

**Amendment to the Zoning Ordinance of the Town of Ancram, New York**

The “Zoning Ordinance of the Town of Ancram, New York,” is hereby amended by deleting in its entirety old Section V(I) entitled “Residential Cluster Development” and substituting in lieu thereof the following new section which shall be designated Section V, Sub-section I and entitled “Open Space Conservation Subdivisions”.

**I. OPEN SPACE CONSERVATION SUBDIVISIONS**

**1. PURPOSES**

- a. A purpose of this section is, through regulation of the subdivision of land, to plan for the orderly, economic, aesthetic, environmentally sound and efficient development of the Town consistent with its community character and the continuing needs of its people for conservation of natural and cultural resources, quality residential building sites and enjoyable open space. The Town of Ancram is home to important agricultural lands, significant scenic viewsheds, historic architecture, natural beauty, and rural landscapes. This section has been carefully designed in recognition of the need to protect such resources as part of the land development process.
  
- b. A purpose of this section of the Zoning Ordinance is to uphold the Town of Ancram Comprehensive Plan and achieve the following goals and policies of the Comprehensive Plan:
  - (1) To conserve open land, including those areas containing unique and sensitive natural features such as but not limited to steep slopes, streams, stream sides, vernal pools, floodplains, and wetlands, by setting them aside from development.
  
  - (2) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads and the amount of paving required.
  
  - (3) To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
  
  - (4) To conserve a variety of resource lands as established in the Town of Ancram Comprehensive Plan.
  
  - (5) To protect agricultural areas by conserving blocks of land large enough for continued agricultural operations.

- (6) To create neighborhoods with direct visual or physical access to open land and that have strong neighborhood identity that is consistent with the rural character of Ancram.
  - (7) To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.
  - (8) To protect and conserve elements of the Town's rural character.
- c. It is a purpose of this section to supplement the Town of Ancram Land Subdivision Regulations so that, when applied together, this section of the Zoning Ordinance and the Land Subdivision Regulations can better achieve the purposes set forth above.

## **2. APPLICABILITY**

- a. This sub-section of the Zoning Ordinance shall apply to all "major subdivisions" in accordance with the definition of that term in the Zoning Ordinance and all major subdivisions shall be designed as an open space conservation subdivision in accordance with the requirements and provisions of this ordinance.
- b. In their interpretation and application, the provisions of this section of the Zoning Ordinance shall be held to be minimum requirements. In approving an Open Space Conservation Subdivision, the Planning Board has the authority to impose such additional conditions and restrictions as are directly related to the proposed subdivision and protection of resources.

## **3. COMPLIANCE WITH OTHER LAWS**

This section of the Zoning Ordinance shall function as the site plan review process for major subdivisions. In addition to compliance with this sub-section, major subdivisions shall also comply with all of the applicable provisions of the Town of Ancram Subdivision and Site Plan Regulations. Should the requirements of this section conflict with, or otherwise be inconsistent with, any provision of the Town of Ancram Land Subdivision Regulations and the Site Plan Regulations, the provisions of this section shall prevail. In further addition, no major subdivision application shall be approved pursuant to this law without full compliance with the State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617).

## **4. PROCEDURES AND INTEGRATION**

Site plan review of major subdivisions under this section, and subdivision review pursuant to the Town of Ancram Land Subdivision Regulations each carries its own respective procedures. Whenever the circumstances of a proposed development or application requires compliance with this Open Space Conservation Subdivisions sub-section, the Town of Ancram Land Subdivision Regulations and/or with any other local

law, ordinance or requirement of the Town, to the extent reasonably practicable, the Planning Board shall integrate or run in parallel as many of the applicable procedures and submission requirements as is reasonably practicable so as not to delay review and decision-making.

## **5. DIMENSIONAL STANDARDS**

The permitted number of dwelling units in an open space conservation subdivision shall not exceed the number of units that would be permitted according to the density requirements of the Town of Ancram Density Control Schedule [Section IV (B)], except when a density bonus has been granted by the Town Board. The Planning Board shall allow alteration of lot dimensions within an open space conservation subdivision in order to properly accomplish the purposes of the Town of Ancram Comprehensive Plan and this ordinance to preserve the maximum amount of open space when a major subdivision is planned. Lots shall be arranged in a way that preserves open space, agriculture, and promotes land conservation as described in this section.

