

LOCAL LAW NO. \_\_\_ OF 2015

A LOCAL LAW AMENDING CHAPTER 249 OF THE CODE OF  
THE TOWN OF WALLKILL, COUNTY OF ORANGE  
ESTABLISHING A SHAWANGUNK KILL CORRIDOR  
PRESERVATION OVERLAY DISTRICT

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WALLKILL AS

FOLLOWS:

Section 1. The Town of Wallkill Code, Chapter 249 shall be amended to add the following:

**ARTICLE XIX**

**Shawangunk Kill Corridor Preservation Overlay District**

§ 249-70 **Title.** This District shall be known as the “Shawangunk Kill Corridor Preservation Overlay District” and can be generally referred to as the “Shawangunk Kill Preservation District (SRPD).”

§ 249-71 **Intent and Purpose.** The SRPD is intended to implement the policies in the Wallkill 2005 Comprehensive Plan and to promote, preserve, and enhance important aesthetic, biological, ecological, hydrologic, and recreational functions provided by the Shawangunk Kill, as well as to protect life and prevent property damage from flooding. It is therefore the purpose of these provisions to establish a River and Stream Corridor Preservation Overlay District around the Shawangunk Kill that encourages planning and development of land that will protect and preserve designated areas. The SRPD is specifically intended to:

- A. Regulate and provide reasonable controls over the land use, siting, and engineering of all development to be consistent with the intent and objectives of this section.
- B. Recognize that the protected natural features of the Shawangunk Kill contribute to the welfare and quality of life of the Town of Wallkill residents and those who own property contiguous to the river.
- C. Improve and maintain the water quality and minimize the addition of pollutants deposited in the Shawangunk Kill, as a protected watercourse, through the natural capacity of the riparian areas to filter storm water runoff.

- D. Comply with federal and state water quality regulations.
- E. Preserve and protect the natural state and scenic values of the Shawangunk Kill, as a protected watercourse area, and the Town of Wallkill.

**§ 249-72 Application.**

- A. **Residential Districts.** The SRPD encompasses all land within the one-hundred-year flood plain but only to a maximum of one hundred (100) feet beyond each fixed edge of the Shawangunk Kill at full flow. Where the one-hundred-year flood plain is less than one hundred (100) feet from the fixed edge of the watercourse, the zone shall follow the contour of the flood plain, but only to a minimum distance of sixty-five (65) feet from the fixed edge of the watercourse at full flow.
- B. **Manufacturing and Industrial Districts.** The SRPD encompasses all land within two hundred fifty (250) feet of the Shawangunk Kill at full flow.
- C. **Commercial Districts.** The SRPD encompasses all land within two hundred (200) feet of the fixed edge of the Shawangunk Kill at full flow.

**§ 249-73. Official Maps.** The boundaries of the SRPD shall be delineated on the official Town of Wallkill maps.

**§ 249-74. Permitted Uses.** The uses and restrictions in the SRPD are supplementary to, and do not replace, underlying established district use and bulk regulations. In the event that this provision conflicts with any requirement or provision in the underlying district, the more restrictive requirement or provision shall apply. The following uses are specifically permitted as of right in the Shawangunk Kill Preservation District:

- A. Existing land uses and/or structures, except when the existing land use, or any structure involved in that use, is enlarged, increased, or extended to occupy a greater area of land.
- B. Lawn care and maintenance, tree and shrub care and maintenance, and removal of dead or deteriorating trees and vegetation. The maintenance of fields (i.e. tilling, planting

and/or mowing) that has been taking place as of the effective date of this law in this area is permitted. The clear cutting to create grass areas or fields that do not presently exist is prohibited.

- C. Repair and maintenance of faulty or deteriorating sewage facilities. The installation of new sewage systems or system expansion shall not be permitted in the SRPD.
- D. Recreational uses that do not alter the protected area.
- E. Conservation and education activities and water quality monitoring.
- F. River bank stabilization or restoration projects.
- G. Any activity which is immediately necessary for the protection and preservation of life, property, or natural resource values.
- H. Any Agricultural use that is operating within the constants of an Agricultural project plan, to be obtained through the County soil and water authority.
- I. The maintenance of existing structures, access paths or roads.

