

LOCAL LAW \_\_ - 2021

A local law to amend Chapter 305 of the Code of the Village of Tarrytown entitled “Zoning”, to add additional requirements to Chapter 305

Section 1. Be it enacted by the Board of Trustees of the Village of Tarrytown as follows (Language in **Bold and Underlined** to be added, language in ~~**Strikethrough and bold and underlined**~~ to be deleted):

**Section 2. Amending Existing Provision.** Chapter 305, Section 6 entitled “Districts Enumerated” add “**SAO Station Overlay**” to the first column of the list of districts and “**SAO**” to the second column of the list of districts.

**Section 3. Amending Existing Article Heading.** Chapter 305, Article IX entitled “Special Waterfront Zones” to read “Special Waterfront Zones **and Other Special Zone**”

**Section 4. Amending Existing Article.** Chapter 305, Article VI entitled “Special Waterfront Zones” (to be amended per Section 3 above) to add new section 305-43.1 entitled “Station Area Overlay Zone SAO” as follows:

**§ 305-43.1 Station Area Overlay SAO**

**A. Intent and Purpose**

**The intent and purpose of the Station Area Overlay District (SAO) is to create a built environment that implements the goals and objectives for the station area as detailed in the Tarrytown Comprehensive Plan. The SAO is designed is to allow exceptional and signature developments that are consistent with the Comprehensive Plan along with a level of flexibility that will allow different types of uses and forms while still protecting the Village’s interests. The purpose and goal of the SAO is to: promote sustainable development and growth; improve local mobility and regional access; reduce dependence on personal vehicles; foster greater connectivity in the village; expand housing options for a diverse, multi-generational community; protect natural resources; enhance open space resources; strengthen connections to the Hudson River; reduce greenhouse gas emissions; and, minimize local impacts of climate change.**

**B. Definitions and Word Usage**

**Unless defined herein in the general definitions in Chapter 305, the following definitions apply.**

**Affordable Housing**  
**Reference § 305-130.**

**Blue / Green Strategies**  
**Refer to Blue Roofs and Green Infrastructure below.**

**Blue Roofs**  
**Rooftop systems that control the discharge of stormwater into a municipal system by detaining stormwater on a roof and until the peak rate of discharge is reduced.**  
**(Source: adapted from New York State Department of Environmental Conservation)**

**Cooperative Housing, Collective Housing, Cooperative Living, or Share Housing**  
**A shared living arrangement in a multi-unit building where certain facilities are shared between building occupants, for example kitchen, living, or toilet/bathing facilities.**

**Green Infrastructure**  
**Green infrastructure includes a wide array of practices at multiple scales to manage and treat stormwater, maintain and restore natural hydrology and ecological function by infiltration, evapotranspiration, capture and reuse of stormwater, and establishment of natural vegetative features. On the local scale green infrastructure consists of site- and neighborhood-specific practices and runoff reduction techniques. (Source: NYSDEC, Stormwater Management Design Manual)**

**LEED**  
**Leadership in Energy and Environmental Design (LEED) is a rating system devised by the United States Green Building Council (USGBC) to evaluate the environmental performance of a building and encourage market transformation towards sustainable design. (Source: U.S. Green Building Council)**

**LEED Certification**  
**A designation given to projects that demonstrate adherence to prerequisites and earn credits across nine measurements for building excellence from integrative process to indoor environmental quality. Based on the number of credits achieved, a project earns one of four LEED rating levels: LEED Certified, LEED Silver, LEED Gold or LEED Platinum. The LEED rating systems work for all buildings at all phases of development and are meant to challenge project teams and inspire outside-the-box solutions. (Source: U.S. Green Building Council)**

**Live-Work Space or Live/Work Unit**  
**A building or space within a building used jointly for commercial and residential purposes. (Source: American Planning Association / Planning Advisory Service)**

**Passive House Standards**  
**Passive House building is an internationally recognized, performance-based energy standard in construction that comprises a set of design principles used to attain a**

