

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~City~~ of Hillsdale  
Town  
~~Village~~

Local Law No. 6 of the year 2007

A local law Amending the Town of Hillsdale Zoning Law Establishing a Ridgeline Overlay District;  
(Insert Title)  
Enacting Section 5.4 (Ridgeline Protection and Clear-Cutting Regulation) to the Zoning  
Law; Amending Section 8.5 (Steep Slope Regulations); Section 8.12-5 (Driveway  
Requirements); and Amending Section 14.2 (Definitions) of the Town Zoning Law.

Be it enacted by the Town Board of the

~~County~~  
~~City~~ of Hillsdale as follows:  
Town  
~~Village~~

**Section 1.**

The Town of Hillsdale Zoning Law is hereby amended to establish a new Section 5.4 as follows:

**Section 5.4-1 Ridgeline Regulation.**

- A. Findings and Purposes. Special protection of highly visible ridgeline areas is necessary to preserve the attractive rural quality of the Town. The purpose of this section is to protect the Town’s scenic beauty and rural character by regulating land use within the Ridgeline Overlay District. This section is intended to afford special protection to those sections of ridgeline areas having an elevation greater than 1100 feet above sea level. In particular, it is intended to limit alterations of ridgelines from development, including clear-cutting, to ensure that such development is harmonious with the existing characteristics of these areas through the use of existing review procedures under the Town Zoning Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- B. Ridgeline Overlay District defined. The ridgeline areas to which these regulations apply shall be all areas of the Town having an elevation of 1100 feet or more above sea level, as shown on the ridgeline overlay map.
- C. Ridgeline regulation effect on land uses.
  - 1. Within the Ridgeline Overlay District, all of the underlying land use district regulations shall remain in effect, except as they are specifically modified by this section. In case of conflict between this section and any other section of the Zoning Law, this section shall control.
  - 2. The site plan approval standard and provisions of this section shall be complied with in the course of any otherwise required site plan or special permit approval, subdivision approval, variance proceeding, or zoning amendment (collectively referred to as a “development application”), and for all applications for building permits for properties located in the Ridgeline Overlay District. Where no other reviews apply, the provision of this subsection shall be implemented by site plan approval conducted pursuant to Chapter 7.
  - 3. Within the Ridgeline Overlay District, no structures, other than those used for single family residential and agricultural uses, and customary accessory structures for such uses, may have a footprint area greater than 3,000 sq. ft. The intent of this provision shall not be evaded through the placement of multiple large buildings on the same site or otherwise in a pattern that is inconsistent with the scale and character of the Town.
  - 4. In the case of subdivision approvals in the Ridgeline Overlay District, the Planning Board may require applicants to submit flexible lot subdivisions that preserve undeveloped land that is within the Ridgeline Overlay District to the maximum extent practical, as provided in Section 4.4-7.
  - 5. Building permits in the Ridgeline Overlay District shall be issued in two stages:
    - A. Stage One permits shall cover the construction of access roads, site clearance (including removal of trees and other vegetation), grading, and provisions for drainage and erosion control;
    - B. Stage Two permits shall be for the construction of driveways, buildings and other improvements including final grading and required landscaping.
- D. Site plan approval requirement. Within the Ridgeline Overlay District, site plan

approval by the Planning Board, pursuant to Chapter 7, shall be required for the following activities or uses, even if such activities or uses are allowed by right without site plan approval by the use table in section 3.2 (for example, the construction of a dwelling upon an existing lot):

1. Construction of any structure or any addition to a structure greater than 500 sq. ft. in footprint area, including residential and residential accessory structures.
  2. In any location within the Ridgeline Overlay District;
    - i. Filling or excavation of an area in excess of 5,000 sq. ft.;
    - ii. Clear-cutting;
    - iii. Grading or other alteration of more than 5,000 sq. ft. of the natural landscape, including construction of roads and driveways.
- E. Site plan approval exemptions. Within the Ridgeline Overlay District, site plan approval requirement shall not apply to:
1. Agricultural uses, except for agricultural structures with a footprint exceeding 15,000 sq. ft.;
  2. Repair and maintenance of existing structures;
  3. Activities carried out pursuant to a site plan or special permit approved subsequent to the enactment of this Section 5.4 of the Zoning Law, (but not a subdivision) approved prior to the enactment of this section;
  4. Clear-cutting, thinning of vegetation, and grading associated with construction of unpaved hiking trails, not exceeding 4 ft. in width.

In addition to the above exemptions, if the Planning Board determines that the proposed development will not be visible from a publicly accessible road, it shall pass a resolution declaring the project exempt from review under this section 5.4-1.

