

Land Use and Development Code Amendment: Expanded Stream Protections

**Town of Gorham
 Planning Board Meeting
 October 2, 2023**

ITEM 1 - Discussion – Stream Protection Land Use and Development Code Amendment – proposed amendment to the Land Use and Development Code to expand stream protection setbacks to 100 feet and add additional streams to the stream protection overlay district for protection of wild brook trout as recommended by Maine Inland Forestry and Wildlife.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council	Order #23-51	8/16/22; 3/7/2023; 8/1/23
TC Ordinance Committee		5/2023, 6/2023
Planning Board		9/2023
Planning Board Public Hearing		10/2023

Memo completed by Tom Poirier, Community Development Director, and Damon Yakovleff, Assistant Planner

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1. Overview

At its meeting on March 7, 2023 the Town Council directed the Town Council Ordinance Committee to review amendments to the Stream Protection Sub District within the Town's Shoreland Zoning. The Shoreland Zoning was last amended in July, 2012. The purpose of the review was to determine if additional areas of stream buffer protection were needed to protect important habitat, in particular for native brook trout, from development impacts. At its meeting on August 1, 2023 the Town Council unanimously forwarded the Ordinance Committee's recommendation to the Planning Board for public hearing and recommendations.

The Planning Board discussed this item at its meeting on September 11, 2023 and elected to refer it to the next scheduled Planning Board meeting for a public hearing. Board members expressed a desire to hear public comment on a potential expansion of the Stream Protection Overlay before additional action and/or discussion of the item.

The two amendments are as follows:

- 1) **Increase buffer distance from 75' to 100'**: Increasing the buffer distance provides enhance protection for streams, in particular by increasing shading of streams. Native brook trout and other native species are sensitive to spikes in water temperature that can result from direct sunlight reaching streams and nearby areas.

- 2) **Add Streams and tributaries identified as potential candidates for expanded protections are shown on the attached map and also listed as follows:**
 - Tannery Brook: extend to include the entire length of the brook, including Fort Hill Brook.
 - Indian Camp Brook: extend to include the entire length of the brook and add all tributaries.
 - Gully Brook: extend to include the entire length of the brook with tributaries.
 - Johnson Brook: Add the entire length of the brook.
 - Sanborn Brook: Add the entire length of the brook with tributaries.
 - Files Brook: Add all tributaries, including Martin Brook

It should be noted that the actual buffers would be slightly larger, since they would be measured from the normal high water line, not from the centerline. The onus for determining exact setback locations from streams on-site is on landowners, with oversight by Code Enforcement.

The existing Shoreland Zoning map is included as *Attachment A*. This map shows the existing shoreland overlay area. It includes a buffer of 250' from the main stem of the Presumpscot and Little Rivers, 250' from the Tannery Brook Wetland Complex, and 75' from second order streams. Second order streams are streams formed from the merging of two or more smaller streams. This is 46.3 linear miles of streams, meeting minimum state requirements.

Amendments to the Shoreland Zoning map to expand the Stream Protection Sub District has been recommended by the Town Council, as shown on the map in *Attachment B*. This map shows a 100' buffer from the centerline of streams identified by Maine Dept. of Inland Fisheries

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and Wildlife. MDIF&W has either detected brook trout in these streams or has stated they have a high likelihood of having brook trout. Biologist James Pellerin has stated via email that “Many of the headwater tributaries and smaller unnamed tributaries of trout streams are currently unsampled and left unprotected. These smaller tributaries generally support trout seasonally or year-round and typically contribute cold, high-quality water to the larger downstream system. In the absence of data, MDIF&W would typically take a more conservative approach and label these probable trout streams. Your call on how the Town wants to handle these unknowns.”

PROPOSED MOTIONS:

Move to send the proposed amendment to the Land Use and Development Code to expand stream protection setbacks to 100 feet and add additional streams to the stream protection overlay district to Town Council with a recommendation for adoption.