**quantifiable and rigorous level of energy efficiency within a specific quantifiable comfort level. A passive building is designed and built in accordance with these five building-science principles:**

- 1) Employs continuous insulation throughout its entire envelope without any thermal bridging.**
- 2) The building envelope is extremely airtight, preventing infiltration of outside air and loss of conditioned air.**
- 3) Employs high-performance windows (typically triple-paned) and doors.**
- 4) Uses some form of balanced heat- and moisture-recovery ventilation and a minimal space conditioning system.**
- 5) Solar gain is managed to exploit the sun's energy for heating purposes in the heating season and to minimize overheating during the cooling season  
**(Source: Passive House Institute US)****

#### **Shared Parking**

**A land use/development strategy that optimizes parking capacity by allowing complementary land uses to share spaces, rather than producing separate spaces for separate uses. In effect, shared parking makes spaces publicly accessible rather than reserved for a particular tenant or property owner. Parking may be privately constructed and operated, depending on a contractual agreement, but should remain within the government's jurisdiction for long-term transport planning purposes. (Source: Institute for Transportation and Development Policy)**

#### **Transit-Oriented Development (TOD)**

**A land use strategy that focuses development around locations that are well served by transit, and that typically includes a mix of land uses, and a more dense development pattern. (Source: Westchester County Planning)**

#### **Workforce Housing**

**One or more dwelling units made available to households earning between 60 and 120 percent of Westchester Area Median Income. (Source: adapted from Urban Land Institute)**

#### **Acronyms**

**MDP Master Development Plan**

**MNR Metro-North Railroad**

**MHW Mean High Water**

**SAO Station Area Overlay**

**SLR Sea-Level Rise**

#### **C. Boundaries of the Station Area Overlay District**

**The boundaries of the SAO District are shown on the SAO District Map at Attachment 305k.**

#### **D. Authority**

**The Village Board has the authority to grant eligible parcel(s) an SAO designation as set forth below in §305-43.1(E) “Eligibility” and §305-43.1(F) “Procedure for SAO Designation”.**

- 1. The decision to approve or decline a parcel for SAO designation is purely a legislative determination entirely within the legislative discretion of the Village Board. The Village Board shall have the right to reject any parcel for SAO designation at any stage of the process**
- 2. A parcel located within the mapped SAO District must receive an SAO designation and Master Development Plan approval by the Village Board prior to the Planning Board determining whether or not to grant Site Plan approval.**

#### **E. Eligibility**

**Any parcel located within the boundaries of the SAO District as shown on the SAO District Map is eligible for SAO designation by the Village Board. The criteria in this section are separate and distinct from site plan and subdivision requirements which address more specific site layout and design requirements.**

#### **F. Procedure for SAO Designation**

**An SAO designation can only be granted by the Village Board subject to the following procedure.**

- 1. Pre-application conference. The applicant must, prior to formal submission of their SAO designation application, meet in a pre-application conference with the SAO review staff made up of Village Staff and one member of the Planning Board, to review the requirements and procedures and discuss the planning concepts for the proposed development. The Applicant will pay the pre-application meeting fee (as established by the Village Board).**
- 2. Submission of an application package for a SAO designation to the Village Clerk: The application package shall contain the following required documents and fees:**
  - a. an SAO Designation Application Form.**
  - b. A conceptual plan.**
  - c. Long-form Environmental Assessment Form.**
- 3. Preliminary Village Board action. At its sole discretion, the Village Board will determine whether to consider or not consider the SAO designation application. If the Village Board decides to consider the SAO designation application, it shall refer it to the Planning Board for their recommendation and continuing review as set forth below.**
- 4. Village Board Referral to the Planning Board. If the Village Board determines that the application may continue and refers it to the Planning Board, the Applicant is required to submit a Master Development Plan consistent with § 305-43.1 (I) and a site development application in accordance with Article XVI, including all required forms, plans and**

