

TOWN OF SALEM
PLANNING & ZONING COMMISSION

Amendments to the Salem Zoning Regulations
and Zoning Map

Adopted August 28, 2007
Effective Date: November 1, 2007

Section 25A - Riparian Corridor Overlay Zone (RCOZ)

25A.1 Purpose and Intent

The purpose of the Riparian Corridor Overlay Zone is to protect and enhance the functions and values of the riparian features of the Eightmile River, as identified in the Eightmile River Wild and Scenic River Management Study, completed in 2006. These features are a key component of the largely intact watersheds and natural character of Salem. In order to preserve a fully-functioning aquatic system in the Eightmile River Watershed and to prevent damage to the critical buffer area around its water bodies, the Riparian Corridor Overlay Zone is hereby established. Any use not specifically listed as permitted shall be considered prohibited,

Within the Riparian Corridor Overlay Zone, it is intended that there shall be a continuous buffer of native forest and shrubs around all watercourses consisting of a mix of trees, shrubs and herbaceous plants native to the region and appropriate to the environment in which they are to be planted or retained. Protection of a vegetated buffer around watercourses is crucial for public health, safety, and welfare because the buffer regulates water flow, preserves diversity and abundance of wildlife species and habitat, protects water quality and maintains important cultural and historic features of the Town. Specific functions include:

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 the deterioration of water quality, including nitrogen and phosphorous, which leads to eutrophication.
- (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.

25A.2 RCOZ Defined

The RCOZ includes all perennial river or streams in the Eightmile River Watershed and the area landward and horizontal from the stream edge, for a distance of fifty (50) feet for smaller headwater streams and one hundred (100) feet for larger streams as defined by the map

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described below. The Eightmile River Watershed is the land surfaces that drain into the Eightmile River. A stream edge is the ordinary high water mark, typically defined by vegetation or soil types that are distinct from the upland area. The proposed overlay zone does not apply to wetlands or vernal pools which are not connected by surface flow to streams. The watershed and those streams to which this setback requirement applies are shown on a map entitled "Town of Salem Riparian Corridor Overlay Map, dated August 28, 2007, effective November 1, 2007, and filed in the Office of the Salem Town Clerk.

25A.3 Significant Activities within the RCOZ

No land-disturbing activity within the RCOZ established in Section 25A.2 shall be permitted by the Planning and Zoning Commission, except in conformance with these Regulations. The Planning and Zoning Commission shall presume that such activity will have a significant adverse impact on the functions of the required RCOZ unless the Commission finds that there is no reasonably available alternative with less adverse impact on RCOZ functions, and that the project as proposed will not have a significant adverse impact on those functions.

25A.4 Standards and Permitted Activities within the RCOZ

25A.4.1 Vegetation Coverage: Within the RCOZ, wherever possible, not less than ninety (90%) percent of the total surface area shall be covered with live vegetation. Diversity of vegetation and forest stages is encouraged, including a mix of trees, shrubs and herbaceous vegetation not having invasive characteristics (as defined by the most recent version of the Connecticut Invasive Plant List (as authorized by CT Public Act 03-136)). The list can be obtained from the Land Use Office. A variety of plant types is more effective at capturing a wide range of pollutants than a single vegetation type.

Vegetation Management: In general, where suitable vegetation existed within the RCOZ before the effective date of this amendment, vegetation is to be left in a natural state.

25A.4.2 The following activities are permitted as-of-right within the RCOZ:

- (a) Mowing and maintenance of lawns, gardens, meadows, fields, and agricultural plantings that legally pre-existed this regulation; continuation, but not expansion of, pre-existing farm practices.
- (b) Removal or pruning of dead, dying, diseased, or invasive plants. Leaving some downed woody debris is also preferable, to provide a greater variety of wildlife habitat unless the spread of plant diseases is a concern. If removal of healthy trees four (4) inches in diameter or greater at four (4) feet above the ground is proposed, there shall be a plan by a qualified forester, which is subject to approval by the Commission.
- (c) Construction and maintenance of one (1) unpaved meandering footpath per property not more than five (5) feet in width to provide non-motorized access to the water body.
- (d) Fire prevention activities and emergency operations necessary for public safety or protection of property.
- (e) Surveying and boundary posting, including fences, for the purpose of marking boundary lines, subject to any other applicable regulations.
- (f) State and municipal utility improvements and operations for which activity within the RCOZ is unavoidable and necessary. This includes activities such as the replacement, rehabilitation or creation of infrastructure such as sewer, water, power lines, bridges, highway

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maintenance, and drainage facilities. Any activity within the Zone may 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.

