

CODE UPDATE COMMITTEE

Public Meeting on Phase III – August 22, 2018

Phase III of the Code Update is the “ENVIRONMENT” Category. Within this category are 5 topics:

Environment

- Outdoor Lighting Standards
- Evaluate Steep Slope Standards
- Evaluate Flooding Standards
- Evaluate Adopting a Ridgeline Protection Overlay District
- Green Building Standards

Subsequent phases will deal with “PROCEDURES” and “CONSISTENCY AND CLARITY”. Topics within these categories are:

Procedures

- Evaluate Permitting Conservation Easements/Façade Easement
- Evaluate Outright Demolition of Existing Structure
- Evaluate Permitting Conservation Subdivisions
- Amend Subdivision Regulations
- Evaluate Adopting Waterfront Consistency Review Law

Consistency and Clarity

- Amend the Village Code for Clarity and Consistency; and
- Revise the Zoning Map to include new zoning districts and revised boundaries for existing zoning districts based on the recommendations of the Village’s existing Comprehensive Plan and the Local Waterfront Revitalization Program

Code Update Committee Village of Cold Spring

Outdoor Lighting Standards

Purpose

It is the purpose and intent of this chapter to balance the goals of providing efficient and practical lighting for residents and businesses in the Village of Cold Spring, maintaining the Village's character, minimizing light pollution that may interfere with the enjoyment, health, safety, and welfare of citizens and visitors, and reducing energy consumption. It is intended to reduce problems of glare, minimize light trespass into public spaces and private property and protect the nighttime character of the Hudson Highlands sky.

Definitions

Candela - One candela is a unit in the International System of Units (SI) that is equal to the luminous intensity in a given direction, of a source that emits monochromatic radiation of frequency 540×10^{12} Hz and has a radiant intensity in that direction of $1/683$ watt per steradian.

Full Cutoff - A luminaire with no direct uplight above the horizontal.

Joule - The SI unit of work or energy, equal to the work done by a force of one newton when its point of application moves one meter in the direction of action of the force, equivalent to one 3600th of a watt-hour.

Kelvin – The **kelvin** (symbol: K) is the base unit of temperature in the SI. The kelvin is defined as the fraction $1/273.16$ of the thermodynamic temperature of the triple point of water (exactly 0.01°C or 32.018°F). In other words, it is defined such that the triple point of water of water is exactly 273.16 K.

Light Emitting Diodes (LED) - A light-emitting diode (**LED**) is a semiconductor device that emits visible light when an electric current passes through it. The light is not particularly bright, but in most LEDs it is monochromatic, occurring at a single wavelength.

Lumens - a unit of luminous flux in the SI, that is equal to the amount of light given out through a solid angle by a source of one candela intensity radiating equally in all directions.

Luminaire - a complete electric light unit (used especially in technical contexts).

Newton - The SI unit of force that is equal to the force that would give a mass of one kilogram an acceleration of one meter per second per second

Output - *Light output* is an informal term for how much light a fixture produces, and how the fixture emits and distributes that light.

Steradian – A Steradian is a unit in the SI that is a solid angle, equal to the angle at the center of a sphere subtended by a part of the surface equal in area to the square of the radius.

Triple point - In thermodynamics the triple point of a substance is the temperature and pressure at which the three phases (gas, liquid and solid) of that substance coexist in thermodynamic equilibrium.

Watts - The *watt* (symbol: W) is a unit of power. In the SI it is *defined* as a derived unit of 1 joule per second, and is used to quantify the rate of energy transfer.

Conformance

All outdoor lighting and lighting fixtures shall be installed in conformance with the provisions of this chapter and the applicable building code currently in effect in the Village.

Conflicting regulations

Where any provision of federal, state, county, or village statutes, codes, or laws conflicts with any provision of this chapter, the most restrictive shall govern unless enforcement will result in a violation of the federal, state, county or village statutes, codes, or laws.

Applicability

1. **New Lighting.** All outdoor lighting installed after the effective date of the ordinance codified in this chapter shall conform to the standards established in this chapter.
2. **Existing Lighting.** All lighting installed prior to the effective date of the ordinance codified in this chapter shall not be subject to the requirements of this chapter, except that any existing lighting that is directly impacted as part of a project that requires an application for a Village of Cold Spring site plan or building permit is required to be brought into conformance with this chapter. All lighting shall be upgraded to conform to this chapter prior to the issuance of the certificate of occupancy or final inspection.
3. **Public Roadways.** This chapter does not apply to lights owned or maintained by the Village, state or federal government which are within any road rights-of-way or used for traffic or safety purpose.

General Outdoor Lighting Standards

1. **Lamp and Shielding.** All permanent light fixtures are required to be full cutoff fixtures with the light source fully shielded for all uses and directed downward, including single-family and multifamily residential uses.
2. **Light Emitting Diodes.** Due to their high energy efficiency, long life and spectral characteristics, Light Emitting Diodes (LED) lamps are the preferred illumination source throughout the Village. Their use is encouraged for outdoor illumination whenever it would not be detrimental to the use of the property.
3. **Light Trespass Standard.** All light fixtures, including security lighting, shall be aimed and shielded so that the direct illumination shall be confined to the property boundaries of the source. Particular care is to be taken to assure that the direct illumination does not fall onto or across any public or private street or road. Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer's instructions, to turn off when detected motion ceases.
4. **Total Outdoor Light Output Standards - Non-residential and Multi-family Uses.** Total outdoor light output shall not exceed one hundred thousand (100,000) lumens per net acre for all development except single-family residential uses. This cap is not intended to be achieved in all cases or as a design goal. Instead, design goals should be the lowest levels of lumens necessary to meet the lighting requirements of the site.
5. **Total Outdoor Light Output Standards – Single-Family Residential Uses.** Outdoor lighting for single-family residential uses is not subject to a lumens per net acre cap, but is subject to the lamp fixture and shielding requirements.
6. **Height.** Any lighting fixture attached to a structure shall be placed below the eave or parapet, whichever is lower. Different height restrictions may be imposed as a condition of approval by the Planning Board.
7. **Commercial Lighting Time Limitations.** All non-essential (non-security) commercial exterior lighting shall only continue in operation until 11:00 p.m. or for as long as the business is open or area is in active use and shall remain off until the business reopens or until daylight the following day.

