Red-Line of Proposed Amendments to Gardiner Town Code, Section 220

Prepared by Jim Ulvestad, September 16, 2026

[Note: All proposed new insertions and deletions in Section 220 of the Town Code are delineated in red font. Insertions are simply typed in red, while deletions are indicated by strikethrough font, ~~like this~~. Section titles and surrounding text, including applicable subsection headings, are given for context. Ellipses (...) indicate intervening sections of existing text that are not included in this document.]

Red-lined version follows

220-7 Establishment of districts

N. Battery Energy Storage System Overlay District (BSO). The purpose of this overlay district is to permit battery energy storage systems of specific storage capacities to be installed near the location of three-phase power lines and high-voltage transmission lines, to facilitate the reliability of delivery of electricity, especially electricity from renewable energy, within the Town of Gardiner and its local environs.

O. Planned Development District (PDD). The purpose of this district is to enable housing and related development in the Ohioville Acres portion of the Town of Gardiner, as defined and described in Local Law 5 of 2007, *Establishing the Ohioville Acres Planned Development District.*"

220-10 Allowable uses.

Use Table (Note: Use regulations for the SP-2 and SP-3 Subdistricts in the SP District are contained in §220-16.)							
Use Category	**Use Districts**						**Section Reference**
	RA	HM	HR	CLI	HC	SP-1	
Residential Uses							
Single-family dwelling	P	P	P	-	P	P	
Two-family dwelling	PS or S	P	P	-	PS or S	PS or S	220-12A
Multifamily dwelling (conversion)	S	PS	S	-	PS	-	220-12B
Multifamily dwelling (new)	PS[1]	PS	S	-	S	-	220-12B
Accessory apartment	P[9]	P	P	PS	PS	P	220-12C
Mobile home parks	See Chapter **154** of the Town Code and §**220-44** of this chapter.						220-44
Upper-floor apartment in mixed-use building	PS	PS	PS	PS	PS	-	
Residential care facility	S	S	S	-	-	-	220-52
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3	-	-	-	-	-	-	220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1
Business Uses[2]							
Adult use	-	-	-	ST	-	-	220-48
Agriculture	P	P	P	P	P	P	220-37,220-49
Bed-and-breakfast	PS	PS	PS	-	PS	S	
Campground	See Chapter **200** of the Town Code and §§**220-18.2**, and **220-45.2** of this chapter.						220-18.2, 220-45.2
Cannabis retail dispensary	-	P	-	P	P	-	
Home occupation	P[4]	P[4]	P[4]	-	P[4]	P[4]	220-41
Kennel	S	-	-	-	-	-	220-49B
Light industry	-	S	-	PS	S	-	220-50
Lodging facility	S	PS	-	-	PS	-	
Motor vehicle gas station	-	-	-	-	S	-	220-10K
Motor vehicle repair shop	-	-	-	PS	S	-	
Office	S[3]	PS	-	PS	PS	-	
Overnight camp/day camp	S	-	-	-	-	S	220-45
Public utility facility	S	S	S	S	S	S	
Recreational business, indoor	S	S	-	-	PS	-	220-10K
Recreational business, outdoor	S	-	-	-	S	S	220-10K
Restaurant	S[3]	PS	-	-	PS	-	
Retail business (not listed elsewhere)	S[3]	PS	-	S[5]	PS	-	
Service business (not listed elsewhere)	S[3]	PS	-	S	PS	-	
Soil mining	ST[6]	-	-	ST[6]	-	-	220-17
Solid waste management facility	-	-	-	S	-	-	220-50
Veterinary hospital	S	S	-	-	S	-	

Warehouse/Wholesale business	-	S	-	PS	PS	-	
Wireless telecom-munications facility	ST	ST	-	ST	-	-	220-46
Riding academy	PS	-	-	-	-	PS	
Timber harvesting[8]	P	-	-	-	-	P	220-16 (for SP); 220-32
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3[10]	-	-	-	S	S	-	220-14.2, 220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1
Community Uses							
Cemetery	S	S	S	-	-	-	
Educational/Charitable/ Religious	S	S	S	-	S	S	
Health care facility	-	PS	-	-	PS	-	
Membership club	S	S	-	-	S	S	
Municipal	P	P	P	P	P	P	
Nature preserve	PS[7]	PS[7]	PS[7]	PS[7]	PS[7]	PS[7]	
BESS Tier 1	P	P	P	P	P	P	220-47.1
BESS Tier 2	P	P	-	P	P	P	220-47.1
BESS Tier 3	-	-	-	-	-	-	220-47.1
BESS Tier 4	-	-	-	-	-	-	220-47.1

Notes:

[1] Only permitted in an open space development (see § **220-20**).

