

**CORNER PROPERTIES, INC.**

REAL ESTATE & MORTGAGE INVESTMENTS

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RECEIVED

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To the Killingly Planning and Zoning Commission (7 pages total), PLANNING & ZONING DEPT.  
TOWN OF KILLINGLY

Over the past year and a half, I have had discussions with town staff about two incidents of clear-cutting in the **Five Mile River Protection Overlay District**. Concerned citizens called me because they know I helped write those regulations. I am not here to reopen those two incidents. But I have talked to a Planning & Zoning Attorney, who suggested that I write this letter. I am here to ask the Commission to add a definition, to require town staff to enforce these regulations, and to request a formal opinion from the Town Attorney concerning the following issues:

**1.** Add the definition of **clear cutting** to the Planning & Zoning Regulations.

**Clear cutting**, is referred to in the Overlay Zone:

***C. The following uses are prohibited:***

***17. Clear cutting except for maintenance of existing farm fields and/or the minimum necessary to accommodate permitted structures and their appurtenances.***

I have been told by staff things like “it’s not clear cutting if it hasn’t been stumped”, or “it’s not clear cutting if the trees are diseased”.

This was sent to me by staff today. Clear cutting is ***“found in the Inland Wetlands and Waterways Regulations Section 2 – Definitions. “2.1.e. “Clear-Cutting” means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height. (DBH or diameter at breast height is measured 4.5’ above ground level.)”***

Staff added: ***“However (staff’s however), please note that this definition pertains to clearing wetlands, not upland areas.”***

However (my however), I don’t understand *that* comment since the Wetland Regulations go on to say: ***Furthermore any clearing ... on the land within 200 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity ...***

**2.** The overall **“enforceability”** of the Overlay Zone. I have been told by town staff that the Overlay Zone is poorly written and cannot be enforced.

**3.** Does the **underlying Rural Development Zone take precedence** over the Overlay Zone, which is the zone that is listed on the Property Record Cards? I have been told by staff that “an overlay zone cannot be more restrictive than the underlying zone”.

**4.** Do the regulations allow exceptions or **variances** to section C.17 (as quoted in #1 above), such as for dead or diseased trees? And, does clear cutting require a **permit**? In only one of the two incidents, a permit was issued, but only after the clear cutting was finished.

**5.** I have also been told by town staff that residents who live across from a clear cutting incident “should have bought the land across the street to protect their view”, to which I will point to section:

*F. To conserve and enhance the natural scenic and topographical 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 manmade structures from the river view...*

The Town of Killingly has Planning and Zoning Regulations, adopted by the Planning and Zoning Commission. For some reason, Town staff has chosen to ignore some of the regulations which happen to pertain to highly sensitive environmental issues.

Mike Cristina  
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## **SECTION 581 FIVE MILE RIVER PROTECTION OVERLAY DISTRICT**

**Purpose - The Five Mile River Protection Overlay District shall be defined as the Five Mile River within the Town of Killingly, including the area within the river's ordinary high water marks, floodplain, wetlands, and a contiguous buffer strip which together constitutes a culturally significant and environmentally sensitive river corridor. Its establishment furthers the goals of the state and municipality in river protection efforts under Connecticut General Statutes Section 25-102xx. All uses and activities established after the effective date of this regulation shall be in accordance with the standards and requirements in this regulation which are established to accomplish the following publicly recognized purposes:**

- A. To establish standards and requirements for the use and conservation of the district 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.**
- 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 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.**
- E. To protect valuable fisheries and wildlife habitat within and along the Five Mile River.**
- 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 Conservation and 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.**

**Boundary - The limits of the Five Mile River Overlay Protection District are:**

Beginning at a point in the Killingly/Putnam Town Line which is the western most point of property now or formerly of Douglas C. Cutler and known as Killingly Tax Map 7658 Block 377 Lot 1; thence easterly following the southerly line of the above property until its intersection with the westerly line of Cutler Road; thence southerly along Cutler Road to its intersection with North Road; thence in an easterly direction along the southerly line of North Road to the 400' USGS contour; thence in a southerly and westerly direction along the 400' USGS contour crossing Yosemite Valley Road and Mason Hill Road to a point in the easterly line of Chestnut Hill Road; thence northerly along the easterly line of Chestnut Hill Road and Pineville Road to Putnam Road; thence easterly and southerly along Putnam Road to Stone Road; thence northerly and easterly along the easterly line of Stone Road to Chase Road; thence northerly and easterly along the easterly line of Chase Road to the Putnam/Killingly Town Line; thence easterly along the Putnam/Killingly Town Line to the point of beginning.

