

River Protection Zoning Overlay Area - Summary of Components

NOTE: This document contains the actual recommendations by the Wild and Scenic Study Committee on the details of the Zoning Overlay Area. The model ordinance also included as a separate document varies from the Committee's recommendations on several topics.

Purpose of River Protection Overlay Area

The purpose of the River Protection Overlay Area is to protect and enhance the functions and values of the riparian corridor, including:

- Maintaining high water quality
- Maintaining natural flows and hydrology
- Conserving ecological functions
- Supporting habitat and species diversity and abundance
- Maintaining flood storage
- Protecting valuable aquatic species and habitats
- Conserving natural scenic and topographic features

River Protection Overlay Area Definition

The proposed overlay area includes all perennial rivers or streams in the Eightmile River Watershed and the area landward and horizontal from the stream edge, 50 feet on first order headwater streams and 100 feet on all larger streams. A stream edge is defined as the ordinary high water mark typically identified by vegetation or soil types that are distinct from the upland area. The proposed overlay area does not apply to wetlands, vernal pools, Hamburg Cove or Lake Hayward.

Significant Activities

Where a proposed activity involves work within the overlay area the Planning & Zoning Commission shall presume that such activity is significant to the purposes of the overlay area as stated above. This presumption is rebuttable by an applicant upon clear and convincing evidence that the location of the proposed activity within the overlay area does not undermine the purpose of the overlay area.

Standards

No activity which will result in the alteration of land or vegetation within the overlay area shall be permitted by the Planning and Zoning Commission unless:

- there is no reasonably available alternative with less adverse impact on the purposes of the overlay area as stated above; **and**
- the project as proposed will have insignificant impact on those purposes.

The following exceptions may be allowed:

- a) construction and maintenance of unpaved footpaths not more than 4' in width to provide non-motorized access to, or across, the waterbody;
- b) construction and maintenance of water dependent structures and uses such as docks;
- c) construction of new utility lines where the proposed route is the best environmental alternative;

- d) septic system maintenance (other than tank pumping which does not require a permit) and, if a system has failed, repair/replacement meeting state/local standards where the maximum feasible overlay area is maintained;
- e) construction of accessory structures/uses associated with lawfully existing single family houses where the Planning & Zoning Commission finds that alternatives outside the overlay area are not available; the size and impacts of the proposed structure/use have been minimized; and the structure/use is located as far from the resource as possible; The commission still reserves the right to deny a permit if the activity would have a significant impact to the purpose of the overlay area.
- f) new activities in an overlay area that is already altered such that the required buffer cannot be provided without removal of pre-existing structures and/or pavement, provided that the proposed alteration will not increase adverse impacts on that specific portion of the overlay area and that there is no technically demonstrated feasible construction alternative;
- g) where a lot is located entirely within the overlay area, the Commission may permit activities within the overlay area when the applicant has demonstrated that the proposed work has been designed to minimize impacts to the overlay area. As mitigation, the Commission may require the applicant to plant or maintain a naturally vegetated buffer of the maximum feasible width given the size, topography, and configuration of the lot.

Activities Not Needing a Permit

- a) planting of native vegetation or habitat management techniques designed to enhance the riparian corridor values protected by the regulation;
- b) Fish & wildlife conservation activities;
- c) Continuation, but not expansion of pre-existing farming practices;
- d) Maintenance of existing structures, utilities, stormwater management structures and paved areas;
- e) Fire prevention and emergency operations;
- f) Survey and boundary posting;
- g) Pruning for a filtered view of the watercourse and removal of dead and diseased and nonnative vegetation consistent with Planning & Zoning Commission standards - if removal of trees 4" diameter or greater at breast height is to occur there must be a plan by a qualified forester approved by the commission or its agent. In all cases the overlay area must be maintained containing a natural buffer of native herbaceous plants, shrubs and trees.