TOWN OF NORTH CASTLE

Local Law No. ____ for the Year 2013

A local law amending Chapter 213, Zoning, of the Code of the Town of North Castle, New York, so as to add standards designed to preserve the visual character and views along three of the Town's scenic roadways through a process of site plan review and approval by the Town Planning Board.

Section 1. Amend Article V "Supplementary Regulations" of Chapter 213 "Zoning" of the Code of the Town of North Castle, New York by adding the following new section in its proper numerical order:

§213-17.1. Scenic Roadscape Preservation

A. Findings and legislative intent.

The attractive visual character of the Town of North Castle is in significant measure attributable to the views from along its public roadways. For that reason, as well as for purposes of preservation of scenic character and protection of property values, the Town of North Castle desires to preserve the historic, cultural and natural resources, including stone walls, significant vegetation and scenic vistas, which are located along, or are visible from, its scenic roadways.

Specifically, the Town finds that:

(1) The natural scenic character along the Town's scenic roadways is a critical element of the unique attractiveness and heritage of the Town of North Castle, the preservation of which enriches and benefits both residents and visitors;

(2) North Castle's scenic roadways are, for the most part, historically traditional routes which are bordered with stone walls, mature trees, woodlands, meadows, water bodies, scenic vistas and historic structures, all of which contribute to the overall scenic, historic and semirural character of the Town;

(3) The preservation of these features, consistent with the protection of private property rights, can best be achieved by requiring Planning Board review and approval of any new development or other changes proposed in such areas.

B. Scenic Roadways.

In furtherance of the above stated legislative intent, the Town Board specifically identifies the following as scenic roadways:

(1) East Middle Patent Road.

(2) Mianus River Road.

(3) St. Mary's Church Road.

With respect to properties located on such scenic roadways, the types of construction, alterations or disturbances referred to in subsection D(1) below shall be subject to Planning Board review and approval if they take place within the scenic roadscape area as defined in subsection D(2).

Notwithstanding the foregoing, neither this subsection nor any portion of this section shall be construed as prohibiting the activities referenced herein or abridging the rights of owners of property along the designated scenic roadways to develop their properties subject, where applicable, to the provisions of section 213-22.2H.

C. Future Scenic Roadway Designation.

From time to time the Town Board of the Town of North Castle shall, on its own motion, or upon recommendation of any Town board, committee or other organization or group, identify and designate roadways within the Town of North Castle as scenic roadways. The procedure for designation shall be as follows:

(1) Designation by the Town Board. The Town Board shall identify a scenic roadway within the Town of North Castle. The Town Board, where appropriate, shall seek the advice and counsel of other boards, officials or consultants in furtherance of the designation process.

(2) Petition by a majority of interested landowners. As an alternative to designation by the Town Board, the owners of lot frontage abutting both sides of a roadway or portion of a roadway [the "petitioner(s)"] may apply to the Town Board for designation of a roadway or a portion thereof as a scenic roadway.

(3) Public hearing required. As soon as practicable, but no later than 120 days after its own identification of a roadway or upon receipt of an application for designation, the Town Board shall hold a public hearing regarding the designation of such roadway as a scenic roadway, at which time the public, parties in interest, and the owners of property abutting the scenic roadway shall have the opportunity to be heard regarding the proposed designation.

(4) Notice required. After the Town Board identifies a roadway as being worthy of scenic roadway designation or receives an application from members of the public for designation, it shall notify all owners of property adjacent to and within 500 feet of the roadway section proposed for designation of the intent to designate the roadway as a scenic roadway. Such notice to the adjacent property owners shall be sent no less than 10 days prior to the scheduled date of the public hearing, and the notice shall state the intent to designate the roadway as a scenic roadway. In addition, notice of the public hearing shall be published in the Town's official newspaper no less than 10 days in advance of the scheduled date of the public hearing.

(5) Town Board action. After conducting the public hearing on the intent to designate a scenic roadway, the Town Board shall approve or disapprove the designation according to its regular voting procedures, in accordance with the criteria set forth in Section 213-17.1.C(6) below.

(6) Scenic Roadway Selection Criteria. A scenic roadway shall be found to possess one or more significant scenic, recreational, cultural, natural or historic features that, once altered, are irreplaceable. Examples of these features include, but are not limited to:

(a) Memorable or unusual landscape elements or viewscapes bordering the roadway;

(b) A roadway that is particularly appealing to cyclists and hikers for its specific characteristics;

(c) A roadway that passes through or abuts upon a traditional working landscape, i.e., horse farm, farming, orchards, etc., where alteration of the roadway would diminish the significance of the landscape;

(d) A roadway that passes through or abuts upon unusual geologic formations, topography, water resources, wetlands or habitats for rare or endangered wildlife;

(e) A roadway that passes through or abuts a site or sites of historical importance where altering the roadway would diminish the impact of historical reference;

(f) The roadway possesses a unique overall quality of scenic beauty, scale, texture, and form.

D. Site plan approval.

(1) Site plan review and approval by the Planning Board within the scenic roadscape area as defined below shall be required prior to:

(a) the construction of any new structure or reconstruction of any existing structure, except the reconstruction of an existing structure in place and in like manner as existing such as the reconstruction of a damaged structure;

(b) the alteration of an existing structure, where the area of such alteration exceeds 300 square feet;

(c) the construction of any new driveway or relocation of an existing driveway but specifically excluding the repair or replacement of any part of an existing driveway;

(d) the disturbance of more than 1500 square feet of land;

(e) the removal of ten (10) or more trees of 8 inch DBH or greater or the removal of one (1) or more significant tree as defined by Chapter 192 of the Code;

(2) The term "scenic roadscape area" as used herein shall mean the area between the centerline of the scenic roadway and the rear wall of the principal residential structure on the property, but not to exceed a distance of 500 feet from the centerline of the scenic roadway. Where an activity taking place within the scenic roadscape area presents minimal impacts, the Planning Board shall consider waiving some of the formal requirements for site plan approval as provided for in section 213-22.2H(1).

Where an activity referenced above is proposed to take place beyond the scenic roadscape area but within 500 feet of the centerline of the scenic roadway, the Residential Project Review Committee shall review any application for approval of any such activity giving due consideration to the provisions of this legislation.

E. Procedure: Where site plan review by the Planning Board is required under the terms hereof, the procedures set forth in section 213-22.2(H)(1) and (2) shall apply.

F.. Standards and Decision: in reviewing any site plan submitted pursuant to this section and issuing its decision in connection therewith, the provisions of section 213-22(H)(3) and (4) shall apply and the Planning Board shall also take into consideration the following:

(1) Any necessary intrusions within the scenic roadscape area shall be reduced to the maximum extent practicable by such measures as common driveways, shared utility services or other such techniques.

(2) The Planning Board is hereby encouraged to utilize its authority to approve conservation subdivisions pursuant to Section 213-25 of this Chapter where said Board determines that such is necessary or appropriate in order to help achieve the purposes of this section.

(3) The Planning Board, in granting site plan approval along scenic roadways as identified herein, shall determine that the construction or site alteration approved will be compatible with the legislative intent of this section.

(4) All other procedures and requirements for site plan approval along scenic roadways shall be as set forth in Article VIII of this Chapter.

Section 2. Conflicting Standards.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of North Castle, the Town Law of the State of New York or of other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 3. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part 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 of parts.

Section 4. Effective Date.

This Local Law shall take effect immediately upon its adoption and filing with the Office of the Secretary of State.