

LOCAL LAW NO. 1 OF 2024 TO AMEND THE ZONING LAW OF THE TOWN OF RUSH, CHAPTER 120 OF THE CODE OF THE TOWN OF RUSH, BY AMENDING SECTION 120-5 and 120-10 OF THE ZONING LAW OF THE TOWN OF RUSH REGARDING THE CREATION OF A MIXED USE HAMLET DISTRICT

BE IT ENACTED, by the Town Board of the Town of Rush, Monroe County, State of New York, as follows:

Section 120-5 of the Zoning Law of the Town of Rush (the “Town Zoning Law”) shall be amended by the modification to the definition of “Bed-and-Breakfast Inn” and the addition of Boutique Hotel.

§ 120-5 Definitions and word usage.

BED-AND-BREAKFAST ESTABLISHMENT

A commercial enterprise as part of a private residence which provides short-time (no more than thirty-one (31) consecutive days) lodging with or without meals to overnight guests for a fee. Guest sleeping rooms shall have no provision for cooking. Such use is to be secondary to the occupancy of a private residence by the owner thereof.

BOUTIQUE HOTEL

A boutique hotel reflects and complements the architectural character of its immediate surroundings has no more than 20 rooms.

Section 120-10 entitled “R-MH Residential Districts” shall be amended by renumbering that Section 120-10.1 and Section 120-10 shall be retitled “MUH - Mixed Use Hamlet District” with the new Section 120-10 of the Town Zoning Law, as follows:

§ 120-10 MUH - Mixed Use Hamlet District

This section of the Town of Rush Zoning Ordinance applies to mixed use development in the Town of Rush Zoning District so designated. For the purposes of this Zoning Ordinance, "mixed use" means a combination of residential, commercial, recreational, and civic uses.

§ 120-10 Mixed Use Hamlet District (MUH)

A. Purpose.

- (1) The purpose of the Mixed Use Hamlet District is to permit the creation and construction of mixed use developments while maintaining the unique historic qualities and characteristics of the Town’s hamlet area. All development must comply with the following principles of mixed use development:
 - (a) A mixture of complementary residential, commercial, government/civic and recreational land uses to create economic and social vitality and to encourage the linking of pedestrian and vehicular trips.
 - (b) Flexible housing alternatives.
 - (c) Areas that are safe, comfortable, and convenient for residents and visitors with flexibility for compact and efficient land use.
 - (d) Walkability within neighborhoods with walkways and trails that encourage pedestrian and bicycle travel, and public transit.
 - (e) Open space preservation/creation and reduction of impact on natural resources.

(f) Recognition and endorsement of reasonable pre-existing mixed uses.

B. Permitted uses.

- (1) The following uses are permitted in the Mixed Use Hamlet District and shall require Site Plan approval from the Planning Board. Uses shall be scaled as appropriate to be consistent with the size and location of a specific parcel and surrounding parcels or lots, including consideration of their architecture and landscaping. Such consistency of use, size, location and appearance shall be determined by the Planning Board.
- (a) Permitted residential uses shall include the following dwelling types and shall require Site Plan approval by the Planning Board and shall be in accordance with § 120-16 Size of buildings and other applicable code sections.
 - [1] One Single-family dwelling or
 - [2] One Two-family dwelling or
 - [3] One or more Multiple family dwellings (three or more dwelling units per building) or
 - [4] Vertical mixed use with permitted commercial uses and also residential on top, rear or side and/or
 - [5] More than one building, not to exceed two buildings with residential or commercial uses on any one lot.
- (b) Permitted commercial and public uses shall include the following and shall require Site Plan approval by the Planning Board:
 - [1] Insurance Offices
 - [2] Medical and dental offices and clinics, excluding overnight occupancy.
 - [3] Offices for licensed professionals, such as architects, designers, engineers, attorney or law offices, etc.
 - [4] Other offices including financial establishments.
 - [5] Art galleries and studios.
 - [6] Grocery stores.
 - [7] Bakeries.
 - [8] Drugstores or pharmacies.
 - [9] Hardware stores, garden supply stores, and paint and wallpaper stores.
 - [10] Barber and beauty shops.
 - [11] Flower shops
 - [12] Retail stores, outlets, and services.
 - [13] Public and government buildings, recreation & community services.
 - [14] Civic uses, such as, churches, schools, community centers, museums, and other public-oriented uses and nonprofit institutions.
 - [15] Banks.
 - [16] Coffee shops.
 - [17] Restaurant or other eating place without alcohol sales.
 - [18] Vehicle service stations without fuel sales
 - [19] Other uses not specifically listed above as permitted uses, but determined by the Planning Board to be similar in nature and compatible with the purposes of the Mixed Use Hamlet

District, may also be considered; provided, however, that in any event, no Site Plan shall or may be approved with respect to any explicitly prohibited use.

