

Height Restrictions for Compatible Development Law of the Town of _____

SECTION 1. TITLE

This local law shall be known and cited as "Wheeler-Sack Army Airfield Vertical Obstruction Overlay Law of the Town of _____ being Local Law number ____ of 2019. It may be known as the "WSAAF Overlay Law of the Town of _____ **Height Restrictions for Compatible Development for the Town of _____**."

SECTION 2. AUTHORITY

This local law is adopted pursuant to the authority and power granted by Articles 2 and 3 of the New York State Municipal Home Rule Law, by Article 2 of the New York State Statute of Local Governments, and by Article 16 of the New York State Town Law.

SECTION 3. ZONING BYLAW AMENDMENTS

The Town of _____ Zoning (*Law, Ordinance, Bylaw, Code*) is hereby amended as follows:

- A. Article II shall be amended to add the WSAAF Overlay District as a new zoning district in the Town.
- B. A new article entitled _____ **Height Restrictions for Compatible Development for the Town of _____** shall be established to include the following:

1. PURPOSE

The purposes of this Section of the Town of _____ Zoning (*Law, Ordinance, Bylaw, Code*) are to:

- A. Promote the public health, safety, convenience, and general welfare of the residents surrounding Fort Drum and the Wheeler-Sack Army Airfield (WSAAF) and the pilots navigating through it.
- B. Protect the designated military operating areas and military training routes or other restricted airspace from encroachment, and limit the exposure of impacts to persons, property, and facilities in proximity of the airfield to keep these areas clear of vertical obstructions to ensure a safe operating environment for military pilots.
- C. Impose land use controls, which are in addition to those underlying zoning district in the Town of _____, to regulate and restrict the height of structures in order to maintain compatibility between airfield operations and existing and future land uses within the boundary of the overlay district as defined in Section 3 and 4.
- D. Implement recommendations developed in the Fort Drum Joint Land Use Study.
- E. Promote compatible land uses while respecting the physical characteristics of the area, the airfield, and surrounding property.

2. DEFINITION OF TERMS

(Not all of these may be necessary to include.)

AGRICULTURAL STRUCTURE. Any structure part of a farm operation as defined by New York State Agriculture and Markets Law, Article 25-AA, Section 305.

AIRPORT HAZARD. (FAA FAR Sec. 152.3) Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstructs the airspace required or is otherwise hazardous for the flight of aircraft landing or taking off at the airport.

AIRSPACE. (FAA Web site www.faa.gov) The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.

COMPATIBILITY. The degree to which land uses or types of development can coexist or integrate.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures.

EXISTING USE OR STRUCTURE. Any use of land or structure lawfully in existence at the time of the effective date of this law or amendment thereto becomes effective.

FEDERAL AVIATION ADMINISTRATION (FAA). (FAA web site www.faa.gov) A federal agency charged to regulate air commerce in order to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promote the development of national system of airports.

HEIGHT. The highest point of structure, tree, or other object of natural growth and measured from the mean sea level elevation, unless specified otherwise.

IMAGINARY SURFACE. (FAA FAR Part 77.25) Those areas established in relation to the airport and to each runway consistent with FAR Part 77, in which any object extending above these imaginary surfaces, by definition, is an obstruction.

INCOMPATIBLE LAND USE. (FAA FAR Sec. 150.7) Land use that is typically unable to coexist with aircraft and airport operations.

LAND USE COMPATIBILITY. (FAA Web site www.faa.gov) Land uses that can coexist with an airport and airport related activities.

LIGHTING AND MARKING OF HAZARDS TO AIR NAVIGATION. Installation of appropriate lighting fixtures, painted markings, or other devices to objects or structures that constitute hazards to air navigation.

NAVIGABLE AIRSPACE. The airspace above minimum altitude for safe flight that includes the airspace needed to ensure safety in landing or take-off aircraft.

NONAGRICULTURAL STRUCTURE. Any structure not part of a farm operation as defined by New York State Agriculture and Markets Law, Article 25-AA, Section 305.

NONCONFORMING USE. Any structure which does not conform to a regulation prescribed in this law or an amendment thereto, as of the effective date of such regulation.

