

Appendix E - Watercourse Protection Law Examples

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1. Town of Penfield, Monroe County, New York

Chapter 29: Zoning Ordinance

Article III—Zoning Districts

§ 3-15. EPOD (5) – Watercourse Protection District.

A. Purpose.

The purpose of the Watercourse Protection District regulations is to preserve and protect watercourses located within the Town of Penfield by regulating or controlling development in those areas and by requiring review and permit approval prior to commencement of any activity.

B. Delineation of District Boundaries.

The boundaries of the Watercourse Protection District shall be delineated on the “Official Town of Penfield EPOD Maps” and shall include all areas in the Town of Penfield as follows:

1. All those areas within seventy-five (75) feet of the centerline of a natural or man-made watercourse.

C. Regulated Activities.

No person shall conduct any of the following regulated activities within any Watercourse Protection District in the Town of Penfield unless such person has first applied for and obtained an EPOD development permit pursuant to the requirements of this Section:

1. Clearing or filling, dredging, excavating, depositing of natural or man-made materials or constructing on any land area which lies within the Watercourse District boundaries except that the following activities shall be exempted from the clearing regulations of this part:
 - a. Customary agricultural operations.
 - b. Watercourse maintenance activities.
2. The construction or placement of any septic tank or septic drainage field.
3. Any activity, which would alter the natural flow pattern of the watercourse.

D. Development Standards/Permit Conditions.

In granting, denying or conditioning any application for an EPOD development permit, the authorized official or the appropriate board shall consider the effect that the proposed regulated activity will have on the public health, safety and welfare and the protection and enhancement of watercourses within the Town.

Any applicant for a permit to undertake a regulated activity within a Watercourse Protection District in the Town of Penfield shall be required to adequately demonstrate to the authorized official or the appropriate board that the proposed activity will in no way at present or at any time in the future, adversely affect the following:

1. Water quality.
2. Watercourse flood carrying capacities.
3. Rate of sedimentation.
4. Rate/velocity of groundwater runoff.
5. Natural characteristics of the watercourse.

When altering the natural flow pattern of a natural or man-made watercourse, the applicant shall prove that the alteration:

1. Is necessary; and,
2. Will not impair the natural functions of the watercourse.

The applicant for a permit shall have the burden of demonstrating that the proposed regulated activity will be conducted in accordance with the standards and requirements listed above.

2. Town of Mendon, Monroe County, New York

Chapter 200: Zoning *(Adopted in 2000 with amendments)*

Article IV—Establishment and Designation of Zoning Districts
§ 200-26. EPOD 3 Watercourse Protection Overlay District.

A. Purpose and intent. The purpose of the Watercourse Protection Overlay District is to provide special controls to guide land development within the major waterway corridors in the town. The district regulations encourage planning and development of land that will protect and preserve these sensitive environmental areas. It is also the intent of these regulations to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; prevent degradation or loss of scenic views and the natural character of the area; and prevent activities which degrade water quality.

B. Delineation of district boundaries. The boundaries of the Watercourse Protection Overlay District shall be delineated on the Official Town of Mendon EPOD Maps. These boundaries shall include the following areas: Irondequoit Creek, Honeoye Creek and all tributaries thereto located within the town; and for a distance of 75 feet from each bank or to the landward boundary of the area of special flood hazard (see EPOD 8 District regulations below in this article), whichever is greater.

C. Regulated activities. No person shall conduct any of the following regulated activities unless such person has first applied for and obtained an EPOD 3 development permit pursuant to the requirements of this section. Customary agricultural operations are not required to obtain an EPOD 3 development permit.

- (1) Construction of new buildings or structures or additions to or modifications of existing buildings or structures.
- (2) Construction or placement of any on-site septic or sewage disposal system.
- (3) Filling, cutting or excavation, either on land or within a watercourse or floodplain.
- (4) Removal of natural vegetation.
- (5) Discharge of stormwater and/or construction of a private commercial or municipal stormwater runoff system.
- (6) Outside storage of materials and equipment used in the conduct of a business.
- (7) Activities which would alter the natural flow pattern of any of the aforementioned watercourses.
- (8) Construction of public or private roads, trails and bridges.
- (9) Boat launching sites and fishing access parking areas.

