

# Local Law Filing

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- County
- City of Tuxedo Park
- Town
- Village

Local Law No. 7 of the year 2009

A local law establishing a Ridgeline and Precipice Overlay District with accompanying  
*(Insert Title)*  
 regulations and modifications

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Be it enacted by the Board of Trustees of the  
*(Name of Legislative Body)*

- County
- City of Tuxedo Park as follows:
- Town
- Village

## SECTION 1: PURPOSE.

The purpose of this local law is to rescind Section 100-13(A) of the Village Code that prohibited all construction on a ridge line or at the edge of a precipice, and replace it with a statutory scheme that permits construction on ridge lines and at edges of precipices. Such construction is allowed provided it is regulated in a manner so as to ensure public safety, protect the environment, and safeguard visual aesthetics that define the character of the community and underpin its value to residents. Such construction must also mitigate the visual impact of development on these visible natural resources in accordance with and consistent with the Village's listing on the National Register of Historic Places. The statutory scheme establishes a Ridge Line and Precipice Overlay District consisting of mapped ridge lines and precipice areas, which will allow construction in these areas to proceed, provided such construction complies with the regulations of the Ridge Line and Precipice Overlay District as described hereunder.. Construction on any property in the Village will be additionally regulated only if this construction occurs in whole or in part within the mapped ridge line or precipice areas of the Ridge Line and Precipice Overlay District; conversely, no additional restrictions will apply if this construction occurs on that portion of the property occurring wholly outside of the mapped ridge line and precipice areas of the Ridge Line and Precipice Overlay District. Associated definitions and other Code changes are also addressed.

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

## SECTION 2: FINDINGS.

The Board of Trustees hereby adopts the following findings of the Special Precipice and Ridge Line Advisory Committee that was charged with studying the efficacy of the Code-dictated prohibition of construction on a ridge line or at the edge of a precipice, and making recommendations to address the safety and visual impact of allowing such construction:

1. Many communities in Orange County and across our nation have local laws that regulate construction on ridges and steep slopes. The regulations adopted by this community are designed to ensure public safety, protect the environment, and safeguard visual aesthetics that define the character of the community and underpin its value to residents.
2. The hilly and irregular terrain of Tuxedo Park underscore the need to reasonably regulate construction on ridges and at the edge of precipices to avoid a negative impact on public safety, the environment, and the visual resources of the community, and to protect the integrity and value of existing homes.
3. The approach used to gather information and identify issues included: (i) an iterative process of research into other communities' ridge and steep slope protection laws, (ii) topographical mapping of Tuxedo Park, (iii) site visits at various locations in the Village to confirm the practical impacts of the mapping, and (iv) development of reasonably objective criteria to identify ridge lines and edges of precipices throughout the Village. Detailed mapping of all ridge line and precipice areas in the Village was conducted on a fair and consistent basis to identify all relevant ridge line and precipice areas in need of regulation.

## SECTION 3: CREATION OF RIDGE LINE AND PRECIPICE OVERLAY DISTRICT.

Section 100-3 of the Village Code is hereby repealed and replaced with the following, and the Board of Trustees hereby authorizes the updating of the Village Official Zoning Map consistent with all current Code provisions and the associated mapping performed by the Village Planner to provide for the insertion of the RLP-O District:

### § 100-3. Districts Established.

For the purpose of promoting, preserving and protecting the public health, safety and general welfare of the community, and to protect the significant historic and scenic assets of the Village, the following zoning districts are hereby established:

<u>Map Designation</u>	<u>District Name</u>
A4	Four Acre Single-Family Residence
G-O	Gateway Overlay
RLP-O	Ridge Line & Precipice Overlay

Section 100-4 of the Village Code is hereby repealed and replaced with the following:

#### § 100-4. Zoning Map.

The boundaries of the Village and the zoning districts are defined as shown on a map entitled "Official Zoning Map of the Village of Tuxedo Park," which map is made a part of this chapter with the same force and effect as if the matters and things shown on said map were all fully described herein. The Board of Trustees may by Resolution amend said map to define the boundaries of all zoning districts in conformance with this chapter and may also require by Resolution that mapping of the above-noted overlay districts be further defined on a property specific basis for clarity of determining whether individual properties are within or without such overlay districts in whole or in part. The limits of such mapping of individual properties shall be conclusive for the delineation of the boundaries of overlay district areas.

