

TOWN BOARD OF THE TOWN OF COPAKE, NEW YORK

A Local Law Amending Section 232-10 of the Copake Zoning Code, Scenic Corridor Overlay Zone (SCOZ)

Local Law No. \_\_\_\_ of 2026

INTRODUCED: February 12, 2026

*REVISED: March 27, 2026*

Be it enacted by the Town Board of the Town of Copake as follows:

Section 1. Purpose and legislative intent.

The Town Board of the Town of Copake finds that as Copake faces the likelihood of increasing development pressure, it is in the best interest of the Town and its residents to ensure that clear and effective zoning measures are in place to enforce the Comprehensive Plan and protect the scenic integrity of the Town’s Scenic Corridor and the picturesque Taconic Ridgeline in the eastern part of Copake.

This law is enacted to ensure that development and clearing of land in the SCOZ, and especially along the higher ridgelines, is consistent with the Town’s rural and scenic values. The amendments contained in this local law provide for expanded review and regulation of substantial development, clearing of land, and other land use actions that could, unchecked, substantially degrade the wild and natural aesthetic values that are central to the Town’s identity and act to safeguard the Town’s important landscapes for future generations.

§ 2. Enacting authority.

This local law is enacted pursuant to the New York Municipal Home Rule Law and chapter 232 of the Code of the Town of Copake, as authorized by the New York State Constitution, the New York Municipal Home Rule Law, Article 16 and other relevant provisions of the Town Law of the State of New York, and the Code of the Town of Copake.

§ 3. Section 232-10 of Chapter 232 of the Code of the Town of Copake, entitled “Scenic Corridor Overlay Zone (SCOZ)” is amended to read as follows:

**§ 232-10. Scenic Corridor Overlay Zone (SCOZ).**

- A. Purpose and intent. The purpose of the Scenic Corridor Overlay Zone is to establish clear guidelines for development, and/or redevelopment and protection of the Town's Route 22

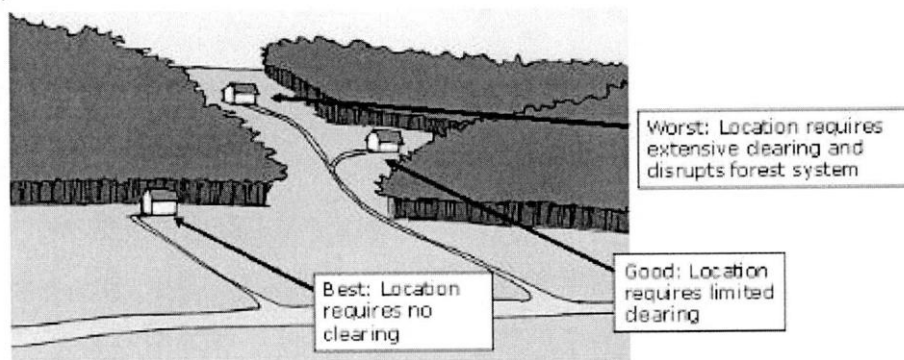
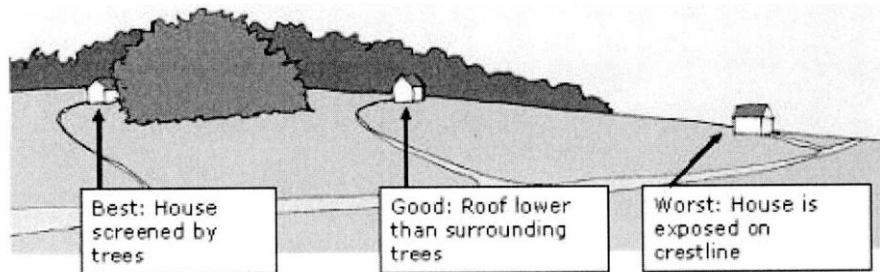
corridor which comprises one of the most scenic and environmentally sensitive areas of the Town, including the Taconic Ridgeline, as well as to preserve existing open land now being actively used in agriculture.