Outdoor lighting standards by type

Parking Lot Standards. Parking lot lighting poles shall be sized in such a manner that the top of any fixture does not exceed seventeen (17) feet above adjacent grade. Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level. LED lamps are encouraged. Alternatively, in industrial areas, parking lot lighting poles may be allowed to a height of thirty (30) feet above adjacent grade provided full cutoff light fixtures with built-in motion sensors for each pole are used. Motion sensors must reduce the light level to fifty percent (50%) when no motion is detected for thirty (30) minutes.

Luminaire Mounting Height. Freestanding luminaires within a residential zone, except street lights, shall be mounted at a height no greater than twelve (12) feet from ground level to the top of the luminaires.

Landscape and Accent Lighting. Subject to the approval of the Planning Board or Code Enforcement Officer, ground-mounted lighting may be allowed to accent unique features of a building and/or surrounding landscaping (such as outstanding architecture features, specimen trees with dense year-round foliage or large native shrub masses). Architectural lighting is allowed if (a) full cutoff light fixture(s) is used, and the source of illumination is directed downward.

Flagpoles. Up lighting for flags is permitted, provided the flag is of a government and the maximum lumen output is thirteen hundred (1,300) lumens.

Signs. See Chapter 104.

Street lighting. Street lights shall be full cutoff LED, unless otherwise determined that another type is more efficient. Streetlights along residential streets shall not exceed three thousand kelvin, with twenty-five (25) watt LED light with a lumen output of twenty-nine hundred (2,900), with sixty-five (65) watt LED light with a lumen output of sixty-eight hundred (6,800), or with ninety-five (95) watt LED light with a lumen output of ninety-five hundred (9,500). Streetlights along non-residential streets or at intersections shall not exceed eighty (80) to ninety-three (93) watt LED each, with a lumen output of ten thousand (10,000), except the lights at major intersections on state highways shall not exceed ninety (90) to one hundred twenty-five (125) LED watts. If a light type other than LED is permitted, then the equivalent output shall be the limit for that light type. (See also §111-15)

Prohibited Lighting

1. Searchlights, laser source lights, strobe or flashing lights, illusion lights or any similar high intensity light shall not be permitted except in emergencies by police and fire personnel or for approved special events.
2. Up lighting. Except as specifically allowed in this chapter.

Special Uses

1. **Outdoor Recreational Facilities.** Lighting for outdoor recreational facilities that does not comply with this chapter may be approved with the project site plan based on the following:

- a. When the proposed lumens per acre exceed the lumens per net acre limits, the installation shall be designed to achieve no greater than the minimum illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
- b. Every such lighting system design shall be certified by a New York registered engineer as conforming to all applicable restrictions of this code.
- c. Such lighting shall not include any light trespass as determined by the Planning Board.
- d. Fully cutoff light fixtures shall be required for fields designed for sports activity.
2. Service Station Canopies. All service station canopies shall comply with the following:
 - a. Shielding. All luminaires shall be flush with the lower surface of canopies and utilize flat glass or plastic covers.
 - b. Total Under-Canopy Output. The total light output used for illuminating service station canopies, defined as the sum of under-canopy initial bare-lamp output in lumens, shall not exceed forty (40) lumens per square foot of canopy. All lighting mounted under the canopy shall be included in the total. Fifty (50) percent of the total lumen output of all lamps mounted within or under a canopy shall be included in the lumen per acre cap.
3. Other Special Use Lighting. Lighting for special uses that are not specified in this chapter must be approved by the Planning Board through a special use permit or along with a site plan application.

Exemptions and non-conforming lights

1. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this code for as long as the emergency exists.
2. Spotlights are permitted for single-family residential use, provided they are fully shielded and directed downward.
3. Swimming Pool and Decorative Water Fountain Lighting. Underwater lighting used for the illumination of swimming pools and decorative water fountains is exempt from the lamp type and shielding standards, though they must conform to this Chapter and any other provisions of the Village of Cold Spring Code. (See also §114-4.D)
4. Seasonal Decorations. Seasonal decorations are exempt from this chapter.

Plan submittal and evidence of compliance

1. Plan Submittal. Whenever a person is required to obtain a permit for outdoor lighting or signage, special use permit, subdivision approval or any development plan approved by the Village including all Village projects, or a building permit, the applicant shall, as part of the application process, submit sufficient information to enable the Code Enforcement Officer or Planning Board to determine whether the proposed lighting complies with this code. All applications may be subject to review and action by the Planning Board if referred by the Code Enforcement Officer.
2. Applications. All applications shall include the following:
 - a. A site plan indicating the location of all lighting fixtures, both proposed and any already existing on the site.
 - b. A description of each illuminating device, fixture, lamp, support and shield, both proposed and existing. The description shall include, but is not limited to, manufacture's catalog cuts and illustrations (including sections where required); lamp types, wattages and initial lumen outputs.

