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State: New York
Jurisdiction Type: Municipal
Municipality: Town of Eden
Year (adopted, written, etc.): 1985-2007
Community Type - applicable to: Suburban; Rural
Title: Town of Eden Classes of Districts Ordinance
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Abstract

The Town of Eden has created several zoning districts, and use regulations in those districts, that will help control flooding and protect floodplains from uninformed and overdevelopment.

Resource

Article III. Zoning Districts and Zoning Map

§ 225-5. Classes of districts.

[Amended 9-14-1994 by L.L. No. 8-1994; 11-18-2000 by L.L. No. 5-2000]

There are hereby established, and the Town of Eden is divided into, classes of districts as listed below:

| Symbol | Title | Type |
|--------|-------|------|
|--------|-------|------|

| | | |
|-----|--------------------|--|
| FPO | Floodplain Overlay | |
|-----|--------------------|--|

An overlay district restricting the use of land for the prevention of flood hazards and changes in the land form that would alter characteristics of floodplains and flood-prone areas. The overlay area shall be that area identified in the most current Flood Insurance Rate Map (FIRM) established by the United States Department of Housing and Urban Development.

| | | |
|---|--------------|--|
| C | Conservation | |
|---|--------------|--|

A district restricting development to uses and intensities compatible with limited residential capacity of the land owing to steep slopes and unstable soils and for the preservation of scenic areas and amenities; eligible for acquisition for development easements and transfer of development rights.

RMS40 [Added 11-14-2007 by L.L. No. 3-2007] Regulated MS4 Overlay

A district intended to identify the area within the Town of Eden which has been determined by federal and state agencies to be a regulated municipal separate storm sewer system (RMS4) under the Phase II Stormwater Permit Program.

Article IV. Use Regulations

§ 225-9. General provisions.

A. The general regulations affecting the use of buildings, structures and land for each of the districts established by Article III are hereby established and set forth in this article. Single-family uses are keyed in this article by the parentheses around respective use groups or references. Editor's Note: Original Section 3.2, Use Table, and Section 3.3, Rules for Use Table, which immediately followed this subsection, were deleted 3-24-1999 by L.L. No. 1-1999.

B. Any dwelling which existed as a residence in any district except the SR* District on May 11, 1977, may be changed from a one-family dwelling to a two-family dwelling, provided that the outside dimensions of the structure are not enlarged and further provided that each dwelling unit contains the required minimum livable floor area for a single-family dwelling in such district.

§ 225-10. C Conservation District.

A. Uses permitted by right:

(1) The following commercial agriculture operations and accessory uses thereto, provided that there shall be no stable or similar animal housing or the storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation, within 50 feet of any lot line:

(a) The raising of field and garden crops, vineyard and orchard farming and the maintenance of nurseries. Use Group a.

(b) Keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs and horses and rental of horses, on lots of 20 acres or more. Use Group a.

(c) Keeping, breeding and raising of fowl on lots of five acres or more. Use Group a.

(2) Buildings, structures and uses owned and operated by the Town of Eden. Use Group b.

(3) Municipal parks and playgrounds. Use Group b.

(4) Commercial forestry. Use Group a.

(5) Outdoor recreational facilities, including golf courses, ice skating rinks, swimming pools, parks, playfields and ski areas subject to § 225-32A. Use Group c.

(6) One-family detached dwellings, not to exceed one dwelling on each lot. Use Group (d).

B. Uses by special permit of the Town Board:

(1) Annual membership clubs providing outdoor recreation facilities subject to § 225-32A. Use Group e.

(2) Other annual membership clubs. Use Group e.

(3) Railroad, public utility, radio and television transmission antennas and rights-of-way. Use Group f.

(4) Summer colonies and vacation camps subject to § 225-32B. Use Group f.

(5) Airports and heliports subject to § 225-32C. Use Group f.

(6) Sandpits, gravel pits and excavations of natural resources subject to § 225-32D. Use Group f.

(7) Cemeteries on plots of 10 acres or more. Use Group g.

(8) Commercial dog or veterinary kennel subject to § 225-32E. Use Group a.

(9) (Reserved) Editor's Note: Former Subsection B(9), Reservoirs on plots of three acres or more, was repealed 6-13-2001 by L.L. No. 4-2001.

(10) Dormitory accommodations for housing migratory agricultural workers, provided that such premises are constructed in conformance with the New York State Multiple Residence Law and are not occupied for more than eight months in any calendar year. Use Group g.

(11) Temporary trailers for the housing of farm workers. Use Group g.

