

**TOWN OF GUILDERLAND
LOCAL LAW NO. 2 OF 2022
(ADOPTING RULES & REGULATIONS FOR THE
CONSERVATION EASEMENT AGREEMENT EXEMPTION)**

Be it enacted by the Town Board of the Town of Guilderland that the following provisions shall be added to Town Code Chapter 251 (Taxation), Article XVI (Conservation Easement Agreement Exemption):

§251-66 Statutory Authority

Pursuant to §491-b of the NYS Real Property Tax Law, the Town Board hereby enacts this article which provides for the rules and regulations for the Conservation Easement Agreement Exemption.

§251-67 Purpose

The Conservation Easement Agreement Exemption is intended to conserve open space lands, help maintain the character of the Town, and provide financial incentives and assistance to those landowners willing to forego development and maintain open space for a minimum of 15 years can receive an exemption on their property assessment resulting in a reduction in property taxes, under such conditions as specified in NYS Real Property Tax Law §491-b, this article, and in a conservation easement agreement with the Town.

§251-68 Definitions

As used in this article, the following terms shall have the meanings indicated:

OPEN SPACE or OPEN AREA

Any space or area characterized by natural scenic beauty or whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance conservation of natural or scenic resources. For the purposes of this definition, “natural or scenic resources” shall include, but not be limited to, agricultural lands defined as open lands actually used in bona fide agricultural production.

CONSERVATION EASEMENT REVIEW BOARD

The board appointed by the Town Board, under §251-69, to review and report on applications under this article.

§251-69 Establishment of Conservation Easement Review Board.

- A. Creation.** The Conservation Easement Review Board is created to review applications for proposed conservation easement exemptions under this article.
- B. Members, Term, and Chair.** The Conservation Easement Review Board shall consist of the members of the Conservation Advisory Council whose chair shall also Chairperson of the Conservation Easement Review Board. The Director of Parks & Recreation, Town Planner, and Assessor shall assist the Conservation Easement Review Board in its review of an application under this article.
- C. Removal.** The Town Board shall have the power to remove any member of the Conservation Easement Review Board for cause and after a public hearing.
- D. Chairperson duties.** All meetings of the Conservation Easement Review Board shall be held at the call of the Chairperson and at such other times as such Board may determine.

§251-70 Scope of Conservation Easement Exemption

- A.** The conservation easement exemption seeks to conserve a wide range of resources in the community including, but not limited to:
 - 1. Community Character: including active working farms; agricultural soils and farmland; locally significant historic, and cultural resources; buildings on the National Historic Register or that are contained within an Historic District; scenic views, vistas, and landscapes; and unique geological or physical features or forms.
 - 2. Recreation and greenways: including lands suitable for parkland and trails, and/or public access to waterways; lands adjacent to streams and their tributaries; lands adjacent to preserves or public/private recreational facilities; lands adjacent to roads used by cyclists or that provide a scenic view; lands near existing trails and also contiguous lands that serve as viable wildlife greenways and travel pathways.
 - 3. Forest, fields, and wildlife ecosystems: including forests and woodlands, particularly larger forests of five acres or more; working woodlands and forest; forested lands or grasslands adjacent to streams (riparian lands); forested wetlands or vernal pools; grasslands, pastures, and shrub lands; and lands that support habitat for rare or threatened plant and animals species important to regional and local biodiversity.

4. Natural Water Systems – streams and wetlands, including lands important for protection of water quality or flood attenuation; wetlands (especially those not already protected under state or federal wetland law), ponds, streams, groundwater recharge areas, vernal pools and tributaries.
- B.** Constrained lands including wetlands, floodplains, steep slopes of 20% or greater, and bodies of water including streams, ponds, and lakes provide valuable habitat for wildlife, which in turn retains the character of the Town and benefits the quality of life for all Town residents. Constrained land are eligible for a Conservation easement agreement.
 - C.** Unimproved lands owned by a homeowners association and lands that contain deed restrictions as required by a conservation subdivision approved by the Planning Board are eligible for a Conservation easement agreement provided that such lands provide an additional public benefit to enhance the conservation of natural or scenic resources, such as providing public access, conducting best management practices, or meeting other public goals.
 - D.** Lands covered by conservation easements held by a conservation organization (i.e. Albany Pine Bush Preserve Commission, Mohawk Hudson Land Conservancy, Nature Conservancy, Open Space Institute, etc.) and filed with the NYSDEC are eligible for a Conservation easement agreement.
 - E.** Lands owned by a not-for-profit conservation organization are eligible for a Conservation easement agreement.
 - F.** Lands involved in active agriculture including those that receive an agricultural assessment are eligible for a Conservation easement agreement, which may be applied to the agricultural assessment value as calculated under NYS law; the conservation easement exemption shall apply for a minimum term of 15 years, and may serve as a form of safe harbor for farms which may become inactive or otherwise ineligible for the NYS agricultural assessment program.
 - G.** Lands divided by existing public utility (electric, gas lines, etc.) corridors and owned by the same owner are eligible for a Conservation easement agreement exemption.
 - H.** Lands that contain public utilities (electric, gas lines, etc.) through an easement are eligible for a Conservation easement agreement.
 - I.** A Conservation easement agreement cannot be applied to lands that are currently developed or that are primarily part of residential, commercial, or industrial uses.