OBSTRUCTION TO AIR NAVIGATION. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height that is specific to its geographic location relative to the runway/airport. Federal Air Regulation Part 77 establishes a complex structure of imaginary surfaces in relation to each runway at airports. The size of each imaginary surface is based on the category of each runway according to the type of instrument approach available or planned for that runway. An object is an "Obstruction to Air Navigation" if it is of greater height than any imaginary surface established under the regulation and as described in the Fort Drum Joint Land Use Study.

OVERLAY DISTRICT. (FAA Web site www.faa.gov) A mapped zone that imposes a set of requirements, in addition to those of the underlying zoning district. The WSAAF overlay district includes the three-dimensional area of airspace that provides clearance protection for aircraft during landing or take-off operations and for missed approaches. The area encompasses one hundred (150) feet above the established airport elevation and along the runway and extended runway centerline.

STRUCTURAL ALTERATION. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

STRUCTURE. Any man-made object with form, shape, and utility that is temporarily or permanently attached to, placed upon, or set into the ground, streambed, or lakebed.

SUBSTANTIAL IMPROVEMENT. Any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred.

3. APPLICABILITY

The jurisdiction of this local law shall extend over all lands and water within the WSAAF Height Restrictions Overlay District which represents the airspace influential area as shown on Map _____ as those boundaries now exist and as they may be amended in the future depending on any changes to the WSAAF runways.

4. BOUNDARIES OF OVERLAY DISTRICT

The boundaries of this overlay district are shown on Map _____.

5. RESTRICTIONS AND DEVELOPMENT STANDARDS FOR NON-AGRICULTURAL STRUCTURES WITHIN THE OVERLAY DISTRICT

- A. Restriction of Height of structures. No permit shall be granted or any change in height shall be allowed that establishes or creates a greater hazard to air navigation than it was on the effective date of this law.
 1. For any application to the Planning Board (*or Zoning Board of Appeals*) for site plan or special use permit approval for a structure or for any wind or wireless communication facility that is located within the WSAAF Height Restrictions Overlay District, the

applicant shall include in its application submissions all such data, maps, calculations or other information proving such project does not at any point penetrate the imaginary surface as defined in this section.

6. RESTRICTIONS AND DEVELOPMENT STANDARDS FOR AGRICULTURAL STRUCTURES WITHIN THE OVERLAY DISTRICT

- A. New agricultural structures shall to the maximum extent feasible, not penetrate into the imaginary surface established in the WSAAF Overlay District. Any new agricultural structure proposed to penetrate the imaginary surface as mapped in the WSAAF Overlay District shall seek an area variance from the Town of _____ Zoning Board of Appeals pursuant to Article IX (64) of the Town of _____ Bylaws and as follows:
 - 1. Proposals for an area variance for new agricultural structures that penetrate the height limitations of the Overlay District shall, in addition to requirements of Article IX (64) shall also be required to submit:
 - a. A completed Federal Aviation Administration (FAA) Form 7460-1 (Notice of Proposed Construction or Alteration) with the FAA.
 - b. A summary of the project and an accurate description outlining and mapping or illustrating the proposed improvements (including providing copies of all pertinent plans).
 - c. Provide such maps, data, calculations and information to the WSAAF for their review and recommendation to ensure compatibility with restricted airspaces.
 - d. As deemed necessary, to install, operate and maintain FAA approved obstruction lights or markers.

7. EXISTING USES

- A. These regulations shall not be construed to require the removal, lowering, or other change or alteration of any existing agricultural or non-agricultural structure not conforming to the regulations as of the effective date of this section, or shall otherwise interfere with the continuance of such use. Any existing structure already penetrating the imaginary surface included in the WSAAF Height Restrictions Overlay District shall be considered a non-conforming, existing use.
- B. The owner of any existing nonconforming structure shall be asked to install, operate and maintain FAA approved obstruction lights or markers as shall be deemed necessary.

SECTION 4. SEPARABILITY

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if provisions shall be deemed or declared invalid, all other provision hereof shall remain valid and enforceable.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.