**§ 249-75. Prohibited Uses.** Any use or activity not authorized in § 249-74 shall be prohibited within the Shawangunk Kill and Stream Preservation District and the following uses and activities are specifically prohibited:

- A. Any land disturbing activity including, but not limited to, construction, excavating, and tilling.
- B. The construction of any primary or accessory structure including, but not limited to, sheds and barns of any type.
- C. Additions or modifications of existing buildings or structures that increase the useable surface area of the impacted land, including, but not limited to, expansions of septic systems, parking areas or driveways.
- D. The construction or placement of any septic tank or septic tank sewage disposal system.

- E. Storm water discharges and/or construction of private commercial or municipal storm water runoff system.
- F. Storage of hazardous or noxious materials.
- G. Dumping or disposal of any material including yard waste.
- H. Activities which would alter the natural flow pattern of the Shawangunk Kill.
- I. Application of pesticides or herbicides or other harmful substances in excess of prescribed industry standards or the recommendations of the New York State Department of Environmental Conservation.
- J. Use and storage of motorized vehicles, with the exception of snowmobiles and ATV use by property owners and their guests and motorized property maintenance equipment.
- K. Construction of public or private roads and parking lots.

**§249-76. Special Permit Uses.** The Zoning Board of Appeals shall seek the advice of the Town's Consulting Engineers when making its determination as to whether to grant a request for a special permit. The Zoning Board of Appeals may condition any such special permit granted to insure that such use shall not adversely affect water quality or impair the function or chemical, physical, biological, and ecological integrity of the SRPD. The following uses may be permitted in an SRPD by special permit:

- A. Marinas for non-powered boats, public and private boat entry points.
- B. Structures or uses required for the operation of a public utility, such as utility rights-of-way and crossings.
- C. Decks for restaurants and in existing cleared areas.

**§ 249-77. Inspection, Enforcement, and Penalties.**

- A. **Inspection.** Lands within or adjacent to a designated SRPD will be inspected by the Town Planning Board site inspectors when:
  - i. A subdivision or site plan is submitted.
  - ii. A building permit is requested.
  - iii. A change or resumption of a nonconforming use is

proposed.

- iv. A written complaint alleging a violation is submitted to the Environmental Conservation Commission.

**B. Enforcement.**

- i. Any person may submit a written complaint to the Environmental Conservation Commission alleging a violation of the SRPD.
- ii. Upon receipt of the complaint, the Town Board or its designee will engage the appropriate site inspection engineer to conduct an investigation of the complaint including, but not limited to, a site inspection and meeting with the property owner.

**C. Penalties.** Any violation of the SRPD must cease upon a determination that a violation has occurred. If upon written notification to the violating party, that party does not cause the violation to be discontinued, the fines shown in subsections (I)-(iii) below will be additionally assessed for each day thereafter until the violation ceases. Monetary fines shall be assessed for violations as follows:

- i. **Level One.** ONE THOUSAND DOLLARS (\$1,000) for violations that are easily correctable and have not resulted in any adverse effect on the water quality of the Shawangunk Kill.
- ii. **Level Two.** TWO THOUSAND DOLLARS (\$2,000) for violations that have resulted in an adverse effect on the water quality of the Shawangunk Kill.
- iii. **Level Three.** FOUR THOUSAND DOLLARS (\$4,000) for violations that are deemed a flagrant abuse of the SRPD and have a serious effect on the quality of life and environment of the SRPD and surrounding area.
- iv. Any expenses incurred by the Town in connection with the repair or remediation of violation that result in harm or potential harm to protected areas within the SRPD, including but not limited to, the cost of actual repair or remediation, shall be assessed against the land on which the violation

occurs and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

Section 2.     **Separability**

If any provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Wallkill hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3.     **Repeal**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4.     **Effective Date**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law and will apply to all new applications submitted on or after that date.