

SECTION 5.3 FARMINGTON RIVER PROTECTION OVERLAY DISTRICT**A. Purpose**

This regulation establishes standards and requirements for the use and conservation of land and water within the District in recognition of the river's eligibility for designation under the National Wild and Scenic Rivers Act. The regulation also contributes to the regional conservation of the river corridor.

The purposes of the Farmington River Protection Overlay District are to:

- Protect life, public safety and property from Flooding hazards;
- Prevent any Alterations to the natural flow of the river in order to maintain its recreational opportunities, environmental attributes, and historic features;
- Prevent water pollution, including thermal pollution, caused by erosion, sedimentation, nutrient or pesticide runoff, and poorly sited waste disposal facilities;
- Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;
- Conserve shore cover and encourage environmentally sensitive Developments;
- Preserve and maintain the groundwater table and water recharge areas;
- Conserve the river's Floodplain to maintain its vital ecological and Flood storage functions;
- Protect fisheries and wildlife habitat within and along the river;
- To preserve aesthetic values of the natural river area.

B. Applicability

1. Site Alterations, regrading, filling or clearing of vegetation within the Overlay District shall be subject to the requirements of this regulation.
2. Nothing in this regulation shall prohibit the construction, installation, or maintenance of sewer pipes, storm drains, utility poles, sewer plants, bridges, or other municipal projects or utilities, provided that the construction and design of these projects or utilities is done in such a way as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this Regulation.

SECTION 5.3

Effective October 1, 2016

FARMINGTON RIVER PROTECTION OVERLAY DISTRICT

C. Greater Restrictions

All existing regulations including the Town's Floodplain Regulations and the Zoning Regulations applicable to such underlying districts, shall remain in effect, except that where the Farmington River Overlay District imposes additional regulations, such regulations shall prevail.

D. Delineation

1. The Farmington River Protection Overlay District shall be superimposed on the other districts established by these Regulations.
2. The Farmington River Protection Overlay District applies to the entire length of the west branch and mainstream of the Farmington River within the Town of New Hartford and that area within one hundred (100) feet measured landward from both edges of the river bed and as more particularly described on map entitled "Farmington River Protection Overlay District". The edge of the river bed is defined as that mark along the river's edge where the presence and action of water are so common and usual, and are so long continued in all ordinary years, as to produce soil and/or vegetation types which are distinct from that of the abutting upland.

E. Activities Requiring a Zoning Permit

Activities regulated under B.1 that do not require a Site Plan Application or Special Exception Application, per Sections 5.3.F and G, shall not be commenced until the Zoning Enforcement Officer has issued a Zoning Permit for such activities.

F. Activities Requiring a Site Plan

Any application involving the disturbance of more than two thousand five hundred (2,500) square feet of land within the Buffer Strip, as described in Section 5.3.G below, shall require an application for Special Exception approval by the Commission under the standards of Section 8.5 of these Regulations and, in addition, the standards of this Section 5.3.

G. Standards and Requirements

1. A Buffer Strip extending one hundred (100) feet landward from both edges of the river bed shall be required for all Lots within the Farmington River Overlay District.
2. No new Buildings or Structures shall be erected within, or moved into, the Buffer Strip. Buildings and Structures existing within the Buffer Strip on the effective date of this regulation may be maintained, repaired, improved and enlarged provided it is done in such a way so as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this regulation. Where there is construction and/or Grading, the removal of trees or shrubs further than twenty (20) feet from the edge of a foundation, or five (5) feet from the edge of a graded area shall be considered disturbance of vegetation and other natural features.

3. New on-site septic systems, including both primary and reserve areas may not be located within the Buffer Strip. Repairs to existing septic systems may be allowed within the Buffer Strip.
4. Excavation or removal of sand, gravel, or other Earth material within the Buffer Strip shall be prohibited. Grading or other surface Alterations necessary for the primary Use of the Lot may be performed within the Buffer Strip provided that it is done in such a way as to minimize disturbance of vegetation and other natural features in accordance with the purposes of this regulation.
5. Clear cutting of trees and shrubs is prohibited within the Buffer Strip. Trees and shrubs may be selectively pruned or removed to achieve a filtered view of the river from the principal Building or Structure, and for reasonable private access to the river. Pruning and removal activities shall insure that:
 - a. the stump and root structure remain in place to provide for streambank stabilization and erosion control; and,
 - b. path to the river shall meander down to the river's edge in a manner which protects the soil and vegetation from erosion while also screening man-made Structures and vehicles where possible.
6. Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs may be removed upon the issuance of a Zoning Permit.
7. Planting of perennial native species in the Buffer Strip is encouraged especially where exposed soil and steep slopes exist.
8. Dredging or removals of sand, gravel, or other Earth materials, as well as dumping, filling, or other Alterations, are prohibited between the edges of the riverbed on each side of the Farmington River.
9. In no case shall removal of vegetation or Grading of land exceed that permitted by the New Hartford Inland Wetland Commission.
10. No impoundments, dams, or other obstructions to the flow of the Farmington River may be located within the District.
11. All Uses in the Farmington River Protection Overlay District are permitted as provided for in an underlying district, except as prohibited in this regulation and in accordance with standards in these Regulations.
12. In addition to other applicable approval criteria, the Commission shall consider whether the proposed Use or Uses are so located or arranged as to minimize the disturbance of vegetation and other natural features within the Farmington River Protection District.
13. In the event of any removal of vegetation in violation of this Section, the Zoning Enforcement Officer may require the submission of a restoration plan, including the planting of replacement trees and shrubs, and specifically including, but not limited, the planting of the largest trees and shrubs that are commercially available.

H. Modification of Buffer Requirement

1. The Commission may modify the Buffer requirements by granting a Special Exception for any Lot that meets all of the following provisions:
 - a. The Parcel existed as a legal Lot of record as of October 31, 1991;
 - b. Such Lot does not contain sufficient depth, measured landward from the edge of the river bed to provide a Buffer Strip one hundred (100) feet in depth; and,
 - c. The establishment or maintenance of a Use is otherwise permitted in the underlying zoning district.

2. The Commission shall not reduce the Buffer Strip beyond an amount reasonably necessary to accommodate an otherwise permitted land Use, and in no case, shall reduce the Buffer Strip to less than fifty percent (50%) of the available Lot depth, measured landward from the edge of the river bed.

3. In considering a modification to the Buffer, the Commission shall be guided by the following:
 - a. The extent to which there are other locations on the property beyond the District limits for the Use or Structure or activity intended;
 - b. The extent to which the configuration, elevation, and location of the property enable the proposed Use to be in harmony with the purposes of the District; and
 - c. The extent to which the proposed modifications and/or exemptions are the minimal needed to accommodate an otherwise Permitted Use.