or modify any of the special permit standards and criteria contained herein.
- (14) Continuing care retirement community (CCRC) within the R60A Residential District. The Village Board may grant a special permit for construction and operation of a CCRC, as a permanent institutional use, subject to the following standards and requirements set forth below: **[Added 5-29-2003 by L.L. No. 3-2003]**
- (a) Notwithstanding the criteria set forth in the Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings<sup>8</sup> the following parameters shall govern the establishment of any CCRC:

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8. Editor's Note: The Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings is included at the end of this chapter.

- [1] Minimum size of lot. The minimum size of the lot on which a CCRC may be established shall be 50 acres.
  - [2] Maximum density. No more than six ILU's per acre, nor 10 residents per acre shall be permitted in any CCRC.
  - [3] Dimensional requirements applicable to CCRC development. The size of any building and development situated in a CCRC shall conform with the R6OA District requirements, except as set forth herein:
    - [a] The maximum gross floor area ratio shall not exceed 0.35. For the purposes of this section, below-grade parking areas, loading areas, cellars, balconies, mezzanines and storage or mechanical spaces shall not be considered as floor area.
    - [b] The maximum building coverage shall not exceed 10%, excluding any structures or portions thereof used for Village purposes
    - [c] In addition to the requirements of Subsection C, the Village Board shall establish the appropriate location, arrangement, length, width and height of the building(s) on the property with specific consideration to the visual impact of the development on the surrounding properties.
    - [d] At least 75% of the land shall be maintained as open space, unoccupied by any buildings or above-ground parking areas, other than those used for Village purposes. Any calculation of open space on the property shall include any land available for public recreational use.
    - [e] A minimum setback of 125 feet shall be provided along all portions of the land abutting any public street line. Such setback shall be appropriately planted and properly maintained, as detailed in any relevant special permit conditions.
    - [f] Notwithstanding the provisions of the Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings, Exceptions and Modifications, Subsection 1(c) as to height, the maximum building height shall not exceed 10 stories.
- (b) Required findings. In addition to the requirements of Subsection C, the Village Board of Trustees shall make each and every one of the following findings
- [1] The proposed CCRC will preserve large contiguous areas as open space.
  - [2] The proposed CCRC will increase and diversify the tax base with relatively little impact on Village services.

- [3] The proposed CCRC will provide alternate forms of housing to meet the changing needs of Village and area residents and allow residents to remain in Briarcliff Manor.
  - [4] There will not be an overabundance of such facilities or other age restricted housing within the Village.
  - [5] The proposed CCRC is needed and appropriate.
- (c) Off-street parking and loading.
- [1] Off-street parking requirements. The minimum off-street parking requirements for a CCRC shall be based upon the following:
    - [a] Residential parking requirement: 1.2 spaces per ILU; and
    - [b] Staff and amenity parking: 0.4 spaces multiplied by the number of aggregate ILU, ALU and SNF units; and
    - [c] Visitor parking: 0.15 spaces multiplied by the number of aggregate ILU, ALU and SNF units.
  - [2] Off-street loading. In connection with the issuance of the special permit for the CCRC, the Village Board shall ensure that appropriate loading areas are provided in suitable locations to properly service the needs of the CCRC.
  - [3] Design and layout. In connection with the design and layout of any parking or loading areas the approving agency shall be guided by the provisions of § 220-12 of the Zoning Law and may grant waivers from compliance with the provisions of § 220-12C(6), entitled "Landscaping within parking areas," in the interest of achieving an appropriate layout and design for the operation of the CCRC in any development where structured parking is provided below the grade of the first-story of the principal building served thereby.
- (d) Other requirements. In addition to the special standards described above, to the extent not inconsistent herewith, a CCRC shall comply with all other requirements of the Zoning Ordinance of the Village of Briarcliff Manor, including but not limited to the special permit use provisions detailed in § 220-6 and the Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings.

K. Special uses in a retail business district.

- (1) Any special use permitted in a residential district.
- (2) Parking lot. Parking lot operated for gain for the storage of private passenger vehicles but not for storage of used or new motor vehicles for sale or for hire provided that:

- (a) All means of ingress and egress are approved by the Chief of Police as to the safety and adequacy; and
- (b) The street frontage and any portion of such parking lot bordering on a residential district are suitably screened or fenced in such manner as the Village Board may require.



- (3) Bus terminal. Bus terminal provided that:
- (a) There is no loading or unloading of any bus in a public street;
  - (b) Sufficient loading and unloading areas adjacent to a covered platform of the terminal are provided to accommodate the maximum number of buses operating at any time;
  - (c) Sufficient off-street parking area is provided to accommodate all buses within the terminal area actually in use at any one time;
  - (d) Sufficient off-street parking space is provided to accommodate at peak operations private cars delivering or waiting to pick up passengers arriving or departing by bus; and
  - (e) The location of all entrances and exits and the adequacy of all approach and turning areas and of all street parking loading areas are approved by the Chief of Police and the Village Engineer prior to the issuance of any permit.

L. Special use in a Planned Office Building and Laboratory B District or a Business Transitional BT District. **[Added 3-21-1996 by L.L. No. 4-1996; amended 12-19-2002 by L.L. No. 4-2002]**

- (1) Conversion of single-tenant office use to multiple-tenant office use. On sites of 20 acres or less, the conversion of existing single-tenant office facilities and permitted accessory uses to permit use and occupancy by multiple tenants, provided that: **[Amended 1-19-2006 by L.L. No. 3-2006]**
- (a) The site either:
    - [1] Has frontage on, or principal access to, a roadway under state or county jurisdiction; or
    - [2] Is located within one mile of a limited-access highway under state jurisdiction by travel over the roadway on which the site fronts and from which it is accessed, except that where the building(s) to be converted to multiple-tenant use consists of less than 100,000 square feet of nonwarehouse space, such site may be located up to 2.5 miles from such limited-access highway by travel over any roadway(s).
  - (b) The grounds and exterior of all buildings be maintained in conformity with the prevailing standards of the surrounding neighborhood, particularly with regard to signage and lighting;
  - (c) A minimum of 10% of the total number of parking spaces on the site are reserved for the exclusive use of visitors, in such locations as are determined by the Planning Board;
  - (d) Food service is available at the site for the use of the tenants in accordance with the site plan required to be submitted under Subsection D, provided that such food may be prepared on or off site and provided, further, that where the building to be converted to multitenant use consists of less than 50,000

square feet of nonwarehouse space, the Planning Board may waive this requirement.

- (e) The employee population of the entire site shall not exceed one employee per 250 gross square feet of floor area of the principal office building or buildings as identified on the site plan required to be submitted under Subsection D;
- (f) The owner/landlord of the site shall within 10 days prior to the commencement of occupancy of any tenant, or as part of any application for a building permit to demise a tenant space, as the case may be, certify to the Building Inspector the maximum employee population of that tenant and of the then total employee population of the site, and shall also annually certify the total employee population of the site;
- (g) The site plan required to be submitted under Subsection D shall contain a notation which recites all of the conditions set forth herein and any other conditions of the special permit which may be imposed by the Village Board; and
- (h) A traffic study, if required by the Village Board, be provided to analyze the potential traffic impacts of multiple tenant use on the road system which services the site.

M. Revocation and modification. **[Amended 3-21-1996 by L.L. No. 4-1996; 5-16-1996 by L.L. No. 6-1996]**

- (1) All such permits issued by the Village Board may be subject to revocation or modification by the Village Board upon a material breach or violation of any condition, term or safeguard imposed by the special permit or any other requirements imposed by the Village Zoning Chapter on the property which is the subject of the special permit and which is committed during the existence of the special permit.
- (2) Prior to the revocation or modification of any special permit, the Village Board shall, upon at least 10 days' notice to the property owner and/or person to whom the special permit was issued, cause to be mailed to the property owner and/or person to whom the special permit was issued, a notice stating the alleged breaches or violations warranting such action, and the time and place of the hearing to be held concerning the revocation or modification of the special permit. The property owner and/or the person to whom the special permit was issued shall be given an opportunity to be heard and to introduce the testimony of witnesses and documentary evidence, and shall be given an opportunity to prove by competent evidence that the premises are in full compliance with the terms, conditions and safeguards imposed by the special permit and all other requirements imposed by

the Village Zoning Chapter, and any mitigating circumstances surrounding the alleged breach or violation.

- (3) The action of the Village Board relative to such revocation or modification shall be final. Upon revocation, it shall be unlawful to use or occupy any portion of the property for the use specified in the special permit.



**§ 220-7. Conservation development. [Amended 5-21-1998 by L.L. No. 2-1998; 5-20-1999 by L.L. No. 2-1999]**

A. Findings; purpose and intent.

- (1) The Board of Trustees of the Village of Briarcliff Manor hereby finds that a substantial proportion of the remaining vacant land in the Village is environmentally sensitive and topographically difficult. The Board of Trustees further finds that it is to the benefit of all, wherever practicable, to promote the conservation of remaining open space, preserve environmentally sensitive areas in their natural state and preserve the existing aesthetic qualities of the Village.
- (2) The general purposes and intent of this section are to enable and encourage flexibility and diversity of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands, to protect areas of meaningful ecological, architectural, scenic and historic value and to reserve suitable lands for park and recreation purposes.

B. Authorization to approve conservation subdivisions.

- (1) The Board of Trustees upon application of the owner of the land to be subdivided, or upon the application of the Planning Board, may authorize the Planning Board simultaneously with the approval of a subdivision plat, to modify applicable provisions of this chapter, subject to the procedures, conditions and requirements set forth in this section, in § 190-16F of Chapter 190, Subdivision of Land, and in § 7-738 of the Village Law. This procedure may be followed:
  - (a) When applied for by the owner of the land to be subdivided if, in the judgment and discretion of the Board of Trustees, its application would benefit the Village by satisfying one or more of the purposes set forth in Subsection A; or
  - (b) Where the Planning Board applies to the Board of Trustees for such authorization and where the Planning Board had determined that its application would benefit the Village by satisfying one or more of the purposes set forth in Subsection A and where the Planning Board determines that one or more of the criteria for conservation development, as set forth in § 190-16F of Chapter 190, Subdivision of Land, would be met. In this case, if so authorized by the Board of Trustees, the Planning Board may require the owner of the land to submit a preliminary subdivision plat application which reflects such modifications of applicable provisions of this chapter.
- (2) This authorization shall be applicable in all zoning districts which permit residential development in the Village.
- (3) Except as specified in this section, all development standards and controls of this chapter and Chapter 190, Subdivision of Land, which are otherwise applicable in the district in which the property is located shall also be applicable within any conservation development.

- (4) Except as otherwise provided in Subsection B(6) regarding the type of residential dwelling units permitted, the permitted principal and accessory uses within a conservation development shall be the same as those otherwise permitted in the zoning district in which the property is located.
- (5) The number of building lots or dwelling units permitted within a conservation development shall in no case exceed the number which could have been permitted, in the judgment of the Planning Board, if the land were subdivided into lots conforming to all normally applicable requirements of this chapter, Chapter 190, Subdivision of Land, the Westchester County Department of Health regulations and all other applicable requirements. However, where the plat falls within two or more contiguous districts, the Planning Board may approve a conservation development representing the cumulative density as derived from the summary of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts. The basis for these density determinations by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by said Board.
- (6) The type of residential dwelling units permitted within a conservation subdivision shall be, at the discretion of the Planning Board and subject to the conditions set forth herein, in detached, semidetached and/or attached buildings.
- (7) The plat showing such conservation development may include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street and enclosed parking spaces, streets, driveways and any other features required by the Planning Board.
- (8) Within the framework of the limitations set forth in this section, § 190-16F of Chapter 190, Subdivision of Land, and § 7-738 of the Village Law, the Planning Board shall establish, on a case-by-case basis, the appropriate modifications of lots, bulk and parking requirements which said Board has determined are necessary or appropriate to properly accomplish the purposes and intent set forth in Subsection A, and, where applicable, one or more of the specified objectives set forth in § 190-16F of Chapter 190, Subdivision of Land, consistent with the protection of private property values and the preservation of the character of land and buildings on neighboring sites.
- (9) Conservation subdivisions shall result in the preservation of open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of such open space areas shall be legally assured to the satisfaction of the Planning Board and the Village Attorney by filing of appropriate covenants, deed restrictions, easements or other agreements.
  - (a) The ownership of conserved land areas shall be divided equally among all owners of building lots within the conservation subdivision, except where all or an appropriate portion of the conserved land areas are deeded to a

recognized conservation organization dedicated to the preservation of open space and such dedication is acceptable to the conservation organization and to the Village Planning Board, or offered for dedication to the Village of Briarcliff Manor and the Board of Trustees has voted to accept such offer. Except in those cases where the ownership of the conserved land areas is to be vested in the Village of Briarcliff Manor or an approved conservation organization, the subdivider shall execute and file with the Planning Board such documents as, in the opinion of the Village Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, use and maintenance of all conserved land areas in accordance with the following requirements:

- [1] Membership in the association must be mandatory for each property owner within the subdivision and for any successive property owners.
  - [2] All restrictions on the ownership, use and maintenance of conserved land areas must be permanent.
  - [3] The association must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas, including any active recreation areas and related facilities.
  - [4] Each lot owner within the subdivision shall be made responsible for paying a proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the property if not paid.
  - [5] The association shall have the power to adjust assessments to meet changing needs.
  - [6] In the event that the maintenance, preservation and/or use of the conserved land area(s) ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Board when approving the subdivision plat, the Village shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision, all costs incurred by the Village for such purposes.
  - [7] The establishment of such an association shall be required prior to the final approval of the plat.
- (b) Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board.
- (c) Notwithstanding anything contained in this law and in the Land Subdivision Regulations to the contrary, conditions on the ownership, use and

maintenance of open lands shown on the plat shall be approved by the Board of Trustees before the plat may be approved for filing.