Reference is made to a map entitled "Five Mile River Protection Overlay District".

Permitted Uses - all uses which are permitted in the underlying, existing zones by right or by special permit are also permitted in the Five Mile River Overlay Protection District with the following exceptions, restrictions and requirements:

- A. Sanitary waste water discharge from on-site septic systems or their equivalent shall not average more than six hundred (600) gallons per acre per day, unless a denitrifying waste disposal system is installed and reviewed by a registered sanitarian.
- B. Any new or enlarged waste storage facilities accessory to agricultural and other permitted and special permitted uses shall obtain required permits or approvals from the Connecticut Department of Environmental Protection in accordance with the provisions of Chapter 446k of the Connecticut General Statutes as amended.
- C. **The following uses are prohibited:**
  1. Road salt storage and loading facilities.
  2. Solid materials disposal sites. The location of sanitary landfill or dump for the disposal of solid materials is prohibited.
  3. Septage disposal sites and lagoons. Disposal of septage in lagoons is prohibited.
  4. The use and/or storage or manufacture of hazardous materials.

5. Effluent disposal into surface or groundwater associated with any land use is prohibited.
6. Underground fuel storage tanks
7. Golf Courses.
8. Commercial earth removal.
9. Outdoor commercial recreation.
10. Impoundments, dams or structures which would alter the rate, volume or character of the flow of the river.
11. Public service corporation
12. Motor vehicle junk yard
13. Collection centers for recycling operations
14. Bulk Storage of cement and petroleum products; concrete mixing plant; bituminous paving mixing plants;
15. Commercial storage and sale of fuel and bottled gas
16. Freight and materials trucking business and terminals
17. Clear cutting except for maintenance of existing agricultural fields and/or the minimum necessary to accommodate permitted structures and their appurtenances.

Adopted December 11, 2000

Effective Date: 12:01 AM, January 10, 2001

## SECTION 2 - DEFINITIONS

2.1 As used in these regulations:

- a. "Act" means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45 of the General Statutes, as amended.
- b. "Agency" means the Inland Wetlands and Watercourses Commission of the Town of Killingly, CT.
- c. "Bog" means a poorly drained area containing an accumulation of organic material and characterized by an association of plants recognized as bog species. Typical examples of bog species are listed in the booklet titled Inland Wetland Plants of Connecticut by Wm. A. Niering and R.H. Goodwin, Connecticut Arboretum for the Connecticut Department of Environmental Protection, May, 1973.
- d. "Buffer" means an area of land adjacent to inland wetlands and watercourses that is undisturbed by any construction, excavation, or other alteration to avoid any adverse impact to inland wetlands or watercourses. (see also: "Upland Review Area")
- e. "Clear-Cutting" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height. (DBH or diameter at breast height is measured 4.5' above ground level.)
- f. "Commission" means the Inland Wetlands and Watercourses Commission of the Town of Killingly, Connecticut.
- g. "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.
- h. "Continual Flow" means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- i. "Declaratory Finding" means a determination made by the Agency, as to whether a proposed activity or area of a proposed activity falls within the jurisdiction of the Agency. This may include requests from the Planning and Zoning or any other regulatory agency in Town.
- j. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

mere showing of expense will not necessarily mean an alternative is imprudent; ( Amend. Effective Date June 1, 1997)

- ee. "Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses, but shall not include the specific activities in Section 4 of these regulations. Furthermore any clearing, grubbing, grading, paving, excavation, filling, constructing, depositing or removal of material and discharging of stormwater on the land within 200 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. Proposed activities that involve less than the minimum separating distances from wetlands or watercourses as listed in Section 6.3, pages 13-14, are regulated activities.
- ff. "Regulated Area" means any wetlands or watercourse as defined in these regulations.
- gg. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- hh. "Rendering Unclean or Impure" means any alteration of the physical, chemical or biological properties of any waters of the town, including, but not limited to, change in odor, color, turbidity or taste.
- ii. "Riparian Corridor" means a land area contiguous with and parallel to an intermittent or perennial stream and/or river.
- jj. "Significant" means important, of consequence; 2. Having meaning; 3. Statistics - of or pertaining to observations unlikely to occur by chance and therefore indicate a systematic cause; having or likely to have influence or effect; 4. Other than normal; accelerated.
- kk. "Significant Activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:
  - 1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system; or
  - 2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or