[Amended 7-10-1996 by L.L. No. 4-1996]

(12) Hospitals or sanitariums for general medical care subject to § 225-32G. Use Group h.

[Added 10-23-1985 by L.L. No. 3-1985]

(13) Underground, surface or overhead utilities and quasi-utilities, including gas, electrical, water, telephone and cable television transmission systems, including appurtenances thereto, except transmission towers, telephone lines, call boxes and other similar equipment and accessories necessary for furnishing of adequate service by public utilities and quasi-utility substations, pumping stations and other unmanned structures that harmonize with the neighborhood, having adequate fences and other safety devices, screening and landscaping. Use Group i.

[Added 6-13-1990 by L.L. No. 3-1990]

C. Permitted accessory uses:

(1) Accessory parking.

(2) Accessory loading.

(3) Accessory signs.

(4) Accessory to uses in Subsection A(1): barns, silos and produce storage and packing warehouses, provided that such accessory buildings shall conform to the yard requirements for principal buildings.

(5) On special permit of the Board of Appeals, home occupations subject to § 225-32F.

(6) Garden houses, toolhouses, playhouses and garages subject to § 225-25.

(7) Swimming pools subject to § 225-32I.

(8) Private garages accessory to the principal use of the lot.

(9) Keeping of animals as follows: not more than four horses over six months old; not more than 10 fowl; and not more than two of any other species of animal. No animal shall be maintained within 75 feet of any plot line except dogs and cats.

[Amended 12-29-2010 by L.L. No. 1-2011]

(10) Animal kennels.

(11) Accessory to uses in Subsection A(1): one-story building for display and sale of agricultural and nursery products, provided that any such building does not exceed 5,000 square feet in floor area and is set back 30 feet from any line.

[Amended 11-14-2001 by L.L. No. 8-2001]

(12) On special permit of the Board of Appeals, resident professional office subject to § 225-32F.

(13) On special permit of the Board of Appeals, use of a barn in existence since May 11, 1977, for storage.

[Added 7-24-1991 by L.L. No. 1-1991]

(14) On special permit of the Board of Appeals, bed-and-breakfast accommodations.

[Added 7-24-1991 by L.L. No. 1-1991]

(15) Accessory to residential use, satellite and TV dishes complying with § 225-25.

[Added 11-14-2001 by L.L. No. 8-2001]

D. Permitted accessory signs:

[Amended 3-24-1999 by L.L. No. 1-1999]

(1) Accessory to permitted residences: one nonilluminated nameplate or professional sign with an area of not over two square feet.

(2) For any nonresidential establishment permitted: one indirectly illuminated sign not over 10 square feet in area at least 25 feet from the street line and not more than two nonilluminated directional signs, each not over two square feet in sign area, provided that such signs are set back at least 10 feet from the street line.

(3) For any structure for sale or for rent: one temporary, nonilluminated "for sale" or "for rent" sign not over six square feet in area. Such temporary use shall cease within 30 days after sale or rental is consummated. A sign for any other advertising purposes pertaining to the premises or building shall not exceed six square feet and shall be permitted for a period not to exceed 30 consecutive days.

(4) Refer to § 225-29 for supplementary sign regulations.

E. Minimum off-street parking:

(1) Two spaces per dwelling unit with full turnaround area. Turnaround driveways shall be mandatory on certain roads in the Town of Eden. They are to include: Route 62, Route 75, East Eden Road, Jennings Road, East Church Street and West Church Street.

[Amended 7-24-1991 by L.L. No. 1-1991; 11-14-2001 by L.L. No. 8-2001]

(2) Outdoor recreation areas: one parking space for each five persons for whom designed but not fewer than four spaces per acre.

(3) Boat docks, marinas and clubhouses: one space for each three persons for whom seating is provided.

- (4) Boat ramps: one space for each member.
- (5) Golf courses and clubs: 10 parking spaces for each tee.
- (6) Skiing areas: one parking space for every 10 persons of practical lift capacity.
- (7) Annual membership clubs: one space for each 100 square feet of floor area occupied by all principal or accessory structures, except those used for parking purposes, or one for each 15 members.
- (8) Buildings or open stands for display and sale of agricultural products: one space for five feet of front wall of such stand or 300 square feet of floor space, whichever is greater.
- (9) Vacation campgrounds and summer colonies: one space for each unimproved campsite and one space for each .5 improved campsite.
- (10) Cemeteries: off-street standing area to accommodate 50 automobiles.
- (11) Summer colonies: one space for each on-site employee.
- (12) Home occupation: three spaces in addition to Subsection E(1) above or as determined by the Board of Appeals based on anticipated usage. There shall be provided sufficient parking to accommodate all prospective patrons for all but the 10 highest hours of usage each year.
- (13) Resident professional office: as many spaces as shall be required by the Board of Appeals, taking into account the proposed business use.