For example, lands in residential use (including homeowners association improved lands) that are occupied by sheds, pools, patios, active recreation areas (pools, tennis courts, etc.) or used as yard space shall not be included in a Conservation easement agreement.

- J.** On lands that contain a residence, the residence and minimum lot size of the property's Zoning District are not eligible for a conservation easement agreement. Only the amount of land in excess of the minimum lot size can be considered in the agreement. *For example, on an 11-acre parcel located in the Rural Agricultural (RA-5) zoning district, which requires a five (5)-acre minimum lot size, the Conservation easement agreement can be placed only on the six (6)-acres that do not represent the residential lot.*

§251-71 Conservation easement agreement conditions

The following items are intended to provide examples of conditions that may be included in a Conservation easement agreement.

- A.** Development of any kind is not permitted on land included in a conservation easement agreement (for the length of the agreement). This includes, but is not limited to residential, commercial, and industrial development and the placement of cell towers or other telecommunication facilities, solar, wind or farm waste facilities.
- B.** Permitted uses of land that participate in a conservation easement agreement are activities necessary to preserve natural resources and encourage responsible agriculture and forestry.
- C.** The cutting of trees for firewood to heat structures located on the property and /or on other property owned by the landowner is permitted. The landowner may remove trees that are diseased or dangerous, or identified by the NYSDEC and "invasive species" consistent with sound forest management practices.
- D.** The Board may consider conditions within the conservation easement agreement including, but not limited to, those that address public concerns or nuisances (e.g. prohibiting off-road motorcycle, snowmobile, or ATV recreation uses) or provide for public access.
- E.** Previously conserved land that becomes subject to a mandatory easement or land conveyance for public utility (electric, gas lines, etc.) purposes shall not become ineligible for the conservation easement benefits originally conferred.

- F. A conservation easement agreement covering lands in agricultural and farming uses should include language that allows the landowner (if so desired) to carry out agriculture-related commercial activities, as well as construct, maintain and repair buildings/structures and other improvements solely for farm operations, which are necessary to expand or enhance the agricultural productivity of the property.

§251-72 Procedures for obtaining a conservation easement agreement.

- A. Any owner or owners of land shall submit an application for a conservation easement agreement for the granting or interest or rights in real property for the preservation of open space or areas.
- B. Upon receipt of the conservation easement agreement, the Town Board shall convey the proposal to the Conservation Easement Review Board which shall investigate the area to determine if the proposal would be of benefit to the people of the town and may negotiate the terms and conditions of the offer. If the Conservation Easement Review Board determines it is in the public interest to accept such proposal, it shall recommend to the Town Board that it hold a public hearing for the purpose of determining whether or not the Town should accept such proposal.
- C. The Town Board shall, within thirty days of receipt of such advisory committee, hold a public hearing concerning such proposal at a place within the Town. At least ten days' notice of the time and place of such hearing shall be published in a paper of general circulation in the Town, and a written notice of such proposal shall be given to all adjacent property owners and to any municipality whose boundaries are within five hundred feet of the boundaries of said proper area, and to the school district in which it is located.
- D. The Town Board, after receiving the report of the Conservation Easement Review Board, and after such public hearing, may adopt the proposal or any modifications thereof it deems appropriate or may reject it in its entirety.
- E. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners of in written form and in form suitable for recording in the Albany County's Clerk Office.
- F. Such agreement may not be cancelled by either party. However, the owner or owners thereof may petition the Town Board for cancellation upon good cause shown, and such cancellation may be granted only upon payment of penalties provided in this article.

§251-73 Computation.

- A. An exemption granted pursuant to this article shall commence as of the effective date of the conservation easement agreement, and shall terminate upon the expiration or termination of such agreement.
- B. The following table shall illustrate the computation of the exemption:

Commitment	Percentage of Exemption
15 to 29 years	50%
30 to 49 years	75%
50 to 75 years	85%
Perpetual	90%

Such exemption shall be granted only upon application by the owner or owners of such real property on a form prescribed by the commissioner. Such application shall be filed with the Town Assessor on or before the taxable status date of the Town.

- C. If satisfied that the applicant is entitled to an exemption pursuant to this article, the Town Assessor shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date. The assessed value of any exemption granted pursuant to this article shall be entered by the Town Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.
- D. Whenever a conservation easement encumbers only a portion of a parcel, the Town Assessor shall henceforth enter that portion of the parcel encumbered by such easement as a separate parcel on all subsequent assessment rolls.

§251-74 Penalties for offenses.

If there is a violation of the terms and conditions of the conservation easement agreement or if such conservation easement agreement is canceled by the Town Board upon petition, then the owner or owners of such property must pay to the Town the following amounts:

- A. All taxes abated pursuant to the conservation easement agreement, as limited by the remainder of this article, including, if applicable, those taxes imposed by the county, town, school districts and all special improvement districts and other taxing units to which the property is subject. Repayment of the aforementioned abated taxes shall be equal to five times the taxes saved in the last year in which the land benefited from a conservation easement exemption, plus interest of six

percent per year compounded annually for each year in which an exemption was granted, not exceeding five years.

- B.** Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date after there is a violation of the terms and conditions of the conservation easement exemption or such conservation easement agreement is canceled.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

Dated: March 15, 2022

Lynne M. Buchanan, Town Clerk