(c) Uses permitted with a Special Permit

The following uses may be allowed in the Mixed Use Hamlet District with a Special Permit issued by the Rush Planning Board.

[1] Bars or taverns or restaurants selling alcohol for consumption

[2] Liquor stores

[3] Cannabis retail dispensaries and cannabis on-site consumption establishments.

[4] Boutique hotels and bed-and-breakfast establishments pursuant to definitions and requirements of this Chapter

[5] Nursery or day-care centers, and nonprofit schools.

[6] Laundromat or dry-cleaning establishments.

[7] Entertainment, including live music but not including any sexually oriented businesses

[8] Gasoline, diesel and other fuel filling stations, provided that no such gasoline filling station shall be erected within 500 feet of any other gasoline filling station, as a precaution against fire and traffic hazards and traffic congestion.

[9] Public utility or communications installations; except telecommunications towers and accessory facilities or structures which are permitted only in accordance with the procedures and standards set forth in §§ 120-64 and 120-69

[10] All drive-through facilities for banks, restaurants, fast food establishments, etc.

[11] Animal Care - Veterinarians and animal care facilities, boarding, and training

[12] Vehicle washing operations

[13] Outside sales and services

[14] Outdoor events other than customary Town events such as the Fireman's carnival, parade and fireworks, and the Rush fall festival, which are permitted through the office of the Fire Marshal.

[15] Manufacturing incidental to a retail business

[16] Outside seating for restaurants and bars

[17] Other uses not specifically listed above as permitted uses, but determined by the Planning Board to be similar in nature and compatible with the purposes of the Mixed Use Hamlet District, may also be considered; provided, however, that in any event, no Special Permit shall or may be issued with respect to any explicitly prohibited use.

(d) Accessory uses to a primary use which is allowed by a Site Plan or Special Permit by the Planning Board.

C. Prohibited activities. No land, building or premises may be used in any way which will cause or result in:

- (1) Dissemination of excessive dust, smoke, observable gas or fumes, odor, noise, vibration or light beyond the immediate site of the building or buildings in which such use is conducted.
- (2) Menace to neighboring properties by reason of fire, explosion or other physical hazard, including radiation.
- (3) Harmful discharge of waste materials, including refuse and airborne or waterborne wastes.
- (4) Unusual traffic hazards or congestion.

D. General provisions.

(1) The outside of all premises in the Mixed Use Hamlet District shall be kept free of all refuse, garbage, boxes, papers and all other waste material at all times. Such material shall be accumulated in adequate containers which shall be kept indoors or suitably screened. Waste containers, dumpsters, and roll-offs shall be located behind the front building line, preferably at or near the rear of the property. The Planning Board may require screening of any waste containers from any adjacent lots or roads.

(2) For lots with any commercial uses, outside parking of more than one vehicle with no more than two axles, except during business hours of 6 AM to 12 midnight daily, shall be permitted only upon issuance of a Special Permit by the Planning Board in accordance with standards set forth in § 120-69. Vehicle Parking may be within the front setback but shall not be permitted within the landscaped parking lot setback.

(3) Outside storage stockpiles, racks, displays, outside storage of machinery or equipment, or outside storage or sales of merchandise, shall be permitted only upon issuance of a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69, and based upon location on the lot, visibility to other properties, and time duration that racks and displays are outside. The Planning Board may require screening of outside storage.

(4) All equipment for the handling of material and processes shall be enclosed in a suitable building and not visible from adjacent properties or shall require a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69. HVAC units shall be located behind the front face of the building. The Planning Board may require roof-top HVAC units to be screened.