#### SECTION 4: ELEVATION RESTRICTIONS.

Section 100-13(B) of the Village Code is re-numbered as Section 100-13.1 and modified as follows:

##### § 100-13.1. Elevations.

Owing to water pressure limitations no building permit for a new dwelling may be issued by the Building Inspector for a dwelling the foundation of which would be at or higher than 800 feet above sea level if located east of the three Tuxedo lakes or 900 feet above sea level if located west of the three Tuxedo lakes unless and until a written opinion of the Village Engineer states that adequate water pressure exists to service the dwelling and neighboring dwellings on the same water line.

#### SECTION 5: PROMULGATION OF RIDGE LINE AND PRECIPICE OVERLAY DISTRICT REGULATIONS.

Section 100-13 of the Village Code is hereby repealed and the replaced with following:

##### § 100-13. Ridge Line and Precipice Area Regulations.

The entirety of all activities that require a building permit, any part of which is to occur within the mapped Ridge Line and Precipice Overlay District areas, but not activities that require a building permit on that portion of a property occurring wholly outside of the mapped Ridge Line and Precipice Overlay District areas, shall be subject to the following regulations. When the phrase "approving agency" is used in this section 100-13 it shall mean any Village board or official having approval power in connection with an application for a permit or other approval from the Village.

A. Tailoring to the Natural Terrain.

- (1) All structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities are to minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical re-contouring of the natural terrain, and shall also take advantage of the screening potential of existing vegetation and land features.
- (2) Natural and historic features that provide scenic importance to the mapped areas of the Ridge Line and Precipice Overlay District areas shall be preserved to the greatest extent practicable. These features shall include, but are not limited to, historic structures, stone walls, steps and paths, boulders, natural rock outcroppings, streams, unpaved pathways, and trees and shrubs that are consistent with species typically found in the Village.

B. Siting and Height of Structures.

- (1) To the maximum extent practicable, structures shall be sited at the lowest feasible elevation in order to be as visually inconspicuous as possible when viewed from any public roadway, taking into consideration the property owner's interest in achieving reasonable views that the property would otherwise allow balanced against the detriment to the public viewsheds of the Village.
- (2) The maximum height of the principal structure, as measured from the lowest grade adjoining the structure to the highest part or feature of the structure, shall be limited to fifty feet (50') in total, but in no event more than twenty feet (20') above the highest elevation of the natural precipice or ridge area within the RLP-O District on which the foundation sits.
- (3) The maximum height of an accessory structure, as measured from the lowest grade adjoining the structure to the highest part or feature of the structure, shall be limited to thirty-five feet (35') in total, but in no event more than twenty feet (20') above the highest elevation of the natural precipice or ridge area on which the foundation sits.
- (4) To the maximum extent practical all structures shall step with or follow the natural terrain to minimize re-grading. Landscaping may be directed by the approving agency as mitigation for negative impacts on such public viewsheds.
- (5) In no case shall a structure pierce the skyline as seen from any public roadway or surface of the Village lakes.

C. Use and Integration of Building Materials, Colors and Landscaping.

- (1) The approving agency may permit construction to follow the style, material, and color of an existing main dwelling.

- (2) Existing and additional building materials (including but not limited to retaining walls using native stones) shall be used with earth-toned and non-reflective building materials (including but not limited to glazing) to ensure that the structure blends with the surrounding land features.
- (3) Existing and additional landscaping (including but not limited to vegetation and foundation plantings) shall be used to ensure that the structure blends with surrounding land features and vegetation.
- (4) Existing vegetation shall be preserved and maintained to the maximum extent practicable.
- (5) Clear-cutting of trees in a single contiguous area shall be prohibited, unless expressly permitted by the approving agency as part of an approval for a site plan or subdivision application.
- (6) Where a new structure would not be adequately screened by existing vegetation, appropriate species that are consistent with noninvasive species typically found in the Village shall be planted and maintained so that there is no obvious disruption of vegetative cover or piercing of the skyline. As determined necessary by the approving agency, this requirement to preserve and maintain vegetation coverage may be enforced by performance and/or maintenance bonds for a reasonable period of time and/or by deed restriction in favor of the Village.
- (7) Regardless of whether there is an application pending for a permit for activity within the Ridge Line and Precipice Overlay District, there shall be no removing, topping, or killing any live tree with 5 or more inches diameter, measured 48 inches above the ground, within those portions of properties located within the Ridge Line and Precipice Overlay District without approval from the Board of Architectural Review and a permit from the Board of Trustees, unless the tree removal has been authorized in conjunction with an approved site plan, subdivision plan, or other permit issued by the Village. In the event of an emergency, trees may be removed. However, an application shall be made within 10 business days after removal for authorization for such removal, which will obviate the assessment of any fines or other enforcement for such removal if the Board of Architectural Review determines that an emergency existed that likely would cause harm to persons or property if the trees were not removed prior to the time necessary to obtain a permit for their removal. For every tree removed in accordance with this subsection, the approving agency may require replanting of an appropriate number and placement of trees and/or shrubs that are consistent with species typically found in the Village to achieve compensatory coverage.