- documents, as well as, required fees and escrow, but Is not required to submit building permit fees at this stage.
5. Master Development Plan and Site Development Plan review by the Planning Board: The Planning Board shall begin the Site Development Plan review, review the Master Development Plan based upon the Performance Criteria set forth in § 305-43.1 (J), and schedule a public hearing on Master Development Plan and Site Development Plan application in accordance with the requirements set forth in Article XVI. During this step, the Village Board will receive periodic updates from the Planning Board as part of the coordinated review.
    - a. As soon as practicable, the Planning Board shall complete the scoring process and recommend a score based upon the Station Area Overlay Scorecard (SAO Scorecard), which is a programed spreadsheet that can be found on the Village’s website. The SAO Scorecard will be used by the Planning Board in electronic form to provide any proposed development within the SAO area described in a Master Development Plan with a score. Upon completing the SAO Scorecard electronically, the Planning Board shall advise the Village Board of the total score.
    - b. The Village Board can accept the Planning Board recommended score or modify the score as it deems appropriate.
    - c. The Master Development Plan must receive a passing score by the Village Board to proceed. A passing score is 85.
  6. Upon the Village Board assigning a passing score but prior to determining whether to grant or deny Site Development Plan approval, the Planning Board shall issue a written report to the Village Board recommending that the SAO designation be granted, with or without conditions, or denied and its reasons for such recommendation (“SAO Recommendation”). Before issuing its SAO Recommendation and/or taking any action, the Planning Board shall fully comply with SEQRA.
    - a. While the Village Board is considering the Planning Board’s report, any public hearing before the Planning shall be adjourned and held open until such time as the Village Board makes a determination on the proposed SAO designation.
  7. Decision of Village Board. Upon the Village Board’s receipt of the Planning Board's SAO Recommendation, along with Master Development Plan, if the Village Board elects to proceed it shall schedule a public hearing on the proposed SAO designation and following said hearing, may by resolution, act either to approve, approve with modifications and/or conditions, or disapprove the SAO designation and Master Development Plan. The Village Board shall fully comply with SEQRA prior to issuing any designation.
  8. Completion of Land Use Review Process. If the Village Board determines to approve the SAO designation (including to approve with modification and/or conditions) and Master Development Plan, the Planning Board will place the application on its first available agenda and will continue with its Site Development Plan review and any other required land use approvals (such as

preliminary and final subdivision review). The Applicant shall not be able to apply the SAO designation unless and until the Planning Board grants Site Development Plan approval.

#### G. Use Regulations

##### 1. Pre-existing Uses and Buildings.

Any building permit or Site Development Plan approval issued before the date of adoption of this Section shall remain in effect for the underlying zone that the parcel is located within until a project is granted an SAO designation by the Village Board as set forth in § 305-43.1(E) Eligibility. Buildings existing before the date of adoption, or subsequent amendment, of this Section are allowed to expand and modify as permitted under the underlying zoning unless they have previously received an SAO designation. Once a parcel receives an SAO designation, the parcel is governed by the use, dimensional and other provisions of the SAO zoning regulations and SAO zoning replaces the existing zoning, but the parcel's development is project specific and limited to the approved Master Development Plan.

##### 2. Permitted Uses

Any principal use permitted in any district in the Village of Tarrytown or any combination of such uses is a use permitted in the SAO provided the proposed use's Master Development Plan receives a receive a passing score by the Village Board on the SAO Scorecard as described in § 305-43.1 (I)(3).

#### H. Density/Development Regulations

Maximum Building Height. The maximum height permitted for all buildings in the SAO District is four stories or 48 feet, whichever is less. The height of building shall be determined as defined under "Definitions" (Section 305-5, "HEIGHT OF BUILDING").

##### 1.

#### I. Master Development Plan and SAO Scorecard

For any Applicant seeking SAO designation, the applicant shall prepare a Master Development Plan (MDP). The MDP shall be consistent with the adopted Tarrytown Comprehensive Plan and Tarrytown's adopted Local Waterfront Revitalization Plan (if applicable, currently N/A). The purpose of an MDP is to provide additional information so that the proposed use and development can be evaluated based upon the Performance Criteria set forth in § 305-43.1 (J) and assigned a score based upon the SAO Scorecard found on the Village's website.