- B. Applicability.** No subdivision approval for a subdivision subject to this section, and no special use permit or site plan approval or building permit for any use, action, or development subject to review pursuant to this section, may be issued prior to a determination by the Planning Board that the proposed subdivision, development, action or use, and use and configuration of the parcel upon which such subdivision, development, action or use is located, is in conformity with this section. Any of the following uses or actions occurring on a parcel of land lying fully or partially within the SCOZ shall be subject to these supplementary regulations and shall be referred to the Planning Board for subdivision and/or site plan review:
- (1) All subdivisions that exceed the threshold for minor subdivisions as set forth in Chapter 197 of the Code of the Town of Copake, "Subdivision of Land," and all development upon parcels within such subdivisions.
  - (2) All use or development of land that requires a new or amended site plan approval or a new or amended special use permit pursuant to this Chapter.
  - (3) All uses or development of land, other than a single-family home or residential accessory structure, requiring the issuance of a zoning variance pursuant to this chapter.
  - (4) Any development of a structure, or upon a parcel, or in connection with a use, that is or would be within the above applicability provisions and that expands a building footprint, height, or use, or adds or enlarges an accessory building, structure, impervious surface, or accessory dwelling unit (ADU), notwithstanding the provisions of §232-16.1.
  - (5) All development shall be subject to subdivision K of this section (Ridgeline protection.)
- C. Prohibited uses.** The following uses are prohibited if they occur on parcels located entirely or partially within the SCOZ, notwithstanding that they may be permitted in the underlying zoning district either subject to site plan approval from the Planning Board and/or subject to a special use permit from the Zoning Board of Appeals:
- (1) Extractive operations. New or expanding mine extractive operations sites that require a mined land reclamation permit from New York State Department of Environmental Conservation (DEC) in accordance with Title 27 of Article 23 of the New York State Environmental Conservation Law and its regulations, as the same may be amended, are prohibited in the SCOZ. Extractive operations that are below the New York State DEC permitting required thresholds will continue to be permitted subject to the issuance of a special use permit and site plan review and approval. However, in the event that DEC raises its thresholds for the requirement of a DEC permit, above the thresholds which are in existence at the time of the enactment of this section, all extractive operations that exceed the DEC thresholds in effect at the time of the enactment of this section shall continue to be prohibited regardless of whether they require a permit from DEC.

- (2) Telecommunications towers, but excluding church steeples, silos, water towers, or other structures that primarily constitute or serve a permitted use, only incidentally support antennae or transmission equipment, and are not increased in height by the attachment of such antennae or transmission equipment.
  - (3) Radio and televisions stations and towers.
  - (4) Bus stations.
  - (5) Mobile home parks.
  - (6) Power plants.
  - (7) Fuel storage and distribution facilities.
  - (8) Utility-scale solar energy systems.
  - (9) Commercial wind power facilities.
  - (10) All uses that are prohibited in the underlying zoning district.
  - (11) Agricultural buildings with a footprint at grade larger than 12,000 square feet.
- D.** Exempt uses and actions. The following uses and actions shall be exempt from the SCOZ design requirements set forth in this section, except that subdivision K of this section (Ridgeline protection), shall apply to all development, uses, and actions, without exception:
- (1) Agriculture, as defined in section 232-3 of the Copake Code and farm operations, as defined in § 301, Subdivision 11 of the Agriculture and Markets Law, provided, however, that agricultural buildings of 7,500 square feet or more, agri-tourism, and farm markets shall not be exempt.
  - (2) Construction of agricultural buildings or structures less than 7,500 square feet in area. Any agricultural buildings or structures 7,500 square feet or more shall be permitted subject to Section 232-21(H)(4) modified site plan review.
  - (3) All minor subdivisions as that term is described in Chapter 197 of the Code of the Town of Copake, “Subdivision of Land.”
- E.** Conflicts. In any case of a conflict between these supplementary regulations and the requirements of the underlying zoning district, other sections of the Town Code, the Town road specifications and/or the Town's Land Subdivision Regulations, the provisions contained in this section shall control.
- F.** Design requirements and principles. In approving applications for parcels within the SCOZ, irrespective of the underlying zoning district, the rural design and siting standards set out in §232-19 of this chapter shall be considered and may be required by the Planning Board as

part of subdivision or site plan review, notwithstanding any provision of §232-19 limiting their application to specific zoning districts or types of development or providing for discretionary application. In addition to the design and siting standards set forth in §232-19, the following supplementary provisions shall apply. This section and §232-19 shall be read to harmonize and give effect to all provisions therein. In the event of irreconcilable conflict, the provisions of this section shall apply.

- (1) Preservation of scenic features. Features that provide scenic importance to the SCOZ, including but not limited to those set forth in §232-19(A), or otherwise as the Planning Board may find, shall be preserved to the extent reasonably feasible.
- (2) Placement of structures. To ensure the placement of structures within the SCOZ on proposed building lots, building sites, including areas of cleared vegetation, shall be clearly designated on the applicable subdivision plat and/or site plans at the time of building permit application. Constructed structures should not differ more than 20 feet in any direction from building site locations shown on approved subdivision and/or site plans.