[2] Subject to limitations on building footprint in the Dimensional Table.

[3] Only in connection with agricultural use, or as provided in § **220-10I**.

[4] Requires a special permit if more than two nonresident employees of 30% of dwelling unit floor space.

[5] Retail use shall not exceed 20% of floor area and shall include only sale of items produced on the premises and customary accessories to such items.

[6] Only within the Soil Mining Floating District.

[7] Site plan review required only if there will be a parking lot or any structure requiring a building permit.

[8] Timber harvesting in the RA and SP-1 Districts requires a timber harvesting permit from the Building Inspector pursuant to § **220-32**. Timber harvesting in the SP-2 and SP-3 Districts requires both a timber harvesting permit and a special permit as required by § **220-16**.

[9] A special use permit is required for small-scale development lots in the RA District that are less than five acres in size but conforming under § **220-24**.

[10] Tier 3 Battery Energy Storage Systems may be permitted as business uses in the RA District only within the Battery Energy Storage Systems Overlay District (BSO).

D. Accessory uses. Uses customarily incidental and subordinate to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses unless otherwise indicated on the Use Table. Such accessory uses may be on the same lot, on adjoining lots, or on lots that face each other across a street. Noncommercial recreational use and residential camping shall be permitted as an accessory use in all districts, provided that it does not create noise, traffic, dust, odor, or other impacts that exceed those normally associated with single-family uses and complies with any applicable supplemental regulations. If there is no principal use on a residential lot, a use that is typically a residential accessory use, such as a residential garage, swimming pool, tennis court, or tool shed, may be allowed in the absence of the principal use by the Building Inspector. Solar and wind energy ~~conversation~~ conversion systems producing electricity and/or heat primarily for on-site use, including those with net metering, as well as Tier 1 and Tier 2 Battery

Energy Storage Systems storing electricity primarily for on-site use, shall be considered customary uses to all principal uses.

H. Special site design and operational considerations in the CLI District.

(1) The purpose of the CLI District is to allow larger-scale nonresidential uses that contribute to the Town's tax base and provide jobs for local residents, while protecting the Town's treasured scenic and rural qualities using open space buffers. Impervious surfaces are limited to 70% of total project area, requiring 30% to be maintained as open or undeveloped "green space." This green space shall be arranged in a manner that adequately buffers buildings and parking areas from public roads and neighboring properties, while protecting wetlands, watercourses, and scenic views.

(2) Buildings shall be placed in front of their parking lots to screen the parking from the road. This requirement shall not apply if the entire site is screened from the road by natural vegetation and/or natural topography. The Planning Board may modify or waive this requirement where environmental or topographic constraints or unusual lot configurations such as corner lots or through lots make compliance with this requirement impractical or impossible, or where the predominant character of surrounding development is such that compliance with this requirement would serve no useful purpose, provided that the applicant minimizes the visual impacts of such parking areas as seen from residential streets or main thoroughfares. See § **220-38** for additional parking standards and parking lot design requirements.

(3) Tier 3 Battery Energy Storage Systems shall be screened from view from roads and adjacent lots, as described in § **220-47.1** under Special Use Permits.

J. Standards for the Highway Commercial (HC) District. All new development in the HC District, excluding agricultural structures used on a farm operation, shall comply with the following design standards. Where alterations to existing structures and business operations require special permit or site plan approval, they shall comply with these standards to the extent practical; i.e. full compliance shall not be required if it would impose unnecessary economic hardship or discourage property owners from improving their properties. The overall design goal is to maintain and enhance the landscape character of commercial road corridors. This is to be accomplished by mitigating the visual impacts of business development through landscape, layout, and architectural standards. The design guidelines referred to in § **220-5** shall apply except where a building or site is screened from public roads and adjacent properties. For specific design guidelines pertaining to Tier 3 Battery Energy Storage Systems, see § **220-47.1**. The following standards shall apply in the HC District for buildings that are visible from public roads:

K. Requirements for specific uses.

(3) Tier 3 Battery Energy Storage Systems. See § **220-47.1**.