D. Development standards and permits. In granting, denying or conditioning any application for an EPOD 3 development permit, the CCO or the Planning Board shall consider the effect that the proposed regulated activity shall have on the public health, safety and welfare and the protection of the major watercourses within the town.

(1) General regulations. Any applicant for a permit to undertake a regulated activity within a Watercourse Protection Overlay District shall be required to adequately demonstrate that the proposed activity will in no way at present or at any time in the future adversely affect the following:

- (a) Water quality.
- (b) Watercourse flood-carrying capacities.
- (c) Rate of sedimentation.
- (d) Rate/velocity of groundwater runoff.
- (e) Natural characteristics of the watercourse or floodplain.

(2) Specific standards. No permit to undertake a regulated activity within the district shall be issued by the CCO or the Planning Board unless it determines that the proposed project complies with the following standards: (a) The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands, stormwater runoff, septic and sewage systems and any other activity on the site.

(b) A natural vegetative buffer of 100 feet from each bank shall be retained adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities.

(c) Site preparation, including stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited.

Disturbed soils shall be stabilized and revegetated before construction can begin. During the interim, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

(d) The project shall provide adequate measures to protect surface waters and groundwaters from direct or indirect pollution and from overuse.

(e) Fill shall not encroach on natural watercourses, constructed channels or floodway areas. All fill shall be compacted at a final angle or repose which provides stability for the material, minimizes erosion and prevents settlement.

(f) Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the scenic qualities of the water body.

(g) No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it will not impede the natural flow of the streams to which this section applies. Said facilities shall be located and constructed so as to minimize their intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.

(h) New structures, except for fences, bridges and fishing access parking areas, shall not be constructed within 75 feet of the bank of the stream.

(i) New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Stormwater Runoff Management and Stormwater Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

3. Village of Skaneateles, Onondaga County, New York **Chapter 225: Zoning** (*Adopted in 1975 with amendments*)

Article VI—Overzone Regulations

225-19. Skaneateles Creek SC-O Overzone.

A. Purpose. The Village places special value upon Skaneateles Creek as an environmental, scenic, and recreational resource and seeks to preserve this resource from development that would adversely affect its resource value and its potential use as a pedestrian trail corridor.

B. Boundaries. Until such time as the Village Board adopts a specific map identifying the SC-O Overzone, the boundaries of the SC-O Overzone shall be the same as those of the Floodway Fringe Overzone along Skaneateles Creek.

C. Property rights protection.

(1) Nothing in this § 225-19 shall give the Village or any other public entity the right to enter upon, use, or condemn any property in the Skaneateles Creek Overzone.

(2) Nothing in this section shall authorize the Village to require that land in the SC-O Overzone be dedicated to public use, except as may ordinarily occur in connection with laying out street rights-of-way, sidewalks, utility easements, and drainageways.

(3) The Village may negotiate with landowners for the voluntary sale or donation of land or interests in land (including conservation easements) and may require that land be reserved from development in connection with any land use approval, consistent with the requirements of the Fifth and Fourteenth Amendments of the United States Constitution, the New York State Constitution, and other applicable laws.

D. Planning considerations.

(1) In considering an application for any form of development, including a zoning permit, the reviewing board or official shall take into consideration the importance of protecting the Skaneateles Creek corridor as a water resource, wildlife and plant habitat, scenic area, and potential trail corridor and may require the applicant to locate structures and take other necessary measures to protect these resources. Such measures may include requiring a cluster subdivision.

(2) In order to fulfill the purposes of this § 225-19, the Planning Board, Village Board, Zoning Board of Appeals, or Code Enforcement Officer may modify front yard, side yard, or rear yard (not stream) setbacks.

