

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 and historic 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 and Historic 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 historic preservation and protection of property values, the Town of North Castle desires to preserve the historic, cultural and natural resources, including stone walls, vegetation and scenic vistas, which are located along, or are visible from, its scenic and historic roadways.

Specifically, the Town finds that:

- (1) The natural scenic character along the Town's scenic and historic 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 and historic 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 and Historic Roads.

In furtherance of the above stated legislative intent, the Town Board specifically identifies the following as scenic and historic roadways along which any alterations shall be subject to Planning Board review and approval:

- (1) East Middle Patent Road.
- (2) Mianus River Road.
- (3) St. Mary's Church Road.

C. Future Scenic and Historic 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 and historic roadways. The procedure for designation shall be as follows:

- (1) Designation by the Town Board. The Town Board shall identify a scenic and historic 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 and historic 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 and historic roadway, at which time the public, parties in interest, and the owners of property abutting the scenic and historic roadway shall have the opportunity to be heard regarding the proposed designation.
- (4) Notice required. After the Town Board identifies a road as being worthy of scenic and historic 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 road section proposed for designation of the intent to designate the road as a scenic and historic 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 road as a scenic and historic 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 and historic 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 and Historic Roadway Selection Criteria. A scenic and historic roadway shall be found to possess one or more of the following general characteristics:
 - (a) The road has significant scenic, recreational, cultural, natural or historic features that, once altered, are irreplaceable. Examples of these features include, but are not limited to:
 - (b) Memorable or unusual landscape elements or viewsapes bordering the road;
A road that is particularly appealing to cyclists, and hikers for its specific characteristics;
 - (c) A road that passes through or abuts upon a traditional working landscape, i.e., horse farm, farming, orchards, etc., where alteration of the road would diminish the significance of the landscape;
 - (d) A road that passes through or abuts upon unusual geologic formations, topography, water resources, wetlands or habitats for rare or endangered wildlife; or

- (e) A road that passes through or abuts a site or sites of historical importance where altering the road would diminish the impact of historical reference.
- (f) The road possesses a unique overall quality of scenic beauty, scale, texture, and form.

D. Site plan approval.

Site plan review and approval by the Planning Board shall be required prior to the construction, reconstruction or other physical alteration of any new structure or driveway or the removal of any tree with a caliper of 8" dbh or greater or any type of land disturbance within five hundred (500) feet of any scenic or historic roadway as identified in this Chapter, if the lot upon which it is located adjoins such roadway.

- (1) Standards. Pursuant to the authority granted to the Planning Board by Section 231-13.K of this Chapter, said Board is hereby encouraged to establish special setback requirements along primary, secondary and historic roads, as identified herein, for the purpose of preserving the physical features (both natural and manmade) and scenic vistas along such roads.

Notwithstanding the above, any special setback requirements for new buildings shall generally not be less than the existing setback requirement for the zoning district in which the property is located. In determining special setback requirements, the Planning Board shall take into consideration the following criteria:

- (a) The presence of unique natural resources, including but not limited to wetlands, waterbodies, watercourses, adjacent areas, steep slopes, major trees or stands of trees, and rock formations;
 - (b) The presence of unique cultural resources, including but not limited to buildings, structures, stone walls or artifacts of architectural, historical or archaeological value;
 - (c) The presence of unique aesthetic features including but not limited to scenic views and vistas; and
 - (d) The relationship of the subject property to neighboring properties, buildings and structures.
- (2) Decision. As a condition of site plan approval, the Planning Board may require that those features which it has determined are important to preserve will be properly protected, managed and/or enhanced on a permanent basis in accordance with the approved site plan.
 - (a) Any necessary intrusions within the area to be preserved shall be reduced to the maximum extent practicable by such measures as common driveways, shared utility services or other such techniques.
 - (b) 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.

- (c) The Planning Board, in granting site plan approval along primary, secondary and historic roads, as identified herein, shall determine that the construction or site alteration approved will be compatible with the legislative intent of this section.
- (d) All other procedures and requirements for site plan approval along identified primary, secondary and historic roads 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.