- a. A major subdivision must preserve at least sixty percent (60%) of the parcel's acreage as open space land.
- b. Minimum street frontage per lot shall be twenty five (25) feet.
- c. Minimum lot size. The minimum lot size in major subdivisions where individual wells and septic systems are required shall be equal to that required by the Columbia County Department of Health to meet standards for water and septic system approvals. For lots in major subdivisions that do not need individual well and septic systems, the minimum lot size shall be fifteen thousand (15,000) square feet, on average. Up to twenty percent (20%) of the lots may be reduced to a minimum of ten thousand (10,000) square feet.
- d. Maximum impervious surface shall be thirty (30%) on each lot.
- e. Maximum height of any building or structure to be placed on a lot shall be thirty-five (35) feet.
- f. Setbacks from cropland or pasture land shall be one hundred (100) feet. The setback from barnyards housing livestock shall be three hundred (300) feet.
- g. Stream setbacks. There shall be a minimum 25' undisturbed vegetated buffer along all streams. If native vegetation is not present within the minimum 25' streamside vegetated buffer areas, then a planting plan to establish native vegetation, preferably trees, to create a vegetated buffer is required. There shall be a 100' buffer established along all streams, wetlands, vernal pools and other hydrologically sensitive areas where there shall be no structure, soil removal or disturbance, clearing, filling or vegetation disturbance. In areas such as, but not limited to the Drowned Lands Swamp, the Planning Board may require a buffer in excess of 100'.

## 6. SKETCH PLAN AND SITE ANALYSIS

- a. All requirements and procedures of the Town of Ancram Land Subdivision Regulations Article III, Section 1 (Sketch Plan) shall be followed in addition to this section.
- b. Sketch Plan. In addition to requirements for a sketch plan of Article III, Section 1 of the Town of Ancram Land Subdivision Regulations, the following additional information shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed major subdivision. The Planning Board shall evaluate the proposed subdivision during the sketch meeting. The Planning Board shall determine whether the Sketch Plan meets the purposes of this section. Complete and complex engineered plans and architectural drawings are premature and not required at this phase. The sketch plan shall contain:
  - (1) The subdivision name or title, if any; the scale, which shall be no less than one (1) inch equals one hundred (100) feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."
  - (2) The subdivision boundaries and the owners of all contiguous properties.
  - (3) The zoning classification and tax map number(s) of the property to be subdivided.
  - (4) The total acreage of the subdivision and the proposed number and locations of lots. Lots shall be generally located using the four-step design process of Section V(I)(7) of this ordinance.
  - (5) All existing streets, either mapped or built, adjacent to the tract.
  - (6) All existing restrictions on the use of land, including easements and covenants, if any.
  - (7) All existing structures, general location of agricultural fields and wooded areas, watercourses, and other significant physical features of the parcel and within two hundred (200) feet of the parcel boundaries.
  - (8) If applicable, the location and required setbacks, if any, as may be required by this Ordinance, the Town of Ancram Floodplain Law, or State or Federal laws from watercourses, wetlands, and floodplains.
  - (9) Site Analysis. The following site analysis shall be submitted by the applicant pursuant to this ordinance in addition to requirements of Article III, Section 1 of the Town of Ancram Land Subdivision Regulations. A site analysis shall include an identification of primary and secondary conservation lands within a parcel(s), as described in Section V(I)(6) and (14) of this ordinance. The site analysis shall

include a Site Analysis Map that includes the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs. The applicant shall review all Ancram maps, plans and studies including but not limited to the Comprehensive Plan, the Biodiversity Map, and the DEC Ancram Habitat Summary in conducting its site analysis. The applicant may obtain advice and assistance from an accredited land trust or environmental organization when preparing the site analysis. The site analysis is not intended to be a highly engineered or exact document, but a general sketch and description illustrating the location and type of environmental features that are present on the site including:

- a. Areas having slopes of fifteen percent (15%) or greater.
- b. Wetlands, vernal pools, areas of hydrological sensitivity including but not limited to aquifer and aquifer recharge areas, municipal water supply recharge areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any. The Site Analysis Map shall delineate the 100' required stream buffer and the minimum 25' required streamside vegetated buffer.
- c. Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, soils classified as being prime farmland or soils of statewide significance, if any, and the Land Prioritization Score found on the Town of Ancram Farmland Prioritization Map.
- d. Sites where community sewer, community water, or community water and sewer are available or planned, if any.
- e. Lands within, or contiguous to, a Critical Environmental Area designated pursuant to Article 8 of the New York State Environmental Conservation Law, if any.
- f. Lands contiguous to publicly owned or designated open space areas, or privately preserved open spaces, if any.
- g. Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.
- h. Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, if any, or sites within the Town of Ancram Scenic Overlay.
- i. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological

- formations, if any. This shall include a description of the biodiversity assessment methods used, site –specific habitat descriptions, discussion of biodiversity implications and alternatives, if needed, to minimize disturbance to sensitive habitats and species.
- j. General description and locations of the vegetative cover on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and showing the actual line of existing trees and woodlands.
  - k. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town’s Comprehensive Plan, if any.
  - l. Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
  - m. Ridgelines on the property. If the Town has defined and mapped the ridgelines, then the ridgelines shall be shown as depicted on the Town map.
  - n. Location of all existing streets, roads, buildings, utilities and other man-made improvements.
  - o. All easements and other encumbrances of property which are or have been filed of record with the Columbia County Clerk’s Office.
  - p. In addition to compliance with the requirements of this law, all other procedures and requirements of the Town of Ancram Land Subdivision Regulations related to Preliminary and Final Plat Approvals shall be followed. The Planning Board shall refer the Sketch Plan to the Ancram Conservation Advisory Council for review and an advisory opinion about the completeness of the Sketch Plan and the potential effects the subdivision may have on the environment.

## **7. SITE DESIGN OF MAJOR SUBDIVISIONS**

- a. Subsequent to the Sketch Plan meeting and submission of the site analysis, a preliminary plat shall be developed pursuant to Article III, Section 3, of the Ancram Land Subdivision Regulations. The submission requirements for a Preliminary Plat include the site analysis and the submission requirements pursuant to both this section and the Town of Ancram Land Subdivision Regulations.
- b. All preliminary plans in a major subdivision shall include documentation of the following four-step design process in determining the layout of proposed conserved lands, house sites, roads, and lot lines. Applicants may be required to

submit four separate sketch maps indicating the findings of each step of the design process if so required by the Planning Board:

- c. Step 1. Delineate Open Space Areas. Proposed open space areas shall be designated as follows:
  - (1) Primary Conservation Areas shall be delineated and designated on a map. House lots shall not encroach upon Primary Conservation areas.
  - (2) Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated on the basis of those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.
  - (3) The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.
- d. Step 2. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
- e. Step 3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Zoning Ordinance and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All applicable requirements of the Town of Ancram Highway Law shall be met.
- f. Step 4. Draw Lot Lines. Upon completion of the preceding steps, lot lines are

then drawn as required to delineate the boundaries of individual residential lots.

- g. Alternate Design Process. The Planning Board is authorized to require use of traditional neighborhood design (TND) if such layout is appropriate for the parcel proposed to be developed and if it will result in a more effective open space design. For those subdivisions designed to be a TND, the design process shall be a variation on a conservation subdivision outlined in this ordinance. Just as with non-TND developments, the first step is to identify open space lands, including both Primary and Secondary Conservation Areas. However, in TND's, where traditional streetscape is of greater importance, steps 2 and 3 in Subsections V(l)(7)(d) and V(l)(7)(e) above may be reversed, so that streets and squares are located before house sites specified. TND's typically have higher density of development, reduced lot sizes, narrow front setbacks, narrow streets, sidewalks, and have a clear demarcation between built and unbuilt lands at the edge of the neighborhood.