D. Use of Lighting.

The visual impact of the lighting related to any construction shall be reviewed prior to installation by the approving agency. In no event shall the lighting of structure façades be permitted, except for the illumination of the entry-ways to the structure. For all exterior lighting, all light fixtures shall be fully shielded, *i.e.*, designed, constructed, lamped, and installed in such a manner so that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below a horizontal plane through the fixture's lowest light emitting part.

E. Additional Submittals.

- (1) Soil Stability Analysis. A soil stability analysis shall be submitted to the approving agency to demonstrate that the construction will not compromise the stability of the terrain (including any man-made structure on site) and certified to that effect by a N.Y. State licensed geotechnical engineer. The approving agency may waive this requirement if the Village Engineer advises the approving agency that it is unnecessary owing to the particular conditions of the site and the nature of the requested approval.
- (2) Visual Impact Analysis. A visual impact analysis shall be submitted to the extent and level of detail commensurate with the circumstances of the requested approval, if the approving agency makes a finding that any structures may have a significant visual impact on the environment. Such visual impact analysis may be required to include a verifiable digital photomontage combining an existing conditions photograph with a three dimensional computer aided design ("CAD") model of proposed conditions using match points that are in common in both the three dimensional model and the photograph to create a verifiable visual simulation of the proposal, during leaf-off - no snow conditions, from distances and vantage points as determined appropriate by the approving agency.
- (3) Tree Survey. A tree survey shall be submitted showing on the site plan the location, type, and diameter of every tree of 5 or more inches in diameter, measured 48 inches above the ground that is being proposed to be eliminated. The approving agency may require a photographic record of the vegetative coverage taken from vantage points determined by it to be appropriate given the particular circumstances of the requested approval. In addition, the approving agency may require an inventory of shrubs and plants for purposes of identifying species typically found on the property and determining appropriate compensatory coverage.

SECTION 6: TAILORING TO THE NATURAL TERRAIN.

The following term and definition shall be added to Section 100-2(B) of the Village Code:

**Tailoring to the Natural Terrain**

All structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities must be constructed so as to minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical re-contouring of the natural terrain, and take advantage of the screening potential of existing vegetation and land features.

**SECTION 7: UNSUITABLE LOTS.**

Section 85-35(C) of the Village Code is hereby repealed and the replaced with following:

No lot shall be platted for residential occupancy if such lot would be in violation of § 100-11, 100-12 or § 100-13.1 of the Zoning Law.

**SECTION 8. MORATORIUM REPEALED.**

Local Law No. 5 of 2008, which instituted a moratorium on certain approvals, issuance of building permits, relief by the Board of Zoning Appeals, or construction, regarding land improvement on a ridge line or at the edge of a precipice, is hereby repealed.

**SECTION 9. EXEMPTIONS.**

Exempted from this local law are normal repairs and maintenance that do not alter the design, materials or appearance of a structure and construction which had received all necessary final approvals from the Planning Board and/or Board of Architectural Review, or received a final filed decision from the Board of Zoning Appeals granting a variance upon a determination that such construction is on a ridge line or at the edge of a precipice, prior to August 20, 2008.

**SECTION 10. SUPERSEDING PROVISION.**

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws, including, but not limited to, New York Village Law §§ 7-706, 7-708, and 7-709, and the common law regarding subdivision vesting, are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

**SECTION 11. SEVERANCE.**

The invalidity or unenforceability of any particular provision of this local law shall not affect the validity or enforceability of other provisions of this local law, which such provisions shall continue to be both enforceable and valid.

**SECTION 12: EFFECTIVE DATE.**

This law shall take effect in the manner provided for in the Municipal Home Rule Law.