

SECTION 59 - FARMINGTON RIVER PROTECTION OVERLAY DISTRICT

59.1 General Provisions:

The Farmington River Protection Overlay District (hereinafter “FRPO District”) is a protected corridor of water and land along the entire length of the Farmington River within the Town of Canton consisting of the River and certain shoreline environs as specified herein and on the Zoning Map of Canton. This regulation shall apply to all such areas within the protected corridor of the Farmington River which constitutes a culturally significant and environmentally sensitive area.

- 59.2 The FRPO District overlaps other zoning districts, and, in all cases of land use in an area governed by river protection regulations as well as other zoning regulations, the more restrictive will take precedence.
- 59.3 Site alterations, regrading, filling or clearing of vegetation before approval of Application for Certificate of Zoning Compliance, Special Exception application, Site Development Plan or other permit as required under this regulation shall be a violation of these Regulations and subject to penalties as provided under Connecticut General Statutes.
- 59.4 The FRPO District is identified in part in the Farmington Wild and Scenic River Study’s Draft Evaluation of Existing Protection dated June 1990 and further on the Zoning Map of Canton, and any subsequent revisions thereto are adopted by reference and declared to be a part of this regulation.
- 59.5 Purpose and Objective: The Farmington River is a major geographic feature of the Town calling for wise use, conservation and development of its resources in a way that preserves its special qualities for Canton and the larger watershed community.

59.5.1 It is the purpose of the FRPO District to promote the public health, safety and general welfare and to minimize public and private loss due to excessive or insensitive use of the river corridor by:

- a. establishing standards and requirements for the use and conservation of the FRPO District in recognition of the River’s eligibility for designation under the National Wild and Scenic Rivers Act and in furtherance of the Town’s resolution of July 30, 1991, about the Farmington River, and by contributing to the regional conservation of the River corridor.
- b. preventing any alterations to the natural flow of the River, excluding the reach of the river below the upper dam in Collinsville, in order to maintain its ecological, recreational, aesthetic and other qualities such as are documented in the Farmington Wild and Scenic River Study and other federal, State and local documents relating to the Farmington River;

- c. preventing or reducing water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and waste disposal facilities, in part by encouraging retention and enhancement of shore vegetative cover, including diversity of native species, age distribution, and ground cover density that provides a protected buffer and pollution filter strip along the River bank as required in other important riverine corridors and as recommended in numerous pollution prevention studies, such as published by the Smithsonian Environmental Research Center, and giving due regard to those decisions of the Inland Wetlands and Watercourses Agency that prevent water pollution.
- d. conserving the ecological, water supply and flood storage functions of the River's flood plain, and related groundwater table and aquifer recharge areas and by protecting life, public safety and property from flooding hazards, especially within the River's flood hazards areas as defined and protected under the Flood Plain District as defined and regulated under Section 53 of these Regulations;
- e. protecting valuable fisheries and wildlife habitat within and along the Farmington River, as cited in various documents including the Farmington Wild and Scenic River Study and the state Comprehensive Outdoor Recreation Plan;
- f. conserving and enhancing the natural scenic and topographic conditions in the river corridor and its environmental quality, recognizing that these are vital to the economic and environmental health of the Town and, to preserve the natural scenic quality of the River by maintaining where possible screening of man-made structures from the River view; and,
- g. carrying out the recommendations of the Town Plan of Development and the State Plan of Conservation and Development and by preventing unnecessary or excessive expenditures of municipal funds for service and utilities which might be required as a result of the inappropriate development of land within the district.

59.6 District Boundaries: The Farmington River Protection Overlay District is defined as being all of the River in its entire length throughout Canton and between the ordinary high water mark on each side of the River plus additional shoreline and upland areas for a width of 100 feet measuring landward and horizontally from the ordinary high water mark and extending lineally upstream along the east side of the river beginning from a line perpendicular to the River and tangent to Connecticut Coordinate System value N. 356822.67 E. 553123.10 and as shown on the map entitled "Farmington River Protection Overlay District" dated February 7, 1992.

59.6.1 The ordinary high water mark is that point or series of points along the River's edge where the presence and action of water are so common as to produce soil and/or vegetation types which are distinct from that of the abutting upland.

59.6.2 Where there is a question or dispute over the FRPO District boundary, the Commission may require an applicant to have the ordinary high water mark determined by a certified soil scientist, and if necessary the boundary shall be shown on a site plan prepared by a Connecticut registered land surveyor.

59.6.3 Extension of Use. Where conditions of Para 59.8.1 exist, the Commission shall permit an extension of an underlying use by no more than is necessary into the required shoreline and upland area to provide for establishment of a principle building, structure or use permitted in the underlying zoning district and for necessary accessory building and structures.

- a. In no case shall the Commission permit the total area within the required shoreline and upland area which is to be improved, regraded or disturbed to equal or exceed fifty percent (50%) of the total area of the required shoreline and upland area on any such existing lot, nor shall any point of such improved, regraded or disturbed area be closer to the ordinary high water mark than a distance equal to 50% of the mean lot depth as measured from the ordinary high water mark boundary of the lot to the lot line which is most opposite said water mark.

59.7 Permitted Uses in the FRPO District: The following uses are permitted by right in the FRPO District to the extent they are not prohibited by any other ordinance or regulation and provided no “alteration” takes place which would result in any outcome contravening the General Provisions and the River Protection Standards of this Section. As used herein the term “alteration” means any man-made change to improved or unimproved real estate, including but not limited to buildings or structures of any nature, storage of materials, fences or barriers of any nature, mining, dredging, filling, grading, paving, excavating, drilling or clearing of vegetation.