**§ 220-8. Regulation of tennis courts.**

- A. Statement of purpose. The Board of Trustees recognizes that the regulation of the establishment, construction and operation of noncommercial private outside tennis courts is a matter of public importance, primarily as it concerns the problems of noise, aesthetics, stormwater runoff and the depreciation of property values by reason of improperly installed or maintained courts or courts placed in undesirable locations. This section shall be read and construed under the authority granted by § 7-700 of the Village Law.
- B. Standards. A tennis court shall be permitted only as an accessory use to a single-family residence or dwelling and only for use by residents of the premises and their guests, without charge for admissions and not for the purpose of profit, subject to the following provisions and restrictions:
- (1) One tennis court shall be permitted in connection with all permitted residential home development on any lot consisting of at least 60,000 square feet.
  - (2) The minimum distance from the outer perimeter of the tennis court to any lot line shall be 40 feet and the minimum distance to the principal building shall be 25 feet.
  - (3) Any fence surrounding the tennis court shall not exceed 12 feet in height.
  - (4) No tennis court shall be fully enclosed except by fencing.
  - (5) No tennis court shall be permitted in a front yard.
  - (6) No excavation or movement of more than 200 cubic yards of soil shall be permitted to establish a place for the installation of any tennis court.
  - (7) Provision shall be made for drainage such that the flow of water runoff will not be increased or channeled onto adjoining properties.
  - (8) A buffer screening area of at least 10 feet in width and within 25 feet of the perimeter of the tennis court shall be provided between the tennis court and any lot line in a residence district; however, no buffer screening area will be required between the tennis court and the principal building on the lot, unless necessary to screen the tennis court from adjoining properties. This requirement may be modified in situations where it is determined that large distances, topographic features, or existing vegetation satisfy the same purposes. The Building Inspector shall make this determination with the concurrence of the Village Engineer. Where such a buffer area is required, it shall meet the following standards:
    - (a) Evergreens of such type, height, spacing and arrangement as will reasonably screen the activity involved from the neighboring residential area shall be planted, but in no event shall the evergreens be less than six feet in height.

Non-evergreen planting may supplement evergreen planting, but shall not take its place.

- (b) The plan and specifications for such planting shall be filed with the building permit request.
  - (c) Required planting shall be properly trimmed and maintained in healthy growing conditions at all times.
- (9) No loudspeaker device or illumination of any kind shall be installed at, or operated in connection with any tennis court.
  - (10) No backboard shall be permitted in connection with any tennis court.
  - (11) A tennis court shall not be located nearer to any existing principal building on adjoining property than the court is to the principal building of the property on which the court is located; provided, however, that this restriction shall not be applicable if the tennis court is located at least 50 feet from the lot line between such adjoining property.

C. Coordination and administration.

- (1) A tennis court shall be considered to be a structure for the purpose of compliance with all provisions of Village laws and ordinances, including Chapter 115, Excavations, Chapter 131, Freshwater Wetlands, and Chapter 90, Building Construction, of the Village of Briarcliff Manor, and in the construction, design and operation of such court, all such laws and ordinances and building codes shall be complied with unless clearly inapplicable by their terms or inconsistent with this section.
- (2) No tennis court shall be installed without a building permit and no such permit shall be issued unless the plans therefor comply with the building code of the Village of Briarcliff Manor, as the same now exist or may hereafter be amended. No such permit shall be issued until the requirements of this section and all other applicable local laws and ordinances of the Village of Briarcliff Manor are met. A plan of the proposed court shall be submitted to the Building Inspector, as a requirement for the issuance of a building permit. Said plan shall comply with the requirements and standards of this section and shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed court, as well as the location of all property lines and neighboring buildings.

**§ 220-9. Regulation of swimming pools.**

- A. Statement of purpose. The Board of Trustees recognizes that the regulation of the establishment, construction and operation of noncommercial private outdoor swimming pools and their enclosure is a matter of public importance, primarily as it concerns the problems of safety to children and animals, noise, aesthetics, lighting, odors, overflowing waters, location and the possible depreciation of property values by reason of improperly installed or maintained pools or having such pools placed in undesirable locations and/or

with aesthetically unpleasing enclosures sometimes referred to as "bubbles." This chapter shall be read and construed as having regard to the foregoing statement of purposes, and is enacted under the authority granted by § 7-700 of the Village Law.

B. Standards. A swimming pool shall be permitted only for use by residents of the premises and their guests, without charge for admission and not for the purpose of profit, subject to the following provisions and restrictions:

- (1) Enclosures, sometimes referred to as "swimming pool bubbles" or "bubbles" or the like, shall not be permitted.
- (2) No such pool shall be constructed or installed, except in the rear yard, unless every part of such pool is located at least 100 feet from every side or street line, and no less than five feet from the main building on the premises. If such pool is constructed or installed in a rear yard, every part of such pool shall be at least 15 feet from every side, rear lot or street line and no less than five feet from the main building on the premises.
- (3) There shall be erected and forever maintained in good condition a chain link wire fence, not less than four feet in height, or a woven wooden fence, brick or stone wall or other acceptable enclosure, not less than four feet in height, either enclosing the entire portion of the premises upon which such pool shall be situated, or entirely surrounding the area in which such pool shall be situated, or entirely surrounding the area in which such pool is located and such enclosure or fence shall be of the kind and character as to resist any attempt by children or animals to enter the pool area.
- (4) Every gate or other closure in the pool enclosure shall be self-closing and be equipped with a locking device.
- (5) No pool shall occupy more than 6% of the total lot area.
- (6) There shall be no cross-connection between the public water supply system and any pipes or apparatus feeding water to a pool from a private well, system or other source, and there shall be no such cross-connection with any purification or filtration system of any pool.
- (7) If the water for any such pool is supplied from the public water supply system, the inlet shall be more than six inches above the overflow level of the pool.
- (8) The water of any such pool shall be treated in the manner sufficient to maintain the bacterial standards established by all applicable provisions of law relating to a public swimming pool existing in the same location or area.
- (9) No loudspeaker device of any kind shall be installed at, or operated in connection with any such pool, nor shall any floodlighting or any other lights be installed in connection therewith which shall throw rays of light beyond the property lines of the parcel upon which such pool is located.

C. Applicability. A swimming pool shall be considered to be a structure for the purpose of compliance with all provisions of law, Village ordinances and the building code of the

Village of Briarcliff Manor, and in the construction, design and operation of such pool, all such laws and ordinances and building codes shall be complied with unless clearly inapplicable by their terms or inconsistency with this chapter.

- D. No swimming pool shall be installed without a building permit and no such permit shall be issued unless the plans therefore comply with the building code of the Village of Briarcliff Manor, as the same now exists or may hereafter be amended, and any plans for such pool shall show such compliance and shall show appropriate drainage provisions to dispose of the water in the pool without interference with the public water system, the existing sanitary facilities, public sewers or drainage systems or with any public highway. Such plans shall have affixed thereto the signature of the owner or his agent and shall contain a statement to the effect that the person signing plans has read and is familiar with the provisions of this chapter and other applicable provisions of law relating to the installation and construction of swimming pools.

**§ 220-9.1. Regulation of solar energy collectors. [Added 6-7-2007 by L.L. No. 3-2007]**

- A. Statement of purpose. The Board of Trustees desires to facilitate the noncommercial use of solar energy collectors to further energy saving and conservation, but the Trustees also recognize that regulation of the construction, placement, and operation of solar energy collectors are matters of public importance which concern issues of aesthetics, lighting, and the possible depreciation of property values by reason of improperly installed, placed, maintained, or operated solar energy collectors. This section shall be read and construed in furtherance of the foregoing purposes and is enacted under the authority granted by New York State Village Law § 7-700.
- B. Generally applicable standards. All solar energy collectors shall be subject to the following requirements:
- (1) Solar energy collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a "net billing" or similar program in accordance with New York Public Service Law § 66-j or similar state or federal statute.
  - (2) Solar energy collectors shall be located in areas and ways which most mitigate their visibility from surrounding properties.
  - (3) Solar energy collectors shall not be unnecessarily bright, shiny, garish, or reflective.
  - (4) Solar energy collectors shall be considered to be structures for the purpose of compliance with all Village laws and ordinances, shall require a building permit and certificate of occupancy issued by the Building Inspector, and shall comply in their design, construction, and operation with all other Village laws and ordinances unless inapplicable by their terms or in conflict with this section.

C. Additional standards; single-family residential zones. Solar energy collectors shall be permitted as an accessory use in any single-family residential zoning district, subject to the following requirements:

- (1) Solar energy collectors mounted on a building or the roof of a building:
  - (a) Shall not exceed the lesser of 900 square feet in area or 33% of the entire roof area.
  - (b) Shall be mounted no more than 12 inches above the surface to which they are affixed.
  - (c) Shall be installed in a manner that minimizes their visibility from public locations but still maintains their functional integrity and viability, and:
    - [1] On a pitched roof shall not extend beyond the highest point of the roof.
    - [2] On a flat roof shall not extend above any roof cornice.
- (2) Freestanding solar energy collectors.
  - (a) Freestanding solar energy collectors located in any:
    - [1] Rear yard shall comply with all rear and side line setback requirements and be at least 15 feet from every rear and side line at all points.
    - [2] Front or side yard shall comply with all front and side yard setback requirements and shall be subject to site plan approval under Village Code § 220-14C. The Building Inspector shall refer any application for a building permit to construct a freestanding solar energy collector in a front or side yard to the Planning Board for site plan approval under Village Code § 220-14C.
  - (b) Freestanding solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
  - (c) Freestanding solar energy collectors shall not exceed the lesser of 1,000 square feet in area or 5% of the area of the lot on which it is located.
  - (d) The plan submitted to the Building Inspector as a requirement for the issuance of a building permit for any such collector shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed collector, shall indicate the location of all property lines and neighboring buildings, and shall comply with the requirements and standards of this section, and the Building Inspector may refer any such application to the Architectural Review Advisory Committee for review and comment, but nothing contained in any such review or comment shall limit or otherwise affect the authority of the Building Inspector for issuance or denial of the permit.

- D. Additional standards for multifamily and commercial zones. Solar energy collectors shall be permitted as an accessory use in any multifamily or commercial zoning district, subject to site plan approval under Village Code § 220-14C and the following requirements:
- (1) Solar energy collectors shall not exceed the lesser of 1,000 square feet in area or 33% of the area of the entire on which it is located.
  - (2) The plan submitted to the Building Inspector as a requirement for the issuance of a building permit shall indicate all existing and proposed grading, excavating, filling, paving, fencing, and screening as it may relate to the proposed collector, shall indicate the location of all property lines and neighboring buildings, and shall comply with the requirements and standards of this section and of Village Code § 220-14, and the Building Inspector shall refer any such application to the Planning Board for site plan approval under Village Code § 220-14C.

