

## **Section 10.1.3.2 – Eightmile River Watershed Overlay District**

### **10.1.3.2.1 Purpose and Intent**

The Town of East Haddam desires to protect its natural resources and to control development's deleterious effects on its watersheds. The riparian and wetland features of the Eightmile River Watershed are a key component of the largely intact watersheds and natural character of East Haddam. In order to preserve a fully-functioning aquatic system in the Eightmile River Watershed, and to prevent damage to the critical buffer zone around its water bodies, the Eightmile River Watershed Overlay District is hereby established. Please note that this does not replace any obligation of the applicant to have a determination made by the East Haddam Inland Wetlands and Watercourses Commission or any other regulatory agency as whether additional reviews and permits are necessary.

Protection of a buffer around water bodies and wetlands is crucial for public health, safety, and welfare because it protects water quality, regulates flow, preserves wildlife habitat, and maintains important cultural and historical features of the Town. This buffer serves many specific functions:

Regulation of water flow:

- a. Promotes water infiltration and groundwater recharge.
- b. Reduces flooding.
- c. Reduces streambed scour.

Preservation of wildlife habitat:

- a. Provides a unique habitat that supports a diverse species assemblage.
- b. Shades, filters, and moderates stream flow, improving habitat for fish and other aquatic organisms.
- c. Provides an effective travel corridor for terrestrial wildlife.

Protection of water quality:

- a. Reduces sedimentation.
- b. Filters out pesticides, heavy metals, and biocontaminants.
- c. Removes excess nutrients that lead to eutrophication, including nitrogen and phosphorus.
- d. Prevents erosion through bank stabilization by vegetation.

Preservation of views:

- a. Provides a screen that protects privacy of riverfront landowners
- b. Enhances landscape diversity resulting in improved aesthetics

The purpose of this Eightmile River Watershed Overlay District is to maintain a continuous buffer of native forest and shrubs around all watercourses and wetlands. The most effective riparian buffers should include a mix of trees, shrubs and herbaceous plants native to the region and appropriate to the environment in which they are to be planted.

### **10.1.3.2.2. Eightmile River Watershed Overlay District - Buffer Area**

**Major Rivers and Streams** within R-2 and R-4 Districts of the Eightmile River  
(Not the (L) Lake Zone)

The buffer from all major watercourses within the Eightmile River Watershed shall be one hundred feet measured horizontally from all boundaries of the watercourse. The major watercourses are defined by the official Eightmile River Watershed Overlay District Map and includes the Eightmile River, the East Branch of the Eightmile River, Cranberry Meadow Brook, Hedge Brook, Burnham Brook, Early Brook, Muddy Brook, Strongs Brook, Malt House Brook, and Lake Hayward Brook and three unnamed brooks labeled as A, B, and C. See Appendix X

For all other streams and intermittent streams within R-2 and R-4 District the buffer from these watercourses within the Eightmile River Watershed shall be fifty feet measured horizontally from all boundaries of the watercourse. The official map does not include all intermittent streams.

#### **10.1.3.2.3 Zoning District overlap**

The Eightmile River Watershed Overlay District overlaps other zoning districts and federal, state, or municipally regulated areas and in all cases the more restrictive regulation will take precedence.

#### **10.1.3.2.4 Prohibited Activities**

Within the buffer specified in Section 10.1.3.2.2, all land-disturbing activity not specifically allowed as exceptions in subsection (d) below are prohibited unless approved following Special Exception review, in accordance with Section 14B of these Regulations. The standards and requirements of this Section 10.1.3.2 shall be in addition to those of Section 14B of these Regulations. "Land-disturbing activity" shall include any activity which involves the alteration of the surface of the earth as it existed on the effective date of these Regulations, including but not limited to; filling, removal, or regrading of earth; placement, construction, removal, or alteration of building or structures; establishment, removal, or alteration of uses of land; or planting or removal of vegetation; but not including those activities listed as exceptions in subsection (d) below.]

##### **a. Planting of invasive species**

The planting of invasive plants within the District is prohibited.

##### **b. Native plantings encouraged**

In all areas where preexisting uses or new activities result in a buffer that does not meet the standards of this regulation, native landscaping is preferred. Specifically, landowners are encouraged to create, enhance, or restore native vegetation and soil grades appropriate to the water resource being buffered. A list of suggested native plants for riparian buffers can be found in Appendix X

##### **c. Exceptions**

The following are as-of-right uses and activities within the Eightmile River Watershed Overlay District. Please note that this does not replace any obligation of the applicant to have a determination made by the East Haddam Inland Wetlands and Watercourses Commission or any other regulatory agency as whether additional reviews and permits are necessary.

1. Existing structures or continuing activities, such as agriculture, that were legally in existence before the effective date of this regulation.

2. The building of new structures, modification of existing structures, or commencement of activities that were granted all applicable permits before the effective date of this regulation.

3. Vegetation management

In general, vegetation is to be left in a natural state wherever it existed within the District before the effective date of this amendment. The exceptions to this requirement are as follows:

- a. Mowing and maintenance of lawns, gardens, or agricultural crops is allowed in the District if these uses were already in place on the effective date of this amendment.

