

# Local Law # 1 of 2015

A Local Law amending Chapter 75 of the Code of the Town of Rosendale to Add Section 75-28.2 providing for an Economic Enterprise Overlay District

## SECTION 1. AMENDMENT

There shall be added to Chapter 75 of the Code of the Town of Rosendale a new Section 75-28.2 entitled "Economic Enterprise Overlay Zone" to read as follows:

### Section 75-28.2 ECONOMIC ENTERPRISE OVERLAY ZONE

#### A. PURPOSE AND OBJECTIVES

##### 1. Purpose

The purpose of an Economic Enterprise Overlay (EEO) zone is to foster economic development, diversification of land uses and employment generation through the reuse and/or redevelopment of underutilized properties. Development is encouraged to follow a mixed use, compact pattern that is sensitive to the environmental characteristics of the land and adheres to the goals and objectives contained in the Town's Comprehensive Plan and follows the Route 32 Corridor Commercial/Industrial Design Guidelines. It is the intent of the EEO to promote flexibility in the development process while integrating a diversity of land uses within close proximity to each other.

The EEO permits a broad range of uses that work in harmony to accomplish the following objectives: Active utilization and reinvestment in underutilized properties, including adaptive reuse;

- a. Enhance the variety and availability of employment, service, retail, residential and civic facilities;
- b. Ensure development operates in harmony within the surrounding neighborhood and/or hamlet;
- c. Ensure valued natural features and undisturbed areas are protected and incorporated into the open space of the development;
- d. Develop well-configured public spaces that are woven into the pattern of the development and dedicated to the social interaction, recreation and visual enjoyment of residents;
- e. Design civic buildings, open spaces, and other visual features to act as landmarks, symbols and focal points for community identity;
- f. Foster the compatibility of buildings and other improvements through their arrangement, bulk, form, character, and landscaping;
- g. Design the public and private realms using architecture, landscaping and other elements that respond to the unique character of the region;
- h. Adaptively reuse structures and associated lands to protect against abandonment and general vacancy of structures.

## **B. REGULATIONS AND PROCEDURES**

### **1. Application and approval procedure**

- a. The application for and approval of an EEO shall be treated as a legislative act and an amendment to the Town of Rosendale Code Chapter 75 Zoning.
- b. The application for and approval of an EEO shall follow the procedures for zoning amendment outlined in Article IX of this Chapter, as well as the procedures required under the New York State Environmental Quality Review Act (SEQRA).
- c. A complete application pursuant to Section B(2) of this Article shall be submitted prior to consideration by the Town Board.
- d. The Town Board reserves the right to consider or not consider any petition submitted under this Article.
- e. The adaptive reuse of structures and associated lands containing said structures shall be permitted under this Article.
- f. Upon approval on an EEO by the Town Board, the applicant shall be required to apply to the Town of Rosendale Planning Board for Site Plan Approval. This submission shall include all documents, plans and items required under conformance with Chapter 75-50(C) of this Code. The Planning Board shall review said application pursuant to this Chapter and by New York State Town Law Section 274-A.

### **2. Information to be provided**

- a. Applications for the establishment of an Economic Enterprise Overlay Zone by amendment to the Zoning Map shall be made in writing to the Town Board, by the owner(s) of the land proposed to be included in such district or by a person who possesses written contract or option rights to purchase such lands. In the event that the application is made by a person holding contract or option rights to purchase the lands, the application shall be accompanied by a statement signed by the owner(s) granting authority on the part of the applicant to make the application.
- b. The Application shall include:
  - i. A description of the existing economic and land use opportunities for the property as currently zoned and/or developed;
  - ii. An explanation of why and/or how currently permitted uses and/or regulations restrict the highest and best use of the property
  - iii. A description of how the proposed project and land uses are in conformance with the Town of Rosendale Comprehensive Plan;
  - iv. A description of how the proposed project and land uses are compatible with adjacent existing land uses and those reasonably anticipated in the future;
  - v. The selection of an EEO district type;
  - vi. A Full Environmental Assessment form;
  - vii. A conceptual development plan of sufficient detail as shall be determined by the Town Board. The conceptual development plan shall consist, at a minimum, of the following:
    1. A metes & bounds description of the proposed district;

