

Adopt the following new ordinance to protect Nottingham streams that are not subject to the Shoreland Water Quality Protection Act and add associated definitions to the Definition section.

**Proposed Amendment:**

**ARTICLE III OVERLAY DISTRICTS**

**E. Stream Protection Overlay District**

**1. 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.

- 2. Purpose:** The purpose of the Nottingham Stream Protection Ordinance is to delineate stream 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:

- a) Ensure protection of groundwater and drinking water supplies
- b) Prevent flooding, sedimentation, and pollution from impervious surfaces and other sources
- c) Protect aquatic and riparian ecosystems associated with the town’s rivers and ponds
- d) Maintain the town’s rural character by preserving the aesthetic values of shoreline areas
- e) Prevent unnecessary expenses to the Town for providing services and maintaining roads
- f) Encourage uses that can be appropriately located near the town’s surface water resources

**3. 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 ordinary high water mark of all third (3rd), 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.

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

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

**4. Definitions:**

**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.

**Stream 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:** 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.

## **5. Administration:**

The Nottingham Building Inspector shall uphold the applicable restrictions for new construction and vegetation removal within the district.

A reduction of the required stream buffer width may be granted by the Planning Board if the following criteria are met:

- A hydrologic or other study that provides documentation and justification 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 stream buffer area.
- The stream buffer width for third order and higher streams does not exceeded an absolute minimum of 50 feet
- The stream buffer width for first and second order streams does not exceed an absolute minimum of 25 feet

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.

- 6. Non-Permitted Uses:** Within this district the following restrictions shall apply (except where otherwise permitted or required by state or federal regulations)
- a) Roads, driveways, or parking areas
  - b) 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

- c) Wastewater disposal systems
- d) Excavation or filling unless approved by the Planning Board. Review by the Conservation Commission will be requested, and approvals only granted if other options with less detrimental impact are not feasible.
- e) Cutting/removing vegetation within the Stream Protection District except where permitted under the provisions of this section. 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 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.
- f) Application of fertilizers except for slow-release or controlled-release fertilizer, which may be used beyond 25 feet of the stream.
- g) Application of pesticides or herbicides.
- h) Storage of hazardous materials or dumping.
- i) Piling or storage of animal manure.
- j) Disposal of lawn debris such as leaves, needles, branches, and grass.
- k) Animal housing, such as barns, sheds, kennels, coops, and lean-tos.

## **7. Permitted Uses:**

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

- a) Recreational trails and trail bridges
- b) Wells and well lines
- c) Fenced grazing
- d) Dry hydrants
- e) Removal of state-identified invasive plant species
- f) Planting of new riparian vegetation with native species to maintain or improve the integrity of the stream buffer

### **Exemptions from Regulations:**

- a) Structures, driveways, or wastewater systems that existed prior to March XX, 2021 are exempt from these stream protection restrictions.
- b) Removal of hazardous trees with preapproval from the Town's Building Inspector
- c) 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.

## **ARTICLE VI Definition**

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