- b. The removal or pruning of dead, dying, diseased, or invasive plants is allowed. Replanting with native trees or shrubs is encouraged if natural regeneration is not sufficient to restore vegetative cover. Leaving some downed and standing woody debris is also preferable, to provide a greater variety of wildlife habitat unless the spread of plant diseases is a concern.

- c. The clearing of one footpath per property, 5 feet wide or less is allowed. In order to prevent erosion and the creation of a channel of surface runoff, the path cannot create a straight line of sight from the outer boundary of the District to the water resource. The property owner must use erosion control measures such as waterbars or mulch to prevent erosion on slopes.
4. Emergency operations necessary for public safety or protection of property.
5. State, municipal, and utility improvements and operations for which activity within the Eightmile River Watershed Overlay District is unavoidable and necessary. This includes activities such as the replacement, rehabilitation, or creation of infrastructure such as sewer, water, and power lines, bridges, highway maintenance, drainage facilities. Any activity within the District must be undertaken only if there is no practical and feasible alternative for provision of these services, and only if all measures will be taken to minimize any adverse impacts to natural features and the functions of the watershed. These activities are subject to all other applicable regulations.
6. Surveying and boundary posting for the purpose of marking boundary lines, subject to any other applicable regulations.
7. Septic system maintenance such as pumping and inspections or repair as directed by the local health official / town sanitarian. This does not include expansion of systems for addition to structures.
8. Fish and wildlife conservation activities that does not require removal of native vegetation or alteration of stream beds or banks.

#### **10.1.3.5. Activities and Uses which Special Exception Review can be applied for.**

No land-disturbing activity, as set forth in Section 10.1.3.2.4 above, shall be commenced within the buffer specified in Section 10.1.3.2. unless and until a Special Exception for such activity has been granted by the Commission. In all cases of the granting of such Special Exception, the permittee is encouraged to expand the vegetative buffer in another area abutting the setback area to compensate for the total area of encroachment. Please note that this does not replace any obligation of the applicant to have a determination made by the East Haddam Inland Wetlands and Watercourses Commission or any other regulatory agency as whether additional reviews and permits are necessary.

- a. If the size of a lot is such that the Eightmile River Watershed Overlay District regulations prevent the placement, expansion, or alteration of a structure in compliance with all other zoning regulations, owners may request a special exception review and approval to encroach on the District setback. Every reasonable effort must be made to minimize impacts on the functions of the watershed, and a permit will only be granted for the minimum encroachment necessary. No Building or Structure shall be permitted within 30 feet of a major watercourse boundary, as defined in this Section.
- b. Conservation activities, non-commercial thinning, and commercial timber harvesting practices that aim to restore natural ecosystems or enhance wildlife habitat are allowed by special exception. As part of the application for a special exception review, the appropriateness of the vegetation removal must be verified in a written statement to the Commission by a certified forester or other expert opinion accepted by the Commission.
- c. Structures used for shoreline access (docks, boathouses, stairs, etc.) may be built after granting of a special permit. The permit application must demonstrate that the construction and installation of the proposed structure does not contribute to significant flow alteration, channel modification, or create any other deleterious effects on the watercourse.

#### **10.1.3.6. Permitting process**

- a. Application for permits

The applicant shall submit a Special Exception Application, as defined in Section 14B, and provide documentation demonstrating the need for a special exception approval, the efforts made to minimize disturbance to the functions of the buffer and water resources, or other documentation that may be reasonably requested by the Commission. Applicants should look at the criteria for consideration of waiver of a Special Exception hearing if they believe the impacts will be insignificant when measured by the standards of this regulation. Such waiver shall only be granted if the Commission determines the impacts are insignificant when measured by the standards of this regulation.

**b. Application fee**

Each application for a Special Exception in the Eightmile River Overlay District to be considered by the Commission shall be accompanied by a fee payable to the Town of East Haddam in accordance with the schedule adopted by the Commission.

**c. Standards**

The Commission shall consider the following standards when reviewing an application for a Special Exception Approval within the setback area:

1. The compatibility of the permitted activity with the purposes of the District, shall have an insignificant impact on the purpose of the overlay district (See Section 10.1.3.2), the Plan of Conservation & Development, and the health, safety and welfare of the public.
2. Whether strict application of the Eightmile River Watershed Overlay District regulations would deny the applicant reasonable use of the property, or whether this regulations would render the property unusable or unsuitable for development.
3. Whether there is a feasibly or prudent alternative through plan modification that will lessen the impacts and protect the buffer as intended in these regulations.
4. That the relief granted is the minimum necessary and does not conflict with other municipal, state, or federal regulations.

**10.1.3.7 Enforcement**

Violations of the Eightmile River Watershed Overlay District regulations shall be punishable as defined in Section 2.2 of these Zoning Regulations.

**10.1.3.8. Severability**

Should any section, subsection, or provision of this amendment be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the amendment in whole or any part thereof other than the part so declared to be invalid.