- (3) Clearing of existing vegetation at the edge of the road shall be minimized, except to open landscape views and as necessary to create road and driveway entrances with adequate sight distance. Curved driveways shall be used to increase the screening of buildings.
- (4) Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by

underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

- (5) **Parking.** Parking lots for non-residential and multifamily residential uses shall be provided with screened parking wholly at the side and/or rear of the structures, provided such an arrangement does not create a significant visual impact. If parking is provided at the side of structures, at least a ten-foot-wide landscaped area (exclusive of that required for sidewalks or utility easements) shall be provided between the road right-of-way and the parking lot, to be planted with shade or ornamental trees and at least a three-foot-high evergreen hedge, wall or fence. In addition, at least one tree and three shrubs shall be provided for each eight parking spaces in interior areas of the parking lot, whether such lot is provided at the side or rear of structures. Parking for single-family dwellings shall also be provided at the side and/or rear of the principal structure, provided such an arrangement does not create a significant visual effect.

**G. View preservation.** Where appropriate, preservation of views shall be by conservation easement, pursuant to § 247 of the New York State General Municipal Law, §§ 49-0301 through 49-0311 of the NYS Environmental Conservation Law, or other legal instruments, such as deed restrictions, acceptable to the Town Board, Planning Board and Town Attorney.

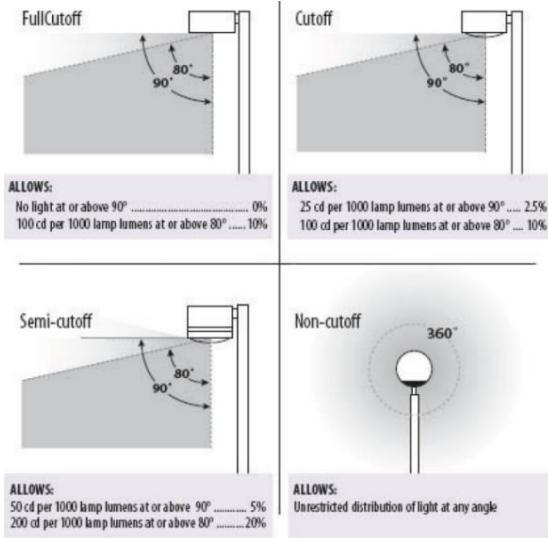
**H. Lighting.** Exterior lighting in the SCOZ is subject to the requirements of section 232-15 of this chapter, except that to the extent this subdivision imposes additional or greater restrictions, such lighting shall also be in conformance with the requirements established herein.

- (1) The light level at any lot line shall not exceed 0.2 footcandles, measured at ground level.
- (2) Floodlights shall not be used to light any portion of a principal or accessory structure facade (except for temporary lighting).



(3) All outdoor light sources mounted on poles, buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures.

(4) For purposes of this section, a "fully shielded light fixture" is one in which no more than 2.5% of the total output is emitted at 90° from the vertical pole or building wall on which it is mounted. All such fixtures shall be installed or shielded so that any part of the light bulb or light source is not visible beyond the property boundaries.



(5) The maximum allowable height of a freestanding light fixture shall be 16 feet above the average finished grade. Exceptions to the maximum height limitations up to 25 feet above the average finished grade may be made when it can be demonstrated to the Planning Board that glare to off-site locations will not occur with such higher fixture.

(6) The maximum allowable height of a building or structure mounted light fixture shall be 35 feet.

I. Flexible lot subdivisions required. Within the SCOZ, flexible lot subdivisions set forth in § 232-17 of this chapter shall be required as alternatives to maximum density development, irrespective of the underlying zoning district and notwithstanding any limitation to the contrary set forth in § 232-17.

J. Dimensional regulations. The following dimensional regulations shall apply to development within the SCOZ in addition to the dimensional regulations of the underlying zone district:

(1) Nonresidential and multifamily residential buildings shall be sited as per Flexible Lot Subdivision requirements 232-17.

(2) No building shall exceed 7,500 square feet in footprint unless the structure is to be used exclusively for agricultural purposes on an active farm operation.

(3) The maximum allowable impervious surface coverage on any parcel in the SCOZ shall be 15%. To implement this requirement, restrictions on impervious surface coverage for individual subdivided lots shall be shown on any submission plan or plat.