- (g) In areas where a diverse natural setback does not exist, landowners are encouraged to create, enhance or restore native vegetation and soil grades appropriate to the water resource being buffered. Replanting with native trees or shrubs is encouraged if natural regeneration is not sufficient to restore vegetative cover. A list of suggested native plants for riparian setbacks can be obtained from the Land Use Office.
- (h) Removal of non-native invasive species and replacement by native vegetation. Invasive plants are those listed on the most recent version of the Connecticut Invasive Plant List (as authorized by CT Public Act 03-136). The list can be obtained from the Land Use Office.
- (i) Existing Activities: Existing structures or continuing activities, such as agriculture, that were legally and actively in existence before the effective date of this regulation.
- (j) Granted Permits: 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.
- (k) Septic System Maintenance: If a system has failed, repair/replacement must minimize encroachment on the RCOZ.

25A.5 Activities Requiring Commission-Issued Zoning Permit

25A.5.1 Activities listed below are allowed only by a Zoning Permit issued by the Planning and Zoning Commission as described in this regulation:

- (a) Forest Management and Conservation Activities:
 - (1) Commercial activities must be carried out under the supervision of a licensed professional forester, forest ecologist, or wildlife biologist in accordance with a written forest and/or wildlife management plan that addresses such issues as the location and construction of logging roads, wetland crossings, equipment use, forest regeneration and wildlife habitat. The forest management plan should provide for maintaining a healthy forest understory and succession to a natural wooded or other permitted state in the RCOZ. Forest harvest practices must leave a full and natural tree canopy over the watercourse. They shall follow DEP "best management forestry practices" as detailed in Best Management Practices Connecticut Field Guide as may be revised from time to time, for all forestry practices including stream crossings.
 - (2) Clearing or maintenance of existing or abandoned woods roads for the purposes of habitat management, firewood cutting, agricultural or timber access or other access needs under the following conditions: follow current best management practices for erosion control.
 - (3) Forest harvest practices must allow for and enhance regeneration of a predominantly woody state. All activities

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must account for restoration and enhancement of natural ecosystems and wildlife habitat.

- (4) Leave full and natural tree canopy over the watercourse.
 - (5) There shall be no removal of more than 25% tree canopy within the RCOZ at any given time, and there shall be no removal of more than 25% of standing trees within any given size category within any 1-acre area with the exception of wildlife clearings described in (1) and (2) above.
 - (6) There shall be no activity within 25' of the high water mark of any watercourse, and there shall be maintained a minimum 75% canopy cover for the RCOZ at all times.
 - (7) DEP's Best Management Practices Connecticut Field Guide shall be followed for all forestry practices including stream crossings.
 - (8) All activities shall follow a written plan approved by the Commission.
- (b) New or expansion of existing agricultural activities under the following conditions: following current best management practices for erosion control, fertilizer application and run-off prevention, not exceeding in size ten (10%) percent of the total area of the portion of the lot that falls within the RCOZ, providing not less than twenty-five (25) feet of natural and/or undisturbed vegetative buffer between the agricultural activity and the stream edge.
- (c) Clearing of vegetation from recently abandoned agricultural fields for the purpose of agriculture or non-commercial activities under the following conditions:
- (1) no less than twenty-five (25) foot buffer of live native or undisturbed vegetation remains between the clearing and the watercourse, and
 - (2) clearing does not require the cutting of saplings over one (1) inch dbh (diameter at 4.5 feet from ground).
- (d) Clearing or maintenance of existing or abandoned woods roads for the purposes of habitat management, non-commercial firewood cutting, agricultural or timber access or other access needs provided that current best management practices for erosion control are followed.
- (e) Building of fences outside a twenty-five (25) foot buffer of a stream. Fences must not block or impair the movement of wildlife or water within the RCOZ.
- (f) Other land disturbing activities occurring outside of a twenty-five (25) foot buffer of a stream and resulting in less than one hundred (100) square feet of land disturbing activity in total and having an insignificant impact on the purposes of the RCOZ.
- (g) Construction and maintenance of more than one (1) unpaved footpath per property not more than five (5) feet in width to provide non-motorized access to the waterbody. The construction or maintenance of footpaths must be done in such a manner that it does not result in erosion or the creation of a channel of surface runoff.

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- (h) Stream crossings not requiring structures or excavation of any kind, for the purposes of footpaths and equestrian trails for the purposes of recreation and non-motorized property access. In general, stream crossings at grade are discouraged. Within reason, crossings must be implemented at a point in the stream with relatively narrow streambed and flat approach from the bank. Reinforcement of the bank and streamside with areas is encouraged and may be required if conditions warrant. Loose stone and other materials may not be placed in the stream without a plan from an engineer, hydrologist or other approved expert. Stream crossings may not block natural connectivity of aquatic or terrestrial life including, but not limited to, fish passage and may not alter or cause to be altered the stream width or flow type.