2. A survey of the land prepared and certified to the Town of Rosendale by a licensed land surveyor;
3. A map drawn to scale showing existing conditions of the parcel, including:
  - i. The name and address of the owner of record and, the name and address of the applicant, if not the owner of record;
  - ii. The name of the person or firm preparing the plan;
  - iii. The date, north arrow and scale of the plan;
  - iv. The acreage of the parcel and the tax map number(s) of the parcel;
  - v. The location and width of existing and proposed state, county or town highways or streets and rights of way abutting the parcel;
  - vi. The approximate location and outline of existing structures both on the parcel and within 100 feet of the property line;
  - vii. The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes and other visible infrastructure as well as other utilities within or adjacent to the parcel;
  - viii. The existing zoning of the parcel;
  - ix. The approximate location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body;
  - x. The approximate boundaries of any areas subject to flooding or storm water overflows;
  - xi. The location and outline of existing vegetation clusters (for a distance of 50 feet onto adjoining property);
  - xii. The identification of any other significant features.
4. The conceptual development plan, drawn approximately to scale shall clearly show the following:
  - i. The approximate location and dimensions of proposed principal and accessory buildings on the site and their relationship to one another, and to other structures in the vicinity;
  - ii. The approximate location and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas and proposed access to the site;
  - iii. The proposed source of water supply and method of delivery to the site;
  - iv. A general plan for the collection and disposal of sanitary waste from the site;
  - v. A general plan of proposed storm water management facilities;
  - vi. Preliminary identification of areas which will be disturbed and areas which will remain undisturbed by project implementation.

### **3. Town Board Review**

- a. In its review of the application, the Town Board may suggest such changes in the conceptual plan as are found necessary or desirable by the Town Board in order to meet the requirements of this section. The Town Board may notify the applicant of such changes and may discuss such changes with the applicant. The suggestion of changes by the Town Board shall not constitute a waiver of its legislative discretion to reject or deny the rezoning application.
- b.
  1. The Town Board shall have the discretion to reject the application or to hold a public hearing with regard to the rezoning application.
  2. If the Town Board decides to hold a public hearing to consider the rezoning of a property the application shall be referred to the Town of Rosendale Storm Water Officer, and the Town of Rosendale Building Inspector who shall each make a recommendation to the Town Board within 30 days of receipt of the application, and to the Town of Rosendale Planning Board and the Ulster County Planning Board for recommendations as provided in this Chapter and General Municipal Law.
  3. If the Town Board elects to hold a public hearing, the Town Clerk shall provide notice of said hearing to the owners of all parcels located within 500 feet of the subject property, and shall publish proper legal notice of the time and place of the public hearing.
  4. Following the public hearing the Town Board may, in its sole legislative discretion, act to approve, approve with modification or conditions, or disapprove the rezoning application. Approval shall result in amendment to the zoning map.
- c. In determining whether to approve the application for an EEO District the Town Board shall consider the public health and welfare of the surrounding area, together with following criteria, and the intent and objectives of this section:
  1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the creation of a district on the property
  2. Whether the site is located in an area suitable for the proposed elimination of non-conformity or re-adaptation of buildings and site development so as to be reasonably free of objectionable conditions such as odors, noise, dust, air and light pollution, traffic volumes beyond the capacity of the existing road systems or proposed road improvements, and other environmental constraints;
  3. Whether the site will have adequate water and sewer facilities;
  4. The recommendation of the Town Storm Water Officer;
  5. Whether the site is located in a manner that allows access to the site from a public street with adequate site distances and that meets current engineering standards of the town;
  6. Whether the re-adaptation or modification of the site shall produce undue adverse effects on the surrounding neighborhood.

#### **4. Planning Board Review**

1. Following a zoning amendment to create an EEO District, site plan review and approval by the Planning Board shall be required prior to the issuance of a building permit for any re-adaptation or modification of development of the property.
2. The Planning Board shall not approve any site plan or special use permit within an EEO District unless such Board finds that the plan is in substantial conformance with the conceptual development plan that was submitted to the Town Board and that served as the basis for the zone change to the EEO District.

#### **5. Regulations**

- a. Location and underlying zoning.
  - i. Lands bordering the NYS Route 32 from the Town Boundary Line with the Town of Esopus to the Town Boundary Line with the Town of Ulster and all School Buildings and Churches no longer being used for Educational or Religious purposes, regardless of location or zoning district, may apply to use the EEO option.
- b. District size limitations.
  - i. An EEO shall include parcels in their entirety and the perimeter of EEO districts shall be coterminous with the platted property lines of those parcels included in said district. In the event that an applicant wishes to use multiple parcels in its application, said parcels must be combined prior to the zoning map being amended.
  - ii. The amount of land allocated to particular land use categories excludes streets, alleys, open spaces, drainage controls and stormwater/water quality controls.
  - iii. No land shall be designated for an EEO if in the opinion of the Town Board it is too small, too narrow in width, too irregular in shape or with topography too excessive to be planned and developed in a manner consistent with the purpose and objectives of the EEO.
  - iv. The Town Board may set lot size requirements to assure that the proposed development is in accord with the Town's Comprehensive Plan and in concert with the character of the neighborhood.

#### **6. Modifications**

- a. Any further proposed change in use of a property that does not comply with the underlying zoning for the property, shall be required to go back before the Town Board for review pursuant to the provisions of this section.
- b. Following initial construction and occupancy, any changes other than use changes shall be considered as a request for a site plan amendment under §75-40(C)(3)(h) of this Chapter.
- c. Modifications to the zoning of properties within an approved EEO Overlay District require application and approval by the Town in accordance with this Section 75-28.2.

