

Article## Nottingham Stream Protection ~~Ordinance~~ Overlay District

Purpose and Intent: ~~The purpose of the Nottingham Stream Protection Ordinance is to delineate buffers that will preserve the overall quality of Nottingham’s surface waters and the adjacent land.~~

~~More specifically, the intent of the regulations established in this Article are to:~~

- ~~1. Ensure protection of groundwater and drinking water supplies~~
- ~~2. Prevent flooding, sedimentation, and pollution from impervious surfaces and other sources~~
- ~~3. Protect aquatic and terrestrial wildlife habitat associated with the town’s rivers and ponds~~
- ~~4. Preserve the aesthetic values of shoreline areas in order to maintain the town’s rural character~~
- ~~5. Prevent unnecessary expenses to the Town for providing services and maintaining roads~~
- ~~6. Encourage uses that can be appropriately located near the town’s surface water resources~~

Authority:

Pursuant to the authority granted by RSA 483-B:8, Municipal Authority; RSA 674:17 I., Purposes of Zoning Ordinances; and RSA 674:21 I., Innovative Land Use Controls this ordinance is hereby adopted by the Town of Nottingham, New Hampshire to protect the public health, safety, and general welfare.

Purpose: The purpose of the Nottingham Stream Protection Ordinance is to delineate buffers that will preserve the overall quality of Nottingham’s surface waters and the adjacent land.

More specifically, the intent of the regulations established in this Article are to:

1. Ensure protection of groundwater and drinking water supplies
2. Prevent flooding, sedimentation, and pollution from impervious surfaces and other sources
3. Protect aquatic and riparian ecosystems associated with the town’s rivers and ponds
4. Maintain the town’s rural character by preserving the aesthetic values of shoreline areas
5. Prevent unnecessary expenses to the Town for providing services and maintaining roads
6. Encourage uses that can be appropriately located near the town’s surface water resources

Definitions:

District Boundaries:

Stream Protection District: The Stream Protection District shall include all land located within fifty (50) feet of the ordinary high water mark, as defined by RSA 483-B:4, XI-e, of all first (1st) and second (2nd) order streams, and seventy-five (75) feet of the mean ordinary high water mark of all third (3rd), ~~and~~ fourth (4th), and higher order streams in Nottingham including, but not limited to, the Little River, North River, Bean River, Mile Brook, Elliott River, Pawtuckaway River, and those tributaries unnamed.

<u>Stream Order</u>	<u>District Boundary</u>
<u>First and second order</u>	<u>50 feet</u>
<u>Third and fourth order and higher</u>	<u>75 feet</u>

Interpretation of District Boundaries: Where uncertainty exists as to the exact location of district boundary lines, the town code enforcement officer with the assistance of the N.H. Department of Environmental Services (DES) shall be the final authority of the boundary location.

Definitions:

Commented [SC1]: Are definitions to be kept within this article? Or, included in the definition section?

First order streams: The smallest streams with a year-round flow and no tributaries.

Second order stream: Formed when two first order streams flow into each other.

Third order stream: Formed when two second order stream flow into each other.

Fourth order stream: Formed when two third order streams flow into each other.

Fifth order stream: Formed when two fourth order streams flow into each other.

Buffer: Those areas adjacent to the stream which contain the natural vegetation extending from the edge of the stream bank into the upland that serve to protect the stream from the impact of adjacent land uses.

Basal Area: ~~shall mean:~~ The cross-sectional area of the stem of the plants at a height of four and one half (4.5) feet above the ground, usually expressed in square feet per unit of land area.

Administration:

The Nottingham ~~Planning Board~~ code enforcement officer shall uphold the applicable restrictions for new construction and vegetation removal within the district. Any reduction of the required buffer width down to an absolute minimum of 50 feet may be granted by the Planning Board upon presentation of a hydrologic or other study that provides documentation and justification, acceptable to the Planning Board, that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width buffer area. In granting such a reduction, the Planning Board may require certain conditions of approval, which may include, but are not limited to restrictions on use, type of construction, a change in the total impervious surface area, and erosion, runoff or sedimentation control measures as deemed necessary to protect water quality.

When applications regarding this article are made to the Nottingham Zoning Board of Adjustment, all applications shall also be referred to the Nottingham Conservation Commission for review and comment prior to the Zoning Board hearing.

Non-Permitted Uses: Within this district the following restrictions shall apply (except where otherwise permitted or required by state or federal regulations):

1. There shall be no roads, driveways or parking areas
2. There shall be no permanent or temporary dwellings or other structures established, with the exception of structures necessary for the housing of pumps. Existing structures may be replaced or remodeled, but may not be expanded within the Stream Protection District. Expansion shall mean up, down or out from the existing footprint and structure, including attachments there-to such as, but not limited to, decks, open porches, enclosed porches, etc. or an increase of use
3. There shall be no waste water disposal systems
4. There shall be no excavation or filling unless approved by the Planning Board. Review by the Conservation Commission will be requested and approvals will only be granted if other options with less detrimental impact are not feasible.
5. There shall be no cutting/removing vegetation within the Stream Protection District except where permitted under the provisions of this section ~~shall be prohibited~~. No more than fifty percent (50%) of the basal area of trees shall be cut or otherwise felled over the course of a ten (10) year period, leaving a well-distributed cover of healthy, growing trees or other vegetation within the Stream

Commented [SC2]: May need to be reworded for clarity

Protection District, and according to RSA 483-B:9, Agriculture and Forestry, conducted according to Best Management Practices, as recommended by the Division of Forest and Lands and Department of Agriculture Markets and Food, are exempt under this RSA. Unbroken vegetative cover for wildlife travel lanes is an important consideration for the Stream Protection District. ~~Basal area shall mean the cross-sectional area of the stem of the plants at a height of four and one-half (4.5) feet above the ground, usually expressed in square feet per unit of land area.~~

6. There shall be no application of fertilizers ~~within the Stream Protection District~~ except for slow-release or controlled-release fertilizer, which may be used beyond 25 feet of the stream.
7. There shall be no application of pesticides or herbicides ~~within the Stream Protection District.~~
8. There shall be no storage of hazardous materials or dumping ~~within the Stream Protection District.~~
9. There shall be no piling or storage of animal manure ~~within the Stream Protection District.~~
10. There shall be no disposal of lawn debris such as leaves, needles, branches, and grass ~~within the Stream Protection District.~~
11. There shall be no animal housing, such as barns, sheds, kennels, coops, and lean-tos ~~with the Stream Protection District.~~

Permitted Uses:

Within the Steam Protection District, the following uses are permitted:

1. Recreational trails and trail bridges
2. Wells and well lines
3. Fenced grazing
4. Dry hydrants
5. Removal of state-identified invasive plant species
- ~~6.1~~ ~~Removal of hazardous trees with preapproval from the Town's Code Enforcement Officer~~
- ~~7.6~~ Planting of new vegetation with native species to improve the buffering capability of the buffer

Exemptions from Regulations:

1. Structures, driveways, or waste water systems that existed prior to ~~March 12, 2019~~ March XX, 2021 are exempt from these stream protection restrictions.
- ~~2.~~ ~~Removal of hazardous trees with preapproval from the Town's Code Enforcement Officer~~
- ~~2.3~~ Exemptions to the setback provisions of Section 11.2 of this Article shall be made for the installation of docks, floats and other structures that are customarily associated with the recreational use of water.

Commented [SC3]: "the adoption of this article" (dated when added to ZO"