

§ 143-47. Development within the Environmental Protection Overlay (EP-O) District.

- A. The Town of Red Hook declares that the protection of its surface and ground water resources, historic resources, scenic areas, and important farmlands is an important public purpose and that, to the extent practicable, future development of the Town should minimize alteration of, or construction within, these significant environmental resource areas.
- B. In furtherance of this objective, § 143-5 of this chapter establishes the Environmental Protection Overlay (EP-O) District as an overlay district in which the additional regulations set forth in this section supplement, but do not replace, the use and bulk regulations otherwise applicable to the underlying zoning district. If there is any conflict between the requirements of the EP-O District and the underlying zoning district, the more restrictive requirement or requirements shall apply.
- C. In considering any application for the issuance of a special use permit or the approval of a site plan in accordance with Articles VI and VII, respectively, of this chapter or any application for approval of a subdivision plat pursuant to Chapter 120, Subdivision of Land, the Planning Board shall, to the maximum extent practicable, ensure that heretofore undeveloped lands delineated within the Environmental Protection Overlay (EP-O) District set forth in § 143-7 of this chapter be maintained as perpetual open space and as an appropriate setting or context for the historic buildings located there, directing allowable new development onto other lands, if any, held by the applicant outside the EP-O District.
- D. The afore-cited Zoning District Map is complemented by the Environmental Protection Overlay (EP-O) District Map set forth in this section. Said map delineates areas subject to the more specific regulations set forth below based upon the presence of the captioned environmental resource.
 - (1) Stream corridors. The protection of stream corridors is essential to the maintenance of water quality. It is, therefore, deemed necessary for the Town of Red Hook to create an adequate buffer to protect those stream corridors from development encroachment, erosion and water quality degradation caused by either surface or subsurface runoff.
 - (a) The regulated stream corridor shall consist of all lands lying within 100 feet of the normal streambank of the

Sawkill, including its main tributary, the Lakes Kill, and each of its other perennial tributaries: the Stony Kill, the Mudder Kill and such other streams and tributaries as may be subsequently designated by the Town Board upon recommendation of the Conservation Advisory Council. Where these streams are split into two or more channels by islands, the overall regulated area shall include such islands, and the boundaries of the regulated stream corridor shall be measured from the normal streambank of the outer channels.

(b) Special use permit.

[1] The regulated stream corridor designation strictly limits activities within the designated area. There shall be no construction, filling, excavation, clearing of mature trees, grading or other alteration of the natural landscape or application of fertilizers, pesticides or herbicides beyond the level of generally accepted agricultural practices, as endorsed by the New York State Department of Agriculture and Markets, New York State Department of Environmental Conservation and the Federal Environmental Protection Agency, or dumping or disposal of any materials by human beings within any portion of the regulated stream corridor without the prior issuance of a special use permit by the Planning Board.

[2] Application for such special use permit shall be made in accordance with the requirements of Article VI of this chapter. The Planning Board may consult with the Town Conservation Advisory Council and other persons and agencies in review of the application and may issue the special use permit upon a specific finding that both of the following criteria are met:

[a] Prohibition of the proposed use or activity, while desirable in terms of environmental objectives, would be unreasonable as applied to the particular parcel and impose an unreasonable economic burden upon the owner.

[b] The Planning Board has been able to define appropriate conditions for attachment to the special use permit to reasonably ensure that the

proposed use or activity will not result in erosion or stream pollution from surface or subsurface runoff.

- (c) A twenty-five-foot-wide natural buffer shall be maintained from the normal streambank for all activities except for those dependent upon the recreational use of the stream course or its employ as a source of water for emergency purposes.
- (2) Aquifers. It is in the overall public interest to preserve the quality and quantity of the Town's groundwater resources to ensure a safe and adequate water supply for present and future generations. Accordingly, the Town of Red Hook seeks to protect groundwater resources currently in use and those aquifers having potential for future use as public water supply through delineation of the aquifer protection area on the Environmental Protection Overlay (EP-O) District Map and the imposition of the regulations set forth herein.

- (a) For the purposes of this subsection, certain words and terms shall have the meanings listed below:

AQUIFER — A geologic unit of stratified drift capable of yielding usable amounts of water.

AQUIFER PROTECTION AREA — The areas identified as such on the Environmental Protection Overlay (EP-O) District Map based on surveys, analysis and research to accurately delineate the location of an aquifer.

CONTAMINATION — The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

GROUNDWATER — Water in the subsurface zone beneath the water table in which all pore spaces are completely saturated.

HAZARDOUS MATERIAL — Material that may pose a present or potential hazard to human health or the environment when improperly stored, transported or disposed of or otherwise managed, including without exception hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and related implementing regulations.

SOLID WASTES — Unwanted or discarded material, including solid, liquid, semisolid or contained gaseous material.

STRATIFIED DRIFT — Unconsolidated, sorted sediment, composed of layers of sand, gravel, silt or clay, deposited by meltwater from glaciers.

(b) Within the aquifer protection area, the following shall be specifically deemed to be prohibited uses and activities:

[1] The disposal, storage or treatment of hazardous and solid waste material.

[2] Outside storage of any materials which, in the opinion of the Zoning Enforcement Officer, could contaminate groundwater resources.

[3] Gasoline stations.

[4] Cemeteries.

[5] The cooking, distillation, processing and incineration of animal or vegetable products, including but not limited to brewery, distillery, slaughterhouse, fat rendering, soap manufacture, tannery, paper manufacture, wool-scouring and cleaning, cotton textile sizing, scouring, bleaching, dyeing and similar operations.

[6] The production of corrosive and noxious chemicals, including but not limited to acids, acetylene gas, ammonia, chlorine and bleaching compounds.

[7] The production, processing and storage of coal, coal tar, petroleum and asphalt products, including but not limited to coke manufacture, illuminating gas production, petroleum refining, bulk gasoline and petroleum products storage, asphalt products, linoleum manufacture, oilcloth manufacture and roofing material manufacture.

(c) All other uses that are permitted in the applicable underlying zoning district shall be permitted in the aquifer protection area, provided that the requirements set forth below for underground storage of fuels are met:

[1] Any proposal to install an underground fuel storage tank shall obtain an application and permit from the

local Fire Department in addition to any other required permit. The applicant shall notify the Fire Chief at least 24 hours in advance of all work.

[2] All underground tanks shall be double-hulled steel or fiberglass encased in a concrete vault.

- (d) Any application for the issuance of a special use permit or approval of a site plan for any multifamily residential, institutional, light industrial or commercial use within the aquifer protection area shall be accompanied by a detailed written statement fully describing the proposed use and operation and including certification by the project sponsor that none of the prohibited uses or activities set forth above in Subsection D(2)(b) will occur on the multifamily residential, institutional, light industrial or commercial premises.
- (e) Each application submitted to the Town for the establishment of a use or the development of land and/or buildings and structures within the aquifer protection area shall include identification of any necessary federal, state or county permits, copies of all such permit applications and copies of all related correspondence between the applicant and the permitting agency or agencies.¹

1. Editor's Note: Former Subsection D(3), Historic and scenic areas, which immediately followed this subsection, was repealed 3-8-2016 by L.L. No. 1-2016.