##### 1. Master Development Plan.

At minimum, an MDP shall include the following drawings and materials: (a) site plan that complies with the requirements of Article XVI; (b) Landscape plan; (c)

**Streetscape plans and elevations; (d) Parking plan; (e) Preliminary Infrastructure Analysis; (f) Preliminary Fiscal Analysis; (g) Affordable Housing Plan (if applicable); and (h) Phasing plan, if the project is to be built in phases**

**The MDP must also include a discussion of required utilities and a plan for the supply of water and wastewater disposal, which must include a discussion of the current condition and capacity of all public utilities that the development will be required to use. The MDP must also show how any development in the SAO will be resilient to periodic storm events, long-term sea level rise, and how it incorporates energy, graywater, and other sustainability measures. The MDP must also include a view impact analysis and photosimulations for any new structure or building that may impact Important Public Views in accordance with Chapter 147, Section 17. The MDP shall also contain such other information as the Planning Board deems necessary to demonstrate how the proposed development performs against the Performance Criteria found in § 305-XX(10)**

## **2. Review of MDP**

**The Planning Board shall review and evaluate the MDP according to Performance Criteria identified in § 305-XX(10). The Planning Board, may refer the Master Development Plan to a planner, attorney, engineer, landscape architect, environmental expert or other professional necessary to enable it to review such application. Fees for such services will be paid in accordance with § 305-138(B) and § 305-138(C).**

## **3. Scoring the MDP**

**The Planning Board and the Village will use the SAO Scorecard to evaluate a MDP's performance against the Performance Criteria outlined in the SAO Scorecard. The scores an MDP receives on each component of the performance criteria will be initially determined by the Planning Board, as assisted by professional staff and experts working on their behalf, but ultimately determined by the Village Board.**

- 1. Passing Score: Using the SAO Scorecard and a 100-point scale, a score of 85 is a passing score. A zero in any component capable of obtaining a zero score shall result in an automatic failing score.**
- 2. Bonus Points: An MDP that obtains a minimum score of at least 75 points on the eight Performance Criteria is eligible for bonus points of up to 25 points, which bonus points are added to the score, so it is possible to exceed a score of 100. An MDP that does not obtain a minimum of 75 points on the eight Performance Criteria is not eligible for consideration of any bonus points.**
- 3. Requirement for Passing Score: A passing score is a condition to the granting of SAO designation by the Village Board and Site Development Plan approval by the Planning Board. An MDP that does not receive a passing score by the Village Board will not be eligible for SAO Designation and an MDP that receives a failing score from the Village Board will not be referred by the Village Board to the Planning Board for further review.**

## **J. Performance Criteria**

**Master Development Plans are evaluated against eight Performance Criteria. Performance Criteria and their Components are categories of public concern identified in the Village of Tarrytown Comprehensive Plan against which all MDPs are evaluated. Performance Criteria are made up of Components, which are implemented through the SAO Scorecard. A score of zero in any component category capable of being awarded a zero, results in a zero for the entire criteria and as a result, an automatic failing score. .. There are eight Performance Criteria, each with their own Goals and Components as set forth below:**

### **1. Land use**

#### **a. Goals:**

**The mix of land uses in the Station Area will help create a dynamic, transit-oriented neighborhood that anchors the area around the Metro-North Railroad (MNR) Station. This land use mix will promote the village as a regional hub and destination, while serving Tarrytown's residential population through the provision of neighborhood amenities, as well as broadening the local economy and growing the tax base. Any residential component should include a mix of housing unit sizes and models that will serve the needs of a wide range of living needs and incomes. Office spaces may include co-working, incubator spaces, and live-work.**

