

LOCAL LAW #1 OF THE YEAR 2003

**SECTION I – TITLE OF LOCAL LAW**

This law shall be entitled "A Local Law Establishing a Scenic Corridor Overlay Zone along the New York State Highway Route 22, in the Town of Ancram".

**SECTION II – LEGISLATIVE PURPOSE**

The Town of Ancram, New York, recognizes that the New York State Route 22 corridor and that portion of the Harlem Valley lying within that corridor, including the Taconic State Park and its mountain ranges and Fox Hill, are some of the Town's and surrounding community's premium scenic assets.

Within this corridor there exists a confluence of valuable assets for the Town and its residents including, but not limited to, environmental, recreational and scenic resources, and these scenic resources contribute significantly to the overall rural character of the town and possess attributes which the community seeks to preserve and enhance, while accommodating growth and change.

In furtherance of this objective, the Scenic Corridor Overlay Zone is hereby established to:

Further the Town's overall goal of providing a predominantly open and rural character to the Town, and to encourage agriculture and preserve the natural environment and achieve the other goals and objectives as stated in the Town's Development Plan.

Protect one of the Town of Ancram's significant scenic resources as identified is the Scenic Resource Protection Plan adopted by the Town Board.

Preserve the scenic beauty along New York State Route 22 and the Harlem Valley for the enjoyment of residents, commuters, recreational users and tourists.

Improve the Town of Ancram's economic vitality by preserving one of the significant scenic resources within the Town, enhancing the Town's attractiveness to its citizens as well as visitors and tourists.

**SECTION III – LOCATION OF SCENIC CORRIDOR OVERLAY ZONE**

New York State Route 22 scenic corridor as designated on the Town Zoning Map as the Scenic Corridor Overlay Zone; said map being adopted as part of said Local Law includes the following areas:

New York State Route 22 from the northern town line (with the Town of Copake ), to the southern town line (with the Town of Northeast), and to the eastern town line (with the State of Massachusetts and New York County of Dutchess), and fifteen hundred (1,500) feet west from the centerline for the entire length of New York State Route 22.

#### **SECTION IV – AMENDMENTS TO EXISTING ZONING ORDINANCE**

(1) Section II(A) of the existing Zoning Ordinance for the Town of Ancram is amended to provide for an eighth zoning district called the Scenic Corridor Overlay Zone (“SCOZ”).

(2) Section V/Supplementary Regulations of the Town of Ancram Zoning Ordinance is hereby amended to create a new Supplementary Regulation K titled “Scenic Corridor Overlay Zone”. The Supplemental Regulations for said zone are as follows:

##### **(A) Permitted uses, exempt uses and prohibited uses:**

Subject to the provisions set forth in this Local Law affecting the Scenic Corridor Overlay Zone, all uses permitted in the Town’s underlying zoning districts are allowed, EXCEPT for those listed below:

##### **Exempt Uses:**

In an effort to protect and promote the local agricultural industry and in accordance with the New York State Right to Farm laws, specifically Agriculture and Markets Law Article 25-AA, section 305-a, all farming operations and uses necessary to the operation of a farm are exempt from the development standards and site plan review requirements set forth in the New York State Route 22 Scenic Corridor Overlay Zone. Farming operations are defined to include the land and on-farm buildings, equipment, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of crops and livestock products as a commercial enterprise, including a commercial horse boarding operation as defined in Agriculture and Markets Law (AML) section 301, subdivision 13.

##### **Prohibited Uses:**

1. Equipment, trailer rentals or sales yard
2. Airport and flying fields
3. Bus station
4. Extractive operations and soil mining or excavation of minerals at a threshold that would require New York State Department of Environmental Conservation (DEC) permit in accordance with New York State Mined Land Reclamation Law, Title 27, Section 23 of the New York State Consolidated Laws, and the expansion of any existing extractive operations and soil mining or excavation of minerals. Excavations from construction projects or in aid of agricultural activities which do not require a DEC Permit shall not be deemed prohibited uses.