## **8. SITE DESIGN CRITERIA**

- a. Residential structures in a major subdivision should be located according to the following guidelines, which are listed in order of significance. If any of the guidelines below conflict with each other on a particular site, the Planning Board may use its discretion to resolve such conflicts. The lots, house sites, roads and other infrastructure in a proposed subdivision shall avoid or minimize adverse impacts by being designed:
  - (1) On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use.
  - (2) Away from the boundaries of any farm preserved with a conservation easement or other permanent protection, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm.
  - (3) So that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses.
  - (4) To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
  - (5) To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Native vegetation shall be maintained to create a buffer of at least 25' and no other disturbance shall take place within 100' of wetlands and surface waters, including creeks, streams, vernal pools, springs and ponds.

- (6) All grading and earthmoving on slopes greater than fifteen percent (15%) shall be minimized and shall only be to create a house site, driveway and area for a septic system. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
- (7) To avoid disturbing existing cultural and scenic features. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-vegetated buffer is recommended along the road where those views or vistas are prominent or locally significant.
- (8) To be as visually inconspicuous as practicable when seen from state, county and local roads, and in particular, from designated scenic routes. The subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties. Preservation shall include ground, shrub, understory and canopy vegetation.
- (9) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads. House lots shall generally be accessed from interior streets, rather than from roads bordering the parcel. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- (10) On suitable soils for subsurface sewage disposal (where applicable).
- (11) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to enable new residential development to be visually absorbed by the natural landscape.
- (12) Around and so as to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
- (13) To protect biodiversity and wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation, or critical habitats listed on the DEC Ancram Habitat Summary or the Ancram Biodiversity Map.

b. Open space standards:

- (1) The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practicable such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
- (2) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands, vernal pools, and their associated upland habitats.
- (3) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the parcel.
- (4) Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation and to create a critical mass of land either available for agriculture or left in a natural state.
- (5) Open space lands shall be designated as one or more individual conservation lots owned in common, or designated and included as part of one or more house lots. A portion of any house lot five (5) acres or more in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use shall be restricted to open space such as undisturbed wildlife habitat, managed agricultural field, or managed forest, and that prevents development of, or use as, a mowed lawn on that portion of the parcel, and that is contiguous to other lands to form unfragmented open spaces. Any house lot less than five (5) acres does not qualify as contributing to open space.
- (6) Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be included in the preserved open space lands.
- (7) The required open space may be used for community septic systems.
- (8) Stormwater management ponds or basins and lands within the rights-of-way

for underground utilities may be included as part of the minimum required open space.

(9) Recreation lands such as ball fields, golf courses, and parks. shall not be considered part of the required open space unless such land is open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of Ancram Land Subdivision Regulations.

(10) Open space shall be directly accessible or viewable from as many home sites as possible.

## **9. STREETS, DRIVEWAYS AND TRAILS**

- a. Common driveway access may be provided. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.
- b. New streets shall meet the Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of Ancram Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision.
- c. From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by ninety degree (90°) and one hundred thirty five degree (135°) bends are preferred in a more formal or traditional arrangement.
- d. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
- e. Use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii [at least two hundred fifty (250) feet] and where traffic speeds will not exceed thirty (30) mph. Further, use of single-loaded streets is encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- f. Bike paths and other pedestrian trails are encouraged.

## **10. PROTECTION OF OPEN SPACE**

- a. All required open space shall be depicted and noted on the site plan as protected open space and restricted from further subdivision through one of the following

methods to be proposed by the applicant and approved by the Planning Board:

- (1) A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the enforcement responsibilities carried out by easement grantees, this is the preferred method of ensuring permanent protection.
- (2) A declaration of covenants or deed restriction, in a form acceptable to the Town, and recorded in the County Clerk's Office.
- (3) A fixed-term conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office.
- (4) A registry with the Planning Board and plat note. As part of the subdivision approval, the following shall be included:
  - a) An official register shall be established indicating
    1. a record of the size of the parent parcel being subdivided;
    2. the total number of lots and the total number of dwelling units approved as per the Town of Ancram Zoning Ordinance Density Control Schedule;
    3. specification of which lot or lots carry with them the right to erect or place any unused allocation of dwelling units the parent parcel may have; and
    4. which lands shall be reserved as open spaces and upon which no further allocation of dwelling units shall be made.
  - b) For subdivisions having an unused allocation of dwelling units, the official register shall be updated as development allotments are used up to reflect these changes.
  - c) The Planning Board shall require a plat note to be added to the final approved plat that includes all the information in section 10 (a) (4) (a).
  - d) The official register shall also be maintained by the Planning Board upon final approval of each subdivision and copies made available for inspection by the public.
- b. Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowner's association (HOA).
  - (1) Open space may also be dedicated to the Town, County or State governments, transferred to a qualified non-profit organization including a

land trust, or held by single or multiple private owners. The applicant shall provide proof that the receiving body agrees to accept the dedication.

- (2) The Town seeks to ensure long-term maintenance of privately-owned lots dedicated to open space. When open space lands are proposed to be privately owned on a lot dedicated for open space use, and such lands are not subject to a conservation easement or are not to be transferred to a qualified non-profit organization or municipality, such lands shall be owned by an HOA, or shall be designated as a house lot allowing only one residence. This house lot shall be considered part of, and not in addition to, the allowed density the parent parcel is eligible for. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
- (3) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
  - (a) If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs. The Planning Board shall find that the HOA documents satisfy the conditions above.
  - (b) The homeowners association shall be operating before the sale of any dwelling units in the development. The proposed homeowners association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law, and have an offering plan for the sale of lots in the subdivision approved by the New York State Department of Law, if required. In the event that the NYS Department of Law grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.
  - (c) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
  - (d) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.

- (e) The association shall have adequate resources to administer, maintain, and operate such common facilities.
- c. The conservation easement, declaration of covenants or deed restriction, or approved subdivision plan shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, restriction, or subdivision plan. Regardless of which method of protecting the required or designated open space is selected, the restriction shall be made a condition of the final plat approval.
- d. A conservation easement will be acceptable if:
  - (1) The conservation organization is acceptable to the Town and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
  - (2) The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.
  - (3) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
  - (4) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

## **11. MAINTENANCE STANDARDS**

- a. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
- b. Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Zoning Ordinance. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

## **12. SEWAGE TREATMENT SYSTEMS**

Sanitary sewage disposal systems, whether individual or community systems, may be located within, or extend into, required open space areas, provided that subsurface

sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities for those systems are clearly defined in agreements submitted for approval as part of the subdivision application. Applications shall be approved that provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.

### **13. FUTURE SUBDIVISIONS**

When an applicant includes only a portion of landowner's entire parcel, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

### **14. DEFINITIONS**

When used in this Ordinance, unless otherwise expressly stated, the following definitions shall apply:

**Access:** entrance way for vehicles or pedestrians to leave or enter a property or lot from a public highway or private road.

**Agriculture:** the production, keeping, or maintenance, for sale, lease or personal use, of plants and animals including but not limited to forages, grains and seed crops, dairy animals, poultry, livestock including but not limited to fish, beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals, bees and apiary products, fur animals, fruits, vegetables, nursery, greenhouse, or flowers.

**Applicant:** the person(s), corporation, agency, or other legal entity responsible for submitting a subdivision, site plan or special use application for review and approval by the Planning Board. It also includes those entities seeking building permits; certificates of occupancy; variances; subdivision approval; or zoning amendment.

**Biodiversity:** Means the full range of variety and variability within and among living organisms and the ecological complexes in which they occur, and encompasses ecosystem or community diversity, species diversity, and genetic diversity

**Biodiversity Map:** A map prepared by the Town of Ancram that locates the habitats or places where a particular species or group of species occurs, or is likely to occur, and includes both biological and non-biological features.

**Buffer Area:** An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties. See also stream buffer and streamside vegetated buffer.

**Building Envelope:** The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes lands where the building, driveway, parking lot, and any lands disturbed for water well and septic system areas shall be located.