- F. Additional submission and conservation analysis requirements for Ridgeline Overlay District. In addition to the otherwise applicable submission requirements for development applications, within the Ridgeline Overlay District the following additional information shall be submitted:
1. Visual Environmental Assessment Form (visual EAF addendum) or other visual assessment analysis in order to assist the reviewing board in assessing

the visual impact.

2. A conservation analysis consisting of inventory maps, description of the land and an analysis of the conservation value of various site features. Applicants are encouraged to consult with appropriate agencies such as the Columbia Land Conservancy and the Columbia County Soil and Water Conservation District when preparing a conservation analysis. The Planning Board may waive some of the requirements below for portions of the property where no development is proposed or the collection of information listed below would be unreasonably burdensome to the property owner. The Planning Board may also waive any requirements that are deemed unnecessary for a complete conservation analysis. The conservation analysis shall normally show the following:
  - i. Wetlands, water courses, slopes between 15% and 25%, and slopes over 25%;
  - ii. Scenic viewsheds;
  - iii. Buffer areas necessary for screening new development from adjoining parcel;
  - iv. Stonewalls and individual trees that are 18 inch diameter at breast height (dbh) or larger;
  - v. Mapped areas of significant habitat based upon available mapping for biodiversity habitat values;
  - vi. The location of all existing vegetation by general vegetation type as well as the identification of all vegetation proposed for thinning or clearing in connection with a development application including identification of vegetation to remain after such thinning or clearing.
3. Conservation analysis shall describe the importance and the current and potential conservation value of all land on the site identified in (2) above. In the course of pre-application conferences and initial review, the reviewing Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.
4. The outcome of the conservation analysis in the Board's determination shall be incorporated into any subdivision or site plan, showing land permanently preserved by conservation easement (if applicable) as well as recommended conservation uses, ownership, and management guidelines for such land. Such land shall also show preferred locations for intensive development as

well as acceptable location(s) for less dense development. The Planning Board may designate specific building envelope(s) within which site clearing and building must occur.

- G. General standards. Within the Ridgeline Overlay District, special permit, site plan, variance, and/or subdivision approval may only be granted if, with appropriate conditions attached, the proposed activity or development:
1. Will not result in a degradation of scenic character and will be aesthetically compatible with its surroundings, based on a Visual Environmental Assessment Form (Visual EAF Addendum) or other visual impact analysis sufficient to make this determination.
  2. Will minimize the removal of native vegetation including the opening up of scenic views and panoramas for the benefit of a private property owner.
  3. Will locate and cluster buildings and other structures in a manner that minimizes their visibility from a public road.
  4. Will be at least 40 feet below the Crest Line of any ridge and will not disturb the continuity of the treeline when viewed from any publicly accessible road. As used herein, "Crest Line" means the tops of trees as seen from any publicly accessible road or, if there are not trees, the natural ground elevation of the land. The only portions of a structure that may project higher than 40 feet below the crest line shall be a chimney, satellite dish, antenna, or cupola, which shall not be higher than 30 feet below the crest line.
  5. Will not result in clearing a building site area greater than 20,000 sq. ft., including accessory structures (see Section 4.7-2) and parking areas, but excluding the area required for driveway and utility access. This building site area shall be designated on the approved plan by a "building envelope(s)", and all buildings and parking areas shall be located within the building envelope(s), except where additional clearing is required by the County Health Department for siting a subsurface sewage disposal system. Clearing for such disposal system shall occur, to the maximum extent practical, where it will not detract from the visual protection purposes of this section.
- H. Agricultural District Farm Operations. Nothing contained in this Ridgeline Regulation is intended to unreasonably restrict or regulate farm operations within agricultural districts in contravention of Article 25-AA of the New York State Agriculture & Markets Law, unless it can be shown that public health or safety is threatened.

**Section 5.4-2 Clear-cutting Regulation.**

- A. Clear-cutting or thinning of trees or other vegetation shall be prohibited in any location where such clear-cutting will disturb the continuity of the treeline of a Ridgeline Overlay District.
  