**§ 220-9.2. Mandatory tree planting plan (MTPP). [Added 8-16-2007 by L.L. No. 7-2007]**

- A. Statement of purpose. The purpose of this section is to screen and mitigate the view of proposed residential structures and additions from the street and adjoining properties by requiring a mandatory tree planting plan ("MTPP") as outlined below.
- B. If the total gross floor area on a lot in a single-family residential district will exceed 3,500 square feet, then a MTPP must be submitted to and approved by the Village before any building permit for construction of additional floor area on the lot can be issued.
- (1) If the gross floor area on the lot will be greater than 3,500 square feet but less than 5,000 square feet, then the MTPP shall be submitted to the Building Department for review and approval.
  - (2) If the gross floor area on the lot will be equal to or greater than 5,000 square feet, then the MTPP shall be submitted to the Planning Board for review and approval.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:
- REQUIRED TREE** — A two-and-one-half-inch-caliper shade tree, a three-and-one-half-inch-caliper or ten-foot tall flowering tree, or an eight-foot tall evergreen tree, measured per the current edition of the American Nursery and Landscape Association (ANLA) standards.
- D. A building permit for construction of any additional floor area on a lot on which the principal and accessory structures will have a gross floor area of greater than 3,500 square feet after that construction shall not be issued prior to receipt of approval for the MTPP.
- E. The MTPP shall be prepared by a registered landscape architect, a registered architect, or a professional engineer with a minimum of five years of applicable experience.
- F. Every MTPP shall meet the following minimum standards:

- (1) In the case of any freestanding new construction when the total gross floor area on the lot exceeds 3,500 square feet after the new construction, one required tree shall be planted for each 100 square feet of gross floor area or part thereof exceeding 3,500 square feet; provided, however, that even if gross floor area on the lot is less than 3,800 square feet, a minimum of three required trees shall be planted if the total gross floor area on the lot exceeds 3,500 square feet.
  - (2) In the case of any addition when the total gross floor area on the lot exceeds 3,500 square feet after the addition, one required tree shall be planted for each 100 square feet of gross floor area or part thereof in the lesser of either (i) the addition or (ii) the total gross floor area on the lot minus 3,500 square feet; provided, however, that even if the square feet of gross floor area in the addition is less than 300 square feet, a minimum of three required trees shall be planted if the total gross floor area on the lot exceeds 3,500 square feet after the addition.
  - (3) Required trees shall generally consist of 33% evergreens.
  - (4) Required trees shall be selected and located so as to soften and/or mitigate the view of a proposed structure from adjoining streets and properties.
- G. The approving authority shall take into consideration existing vegetation, terrain, and other physical features of the lot when reviewing the MTPP for proper placement and size of proposed required trees. The approving authority may also consider a MTPP using alternative sizes, mixes, and numbers of required trees based on the lot and surrounding property's particular conditions, but unless the approving authority finds that fewer trees will achieve the purposes of this section, no MTPP using such alternative(s) may be approved unless it is comparable in value to a MTPP calculated for the lot using required trees.
- H. All plantings shall have a minimum one-year guarantee from issuance of a certificate of occupancy. Any planting which the approving authority determines to be diseased, dead, or dying before or during the guarantee year shall be replaced during the next planting season after such determination is made.

#### **§ 220-10. Residential Townhouses RT4B District.**

- A. Statement of purpose.
- (1) This chapter recognizes that it is necessary to enable and encourage flexibility of design and development of residences in the Village of Briarcliff Manor so as to provide opportunities for individuals, couples, and small families of all ages to find housing of relatively moderate cost in appropriate locations within the Village.
  - (2) This chapter also recognizes the Village Master Plan's objectives to reduce the amount of commercially zoned land, thereby reducing the potential for traffic growth and general pressure for further rapid growth and congestion.
- B. General provisions. The following standards, conditions and provisions shall be administered by the Planning Board during the course of site plan review. All site development plan applications for development in a RT4B zone shall, in addition to

complying with all other standards and requirements of these regulations, also satisfy the following standards and conditions. The terms "family" and "persons" may be used interchangeably.

- (1) Development density. The basic density per acre allowed by these regulations shall not exceed four dwelling units per gross acre, except as permitted and regulated below. The maximum permitted density may be increased by 50% of the total basic density as a bonus if the applicant constructs at least 50% of the permitted increase as moderate cost dwelling units, which dwelling units shall hereinafter be known as "moderate income dwelling units." During the process of detailed site plan review, the Planning Board shall have the authority to limit the basic density and the bonus density where the Board determines that such may be necessary or appropriate because of the specific characteristics of the individual site.
- (2) Development quality. In order to help achieve the objectives of this section, to achieve a high quality of development, to protect and preserve valuable natural resources and to ensure that all moderate cost dwelling units are of equal quality, appearance, amenities and construction as comparable to the market rate dwelling units and development on the site, Planning Board review shall include but not be limited to floor plans and elevations of all dwelling unit types and site amenities. In a manner similar to that provided for subdivision review and approval under § 220-7, in the course of site plan review the Planning Board may modify the standards listed in Columns 6 through 24 of the schedule<sup>9</sup> as long as the total number of units permitted on the overall site does not exceed that permitted in Subsection B(1), development density, above.
- (3) Selection priorities of moderate income families. Moderate income families applying for moderate income dwelling units to be used as primary residences shall be selected on the basis of the following order or priority:
  - (a) Village of Briarcliff Manor municipal employees.
  - (b) Briarcliff Manor and Ossining School District employees.
  - (c) Residents of the Village of Briarcliff Manor.
  - (d) An active member of the Briarcliff Manor Fire Department as defined by Article VI of the Fire Council Bylaws where such member has at least two years of such active service.
  - (e) Former residents of the Village of Briarcliff Manor who owned or still own residential property in the Village.
  - (f) Other persons employed in the Village of Briarcliff Manor.
  - (g) Relatives of residents of the Village of Briarcliff Manor.
  - (h) Other residents of Westchester County.

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9. Editor's Note: The schedule is included at the end of this chapter.

- (i) All others.
- (4) Selection categories.
  - (a) Within each of the above categories, priority shall be given to:
    - [1] Active members of the Briarcliff Manor Fire Department as defined by Article VI of the Fire Council Bylaws where such members have at least two years of such active service [refers to priorities (a), (b) and (c) only in Subsection B(3) above].
    - [2] Families or persons displaced by governmental action.
    - [3] Families or persons of which the head or spouse is 62 years or older.
    - [4] Families or persons of which the head or spouse is handicapped (certified by a physician).
    - [5] The year of initial application.

- (b) In the event that the number of applicants exceeds the available units, a lottery shall be held to select applicants. Such lotteries would be conducted based on the selection priorities and categories.
- (5) Occupancy standards. The following occupancy limitations shall apply to moderate income dwelling units:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
1	1	2
2	2	4
3	3	6
4	4	8

- (6) Eligibility.
  - (a) The Board of Trustees may serve as, or establish a Moderate Income and Affordable Housing Review Board (hereinafter called the "Review Board"). The Review Board shall maintain a list of eligible moderate income families, as defined in Subsection B(3), and in accordance with the Selection Priorities and Categories listed in Subsection B(3) and (4) above. Where the number of eligible moderate income families in the same priority classification exceeds the number of available units, applicants shall be selected by lottery.
  - (b) The Review Board shall annually examine or cause to be examined the financial eligibility of all applicants.
  - (c) The Review Board may require additional assurances from the owners of moderate income dwelling units, including deed restrictions, to ensure the continuing guarantee of use to eligible moderate income families.
- (7) Sales price.
  - (a) The maximum sales price will be determined by the size of the moderate income dwelling unit and the median income of full-time employees of the Village of Briarcliff Manor for the preceding year, as follows: **[Amended 10-18-2001 by L.L. No. 2-2001; 6-19-2003 by L.L. No. 4-2003]**

Unit Size* (square feet)	Related Village Employee Median Salary Multiple
800	2.60
900	2.70
1,000	2.90
1,100	3.10
1,200	3.325

Unit Size* (square feet)	Related Village Employee Median Salary Multiple
1,300	3.575
1,400	3.85
1,500	4.16

\*Average livable floor area, see Column 23 of the schedule. <sup>8</sup>

Sales prices for units of intervening size shall be established by the Review Board by such means as interpolation or projection.

- (b) Resale price. The title to each moderate income dwelling unit shall be restricted so that in the event of any resale by the home buyer or any successor the resale price shall not exceed the then maximum sale price for said unit, as determined in accordance with Subsection B(7)(a) of this section, or (the sum of) the following, whichever is greater: The original purchase price, plus the value of any fixed improvements legally made by the home buyer, and not included within the above categories. The seller additionally is entitled to add to the resale price any reasonable and necessary expenses incidental to the resale.

C. Approvals.

- (1) The Planning Board shall review each residential townhouse project, its detailed site plan and its subdivision in accordance with the provisions set forth herein and the other pertinent provisions of the Village Zoning Chapter and Chapter 190, Subdivision of Land. Site plan fees, subdivision fees, environmental and other fees directly related to the moderate cost dwelling units may be waived at the discretion of the Planning Board in an effort to assist the applicant/developer in reducing development cost.
- (2) When a recreation fee is calculated in lieu of an approved reservation of recreation lands, such fee shall be based on the total number of dwelling units exclusive of those which are affordable units.

D. Administration.

- (1) The Review Board shall be responsible for the administration of the moderate income housing requirements of this section and shall have the authority to promulgate such rules and regulations as may be necessary to implement such requirements. Until the establishment of such Review Board, the Board of Trustees shall exercise all the functions of such Review Board.
- (2) At the time of the issuance of a building permit, the Building Inspector shall send a copy of such certificate to the Review Board who shall then inform the

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8. Editor's Note: The schedule is included at the end of this chapter.

prospective owner-seller (applicant) of the maximum sales charge which may be established for the moderate income dwelling units in such development, and the maximum annual gross family income for eligibility for occupancy of said units.

- (3) The Review Board shall certify annually as eligible all applicants for sale of moderate income dwelling units. Moderate income dwelling units shall only be used as the eligible occupant's primary residence.
- (4) Prior to the initial sale of each moderate cost dwelling unit, the Review Board shall notify the owner or manager of each development containing moderate cost units as to the sales and income eligibility requirements for each unit.

E. Criteria for establishing moderate cost dwelling units and moderate income family eligibility shall be as follows:

- (1) A dwelling unit the sale price of which does not exceed the maximum allowable level established by Subsection B(7) shall constitute a moderate cost dwelling unit.
- (2) Moderate income family eligibility shall be as follows:
  - (a) Families whose aggregate income, including the total of all current annual income of all family members from any source whatsoever at the time of application, but excluding the earnings of working minors (under 21 years of age) attending school full time, shall not exceed the following multiples of the median annual Village-paid wages of all full-time employees of the Village of Briarcliff Manor during the preceding calendar year: **[Amended 2-20-1996 by L.L. No. 2-1996; 6-19-2003 by L.L. No. 4-2003]**

Unit Size* (square feet)	Village Employee Median Salary Multiple
800	1.65
900	1.70
1,000	1.75
1,100	1.80
1,200	1.85
1,300	1.90
1,400	1.95
1,500	2.00

\*Average livable floor area; see Column 23 of the schedule. <sup>9</sup>

- (b) Families whose intent is to utilize the residential townhouse moderate income units as their principal place of residence. Rental or subleasing of moderate income units shall not be permitted except under extenuating circumstances as determined and approved by the Review Board.

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9. Editor's Note: The schedule is included at the end of this chapter.

- (c) Families must declare under oath to the best of their knowledge that their income will not exceed 1.5 times the limits defined in Subsection E(2)(a) above, for three years from the date of application.
- F. Tax assessment. The limited sales value of moderate income dwelling units shall be taken into consideration by the Village Assessor in determining the basis for assessment on such units.

### § 220-11. Eldercare Community EC District.

#### A. Statement of purpose.

- (1) To provide for the establishment, within residential areas, of a specialized, for-profit congregate residential development for the elderly. In such development, accommodation can be made for the range of needs of those elderly who do not want or need placement in a hospital or nursing home. Eldercare communities shall be designed to achieve compatibility with their surroundings and to encourage orderly and well-planned development. Eligible sites shall be limited to those analyzed and found suitable in the comprehensive planning and environmental review processes undertaken at the time of creation of this zoning district. Such development shall be of a scale and location that will make it feasible to construct a comprehensive package of supporting utilities, services and facilities, so as to achieve development which is environmentally, physically, visually and economically sound. Certain accessory uses that are requisite, desirable and convenient for congregate living for the elderly will also be allowed.
- (2) Such persons form a stable part of the community. In contrast to young families which are often compelled to move as their families grow or their jobs change, the elderly set their roots fast in the community, usually for the rest of the span of their lives. They have no need for schools and related services, nor do they require, in the aggregate, as many municipal services and facilities. The taxes paid by them, directly or indirectly, help to stabilize the tax base required to provide schools and other public services in those areas and for those land uses which require them. Usually having a greater than average purchasing power, they bolster the local economy. Moreover, a minimum amount of retail trade and services, professional and otherwise, may be carried on in such a specialized development for the convenience of its inhabitants, some of whom will, by reason of age or reduced physical fitness, be unable to travel easily. Such accessory uses may also diminish the amount of vehicular movement generated by such community, thereby promoting its tranquillity. **[Amended 5-21-1998 by L.L. No. 2-1998]**

#### B. Locational criteria.

- (1) To encourage orderly development of sites that provide safe, efficient, adequate access and traffic circulation, eldercare communities shall have frontage on a state or county highway, and access to a major road.

- (2) The lot area shall not be less than five acres, one contiguous lot or assemblage of lots, held under common ownership as of January 1, 1994.
- (3) The site of such community shall be within 500 feet of existing retail shopping facilities via a walking route considered safe and convenient by the Planning Board as determined as part of site plan review.