(3) Within the SC-O Overzone, the reviewing board shall designate "no-build areas" on all subdivision plats and site plans, showing areas unacceptable for site disturbance and construction. Within such no-build areas, site disturbance may occur only as needed for trails or as minimally necessary for construction of driveways, utilities, and other structures that cannot practically be located elsewhere. Fences shall not be located in a manner that would hamper the future creation of a trail corridor or easement through the SC-O Overzone. Fences should generally be located parallel to the Skaneateles Creek outside the SC-O Overzone.

E. Conditions and findings.

(1) Before granting approval of any subdivision, special permit, site plan, variance, or zoning amendment that includes land wholly or partially located within the SC-O Overzone, the reviewing board shall impose appropriate conditions and make a written finding that the proposed development has been designed in a manner that minimizes damage to the Skaneateles Creek corridor and that does not hamper future use of the SC-O Overzone for trail purposes.

(2) Such conditions may include a requirement that a conservation easement (as provided in § 225-36D) be granted by the applicant to protect all or a portion of the land within the SC-O Overzone. Such conditions shall not deprive the applicant of economically viable use of the property.

F. Effect of overzone overlap. Where the FF-O and SC-O Districts overlap, the provisions of §§ 225-18 and 225-19 shall each operate independently, and if there is any conflict, the more restrictive provisions shall apply.

4. Town of Parma, Monroe County, New York
Chapter 165: Zoning (*Adopted in 1998 with amendments*)

Article VII—Environmental Protection Overlay Districts (EPOD's)
§ 165-52. EPOD (4) Stream Corridor Protection District.

A. Purpose and intent. The purpose of the Stream Corridor Protection District is to provide special controls to guide land development within the major waterway corridors in the Town of Parma. The district encourages planning and development of land so as to protect and preserve sensitive environmental areas, to prevent soil erosion, sedimentation and slope failure due to removal of vegetation, dredging, filling, damming or channelization; to prevent degradation or loss of scenic views and the natural character of the area; and to prevent activities which degrade water quality or fish and wildlife habitat.

B. Delineation of district boundaries. The boundaries of the Stream Corridor Protection District shall be based on a map with stream numbers prepared by the Conservation Board. The Stream Corridor Protection District shall extend a distance of 50 horizontal feet from the edge of each stream.

C. Activities regulated.

(1) All activities not otherwise exempted by § 165-47B shall be regulated.

(2) Additional exempt activities

(a) Construction of bridges.

(b) Construction of ponds.

(c) Thinning and clearing of trees and shrubs, if maintaining at least 60% perimeter coverage along the stream.

D. Standards for permit review.

(1) General regulations. Any applicant for a permit to undertake a regulated activity within a Stream Corridor Protection District shall be required to adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:

(a) Water quality.

(b) Watercourse flood-carrying capacities.

(c) Rate of sedimentation.

(d) Velocity of surface water runoff.

(e) Natural characteristics of the watercourse or floodplain.

(f) Soil stability.

(g) Fish and wildlife habitat

(2) Specific standards. No permit to undertake a regulated activity within the district shall be issued unless it is determined that the proposed project complies with the following additional standards:

(a) The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands; change in water temperature due to removal of shade vegetation; or nonpoint sources of pollution due to stormwater runoff, septic systems or any other activity on the site.

(b) The project shall provide adequate measures to protect surface and ground waters from direct or indirect pollution and from overuse.

(c) Fill shall not encroach on natural watercourses, constructed channels or floodway areas.

(d) Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the environmental features of the entire site.

(e) No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it shall not impede the natural flow of the streams to which this section applies and shall be located and constructed so as to minimize its intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.

E. Additional procedures and conditions.

(1) A vegetative buffer of 25 feet shall be retained from each edge adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities. Wherever possible, the buffer shall retain natural vegetation.

(2) Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within 14 days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.

(3) All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.

(4) New structures, except for fences, bridges and fishing access parking areas, shall not be constructed within 25 feet of the bank of the stream.

(5) New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Storm Water Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

5. Town of Manchester, Ontario County, New York
Chapter 325: Zoning (*Adopted in 1989 with amendments*)

Article V—Supplementary Use Regulations.
§ 325-32. Drainage strips.