**Code Enforcement Officer:** the officer appointed by the Town Board to enforce local laws and codes other than the zoning ordinance.

**Comprehensive Plan:** a document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's vision, goals, and conditions, and applying a general policy to obtain a uniform result and adopted pursuant to New York State Town Law Section 272-a.

**Conservation Easement:** a grant of a property right stipulating that the described land will remain in its natural or agricultural state and precluding future or additional development.

**Critical Environmental Area:** a specific geographic area designed by the Town of Ancram pursuant to the New York State Environmental Quality Review Act (6 NYCRR Part 617), having exceptional or unique characteristics that make the area environmentally important.

**Cul-de-sac:** a road with a designated turn-around area for vehicles.

**DEC Ancram Habitat Summary:** An analysis of important wildlife habitats in the Town of Ancram prepared by the New York State Department of Environmental Conservation.

**Density:** the number of residential dwelling units allowed per acre. It is not the same as minimum lot size.

**Density Bonus:** an increase in the allowable density that a parcel can have if an amenity desired by the Town such as preserved open space, a scenic view, or public access is provided for within a development.

**Density Control Schedule:** Standards in the Town of Ancram Zoning Ordinance that establish the maximum level of development allowed per acre in each zoning district.

**Drainage:** a system of swales, ditches, and culverts, catch-basins, and piping to convey storm-water runoff.

**Driveway:** an entrance drive that leads to a single principal use privately-owned and maintained, and not meant for use by the general public.

**Fixed-Term Conservation Easement:** a temporary grant of a property right stipulating that the described land will remain in its natural or agricultural state and precluding future or additional development for a period of at least 25 years. If, at the end of the term easement, all potential lots allocated at the time of approval have been created, no further subdivision of lands on that parcel shall be allowed unless the zoning ordinance has been changed to allow for additional development.

**Floodplain or Flood Prone Area:** a land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded.

**Frontage:** that part of a property bounded by either a public or private road.

**Grading:** the leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking lots.

**Hamlet:** a populated area within a town that is not part of an incorporated village. Characterized by more densely situated homes and sometimes, small businesses, surrounded by area farms and open space.

**Homeowner's Association:** an organization of homeowners residing within a particular development whose major purpose is to manage, preserve, fund, repair and maintain common areas and infrastructure for the benefit of the property owners who are members of the association.

**Impervious Surface:** any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

**Important Aesthetic Features:** denotes elements of architecture and landscape that have been identified by the community as significant to the local quality of life and sense of place. They may be specific elements such as structures, scenic roads, parks, waterways, crossroads, and stone walls; or they may be more diffuse resources such as open spaces, formal/informal historic districts, and scenic views. These can include historic structures and landscapes, country roads, agricultural fields and operations, views of hills and mountains, streams and wetlands, and the hamlet areas.

**Maintenance Agreement:** a legally binding, written contract, intended for recording in the County Clerk's office and which provides for private long-term maintenance of infrastructure items such as private roads, driveways, storm water management systems and common open space.

**Major Subdivision:** a subdivision not classified as a minor subdivision, including but not limited to subdivisions of more than four (4) lots, or any size subdivision requiring any new street or extension of utilities, or the creation of any public improvements, or any other subdivision classified as major by the Planning Board because of its probable major impact on the surrounding areas. A major subdivision is also when a parcel of land has been divided more than four times after the effective date of this local law.

**Minor Subdivision:** the subdivision of land into two (2), three (3) or four (4) lots fronting on an existing road, not including any new street or road, or the extension of utilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the comprehensive plan or official map of the Town.

**Open Space Conservation Subdivision:** a residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where at least sixty percent (60%) of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

**Open Space:** land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure except agricultural buildings. Open space may be included as a portion of one or more house lots provided the lot(s) are five (5) acres or more in size, and are contiguous to form a larger, unfragmented open space area. Open space lands may also be contained in a separate open space lot but shall not include private yards within fifty (50) feet of a principal structure.