E. Site Plan Review and change of use or transfer of ownership.

- 1 At any time a specific use originally permitted within this district, is to be changed so that it involves a separate, different and distinct use, process or product, change in use location within a parcel or a building addition or outside alteration with the exception of single family dwellings, an application to the Planning Board may be required for approval of a new Site Plan and/or Special Permit, at which time the Planning Board may require that any and all phases of the operation which have become detrimental to the neighborhood be corrected. The Code Enforcement Officer is authorized to determine if the proposed changes meet the threshold for a new site plan or special permit based upon factors such as, but not limited to, the expected change in parking, traffic, wastes generated, noise, and any other changes to public health, safety and welfare. If not, this application requirement may be waived and the CEO shall retain documents such as a business plan which show what changes have been allowed. If the Code Enforcement Officer determines that site plan and/or special permit approval is required, the CEO will advise the applicant as to applicable procedures and requirements.
- 2 Changes to parking, lighting, grading, filling, excavating, drainage or other activity that have the potential to impact a neighboring property are prohibited except after site plan review and approval by the Planning Board.
- 3 In the case of a transfer of ownership, the new owner shall adhere to the conditions of the site plan or the prior operation. If a site plan does not exist or the proposed new operation does not match the prior operation, as determined by the Code Enforcement Officer, the new owner shall apply for a new site plan. Special Permits do not carry over to a new owner so new owners must apply for a new Special Permit.

F. Dimensional requirements.

- 1 The Planning Board shall have the power to establish, determine and modify applicable provisions of the Mixed Use Hamlet District with regard to setbacks for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land and to facilitate the optimum use of streets, utilities and amenities that will benefit the Mixed Use Hamlet District and/or new development. New

buildings shall not be permitted in the highway right-of-way. Setbacks shall be consistent with existing adjacent and nearby buildings and lots. Removal of existing buildings and/or combining lots shall not be used to reduce previously existing setbacks unless deemed appropriate by the Planning Board. Dimensional requirement flexibility shall not be used in a way that will degrade appearance and safety on those lots which have adequate space. Building and parking lot setbacks should approximate requirements in other districts on lots where the Planning Board deems such setbacks are appropriate..

- 2 No structure shall be greater than 35 feet in height, or larger than 10,000 gross square feet or a smaller area, as otherwise determined by the Planning Board.
- 3 With approval of a Site Plan by the Planning Board, a zero setback from the side property line(s) may be permitted within the Mixed Use Hamlet district where such conditions already exist at the time this MUH district code section is approved, to help create a more compact development. Minimum setbacks shall be required to comply with all fire and building codes.

G. Parking

For new development within the Mixed Use Hamlet District, all elements of parking shall be part of the site plan approved by the Planning Board and shall follow Code requirements for off-street parking to the greatest extent possible as determined by the Planning Board. Adjoining properties may combine off-street parking areas in which case the Town Attorney must review and approve legal cross-easement, utility easements, and maintenance agreements.

H. Connectivity and pedestrian access.

Connectivity involves providing options for getting from one place to another, reducing traffic, and creating viable street networks, including sidewalks and bicycle racks. For new development within the Mixed Use Hamlet District, all elements of connectivity and pedestrian access shall be part of the site plan approved by the Planning Board. Sidewalks shall also be included to connect common areas, parking areas, open space, and recreational facilities within the mixed use development. Sidewalks shall not be impeded by placement of any waste materials or personal items.

I. Public open space.

The Planning Board shall protect existing open space and encourage and review creation of new open space during reviews of site plans. These spaces may be owned, operated, and maintained by an association, organization, agency or municipality. Public open space can take the form of active and passive recreation areas, public courtyards, town square, and other areas that may be used for public gatherings. The proposed site plan shall clearly delineate between public space and private space. Private and semiprivate outdoor spaces (decks, patios, front and back yards, etc.) are encouraged, but are not considered public open space.

J. Landscaping.

- a. For new commercial uses, all landscaping proposed within the Mixed Use Hamlet District shall be subject to the review and approval of the Planning Board. Where space allows as determined by the Planning Board, parking lots and internal drives shall be set back from any public road by up to 20 feet of landscaped area, measured perpendicular to the road, whether lawn or maintained trees and shrubs. Broad areas of paving up to roads shall be avoided in favor of limited and specific driveway access.
- b. New commercial projects shall have landscaping equal to a minimum expenditure of 1% of the total building cost or more at the discretion of the Planning Board. Landscaping shall be considered as any living plants, grading specific to landscaping such as planted berms, and surface covers like mulch and stone. Landscaping costs shall not include excavating, earthmoving, fill, grading or paving associated with normal requirements of building, cost of the

landscaping design, or costs to install lawns. The landscaping plan shall be developed and approved by a professional landscaping consultant.

K. Lighting.

Lighting of properties within the Mixed Use Hamlet District shall be included in Site Plans and be consistent with Town Code Article IV and other regulations.

L. Signage.

All signage proposed in the Mixed Use Hamlet District shall comply with the requirements of the Town of Rush Code Article III.