25A.5.2 Planning and Zoning Commission Permit Process

- (a) Application for Permit: The applicant shall include, at a minimum, a written description of the site, including slope, current vegetation coverage, current use, and proposed activity, and erosion and sedimentation control measures, as well as any other relevant features and such additional documentation as deemed necessary by the Commission.
- (b) Application Fee: Each application for a Zoning Permit to be considered by the Commission shall be accompanied by a fee payable to the Town of Salem in accordance with the schedule adopted by the Commission.
- (c) Approval of Permit: Application for a Zoning Permit under the RCOZ shall be granted only by the Planning and Zoning Commission.

25A.5.3 Specific Standards for Zoning Permit in the RCOZ

The Commission shall issue a Zoning Permit only for activities as described above in Section 25A.5.1 which shall have an insignificant impact on the purpose of the RCOZ. The Commission shall instead require a Special Exception as described in Section 25A.6 if the application proposes excavation, the building of structures or the installation of any impervious surface.

The Commission may require a Special Exception for any of the activities listed above in Section 25A.5.1 if the Commission finds that the circumstances of the application (such as soil type or slope, past disturbance in the area, other recent permits or activities within the same area of the RCOZ or any other circumstance) warrant a Special Exception application.

25A.6 Activities Permitted by Special Exception

25A.6.1 Activities listed below are allowed only by Special Exception. When the Special Exception results in disturbing or removal of the vegetative RCOZ, the Commission may require an expansion of the RCOZ in an alternate location to compensate for the loss of setback area due to the disruption.

- (a) Building of new and/or accessory structures, modification of existing structures associated with lawfully existing single family, multi-family houses or commercial/industrial buildings where the Planning and Zoning Commission finds that alternatives outside the setback area are not available, provided that the size and impacts of the proposed

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structure or use have been minimized, and that the structure/use is located as far from the resource as possible. As mitigation, the Commission may require that the applicant plant or maintain a naturally vegetated buffer of the maximum feasible width given the size, topography and configuration of the lot.

- (b) Structures used for shoreline access, including, but not limited to, docks, boathouses, stairs, may be built after granting of a Special Exception. The Special Exception 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.
- (c) Alteration of an existing activity located within a specific portion of the RCOZ that is already altered such that the RCOZ cannot be provided without removal of pre-existing structures and/or pavement, provided that the proposed alteration will not increase adverse impacts on the specific portion of the overlay area and the applicant can demonstrate to the satisfaction of the Commission that there exists no feasible construction alternative.
- (d) Stream crossings requiring structures or excavation of any kind or for crossing of vehicles or equipment of any kind for the purposes of recreation, property access, forestry operations, agriculture or other uses. Permanent crossings must follow the "Massachusetts River and Stream Crossing Standards: Technical Guidelines". Temporary crossings must follow the CT DEP publication "Best Management Practices for water quality while harvesting forest products 2007 Connecticut Field Guide" Chapter 5 – Stream Crossings. The Commission may use its discretion as to the requirement of "General" versus "Optimum" standards as defined by the "Massachusetts River and Stream Crossing Standards" document as a general guide. Stream crossings may not block natural connectivity of aquatic or terrestrial life including, but not limited to, fish passage.

25A.6.2 Special Exception Process

- (a) Application for Permit

The applicant shall submit a site plan, prepared in accordance with Section 11A of these Regulations, and provide documentation demonstrating the need for a Special Exception, the efforts made to minimize disturbance to the functions of the RCOZ and water resources, or other documentation that may be reasonably requested by the Commission.

25A.6.3 Specific Standards for Special Exception in RCOZ

When reviewing an application for a Special Exception within the Zone, in addition to Section 11.4 Findings of these Regulations, the Commission shall consider and determine whether the following conditions have been met:

- (a) the permitted activity is compatible with the purposes of the RCOZ and the Plan of Conservation & Development;

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- (b) the activity shall have an insignificant impact on the purpose of the RCOZ;
- (c) the strict application of the RCOZ regulations, without the approval of the Special Exception, would deny the applicant reasonable use of the property, or whether the regulations would render the property unusable or unsuitable for development;
- (d) the plan modifications can better achieve the objectives of these Regulations;
- (e) the relief granted is the minimum necessary and does not conflict with other municipal, state or federal regulations.

25A.7 Zone District Overlap

The RCOZ overlaps other zones and federal, state or municipality regulated areas and in all cases the more restrictive regulation will take precedence.