- (4) Such site shall be served by public water and sanitary sewer facilities.
- C. General provisions. The following standards, conditions and provisions shall be administered by the Planning Board during the course of site plan review. All site development plan applications for development in an EC zone shall, in addition to complying with all other standards and requirements of these regulations, also satisfy the following standards and conditions:
- (1) The total density, including persons dwelling therein and all staff on-duty at any time, shall not exceed 25 persons per acre.
  - (2) Uses which are normally accessory to an eldercare community may be provided, including the following: indoor and outdoor recreation for residents and their guests only; continuing education, crafts and hobbies for residents and their guests only; living, dining, laundry, security and housekeeping facilities for common use of residents only; central kitchen for food served in dining areas or distribution to individual dwelling accommodations and units; restaurant for residents and their guests only, with no cash transactions allowed; medical and dental services for residents only with no cash transactions allowed; small retail shops for the sale of goods or rendering of personal services (such as hairdresser, banking, etc.) only to residents, with no cash transactions allowed; off-street parking areas; and signs and outdoor lighting standards.
  - (3) Minimum setback from property lines for buildings shall be:
    - (a) Front yard: 100 feet.
    - (b) One side yard: 20 feet.
    - (c) Two side yards combined: 40 feet.
    - (d) Rear yard: 100 feet.
  - (4) Appropriate buffer screening shall be designed and installed within setback areas adjoining or facing residential properties, to the extent deemed appropriate by the Planning Board as a part of the site plan approval process.
  - (5) There shall be not less than one off-street parking unit for each on-duty staff member plus one unit for each 10 persons dwelling therein to be designated as visitor parking. Notwithstanding anything to the contrary, if the Planning Board, as part of the site plan approval process, determines that less than the required number of parking spaces will satisfy the intent of this chapter, because of variations in the time of maximum use or any other reason, the Planning Board may waive the improvement of not more than 25% of the required number of parking spaces. In such case, it must be demonstrated on the site plan that sufficient usable lot area remains for the eventual provision of the total number of required parking spaces. All unimproved parking spaces shall be used and maintained as landscaped grounds until required for parking, and must be improved for parking in accordance with the site plan within six months after written notice is given by the Village Engineer to the property owner stating that improvement of all or a portion of the parking spaces is necessary.

- (6) Outdoor lighting shall be limited to that necessary for operational reasons and shall be so designed as to not be incompatible with surrounding land uses. It shall be directed away from nearby streets and properties and shall be placed or shielded so that no direct light source (i.e., bulb, lamp, tube) shall be visible at any property line at a height of more than four feet above grade. Outdoor lights shall be mounted not more than 14 feet above adjacent finished grade.<sup>9</sup>
  - (7) The entrance to all off-street parking and truck unloading spaces shall be from an internal driveway system or local street and not from a secondary street, major or business street, or state or county highway.
  - (8) Off-street parking and unloading areas shall be designed to avoid the impression of large scale paved areas. This shall include provisions for landscaping and screening and landscaped islands within the parking areas in the proportion of 10 square feet for each uncovered or unenclosed parking space.
- D. Shared usage. Notwithstanding anything herein to the contrary, a portion of the site not otherwise required for buildings or parking may be used for public recreation by the owner or operator of the principal use or by any other entity, provided that such portion of the site is in one contiguous piece and does not exceed 60% of the area of the total site.

**§ 220-12. Off-street parking and off-street loading.**

- A. General. All structures and land uses hereafter erected, enlarged, created or extended, reduced in intensity or otherwise modified shall be provided with the amount of off-street parking space and loading and unloading space required by the terms of this section to meet the needs of persons occupying such structures or land. A permit for the erection, replacement, reconstruction, extension or substantial alteration of a structure, or the development of a land use, shall not be issued unless off-street parking facilities and, where required, loading and unloading spaces shall have been laid out in plan, and approved by the Planning Board, in accordance with the appropriate requirements for structures and uses as set forth in this section. As used herein, parking facilities shall be construed to include loading and unloading spaces required by this section.
- B. Existing structures and uses. Structures and land uses in existence on the effective date of this section, December 4, 1972, or structures and uses with approved building permits by said date, shall not be subject to the parking or loading requirements set forth in this section. However, parking and loading facilities now existing to serve such structures or uses shall not be reduced without approval by the Planning Board and then, if granted approval, only to the extent they may exceed the total current requirements. [**Amended 5-21-1998 by L.L. No. 2-1998**]
- C. Location, use, design, construction and maintenance.

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9. Editor's Note: Former Subsection C(7), regarding announcement signs, was repealed 11-19-1998 by L.L. No. 9-1998. See Ch. 172, Signs.

- (1) Location of parking spaces. Required parking spaces shall normally be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures or land uses on two or more adjacent lots may be provided in a single common facility on one or more adjacent lots may be provided in a single common facility on one or more of said lots, provided that a legal instrument, satisfactory to the Village Attorney, assures the continued existence of the parking facility to serve said structures or land uses as long as they may exist. Such agreements shall also guarantee that upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use in accordance with all requirements of this section. In no event shall such parking spaces be located in any residence district.
- (2) Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements of such individual use on the lot, except that upon recommendation of the Planning Board, the Board of Trustees may approve the joint use of a parking space by two or more establishments on the same lot or on adjacent lots, the total capacity of which is less than the sum of the spaces required for each, provided that it can be conclusively demonstrated that the parking capacity to be provided will substantially meet the parking demand generated by reason of variations in the probable time of maximum use by occupants of such establishments and provided such approval of such joint use shall be automatically terminated upon a change of use at any such establishment. The Board of Trustees shall require, as a condition of its approval, a legal instrument satisfactory to the Village Attorney assuring the continued existence and use of the joint parking facilities in connection with the uses and establishments they serve. In all cases it shall be expressly demonstrated on the site plan that sufficient space remains for the provision of the total amount of off-street parking required and the site plan shall bear such designation. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guarantees, satisfactory to the Village Attorney, shall be submitted by the applicant for the eventual improvement of any such spaces which may have been waived within six months of the date of written notice to the property owner by the Planning Board that such spaces have been determined as necessary and must be constructed.
- (3) Size of parking spaces. Each parking space shall be at least 180 square feet in area and shall be shaped as a rectangle at least nine feet wide and 20 feet long if unenclosed. Such spaces shall be 10 feet wide if bordered by walls or columns on two or more sides. Where parking spaces are defined by curbs providing space for overhang of vehicles such spaces may be reduced in depth to 18 feet as measured from said curb and exclusive of two-foot vehicle overhang. Backup and maneuvering aisles between rows of parking spaces shall be 25 feet wide if parking spaces are nine feet wide and 24 feet or 23 feet wide if such parking spaces are 9 1/2 feet or 10 feet wide, respectively. **[Amended 5-21-1998 by L.L. No. 2-1998]**
- (4) Access. Unobstructed access to and from a street shall be provided for all parking spaces. Such access shall consist of at least one twelve-foot wide lane for parking

areas with less than 30 parking spaces and at least two ten-foot wide lanes for parking areas with 30 parking spaces or more. No entrance or exit for any off-street parking shall exceed a grade in excess of 6% within 25 feet of any street line, nor 12% at any other point.

- (5) Grades, drainage and surfacing. The maximum slope of a parking space shall not exceed 5%. All parking areas shall be properly drained and all such areas, except for parking spaces accessory to a one- or two-family dwelling, shall be paved with a dust-free surface in accordance with specifications of the Village of Briarcliff Manor.
- (6) Landscaping within parking areas.
  - (a) Except in one- and two-family residences, all off-street parking areas shall be curbed and landscaped with appropriate trees, shrubs, and other plant materials and ground cover, as approved by the Planning Board, to assure the establishment of a safe, convenient and attractive parking facility. Wherever possible, raised planting islands, at least six feet in width, shall be used to guide vehicle movement and separate opposing rows of parking space so as to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles, and to provide relief from the visual monotony and shadeless expanse of a large parking area. Curbs should also be used for surface drainage purposes and to prevent vehicles from overlapping sidewalks and damaging landscaping materials.
  - (b) The selection, amount, and location of all landscaping materials shall be subject to approval by the Planning Board based upon consideration of the adequacy of the proposed landscaping to serve its intended purpose with a minimum amount of maintenance problems, including plant care, snow plowing and the removal of leaves and other debris. At least one tree, of planting grade, shall be provided within such parking area for each 12 parking spaces.
  - (c) Any parking facility serving a non-single-family residential use which is located in or adjacent to a single-family residence district shall be screened, by means of evergreen plantings not less than six feet in height, from the adjoining residential property in such district.
  - (d) No obstruction to vision shall be erected or maintained on any lot within the triangle formed by the street lines of such lot; the outer edge of the access driveway to the parking area, and a line drawn between points along such street line and access drive 30 feet distant from their point of intersection.
- (7) Traffic circulation. In order to promulgate safety and convenient traffic circulation the Planning Board may require the interconnection of parking areas via access drives within and between adjacent lots. The Board shall require written assurance

and/or deed restrictions, satisfactory to the Village Attorney, binding the owner and his heirs and assignees to maintain and permit such internal access and circulation and inter-use of parking facilities.

- (8) Required off-street parking facilities which, after development, are later dedicated or leased to and accepted by the Village shall be deemed to continue to serve the uses or structures for which they were originally provided.
- (9) Improvement of parking facilities. Required off-street parking facilities may be enclosed in a structure, or may be open, except as may be specifically required elsewhere in this chapter, provided that all required parking facilities shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Village Engineer to the extent necessary to avoid nuisances of dust, erosion, or excessive water flow across public ways or adjacent lands. In multifamily residential development and in nonresidential development, the Village Engineer shall require the provision of suitable markings to indicate individual parking spaces, maneuvering area, entrances and exits.
- (10) Operation and maintenance of off-street parking facilities. Required off-street parking facilities shall be completed before a certificate of occupancy shall be issued, and said parking facilities shall be maintained as long as the structure or use exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times for those persons who occupy or make use of such structures and land uses, except when dedicated to and accepted by the Village as public parking areas. The owner of the property used for parking shall maintain such area in good condition, including all facilities constructed, landscaping, plant care, snow plowing and the removal of leaves and other refuse throughout the duration of its use.
- (11) Alternate method of providing parking spaces. Where, because of limitations of size, dimensions, or topography of lot, an applicant for a building permit in a nonresidential district finds it impractical to provide all or a portion of the off-street parking spaces required in connection with a proposed building or addition, he may offer to grant and convey to the Village, appropriately and conveniently located and developed land for parking in an equivalent amount. Upon report to the Board of Trustees by the Planning Board stating that it concurs in such findings and the appropriateness of the proposed land for parking, the Board of Trustees, at its discretion, may accept such developed land, providing it is permanently dedicated to the Village.
- (12) Off-street loading requirements. Off-street loading and unloading facilities as defined in this chapter shall be located on the same site with the use to be served and shall be provided as follows:
  - (a) Each off-street loading unit shall be 10 feet wide, except that the first shall be 12 feet wide, 14 feet high and 45 feet long, exclusive of access and turning areas, and may be located within any structure, within a side or rear yard, or within a required off-street parking area, provided that it does not bar access to such parking area.

- (b) For retail and service business establishments, restaurants and other places serving food and beverages: one space for the first 4,000 square feet of gross floor area or major portion thereof and one additional space for each 10,000 square feet or major portion thereof in excess of 4,000 square feet.
- (c) For wholesale business, storage warehouses, and other commercial establishments: one space for each establishment, and one additional space for each 10,000 square feet of gross floor area or major portion thereof in excess of 4,000 square feet.
- (d) Reasonable and appropriate off-street loading requirements for structures and land uses shall be determined in each case by the Planning Board, which shall consider all factors entering into the loading and unloading needs of such use.

*allow PB to waive or modify*

(13) Unless modified by the above provisions or by other provisions of this chapter, off-street parking facilities shall be provided in an amount as required by the list below. Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed below, shall be determined in each case by the Planning Board. The Planning Board shall consider all factors entering into the parking needs of each such use or reuse of land or buildings and may, in the course of site plan or special permit review, reduce or increase the parking and loading requirements and in an amount which it considers appropriate and in the best interest of the Village. In all cases, the Planning Board shall require appropriate safeguards for the provision of the normally required parking and loading facilities. In no case shall such reduction or increase be greater than 25% of that normally required by the Zoning Chapter.

<b>Use</b>	<b>Minimum Required Off-Street Parking</b>
One- and two-family residence	2 spaces for each dwelling unit.
Professional office or home occupation permitted in a residential district	4 units for each doctor, dentist, or medical practitioner, plus 1 unit for each employee, in addition to space required for residential uses. For other occupations, 2 spaces in addition to spaces required for residential uses.
Multifamily dwellings	1.3 spaces for each one-room (studio or efficiency apartment) unit. 1.5 spaces for each two-room unit (1 bedroom); 2.0 spaces for each three-room unit (2 bedrooms); plus 0.5 spaces for each additional bedroom beyond 2.
Retail or service business	1 space for each 150 square feet of gross floor area on the ground floor and 1 space for each 250 square feet of gross floor area on other floors.