Non-conforming Uses: Any use prohibited herein, or subject to the Development Standards of this Local Law, which lawfully exists at the date of this Local Law shall be permitted to continue as a non-conforming use. However, the provisions of this Local Law shall prohibit, or apply, as the case may be, to any expansion of such use which requires the issuance of a Building Permit, Special Use Permit, and/or Certificate of Occupancy from the Town of Ancram, or a permit or amended or modified permit from the New York State Department of Environmental Conservation (DEC) or any other state agency. Any mining operation which lawfully exists at the time of the enactment of this local law and which has been issued a Mined Land Reclamation Permit from DEC, may continue to operate as a non-conforming use even if renewal permits are required from DEC, but only to the extent of the life of the mine area boundaries and limits of excavation as shown on the existing mining plans approved by DEC. Any expansion of such non-conforming mine beyond the mine boundaries, or at greater depths of excavation, than that shown on such approved and filed plans with DEC as of the date of this Local Law shall be a prohibited use.

**(B) Development Standards applicable to Major Subdivisions and Business Uses**

The following development standards are only applicable to all major subdivision residential uses and business uses as defined in the Town's Subdivision Regulations and Zoning Ordinance respectively. The development standards set forth in this section supplement and do not replace the use and bulk regulations and other supplemental regulations otherwise applicable to the underlying zoning district and proposed use. Any conflict between the provisions of these supplemental regulations and provisions of existing supplemental regulations pertaining to any development projects within the Scenic Corridor Overlay Zone shall be governed by these supplemental regulations.

**(1) Preservation of Vegetation and Topography**

The attributes of the scenic corridor include the natural vegetation and topography in the foreground, middle ground and background that is within the visual range. The site of structures and active land use operations must not disturb more than 30% of the existing natural topography and vegetation of the entire site whether it is one parcel or multiple parcels. Disturbance or excavation of earth, borrow areas or mounding of borrow material shall be remediated to predevelopment conditions within a reasonable length of time not to exceed twelve (12) months without prior approval from the Town Board. Where practicable all new vegetation added shall blend in with the existing native vegetation.

Buildings, machines, easements, access roads, parking areas, sidewalks and vehicle storage areas shall be located in a manner that preserves the maximum number of trees and native vegetation as well as natural topography.

**(2). Air quality**

The generation of dust, smoke, and condensation may "cloud" the air and negatively impact the viewing distance and or viewing quality within the scenic corridor.

The generation of dust, smoke, and condensation must be mitigated to predevelopment levels or better.

(3). Buffer Requirements

(1) A natural undisturbed buffer, a minimum twenty-five (25) feet wide and a maximum fifty (50) feet wide, with an average width of thirty (30) feet, shall be maintained along the portion of any lot adjacent to New York State Route 22. If existing vegetation does not satisfactorily provide an undisturbed buffer, as determined by the Planning Board, additional plantings shall be added to the buffer area.

(2) No development, including improvements, buildings, structures, parking areas or open-air uses are allowed within the buffer. However, streets or easements may be permitted to cross the buffer when necessary for access or provision for utilities.

(3) No development shall be required to have the buffer area exceed twenty-five (25%) of the total site.

(4). Utilities

All new utilities for development on private property and on public right-of-way along New York State Route 22 will be underground whenever practicable due to natural conditions.

Existing poles will be used to provide required transition to underground service to new development projects where practicable. However, a new pole set in line with the existing overhead system, when necessary to serve approved new developments, shall not be deemed to be a new utility. Upgrades and reinforcements of existing overhead facilities are allowed.

Relocation of overhead utility facilities required by public improvement districts within the scenic corridor overlay zone will conform to existing franchise requirements.

Where an existing development is expanded by fifty percent (50%) or more in floor area or land area, new and existing utilities to all portions of the development will be located underground whenever practicable. Incremental expansion will be cumulative.

