

Topics:	Conservation Districts & Subdivisions
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Perinton
Year (adopted, written, etc.):	1994-1999
Community Type – applicable to:	Suburban
Title:	Limited Development District

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Abstract

Town of Perinton created Limited Development Districts for certain variations in terrain, hydrology that render certain areas susceptible to flooding to supersede the other zoning provisions. Development must be directed by the intrinsic character of the land in order to provide for the safety and welfare of the citizens and the natural environment. The limits of an LDD shall be determined by its soil, vegetation, terrain, and hydrologic characteristics. The limits are determined using detailed maps, in consultation with the Conservation Board. There are certain details the maps much show, such as slopes equal to or exceeding 15%, areas within the one-hundred-year floodplain, areas where the majority of the vegetation is “facultative,” areas regulated as freshwater wetlands, areas included in the National Wetlands Inventory, areas where the general soil condition is unstable, and stream corridors. Areas which meet the LDD criteria but are small and isolated and areas that once met the LDD criteria, but no longer do so due to human activity are excluded from the LDD. Permitted uses include: agricultural uses, open space, trails, and recreational uses such as wildlife study, hiking, hunting, and fishing. Lawns, gardens, and play areas associated with nearby residential uses and the cutting and removal of dead or individual trees to maintain the health of viability of woodlot are permitted. There are certain uses that can be permitted when authorized in accordance with Article VIII and §208-50. Certain conditional uses include non-habitable structures associated with permitted uses, single family dwellings, roads, utility lines, and certain nonresidential uses, with a special permit. Any use not mentioned in the previous sections will be considered by the Planning Board. The Board will weigh the impact on the proposal of the objectives in §208-46, the extent to which the plans submitted for approval include specific measures which shall preserve the value and function of the LDD. When a project requires mitigation for disturbance of the LDD, a mitigation plan shall be submitted and the Town shall consider various factors such as the value of the LDD area proposed to be disturbed, the extent of disturbance, and the effectiveness of the mitigation plane. In determining what the appropriate mitigation or conditions shall be, the Town shall consider the value of the LDD in protecting water quality, habitat, protection from erosion and effect upon the overall site drainage.

Resource

See separate PDF.

ARTICLE VIII
Limited Development District
[Amended 10-26-1994 by L.L. No. 6-1994; 10-13-1999 by L.L. No. 3-1999]

§ 208-46. District established.

- A. Recognizing that variations in terrain, hydrology, susceptibility to flooding and soil conditions exist throughout the Town of Perinton, there are hereby established Limited Development Districts (LDD) which shall supersede area, density, setback and other provisions for residential districts under Article VI and all other zoning districts under Article VII of this chapter.

- B. Because of these physical variations in the character of the land, different areas are intrinsically suited for different types and intensities of development. Development must be directed by the intrinsic character of the land in order that the health, safety, welfare and property of the citizens of the Town be protected and preserved. Proper and appropriate development is required to preserve water and air quality, preserve fish, wildlife and plant habitat, prevent the irretrievable loss of natural resources and maintain the aesthetic character of the community. These positive benefits are described in more detail in the Natural Resources Inventory prepared by the Perinton Board for the Conservation of the Environment, hereinafter referred to as the "Conservation Board."

§ 208-47. Determination of district boundaries.

- A. The limits of an LDD shall be determined by its soil, vegetation, terrain and hydrologic characteristics. The basic identifying factors are set forth in the Planning Inventory of the Town of Perinton prepared by the Monroe County Planning Council in 1967. In particular, reference is made to the following maps therein:

Map Number	Title
2	Glacial Geology
3	Soil Associations
4	Soil Characteristics in Relation to Flooding and Ponding
5	Suitability of Soils for Industrial and Commercial Development
6	Suitability of Soil for Installation of Underground Utilities
7	Soil Stability of Depths Three to Six Feet
8	Topography and Watersheds
10	Natural Factors Affecting Development
16	Soil Survey

- B. Identifying factors are also referred to in a report prepared by the planning staff of the Monroe County Planning Council (now the Monroe County Department of Planning and Development) entitled "Comprehensive Plan Town of Perinton, Monroe County, New York, 1967-1985," with particular reference to maps therein being:

Map Number	Title
6	Drainage Plan
7	Soil Characteristics in Relation to Erosion

- C. The information from the above reports has been incorporated in an overlay map of a topographic map of the Town of Perinton. The purpose of said map, called "Natural Factors Affecting Development," is to generally identify areas within the district. The map may be amended, as additional information becomes available, by resolution of the Town Board.
- D. The limits of such districts shall be determined by the Town in consultation with the Conservation Board, only after more detailed maps based on actual field conditions are provided by applicants, and shall include those areas where any one or more of the following conditions exist: **[Amended 8-22-2001 by L.L. No. 6-2001]**
 - (1) Slopes equal to or exceeding 15%.
 - (2) Areas within the one-hundred-year floodplain or floodway as identified in the most recent Flood Insurance Rate Map or Flood Insurance Study, Town of Perinton, New York, Monroe County, prepared by the Federal Emergency Management Agency.
 - (3) Areas prone to inundation by water on a recurring basis or exhibiting a high water table. These areas are identified by any of the following:
 - (a) Areas where the majority of the vegetation is comprised of species identified as "facultative (FAC)," facultative wet (FACW), or obligate (OBL) hydrophytes, as shown in the National List of Plant Species that Occur in Wetlands: Northeast (Region I), published by the United States Fish and Wildlife Service, and the presence of soils identified in the New York Hydric Soils and Soils with Potential Hydric Inclusions, published by the Soil Conservation Service. In areas devoid of vegetation, areas actively or recently farmed, or areas in excess of five acres where the use of vegetation alone leads to ambiguous results, the presence of soils identified in the New York Hydric Soils and Soils with Potential Hydric Inclusions, published by the Soil Conservation Service, or a history of recurring ponding or flooding may be used to define district boundaries.
 - (b) Areas regulated as freshwater wetlands by the State of New York under Article 24 of the Environmental Conservation Law.