Use	<b>Minimum Required Off-Street Parking</b>
Business offices or banks	1 space for each 250 square feet of gross floor area, or 1 per employee, whichever is greater.
Restaurant or other place servicing food or drink	1 space for each 100 square feet of gross floor area, or 1 space for each 4 seats, whichever requirement is greater, plus 1 for each employee.
Theater, auditorium, stadium or other place of public assembly, including a place of worship	1 space for each 3 fixed seats, or 1 space for each 100 square feet of floor area in places without fixed seats.
Funeral home	10 spaces, plus 1 space for every 60 square feet of floor area available for public use.
Hospital or nursing home	1 space for each 2 beds, plus 1 for each employee.
Animal hospital	1 space for each 350 square feet of gross floor area, plus 1 for each employee.
Automotive service station [ <b>Added 10-16-1997 by L.L. No. 5-1997</b> ]	10 spaces, but not less than 4 spaces for each service bay, including each service bay as a parking space, plus 1 space for every 150 square feet of retail space which is not incidental to the automotive service use. For good cause shown by the applicant and as part of site plan approval, the Planning Board may permit up to 50% of the required spaces without a backup aisle for the storage vehicles awaiting repair.

**§ 220-13. Applicability of provisions.**

- A. Conformity required. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located or is to be moved.
- B. Completion of structures for which a permit has been issued. Nothing in this chapter, or any amendment thereto, shall be deemed to require any change in the plans, construction or designated use of any building for which a permit was duly issued and on which actual construction was lawfully begun prior to the effective date of this chapter or of any amendment thereto and upon which building actual construction has been diligently carried on. "Actual construction" is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, except that where a basement or cellar is being excavated such excavation shall be deemed to be actual construction, or where demolition or removal of an existing structure

has been substantially begun preparatory to rebuilding, such demolition and removal shall be deemed to be actual construction; provided that actual construction work shall be diligently carried on and the building completed within the term of the building permit and any extension thereto. Similarly, whenever a district shall be changed hereafter, the provisions of this subsection with regard to previously issued building permits shall apply to building permits issued for construction in such changed district prior to the time the amendment effecting such change becomes effective. **[Amended 11-6-2003 by L.L. No. 10-2003]**

- C. Required yards cannot be reduced or used by another building.
- (1) Yards may not be reduced. No lot shall be so reduced in area as to make any yard or court smaller than the minimum required under this chapter.
  - (2) Yards may not be used for another building. No part of a yard, court or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard, court or other open space required under this chapter for another building or structure.
  - (3) Division of existing lot must assure conformity of each part. Where a lot is formed from part of a lot already occupied by a building, such separation shall be effected in such manner as not to impair any of the provisions of this chapter with respect to the existing building and no permit shall be granted for the erection of a new building or structure upon the new lot thus created unless it complies with all the provisions of this chapter.
- D. Applicability of bulk local laws. Nothing in the building bulk provisions of Local Law No. 6 of 2003, adopted on September 3, 2003, or in this Local Law No. 7, adopted on August 16, 2007, shall be deemed to require any change in the plans, construction or designated use of any building (i) for which a special permit was duly issued prior to the adoption date of said local law, regardless of the status of the construction of such building, or (ii) for which a building permit was duly issued and on which actual construction was lawfully begun prior to the adoption date of said local law and upon which building actual construction has been diligently carried on. For purposes of this section, the definition of "actual construction" shall be that as provided in § 220-13B hereof. **[Amended 9-3-2003 by L.L. No. 6-2003; 8-16-2007 by L.L. No. 7-2007]**
- E. Westchester County Greenway Compact Plan. By Local Law No. 5 of the Year 2004, the Village of Briarcliff Manor has adopted the Westchester County Greenway Compact Plan, as amended from time to time and accepted by the Village of Briarcliff Manor as set forth in Chapter 217, as a statement of policies, principles, and guides to supplement other established land use policies in the Village. In its discretionary actions under this Zoning Code, the reviewing agency should take into consideration said statement of policies, principles and guides, as appropriate. **[Added 11-4-2004 by L.L. No. 5-2004]**

**§ 220-14. Approval of site development plans. [Amended 5-21-1998 by L.L. No. 2-1998]**

- A. Review required. No building permit shall be issued and no building or use shall be established other than for a single-family dwelling, except in conformity with a site

development plan approved by the Planning Board, and no certificate of occupancy for such building or use shall be issued until all the requirements of this section, including those required by the Planning Board under the provisions of this section, have been met. Continued conformance with such a plan and such requirements shall be a condition of any certificate of occupancy issued. Revisions of such plans shall be subject to the same approval procedure.

- B. Application for site plan approval. An application for a building permit for a use requiring the site development plan approval by the Planning Board shall be made to the Building Inspector and shall be accompanied by the following information: A detailed site plan showing the applicant's entire property and adjacent properties and streets at a convenient scale, and including the following information:
- (1) Location of all existing and proposed buildings.
  - (2) Use and exterior design of all buildings, including the location and attachment of mechanical equipment and other appurtenances to the exterior or at the roof.
  - (3) Any proposed division of buildings into units of separate occupancy.
  - (4) Location of all parking and truck loading areas with access and egress drives.



- (5) Layout of parking areas with planting strips.
  - (6) Location of any existing and proposed outdoor storage.
  - (7) Location of all existing and proposed site improvements with existing and proposed contours of applicant's entire property, including location of all existing and proposed drains, culverts retaining walls, fences and sewage disposal facilities and location of existing and proposed connection to all public utilities.
  - (8) Location and site of all existing and proposed signs.
  - (9) Location and proposed development of all required screening and planting areas.
  - (10) Location and design of all exterior lighting.
  - (11) Location and design of all fencing and signage.
  - (12) All other pertinent information affecting exterior appearance.
  - (13) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any site plan approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved site plan shall be consistent with the provisions of Chapter 184, Article I. **[Added 12-20-2007 by L.L. No. 9-2007]**
- C. Referral of application to Planning Board. Each application requiring site development plan approval, together with the required information described in Subsection B above, shall be referred to the Planning Board by the Building Inspector within five days of the date of application.
- D. Time for Planning Board decision. Where required, a public hearing shall be held within 62 days of receipt of a complete application. Within 62 days of the date of the close of the public hearing, or of the date that the complete application was received if no hearing has been held, the Planning Board shall decide whether to approve, approve with modifications or disapprove the site plan. The time at which the Planning Board must arrive at its decision may be extended at the request of the applicant or as necessary for the Planning Board to complete all necessary environmental review requirements pursuant to the State Environmental Quality Review Act (SEQRA). A copy of the Board's decision shall be filed in the office of the Village Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.
- E. Standards for site plan approval. In acting upon any site development plan, the Planning Board shall determine that the site layout and overall appearance of all buildings in the proposed development are such that they will have a harmonious relationship with existing or permitted development of contiguous land and of adjacent neighborhoods; will have no material adverse effect upon the desirability of such neighborhoods for the residential uses contemplated by the comprehensive zoning plan; and that the purpose and intent of the zoning regulations will be met to the end that the value of buildings will be conserved and the most appropriate use of land will be encouraged. The following

specific standards shall be met in site development plans, in addition to the standards set forth in other sections of the chapter:

- (1) Any structure, except a single-family residence and its permitted accessory uses, or use within 100 feet of a lot or lots in a residence district, shall have a yard of not less than 20 feet (more, if specifically required herein for a particular District), which yard shall extend along the lot lines wherever adjoining the lot or lots in the residence district, and be planted with evergreen plant screening of such type, size and arrangement approved by the Planning Board as adequate to meet the standards listed in the first paragraph of Subsection E. Existing trees, other planting and property contours may be considered by the Planning Board as partly or wholly meeting the requirement.
- (2) Where the structure or use is located on a lot in a business district, which lot is adjacent to a residence district, the Planning Board may permit the reduction of the minimum yard requirement as outlined in Subsection E(1) to not less than 10 feet, provided the wall or walls of the structure have no openings facing the lot or lots in the residence district, and the planting is such as to give proper partial screening of the wall or walls.
- (3) Where a minimum yard, as prescribed in Subsection E(1) and (2) is required, the only permitted use in such yard shall be planting and screening.
- (4) All exterior lighting shall be of such type, height, location, and so shaded that the source of light may not be seen beyond the boundaries of the lot on which it is located. A source of light shall be deemed to include any transparent or translucent covering of the light, except in the case of the use of such materials in a permitted sign, where such sign does not face the adjoining lot or lots in a residence district.
- (5) In acting on any site development plan application, the Planning Board shall also take into consideration solar access, insofar as feasible, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation both on and off the site, and the impact on solar access to adjacent uses and properties, and the location and display of signs and all other matters listed in Subsection B above, so that any development will have an attractive and high quality of design and harmonious relationship with the contiguous land and adjacent neighborhoods and so that pedestrian and vehicular traffic will be handled adequately and safely within the site and in relation to the adjoining street system.
- (6) Nonresidential developments shall also be compatible with the architectural style, character and visual composition of the Village business areas in which they are located.
- (7) Site plans containing residential units shall show, when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes within the Village in accordance with requirements of § 7-725-a, Subdivision 6, of the Village Law. The Planning Board shall determine whether a proper case exists for requiring such land reservation. Such determination shall include an evaluation of the present and anticipated future needs for park and

recreational facilities in the Village based on projected population growth to which the particular site plan will contribute. In the event the Planning Board determines that suitable lands do not exist for such reservation, it may require the payment of a fee in lieu of land reserved for park, playground or other recreational purposes in accordance with a fee schedule established by the Village Board of Trustees.  
**[Added 9-3-1998 by L.L. No. 4-1998]**

**§ 220-15. Protection of natural resources.**

Notwithstanding other provisions of this chapter, all development regulated by this chapter shall be subject to the provisions of this section, which provisions are designed to protect and enhance the natural resources of the Village of Briarcliff Manor. These natural resources shall include but not be limited to steep slopes, wetlands, forests, water bodies, exceptional or unique views and various unique, unusual or specific surface or subsurface factors pertaining to the soil. Protection of these natural resources is considered to be in the best interest of the public health and welfare in that such action will help preserve the mental and physical health and well-being of the public by such activities as protecting the water supply, precluding pollution, enhancing wildlife and maintaining the perceived character of the Village. To these ends the following standards and provisions are set forth.

- A. Steep slopes map. The map entitled "slopes" prepared under the direction of the Village Conservation Advisory Council, with the assistance of Frederick P. Clark Associates, Planning Consultants, and the Village Engineer, which map is based upon the Village photogrammetric map prepared by Lockwood, Kessler and Bartlett, Inc., Syosset, New York, is hereby adopted as part of the Village's Zoning Chapter and shall hereinafter be used for reference in the determination of slopes. Said map shall hereinafter be called "The Village of Briarcliff Manor Slopes Map."
- B. Limitations.
- (1) Slopes 25% or more. No land shown on the Village of Briarcliff Manor Slopes Map shown as having slopes of 25% or more shall be developed or in any way physically modified, except when in the opinion of the Planning Board, said development or modification is deemed necessary for access, land or natural resources, preservation or enhancement, or some other necessary purpose. These steep lands may be used as or may comprise a portion of development areas so long as such development areas have sufficient "nonsteep" space for the particular type of development proposed and in accordance with the requirements of this chapter.
  - (2) Slopes 15% to 25%. No land shown on the Village of Briarcliff Manor Slopes Map shown as having slopes of 15% to 25% shall be developed or in any way physically modified, except when, in the opinion of the Planning Board, said land may be used for a use permitted within the zoning district within which it is located, without creating an adverse impact on the natural resources of the Village of Briarcliff Manor, including but not limited to land erosion and flooding. In the review and approval procedures established in this chapter the Planning Board is further empowered to mandate development techniques which in its opinion may preserve the steep slopes.

- C. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any natural resources or steep slope approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved steep slope or natural resources permit shall be consistent with the provisions of Chapter 184, Article I. [Added 12-20-2007 by L.L. No. 9-2007]

**§ 220-16. Nonconforming buildings, lots, and uses. [Amended 5-21-1998 by L.L. No. 2-1998; 1-20-2000 by L.L. No. 1-2000; 1-20-2000 by L.L. No. 2-2000; 8-2-2007 by L.L. No. 6-2007; 12-17-2009 by L.L. No. 6-2009]**

- A. May be continued subject to conditions. Any building, lot, or use lawfully existing under the provisions of the Zoning Ordinance in effect immediately prior to the date on which this chapter became effective, although not conforming with the provisions of this chapter for the district in which it is situated, may be continued or built upon, subject to compliance with the conditions set forth in this section. Similarly, whenever a district shall be changed hereafter, the provisions of this chapter with regard to any building, or use, or lot lawfully existing at the time of the passage of this chapter shall apply, subject to the conditions set forth in this section, to any building, use, or lot lawfully existing in such changed district at the time of the passage of such amendment.

