

AMENDMENTS TO THE BARKHAMSTED ZONING REGULATIONS CONCERNING FARMINGTON RIVER PROTECTION OVERLAY DISTRICT

(Adopted by the Barkhamsted Planning & Zoning Commission, 7/25/91)

*193-64. Farmington River Protection Overlay District

The Farmington River Protection Overlay District shall be defined as the Farmington River within the Town of Barkhamsted including the area within the River's ordinary high water marks and a contiguous and parallel buffer strip which together constitute a culturally significant and environmentally sensitive river corridor. All use and activities established after the effective date of this regulation shall be in accordance with the standard and requirements in this regulation which are established to accomplish the following publicly recognized purposes:

(1) PURPOSES

- a. To establish standards and requirements for the use and conservation of the 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 dated October 30, 1990 and to contribute to the regional conservation of the River Corridor.
- b. To prevent any alterations to the natural flow of the River in order to maintain its ecological, recreational, aesthetic and other qualities such as documented in the Farmington River National Wild and Scenic River Study and other federal, State and local documents relating to the Farmington River.
- c. To prevent water pollution caused by erosion, sedimentation, nutrient or pesticide run-off, and waste disposal facilities and to encourage retention and enhancement of shore vegetative cover, including diversity of native species, age distribution, and ground cover density to provide a protected buffer and pollution filter strip along the River bank as required in other important river corridors and as recommended in numerous pollution prevention studies, such as published by the Smithsonian Environmental Research Center.
- d. To conserve the ecological, water supply and flood storage functions of the River's flood plain, and related groundwater table and aquifer recharge areas and to protect life, public safety and property from flooding hazards, especially within the River's flood hazards areas as defined and protected under the Flood Plain Overlay District as defined and regulated under Section 901 of these Regulations.
- e. To protect valuable fisheries and wildlife habitat within and along the Farmington River, as cited in various documents including the Farmington Wild and Scenic River Study (Draft Eligibility Report, August, 1989) and the State Comprehensive Outdoor Recreation Plan.
- f. To conserve and enhance 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. To carry out the recommendations of the Town Plan of Development and the State Plan of Conservation and Development and to prevent unnecessary or excessive expenditures of municipal funds for services and utilities which might be required as a result of improper development of land within the District.
- h. Definition of the Boundaries of the District

The Farmington River Protection Overlay District shall consist of the following areas:

- (1) The River which shall be defined as the area between the ordinary high water mark on each side of the River. The ordinary high water mark is that mark along the River's edge where the presence and action of waters 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.
- (2) A Buffer Strip consisting of one hundred feet (100') measured landward and horizontally from the ordinary high water mark as defined above. Where there is a question or dispute over the 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.

- i. General

Within the District the following standards and requirements shall apply. These shall be in addition to the requirements of the underlying Zoning District. Site alterations, regrading, filling, or clearing of vegetation before submission of an application for a zoning permit or Special Exception permit as required under this regulation shall be violation of these Regulations and subject to the penalties as provided under Connecticut General Statutes.

- j. Basic Requirements and Limitations

Within this overlay District all uses allowed in the underlying zoning district shall be subject to the following general requirements and limitations unless otherwise provided for as a Special Exception or Permitted Activity under this regulation.

- (1) No use shall result in:
 - an impoundment, dam or other obstruction to the flow of the Farmington River,
 - a new building or structure or addition to an existing building or structure,
 - a new septic system (including septic tank, leach fields and reserve leach fields) or any other type of waste disposal system, or

- dredging or removal of sand, gravel or other earth materials, nor dumping or filling.

k. Special Exception

Uses and activities allowed in the underlying zoning district may be permitted as a Special Exception subject to the above general requirements and limitations, the general standards and requirements of section 193-47 of these Regulations and only under the following specific conditions, standards and requirements.

l. Special Exception for the Development of a lot existing at the time of the adoption of this regulation where there is no established principal building or use.

(1) Conditions: Where there is a lot which existed at the time of the effective date of this regulation (8/18/91) and

- said lot has no principal building or use, and
- said lot does not contain sufficient depth a buffer strip as defined herein, or
- said lot contains sufficient land for the buffer strip but does not contain sufficient additional depth to permit establishing a building or use of the lot permitted in the underlying zoning district.

