

21.20 Sippican River Overlay Protection District

(Adopted: Article 1, October 15, 1990 Special Town Meeting)

1. Purpose

- a) Promote the preservation of the scenic qualities of the natural landscape along the River;
- b) Prevent any additional disruptions to the natural flow of the river;
- c) Protect fisheries and wildlife habitat within and along the river.
- d) Control erosion and siltation;
- e) Enhance and preserve existing agricultural lands, floodplains, and other environmentally sensitive areas along the shoreline;
- f) Conserve shore cover and encourage well-designed and environmentally sensitive developments.

2. Scope of Authority

All existing regulations of the Rochester Protective By-laws applicable to such district shall remain in effect, except that where the Sippican River Protection District imposes additional regulations, such regulations shall constitute additional restrictions.

3. District Delineation

The area affected by this By-Law shall be the Sippican River (including East and West Branches) located in this Town and its shores and land up to two hundred (200) feet from each bank (as defined by M.G.L. Chapter 131, Section 40). All distances shall be measured in horizontal feet.

4. Permitted Uses

The following uses are permitted within the district provided they are otherwise allowed by the Rochester protective By-law and are in conformance with the River Protection Standards in Section 8.

- a) Agricultural production, including raising of cranberries, livestock, poultry, nurseries, orchards, hay and other crops.
- b) Recreational uses provided there is minimal disruption of wildlife habitat.

- c) Maintenance and repair usual and necessary for continuance of an existing use.
- d) Conservation of water, plants and wildlife, including the raising and management of wildlife.
- e) Emergency Procedures necessary for safety or protection of property.
- f) Single-family residences which are otherwise buildable under this and other Protective By-Laws of the Town and Provisions of M.G.L. Chap 40A + 41.

5. Prohibited Uses

- a) No altering, dumping, filling, removal of riverine materials or dredging is permitted. Maintenance of the river may be done under requirements of M.G.L. Chapter 131, Section 40, and any other applicable laws, by-laws and regulations.
- b) No clear cutting of existing vegetation, except for removal of brush necessary for continuance of an existing use and no more than minimal disruption of wildlife habitat is permitted except in those cases where the purposes of M.G.L. Chapter 131, Section 40, would be adversely affected, as determined by the Conservation Commission.
- c) All uses of outboard motors, of any type.
- d) All other uses not specifically permitted or allowed by Special Permit in accordance with the Town Protective By-Laws within the overlay zone are prohibited.

6. Uses by Special Permit

- a) Construction of one dock providing access to the river per parcel or set of contiguous parcels in common ownership shall be allowed where appropriate based on the particular location of the proposed dock in relation to its placement on the river, upon issuance of a Special Permit from the Planning Board.

7. Additional Site Plan Approval Criteria

All residential subdivisions which require approval under M.G.L. Chapter 41 shall require additional site plan approval from the Planning Board. In addition to the standards contained in M.G.L. Chapter 41, the Planning Board shall also consider whether uses proposed in the River Protection District meet the following criteria:

- a) Is situated on a portion of the site that will most likely conserve shoreline vegetation and the integrity of the buffer strip.
- b) Is integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines.
- c) Will not result in erosion or sedimentation.
- d) Will not result in water pollution.

8. River Protection Standards

All land uses, including all residents or other structures shall comply with the following standards:

- a) A buffer strip extending at least one hundred (100) feet in depth, to be measured landward from each bank of the Sippican River shall be required for all lots within the River Protection District. If any lot, existing at the time of adoption of this by-law does not contain sufficient depth, measured landward from the river bank, to provide a one hundred-foot (100) buffer strip, the buffer strip may be reduced to 50% of the available lot depth upon approval from the Conservation Commission measured landward from the river bank.
 1. The buffer strip shall include trees and shall be kept in a natural or scenic condition.
 2. No building or structures shall be erected, enlarged, altered or moved within the buffer strip.
 3. Prior to the sale, transfer or exchange of any property utilizing an on-site disposal system, the owner of said property shall be responsible for a health department inspection of the disposal system to ensure compliance with all applicable provisions of 310 CMR 15, Title 5 of the MA State Environmental Code.

- b) On-site disposal system shall be located as far from the Sippican River as is feasible, and shall conform to the provisions of 310 CMR 15, Title 5 of the MA Environmental Code.
- c) All new development shall be integrated into the existing landscape on the property so as to minimize its visual impact and maintain natural beauty and environmentally sensitive shoreline areas through use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot.
- d) Run-off from new development shall be directed towards areas covered with vegetation for surface infiltration catch basins, and piped storm sewers shall be used only where other methods are not feasible.

9. Non-Conforming Uses

- a) Any lawful use, building, structures, premises, land or parts thereof existing at the effective date of this by-law or amendments thereof and not in conformance with the provisions of this by-law shall be considered to be a non-conforming use.
- b) Any existing uses or structure may continue and may be maintained, repaired and improved. If such use is to be expanded, a special permit shall be sought from the Board of Appeals in accordance with G.L. chapter 40A, sec. 6.
- c) Any non-conforming structures which are destroyed may be rebuilt on the same location but no larger than its overall original square footage, provided that the board of appeals issues a special permit in accordance with G.L. 40A Sec. 6.

10. Hardships

- a) To avoid undue hardship, nothing in this by-law shall be deemed to require a change in design, construction, or intended use of any structure for which a building permit was legally issued prior to the effective date of this by-law. Such construction may be completed within two years from the effective date of this by-law, or such construction shall be required to conform to this by-law.