- (c) Areas included in the National Wetlands Inventory as prepared by the United States Department of the Interior or meeting the criteria established by the United States Department of the Interior to delineate such wetlands.
 - (4) Areas where the general soil condition is unstable or where foundation instability presents a potential hazard.
 - (5) Stream corridors. The area designated shall be the New York State Department of Environmental Conservation classified freshwater streams as defined in 6 NYCRR, Part 701, and the area within a horizontal distance of 10 feet from the top of the bank as determined by the seasonal high-water mark along the sides of said streams.
- E. If an area has been disturbed by human activity such that the criteria listed in § 208-47D cannot be used to determine the district boundaries, then the map "Natural Factors Affecting Development" shall be used to determine the boundaries.
- F. The following areas are excluded from the LDD:
- (1) Areas which meet the criteria for an LDD but which are both small and isolated from other LDD areas. The determination as to whether an area is small and isolated shall be made by the Planning Board or official empowered to approve a plan after consultation with the Conservation Board and shall be based on the specific characteristics of the site and the extent to which designation will achieve the purpose of the LDD Ordinance. As a general guideline, an area is "small" if it can be contained in its entirety within a circle with a diameter of 50 feet. It is "isolated" if it is more than 25 feet from any other area which meets the criteria for an LDD.
 - (2) Areas which at one time met the criteria for an LDD, but no longer meet the criteria due to disturbance by human activity, where such disturbance took place prior to July 1974, or was in accordance with an approved subdivision or site plan.

§ 208-48. Permitted uses.

The following uses shall serve as guidelines for permitted uses within an LDD, provided that they do not require structures, the creation of impervious surfaces, excavation, fill or storage of materials and equipment:

- A. Agricultural uses such as general farming, dairying, grazing, Christmas or nursery tree farming or reforestation.
- B. Open space, trails and recreational uses such as wildlife study, hiking, hunting and fishing, provided that no extensive grading or road construction is required.

- C. Lawns, gardens and play areas that may be associated with nearby residential uses.
- D. Cutting and removal of dead or individual trees for the purpose of maintaining the health or viability of a woodlot or for safety.

§ 208-49. Conditional uses.

The following uses and their accessory uses may be permitted when authorized in accordance with this Article VIII and § 208-50, Special requirements:

- A. Nonhabitable structures associated with permitted uses.
- B. Single-family dwellings and their appurtenant utilities and accessory structures. The minimum lot size shall be five acres. Lots partially within an LDD may be less than five acres, provided that:
 - (1) There exists a contiguous area on the lot outside the LDD which meets the area requirements of the underlying zoning district; and
 - (2) There is minimal or no disturbance of the LDD, and that disturbance is for the purpose of providing access and utilities to the lot.
- C. Roads, to the minimum extent required to access permitted and conditional uses, bridges, utility transmission lines, underground utilities, pipelines and water retention or detention facilities.
- D. Any cutting or removal of trees in excess of that specified in § 208-48D.
- E. Nonresidential uses, provided that no structures are built within the LDD and a special permit is granted by the Town Board. Mitigation will be required at a 2:1 ratio and shall be specifically outlined as part of the special permit application in accordance with § 208-50.

§ 208-50. Special requirements.

- A. Any use within an LDD not in § 208-48 requires compliance with the provisions for site plan review pursuant to § 208-53. When reviewing a site plan, the Planning Board shall also consider:
 - (1) The impact of the proposal on the objectives outlined in § 208-46.
 - (2) The extent to which the plans submitted for approval include specific measures which preserve the value and function of the LDD and the extent to which those measures will continue to preserve the value and function of the LDD, both during construction and thereafter. These specific measures shall perform in spite of normal variations in execution, scheduling, weather, site conditions or other variations which can affect the performance of those measures.

- B. When a project proposes a nonresidential use that requires mitigation for disturbance of the LDD, the applicant shall submit a mitigation plan to the Town for its review. When mitigation is proposed, the Town shall consider:
- (1) The value of the LDD area proposed to be disturbed.
 - (2) The extent of disturbance.
 - (3) Alternatives to disturbance.
 - (4) The effectiveness of the mitigation plan.
 - (5) The public value of the mitigation.
- C. The Town shall use the New York State Department of Environmental Conservation classification of freshwater streams, the soils surrounding the stream corridor, the quantity and velocity of flow in the stream and the potential for fish propagation, to establish a hierarchy of streams suitable for the applicability of mitigation.
- D. No site preparation, alteration or construction shall commence until final site plan approval has been granted and any and all permits required by other agencies have been issued.
- E. Any plan which, if executed, would disturb or impact an LDD shall be referred to the Conservation Board for review. For that portion of the LDD affected by the plan, the Conservation Board shall identify those attributes which require protection, special treatment or mitigation. The Conservation Board may make recommendations for that protection, special treatment or mitigation.
- F. In order to achieve the objectives of this article, a board or official empowered to approve a plan may require mitigation or special conditions which will further protect or enhance the LDD. In determining what the appropriate mitigation or conditions shall be, the Town shall consider the value of the LDD in protecting water quality, habitat, protection from erosion and effect upon the overall site drainage. These factors shall be considered in conjunction with the development plans, consistency with the Town-wide goals, the need for such development, the potential for success of the mitigation and the need for long-term protection from future encroachment within the LDD.