In all districts, no permanent structures shall be permitted within 50 feet of any stream or existing natural drainage channel.

6. Town of Victor, Ontario County, New York
Chapter 211: Zoning (*Adopted in 1992 with amendments*)

Article IV—Provisions Applicable To All Districts
§ 211-30. Environmentally sensitive land.

A. No construction or impervious surface shall be permitted within 100 feet of the boundary of a wetland or within 75 feet of the center line of any stream having year-round flow as delineated on a United States Geological Survey Map.

B. Environmental reviews pursuant to NYCRR 617 (SEQR) or other applicable laws shall be completed prior to any project approvals.

Editor's Note: Former Subsection C, Wellhead Protection Environmental Overlay District, added 2-28-1994 by L.L. No. 2-1994, which immediately followed this subsection, was repealed 7-27-1998 by L.L. No. 4-1998.

7. Village of New Paltz, Ulster County, New York
Chapter 212: Zoning (*Adopted in 1977 with amendments*)

Article IV—Supplementary Lot, Height and Yard Regulations
§ 212-19. Yard requirements. [*Amended by L.L. No. 9-1995*]

G. Setbacks from streams. Notwithstanding any other provision of this chapter, lots adjacent to any watercourse or stream containing water for at least two months of the year shall provide a twenty-foot width from the mean high water mark of said watercourse or stream. This twenty-foot width may be computed as part of any yard requirement or buffer area but no parking areas, driveways or structures may be constructed in this strip.

8. U.S. EPA Model Ordinance to Protect Local Resources: Aquatic Buffers

Section 1 - Purpose

To protect the unique landscape of the Finger Lakes, it is the intent of the Town of _____ to preserve watercourses to the greatest extent possible and to regulate their use to protect the public interest by minimizing the detrimental effects of disturbance and development adjacent to these watercourses. This law is intended to protect the public from the potential negative impacts of the erosion, siltation, pollution of water supplies, increase in downstream runoff, alteration of scenic views, and destruction of potentially significant habitat, which may result from disturbance of land adjacent to watercourses.

Section 2 - Findings

A. Watercourses and wetlands have been and are in jeopardy of being damaged and destroyed by filling, excavating, building, clearing and grading, and other such acts inconsistent with the natural conditions of such areas. Land adjacent to watercourses in the Town of _____ is an environmentally sensitive area and valuable natural resource, which is of benefit to the entire Town and surrounding region. The environmental sensitivity of watercourses and adjacent land is due to their ability to restore and maintain the chemical, physical and biological integrity of the water resources, reduce erosion and control sedimentation, stabilize stream banks, provide infiltration of stormwater runoff, provide tree canopy to shade streams and promote desirable aquatic organism, provide riparian and lacustrine wildlife habitat and furnish scenic value and recreational opportunity.

B. Watercourses and their adjacent lands require specific development controls, above and beyond standard development regulations due their sensitive environment but also due to the unique development pressure exerted on these areas. Land near lakes and streams is often very desirable for residential development due to scenic views.

C. Protection of watercourses is a matter of concern to the entire Town of _____. The establishment of regulatory and conservational practices in this critical area is needed to protect the public health, safety, and general welfare. Experience has demonstrated that effective protection of watercourses requires preservation wherever possible. Experience has further demonstrated that where watercourses have to be disturbed, careful review and regulation, including stringent mitigation measures, are required.

D. The Town of _____'s experience with past development has shown that improper development can aggravate erosion and sedimentation beyond rates experienced in the natural geomorphological processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource, and can result in the disturbance of habitats, the degradation of the quality of surface water, including the Finger Lakes, the silting of wetlands, the alteration of drainage patterns, obstruction of drainage structures, and the intensification of flooding.

E. The Town of _____'s experience with past development has shown that improper development can lead to accelerated erosion, damage to the natural environment, threats to man-made structures and personal safety, and the degradation of aesthetics.

F. Watercourses are important environmental features that contribute to the character of the Town. Overdevelopment or improperly managed disturbances are detrimental to the character of the Town and can result in public and private expenditures for corrective measures.