Under these conditions the Commission may approve development within the buffer strip as a Special Exception subject to the following specific standards and requirements.

(2) Standards and Requirements

- 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 buffer strip.
- b. The Commission shall permit a reduction of the buffer strip by no more than is necessary to provide for establishment of a principle building, structure or use permitted in the underlying zoning district and for necessary accessory buildings and structures.
- c. In no case shall the Commission permit the total area within the buffer strip which is to be improved, regraded or disturbed to equal or exceed fifty percent (50%) of the total area of the buffer strip on any such existing lot.
- d. In no case shall the Commission permit any point of such improved, regraded or disturbed area be closed 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.

- m. Special Exception for the extension or enlargement of existing structures located on existing lots within the Buffer Strip.
 - (1) Conditions: Where there is a principle building or structure located within the Buffer Strip, and both the building or structure and the lot on which it is located existed on the effective date of this regulation. Under these conditions such building or structure may be extended or enlarged within the Buffer Strip by Special Exception approved by the Commission subject to the following standards and requirements.
 - (2) Standards and Requirements:
 - a. The applicant shall submit a site plan and provided documentation that the above conditions apply and that the proposal is designed to minimize disturbance within the Buffer Strip, 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 to equal or exceed fifty percent (50%) of the total area of the Buffer Strip on any such existing lot.

Nothing in this section shall prohibit or require a permit for the ordinary repair and maintenance of existing buildings or structures within the District.

n. Removal of Timber

The Commission may permit by special exception the cutting of timber for forestry management purposes provided that such cutting is performed in accordance with an approved forest management plan prepared by a qualified forester which shall be submitted with the application. The Commission may impose any additional conditions necessary to satisfy the purposes of this regulation.

o. Removal of Vegetation for Filter View of River

The Commission may permit by Special Exception the selective pruning or removal of trees, shrubs, and other vegetation to allow for the creation of a view of the River, provided that such shall only be a filtered view of the River designed to provide reasonable visual access to the River while maintaining, to the greatest extent possible, a natural screen of man-made structures and objects and otherwise furthering the purposes of this regulation. Where such plan involves removal of trees in excess of 4-inch diameter at breast height, the plan shall be prepared by a qualified forester.

p. Special Exception for Municipal Improvement

The Commission may permit a Special Exception for a municipal improvement (such as a water line, sewer line or needed recreational facility, necessary public access, eg. handicapped access ramp) which unavoidably must encroach upon the Buffer Strip or be

located within the high water mark area provided the Town demonstrates that there is no practical alternative for the provision of the needed utility or improvement outside of the District and that all measures will be taken to minimize the adverse impact of such improvement.

q. Activities Permitted within the District Without a Zoning Permit

The following activities may be carried out within the District without the necessity of a zoning permit.

- (1) The selective pruning or removal of trees or shrubs to:
 - a. Maintain an existing view of the River from a principle structure;
 - b. Provide foot access to the River by means of a path which meanders down to the River;
 - c. Remove dead, diseased, unsafe or fallen trees and noxious plants and shrubs; and
 - d. Promote the health and vitality of existing vegetation.

For these purposes and wherever permitted under this regulation, selective pruning and/or removal shall be done in a manner that:

- promotes streambank stabilization and erosion control by maintaining stump and root structure wherever possible, and
 - provides the greatest possible screening of man-made structures and objects.
- (2) Planting of perennial native species in the Buffer Strip is permitted and encouraged, especially where exposed soil and steep slopes exist.
 - (3) Other Permitted Activities

Activities considered generally compatible with the purposes of this regulation shall include the following and similar activities:

- Surveying and Boundary posting, including fences for the purpose of marking boundary lines subject to the limitations of Section 193-30 of these regulations.
- Non-intensive and non-commercial recreational uses not requiring structures, such as hunting, fishing and hiking.
- Family garden plots as accessory to a residential use.
- Continuation of a farming activity which is in existence on the effective date of this regulation
- Fire prevention activities.
- Emergency operations.
- Fish and wildlife management practices according to a plan approved by the County Conservation District.