- B. Clear-cutting or thinning of trees or other vegetation in the Ridgeline Overlay District which does not disturb a tree line but is visible from a public road, shall be allowed only upon site plan approval of the Planning Board, provided that:
  - 1. Such activities minimize clear-cutting and comply with the most recent versions of Timber Harvesting Guidelines for New York and Best Management Practices, as promulgated by the New York State Department of Environmental Conservation (DEC) and available from the Town's Building Department; and/or
  
  - 2. Such cutting is part of a forest management or wildlife habitat improvement plan prepared by a DEC certified forester and approved by DEC or other professional or organization deemed acceptable by the Planning Board, and/or for which a separate logging permit has been issued by the Town of Hillsdale; and/or
  
  - 3. Such cutting is part of a bona fide agricultural activity including, but not limited to, Christmas tree farm operations; and/or
  
  - 4. Such cutting is necessary to prevent an imminent threat to life, public safety, or property; and/or
  
  - 5. Such cutting is necessary to minimize or repair damage arising from severe natural occurrences, such as ice, fire, and wind damage.

**Section 5.4-3 Balloon Testing.**

In connection with its review of an application within the Ridgeline Overlay District, the Planning Board may require the applicant to conduct a balloon test. The purpose of such test is to determine whether or not a proposed structure, clearcut, or other activity which will project above or interrupt the continuity of a crest line or treeline as described above, or otherwise adversely affect scenic quality.

**Section 5.4-4 Remediation of Illegal Clear-Cutting.**

Where clear-cutting of vegetation in excess of what is permitted under Section 5.4 without approval has occurred for a site proposed for development prior to the submission of a development

application, such clear-cutting shall be deemed a violation of Section 5.4-2, and the property owner shall be subject to all applicable penalties under Section 10.4. In addition, the landowner may be required by the Zoning Officer or Town Board to restore the landscape to its prior condition to the maximum extent feasible by planting appropriate vegetation on the site. Such action may be taken pursuant to authority of Section 10.4-4. No building permit shall be granted for construction of any structure on such property for a minimum of five (5) years after the violation is discovered to have occurred, unless the landscape has been restored to the satisfaction of the Planning Board. A violation of Section 5.4-2 occurring during stage one of a building permit for construction in the Ridgeline Overlay District will result in the denial of a stage two building permit for the project. A violation of Section 5.4-2 occurring during stage two of a building permit for construction in the Ridgeline Overlay District will result in a suspension of such building permit and/or the denial of a Certificate of Occupancy for the construction project.

## **Section 2.**

Section 8.5 Steep Slope Regulations, is hereby amended to read as follows:

### **8.5 Steep Slope Regulations**

The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding fifteen percent (15%).

8.5-1 No approval of a subdivision, Special Permit, Site Plan, Building Permit, or Variance that involves the disturbance of slopes greater than fifteen percent (15%) shall be granted unless conditions are attached to ensure that:

- a. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction. Erosion control and storm water management measures shall comply with all applicable standards and guidelines of federal and state agencies.
- b. Cutting of trees, shrubs, and other natural, non-nuisance vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation. Clearing for any building site, including accessory structures and parking areas, but excluding the area required for driveway and utility access, shall not exceed 20,000 square feet of area with a 15% or greater slope.
- c. Safety hazards will not be created due to excessive road or driveway grades

or due to potential subsidence, road washouts, landslides, flooding, or avalanches.

- d. Proper engineering review of plans and construction activities will be conducted by the Town to ensure compliance with this Section, paid for by escrow deposits paid by the applicant.
- e. If the land lies within the Ridgeline Overlay District, the proposal will comply with all requirements of Section 5.4.
- f. No Certificate of Occupancy will be granted until all erosion control and drainage measures required pursuant to this Section have been satisfactorily completed.

8.5-2 No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of twenty-five percent (25%) or greater, except as may be needed for foot trails and utility lines, and except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.

8.5-3 Slope determinations shall be made based upon topographic information required for a particular approval, along with such other topographic information as a reviewing Board or official shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, an engineer retained by the Town, at the applicant's expense, shall determine the location of regulated slopes. For purposes of determining the location of steep slope areas, only contiguous slopes containing at least 5,000 square feet of steep slopes, as defined above, shall be considered. Within the HM District, contiguous slopes containing at least 1,500 square feet shall be considered.

### **Section 3.**

**Section 8.12-5** Driveway Requirements, is hereby amended to read as follows:

#### **8.12-5 Driveway Requirements**

- a. For reasons of traffic and pedestrian safety, as well as to provide for possible future road widening or other improvements, all new driveways entering onto any street shall comply with the requirements of this Section, and shall be subject to the approval of the Town Highway Superintendent. Where such driveways are part of a subdivision application or Site Plan approval, they shall also be subject to Planning Board approval.

