

This model overlay district brings together a group of planning and development design-review tools that are available to municipalities within New York State. Use of these tools can provide municipalities with greater flexibility to promote alternative development designs, which will help to conserve the valuable resources of the ridge landscape while at the same time provide for appropriate development.

Use of this overlay district offers a number of important benefits for the town, for property owners, for the development and conservation communities, and for other public interests. These include:

- A clear understanding of the valuable natural resources within the town, especially in the overlay district;
- A clear set of guidelines and standards for any new development within the ridge overlay district;
- Simplified review and financial savings when conservation goals are incorporated into project design;
- Permanent protection of important natural areas for the benefit and enjoyment of the public.

Planning tools presented within this model overlay district seek to assure that subdivisions and site plans are designed to maintain panoramic views of the ridge landscape, preserve sensitive habitats, protect water supplies and provide recreational opportunities. These tools include:

- Authority to require lands for recreation purposes or payment in lieu of reservation of land as part of subdivision approvals<sup>1</sup>;
- Authority to modify provisions of zoning to promote appropriate land uses, to facilitate adequate and economical provision of streets and utilities and to preserve natural and scenic qualities of open land<sup>2</sup>;
- Authority to establish open development areas where structures may be erected

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1. New York Town Law Section 277.

2. New York Town Law Section 281, enabling what is commonly called “clustering.”

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with access by right-of-way or easement.<sup>3</sup>

The following model language can be approved as an amendment within the existing zoning ordinances and subdivision regulations. Certain editing may be required to accommodate this model regulation to the existing format of a municipality's regulations.

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3. New York Town Law Section 280(a).

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**LOCAL LAW \_\_\_\_\_ 19\_\_**  
**RIDGE OVERLAY DISTRICT**

Be It Enacted By The Town Board of  
The Town of \_\_\_\_\_ As Follows:

**Definition** - Overlay District - An overlay district shall mean a district with supplementary regulations which is superimposed upon existing use districts. Such a district is mapped and on file with the Town Clerk.

**(1) Purpose** - To promote the health, safety and general welfare of the residents of the Town, the Town finds:

**(1)(a)** That the natural, open character of the Shawangunk Ridge is a critical feature of the unique heritage of the Town whose preservation enriches and benefits both residents and visitors;

**(1)(b)** That it is desirable to protect panoramic views of the ridge as well as sensitive natural habitats on the Shawangunk Ridge;

**(1)(c)** That the Shawangunk Ridge is the source for a major portion of the Town's water resources;

**(1)(d)** That recreational opportunities are to be protected including support of local and regional trail systems; and,

**(1)(e)** That preservation of these features while providing for appropriate development can only be achieved by encouraging flexibility in the design of land use and development projects.

**(2) Application of Regulations**

**(2)(a) Actions Affected** - Except as provided herein, no land shall be developed and no building or structure erected,

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expanded or developed unless in conformity with these regulations.

**(2)(b) Lots Affected** - Any lot fully or partially within the Ridge Overlay District as mapped by the Town will be subject to these regulations.

**(2)(c) Conflict With Other Regulations** - Where these regulations conflict with existing regulations, these regulations shall supersede.

**(2)(d) 280(a) & 281 Authority** - The Planning Board is hereby granted all authority under the provisions of New York State Town Law Sections 280(a) and 281 consistent with the purposes and regulations of the Ridge Overlay District.<sup>4</sup>

**(2)(e) Nonconforming Lots** - *[Note: include reference to applicable Town procedures for the granting of building permits on pre-existing nonconforming lots.]* Where new uses of pre-existing, nonconforming lots require only a building permit, these regulations shall be applied to the maximum extent possible in meeting the purposes of this section.

**(2)(f) Design Guidebook** - Town officials as well as all applicants shall be encouraged to use the development standards presented in the "Shawangunk Ridge Conservation and Design Guidebook" available from the Town Clerk and Planning Board.

**(2)(g) Approval Conditions** - Any condition of approval necessary to meet these regulations shall be clearly noted on the final plat or plan and filed with the County Clerk. Where

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4. New York Town Law Section 280(a) provides for the establishment of "an open development area or areas" wherein permits may be issued for the erection of structures to which access is by right-of-way or easement subject to conditions or limitations prescribed by the Planning Board. Such access must be sufficient for ingress and egress of emergency vehicles which is minimally set at fifteen (15) feet. Section 281 provides a planning board authority to modify applicable zoning standards subject to conditions. This section provides for what is commonly called "clustering."

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appropriate, conditions shall also be noted on a filed deed.

**(3) Design Regulations** - To meet the purposes of the Ridge Overlay District the following regulations shall apply:

**(3)(a) Visibility** - All structures shall be sited to avoid occupying or obstructing public views of land within the Overlay District. Public views shall be considered to be from any location listed on the attached Visual Environmental Assessment Form [see *Appendix C, pp. 55-56*]. These locations are frequented by the public and offer unobstructed views of the Shawangunk Ridge. Visibility shall be measured using a condition of no leaves on trees.

**(3)(a)(i) Building Sites** - Building sites shall be clearly noted on any plat or plan. All structures shall be sited away from ridgetops and ridgelines. Whenever possible, structures shall be sited at lower elevations and close to existing roads.