- c. Such other information that the Planning Board or Code Enforcement Officer may determine is necessary to ensure compliance with this code.
3. Plan Approval. If the Planning Board or Code Enforcement Office determines that any proposed lighting does not comply with this Chapter , the permit shall not be issued nor the plan approved.
4. Lamp or Fixture Substitution. Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the Planning Board or Code Enforcement Officer for approval, together with adequate information to assure compliance with this code, which must be received prior to substitution.
5. Certificate of Installation. For all projects where the total initial output of the proposed lighting equals or exceeds one hundred thousand (100,000) lamp lumens, certification that the lighting, as installed, conforms to the approved plans shall be provided by a certified engineer before the certificate of occupancy is issued. Until this certification is submitted, approval for use of a certificate of occupancy shall not be issued for the project.

Approved materials and methods of construction or installation/operation

1. Approval of Alternatives. The provisions of this code are not intended to prevent the use of any design, material, or method of installation or operation not specifically proscribed by this code, provided any such alternate has been approved by the Planning Board or the Code Enforcement Officer. The Planning Board may approve any such proposed alternate if it:
 - a. Provides at least approximate equivalence to the applicable specific requirement of this code, and
 - b. Complies with the intent of this code.

Violations, legal actions and penalties

1. Violations and Legal Actions. If, after investigation, the Planning Board or Code Enforcement Officer finds that any provision of this chapter is being violated, the Planning Board or Code Enforcement Officer shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. The Planning Board and/or Code Enforcement Officer shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the thirty (30) day period, the Planning Board or Code Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this chapter and to collect penalties for such violations.
2. Penalties. A violation of this chapter, or any provision thereof, shall be punishable by a civil penalty of seventy-five dollars (\$75) per day and each day of violation after the expiration of the thirty (30) day period shall constitute a separate offense for the purpose of calculating the civil penalty.

Information sheet

The information sheet attached to the ordinance codified in this chapter shall be incorporated into this chapter as guidelines for the public and the Village. The Village does not endorse or discriminate against any manufacturer or company that may be shown, portrayed or mentioned by the examples.

The Comprehensive Plan identifies “lighting” in 1.3.1, 1.10.1, 3.5.5 and 4.2.4. The Local Waterfront Revitalization Strategy mentions “lighting” in 1.3.1, 1.10.1, 3.5.5 and 4.2.4. The two documents mirror each other almost exactly regarding wording on this topic.

The Village of Cold Spring Zoning Code mentions “lighting” in the following locations: 111-15.B.(2), 114-4.D., 134-9.(2), 134-10.a(4), 134-10.F(4), 134-12.F(1), 134-13.F(1), 134-16(3)a[2], 134-18.A(2), 134-18.A(2)e, 134-27A and 134-27B.

The Code Update Committee (CUC) looked at the Comprehensive Plan (CompPlan) and Local Waterfront Revitalization Strategy (LWRS) for recommendations on goals for changes to the current lighting code and to the Village of Cold Spring Code (VoCSC) to discover what is currently regulated.

The VoCSC contains very little outside of the Zoning Chapter (134) regarding lighting, namely a short paragraph in Subdivision of Land (Chapter 111) for new street lighting and in Swimming Pools (Chapter 114) to prohibit flood lights and light trespass related to above ground pool lighting. The code is silent on existing street lighting and lamping, light trespass, shielding, fixture and lamp types, either for the benefit of safety or cost and energy savings. The CUC addressed these and other issues in a proposed new chapter in VoCSC (perhaps Chapter 72).

Sources:

- Town of Southold, NY Chapter 172. Lighting, Outdoor
- Richland, WA Chapter 23.58 Outdoor Lighting Standards
- Eagle Mountain, UT, Chapter 17.56 Outdoor Lighting Standards
- The Dark Sky Society, Guidelines for Good Exterior Lighting Plans

Evaluate Steep Slope Standards

§_____. Steep Slope Protection.

A. Findings and Intent.

1. Steep slopes have been and are in jeopardy of being damaged and destroyed by unregulated filling, excavating, building, clearing and grading, and other such acts inconsistent with the natural conditions of steep slopes.
2. Experience has demonstrated that effective protection of steep slopes requires preservation wherever possible. Experience has further demonstrated that where steep slopes have to be disturbed, careful review and regulation, including mitigation measures, are required.
3. Improperly managed disturbances to steep slopes are detrimental to the Village of Cold Spring and can result in public and private expenditures for corrective measures.
4. Regulation of development on steep slopes is consistent with the legitimate interests of landowners to make reasonable use of their land. Regulation can prohibit the degradation of steep slopes and allow reasonable uses of private property by encouraging flexible design of development so as to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable management and engineering practices to permit reasonable use of private property.
5. The Village of Cold Spring Comprehensive Plan (adopted January 10, 2012), states in paragraph 3.1.2: "Recommendation: Identify and map steep slope areas and consider steep slope protection measures such as studying the Town of Ossining's Steep Slopes Protection Law as a model."
6. It is the intent of the Village of Cold Spring to preserve naturally occurring steep slopes.
7. It is the intent of the Village of Cold Spring to regulate the use of steep slopes to protect the public interest by minimizing detrimental effects of disturbance and development of these areas.
8. This Chapter is intended to protect the public and the environment from the potential negative impacts of erosion, siltation, slope failure, increase in downstream runoff, alteration of scenic views, and destruction of potentially significant habitat, which may result from disturbance of steep slopes.
9. These regulations are intended to exclude from permitting requirements customary landscaping involving minor grading or filling in connection thereto, provided that such activities conform to all other applicable laws, including the laws of the Village of Cold Spring.
10. These regulations are enacted with the intent of providing a reasonable balance between the rights of the individual property owners and the public interest in preserving the valuable functions of steep slopes.

B. Definitions.

All-weather surface: A surface which is negotiable by an ordinary automobile during all weather conditions.