M. Architecture.

For new commercial developments, architectural design shall be subject to the review and approval of the Planning Board. The Board may refer the review of architectural designs to an Architectural Consultant at its discretion for report and recommendation. The applicant shall maintain responsibility for the associated cost of such an architectural review along with associated administrative fees.

N. Hours of operation and noise.

Business establishments within the Multiuse Hamlet District shall be permitted to operate from 6:00 AM to 12:00 midnight on a daily basis. Based on the intensity of use and its potential impact on the neighboring area, the Planning Board may modify the hours of operation as part of the process of granting a Site Plan and/or Special Permit. Special consideration shall be given to government and civic sponsored events of limited duration that customarily create noise and lighting that are otherwise unusual. Modification of operating hours beyond the 6:00 AM to 12:00 midnight allowed time shall require special permit approval by the Planning Board in accordance with § 120-69.

- a. There shall be no unreasonably loud, disturbing and unnecessary noise created on the property. Prohibited noise includes the following acts, among others not listed here:
 - i. For the purpose of this condition, unreasonable noise is any disturbing, excessive or offensive sound that disturbs a reasonable person of normal sensitivities.
 - ii. The following acts, among others, by any person are declared to be prima facie evidence of a violation of this condition. This enumeration shall not be deemed exclusive.
 1. Any unnecessary noise from any source which is of such character, intensity and duration as to be detrimental to the life or health of any individual or contrary to public welfare, especially between the hours of 9:00 p.m. and 7:00 a.m. the following day.
 2. Noise from a dog or other pet/animal that is continuously disturbing the comfort and repose of any person in the vicinity and exceeds 15 minutes.
 3. The use of any automobile, motorcycle, snowmobile, four-wheeler or other vehicle in any manner which creates loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons or in any other manner which constitutes a public nuisance or annoys, injures or endangers the health, safety, comfort or repose of the public. No person shall use a muffler cutout, bypass or any other device to defeat the operation of a muffler in good working condition.
 4. Noise from motor vehicle or boat which is continuous and exceeds 15 minutes.
 5. Noise from any sound reproduction system, operating or playing any radio, portable radio, audio player, television, tape deck or similar device that reproduces or amplifies sound in such a manner as to be heard 40 feet from its source or more than 70 dBA over any property line.

6. The erection, including excavation, demolition, alteration or repair, of any building other than between 7:00 a.m. and 8:00 p.m., except in cases of public safety or emergencies.
7. The operation of power equipment between the hours of 9:00 p.m. and 7:00 a.m. the following day and on weekends between 9:00 p.m. and 8:00 a.m. the following day.
8. The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary or unreasonable period of time.
9. The discharge of any firearm.

O. Building Permits and Certificates of Occupancy and Certificates of Completion.

No Building Permit will be issued by the Building Inspector until all conditions of the approved Site Plan and Special Permit have been completed to the satisfaction of the Town Engineer and/or Planning Board. No Certificate of Occupancy or Certificate of Completion for a building with an approved site plan shall be issued without site approval by Town Engineer for all conditions on the site plan and for building approval by the Building Inspector unless a certified check to cover the full cost of the required improvements or a letter of credit to cover the full costs of the required improvements has been provided by developer/applicant. The amount shall be set by the Town Engineer. Any such letter of credit shall be satisfactory to the Planning Board, the Town Board and Town Attorney as to form, sufficiency and manner of execution. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth within which required improvements must be completed.