#### **b. Components:**

- **The MDP incorporates the mix of uses reflecting the goals of the area. Retail uses will be planned to support the other proposed uses of the SAO and not supplant the existing downtown retail.**
- **The MDP shows workspaces that are flexible and expand the range of offerings within Tarrytown.**
- **The MDP shows no uses that are contrary to the goals of the Comprehensive Plan and the SAO District**

### **2. Mobility & Access**

#### **a. Goals:**

**All developments will prioritize pedestrian safety and access within the SAO. All developments and their pedestrian, vehicle, and bicycle access will be coordinated with the street network, connect to each other and facilitate access to the waterfront, the Station, the adjacent downtown area, and encourage access to Tarrytown and nearby destinations beyond the Station Area.**

#### **b. Components:**

- The MDP shows Complete Streets, defined as roadways planned and designed to consider the safe, convenient access and mobility of all roadway users of all ages and abilities.<sup>1</sup>
- The MDP improves connections between new facilities and all transit modes at Depot Plaza.
- The MDP provides access to new and existing parks.
- The MDP demonstrates that every unit has a direct pedestrian route to the MNR station, including through a building, provided public access is maintained, or to an intersection that has a direct pedestrian route to the train station.
- The MDP provides features to alleviate congestion in the Station Area specially and Tarrytown in general.
- Where applicable, the MDP improves the connection between the MNR Station and downtown.

### 3. Transportation & Parking

#### a. Goals:

All developments will support the transit-oriented goals for the Station Area while providing parking types and levels sufficient for the land uses proposed.

#### b. Components:

- The MDP demonstrates how all parking needed by residents, workers, customers, and visitors will be provided. Solutions may be shared or separate, structured on-site, off-site, above ground, or below ground. Any parking facilities must include car share, bicycle parking, and electric vehicle / electric bike charging infrastructure.
- All parking solutions should minimize surface parking lots.
- The MDP demonstrates how it will accommodate different modes of transportation, which may include bicycles, bike share, ride share, and transit.
- Any commuter parking that is displaced will be replaced in a structure within the SAO.

### 4. Affordable Housing

#### a. Goals:

Any residential component of developments within the SAO will expand the supply of permanently affordable housing and offer alternative models of housing within Tarrytown in order to serve a range of resident incomes and household types. The minimum requirement for the affordable component will follow § 305-130, although it is highly desirable to exceed the quantity and/or level of affordability provided by the code minimums.

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<sup>1</sup> As discussed in Chapter 398 of the Laws of the State of New York. Information about Complete Streets is distributed by NYS DOT here: <https://www.dot.ny.gov/programs/completestreets>. The Planning Board may update or replace these guidelines as necessary.

**This criteria is not applicable for projects with fewer than 10 dwelling units. For non-residential development, the SAO Scorecard proportionally increases the importance of the remaining seven criteria**

**b. Components:**

- **The MDP includes a mix of unit types, sizes, and price points. These may include workforce housing, live/work units, and cooperative housing.**
- **The MDP includes residential units for both renters and owners.**
- **The MDP should include units that are managed as permanently affordable housing.<sup>2</sup> All affordable units should be integrated within mixed-income buildings.**
- **The MDP includes a provision for senior housing in the Station Area. Innovative siting of senior housing, such as it being located near or within the same building as day-care or other intergenerational uses, is encouraged.**

**5. Neighborhood Character**

**a. Goals:**

**Development in the SAO will create a sense of place and arrival at the train station, completing the waterfront neighborhood. Development east of the tracks will maintain a scale and block structure that supports street-level activities and enhances the transition from the waterfront, to the Station Area, and to the village downtown. Development in the SAO will not impact public scenic views of the Hudson River and Palisades.**

**b. Components:**

- **The MDP shows development that respects Tarrytown's architectural legacy.**
- **The MDP shows uses that are consistent with residential and recreational uses (e.g. MDP demonstrates no impacts to air quality, water quality; the MDP does not describe uses that introduce significant noise and vibrations).**
- **The MDP contains active and transparent ground floor uses designed for pedestrian access and circulation with building orientation planned to improve wayfinding, access, and contribute to a sense of arrival at the train station.**
- **The MDP shows a development that is designed primarily around the pedestrian and not the automobile.**
- **The MDP's landscape plan is complete and includes native plantings, street trees and full-cutoff, non-polluting light fixtures to encourage dark sky lighting. The landscape plan must be coordinated with any village street furniture.**

**6. Infrastructure**

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<sup>2</sup> Reference § 305-130.