(4) Restrictions on height. No principal or accessory building or structure with a height of greater than 35 feet, as measured by the vertical distance from average grade plane to its highest point, and/or 2.5 stories, shall be constructed within the SCOZ, provided, however, that silos or barns, when used in conjunction with agricultural operations, may

exceed the maximum building height to the extent allowed elsewhere within the Zoning Code.

**K. Ridgeline protection.**

- (1) This subdivision is adopted to afford special protection to aesthetically important higher elevations and ridgeline areas within the Town of Copake, to provide for continuity and integrity of forested or natural ridgelines by limiting or regulating alterations of such ridgelines due to development or clear-cutting, and to ensure that any development in such areas is harmonious with the existing characteristics of these ridgeline areas and accords with the overriding purposes of the SCOZ and the Comprehensive Plan.
- (2) In addition to the general provisions of this section, the additional provisions of this subdivision K shall apply to the following, except that land within the underlying Mixed Use (MU) Zoning District shall be exempt:
  - (a) Within the SCOZ west of NY State Route 22, to any structure or development where the highest point of such structure or development is or would be above 650 feet above sea level and to any clear-cutting where the terrain is above 600 feet above sea level.
  - (b) Within the SCOZ east of NY State Route 22, to any structure or development where the highest point of such structure or development is or would be above 950 feet above sea level and to any clear-cutting where the terrain is above 900 feet above sea level.
- (3) No structure or development subject to this subdivision shall be constructed, expanded, or modified, such that any part of such structure or development would be higher than seventy-five feet below the treetop line on a common vertical axis with such structure or development when viewed from any point on any public roadway within the Town of Copake.
- (4) No clear-cutting shall be permitted that would create, cause, or expand an open area at an elevation higher than one hundred feet below the treetop line on a common vertical axis with such clear-cutting or create, cause, or expand a gap in the trees forming the treetop line, when viewed from any point on any public roadway within the Town of Copake.
- (5) For purposes of this subdivision, “treetop line” shall mean a continuous line along the tops of trees, or the terrain where no trees are present, above the threshold elevations for development set forth in paragraph (2) and immediately above which sky is ordinarily visible, as seen from any perspective from any public roadway within the Town of Copake.
- (6) No development or clear-cutting shall be permitted above 800 feet above sea level within the SCOZ west of NY State Route 22 or above 1000 feet above sea level within the SCOZ east of NY State Route 22.

- (7) It shall be the parcel owner's burden to demonstrate compliance with this subdivision and the Planning Board may require a comprehensive visual impact analysis to ensure that any development or clear-cutting to be undertaken conforms to the visual requirements from all locations on all public roadways within the Town of Copake.
  - (8) If the size of a parcel or its topography, coupled with the ridgeline protection standards set forth herein, renders a parcel unbuildable or deprives the owner of any economically viable use of the subject parcel, the owner may apply to the Zoning Board of Appeals for a use variance. In the event of approval of such use variance by the Zoning Board of Appeals, the Planning Board may impose mitigation measures, including but not limited to screening, planting, regulation of lighting, regulation or specification of colors and materials of exterior structure surfaces, limiting the size, dimensions, and placement of buildings and structures, and restricting development to the lowest feasible elevation or the maximum feasible distance below the treetop line, to minimize impact to ensure that the protection standards and purposes of this subdivision and section are upheld to the maximum extent practicable.
  - (9) In the event of conflict between this subdivision and any other provision of this chapter, the more restrictive provision shall apply.
- L. Prevention of soil erosion. No site plan or subdivision plat shall be approved unless it includes stormwater runoff prevention and soil erosion and sediment control measures prepared in accordance with applicable statutes, rules, regulations and guidelines.
- M. Mitigation of impacts. All development subject to these regulations shall comply with the following measures, designed to mitigate the impact of structures, the clearing of vegetation, and regrading involved in the development:
- (1) Visual impact. All structures shall be sited to avoid, to the greatest extent practical, occupying or obstructing public views of land within the SCOZ. A visual environmental assessment form may be required to be submitted with the application. Public views shall be considered to be from any location listed on the SEQRA Visual Environmental Assessment Form Addendum (V-EAF) pursuant to 6 NYCRR 617.20 Appendix B. Visibility shall be measured using a condition of no leaves on trees. When appropriate, the planning board may require more extensive visual impact analysis as part of its application and/or SEQRA review of the project.
  - (2) Colors. Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominant colors on any wall or roof surface.
  - (3) Vegetation. Preserving site vegetation shall be in accordance with §232-19(C), provided that this section is not intended to limit forest management in the SCOZ when practiced in accordance with environmentally sound and sustainable silvicultural principles.
  - (4) Tree cutting shall be subject to the following:

- (a) All timber harvesting in the SCOZ shall comply with the most recent versions of Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State DEC, or successor or comparable guidance acceptable to the Planning Board. There may be situations where strict adherence to certain provisions of the Timber Harvesting Guidelines for New York and Best Management Practices are impossible or impractical to attain. Alternate measures exist that can be substituted for such guidelines at the discretion of the board in appropriate circumstances. In such cases, the planning board may grant a waiver from the strict application of the guidelines where reasonable and necessary.
- (b) Except in the underlying Mixed Use (MU) Zoning District, where the restrictions set forth below in this sub-paragraph shall not apply, clear-cutting of trees in any contiguous area in excess of 15,000 square feet shall be prohibited. Any areas not separated by a wooded buffer of at least fifty feet shall be deemed contiguous. The aggregate area, including non-contiguous areas, that may be clear-cut on any parcel shall not exceed 15,000 square feet or ten percent of the total area of the parcel, whichever is greater. Clear-cutting is defined as the removal of all trees or the removal of trees without regard to species, quality, age, or spacing, within any area of 2,500 square feet or more. Clear-cutting of trees for the purpose of constructing a single driveway providing vehicular access from a public or common roadway to the primary building on the parcel shall not be counted against the above area limits, provided the area cleared of trees for such driveway does not exceed twenty feet in width. Replanting of trees and/or shrubbery after construction may be required.
- (c) This subsection shall not apply to:
  - [1] Christmas and landscaping tree culture or other existing tree plantation.
  - [2] Harvests conducted in accordance with a timber harvesting plan prepared pursuant to § 480-a of the New York State Real Property Tax Law.
  - [3] Tree clearing for farm purposes within Agricultural Districts established pursuant to the New York State Agriculture and Markets Law.
  - [4] Severe natural disturbances, which include fire, insect infestation, disease, ice and wind.
  - [5] Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for windthrow due to factors such as soils, rooting depth, crown ratio, or stem quality.
  - [6] Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional, a New York State DEC Forester, a member of the New York Institute of Consulting Foresters, or a Cooperating Consultant Forester.

N. Referral. The Town of Copake's SCOZ contains significant wildlife habitats, including those frequented by endangered and threatened species. To receive assistance in its review

of applications, the planning board may refer the proposed plan to the New York State DEC, the New York Natural Heritage Program, or the Town of Copake Conservation Advisory Committee for its review and recommendations. The planning board may also refer the proposed plans for comment to any agency, commission, committee, board or officials of the Town, county, state or federal government as the board may deem appropriate.

- O. Waiver. The planning board may waive some or all of the regulatory and submission requirements of this section in the SCOZ upon a finding by the board of any of the following:
  - (1) The structure or area within the SCOZ is situated so that it does not create a significant visual impact when viewed from visually sensitive areas and from significant resources within the Town. To determine if there is no significant visual impact the planning board may require the applicant to complete a Visual Environmental Assessment Form.
  - (2) The proposed project is of a minor nature and is consistent with the design standards set forth herein.
  
- P. Existing uses and structures. Any use prohibited by subdivision C of this section or structure prohibited by this section, which lawfully existed as of July 15, 2018, shall be permitted to continue as a nonconforming use or structure subject to all provisions of this chapter applicable to nonconforming uses and structures, and any use which lawfully existed as of July 15, 2018, and which is permitted in the underlying zoning district upon issuance of a site plan approval or special use permit, may continue, provided that any modification, expansion, or extension of such use or structure shall be subject to the requirements of this section except as waived pursuant to subdivision M, and no modification, expansion, or extension of such use, or of such nonconforming use or structure, to the extent such may be permitted by the Town Code or by issuance of a variance, shall be permitted except in conformity with this section in addition to any other applicable requirements of this chapter. Any mining operation which lawfully exists as of July 15, 2018 and which has been issued a mined land reclamation permit from the DEC may continue to operate as a nonconforming use even if renewed permits are required from the 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 nonconforming mine beyond the mine boundaries, or at greater depths or excavation, than that shown on such approved and filed plans with DEC as of July 15, 2018 shall be a prohibited use.

#### § 4. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to

be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

§ 5. Effective Date.

This law shall become effective upon filing with the Secretary of State.