Cut: Where soil or rock material from a relative rise (elevated portion of landscape) is removed (cut out) to allow a road or other passageway to cross the land without scaling the elevated portion of landscape.

Disturbance: The removal of vegetation, except as specifically permitted herein, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

Slope: The rise (vertical change) divided by the run (horizontal change). (Thus, a 45 (forty-five) degree angle with a vertical change of ten (10) and a horizontal change of ten (10) has a one hundred percent (100%) slope.) Accordingly, a two (2) foot vertical rise over a ten (10) foot horizontal run constitutes a twenty percent (20%) slope (an eleven point three (11.3) degree angle from horizontal) and triggers the provisions of this section.

Steep slope: Any slope that is fifteen percent (15%) or greater (in the natural state, without consideration of retaining walls), over a minimum ground area of at least 100 square feet.

Retaining wall: A structure designed and constructed to resist the lateral pressure of the soil or rock material, with ground elevation different on the two sides of the retaining wall.

C. Allowable and Regulated Activities.

1. Allowable Activities. The following activities within a steep slope area shall be allowed without a permit:
 - a) Any customary landscaping involving minor grading or filling in connection thereto, provided that such activities conform to all other applicable laws of the Village of Cold Spring. "Customary landscaping" shall mean land maintenance involving tree trimming and pruning, the removal of dead or diseased vegetation, lawn and garden care and the planting of decorative trees, shrubs, and plants.
 - b) The disturbance to steep slopes under temporary emergency conditions, as determined by the Code Enforcement Officer, where such disturbance is necessary to protect persons or property from present and imminent danger.
 - c) Repair of existing walkways and walls.
 - d) Installation of a standard-size mailbox.
 - e) Public health activities and emergency uses pursuant to orders of the Putnam County Department of Health and/or the New York State Department of Health.
2. Regulated Activities. It shall be unlawful to create any disturbance on a steep slope or to create a steep slope, as defined in this chapter, other than an exempt activity as defined herein, without a steep slope permit as required by this section.

D. Permit procedures. In order to achieve the purposes of this Chapter, a steep slope permit application shall be filed with the Village Clerk before undertaking any regulated activity that creates a disturbance on any property that has a steep slope. All applications shall contain:

1. Name of the applicant and mailing address.
2. Name of the property owner and mailing address, if different.
3. The street address and tax map designation of property for which a permit is sought.
4. A statement of the proposed work and purpose thereof.
5. An application fee in the amount set forth in a fee schedule established by the Cold Spring Village Board.
6. Proof that all adjacent property owners have been notified of the steep slope application and, in the case of an application required Planning Board approval, that adjacent property owners have been notified of the Planning Board meeting at which the application will be considered.
7. Either (a) or (b) below:
 - (a) Copies, in such reasonable number as determined by the approval authority, of plans for the proposed regulated activities drawn to scale of not less than one (1) foot equals twenty (20) feet (unless otherwise specified by the approval authority). Such plans shall be sealed by a professional engineer or professional surveyor licensed in the State of New York and shall show the following:
 - 1) A detailed site plan of the property showing the applicant's entire property, the adjacent properties, and existing streets and showing the following information:
 - a. The location of all existing and proposed structures and paved surfaces on the applicant's property and any existing septic systems and wells on such property;
 - b. The location of the proposed area of disturbance on the applicant's property and its relation to neighboring properties' structures, roads, watercourses and wetlands;
 - c. The location on the applicant's property of all existing watercourses, wetlands, marshes, wooded areas, rock outcrops, single trees with a diameter of five (5) inches or more measured three (3) feet above the base of the trunk, and all other significant existing land features; and
 - d. The existing grades on the applicant's property, indicating proposed paved areas, storm drainage facilities, retaining walls and ground cover, as well as the location of trees and ornamental shrubs.
 - 2) A landscaping plan for the applicant's property, indicating proposed paved areas, storm drainage facilities, retaining walls and ground cover, as well as the location of trees and ornamental shrubs.
 - 3) Architectural plans, elevations, sections of the structures and related improvements.
 - 4) The location of the proposed area of disturbance and its relationship to the property lines, easements, buildings, roads, walls, sewage disposal

systems, wells, and wetlands within fifty (50) feet of the outer limits of the area of disturbance.

- 5) The existing and proposed contours at two (2) foot intervals in the area of the proposed disturbance and to a distance of fifty (50) feet beyond.
- 6) Cross section diagrams of steepest slope at location of disturbance.
- 7) Retaining walls or like constructions, with details of construction, including retaining wall heights.
- 8) A soil erosion and sediment control plan prepared by a licensed architect, registered landscape architect or engineer describing:
 - a. The methods to be used in overcoming foundation and other structural problems created by slope conditions, in preserving the natural watershed and in preventing soil erosion;
 - b. The methods to be used to eliminate or mitigate water runoff on all adjacent properties and any other property that will be naturally affected by increased water runoff; and
 - c. The methods used to minimize the impact of changes in topography on adjacent and nearby properties through landscaping, retaining walls and terracing of gardens.
 - d. A statement made under the seal of a licensed professional engineer certifying that:

The proposed activity will disturb the steep slope area to the minimum extent possible; and

The proposed mitigation measure will prevent, to the maximum extent practical, the adverse effect of any disturbance of the steep slope area on the environment and any neighboring properties.
- 9) A plan submitted under the seal of a licensed professional engineer showing and certifying the following:
 - a. All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.
 - b. The calculated volume of water runoff from the slope(s) and from the lot in question, as unimproved.
 - c. The calculated volume of water runoff from the slope(s) and from the lot in question, as improved.
 - d. The existence, location and capacity of all natural and artificial drainage courses and facilities within 500 feet of the lot which are or will be used to carry or contain the water runoff from the slope(s) and the lot.
- 10) Other information, including specific reports by qualified professionals on soils, geology and hydrology, and borings and/or test pits, as may be determined to be necessary by the approval authority.