G. Regulation of development adjacent to watercourses is consistent with the legitimate interest of landowners to make reasonable use of their land. Regulation can prohibit the degradation of watercourses and allow reasonable use of private property by encouraging flexible design of development so as to avoid disturbance of sensitive lands.

H. Regulation of development adjacent to watercourses will not preclude the Town from continuing to meet its social, economic and other essential responsibilities.

I. These regulations are enacted with the intent of providing reasonable balance between the rights of the individual property owner to the fair use of his or her property and the rights of the public at large, both presently and in future generations. Therefore, this law recognizes the rights of owners of property adjacent to watercourses to use their

property for reasonable purposes consistent with other regulations and controls, provided that such use, in the judgment of the appropriate agencies or officials of the Town, does not result in a significant loss or degradation of watercourses or a loss of visual or open space benefits which these lands have been found to provide.

J. It is declared to be the intent of the Town of _____ to preserve watercourses and their adjacent land to the greatest extent possible and to regulate their use within the Town to protect the public interest by ensuring the preservation of watercourses and by ensuring the minimization of detrimental effects as set forth in this law.

Section 3 - Definitions

See Schedule A for definitions of terms used in this law.

Section 4 - Applications

A. This law shall apply to all proposed development except for:

- (1) Agricultural activity as defined in this local law.
- (2) Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the County Soil & Water Conservation District or the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this law.
- (3) Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (4) Repairs to any stormwater management practice or facility deemed necessary by the Code Enforcement Officer and/or Town Engineer.
- (5) Any part of a subdivision if a plat for the subdivision has been approved by the Town of _____ on or before the effective date of this law.
- (6) Land development activities for which a building permit has been approved on or before the effective date of this law.
- (7) Cemetery graves.
- (8) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (9) Emergency activity immediately necessary to protect life, property or natural resources.
- (10) Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- (11) Landscaping and horticultural activities in connection with an existing structure.

<i>Need to consider exemptions</i>

Section 5 – Design Standards for Buffers

A. A forest buffer for a stream system shall consist of a forested strip of land extending along both sides of a stream and its adjacent wetlands, floodplains or slopes. The forest buffer width shall be adjusted to include contiguous sensitive areas, such as steep slopes or erodible soils, where development or disturbance may adversely affect water quality, streams, wetlands, or other water bodies.

B. The forest buffer shall begin at the edge of the stream bank of the active channel.

C. The required width for all forest buffers (i.e., the base width) shall be a minimum of one hundred feet, with the requirement to expand the buffer depending on stream order, percent slope, 100-year floodplain, and wetlands or other critical natural resource(s).

- (1) in third order and higher streams, add twenty five (25) feet to the base width.
- (2) forest buffer width shall be modified if there are steep slopes which are within close proximity to the stream and drain into the stream system. In those cases, the forest buffer width can be adjusted according to the following chart:

Percent Slope	Buffer Width
15%-17%	add 10 feet
18%-20%	add 30 feet
21%-23%	add 50 feet
24%-25%	add 60 feet

(3) forest buffers shall be extended to encompass the entire 100-year floodplain and a zone with a minimum width of 25 feet beyond the edge of the floodplain.

(4) when wetland or critical areas extend beyond the edge of the required buffer width, the buffer shall be adjusted so that the buffer consists of the extent of the wetland plus a 25-foot-wide zone extending beyond the wetland edge.

D. The forest buffer shall be composed of three distinct zones, with each zone having its own set of allowable uses and vegetative targets as specified in this ordinance.

(1) Zone 1 Streamside Zone

a) The function of the streamside zone is to protect the physical and ecological integrity of the stream ecosystem.

b) The streamside zone will begin at the edge of the stream bank of the active channel and extend a minimum of 25 feet from the top of the bank.

c) Allowable uses within this zone are highly restricted to:

- i) flood control structures
- ii) utility rights of way
- iii) footpaths
- iv) road crossings, where permitted.

d) The vegetative target for the streamside zone is undisturbed native vegetation.