220-11 Density and dimensional regulations.

Dimensional Table						
(Dimensional regulations for the SP-2 and SP-3 Subdistricts are contained in § **220-16**.)						
	District					
	RA	**HM**	**HR**	**CLI**	**HC**	**SP-1**
Minimum lot size (acres)	5[1]	4	4	2	2	5
Minimum lot size (open space development)[2]	See § **220-11D**	n/a	n/a	n/a	n/a	See § **220-11D**
Maximum base density (open space)[3] (acres/du)	2	n/a	n/a	n/a	n/a	5

Minimum road frontage for conventional subdivision[5] (feet)						
Town road	250	40	40	200	200	250
County/State road	300	50	50	200	300	300
Minimum/Maximum front yard setback						
Town/private road[6] (feet)	30[1]	10/25	10/25	40	30	75
County/State road[6] (feet)	50[1]	15/35	15/40	125	40	75
Minimum side yard setback[13] (feet)	30[1]	10[11]	15[11]	20[7]	20[7]	50
Minimum rear yard setback[13] (feet)	50[1]	15	15	50[7]	50[7]	100
Setback in open space development	See § **220-20E**	n/a	n/a	n/a	n/a	See § **220-20E**
Maximum impervious surface coverage[8]	10%	70%	50%	70%	60%	10%
Maximum height[9] (feet)	35	45	40	35	35	35
Maximum footprint for nonresidential structures[10] (square feet)	6,000	10,000[12]	1,000	200,000	60,000	6,000

Notes:

All dimensions in feet unless otherwise indicated:

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[13] Setbacks for Tier 1 and Tier 2 Battery Energy Storage Systems follow the entries in this table. For side and rear setbacks for Tier 3 Battery Energy Storage Systems, see § 220-47.1.

220-13 Floodplain Overlay District (FPO).

C. Restrictions. In addition to any restrictions, requirements, or permits imposed or required by Chapter **121**, no new structure intended for residential use and no new septic tank, leach field, or other sanitary sewage system shall be located within the Floodplain Overlay District. This shall not prevent the replacement of existing facilities. Tier 1 Battery Energy Storage Systems may be added to existing residential structures; no other battery energy storage systems may be installed.

§220-14.2 **Battery Energy Storage Systems Overlay District (BSO).**

A. Findings and purpose. Utility-scale battery energy storage systems are among the tools that enable transition from an unreliable fossil-fuel-powered electrical grid to a more reliable electrical grid with increased reliance on renewable energy sources. This district is intended to facilitate utility-scale battery energy storage systems in appropriate locations in Gardiner, near existing electrical transmission lines, rather than allowing such systems and their supporting infrastructure to be placed haphazardly throughout the town. It pertains only to Tier 3 Battery Energy Storage Systems, those with storage capacities of 600 kWh-8 MWh.

B. Zoning restrictions. This overlay district shall be located only within the CLI, HC, RA, and PDD zoning districts. It shall not extend within SP-1, SP-2, SP-3, HR, or HM zoning districts. Within the relevant districts, the minimum requirements shall be those of the underlying zoning districts, except where more stringent requirements are set in § 220-47.1.

C. Tier restrictions. This overlay district shall be deemed to allow Tier 3 Battery Energy Storage Systems only within the CLI, HC, RA, and PDD districts.

D. Boundaries. The boundaries of this district shall be within 500 horizontal feet on either side of three-phase electrical transmission lines and high-voltage transmission lines, as shown on the latest electrical transmission system maps maintained by the Ulster County GIS Department and the Central Hudson Gas & Electric Corporation. This overlay shall not extend into the SP-1, SP-2, SP-3, HR, or HM zoning districts, as noted in § 220-14.2B above.

E. Overlaps with other overlay districts. Where the boundaries of this overlay district overlap the Floodplain Overlay District (FPO) or the Scenic Protection Overlay District (SPO), described in § 220-13 and § 220-14.1 respectively, the FPO or SPO designation shall override the BSO designation. In these regions, the requirements for the FPO and SPO districts shall control the allowed uses.

