

## **Chapter 56**

### **CONSERVATION EASEMENTS**

#### **GENERAL REFERENCES**

**Conservation Advisory Council** — See Ch. 4.      **Subdivision of land** — See Ch. 120.  
**Greenway connections** — See Ch. 17.            **Taxation** — See Ch. 126.  
**Environmental quality review** — See Ch. 68.    **Zoning** — See Ch. 143.  
**Flood damage prevention** — See Ch. 77.

---

#### **§ 56-1. Title.**

This chapter shall hereinafter be known and cited as the "Conservation Easement Law of the Town of Red Hook."

#### **§ 56-2. Purpose.**

It is the purpose of this chapter to provide for the preservation of open space and areas which shall constitute a public purpose for which public funds may be expended or advanced after due notice and a public hearing, by which the Town of Red Hook may acquire an easement, covenant or other contractual right necessary to preserve "open space" as the same is defined in § 56-5 herein. Any eligible parcel, as hereinafter defined, must be suitable for further development so that the limitation on the development during the easement period provides a benefit to the Town.

#### **§ 56-3. Legislative authority.**

In accordance with § 247 of the General Municipal Law of the State of New York, the Town Board of the Town of Red Hook has the authority to acquire such interest or rights in land. Pursuant to the above authority, the Town Board has prepared and adopted this chapter setting forth standards to be followed in the acquisition of such interest.

#### **§ 56-4. Applicability.**

This chapter shall apply to the entire area of the Town of Red Hook, excluding those areas within the corporate limits of the Villages of Red Hook and Tivoli.

#### **§ 56-5. Definitions.**

For the purpose of this chapter, the terms used herein are defined as follows:

**ELIGIBLE PARCEL** — The requisite acreage of contiguous undeveloped land together with the necessary minimum acreage for any improvements

contained thereon as required by the current zoning must be contained within a single tax parcel.

**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 development or would maintain or enhance the conservation of natural or scenic resources. For the purposes of this section, natural resources shall include, but not be limited to, agricultural lands defined as open land actually used in bona fide agricultural production. Eligible parcels will have 10 acres of contiguous undeveloped land. For calculation purposes, lots with improvements will need 10 acres plus the necessary acreage for the improvements contained thereon under current zoning, i.e., 13 acres in a three-acre zone.

**§ 56-6. Procedure for grant of easement.**

- A. Proposal by owner. Any owner or owners of an eligible parcel may submit a proposal to the Town Board of the Town of Red Hook for the granting of interest or rights in real property for the preservation of open spaces or areas. Such proposal shall be submitted in such manner and form as may be prescribed by the Town Board and shall include a copy of the Tax Map. The owner shall pay to the Town a fee as shall be set from time to time by the Town Board which shall be deemed a reasonable sum to cover the costs of administration, no part of which shall be returnable to the applicant.
- B. Review of proposal.
  - (1) Review by Conservation Advisory Council. Upon receipt of such proposal, the CAC shall investigate the parcel to determine eligibility and if the proposal would be of benefit to the Town of Red Hook. If the CAC determines that it is in the public interest to accept such a proposal based upon the conservation easement program criteria as established by the Town Board, it shall recommend the proposal to the Town Board for acceptance.
  - (2) Review by Town Planning Board. Upon receipt of such proposal, the Town Planning Board shall also investigate the parcel to determine eligibility and if the proposal would be of benefit to the people of the Town of Red Hook. If the Town Planning Board determines that it is in the public interest to accept such proposal based upon the current Zoning and Subdivision Laws, the Master Plan, and developmental pressure, it shall recommend acceptance of the proposal to the Town Board.
- C. Public hearing by the Town Board. The Town Board shall, within 45 days of receipt of such advisory opinions, hold a public hearing concerning such proposal at a place within the Town of Red Hook. At least 10 days' notice of the time and place of such hearing shall be published in a paper of general circulation in such Town.

- D. Determination. The Town Board, after receiving the reports of the CAC and Planning Board and after such public hearing, may adopt the proposal or any modification thereof it deems appropriate or may reject it in its entirety. An easement, with the attendant tax benefits, may be granted only after the Town Board makes a finding that it would be beneficial for the Town's purposes that the parcel remain undeveloped open space.
- E. Recording agreement. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners in written form adopted and provided by the Town suitable for recording in the Dutchess County Clerk's Office.
- F. Cancellation. Said conservation easement may not be cancelled by either party except pursuant to the provisions of § 49.0307 of the Environmental Conservation Law of the State of New York, and such cancellation may be granted only upon payment of the penalties provided in § 56-8 herein.

**§ 56-7. Valuation for taxation.**

- A. After acquisition of any such interest pursuant to this chapter, the valuation placed upon such area for purposes of real estate taxation shall take into account and be limited by the limitation of the future use of the land.
- B. The Assessor may take into account and be limited by the limitation on the future use of the land resulting from the easement. The following table of tax assessment is presently in use. This table is not part of the law.<sup>1</sup>

**§ 56-8. Penalties for offenses or cancellation.**

If there is a substantial violation of the terms and conditions of the conservation easement agreement or if said agreement is canceled by the Town Board upon petition, the then owner or owners of said property must pay to the Town of Red Hook a penalty equivalent to the following amount:

- A. All taxes granted abatement under and pursuant to the conservation easement agreement, said taxes to include the state, county, Town, school districts and all special improvements districts and other taxing units to which the property is subject. Said amount shall be limited to a five-year roll back of taxes together with interest at the legal rate allowed by law.
- B. All penalties paid under this section shall be dedicated to the Town's expenses for the acquisition of permanent conservation easements or other open space preservation programs.

---

1. Editor's Note: This table is on file in the office of the Town Clerk of the Town of Red Hook.

- C. Land covered by a conservation easement may be sold at any time, but the terms and conditions of the easement shall continue until its expiration.

**§ 56-9. Terms of easement.**

Easements are being accepted with a minimum term of eight years. There is no maximum term.