**(3)(a)(ii) Structure Design** - Structures shall blend in with natural surroundings through preferred use of stone or natural wood siding and use of roofing materials with earthtone colors.

**(3)(a)(iii) Lighting** - Exterior lighting shall be controlled in both height and intensity. Under no circumstances shall the light level at any lot line exceed 0.2 foot-candles, measured at ground level. Screening or shielding of luminaries may be required.

**(3)(a)(iv) Structure Screening** - As a condition of approval an applicant may be required to preserve existing vegetation or provide new plantings of native vegetation to screen structures. Additionally, a conservation easement pursuant to Section 247 of General Municipal Law and Sections 49-0301

Unscreened structure  
Screened structure

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through 49-0311 of New York Environmental Conservation Law shall be the preferred means to protect or buffer views.

**(3)(b) Existing Vegetation** - Existing vegetation shall be preserved to the maximum extent possible. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks and other public views.

**(3)(b)(i) Tree Cutting** - No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) except for harvests of less than fifteen (15) cords or less than 10,000 board feet on any one parcel shall take place except in accordance with an approved building permit, site plan, subdivision or timber-harvesting plan. Cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

**(3)(c) Trail Access and Setback** - The Town, consistent with Sections 277 and 281(d) of New York Town Law,<sup>5</sup> shall seek trail corridor access and setback of development away from trails where documentation exists that the subject parcel includes an existing or potential public trail such as the Long Path.

**(3)(d) Underground Utilities** - All electric, telephone, television and other communication lines, both main and service connections, servicing new developments shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other

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5. New York Town Law Section 277 provides authority to require parks or other recreation land or payment in lieu of. New York Town Law Section 281 as authorized earlier in the overlay district provides for what is commonly called "clustering." Similar provisions exist in village and city law.

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companies providing such services.

**(3)(e) Recreation Open Space** - As a condition of approval the Town may require up to twenty percent (20%) of any parcel within the Overlay District for parkland, recreation and open space purposes, so long as this condition does not reduce the number of units allowable under applicable zoning. Such land shall be dedicated pursuant to Section 4 of these regulations.

**(3)(f) Special Development Options**

**(3)(f)(i) Conservation Development/Private Road Option** - If prior to approval an applicant agrees to protect from development more than fifty percent (50%) of a parcel pursuant to Section 5 of these regulations and approval will not yield any lot less than three (3) times the minimum lot size in the underlying district, then the Planning Board shall have the authority to waive applicable standards of public road frontage and/or allow access by right-of-way or easement so long as that access allows for ingress and egress of emergency vehicles. Such access per lot shall be set to minimally include fifteen (15) feet of frontage on a public road.

**(3)(f)(ii) Open Space Subdivision Option** - If an applicant meets all of the requirements of this overlay district, the Planning Board may require a subdivision creating smaller lots consistent with Section 2(e) of these regulations.<sup>6</sup>

**(3)(g) Telecommunication Towers** - Throughout the Shawangunk Ridge Overlay District telecommunication towers shall be discouraged.<sup>7</sup> In all cases the Town shall encourage site plans having the least visual impact on the environment, shared use

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6. New York Town Law Section 281 authorizing what is commonly known as "clustering."

7. [See Appendix C for optional language where telecommunication towers are defined and regulated as a "special" or "conditional" use.]

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of towers rather than new construction, and reduced tower height to limit need for external lighting.

**(3)(h) Prohibited Signs** - Billboards, signs not on the premises of the business they advertise, and signs advertising or identifying a business or organization which is either no longer in business or no longer on the premises shall be prohibited. Exceptions may be made if the sign is found to have artistic or historic merit.

**(4) Dedication of Open Space**

**(4)(a)** Any land dedicated for open space purposes shall be used only for park, recreation, conservation or selective timbering and agricultural purposes. Such land shall be encumbered by appropriate covenants or conservation easements approved by the Planning Board ensuring that the open space can not be further subdivided; the use of the open space will continue in perpetuity for the stated purpose; and appropriate provisions will be made for maintenance.

**(4)(b)** The ownership of land dedicated for park, recreation or open space use shall be determined by the property owner or applicant subject to approval by the Planning Board. The person or entity having the right of ownership shall be responsible for its proper maintenance and continued upkeep. Ownership shall be with one of the following:

**(4)(b)(i)** the Town;

**(4)(b)(ii)** another public jurisdiction or agency subject to their acceptance;

**(4)(b)(iii)** a private nonprofit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land;

**(4)(b)(iv)** shared, common interest by all property owners in

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a subdivision;

**(4)(b)(v)** a homeowner, condominium, or cooperative association or organization; or,

**(4)(b)(vi)** private ownership encumbered by a conservation easement pursuant to Section 247 of General Municipal Law or Sections

49-0301 through 49-0311 of Environmental Conservation Law.

**(4)(c)** Any land dedication for purposes of this section shall be recorded in the County Clerk's Office.

**(4)(d)** All lands dedicated for the purposes of this section shall be clearly identified on a final plat or plan. Such identification shall note use, ownership, and management as well as liber and page of relevant filings with the County Clerk's Office.

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