(2) Zone 2 Middle Zone

a) The function of the middle zone is to protect key components of the stream and to provide distance between upland development and the streamside zone.

b) The middle zone will begin at the outer edge of the streamside zone and extend a minimum of 50 plus any additional buffer width as specified in Section VI C.

c) Allowable uses within the middle zone are restricted to:

- i) Biking or hiking paths
- ii) Stormwater management facilities, with the approval of (*local agency responsible for stormwater*).
- iii) Recreational uses as approved by Town of _____.
- iv) Limited tree clearing with approval from (*Forestry Agency or Planning Agency*).

d) The vegetative target for the middle zone is mature native vegetation adapted to the region.

(3) Zone 3 Outer Zone

a) The function of the outer zone is to prevent encroachment into the forest buffer and to filter runoff from residential and commercial development.

b) The outer zone will begin at the outward edge of the middle zone and provide a minimum width of 25 feet between Zone 2 and the nearest permanent structure.

c) There shall be no septic systems, permanent structures or impervious cover, with the exception of paths, within the outer zone.

d) The vegetative target for the outer zone may vary, although the planting of native vegetation should be encouraged to increase the total width of the buffer.

Section D above may be too detailed for some municipalities; it may be deleted.

Section 6 - Buffer Regulations

A. The forest buffer, including wetlands and floodplains, shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are prohibited within the forest buffer:

- (1) Clearing of existing vegetation.
- (2) Soil disturbance by grading, stripping, or other practices.
- (3) Construction or placement of any permanent or nonpermanent structures
- (4) Filling or dumping.
- (5) Drainage by ditching, under drains, or other systems
- (6) Use, storage, or application of pesticides, except for the spot spraying of noxious weeds or non-native species consistent with recommendations of the New York State Department of Environmental Conservation.
- (7) Housing, grazing, or other maintenance of pets or livestock.
- (8) Storage or operation of motorized vehicles, except for maintenance and emergency use approved by the Town of _____.

B. The following structures, practices, and activities are permitted in the forest buffer, with specific design or maintenance features, subject to the review of the Town of _____:

- (1) Roads, bridges, paths, and utilities:
 - a) an analysis needs to be conducted to ensure that no alternative is available.
 - b) the right of way should be the minimum width needed to allow for maintenance access and installation.
 - c) the angle of the crossing shall be perpendicular to the stream or buffer in order to minimize clearing requirements
 - d) the minimum number of vehicular road crossings should be used within each subdivision, and no more than one crossing is allowed for every 1,000 feet of buffer. This shall not be construed to limit pedestrian pathway crossings of the buffer.
- (2) Stormwater management:
 - a) an analysis needs to be conducted to ensure that no economically feasible alternative is available, and that the project is either necessary for flood control, or significantly improves the water quality or habitat in the stream.
 - b) in new developments, on-site and non-structural alternatives will be preferred over larger facilities within the stream buffer.
 - c) when constructing stormwater management facilities (i.e., BMPs), the area cleared will be limited to the area required for construction, and adequate maintenance access.
 - d) material dredged or otherwise removed from a BMP shall be stored outside the buffer.
- (3) Stream restoration projects, facilities and activities approved by are permitted within the forest buffer.
- 4) Water quality monitoring and stream gauging are permitted within the forest buffer, as approved by _____ (*local, state and/or federal agency*).
- 5) Individual trees within the forest buffer may be removed which are in danger of falling causing damage to dwellings or other structures, or causing blockage of the stream.
- 6) Other timber cutting techniques approved by the agency may be undertaken within the forest buffer under the advice and guidance of (*State or Federal Forestry Agency*), if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.

C. All subdivision plats and site plans prepared for review and/or recording shall clearly:

- 1) Show the extent of any forest buffer on the subject property
- 2) Label the forest buffer
- 3) Provide a note to reference any forest buffer stating: "There shall be no clearing, grading, construction or disturbance of vegetation."

Section 7 - Penalties for offenses

A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this law and also shall be liable for any such violation for the penalty therefore.

B. A violation of this law is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors, and, for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation.

C. Any person violating this law shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.

D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law.