## **C. DISTRICTS, LAND USE ALLOCATION AND PERMITTED USES**

### **1. Overlay district types and requirements.**

- a. The EEO District shall permit Economic Development and Community Development Overlays to provide enhanced flexibility while permitting the mixing of compatible uses within the community.
- b. No property may be located in greater than one (1) EEO overlay.
- c. Each lot within an EEO shall be allocated to a specific district and land use category at the time of application.
- d. The Town Board may modify the following land use allocations to achieve the purpose and objectives of the EEO and the Town's Comprehensive Plan.
- e. Adaptive reuse of existing structures and associated lands shall be permitted subject to the review criteria set forth within these EEO regulations.
- f. The following uses are prohibited in the EEO districts:
  1. Storage Units and/or facilities
  2. Gas Stations
  3. Mining
  4. New or Used Car Sales
  5. Heavy Industry

### **2. Economic Development District.**

- a. Purpose.
  - i. Economic Development (ED) overlays are intended to promote expanded employment opportunities and capital investments within the commercial, residential and light industrial sectors of the economy, including agricultural industries. ED overlays may be granted for lands bordering New York State Route 32.
- b. Land use allocation.
  - i. An EEO-ED may consist of Commercial, Residential, Civic, Agricultural and Light Industrial land use categories.
- c. Density requirements.
  - i. Development density requirements may be waived or modified at the discretion of the Planning Board during site plan review.

### **3. Community Development District.**

- a. Purpose.
  - i. Community Development (CD) overlays are intended to promote economic development while improving the diversity and quality of the commercial, civic and residential sectors servicing the Rosendale community. CD overlays may be granted in any zoning district, at any location, for the adaptive reuse of school and church buildings.
- b. Land Use allocation
  - i. An EEO-CD may consist of a mix of Commercial, Residential, Agricultural and Civic land use categories or may consist of a single land use.
- c. Density Requirements.
  - i. Development density requirements may be waived or modified at the discretion of the Planning Board during site plan review.

## **D. DESIGN REQUIREMENTS**

### **1. Bulk and Use Table**

- a. Former School and Church buildings may reuse the existing footprints of buildings but cannot increase the height of the buildings. Former School and Church buildings can be modified to add additional stories where the existing height of the building allows for such modification.
- b. Development may take place on the existing development footprint regardless of such footprint's location. Expansion of development beyond the existing development footprint, or relocation of a development footprint, of any qualifying property shall be allowed if such expansion or relocation is approved by the Town Board based on the layout and limitations of the site, and additionally, any such expansion must be approved by the Planning Board in the Site Plan review process. The Planning Board shall not be obligated to grant such expansion if it determines that the proposed expansion is inappropriate for the site.
- c. The Town Board and the Planning Board may grant waivers of density and bulk requirements for the property, if deemed appropriate for the redevelopment of the property.
- d. Density of existing structures may be maximized in accordance with existing New York State Building Codes.

### **2. Design Standards**

- a. The Route 32 Corridor Commercial/Industrial Design Guidelines shall be utilized for all commercial and industrial land uses as indicated in this Chapter.
- b. Where conflicts or ambiguity exist between requirements of this Section, the Route 32 Corridor Commercial/Industrial Design Guidelines and/or other Sections of this Chapter, the more stringent, constraining and/or proscriptive shall be utilized to the extent practicable as determined by the Town Board. Notwithstanding the above, the guidelines and Chapter sections may be waived where deemed appropriate by the Town Board in review of the projects for redevelopment of preexisting structures.
- c. Access, Circulation and Parking.
  - i. Required off-street parking spaces shall be determined by the Town Board with consideration of recommendations made by the Planning Board and in general conformance with §75-19.
  - ii. Parking requirements shall be within the range of 50-150 percent of that required pursuant to §75-19.

## **E. TIME LIMIT ON VALIDITY OF ZONING**

1. Any zoning permitted by this section shall be null and void and the zoning of the parcel shall revert back to its original zoning classification, unless actual construction, pursuant to an approved site plan and a valid building permit is commenced within two (2) years from the date of adoption by the Planning Board of a resolution of site plan approval following the rezoning.

## **F. FEES**

1. Fees. An application shall be accompanied by an application fee as prescribed, from time to time by resolution of the Town Board.
2. If professional review of the application is required by a designated private planning, engineering, legal or other consultants or, if other extraordinary expense to review documents or conduct special studies in connection with the proposed application is incurred, reasonable fees shall be paid for by the Applicant, through an escrow account established by the Applicant and the Town. An escrow agreement shall be signed by the Applicant and a payment shall be made to the Town prior to the review of any application materials by the Town's consultant(s).
3. Applicant will be responsible for payment of all fees associated with the application, including, but not limited to, mailing and publication fees.

### **Section 2. Severability**

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

### **Section 3. Effective Date**

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.