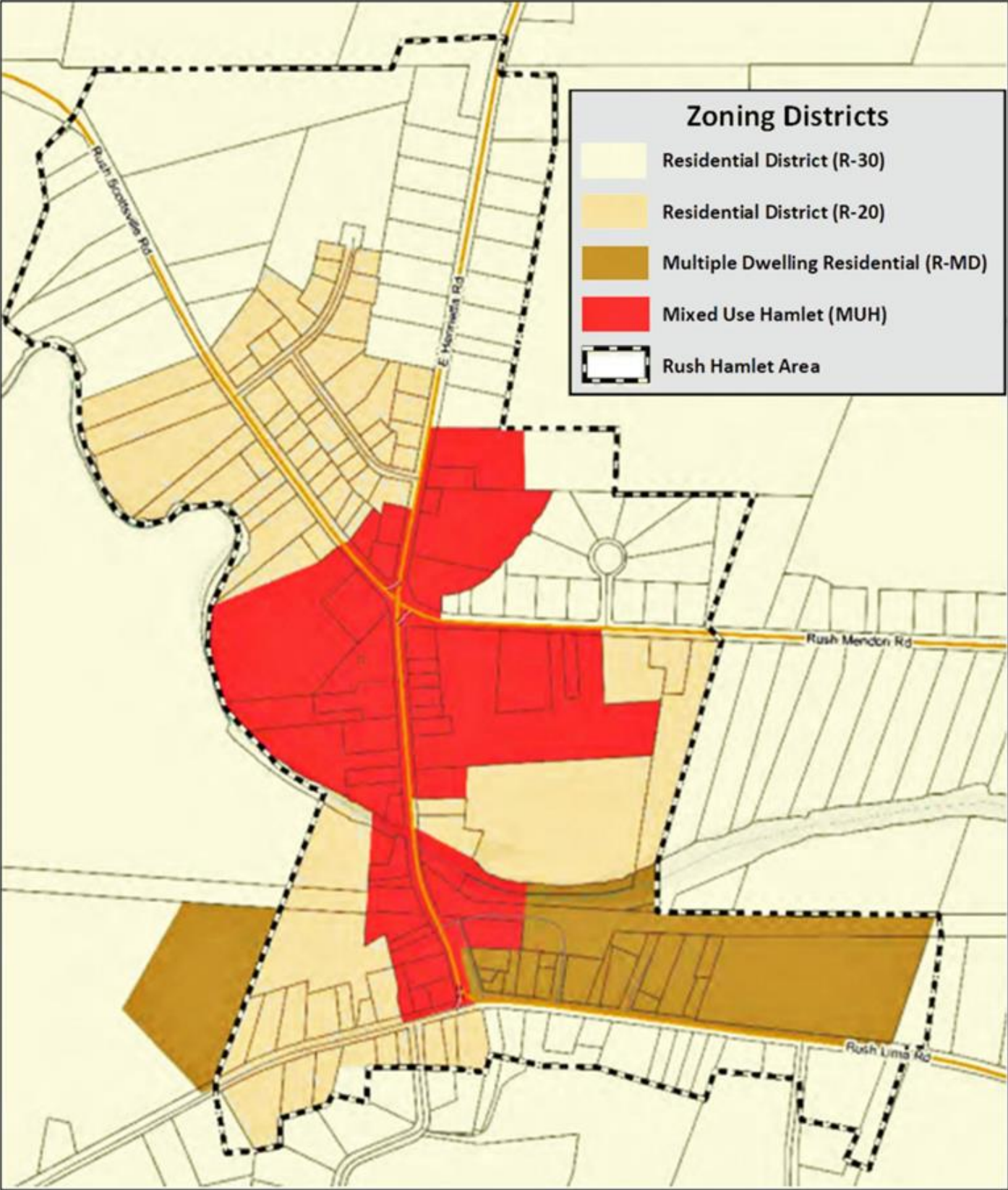
P. Area rezoned.

- a. The current Commercial District within the Hamlet is rezoned to Multiuse Hamlet District (MUH) and the Official Zoning Map and Zoning Ordinance of the Town of Rush are amended to reflect the aforesaid zoning changes for the properties.

Q. When effective.

- a. This section shall take effect immediately.

RUSH HAMLET AREA



§ 120-10.1 R-MH Residential Districts.

- A. Permitted uses. The following uses shall be permitted in the R-MH Residential Districts: [Amended 3-10-2004 by L.L. No. 3-2004]
- (1) All uses permitted in an R-20 District, subject to all of the conditions and requirements applying to uses permitted in such a district.
- (2) Mobile home parks subject to all of the provisions of Chapter 77, Mobile Home Parks, of the Code of the Town of Rush and subject to site plan review in accordance with § 120-69. Site plans for mobile home parks shall include provisions for safe and convenient vehicular and pedestrian access and circulation, including sidewalks, parking spaces in accordance with § 120-57, recreation space for residents of the site, landscaping and screening, and disposal of stormwater and sewage.
- B. Telecommunications towers and accessory facilities or structures are permitted only upon the issuance of a special permit by the Planning Board in accordance with the procedures and standards set forth in §§ 120-64 and 120-69. [Amended 2-14-1997 by L.L. No. 1-1997; 5-13-1998 by L.L. No. 1-1998]
- C. All uses not specifically permitted by virtue of Subsection A or B of this § 120-10 shall be prohibited in R-MH Residential Districts. [Amended 2-14-1997 by L.L. No. 1-1997; 5-13-1998 by L.L. No. 1-1998; 8-28-2013 by L.L. No. 3-2013]