- (b) A request that the approval authority exercise its discretion to waive delivery of some or all of the requirements of paragraph (D)(7)(a)(1) through (11) of this Chapter as not pertinent or necessary for the proposed disturbance or because they are otherwise provided with an application being reviewed concurrently by the approval authority.

- E. Approval authority. The approval authority with respect to steep slope permit applications shall be as follows:
1. The Cold Spring Planning Board shall be the approval authority with respect to any site plan, subdivision, special use, or other application that requires the issuance of a permit or approval by the Planning Board pursuant to the laws of the Village of Cold Spring.
 2. The Code Enforcement Officer or other designee of the Board of Trustees of the Village of Cold Spring shall be the approval authority with respect to all other regulated activities.
- F. Decision Timeframe.
1. For activities requiring any other permit or approval: A determination on the permit application shall be made simultaneously with the determination by the approval authority of the other building, site plan, subdivision, or other permit or approval for which the application was made. Where a steep slope permit is granted in conjunction with site plan or subdivision plan approval, the steep slope permit approval shall duly be noted on the plan including a description of any conditions attached to said approval.
 2. For activities not requiring any other permit or approval: the determination on the permit application shall be made within sixty (60) days of an application deemed complete by the approval authority.
- G. Standards for Review and Approval. In denying, granting, or granting with modifications any application for a permit, the approval authority shall consider the consistency of the proposed action with the findings set forth in this Chapter and with the following steep slope design standards:
1. The planning, design, disturbance, and development of structures shall provide the maximum structural safety, slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain.
 2. All buildings, structures, roads, and driveways shall follow the natural contours of the land to the greatest extent possible in order to minimize disturbed area and the potential for erosion and shall be consistent with other applicable regulations of the Village of Cold Spring and current engineering practices.
 3. The Planning Board, as an approval authority, may reduce the total number of building lots in a subdivision where it finds that such reduction provides the best mitigation to avoiding any adverse impact to steep slopes.
 4. The Planning Board, as an approval authority, may impose limits on the number of dwellings, proposed building size, amount of development coverage, and amount of proposed disturbance, in order to reduce or eliminate impacts to steep slopes.
 5. The maximum length of any retaining wall, including road retaining walls, shall be not more than one hundred (100) linear feet. The maximum height of a retaining wall shall not be more than (a) ten (10) feet above ground when supporting cuts pursuant to paragraph (9) of this section and (b) six (6) feet above ground in all other cases. A variance to the provisions of this paragraph (G)(5) may be

granted by the approval authority if it deems special circumstances are present making such a variance appropriate.

6. Design of retaining walls greater than four (4) feet in height shall be certified by a New York State licensed engineer and approved by the Village of Cold Spring Code Enforcement Officer.
7. The approval authority may require the installation of landscaping to mitigate the visual and erosional impacts associated with proposed cuts or expansive lengths and/or heights of retaining walls.
8. The approval authority may require parking and driveways to consist of an all-weather surface to ensure adequate and safe access.
9. The maximum height of any cut used to establish a building site, a road or a driveway shall not exceed ten (10) feet.
10. Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom and sides of regraded slopes.
11. The angle of cut and fill slopes shall not exceed a slope of 50% (one (1) vertical to two (2) horizontal) except where retaining walls, structural stabilization, or other methods acceptable to the Village Engineer and approved by the approval authority are employed. Said structural measures shall meet the standards set forth herein.
12. Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the cut or fill slopes. Generally, such distance shall be considered to be six (6) feet plus one-half (1/2) the height of the cut or fill. Nevertheless, a structure built on a slope or at the top of slope is permitted if it is properly designed to retain the slope and withstand the forces exerted on it by the retained slope.
13. The approved limits of construction shall be physically designated on the property itself to minimize disturbed area. No disturbance outside the designated area shall take place.
14. Disturbance of steep slopes shall be undertaken in workable units in which the disturbance can be completed and stabilized in one (1) construction season so that areas are not left bare and exposed during winter and spring thaw periods (December 15 through April 15).
15. Disturbance of existing vegetative ground cover shall not take place more than fifteen (15) days prior to grading and construction.
16. Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period must be applied to an area of disturbance within two (2) days of establishing final grade, and permanent stabilization must be applied within 15 days of establishing final grade.
17. Measures for the control of erosion and sedimentation shall be undertaken consistent with the New York Standards and Specifications for Erosion and Sediment Control, (NYSDEC, August 2005, or most current version or its successor, hereafter referred to as the Erosion Control Manual) and any permit requirements that may be required by that agency.