F. Site plan approval. Requirements for an approved site plan are detailed in § 220-47.1.

220-16 Shawangunk Ridge Protection District (SP)

D. Use regulations.

(3) The following are specifically prohibited within the SP District:

(a) Privately owned central sewage systems or sewage disposal facilities as defined in this chapter.

(b) Privately owned central water systems.

(c) Commercial excavation.

(d) Tier 3 or Tier 4 Battery Energy Storage Systems in any SP District.

(e) Tier 2 Battery Energy Storage Systems in SP-2 and SP-3.

I. SP-2 and SP-3 Use Table

Use Table			
SP-2 and SP-3 Subdistricts – Principal/Accessory Uses			
		SP-2	**SP-3**
Principal Uses			
1.	Agriculture (only if located within a county-certified agricultural district)	P	P
2.	Timber harvesting (over 2,000 square feet of land)	S	S
3.	Public parks and playgrounds	S	S
4.	Single-family dwellings	S*	S*
5.	Two-family dwellings	-	-
6.	Low-impact recreation and nature preserves (special permit required if parking lot is built)	P	P
7.	Religious, educational, or cultural uses (libraries, houses of worship, museums, art galleries, schools and similar uses)	-	-
Note: * Additions to existing dwellings in the SP-2 and SP-3 Subdistricts which do not exceed a cumulative total of 750 square feet shall not require a special permit.			
Accessory Uses			
1.	Residential accessory structures (garages, guest cottages, sheds, tennis courts, pools, Tier 1 Battery Energy Storage Systems, and other customary facilities)	S	S
2.	Buildings for sale of agricultural products	-	-
3.	Keeping of domestic animals* (horses, cows, sheep, chickens, goats, ducks, geese, etc.)	P	P
4.	Home occupation	S	S
5.	Noncommercial kennels (over 4 dogs)	S	-
6.	Municipal sewage disposal facility	-	-
7.	Municipal central sewage system	S	-

8.	Municipal water supply facility; central water system	S	-
Note: * Keeping of household pets is permitted in all subdistricts as a customary residential accessory use.			

Legend/Key
P = Permitted use
S = Special permit required
- = Not permitted

220-30 Supplementary dimensional regulations.

F. Setbacks for accessory structures and uses.

(1) Any accessory structure attached to a principal building, and any detached barn, garage, stable, tennis court, swimming pool, Tier 1 Battery Energy Storage System, or Tier 2 Battery Energy Storage System, shall comply with the minimum setback requirements of this chapter applicable to the principal building. Other detached accessory structures or uses may encroach into required setback areas, provided that they:

220-33 Water supply and municipal infrastructure.

A. Water supply. The Planning Board may require an applicant for any subdivision, special permit, or site plan approval to provide evidence of water availability, and may require test wells and professional hydrological studies sufficient to establish that a proposed development will have adequate supplies of potable water and will not adversely affect any aquifer resource or the supply or quality of drinking water in the surrounding area. This includes water that may be required for fighting fires or cooling thermal runaways of Tier 3 Battery Energy Storage Systems. (See §§ **220-15** and **220-47.1**.)

220-35 Wetland and watercourse protection.

E. Required setbacks

(1) The following shall not be located within 100 feet of the top of the bank of a stream classified as AA, A, B or C(t) by the DEC or, in the absence of a clear bank, from the outer edge of the riparian wetland adjacent to the stream:

(h) Tier 2 or Tier 3 Battery Energy Storage Systems.

220-39 Signs.

B. Exempt signs. The following types of signs may be erected and maintained without zoning permits, board review, or fees, provided that these signs comply with the general regulations in Subsection **D** and with all other requirements of this chapter. As used in this Subsection **B**, the term "residential uses" shall include mixed-use lots on which at least 50% of the floor space is residential.

(1) Permanent signs.

(f) All signs for battery energy storage systems that are required by the New York State Fire Code (currently § 1207.4.8 of the Fire Code, as may be amended from time to time hereafter).

220-40 Environmental performance standards.

C. Noise

(3) No Tier 3 Battery Energy Storage System shall emit sound which, as measured at the property lines, has a sound level in excess of fifty-five (55) decibels on the A-weighted scale at any hours of the day.

(4) Sounds emitted at levels lower than those prohibited by Subsections **C(2)** and **C(3)** above shall not be permitted if, because of the type or frequency of the noise emitted, such sounds are offensive, disruptive or in continual disharmony with the character of an adjoining or nearby residential neighborhood.

