

**ZONING CODE**

TOWN OF WASHINGTON

DUTCHESS COUNTY, NEW YORK

YEAR 2004

As amended through December 31, 2003

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## Section 315. AGRICULTURAL PROTECTION OVERLAY DISTRICT REGULATIONS

1. Purpose. The Agricultural Protection Overlay District (hereinafter the "APO District") is intended to:
  - a. Preserve agricultural land for food and fiber production;
  - b. Protect agriculturally productive farms;
  - c. Maintain a viable agricultural base to support agricultural processing and service industries;
  - d. Prevent conflicts between incompatible land uses;
  - e. Reduce costs of providing public services to scattered non-farm uses;
  - f. Pace and shape the growth of the Town;
  - g. Protect agricultural land from encroachment by non-agricultural uses, structures, or activities; and
  - h. Maintain the rural, natural, and scenic qualities of the Town.
2. Agricultural Protection Overlay District Description.
  - a. The APO District boundary is herein established as an overlay district covering land zoned in districts RR-10, RS-10, RL-5, RS-5, and RM-2, and mapped according to the following criteria:
    - (1) Parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the surficial soils are classified as prime farmland soils or farmland soils of statewide importance, as established by criteria of the Soil Conservation Service, United States Department of Agriculture (hereinafter "agricultural soils").
    - (2) Parcels of land included in an Agricultural District established pursuant to the New York Agriculture and Markets Law, Article 25AA.
  - <sup>8</sup>b. The Town Board hereby adopts the maps entitled "Agricultural Protection Overlay District Map," Parts I and II, dated December 27, 1989, as part of this Local Law. Said maps shall be the basis for the administration of the regulations contained in this Section 315.
  - c. Any landowner whose land has been mapped on the Agricultural Protection Overlay District Maps may be exempted from the provisions of this Section if the Town Board, Planning Board, or Zoning Board of Appeals, in reviewing an application for rezoning, subdivision approval, special permit, site plan approval, or variance, finds that:
    - (1) Land shown as part of an Agricultural District on Part I of the Agricultural Protection Overlay District Maps is not included within Certified Agricultural District #21 established by the Dutchess County Legislature pursuant to Article 25AA of the New York State Agriculture and Markets Law on the effective date of this Local Law; or
    - (2) Land shown as containing agricultural soils (as defined herein) on Part II of the Agricultural Protection Overlay District Maps does not in fact meet Soil Conservation Service criteria for such soil designations based upon evidence

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<sup>8</sup> Section 315, paragraph 2 subsection (b) amended; Local Law #3 of the year 1990 on 10/11/90.

presented by a qualified soils expert who has conducted an on-site investigation.

- d. Any landowner whose land has not been mapped on the Agricultural Protection Overlay District Maps may request to be covered by the provisions of this Section, and the Town Board, Planning Board, or Zoning Board of Appeals may apply the provisions of this Section if it finds that such land satisfies the criteria for APO designation in Subsection 2(a) above.
  - e. In the case of parcels of land of at least ten (10) acres on which at least fifty percent (50%) of the soils are agricultural soils as defined herein, the reviewing Board shall make the initial determination as to whether a particular parcel contains fifty percent (50%) agricultural soils, and is therefore covered by the provisions of this Section. Acreage determinations may be rebutted by evidence presented by a licensed surveyor or engineer.
3. Uses Permitted in the APO District. In addition to the uses permitted in the underlying use district, including any and all types of agricultural production, other uses permitted as of right in the APO District include:
- a. Forest, wildlife, and game management;
  - b. Equestrian trails;
  - c. Nature trails and walks;
  - d. Greenhouses;
  - e. Composting of manure and vegetative wastes;
  - f. One roadside stand per farm, selling agricultural products, and containing not more than five hundred (500) square feet, in which at least fifty percent (50%) of the products sold are produced on the premises or adjoining premises.
4. Uses allowed in the APO District by Special Permit. In addition to the uses allowed by special permit in the underlying district, the following uses may be permitted by special permit in the APO District:
- a. Employee housing for farm workers and accessory residences for members of the immediate family of the farm owner or operator. Such additional residential structures must be constructed in a manner that does not detract from the scenic views described in the Visual Resources Mapping Series and that avoids, to the extent practical, building upon the best agricultural soils on the property.
  - b. Agriculture-related service or commercial uses including but not limited to: the sale of farm products in facilities greater than five hundred (500) square feet; the sale and service of farm machinery; the storage and sale of seed, feed, fertilizer, manure, and other agricultural products; the centralized bulk collection, storage, and distribution of agricultural products; veterinary services; and processing of agricultural products.
5. Special Permit Approval Standards.
- a. The Planning Board, prior to granting special permit approval for development in the APO District pursuant to Section 470 *et seq.* of this Local Law, shall consider the following relevant factors in addition to the standards set out in Section 473 of this Local Law:

- (1) The statement of purpose of this Local Law and the APO District Regulations;
  - (2) The potential for conflict with agricultural use;
  - (3) The need of the proposed use for a location in an agricultural area;
  - (4) The availability of alternative locations;
  - (5) Compatibility with existing or permitted uses on adjacent lands;
  - (6) The agricultural productivity of the lands or soils involved;
  - (7) The need to minimize the amount of agricultural soils converted to non-agricultural use;
  - (8) The need for public services created by the proposed use;
  - (9) The availability of adequate soils for subsurface sewage disposal or public services, and the ability of the Town to provide them without an unreasonable burden;
  - (10) The effect of the proposed use on water, air, or soil resources and on rare or irreplaceable natural resources;
  - (11) The location of the use so as to minimize the interruption of scenic views from public roads; and
  - (12) The feasibility of designing the structure or the lot to take maximum advantage of solar heating and cooling opportunities.
- b. Conditions Which May Be Attached to Special Permit Approval. Upon consideration of the information supplied to the Planning Board and a review of the standards contained in Subsection (a) above, the following conditions may be attached to the granting of a special permit;
- (1) Increased setbacks and yards;
  - (2) Specifications for water supply, liquid waste, and solid waste disposal facilities;
  - (3) Additional landscaping and vegetative screens or buffers;
  - (4) Time of operation;
  - (5) Air pollution controls;
  - (6) Location of the use; and
  - (7) Similar requirements found necessary to fulfill the purpose of this Local Law.
- Violation of these conditions shall constitute a violation of this Local Law as provided in Section 490, Violations.
6. Procedures for Residential Development in the APO District.
- a. An applicant for residential subdivision proposed on a parcel or set of contiguous parcels that fall within the APO District description is encouraged to utilize the provisions of Section 63, Conservation Density Subdivisions, of the Town of Washington Land Subdivision Regulations.
  - b. Any subdivision of a parcel lying within the APO district into three or more lots shall be subject to the procedures of Section 61.2, "Planning Board's Option to Require a Cluster Plan," of the Town of Washington Land Subdivision Regulations. In designing a cluster plan, the applicant shall comply with the standards set forth in Subsection 7 below. For purposes of determining the coverage of this Subsection (b), "parcel" shall relate back to tax parcels in existence as of January 1, 1988. All subdivisions since that date shall be treated

cumulatively in establishing the number of lots that trigger the requirements of this Subsection (b).

7. Standards for Residential Development in the APO District.
  - a. Residential structures in the APO District shall be located according to the following criteria (some of which may conflict with each other on a particular site, in which case the Planning Board shall use its discretion to resolve such conflicts):
    - (1) In the least fertile agricultural soils and in a manner which maximize the usable area remaining for agricultural use;
    - (2) In locations least likely to block or interrupt scenic views, as seen from public roadways according to the guidelines of the Visual Resources Mapping Series;
    - (3) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by natural landscape features;
    - (4) On the most suitable soils for subsurface sewage disposal (in unsewered areas only);
    - (5) In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential and agricultural uses; and
    - (6) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities.
  - b. Buffer zones at least seventy-five (75) feet in width may be required between residential and agricultural uses in the APO District, containing either thickly planted fast-growing native shrubs and trees, or naturally existing vegetation, in order to create an effective barrier separating residential yards from fields and pastures. These buffer requirements may be modified by the Planning Board, if appropriate, in order to create or maintain scenic views.
  - c. These standards shall be implemented by the Planning Board as provided in the Town of Washington Subdivision Regulations, Section 30.1 and Article VI.

#### Section 316. ENVIRONMENTAL PRESERVATION DISTRICT REGULATIONS

1. Purpose. An Environmental Preservation District (hereinafter an "EP District") is defined as a geographic area of the Town of Washington exhibiting special and distinctive environmental characteristics which are of significant value to the public. These characteristics may include natural phenomena such as unique geologic strata, water bodies or watercourses, soil formations, slopes, vegetation, scenic views, viewsheds, sensitive watersheds, and trail or wildlife migration corridors, as well as historic or cultural resources of value to the Town. Maintaining the Town's quality of life depends in large part upon the protection of these areas. To preserve these valued resources it is necessary first to identify the areas with special qualities, and then to provide a means by which these areas shall be subject to development controls, over and above the controls provided by existing zoning district and overlay zone provisions.