- H. Conditions. In approving any application, the approval authority may impose such conditions or limitations as it deems necessary to ensure compliance with the intent, purposes, and standards of this section.
1. The approval authority may require a security and/or escrow deposit (in an amount and with surety and conditions satisfactory to it), securing to the Village of Cold Spring compliance with the conditions and limitations of the approval.
 2. The approval authority or its representative may inspect activities undertaken pursuant to the permit so as to ensure satisfactory completion, the cost of which shall be reimbursed by the applicant or charged to the escrow account.
 3. The approval authority may require that the activities undertaken pursuant to a permit be supervised by an appropriate licensed professional, the cost of which shall be reimbursed by the applicant or charged to the escrow account.
- I. Duration of permit.
1. Activities specified by the permit shall be undertaken pursuant to any conditions of the permit and shall be completed according to any schedule set forth in the permit.
 2. A permit shall expire upon completion of the activities specified. Said permit shall be valid for a period of one (1) year from the date of approval or for the period of any other permit issued by the approval authority, whichever is later.
 3. A permit may be extended by the approval authority. A request for an extension shall be filed with the approval authority at least one (1) month prior to its expiration.
 4. A permit may be revoked or suspended where the applicant has not complied with the conditions or limitations set forth in the permit.
- J. Special hardship exception. The approval authority may grant a special hardship exception to an applicant who cannot meet the requirements of this Chapter, provided that the applicant demonstrates that:
1. The lot cannot be developed without creating a disturbance.
 2. The proposed construction/disturbance is not contrary to the objectives of this chapter;
 3. The steep slope area or areas will be disturbed to the minimum extent consistent with the objectives of this chapter; and
 4. Appropriate mitigation measures will be taken to prevent, to the maximum extent practical, the adverse environmental effects of such disturbance of the steep slope area.
- K. Appeals. Any final determination, decision or order of the approval authority may be appealed by means of the procedure specified for zoning matters in Chapter 134, Zoning, of the Village of Cold Spring Code.

Chapter 52

FLOODPLAIN MANAGEMENT

- A. regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and;
- F. qualify and maintain for participation in the National Flood Insurance Program.

"MANUFACTURED HOME" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational Vehicle." "MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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- F. qualify and maintain **standards** for participation in the National Flood Insurance Program.

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“STRUCTURE” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

§ 52-6. Basis for establishing the areas of special flood hazard. [Amended 12-12-1989 by L.L. 03-1989]

The areas of special flood hazard for the Village of Cold Spring, Community Number 360670, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Number: 36079C0087E whose effective date is, March 4, 2013, and any subsequent revisions to these map panels that do not affect areas under our community’s jurisdiction.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Putnam County, New York, All Jurisdictions" dated March 4, 2013. The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: the Village Office, 85 Main Street, Cold Spring, New York.

§ 52-7. Interpretation and conflict with other laws.

A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

§ 52-12. The floodplain development permit.

A. Purpose.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of

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protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map available at Village Office, 85 Main Street, Cold Spring NY 10516, enumerated in § 52-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

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§ 52-16. Standards for all structures.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 52-6.

A. Anchoring.

(1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

§ 52-19. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in §52-15, General standards, and §52-16,

Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

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(1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) Fuel tanks shall be anchored in accordance with FEMA's *Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems*, available online at fema.gov.

§ 52-19. Recreational vehicles.

The following standards in addition to the standards in §52-15, General standards, and §52-16,

Standards for all structures, apply, as indicated, in areas of special flood hazard to recreational vehicles which are located in areas of special flood hazard.

Evaluate Adopting a Ridgeline Protection District

The topics which were considered:

What are the ridgelines in the Village of Cold Spring?

What is the definition of a “ridgeline”?

What is a “ridgeline overlay protection district”?

Review of Ridgeline Protections from other Codes

Review of the Comprehensive Plan and the Local Waterfront Revitalization Strategy documents to identify what, if anything, was stated.

Discussion and conclusion of the Code Update Committee

Areas in the Village of Cold Spring (identified at the 1/24/18 Code Update Committee Meeting, updated 2/5/18 after additional input from members) which might be considered “ridgelines”:

- “Kemble Ridge” (between Marathon property and West Point Foundry Preserve (WPFP) – identified in the Comprehensive Plan. “Kemble Ridge” extends from West Point Foundry Preserve (located on Kemble Avenue) west/north toward the river.
- Lunn Terrace as it rises on either side of the RR tracks
- Pugh Property, 3 Rock Street – rock outcropping
- Dockside hill – “Poet’s Seat” (West side of tracks)
- Northern Gate Properties – (East side of tracks)
- Highway Garage Property
- Haldane Softball Field/Little League Field drop off
- Grandview Terrace (drops to Fair, and goes to end of Village northern end)
- Haldane Campus – where the bell is located
- Haldane Campus – Parking lot above football field
- Haldane Campus – High School building
- Maple Terrace – across from Town Hall (hill that includes Alvis/Greenberg and Brennan, see below)
- Hill rising between Marion/Benedict/Chestnut and Kemble Avenue, and WPFP
- Alvis/Greenberg property between Paulding Avenue and Parrott Street (at 11 Parrott Street) and Brennan fronting on Main (north of Alvis/Greenberg property)
- Sean Kearney property, partially adjacent to Alvis/Greenberg property, possibly along the same crest of land
- Properties along Paulding on the west side of Paulding (Williams (31 Paulding), Carone (35-37 Paulding), etc.). Visible from M&T Bank and on the other points in the village

Other Codes reviewed:

Williston, VT, Protection Overlay District (recommended as an example by NYSEDA)

Village of Slootsburg Code, Chapter 54, Overlay Districts

Village of Cross Plains, WI (from the Pace Land Use Center Database)

Ridgeline definition: noun. 1. a line formed along the highest points of a mountain ridge. 2. an area of higher ground separating two adjacent streams or watersheds.

Discussion: There are no mountains in the Village of Cold Spring. The topological map identifies the highest point in the Village at 280 feet above sea level.

The walking path along Kemble Ridge – the “ridge” is approximately 30 to 40 feet in height by the committee’s estimate.

What is a ridgeline protection overlay district?

The purpose of a ridgeline overlay district is to protect ridgelines from potentially hazardous development (e.g., resulting in landslides, excessive erosion, flooding) or land uses that would negatively impact views of the ridgelines from offsite vantage points.

Overlay districts do not change the uses allowed in the district but impose on it specific requirements that must be followed. Generally, the ridge or hillside is first identified as a scenic resource to be preserved. Then a district is created, and requirements are established to preserve the scenic resource, help protect people and property from potentially hazardous conditions particular to hillsides and require all practical innovative design solutions.

