

SECTION 17 - FARMINGTON RIVER PROTECTION OVERLAY DISTRICT

1. Overview

The Farmington River Protection Overlay District ("district") shall be defined as the Farmington River (West Branch and mainstream) within the Town of New Hartford including a contiguous and parallel buffer strip which together constitute a culturally significant and environmentally sensitive river corridor.

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 standards and requirements of this regulation are based on the Draft Classification Report (August 1989) and the Draft Evaluation of Existing Regulations (June 1990) prepared by the National Park Service under the auspices of the Farmington River Wild and Scenic Study Committee.

2. Purpose

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

- a. Protect life, public safety and property from flooding hazards;
- b. Prevent any alterations to the natural flow of the river in order to maintain its recreational opportunities, environmental attributes, and historic features;
- c. Prevent water pollution caused by erosion, sedimentation, nutrient or pesticide runoff, and poorly sited waste disposal facilities;
- d. Enhance and preserve existing scenic or environmentally sensitive areas along the shoreline;
- e. Conserve shore cover and encourage environmentally sensitive developments;
- f. Preserve and maintain the groundwater table and water recharge areas;
- g. Conserve the river's floodplain to maintain its vital ecological and flood storage functions;
- h. Protect fisheries and wildlife habitat within and along the river.

3. Scope of Authority

The Farmington River Protection Overlay District shall be superimposed on the other districts established by these regulations. All existing regulations including the Town's flood plain 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.

4. District Boundaries

The Farmington River Protection Overlay District is designed to protect 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 feet (100') measured landward from both edges of the river bed as more specifically described in paragraph 5 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 rivers 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.

5. River Protection Standards and Prohibited Uses Within the Farmington River Overlay District

All uses in the Farmington River Protection Overlay District are permitted as provided for in an underlying district, except that the following standards shall apply:

a. A Buffer Strip, defined as an area extending one hundred feet (100') landward from both edges of the river bed shall be required for all lots within the Farmington River Overlay District. If any lot existing at the time of adoption of this regulation does not contain sufficient depth, measured landward from the edge of the river bed to provide a buffer strip one hundred feet (100') in depth, and to allow the establishment or maintenance of a use otherwise permitted in the underlying zoning district, then the Buffer Strip may be reduced to no less than fifty percent (50%) of the available lot depth, measured landward from the edge of the river bed, upon receipt of a special permit from the Commission. In acting upon any special permit application under this section, the Commission shall not reduce the Buffer Strip beyond an amount reasonably necessary to accommodate and otherwise permitted land use.

Special Permit applications for modifications to the standards in this paragraph may be submitted to the commission for the use of any lot which existed as a lot of record as of October 31, 1991. Applications may seek exemption or modification of the District standards. In considering such applications, the Commission shall be guided by the following:

1. The extent to which there are other locations on the property beyond the District limits for the use or structure or activity intended;
2. 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
3. The extent to which the proposed modifications and/or exemptions are the minimal needed to accommodate an otherwise permitted use.

b. 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 20 feet from the edge of a foundation, or 5 feet from the edge of a graded area shall be considered disturbance of vegetation and other natural features.

c. 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.

d. 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.

e. 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.

f. To minimize erosion, stabilize the riverbank, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, screen man-made structures where possible, and also to preserve aesthetic values of the natural river area, vegetation shall be maintained within the Buffer Strip. 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:

1. the stump and root structure remain in place to provide for streambank stabilization and erosion control and:

2. 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.

3. Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs may be removed.

Planting of perennial native species in the Buffer Strip is encouraged especially where exposed soil and steep slopes exist.

In no case shall removal of vegetation or grading of land exceed that permitted by the New Hartford Inland Wetland Commission.

g. No impoundments, dams, or other obstructions to the flow of the Farmington River may be located within the District

h. 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.

6. Additional Site Plan Approval Criteria

In addition to existing site plan approval criteria required in the subdivision regulation and Zoning Regulations, the Planning and Zoning 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.

7. Application Procedures

- a. None of the uses regulated under paragraph 5 shall be commenced until the Zoning Enforcement Officer has issued a Zoning Permit for such use.
- b. Any application involving the disturbance of more than 2,500 square feet of land within the Buffer Strip shall require an application for site plan approval by the Commission.
- c. Modifications or exemptions as noted in paragraph 5 shall require a special permit.