(5). Radio, Television and Other Communications Towers

All radio, television and other communications towers and other accessory structures shall be restricted to a maximum height of 100 feet from the base of the entire structure. To minimize the impact of radio, television and other communications towers located within the overlay zone the applicant must demonstrate the need for a new tower structure by proving that the antennas cannot be co-located on an existing tower or located on an existing structure, building or barn. All radio, television and other communications towers and antennas shall be camouflaged to blend into the surrounding natural environment. All applications for radio, television and other communications towers within the Scenic Corridor Overlay Zone shall be subject to site plan review and approval by the Town Planning Board in accordance with the requirements of Section VII(B) of the Town of Ancram Zoning Ordinance. These requirements are in addition to the requirements and regulations contained in Local Law #1 of the year 2000.

glow or neon colors shall be avoided. All structures within the scenic corridor shall not have facades that exceed the maximum length of one hundred (100) feet. All view sheds shall be maintained to the extent practicable. Facades adjacent to New York State Route 22 shall include glass surface area when practicable and reflective glass shall be avoided.

3. All outdoor lighting shall include diffusers or minimal wattage bulbs that minimize glare to adjoining roadways and properties.

4. All garbage cans, garbage collection areas, loading area, docks and doors and mechanical equipment must be screened from view or not visible from the designated scenic corridor. Small rooftop mechanical equipment, including vents, need not be screened if the total area of such equipment does not exceed nine (9) square feet per structure.

5. All signs shall be in accordance with the regulations set forth in Section V(E) in the Zoning Ordinance.

The Planning Board or the Zoning Board of Appeals, as the case may be, shall have the power to waive any of the developmental standards on a case by case basis provided the board makes a finding that the application of such standards to the specific project are inappropriate or otherwise not necessary to protect the scenic resources of the zone and will not adversely impact the neighboring community. Any such waiver shall be in writing, supported by the board's reasons supporting such determination, and shall be made a part of the record of the application. Nothing herein shall prevent the board from imposing such additional conditions or developmental standards as part of its approval as may be warranted in conjunction with the approval and/or SEQRA review process.

#### **SECTION V – SITE PLAN REVIEW:**

All applications for development projects within the Scenic Corridor Overlay Zone shall be subject to Site Plan Review and approval by the Town Planning Board in accordance with the requirements of Section VII(B) of the Zoning Ordinance. For purposes of this section, the term "Development Project" shall include all major subdivisions, general uses, accessory uses, and business uses. All such applications shall be submitted to the zoning enforcement officer and then referred, as the case may be, to the Planning Board for Site Plan review (See Section VII(B) of the Town Zoning Ordinance) and/or Zoning Board of Appeals for a Special Use Permit approval (See Section V(J) of the Town Zoning Ordinance).

The decision by the Town Planning Board to approve, approve with conditions, or deny a Site Plan for a Development Project within the Scenic Corridor Overlay Zone shall be made with due consideration to the standards and criteria for Site Plan Review and Approval set forth in Section VII(B) of the Zoning Ordinance, and in addition, with

due consideration given to the following:

The development standards set forth herein, as well as the development criteria set forth under the Town's Zoning Ordinance, all of which provide for the preservation of:

(a.) The view-shed or vista that provides the observer with a visual perspective of the area in terms of foreground, middle ground and background; and

(b.) The scenic quality of the rural landscape and mountain environment through the retention of native vegetation and natural rolling topography.

#### **SECTION VI – CONFLICT OF LAWS**

Pursuant to the powers granted by the Municipal Home Rule Law, the Local Law supersedes all provisions of Article 16 of the Town Law pertaining to zoning and planning, insofar as such statutes are inconsistent with this law and any other laws or regulations of the Town of Ancram are superseded to the extent necessary to give the law full force and effect.

#### **SECTION VII – SEVERABILITY CLAUSE**

The invalidity of any section, subsection, paragraph, sentence, clause or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such invalid part or parts.

#### **SECTION VIII – EFFECTIVE DATE**

This Local Law shall become effective upon filing with the office of the Secretary of State.