[Amended 7-24-1991 by L.L. No. 1-1991]

F. Minimum off-street loading berths: for any use in Subsections A and B, one loading berth for any building or structure exceeding 10,000 square feet.

G. Additional use regulations.

- (1) Refer to § 225-28 for prohibited uses.
- (2) Screening requirements. All nonresidential uses adjoining or abutting a residential zone or use shall provide appropriate screening and/or plantings on the side or sides facing said residential use or zone. In granting any site plan approval, the Planning Board shall require such screenings and/or plantings as will sufficiently insulate the residential from the nonresidential uses.
- (3) Site plan approval. All uses listed require site plan approval by the Planning Board in accordance with § 225-30 with the following exceptions: agriculture, forestry, cemeteries,

reservoirs, one-family dwellings, two-family dwellings, semi-attached dwellings and permitted accessory uses thereto.

(4) Garage and off-street parking facilities. Where one or more motor or other vehicles recurrently park by reason of the use and occupancy of any premises, there shall be provided and satisfactorily maintained thereon adequate garage or vehicular parking space for the number and in proportion to the size of the vehicles which so park, the minimum to be not less than 200 square feet per automobile in addition to 24 feet of driveway and backing and turning out space.

(5) Off-street loading berths. Where required by these regulations, off-street loading berths shall be provided consisting of 12 feet by 44 feet of loading space and 12 feet in height with sufficient turning and backing areas. Berths shall be provided with a dustless surface and shall be screened in a manner precluding view from any public street or residential area. (Residential areas shall mean land zoned for residential use or actually in residential use.) No berth shall occupy any required yard.

(6) Nonresidential performance standards. All uses listed herein shall be subject to performance standards as cited in § 225-28.

(7) Transfer of development rights option shall be in accordance with § 225-34.

§ 225-21. FPO Floodplain Overlay District.

A. Uses permitted by right: all uses permitted in the primary district, subject to floodplain performance standards, except that residences are prohibited within floodplain areas. Refer to Chapter 114, Flood Damage Prevention. Bulk regulations are unchanged from the primary district, except as noted herein or in the supplemental regulations applying to this district.

B. Uses by special permit of the Town Board: all uses permitted in the primary district, subject to floodplain performance standards, except that residences are prohibited within floodplain areas. Refer to Chapter 114, Flood Damage Prevention. Bulk regulations are unchanged from the primary district, except as noted herein or in the supplemental regulations applying to this district.

C. Permitted accessory uses: same as primary district.

D. Permitted accessory signs: same as primary district.

E. Minimum off-street parking: same as primary district.

F. Minimum off-street loading berths: same as primary district.

G. Additional use regulations: same as primary district.

§ 225-21.1. Creekside Open Space Overlay District.

[Added 11-14-2001 by L.L. No. 8-2001]

A. Purpose.

(1) In accordance with the recommendations and policies of the Town of Eden 2015 Comprehensive Plan, this overlay is designed to preserve, to the maximum extent feasible, the important environmental features associated with major stream corridors within the Town. This will help to ensure the interconnection of open space elements in the Town, preserve rural character and scenic views, enhance flood protection, minimize non-point source pollution, preserve wildlife habitats, and protect the qualities of these corridors that contribute to both community character and property values.

(2) The Creekside Open Space Overlay shall supplement the underlying zoning restrictions and provide for harmonious, safe and orderly development within the overlay.

B. Boundary description.

(1) The locations and boundaries of the overlay shall encompass those areas identified in the 2015 Vision Map under the title "Creekside Open Space Corridors." These include the lands along Ryther Creek, Hampton Brook, 18-Mile Creek and the South Branch of the 18-Mile Creek, and some tributaries of these creeks. The overlay shall encompass all parcels fronting on these waterways and those areas demarcated on the Vision Map as being within these creeks' open space corridors.

(2) The Town has the authority to amend or add to the Vision Map as necessary, in the manner prescribed by law.

C. Objectives. The special regulations contained herein, which regulate and control all proposed development and redevelopment within the boundaries of the Creekside Open Space Overlay, shall be founded upon the following objectives.

(1) Important environmental features shall be preserved to the greatest extent feasible.

(2) Important environmental features shall be mapped to illustrate existing conditions for all site plan and subdivision applications to enable effective site development analysis.