E. The enforcement responsibility, procedures and fines shall be coordinated with zoning enforcement and flood damage control law provisions so that any instance where multiple violations occur because of the same set of facts can be effectively and efficiently prosecuted.

Section 8 - Relief from decisions

Any person or persons jointly or severally aggrieved by any decision of the Planning Board, and/or the Town Board, and/or the Zoning Board of Appeals, and/or the Town Engineer and/or their duly authorized representative under this article may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be commenced within 30 days after the filing of the decision of the Planning Board, or of the Zoning Board of Appeals, or of the Town Engineer, or of such duly authorized representative, as the case may be, in the office of the Town Clerk in accordance with applicable provisions of New York State Town Law.

Section 9 - Conflict With Other Regulations

Where the standards and management requirements of this buffer ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities or other environmental protective measures, the more restrictive shall apply.

Schedule A – Definitions

As used in this local law, the following terms shall have the meanings indicated:

ACTIVE CHANNEL – The area of the stream channel that is subject to frequent flows (approximately once per one and a half years) and that includes the portion of the channel below the floodplain.

BEST MANAGEMENT PRACTICES (BMPs) – Conservation practices or management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, sediment, and runoff.

BUFFER – A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, reservoir, or coastal estuarine area. Alteration of this natural area is strictly limited.

DEVELOPMENT –

1. The improvement of property for any purpose involving building
2. Subdivision of a tract or parcel of land into two or more parcels
3. The combination of any two or more lots, tracts, or parcels of property for any purpose
4. The preparation of land for any of the above purposes

LACUSTRINE – Of or pertaining to a lake.

NONPOINT SOURCE POLLUTION – Pollution which is generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage rather than direct discharge.

ONE HUNDRED YEAR FLOODPLAIN – The area of land adjacent to a stream that is subject to inundation during a storm floodplain event that has a recurrence interval of 100 years.

POLLUTION – Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to:

1. Public health, safety, or welfare
2. Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses
3. Livestock, wild animals, or birds
4. Fish or other aquatic life

RIPARIAN – Of or pertaining to a river or stream.

STREAM CHANNEL – Part of a watercourse either naturally or artificially created that contains an intermittent or perennial base flow of groundwater origin. Base flows of groundwater origin can be distinguished by any of the following physical indicators:

1. Hydrophytic vegetation, hydric soil, or other hydrologic indicators in the area(s) where groundwater enters the stream channel in the vicinity of the stream headwaters, channel bed, or channel banks
2. Flowing water not directly related to a storm event
3. Historical records of a local high groundwater table, such as well and stream gauge records.

STREAM ORDER – A classification system for streams based on stream hierarchy. The smaller the stream, the lower its numerical classification. For example, a first-order stream does not have tributaries and normally originates from springs and/or seeps.

STREAM SYSTEM – A stream channel together with one or both of the following:

- 100-year floodplain
- Hydrologically related nontidal wetland

STREAMS – Perennial and intermittent watercourses identified through United States Geological Survey (USGS) maps. Perennial streams are those which are depicted on a USGS map with a solid blue line. Intermittent streams are those which are depicted on a USGS map with a dotted blue line.

Defining the term “stream” is perhaps the most contentious issue in the definition of stream buffers. This term determines the origin, and the length of the stream buffer. While some jurisdictions restrict the buffer to perennial or “blue line” streams, others include both perennial and intermittent streams in the stream buffer program. Some communities do not rely on USGS maps, and instead prepare local maps of all stream systems that require a buffer.

STRUCTURES, PERMANENT – Anything constructed or erected with a fixed location on the ground above grade and having subsurface foundations, piers, or pilings, or having a connection to any public or private (including on-site) water source and wastewater treatment system. Permanent structures shall not include poles, lines, cables, or other transmission or distribution facilities of public utilities.

STRUCTURES, NONPERMANENT – Anything constructed or erected on the ground above grade without any subsurface foundations, piers, or pilings.

WATERCOURSE – A definite channel with bed and banks within which concentrated water flows continuously, frequently or infrequently.

WETLAND – Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.