(1) Nonconforming buildings.

- (a) A building which is nonconforming with respect to any of the Zoning District lot and building limitations set forth in § 220-4 of this chapter may be enlarged or altered in any manner that does not increase that nonconformity and otherwise complies, after the enlargement or alteration, with the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.

(2) Nonconforming lots.

- (a) A lot which does not conform to the minimum lot size requirement for the Zoning District in which it is situated and which:

[1] Conformed with that lot size requirement on January 1, 2009, and was not in the same ownership as an adjacent lot on that date, may be used and developed as a lot for any purpose permitted in the district in which it is situated so long as such use or development complies with the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.

[2] Conformed with that lot size requirement on January 1, 2009, and was in the same ownership as an adjacent lot on that date, may be used and developed as a lot for any purpose permitted in the district in which it is situated so long as such use or development complies with the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.

- [3] Did not conform with that lot size requirement on January 1, 2009, but was not in the same ownership as an adjacent lot on that date, may be used and developed as a lot for any purpose permitted in the district in which it is situated so long as such use or development complies with the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.
- (b) A building which is located on a nonconforming lot but is conforming with respect to all of the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter may be enlarged or altered in any manner that complies, after the enlargement or alteration, with the Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.
- (c) A building which is located on a nonconforming lot and is nonconforming with respect to any of the other Zoning District lot and building limitations set forth in § 220-4 of this chapter may be enlarged or altered in any manner that does not increase that nonconformity and otherwise complies, after the enlargement or alteration, with the other Zoning District lot and building limitations, other than size of lot, set forth in § 220-4 of this chapter.
- (3) Nonconforming uses.
- (a) No nonconforming use of a lot shall be enlarged or extended to additional land except that, in the case of golf clubs, the Board of Trustees may, by special permit, issued in accordance with the provisions of § 220-6 of this chapter, authorize such an enlargement or extension to adjoining residential parcels, which such nonconforming land touches, if the Board of Trustees finds that such use furthers the goal of open space preservation and the purposes of § 220-7 of this chapter, maintains or improves the relationship between the subject property and the surrounding community, results in improvement in the public welfare, health, safety and applicable environmental concerns; and unique circumstances exist that support the need for such enlargement or extension. Such special permit may include such conditions and restrictions relative to the use and operation of such nonconforming use as the Board of Trustees may find are necessary to achieve such purposes. Except as may be permitted under Subsection C of this section, no such building which is nonconforming with respect to use shall be enlarged, nor shall such building be altered structurally except as may be required by order of the Building Inspector to strengthen or restore such building or restore such building or any part thereof to a safe condition.
- (b) After notice and hearing, the Board of Appeals may permit an existing nonconforming use to be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this chapter, if no structural alterations except those required for health or safety are made therein.

- (c) A nonconforming use may not be changed to another nonconforming use, except that within six months after cessation of a lawfully existing nonconforming use, after notice and hearing the Board of Appeals may grant a temporary conditional permit for a new nonconforming use within the same structure, provided the Board of Appeals finds that the proposed new nonconforming use will be more in keeping with the character of the neighborhood than the former nonconforming use, will generate less traffic and will tend to facilitate the later conversion of the structure to a conforming use. However, no such temporary permit shall be for more than five years, with not more than two successive extensions thereof of not more than five years each, and the Board of Appeals in granting such temporary permit or any renewal thereof shall impose such conditions as it deems necessary in the public interest for the protection of nearby conforming uses.
    - (d) Effect of discontinuance. No such nonconforming use, if discontinued for six months or longer, shall be resumed.
  - B. If made to conform, may not revert to nonconformity. No such nonconforming building or use, if changed to a building or use which conforms to the provisions of this chapter, shall be changed back to a nonconforming building or use.
  - C. Effect of serious damage.
    - (1) In all nonresidential zoning districts, no nonconforming nonresidential building destroyed or damaged from any cause to the extent, as determined by the Building Inspector, of over 50% of the value of its structure above the foundation shall be restored in nonconforming form or location on the lot or for the continuance of a nonconforming use therein. Any such building destroyed or damaged accidentally due to fire, explosion or other cause to the extent, as determined by the Building Inspector, of not more than 50% of the value of its structure above the foundation may, if so permitted by the Board of Appeals, be restored in substantially the same location, provided that it be not enlarged and that it comply with height, yard, area and other requirements of the schedule, and provided also that the Board of Appeals may permit the continuance without enlargement of such previous existing nonconforming use subject to such additional limitation and safeguards as it may deem necessary in the public interest for the protection of nearby conforming uses. Anything to the contrary in this subsection notwithstanding, the Board of Trustees may, by special permit issued in accordance with the provisions of § 220-6 of this chapter, authorize a nonconforming golf clubhouse to be reconstructed or replaced, in whole or in part (but in no case enlarged), for its prior nonconforming use in substantially the same location and may permit the construction or replacement of any ancillary structure necessary or appropriate for such golf club use, provided that, in each such case, the Board of Trustees finds that such construction, reconstruction or replacement furthers the goal of open space preservation and the purposes of § 220-7 of this chapter, maintains or improves the relationship between the subject property and the surrounding community, and results in improvement in the public welfare, health, safety and applicable environmental concerns; and unique circumstances exist that support the need for such construction, reconstruction or replacement. Such special permit may include such

conditions and restrictions relative to the use and operation of such nonconforming use as the Board of Trustees may find are necessary to achieve such purposes.

- (2) In all residential zoning districts, any nonconforming residential building destroyed or damaged from any cause to any extent may be repaired or reconstructed with the same habitable floor area, height, footprint, or less, as it existed prior to the destruction or damage, provided that the building fell within the definition of a legal preexisting nonconforming structure.
  - (3) Any nonconforming residential building in a nonresidential zoning district destroyed or damaged from any cause to any extent may be repaired or reconstructed with the same habitable floor area, height, footprint, or less, as it existed prior to the destruction or damage, provided that the building fell within the definition of a legal, preexisting nonconforming structure.
  - (4) Any repair or reconstruction as provided in this § 220-16C must comply with all fire, construction, health and safety rules, regulations, ordinances and laws applicable at the time of repair or reconstruction. Substantial work of any such repair or reconstruction must be commenced within a period of 24 months after the damage or destruction of the building and shall be diligently prosecuted to completion.
  - (5) Application to rebuild must be made within six months. Application for permit to rebuild or restore the damaged portion of any building damaged or destroyed as set forth in this Subsection C shall be filed within six months of the day of such damage and shall be accompanied by plans for reconstruction which, as to such portion, shall comply with the provisions of this chapter in all respects save as to the use of the building or structure.
  - (6) Rebuilding must be completed within 18 months after a permit to rebuild or restore is granted. If a permit for such rebuilding or restoration is granted it, shall lapse 18 months thereafter except that the Building Inspector in his discretion may grant a three-month extension thereof.
- D. Certain uses must cease within five years. Any nonconforming sign made so by this chapter and any nonconforming use of land upon which there is no substantial structure or building, and the use of which is temporary in nature, such as a golf driving range, parking lot, junkyard, outdoor auto sales, or any use similar to those enumerated, shall be discontinued within five years from the adoption of this chapter.

**§ 220-17. Board of Appeals. [Amended 5-21-1998 by L.L. No. 2-1998]**

The Board of Appeals, as heretofore established pursuant to the Village Law, is hereby continued with all powers and duties prescribed by Village Law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any of the power of the Board of Appeals that is conferred by §§ 7-712, 7-712-a and 7-712-b of the Village Law. Said Board shall have the power to adopt, from time to time, such rules and procedure not inconsistent

with law, as it may determine to be necessary to carry out the provisions of these regulations and to exercise the authority vested in it by the Village Law.

- A. Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, the Board of Appeals shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary line, if uncertainty remains after reference to the rules specified in § 220-3C, Boundaries.
- B. Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land, upon application by an appellant, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
  - (1) Use variances. Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance the applicant shall demonstrate to the Board, and the Board shall make each and every one of the following findings, that for each and every permitted use under the zoning regulations for the particular district where the property is located:
    - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood;
  - (d) The alleged unnecessary hardship has not been self-created; and
  - (e) That within the intent and purposes of this chapter the variance, if granted, is the minimum variance necessary to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.
- (2) Area variances. In making its determination, the Board of Appeals shall consider the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following factors:
- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
  - (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.
  - (c) Whether the requested area variance is substantial in relation to the requirement.
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.
  - (f) The Board, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.
- (3) Variances when subdivision, site plan or special permit applications are involved. Where a proposed site plan contains one or more features which do not comply with the zoning regulations, or where a proposed special permit use contains one or more features which do not comply with the zoning regulations, or where a proposed subdivision plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Board of Appeals for an area variance or variances pursuant to Subsection B(2), without the necessity of a decision or determination of an administrative official charged with the enforcement of this chapter or a referral by an approving agency acting pursuant to this chapter.

- C. Conditions and safeguards. The Board of Appeals, in the granting of both use variances and area variances, may prescribe such reasonable conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood or community and to protect the public health, safety and welfare. Such conditions or restrictions shall be directly related to the proposed use of the property. Such conditions or restrictions shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this chapter, and may constitute the basis for denial or revocation of a building permit, certificate of conformance or certificate of occupancy and for all other applicable remedies.
- D. Appeal or application. An appeal shall be taken within 60 days of the order or decision appealed from, by filing with the official or agency from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. A referral to the Board for a variance, or a request for an interpretation, may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds on which it is claimed that the same should be granted.
- E. Review by other agencies.
- (1) Upon receipt of a completed appeal or application, and at least 15 days before the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Planning Board a copy of the appeal or application and all papers related thereto with a notice of hearing. The Planning Board may, with respect to any such appeal or application, submit a report containing its views and deliberations prior to or at the hearing. The Board of Appeals may also forward copies for review and report to the Building Inspector, Village Engineer and to other such officials and agencies of the Village as it deems appropriate.
  - (2) The Board of Appeals shall refer to the Westchester County Planning Board for its recommendation all matters within the provisions of Article 12B, §§ 239-1 and 239-m of the General Municipal Law at least 10 days prior to the public hearing.
- F. Public hearing. The Board of Appeals shall conduct a public hearing on every appeal, application or request made pursuant to this chapter. Such public hearing shall be held within a reasonable time from the date an appeal is taken or an application or request is made to the Board.
- G. Notice of hearing. Notice of the hearing shall be published in the official newspaper at least five days prior to the date of such hearing and upon such other notice as the Board, by regulation, may require.

- H. Decision. The Board of Appeals shall decide upon the appeal for relief, interpretation or determination within 62 days after the close of said hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The decision of the Board shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy of such resolution shall be mailed to the applicant.
- I. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such hearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested by persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
- J. Fees. Any person or corporation, other than the Village of Briarcliff Manor, making any application to the Board of Appeals under the provisions of this chapter shall pay to the Building Department the sum as set forth in the Schedule of Fees to cover the cost of advertising the notice of hearing, upon each application filed.

#### **§ 220-18. Administration and enforcement.**

This chapter shall be enforced by the Building Inspector who shall be appointed by the Board of Trustees.

A. Building permits.

- (1) Applications. Applications for building permits shall be made in the manner prescribed in the building code and the forms used shall provide spaces for information essential to the administration of this chapter.
- (2) Permits. Each building permit shall be issued only upon compliance with this chapter, the building code and any other applicable codes, ordinances or local laws of the Village. Any such applicable requirements and any conditions imposed by the Board of Appeals in relation to the building permit shall be recorded on the face of such permit.

B. Certificate of occupancy.

- (1) Application. Application for certificates of occupancy shall be made in the manner prescribed in the building code.<sup>10</sup>

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<sup>10</sup> Editor's Note: See Ch. 90, Building Construction and Fire Prevention.