(3) Development shall be sited to minimize adverse impacts to water quality, fish or wildlife habitats, freshwater wetlands, stormwater runoff, septic systems or any other activity on the site.

(4) To the greatest extent feasible, new structures shall be sited a minimum of 100 feet from the stream bank or outside the designated floodplain area, whichever is greater, in order to establish a buffer adjacent to the waterway to absorb floodwaters, trap sediments, protect habitats and preserve scenic qualities.

(5) The amount of land clearing shall be minimized, and development shall be designed around significant resources on site.

(6) Important habitats on site shall be identified, and new development shall avoid these areas to the greatest extent feasible.

D. Permitted uses and accessory uses.

(1) Uses permitted in the Creekside Open Space Overlay shall be the same as the uses permitted in the underlying zoning districts.

(2) Clustered development shall be encouraged, and in some cases required.

(3) Accessory uses permitted in the Creekside Open Space Overlay shall be the same as the accessory uses permitted in the underlying zoning districts.

E. Regulated activities. All activities that require subdivision or site plan approval shall meet the requirements of this section except as follows:

(1) Reconstruction of existing structures destroyed by natural disaster, provided that the new construction is of the same size and use.

(2) Repair and maintenance of septic, sewer facilities or utilities.

(3) Customary agricultural activities.

(4) Any emergency service or activity that is immediately necessary for the protection and preservation of life, property or natural resource values.

F. Subdivision regulations. The division of lands within the Creekside Open Space Overlay, regardless of the zoning classification, shall be subject to the subdivision regulations of the Town. Editor's Note: See Ch. 184, Subdivision of Land. The following special regulations shall apply to all subdivision of lands within this overlay:

(1) The Town shall make all minor subdivisions subject to Planning Board approval (no subdivision committee approval).

(2) The Town can require the usage of cluster development to preserve features.

(3) Subdivision maps must clearly depict all environmental features.

(4) Clear cutting of trees shall be prohibited, and construction must minimize tree disturbance. Plans must show the extent of disturbance.

(5) Septic systems shall be restricted to areas having adequate percolation (no sand filters).

(6) The usage of open development area and other creative tools to minimize disturbance of important features shall be considered in the design and layout of the development.

(7) Erosion and sediment control, and re-establishment of disturbed areas must be clearly depicted on drawings.

(8) All development proposals within the Creekside Open Space Overlay shall be referred to the Conservation Advisory Board for review and comments.

G. Site plan regulations.

(1) Site Plans must clearly depict all environmental features.

(2) Clear cutting of trees shall be prohibited, and construction must minimize tree disturbance. Plans must show the extent of disturbance.

(3) Septic systems shall be restricted to areas having adequate percolation (no sand filters).

(4) The usage of open development area and other creative tools to minimize disturbance of important features shall be considered in the design and layout of the development.

(5) Erosion and sediment control, and re-establishment of disturbed areas must be clearly depicted on drawings.

(6) All development proposals within the Creekside Open Space Overlay shall be referred to the Conservation Advisory Board for review and comments.

H. Variances. The Planning Board may waive or modify any requirements under this section where an undue hardship on the property owner is clearly demonstrated and, that in doing so, the intent and purpose of the overlay is not diminished.

§ 225-21.2. Regulated MS4 Overlay District.

[Added 11-14-2004 by L.L. No. 3-2007]

A. Purpose. The purpose of the RMS4 Overlay District is to identify the area within the Town of Eden which has been determined by federal and state agencies to be a regulated municipal separate storm sewer system (RMS4) under the Phase II Stormwater Permit Program.

B. Boundary description. The RMS4 Overlay District consists of lands in the Town of Eden located within the regulated MS4 area identified on the map entitled "Buffalo, N.Y. Urbanized Area: Stormwater Entities as Defined by the 2000 U.S. Census," which map has a design date of October 21, 2002, published by the New York State Department of Environmental Conservation, which is the same area shown on the Wendel-Duescherer

map entitled "Town of Eden MS4 Area," dated July, 2007, and contained in the Town of Eden Stormwater Management Plan.

C. Permitted uses. Any use which is permitted in the underlying zoning district is permissible in the RMS4 Overlay District, provided that use, construction and/or development is in conformance with such local laws or regulations as have been or will be enacted pursuant to the Phase II Stormwater Permit Program requirements, including, but not limited to, any local law providing for stormwater management and erosion management and sediment control and any local law prohibiting illicit discharges, activities and connections to separate storm sewer system. Editor's Note: See Ch. 177, Stormwater Management.