- b. In the RU District, no driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two (2) street centerlines.
- c. Driveway Grades
  - 1. The maximum grade for any new driveway accessory to a single-family dwelling and connecting its off-street parking area to a road shall not exceed ten percent (10%) between the street and the front setback line, except where it can be demonstrated to the satisfaction of the reviewing Board or official that, because of practical difficulty or unreasonable hardship affecting a particular property, the construction of such a driveway is unfeasible. In such a circumstance, a steeper grade may be approved, provided that the increase in driveway grade is the minimum increase necessary to provide access.
  - 2. The maximum grade for new driveways accessory to uses other than single-family dwellings and connecting the required off-street parking area to the road shall not exceed seven percent (7%), except that the reviewing Board or official may permit increased grades as in Subsection 8.12-5(c)(1) above, provided that such grades shall not exceed ten percent (10%).
  - 3. Notwithstanding the maximum permitted grades specified above, no driveway shall have a platform grade in excess of three percent (3%) within thirty (30) feet of the edge of the pavement or traveled way, or within twenty-five (25) feet of the property line of the road, whichever is greater. The Planning Board may require a greater distance in situations where, because of the nature of the proposed use, substantial traffic volumes and/or truck usage are anticipated.
  - 4. Clear sight lines shall be provided and maintained in both directions at all exit points so that the driver of an automobile stopped on the platform portion of any new driveway will have an unobstructed view of the highway for a reasonable distance, commensurate with the speed and volume of traffic on the highway, but not less than three hundred (300) feet, and so that there is a similar view of the automobile in the driveway.
- d. Shared driveways may be permitted to serve up to four (4) residences. If the road frontage is not physically suited to driveway use, driveway maintenance agreements satisfactory to the Town and its reviewing attorney must be recorded in the Columbia County Clerk's Office as a condition of any driveway, Site Plan, Special Permit, or subdivision plan approval.
- e. Driveways shall minimize erosion and comply with applicable state and federal erosion control requirements and guidelines for best management practices.

- f. Construction of driveways on slopes ten percent or greater shall require an adequate stormwater drainage system to minimize erosion and sedimentation to the maximum extent possible both during and after construction. In order to receive a permit for such driveways, the applicant shall submit engineering data prepared by a Professional Engineer, licensed by the State of New York, that meets the following standards:
  - i. Sediment in the runoff water both during and after construction shall be trapped by the use of sediment basins or other acceptable methods until the disturbed area is stabilized.
  - ii. The storm-drainage system and culvert capacity shall be based on a design flow with a minimum return interval of a ten year/24 hour storm.
  - iii. No new drainageways will be created and no additional runoff will be directed to adjacent properties unless necessary easements are obtained.
- g. Driveway access on to Town, County, or State roads shall not create a traffic hazard.
- h. Additional driveway design details shall conform to any separately enacted Town driveway standards.

#### **Section 4.**

#### **Section 14-2 Definitions.**

Is hereby revised by adding or amending the following definitions:

**Buildable Land:** That portion of a lot which is suitable for building structures and locating septic disposal facilities, excluding wetlands and water courses, slopes exceeding twenty percent (20%), and flood hazard areas as mapped on the Federal Emergency Management Agency's Flood Insurance Rate Map.

**Clear-Cutting:** The cutting of more than 50% of trees of 6 inch or more in diameter at breast height over a 2,000 sq. foot area of land.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as mining dredging, filling, paving, excavating, grating, clear-cutting, or drilling operations.

**Section 5. Adoption of Amendment to Zoning Map**

The Town of Hillsdale Zoning Map is hereby amended to add the Ridgeline Overlay District as shown on the map being adopted simultaneously with the enactment of this Local Law.

**Section 6. Conflict of Laws.**

Pursuant to the powers granted by the Municipal Home Rule Law, this Local Law supersedes all provisions of Article 16 of the Town Law pertaining to zoning and planning, and such other statutes, laws, or regulations, which are inconsistent with the provisions of this Local Law, which statutes, laws, and regulations are hereby superseded to the extent necessary to give full force and effect to this Local Law.

**Section 7. Severability Clause.**

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section of this Local Law.

**Section 8. Effective Date.**

This Local Law shall be published and posted in the manner required by Town Law, and shall take effect as provided by Town Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2007 of the ~~(County)~~(City)(Town)(Village) of Hillsdale was duly passed by the Town Board on June 1, 2007, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_, and (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, \_\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_, and (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, \_\_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

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**\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of \_\_\_\_\_ of the City

of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, \_\_\_\_\_ became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

**RUTH DODDS, Town Clerk**

(Seal)

Date: June 5, 2007

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF COLUMBIA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Signature Nelson R. Alford, Jr.  
Town Attorney  
Title

County  
City  
Town of Hillsdale  
Village

Date: June 5, 2007