**Planning Board:** a board appointed by the Town Of Ancram Town Board pursuant to Article 16 of the New York State Town Law and whose principal duties shall generally include review and deciding about site plans, special use permits, subdivision applications, reviewing and recommending about matters relevant to the Town Comprehensive Plan, zoning ordinance, and other town regulations, as well as any other powers granted to it pursuant to the Town Of Ancram Zoning Ordinance.

**Plat:** a map representing a tract of land showing the boundaries and location of individual properties and streets.

**Preliminary Plat:** an initial map or plan, with supporting documentation, showing the proposed layout of a subdivision or site plan that is submitted for preliminary approval by the Planning Board.

**Primary Conservation Area:** the area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to, streams, floodplains, wetlands, critical habitats, steep slopes over fifteen percent (15%), areas with rocky outcrops, agricultural lands, and groundwater recharge areas.

**Prime Farmland Soils:** land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding.

**Principal Building or Structure:** a building in which is conducted the principal use of the lot on which it is located.

**Principal Use:** the main use of a lot or structure.

**Ridge Top or Ridgeline:** the long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

**Rural Character:** describes the features and qualities of Ancram's physical and natural landscape that were shaped by current and past economic activities such as agriculture, mining, forestry and low density residential uses, interspersed with open, working agricultural landscapes and scenic views. Concentrations of population and structures exist in a limited way in the hamlets, but Ancram's land is predominantly used for agriculture - as pastures, cropland and woodlands. Ancram does not have an extensive street grid or transportation network, and has limited pedestrian walkways other than narrow often unpaved rural roads. Our hamlets typically have a fairly well defined border and buffer of undeveloped open spaces and agricultural lands, and are located at key road crossings, near important civic structures such as places of worship, or adjacent to historically important natural features like streams. Our hamlets have a diverse mix of lot size and architectural styles. Historic structures from various periods in the community's life are present. Outside these hamlets, residents typically occupy a range of residential types such as estates, farms and a variety of residences including old farmhouses, newly built modern homes, modular's, manufactured homes and trailers. Evidence of current and past agricultural activity is present, including but not limited to crop fields, hay fields, livestock pastures, corrals, orchards, farm buildings, stone walls, windbreaks,

hedgerows, and woodlots. Farm equipment noise and farm smells are a daily fact of rural life. Most local roadways tend to be narrow with limited driveways or crossroads, and rural roads tend to be lined with trees, fences, or stone walls.

Ancram's rural character also embodies a quality of life based upon traditional rural landscapes, activities, lifestyles, and values. Ancram is characterized by a balance between the natural environment and human uses with low-density residential dwellings, farms, forests, mining areas, outdoor recreation and other open space activities. Ancram's rural character can also be defined as the patterns of land use and development:

- (a) In which open space and natural landscapes are preferred over built-up environments;
- (b) In which clean air and dark skies are prized and protected;
- (c) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
- (d) Which values the nature of farming and the role it plays in the community, and accepts the sounds and smells of a working farm;
- (e) That provide visual landscapes that are traditionally found in rural areas and communities;
- (f) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
- (g) That reduce the conversion of undeveloped land into sprawling, low-density development;
- (h) That generally do not require extensive municipal services; and
- (i) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

**Scenic Viewshed:** That portion of land included in the Town of Ancram Comprehensive Plan as being scenic including, but not limited to the designated Scenic Overlay District and other areas where scenic resources contribute significantly to the overall rural character of the Town and possess attributes which the community seeks to preserve and enhance.

**Secondary Conservation Area:** the area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to, healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, significant natural areas and features, historic structures or sites, and visually prominent features such as stone walls, knolls, or hilltops, locations having traditional character, scenic viewsheds, and trails.

**Sensitive Environmental or Natural Features and Areas:** refers to natural resource locations that have a high potential for significant damage or degradation from direct or cumulative impacts arising from new development or shifts in existing land uses. Some sensitive environmental features and areas have been inventoried, mapped or

identified as being locally, regionally, nationally or globally significant for its rarity and/or degree of vulnerability, including sources such as the Ancram Groundwater Study, Biodiversity Map, and DEC Ancram Habitat Summary. Typical examples include but are not limited to, wetlands, streams/river corridors, steep slopes, floodplains, highly erodible soils, and aquifer recharge and discharge areas, and habitats of rare or endangered species.