**a. Goals:**

**All developments will minimize their impact on existing infrastructure.**

**b. Components:**

- **The MDP includes an infrastructure plan providing for stormwater capture as per code and incorporates blue / green strategies, including for example: green roofs, blue roofs, detention tanks, green infrastructure, and permeable surfaces within or under the development site inclusive of roads and sidewalks., All streetscapes must include green infrastructure.**
- **The development shall not result in a net increase in infrastructure costs to the Village.**
- **The MDP utilizes onsite renewable sources to meet its energy requirements**
- **The MDP places new infrastructure below grade as feasible and necessary for resiliency plans.**

**7. Open Space**

**a. Goals:**

**All developments will improve access to and continuity between existing public open spaces and the Hudson River.**

**b. Components:**

- **The MDP identifies public and private open spaces within all developments.**
- **The open space provided should be programmed for active uses.**
- **Where applicable, the MDP preserves public view corridors.**
- **Facades shall not exceed 150 feet in length.**

**8. Sustainability & Resiliency**

**a. Goals:**

**All developments will promote human health and safety and minimize resource consumption, including water and energy, waste, and greenhouse gas emissions. Development should incorporate renewable energy systems, adaptability to a changing climate, and resiliency to extreme weather events.**

**b. Components:**

- **The MDP demonstrates holistic consideration for the environmental performance of sites and buildings, which may be satisfied through building and site design that achieve LEED Silver or higher ratings,<sup>3</sup> or conform to / exceed Passive House Standards,<sup>4</sup> or equivalent standards in effect at the time of application.**
- **The MDP is designed to account for sea level rise, as described in 6 NYCRR Part 490, and to be adaptable to changing projections. The MDP must**

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<sup>3</sup> <https://new.usgbc.org/leed-v4>

<sup>4</sup> [https://www.passivehouse-international.org/index.php?page\\_id=150](https://www.passivehouse-international.org/index.php?page_id=150)

**demonstrate that it does not worsen the potential for flooding within the SAO. The base level(s) of any building must be designed to enable adaptation for sea level rise, including retrofit for wet flood proofing.**

- **The MDP site and buildings are designed to moderate the impacts of extreme heat and rain events.**
- **Greywater is captured to irrigate landscaping, gardens or parks.**

## **9. Bonus Points**

### **a. Goals:**

**Bonus Points are to be applied or awarded in accordance with 305-43.1(I)(3).**

### **b. Components:**

- **The MDP provides a contribution to an infrastructure fund that benefits the Station Area, or provides a developer performed public amenity. The score for this component is based upon the amount of the contribution, or provided public amenity, relative to the overall project cost. The overall project cost refers to total construction costs as well as all infrastructure costs related to the MDP and site plan.**
- **The MDP benefits Tarrytown's municipal finances.**

## **K. Expiration, Revocation, and Enforcement**

**1. An SAO designation shall expire if the SAO designated use or uses cease for more than 24 consecutive months for any reason, if the applicant fails to obtain the necessary Building Permits or fails to comply with the conditions of the site development plan approval as described in § 305-143.**

**2. An SAO designation may be revoked by the Village Board of Trustees if the permittee violates the conditions of the site development plan approval or engages in any construction or alteration not authorized by the site development plan. Any such unauthorized or unapproved construction or alteration will immediately trigger a suspension of all work on site and fines as established by the Village Board of Trustees.**

**Section 5.** Amending Existing Attachments. Chapter 305, Attachments shall be amended to add a new attachment as attached hereto and entitled "Attachment 305k".

## **Section 6: Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

**Section 7: Effective Date**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.