(5) Exemptions. The following shall be exempt from the noise level regulations:

(a) Noises emanating from construction and maintenance activities between 8:00 a.m. and sunset.

(b) The noises of safety signals, warning devices, emergency pressure-relief valves or other emergency warning signals.

(c) Bells or chimes from a church or other place of worship.

220-46 Wireless telecommunication facilities.

B. Standards for approval.

(17) Accessory structures.

(b) Accessory structures may not include office space, vehicle storage, outdoor storage, or other uses that are not needed to send or receive wireless telecommunications transmissions unless allowed by the Town Board. They may include Tier 1 or Tier 2 Battery Energy Storage Systems that are intended to provide continuing ability to send or receive wireless telecommunications transmissions in the event of failures in the electrical power grid, should all other requirements for such battery energy storage systems be satisfied.

220-47 Solar energy systems

A. Statement of purpose, applicability, and definitions.

(3) Definitions. As used in this section, the following terms shall have the meanings indicated:

AREA OF USE

The area within the parcel measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create solar energy, exclusive of fencing and access roadways.

BATTERY ENERGY STORAGE SYSTEM

One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. See §220-47.1 for more detail.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS

~~**SOLAR STORAGE BATTERY**~~

~~A device that stores energy from the sun and makes it available in an electrical form.~~

H. Safety standards applicable to all solar energy systems.

(4) If ~~solar storage batteries~~ battery energy storage systems are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of applicable residential, building, fire and electric codes when in use, and when no longer used shall

be disposed of in accordance with the laws and regulations of the Town of Gardiner and other applicable laws and regulations. See § 220-47.1 for more details.

J. Large-scale solar energy systems.

(1) Approval standards for large-scale solar systems as a special use.

(b) Specific standards. The Town Board in reviewing a special use permit application for a large-scale solar energy system and the Planning Board in conducting the site plan review shall observe the following requirements and performance standards as part of its review:

[8] Any battery energy storage system to be included as part of a large-scale solar energy system must satisfy all applicable requirements in § 220-47.1, including all parts of the Uniform Code that are incorporated by reference.

220-47.1 Battery energy storage systems.

[Insert entirety of new code section here.]

220-60. Purpose and applicability.

C. Minor and major projects.

(3) Any Tier 3 Battery Energy Storage System shall be considered a major project.

220-74 Word usage; definition of terms.

B. Definitions. Where two words below are separated by a slash mark (/), they shall have the same meaning.

BANK, STREAM
See "stream bank."

BATTERY ENERGY STORAGE SYSTEM
One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. An investor-owned battery energy storage system is not considered a Public Utility Facility, as defined in § 220-74 of the Town Code. The Town of Gardiner classifies battery energy storage systems as Tier 1, Tier 2, Tier 3, or Tier 4 Battery Energy Storage Systems as follows:

(A) Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. These systems are accessory uses to a principal use on a property, and are associated with a non-dedicated-use building.

(B) Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 80 kWh and less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. These systems are accessory uses to a principal use on a property, and are typically associated with a non-dedicated-use building.

(C) Tier 3 Battery Energy Storage Systems have an aggregate energy capacity greater than 600 kWh and less than or equal to 8 MWh (8,000 kWh) or are comprised of more than one storage battery technology less than or equal to 600 kWh in a room or enclosed area. These systems are principal structures or uses on a property, and are typically associated with a dedicated-use building.

(D) Tier 4 Battery Energy Storage Systems have an aggregate energy capacity greater than 8 MWh (8,000 kWh). These systems are principal structures or uses on a property, and are typically associated with a dedicated-use building. Tier 4 Battery Energy Storage Systems are not permitted in the Town of Gardiner.

BED-AND-BREAKFAST

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PUBLIC UTILITY FACILITY

An installation used by a public agency or franchised public utility to supply or transmit electric, gas, water, cable television, telephone, or other utility service, excluding electric power plants and gas wells. Included are such facilities as electric substations, high-voltage transmission lines, pump stations, water supply wells, water towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not public utility facilities. Investor-owned solar energy systems (§220-47) and investor-owned battery energy storage systems (§220-47.1) also are not considered public utility facilities.