**Septic System:** a on-site sewage disposal system (designed as a simple gravity or alternative system), which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

**SEQRA Review (State Environmental Quality Review):** review of an application according to the provisions of the State Environmental Quality Review Act, (New York State Environmental Conservation Law, Article 8, and its enacting regulations 6 NYCRR, Part 617) which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

**Sketch Map:** conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

**Single-loaded Street:** An existing public way or private way which affords principal means of access on only one side to abutting properties and is suitably improved.

**Site Plan:** A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

**Slope:** the vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff.

**Soils of Statewide Importance:** this is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. Criteria for defining and delineating this land are determined by New York State. These include those soils that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

**Steep slope:** land areas where the slope exceeds fifteen percent (15%).

**Stream:** perennial and intermittent water courses identified through site inspection and United States geological survey (USGS) maps. Perennial streams are those depicted on a USGS map with a solid blue line. Intermittent streams are those depicted on a USGS map with a dotted blue line.

**Stream Buffer:** A 100' area extending along both sides of a water course, measured from the edge of the waterway, and any adjacent wetlands, floodplains or slopes where clearing, soil removal or disturbance, filling, dumping, ditching, storage and use of pesticide or herbicides, placement of septic systems, and placement of dwellings, other kind of development, mining, and commercial logging are prohibited in order to protect water quality and ecological health of streams.

**Streamside Vegetated Buffer:** A minimum of 25' area, measured from the edge of the waterway, of undisturbed vegetation designed to conserve the areas immediately adjacent to streams and rivers extending along both sides of a water course and any adjacent wetlands, floodplains or slopes.

**Surface waters of the State of New York:** Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Man-made storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state.

**Terminal Vista:** A building, structure, streetscape, or landscape element such as open space that terminates a view and that provides a visual focal point from a location, typically from a public road or facility.

**Traditional Character of The Community:** describes the qualities and attributes of Ancram's physical and visual landscapes that embody the varied events, traditions and personalities of its past. Traditional character describes the existing architectural variety, style and scale of the community, including color, proportion, form, and architectural detail. The physical layout of the community, the landscape patterns, the pre-automobile network of roads, and other scenic and economic elements also contribute to Ancram's traditional character. Among these elements are active agricultural operations with low density residential development interspersed with denser population centers such as the hamlets, roads and windbreaks lined with old mature trees, stone walls, deep rural setbacks, and small/irregular field or pasture dimensions. Ancram's traditional character is strengthened by the presence of historic farmhouses, barns and out-buildings from the periods of its settlement by farmers in the 1700's and early 1800's. Our traditional character is also boosted by the presence of sites related to NY State and federal historic register listed properties.

**Traditional Neighborhood Design:** a residential development pattern that reflects the characteristics of small, older communities of the late 19th and early 20th centuries. Traditional neighborhoods are characterized by smaller lot sizes, shallower front and side setbacks, pedestrian opportunities, higher density of residential uses per area, and two-story residential structures.

**Vegetation:** indigenous or introduced trees, shrubs, vines, ground covers, and herbaceous materials.

**Vernal Pool:** A wetland in a small, shallow depression within an upland forest. Vernal pools have a physical isolation from navigable bodies of water, do not support fish and provide essential breeding habitat for certain amphibians and invertebrates. Vernal pools are flooded in spring or after a heavy rainfall, but are usually dry during summer and fill again in autumn. In the winter vernal pools may be frozen over after having been filled with fall rains. In the spring, usually around mid-March through April, the pools melt and amphibians begin to lay their eggs there.

**Water-body:** any natural or man-made body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

**Watercourse:** a permanent or intermittent channel or stream or other body of water, either natural or man-made, which gathers or carries surface water.

**Watershed:** the area which is a drainage basin for a particular freshwater body.

**Wetlands:** lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.

**Zoning Enforcement Officer:** the administrative officer designated to administer the zoning ordinance and issue zoning related permits.