- (2) Occupancy prohibited without certificate. It shall be unlawful for an owner to use or permit the use of any building or premises, or part thereof, created, erected, changed, converted or enlarged, wholly or partly, until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall state that such building or premises, or part thereof, and the proposed use thereof are in complete conformity with the provisions of this Zoning Chapter, the building code and any approval granted hereunder. It shall be the duty of the Building Inspector to issue a certificate of occupancy, provided that it is satisfied that the building and the proposed use of the building or premises conform with all the requirements of the Zoning Chapter. The details of any site plan, special permit or other approval by the Village Board of Trustees, Planning Board or Board of Appeals acting under the terms of the Zoning Chapter, and any conditions attached to such approvals, shall be deemed to be requirements of the Zoning Chapter. **[Amended 3-16-2000 by L.L. No. 3-2000]**
- (3) Continued conformity required. A certificate of occupancy shall be deemed to authorize continued or changed occupancy and use of the building or land to which it applies. It shall continue in effect as long as such building and the use thereof, or of such land, is in full conformity with the provisions of the Zoning Chapter and any requirements made in connection therewith at the time of the issuance thereof. Violations or noncompliance with such standards or requirements of the Zoning Chapter, or any plan detail or condition of any permit, certificate or approval granted in accordance with the Zoning Chapter shall constitute an offense punishable by fine or imprisonment, or both, in accordance with § 220-18C of the Zoning Chapter. **[Added 3-16-2000 by L.L. No. 3-2000]**
- (4) Determination of conformance. The Building Inspector shall maintain a record of all certificates, and copies shall be furnished upon request to any person. Upon written request from the owner and on payment by him to the Village of a fee in accordance with the current fee schedule, the Building Inspector shall issue a statement for any building or premises, certifying, after inspection, the extent and kind of use or disposition of the building or premises and whether such use or disposition of the building or premises conforms with the provisions of the building code, this Zoning Chapter and of any approval granted hereunder. The Building Inspector shall issue a notice of violation and/or an order to remedy for any condition which is found not to conform with the provisions of the building code, this Zoning Chapter and of any approval granted hereunder. **[Added 3-16-2000 by L.L. No. 3-2000]**

C. Violations. **[Amended 3-16-2000 by L.L. No. 3-2000]**

- (1) A violation of the Village Zoning Chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction, of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 or an amount equal to twice the amount of the person's gain from the commission of the offense, or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years,

punishable by a fine not less than \$700 or an amount equal to twice the amount of the person's gain from the commission of the violation; or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of the Village Zoning Chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

- (2) Each week's continued violation shall constitute a separate additional violation.
  - (3) Any person, including any firm, corporation or other entity, owner, builder, architect, engineer, tenant, contractor, subcontractor, construction superintendent, agent or other person who shall violate any provision of this Zoning Chapter or any other regulation made under authority conferred thereby, or who shall violate or fail to maintain continued conformity with any plan detail or condition of any permit, certificate or approval granted in accordance with the Zoning Chapter, or who shall assist therein, shall be deemed in violation of this chapter and shall be liable upon conviction to a fine or imprisonment, or both, as provided in the Zoning Chapter.
  - (4) A notice of violation issued by the Building Inspector relative to a premises shall be served either personally or by posting the violation notice in a conspicuous place upon the premises affected. If a notice of violation is served by posting it upon the premises, a copy thereof shall be mailed within one day of posting to the person to whom it is directed at such person's last known address as listed in the Village tax rolls.
  - (5) In the event that compliance with the notice of violation is not made within five days from either personal service or from posting and mailing, the Building Inspector may then serve an accusatory instrument, as defined in the Criminal Procedure Law, in the Village Justice Court to compel the appearance of the property owner, tenant, lessee or other person in control of the property to appear in such Court to answer the accusatory instrument. All provisions of New York State Law affecting Village Code violations shall apply to these proceedings; provided, however, that such notice shall not be required where in the judgment of the Building Inspector the alleged violation constitutes a threat to life, health or safety, in which no such notice shall be required.
- D. Limitation on issuance of permit approvals and building permits. Once the Board of Trustees of the Village of Briarcliff Manor, by a duly adopted resolution, has authorized and scheduled a public hearing on a proposed amendment to this chapter, and for a period of 60 days after the date of adoption of such resolution, no building permit shall be issued nor shall any subdivision, site plan, special permit, or other land use approval, or variance be granted by the Board of Trustees, Planning Board or Zoning Board of Appeals for the erection, enlargement or alteration of any building or structure which shall be contrary to, or in violation of, the provisions of the proposed amendment. The provisions of this subsection shall cease to apply on the effective date of the enactment

of a proposed amendment if such date occurs prior to the expiration of the sixty-day period set forth herein. [Amended 9-18-2003 by L.L. No. 8-2003<sup>12</sup> ]

#### § 220-19. Fees.

The fees to be charged applicants for the processing of subdivision and site development plans and any other payments to be made pursuant to this chapter by applicants, such as, but not limited to, payments in lieu of contribution to park lands, shall hereafter be established by resolution of the Board of Trustees and set forth in the Master Fee Schedule, which may be amended. Prior to the passage of any such resolution, the Board of Trustees shall request a recommendation from the Planning Board.

#### § 220-20. Interpretation.

In interpreting and applying the provisions of this chapter they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that when this chapter imposes a greater restriction on the use of buildings or land or on the heights of buildings or requires larger open spaces, or makes any other greater requirements than any imposed or required by any other ordinance, rule, regulation, or by easements, covenants, or agreements, the provisions of this chapter shall control. Where the requirements of this chapter differ from the requirements of another ordinance, the more restrictive shall govern.

#### § 220-21. Validity.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared by any court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this chapter as a whole or any part thereof other than the part so decided to be invalid or unconstitutional.

#### § 220-22. Earlier ordinances repealed.

The Building Zone Ordinance of the Village of Briarcliff Manor adopted by the Board of Trustees on August 20, 1928, and any and all amendments thereof are hereby repealed. Such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred, prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such repeal had not been affected.

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12. Editor's Note: This local law also provided that its provisions are intended to supersede inconsistent provisions of §§ 190-12, 220-6, 220-14 and 220-17 of the Briarcliff Code and §§ 7-712-a(8), 7-725(a)(8); 725-b(6) and 7-728(5), (6) and (8) of the Village Law.

ZONING

220 Attachment 1

Village of Briarcliff Manor  
 Schedule Limiting the Use of Buildings and Land and the  
 Location, Arrangement and Size of Buildings  
 [Amended 5-15-1997 by L.L. No. 2-1997; 12-17-2009 by L.L. No. 5-2009]

1	2	3
Class of District and Symbol	Permitted Principal Uses	Permitted Accessory Uses
All Single-Family Residence RT4B, R80A, R60A, R40A, R40B, R30A, R20A, R20B, R12B, R10B	The following are the only principal uses permitted in Single-Family Residence Districts: 1. Single-family dwelling for only one housekeeping unit. 2. Special permit uses, subject to approval as set forth in § 220-6, Special permit uses. 3. Parks, playgrounds, structures and buildings of a municipality or government, public libraries, including municipally operated parking lots.	The following are the only accessory uses permitted in the respective districts designated to the left, and normally incident to the permitted uses set forth in Column 2 for such respective districts: 1. Garden house, toolhouse, playhouse, greenhouse, swimming pool or outside tennis court, incident to residential use and not operated for gain; provided, however, that an outside tennis court must comply with the provision of § 220-8. 2. Private garage for one passenger automobile for each 6,000 square feet of lot area. Space for one passenger automobile may be rented to persons not resident on the same lot. One commercial vehicle not exceeding two tons weight or capacity is permitted in such garage, or may be stored in a rear or side yard. 3. The keeping of not more than four nontransient roomers or boarders by a resident family. 4. A learned professional office or studio of a resident owner of the main dwelling, provided no more than one nonresident assistant is employed therein. 5. Customary home occupations, provided that: (a) Not more than 1/4 of floor area of one story of main dwelling is so used (b) No nonresidents are employed therein (c) Only customary household appliances and equipment are used, and (d) There is no outside display or advertising of commodities. 6. Signs (a) One sign not exceeding two square feet in area identifying a permitted professional use and attached to the building in which such use is located. (b) One temporary sign not exceeding six square feet in area and located at least 30 feet back from the street lot line, offering the sale, rental or lease of only the premises on which it is maintained. (c) One temporary sign not exceeding 12 square feet in area and located at least 30 feet back from the street lot line, during the construction period of a new building or buildings for which a building permit has been issued, identifying the general contractor or developer only. (d) One sign not exceeding 12 square feet in area and located at least 30 feet back from the street lot line, identifying a nonresidential use, for which a special permit has been obtained from the Board of Appeals, provided that such sign and its location is specifically approved by the said Board, pursuant to the applicable provisions of this chapter, and subject to such appropriate conditions and safeguards as the said Board may impose. (e) Not more than three announcement signs or bulletin boards on any one lot devoted to a public, charitable, educational or religious institution, provided that no such sign or bulletin board shall exceed 12 square feet in area. (f) Traffic or other municipal signs, legal notices, danger and such emergency or nonadvertising signs and directional signs as may be approved by the Village Board of Trustees.

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1	2	3
Class of District and Symbol	Permitted Principal Uses	Permitted Accessory Uses
<p>All Single-Family Residence                      RT4B, R80A,                      R60A, R40A,                      R40B, R30A,                      R20A, R20B,                      R12B, R10B                      (continued)</p>		<p>(g) Signs identifying occupants of residence buildings, not exceeding two square feet in area.                      (h) Signs of all types required to be maintained on the premises by law, ordinance, governmental order or regulation.</p> <p>7. The excavation of natural materials for construction of a building on the same lot.</p> <p>8. Raising of garden crops, vineyard crops, fruits and plants incident to the residential use of the land. On lots in excess of one acre, the keeping of poultry, rabbits and livestock, incident to the residential use of the land on which they are kept, but not operated for gain and subject to any regulations or standards promulgated by the Westchester County Department of Health or Board of Trustees.</p> <p>9. On lots of 10 acres or more the raising of farm crops and livestock for gain by a resident occupant, accessory farm buildings, stable, farm machinery and equipment and storage of manure, provided no such use is located within 50 feet of any lot line.</p> <p>10. Customary recreational, refreshment and service uses and buildings in any public park or playground, or other public recreational area, incidental to the recreational use of such area.</p> <p>11. Solid fences or walls, not more than four feet in height in the front yard, and/or not more than six feet in height in the rear and/or side yards, provided such fences or walls do not adversely affect the clear vision along any street. Wire or open fences up to six feet in height, which do not obstruct light or the circulation of air, in any yard. If a side yard abuts a road, such as on a corner lot, the height of a solid fence or wall along such road shall not be greater than four feet in height. All fences or walls must be inside all lot lines. The finished or more attractive side of any fence or wall must face abutting properties. The Building Inspector shall determine which side of the fence or wall meets this criteria in the case of a dispute.</p> <p>12. Dish antenna, two feet or less in diameter, incident to residential use and not operated for gain, shall be located in the rear yard, conforming to setbacks of the principal building, or roof mounted. The materials used in the construction of the antenna shall not be unnecessarily bright, shiny, garish or reflective.</p> <p>13. The temporary outside storage of not more than one of the following types of equipment for not more than a total of 30 days in any twelve-month period: a motor home, camping trailer or similar recreational vehicle; a boat with or without a transport trailer; an unlicensed motor vehicle. Said accessory uses may be located only in a rear yard and shall not be discernible from casual observation at the street line of the lot upon which it is located.</p>
<p>Multifamily Residence</p>	<p>The following are the only principal uses permitted in Multifamily Residence Districts:                      1. Any principal use permitted in a Single-Family Residence District.                      2. On a lot of 30,000 square feet or more, one or more structures for multifamily occupancy, provided there shall be on the same lot an enclosed, suitable surface play area for small children having an area of not less than 200 square feet for each dwelling unit therein.                      3. Wireless telecommunication services facility, subject to special permit approval by the Planning Board pursuant to the special requirements of § 220-61(13).</p>	<p>The following is the only accessory use permitted in the respective district designated to the left, and normally incident to the permitted uses set forth in Column 2 for such respective district:                      1. Same as in Single-Family Residence Districts, except that private accessory garage space for one motor vehicle is permitted for each 2,000 square feet of lot area.</p>

ZONING

220 Attachment 3

**Village of Briarcliff Manor**  
**Schedule Limiting the Use of Buildings and Land and the**  
**Location, Arrangement and Size of Buildings**  
**[Amended 3-21-1996 by L.L. No. 4-1996; 5-15-1997 by L.L. No. 2-1997; 3-3-2005 by L.L. No. 1-2005;**  
**1-19-1996 by L.L. No. 3-2006; 2-19-2009 by L.L. No. 3-2009]**