Properties adjacent to “Kemble Ridge”: tax map id 48.12-1-13, 49.9-1-5, 49.9-1-6, 49.9-1-59, 49.9-1-60, 49.9-1-61, 49.9-1-62, 49.9-1-63. The first property has been divided into 2 parcels, one now privately owned and the other parcel owned by The Scenic Land Trust, Inc. The privately owned parcel has restrictions on constructing additional buildings on the property. The remaining 7 parcels are undeveloped land. All parcels are currently in the I-1 (Light Industry) Zoning District which has minimum requirements of lot size of 40,000 square feet, front yard setbacks of 50 feet and rear yard setbacks of 30 feet. The 7 remaining parcels are all non-conforming in lot area size. The Code Update Committee is recommending that these parcels, among others) be rezoned to MU-1 (Mixed Use) Zoning District. The recommendations for MU-1 require a smaller lot size but the same rear yard setbacks which means that any structures would be set back from the ridge by a minimum of 30 feet.

Review of the Comprehensive Plan/LWRS relative to ridgeline overlay protection:
The 2011 LWRS states:

“7.2.7 Recommendation: Protect views of the ridge from the Foundry Trail and Foundry Cove through conservation easements, local enforcement of SASS (Scenic Areas of Statewide Significance) guidelines, and/or creation of ridgeline protection overlay district.”

Other mentions in the LWRS 2011 are identical to those written into the LWRP 2014 (which has not yet been completed).

MENTIONS OF RIDGELINES FROM THE DRAFT LWRP 2014 found on www.coldspringny.gov:

“1.4 Maintain and enhance natural areas, recreation and open space lands

Natural areas, open space and recreational lands provide public benefits that may not be immediately tangible. In addition to scenic and recreational benefits, these lands may also support habitat for important fish and wildlife, provide watershed management for flood control, and serve to recharge ground water. Such areas include wetlands, forested areas, **ridgelines** and steep slopes, shorelines, floodplains, and significant habitats.

3.1 Protect and improve the visual quality of Cold Spring.

The visual quality of Cold Spring is a major contributor to the community character of the Village. The highly scenic quality of the Village's setting in the natural environment of the Hudson Highlands, as viewed both to and from the river, contributes significantly to the quality of life of residents and attracts numerous visitors to the Village. The Village includes a nationally recognized historic central business district, which is one of the Village's strongest visual elements, along with its historic residential neighborhoods, the well-defined waterfront with its parks and bandstand, historic structures including the Chapel Restoration, and open space. These resources must be protected and enhanced.

1. Avoid potential adverse impacts on the visual quality of the Village of Cold Spring as follows:

- (a) Enhance existing scenic characteristics by minimizing introduction of discordant features. Avoid structures or activities that introduce visual interruptions to the natural landscape along the shoreline and ridgelines as viewed both to and from the river, such as intrusive artificial light sources or large structural intrusions into open areas. Require fully shielded outdoor lighting fixtures and lighting levels that do not to exceed the recommended levels set by the Illuminating Engineering Society of North America. Lighting should be sufficient to illuminate the intended area, but not excessive.
- (b) Restore deteriorated and remove degraded visual elements and screen activities and views which detract from visual quality.
- (c) Preserve existing vegetation and establish new vegetation to enhance scenic quality both to and from the river, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements such as parking lots, utility buildings, and boat storage areas, except when selective clearing removes unsightly, diseased or hazardous vegetation and when selective clearing within public parks, at Village street ends, and along rights-of-way creates or enhances views of the waterfront.
- (d) Group or orient structures to preserve open space, minimize impacts on the shoreline and ridgelines, and provide visual organization.
- (e) Anticipate and prevent impairment of dynamic landscape elements that contribute to ephemeral scenic qualities.
- (f) Recognize water-dependent uses as important additions to the visual interest of the waterfront.
- (g) Protect scenic values associated with public lands, including public trust lands and waters, and natural resources. “

From 3. Marathon:

“...The southern portion of the Marathon site is bounded by Kemble Ridge (depicted at right) [photo of ridge from marsh], which overlooks a popular walking trail that connects the West Point Foundry Preserve to the Cold Spring Metro-North station and Foundry Cove and includes archeological remains of the home of Gouverneur Kemble, founder of the West Point Foundry. Additionally, Kemble Ridge is visible from the Hudson River, Foundry Cove, Constitution Marsh, Constitution Island, and the Foundry Trail. Many residents and visitors enjoy the natural

features of Kemble Ridge and consider its protection to be of vital importance. Indeed, Cold Spring lies within a designated New York Scenic Area of Statewide Significance (SASS)¹, and one of the key features of the Cold Spring SASS is Kemble Ridge. The SASS regulations state that “whether within or outside a designated SASS all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource.” The SASS policy guidelines also provide that structures and other development should be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline. The comments to the SASS guidelines note that:

For much of the length of the Hudson Highlands SASS, the Hudson River is bounded by steep, undeveloped wooded bluffs that figure prominently in views within the SASS, notably from and across the Hudson River. Siting of structures on the slopes or crests of these bluffs, on the immediate shoreline of the Hudson River or over the water surface of the Hudson River would introduce discordant elements into the landscape and impair the scenic quality of the SASS. The siting of new residential development has the potential to threaten the future visual quality of the SASS. Areas which afford views, such as **ridgelines**, hilltops, and hillsides overlooking the Hudson River, are most attractive to new development, but also the most vulnerable to impairment from inappropriate development. The siting of residential development, structures and other discordant features such as large buildings, highways, power lines and signs on **ridgelines**, hilltops and exposed hillsides and in the direct viewshed of the Hudson River would introduce discordant elements into the landscape and impair the scenic quality of the SASS.”