59.7.1 Selective pruning or removal of trees to:

- a. maintain a filter view of the River from a principal structure;
- b. provide pedestrian access to the River by means of a meandering foot path;
- c. remove dead, diseased, unsafe or fallen trees and noxious plants and shrubs; and,
- d. promote the health and vitality of existing vegetation.
- e. Also see Sec. 59.8.4

59.7.2 Planting of perennial native species in the shoreline and upland areas within the District is permitted and encouraged, especially where exposed soil and steep slopes exist.

59.7.3 Other permitted activities and uses considered generally compatible with the purposes of this Section shall include the following and similar activities:

- a. surveying and boundary posting, including fences for the purpose of marking boundary lines subject to the provisions of Para. 8.4 of these Regulations;
- b. non-intensive and non-commercial uses not requiring structures or Site Development Plans pursuant to Para. 59.13, except that organized limited water events held for the purposes of show, competition or other social benefit may be allowed with a Permit issued by the Zoning Commission;

- c. maintenance of existing residential accessory uses including lawns, gardens, play areas and sealed water supplies with encouragement of buffer plantings;
- d. fire prevention activities and emergency operations necessary for safety or protection of property;
- e. fish and wildlife management practices according to a plan approved by the County Conservation District; and,
- f. continuation of a farming activity which is in existence on the effective date of this regulation.

59.8 Special Exception Uses as permitted by the Zoning Commission. All permitted uses as provided in the underlying zoning district may be permitted only by Special Exception in the FRPO District subject to the General Provisions and River Protection Standards of this Section and to the provisions of Section 52 of these Regulations. Other Special Exception uses shall be:

59.8.1 Development of a lot existing but with no principal building or use at the time of the adoption of this Section (February 7, 1992), where the lot does not contain sufficient depth for the required shoreline and upland area within the District, or where the lot contains sufficient land for the required shoreline and upland area but does not contain sufficient additional depth to permit establishing a building, structure or use of the lot permitted in the underlying zoning district. (See Para. 59.11, Approval)

59.8.2 Enlargement of existing structures and buildings on an existing lot and within the upland portion of the District when subject to the criteria of Para. 59.8.1.

- a. After granting a special exception, no additional square footage shall be added to the same structure or building.

59.8.3 Removal of timber including the cutting of timber for forestry management purposes. Such cutting must be performed in accordance with a forest management plan prepared by a qualified forester and submitted with an application for Special Exception, and must be consistent with the vegetative cutting provisions of the Inland Wetland and Watercourses Agency regulations. Also see Sec. 59.11.1c.

59.8.4 Removal of vegetation to create a filtered view of the River by selective pruning or removal of trees, shrubs and other vegetation to allow for reasonable visual access to the River while maintaining, to the greatest extent possible, a natural screen of man-made structures or objects as viewed from the river, and otherwise furthering the purposes of this Section.

- a. Where such activity involves the removal of any tree in excess of 4" diameter at breast height, a plan shall be prepared by a qualified forester.

59.8.5 State, municipal and quasi-municipal improvements and operations which unavoidably must encroach into the FRPO District, provided that there is no practical or feasible alternative for the provision of the needed improvement or operation outside of the FRPO

District and that all measures will be taken to minimize the adverse impact of such improvement or operations as:

- a. In place rehabilitation, replacement or upgrading of existing infrastructure elements including bridges, water, sewer and power lines, and drainage facilities.
- b. Enlargement, relocation, or redistribution of highway maintenance facilities or those uses permitted under Para. 21.2.2.
- c. Community facilities that enhance and rely upon river resources for their purpose and function.

59.8.6 Rehabilitation, replacement or upgrading of existing canals, mill ponds and dams generally, but also incorporating fish ladders and hydroelectric facilities.

59.9 Prohibited Uses: All uses and activities not specifically allowed as permitted uses or Special Exception uses in Paras 59.7 and 59.8 above are prohibited.

59.10 Definitions: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this regulation its most reasonable application

59.10.1 “Underlying District” is the zone that exists beneath the FRPO District on the zoning map.

59.10.2 “Upland Area” is that portion of the District which lies between the ordinary high water mark and the landward edge of the District (e.g., 100’ landward from the ordinary high water mark).

59.11 River Protection Standards: Applications shall be prepared according to the following standards:

59.11.1 In reviewing an application for Special Exception within the FRPO District:

- a. The applicant shall submit a Site Plan and provide documentation that the above conditions apply and that the proposal is designed to minimize disturbance within the FRPO District, especially between the River and the existing building or structure.
- b. In no case shall the Commission permit the existing and proposed area which is or will be improved, regraded or disturbed, including during construction, to equal or exceed fifty percent (50%) of the total area of the FRPO District on any such existing lot.
- c. Clear cutting of trees and shrubs is prohibited.

59.12 Approval: Applications may be approved according to the following:

59.12.1 In acting upon an application for Special Exception within the FRPO District, the Commission will consider such issues as:

- a. Standards set forth in Section 52.
- b. The general provisions, purposes and objectives of this section.

59.13 Site Development Plans: All applications for a Special Exception shall include a Site Development Plan as described in Section 51 of these regulations.

Add to Section 4:

FRPO – Farmington River Protection Overlay District