1	2	3
Class of District and Symbol	Permitted Principal Uses	Permitted Accessory Uses
Planned Office Building and Laboratory B and Business Transitional BT	The following are the only principal uses permitted in respective districts designated to the left thereof: 1. Office building or buildings conforming with the meaning given in the definition of "office building" in § 220-2, in one ownership or tenancy, or owned or tenanted by separate subsidiaries of the same corporation. 2. Research laboratory conforming with the meaning given in the definition of "research laboratory" in § 220-2 of this chapter, and with the supplemental provisions and regulations contained in § 220-5C(1) hereof. 3. Multiple tenant office use under § 220-6L subject to special permit use approval. 4. Wireless telecommunication services facility, subject to special permit approval by the Planning Board pursuant to the special requirements of § 220-6J(13).	The following are the only accessory uses permitted in the respective districts designated to the left thereof, and normally incident to the permitted uses set forth in Column 2 for such respective districts: 1. Private garage or private parking area, and off-street loading units, pursuant to the applicable provisions of § 220-12. 2. Signs. Maximum area of 12 square feet at each entrance to the premises and not closer than 20 feet to the street line. Provisions for lighting shall be the same as in General Business B2 Districts. 3. Multiple-tenant use under § 220-6L subject to special permit use approval for the building(s), which building(s) may include office, professional office, and medical and dental office, provided that the medical and dental offices do not exceed 30% of the available space within the building(s). 4. Dwelling spaces for caretakers or other resident employees, watchmen and their families. 5. Residential guest facilities, commensurate with the reasonable requirements for transient visitors to principal office buildings or research laboratories. 6. Maintenance shops, gate houses, enclosed storage facilities, transformer stations, and buildings housing mechanical equipment.
Retail Business B1	The following are the only principal uses permitted in respective districts designated to the left thereof: 1. A fully enclosed structure for sale of goods at retail, or performance of customary personal service or services clearly incident to retail sales, primarily for the convenience of the inhabitants of the Village and the immediate locality, but no fabricating, manufacturing, converting, altering, finishing or assembling shall be permitted except as incident to such retail sales; provided, however, that no retail establishment, or a designed group of establishments, shall be permitted to have a floor area used for merchandising or personal service in excess of that which, under this chapter, requires 100 off-street parking units. 2. Business, banking or professional office or studio, telephone exchange or school conducted for gain.	The following are the only accessory uses permitted in the respective districts designated to the left thereof, and normally incident to the permitted uses set forth in Column 2 for such respective districts: (b) One or more signs for each building establishment, relating solely to the business or profession conducted on the premises and not exceeding in aggregate area 1 1/2 square feet per foot of lineal footage of the façade of the particular business establishment in or on which it is located; the preceding limitation shall include all signs located inside of a building or structure within six feet of a show window or entrance, that are arranged and intended to be visible from the exterior of the building or structure, but shall not apply to temporary paper signs attached to store windows for a period of not more than seven days as commonly used in the conduct of a retail business; provided, however, that such temporary paper signs shall not be illuminated by lighting devices. (c) Exterior signs shall not project above the highest level of the vertical wall of the building façade on which they are located, and shall not project more than 12 inches from the front, rear, or side wall of any building. If illuminated, such sign shall emit only steady white light of constant intensity or shall be illuminated by a steady white light from front or back. Such

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Class of District and Symbol	Permitted Principal Uses	Permitted Accessory Uses
Retail Business B1 (Continued)	<ol style="list-style-type: none"> <li>3. Restaurant, club, café, lodging house or other place for the sale of food or beverages to be consumed on the premises, but not including a lunchwagon, diner, dining car or similar refreshment place or stand with open air or outside counter or curb service, but this prohibition shall not prevent an establishment otherwise complying with this section from serving meals at tables on a porch or terrace attached to and constituting a part of the principal building.</li> <li>4. Theater, motion picture theater, assembly hall, mortuary or funeral home.</li> <li>5. Self-service or hand laundries.</li> <li>6. Outdoor display and sale of merchandise by religious, charitable or service organizations not operated for gain upon application to the Board of Trustees which may grant a special permit for a period not exceeding 30 days subject to such reasonable conditions as the Board of Trustees may see fit to impose.</li> <li>7. Wireless telecommunication services facility, subject to special permit approval by the Planning Board pursuant to the special requirements of § 220-71(13).</li> </ol>	<p>illuminated signs shall not be operated between the hours of 9:00 p.m. and 8:00 a.m. except that when the establishment is open to the public after 9:00 p.m. such business shall be permitted to operate such signs until the hour of closing.</p> <ol style="list-style-type: none"> <li>2. All uses, including storage of materials, equipment and products for sale or otherwise shall be within enclosed buildings, except sidewalk cafes and sidewalk vending shall be permitted as provided for in Chapter 186, Article IV.</li> <li>3. Dish antennas, two feet or less in diameter, as permitted in Residence Districts.</li> </ol>
General Business B2	<p>The following are the only principal uses permitted in respective districts designated to the left thereof.</p> <ol style="list-style-type: none"> <li>1. Any principal use permitted in a retail business district and subject to the same requirements.</li> <li>2. Any use for which a special permit is required in any other district.</li> <li>3. Motor vehicle sales room, repair shop, gasoline filling station or public garage, but no display of vehicles for sale or for hire shall be permitted outdoors.</li> <li>4. Experimental laboratory, printing plant, shop for making or assembling articles, provided no machinery or process is used which emits dust, smoke, odor, fumes, noise, or vibration or causes other nuisance.</li> <li>5. Wholesale business, including indoor storage of building materials, cold storage plant, ice plant, ice cream plant or bakery.</li> <li>6. Greenhouses and the raising or selling of nursery products on four acres or more of land, provided such nursery products are grown on the premises.</li> </ol>	<p>The following are the only accessory uses permitted in the respective districts designated to the left thereof, and normally incident to the permitted uses set forth in Column 2 for such respective districts.</p> <ol style="list-style-type: none"> <li>1. Any accessory use permitted in a retail business district and subject to the same conditions, except sidewalk cafes and sidewalk vending as provided for in Chapter 186, Article IV, shall not be permitted.</li> <li>2. Outdoor storage of lumber, building materials and coal.</li> <li>3. Underground storage of motor vehicle fuels. Storage of other combustibles for sale, not exceeding 500 gallons in all for liquid combustibles or liquid fuels, subject to the approval of the Fire Chief with respect to amount, placement, precautions taken against fire and explosion, methods of handling and any other matters having to do with the extent of the hazard connected therewith.</li> <li>4. Storage of liquefied petroleum gases is permitted but only in charged containers, not filled on the premises but stored, warehoused or handled for resale in container capacities suitable for delivery to consumers or in delivery tank trucks of not more than 1,300 gallons capacity. Storage of such gases in charged containers shall not total more than 15,000 gallons (65,000 pounds) kept on the premises of any establishment at any one time. All such containers and installations shall conform to the applicable standards and specifications of the National Board of Fire Underwriters.</li> <li>5. Dwelling unit and/or multifamily dwelling are prohibited.</li> </ol>

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Class of District and Symbol	Permitted Principal Uses	Permitted Accessory Uses
General Business B2 (Continued)	<p>7. The preceding not withstanding, the following uses or activities are specifically prohibited:</p> <p>(a) The slaughtering or processing of animals or fish, including the component parts thereof, or the manufacture of any commodity the principal ingredient of which is animal or fish matter, provided that nothing herein contained shall be construed to prevent the sale of animals or fish as food stuff or the preparation therefrom of food products for sale at retail on the premises.</p> <p>(b) The manufacture of heavy chemicals (such as, but not limited to, acids or other corrosives, ammonia and caustic soda); the manufacture of basic or semi-finished chemicals (such as, but not limited to, cellulose products, resins, dye-stuffs, glues, vegetable, animal or mineral fats or oils, explosives, soaps and detergents, fertilizers, combustible gases and asphalt and tar products); the manufacture or production of cement or plaster and their constituents, matches, paints, linoleum, oil-cloth, rubber and rubber products.</p> <p>(c) Any other similar use or purpose which will create waste gases or liquids or conditions of hazard, smoke, fumes, noise, vibration, odor or dust and thus tend to be detrimental to the quiet, peace, comfort, convenience, safety or general welfare of the community.</p> <p>(d) Junkyards, storage or baling of scrap paper, rags or metal, auto wrecking and house trailers.</p> <p>(e) The maintenance, storage, or repair of garbage or refuse collection vehicles of any type or weight used in the operation of a refuse or garbage collection and carting business or any other similar use or purpose.</p> <p>8. Single-family residence and/or multifamily dwelling are prohibited.</p>	<p>6. No outdoor storage shall exceed 25% of the lot area devoted to the permitted principal use. Such outside storage shall be screened from general off-site view with evergreen landscaping, fencing and/or structures in accordance with and subject to additional requirements which may be established by the Planning Board in site plan review and approval. Said storage area shall not be closer to any lot line than the front yard setback requirement of a principal use in the B-2 District. Maximum fence height shall be limited to 12 feet and storage at any point within the storage area shall not be greater than one foot less than the height of the fence. In an effort to minimize any adverse impact of said storage area upon adjacent land and development, the Planning Board may increase, but not decrease the restrictiveness of these requirements and may designate the specific location of the storage area on the lot.</p> <p>7. All uses, including storage of materials, equipment and products for sale or otherwise, except as otherwise set forth in this Schedule of Permitted Accessory Uses for the B2 District, shall be within enclosed buildings, except that the temporary outdoor display of merchandise for sale may receive site plan approval by the Planning Board, provided that such merchandise is kept within a fully enclosed building overnight and that the outdoor display area does not exceed 10% of the gross interior floor space of such establishment.</p>



ZONING

220 Attachment 5

Village of Briarcliff Manor  
Schedule Limiting the Use of Buildings and Land and the  
Location, Arrangement and Size of Buildings  
[Amended 9-3-2003 by L.L. No. 6-2003; 8-16-2007 by L.L. No. 7-2007; 12-17-2009 by L.L. No. 6-2009]

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<b>Key</b>	<b>Exceptions and Modifications</b>

1. As to height:

- (a) Towers, gables, penthouses, scenery lofts, cupolas, water tanks, similar structures and necessary mechanical appurtenances may be erected on a building to a height greater than the limit established for the district in which the building is located; provided they are not used for sleeping or housekeeping purposes, or for any commercial purposes other than such as may be incident to the permitted use of the principal building and that the total area of any such exceptions cover at any level not more than 25% of the area of the roof on which they are located.
- (b) The height limitations of this chapter shall not apply to chimneys, church spires, standpipes or water towers, flag poles, monuments, transmission towers and cables or radio or television antennas or towers when such structures are otherwise permitted by this chapter.
- (c) In any district, public buildings, schools, churches, hospitals and other institutional uses permitted in such district may be erected to a greater height than permitted in Column 17, provided that the front, rear, and side yards shall each be increased one foot for each one foot by which such building exceeds the height limit therein established for such district.
- (d) Dish antennas, two feet or less in diameter, may be erected on a building to a maximum height of no more than four feet above their mountings.

2. As to area:

- (a) The following features may extend into any required yard not to exceed the distance specified:
  - [1] Cornices, canopies, eaves, or any similar features, none of which is less than 10 feet above grade; two feet six inches;
  - [2] Open fire escapes: four feet;
  - [3] (Reserved)
  - [4] A chimney: 18 inches.A railing no higher than three feet may be placed around any such terrace or porch, but no required fire escape on a converted dwelling shall be constructed on the front or side thereof which faces on a street.
- (b) The depth of a required front yard in any residence district shall be whichever is the least of the following:
  - [1] The number of feet specified in Column 8;
  - [2] The average depth of the front yards of the dwellings on adjoining lots on each side; or
  - [3] If there be no such adjoining dwellings on each side, the average depth of the front yards of the four nearest dwellings on the same side of the street.

25	<b>Exceptions and Modifications</b>
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- (c) The yard requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall, not over six feet in height, except that on every corner lot in a residence district within the triangle formed by the street lines of such lot and a line drawn between points on such lines 25 feet distant from such intersection, there shall be no fence or wall, or shrubbery higher than four feet, nor any obstruction to vision other than posts, columns, or trees separated by not less than six feet from each other, between a height of four feet and a height of 10 feet above the average elevation of the existing surface of either street at the center line thereof.
- (d) Accessory buildings and off-street parking spaces in any residence district shall set back from any side street line a distance equal to the front yard requirement on such side street unless lots are back-to-back, in which case they shall set back 15 feet.
- (e) On a corner lot the side yard abutting the street shall not be less than 40 feet in any residence district, and not less than 10 feet in any business district.

3. As to miscellaneous matters:

- (a) Sidewalk crossings or driveway entrances for whatever purpose shall be subject to the approval of the Village Engineer, except where such approval is specifically vested in the Planning Board.
- (b) Courts. Inner and outer courts at any level shall be as wide as the height of any vertical wall forming part of such court above sill of lowest windows served by it and not less than 20 feet in any case.
- (c) No principal or accessory building shall exceed 180 feet in length measured parallel to its main axis, and when a side yard exceeds 50 feet in length its width shall be increased one foot for each 10 feet of length in excess of 50 feet.
- (d) If any accessory building is attached to the principal building by an enclosed breezeway, that accessory building shall comply in all respects with the requirements of this chapter applicable to the principal building.
- (e) Artificial light shall not be used between sunset and sunrise in a greenhouse or structure, located within a direct distance of 1,000 feet from any residence, for the forcing of growth of flowers, plants, shrubs, trees or other nursery stock in such greenhouse or structure, unless the glass in such greenhouse or structure is shaded or otherwise covered so that no light is visible from the outside.

4. As to Planned Office Building and Laboratory B Districts and Business Transitional BT Districts:

- (a) See § 220-5, Subsection B, for procedure on applications.
- (b) See § 220-5, Subsection C, for supplemental provisions and regulations.