And under RECOMMENDED PRINCIPLES FOR FUTURE DEVELOPMENT

“The following principles – based on public comments received over the last four years and sound planning practice – should guide land use decisions at Marathon, and should provide a framework for a comprehensive, rather than a piecemeal, approach:

Development should preserve the scenic viewshed of Kemble Ridge. Village residents overwhelmingly support protecting views of Kemble Ridge, which is identified as a contributing feature of the Cold Spring Scenic Area of Statewide Significance (SASS). Local enforcement of the SASS policies during Planning Board review of any development proposed in this area is critical. Also of great concern is the protection of the archaeological resources on the Marathon site, and an archaeological survey should be required during the SEQR review of any application for development proposed in this area. One significant planning technique that could be used to

¹ The Cold Spring subunit of the Hudson Highlands SASS consists of “the Villages of Cold Spring and Nelsonville, located on the east bank of the Hudson River. The southern and eastern boundary of the subunit runs along the 20 foot contour from the northern extent of Foundry Cove to its intersection with Foundry Brook, a common boundary with the Constitution Marsh subunit. *See* http://nyswaterfronts.com/SASS/SASS1/Hudson_Highlands.htm#HH-25%20%20Cold%20Spring%20Subunit.

conserve scenic and archaeological resources while allowing for development is conservation subdivision, which employs a four-step design process to identify unbuildable lands and special features of the site around which development is designed, and where a minimum amount of protected open space is required. In this case, the **ridgeline** and archaeological sites could be identified as areas to preserve, and the open space lands could be placed under a conservation easement to permanently protect them. The current owner of the Marathon site has stated that he is willing to work with Scenic Hudson, which might hold the conservation easement, regarding protection of Kemble Ridge.”

Conclusion of the Code Update Committee:

The CUC identified areas within the Village of Cold Spring to consider as “ridgelines”. The CUC reviewed the LWRS recommendation 7.2.2. Code examples from other communities were reviewed. The CUC concluded that similar regulations are not appropriate for the Village of Cold Spring based upon the size of the Village, the highest elevations in the Village, the fact that the Village is primarily built-out, and the major ridgelines requiring protection are outside of the Village of Cold Spring and are already protected by the Town of Philipstown’s Scenic Protection Overlay District and the Scenic Ridgeline Overlay. Recommend Village Board consider pursuing conservation easements and/or local enforcement of SASS guidelines as per LWRS recommendation 7.2.2.

GREEN BUILDING STANDARDS

Current Code

Under Zoning, in §134-15A, Regulations for B-4A Medical and Health Care Facility Mixed Use District, under F. Supplementary regulations, subsection (9) states that “Green Building and Energy Efficiency Future Development should be consistent with the Village’s desire to create a more sustainable community by encouraging the use of green building and energy efficiency measures in the design, construction, and maintenance of buildings.”

Other than the foregoing, there are no references to green building, energy efficiency, water conservation, or related standards or techniques in any district or other section of the current Village Code.

Climate Smart Community

While the Village had previously decided not to take the necessary action to become a Climate Smart Community, in view of subsequent increased understanding of climate change, it is recommended that the Village now take the pledge and work with the state to take related actions.

Proposed Changes to the Current Code

In light of growing appreciation for the importance of conservation, it is recommended that the purposes of the code be expanded to include conservation of energy and of water as follows:

§ 134-1. Enumeration of purposes. [Amended 3-27-01 by L.L. 2001-05]

There is hereby established a comprehensive zoning plan for the Village of Cold Spring, which plan is set forth in the text and map that constitutes this chapter. Said plan is adopted for the purposes set forth in § 7-704 of Article 7₁ of the Village Law and in the interest of the protection and promotion of the public health, safety and welfare. Said plan shall be deemed also to specifically include the following purposes, among others:

- A. To recognize that the land within the confines of the Village of Cold Spring has been largely developed, but that the remaining vacant land, if improperly controlled, could drastically alter the character of the community to the detriment of all people residing therein.
- B. To recognize that the capacity of the sewer and water systems is limited and that uncontrolled building would impose an intolerable burden upon said public facilities.
- C. To recognize that the traffic capacity of village streets is limited and that proper control of parking and traffic is of paramount importance for adequate transportation and safety from fire and public dangers.
- D. To recognize that the Village of Cold Spring is situated in a location of unique beauty and that all planning and zoning must have as one of its goals the development of a village that will blend and harmonize with the surrounding countryside, thereby making a more pleasant, relaxed and healthful community for all.

E. To recognize that while the Village of Cold Spring is primarily a residential community, provision also must be made for business and industry.

Add to §134-1:

F. To recognize the effects of development on the Village's natural environment and to reduce the negative impacts of buildings by encouraging the use of renewal energy and sustainable building products while providing residents and business owners in the village with economic benefits from savings in energy, water, and other natural resources.

G. To recognize and promote green and sustainable development through carbon footprint reduction, water conservation and reuse, energy conservation, renewable energy use, recycling and waste reduction, vegetation, urban agriculture, and hazard-resilient development.

As the field of green building is rapidly evolving, it is recommended that under §134 Article V. Special Uses and Supplementary Regulations, the Village adopt a new sub-section §134-20 Green building should be added:

- A. The voluntary use of LEED (Leadership in Energy and Environmental Design) as put forth by the U.S. Green Building Council, Passive House under the direction of PHIUS (the Passive House Institute of the U.S.), and other standards that may develop shall be encouraged.**
- B. Solar panels and other techniques for energy efficiency and conservation shall be encouraged.**