

**CHAPTER 25**  
**RIPARIAN AREA PROTECTION OVERLAY ZONE.**

*(Chapter added 2-08)*

**SECTION 25.01. INTENT AND PURPOSE:** The standards contained in this Chapter govern the use and alteration of land within a specified distance of, rivers, creeks and contiguous wetlands and other riparian features in Salem Township, in order to accomplish the following objectives:

- (a) Implement the water quality protection, environmental protection and rural character protection goals and policies of the Township's Master Plan.
- (b) Achieve the Township's resource protection and community character goals in a manner that is reasonable and sensitive to local conditions and concerns of property owners.
- (c) . Protect water quality and habitat quality in the, rivers, creeks, and their contiguous wetlands and other riparian features in Salem Township, and thereby protect the public health, safety and general welfare, by encouraging filtering of storm water runoff through natural vegetative buffers along stream corridors, and by encouraging and protecting vegetative cover along stream banks to shade the stream, thereby maintaining lower water temperatures and high-quality stream habitat.
- (d) Maintain the integrity and stability of stream banks and protect stream banks against erosion, by providing for effective vegetative buffers adjacent to stream corridors, and by prohibiting excavation and building activities within a specified distance from stream banks and the contiguous to streams wetlands.
- (e) Protect the natural character and appearance of streams, stream corridors and their contiguous wetlands, which contribute to the valued natural character of the community, its quality of life and its property values.
- (f) Permit and encourage property owners to enhance native vegetation along riparian corridors in the Township.

**SECTION 25.02 APPLICABILITY AND ADMINISTRATIVE ACTION:**

- (a) Applicability. Except as provided in subsection 2 below, the standards contained in this section shall be applicable to all land in the Township which is located within specified distances adjacent to:
  - (1) All of the rivers, streams, and creeks located within the " RAP- Riparian Area Protection Overlay Zone " identified on the Salem Township Zoning Map as amended, and the wetlands contiguous to the identified rivers, streams, and creeks, as defined herein.
- (b) Exemptions. The standards contained in this Chapter **shall not** be applicable to:
  - (1) A lot or parcel, of two (2) acres or less in size which was a "lot of record" on or before February 11, 2008.
  - (2) Agricultural operations that are conducted in conformance with best management practices (BMPs) as defined and prescribed by the Michigan Right to Farm Act, Public Act 93 of 1981, as amended.

- (3) All activities that are authorized in a permit issued by the Michigan DEQ pursuant to Parts 31,301,303 or 315 of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.
  - (4) Forestry operations that are conducted within the natural vegetation zone when done in conformance with generally accepted forestry management practices (GAFMPs) as defined and prescribed under the auspices of the Right to Forest Act Public Act 676 of 2002.
  - (5) The cleaning out, straightening, widening, deepening, or extending, consolidation, relocation, tiling, and connection of Drains established under the provisions of the Michigan Drain Code, Public Act 40 of 1956, as amended.
- (c) Prohibitions Unless the activity is specifically addressed by guidelines contained within a forest management plan prepared by a forestry or other natural resources professional and/or the activity is a GAFMP officially recognized by the appropriate state agency and approved by Natural Resources Commission of the State of Michigan, the following practices shall not be considered exempt by this ordinance and shall be prohibited within the Riparian Areas Protection zone:
- (1) Cutting stream bank trees.
  - (2) Unnecessary access roads and skid trails.
  - (3) Cording and stacking of wood
  - (4) Excessive soil compaction and rutting by tree harvesting equipment.
  - (5) Removal of ground cover or understory vegetation.
  - (6) Felling trees into the stream bed or leaving logging debris in the stream.
  - (7) Servicing or refueling equipment.
  - (8) Mechanical site preparation and site preparation burning.
  - (9) Mechanical tree planting.
  - (10) Broadcast application of pesticides or fertilizers.
  - (11) Handling, mixing, or storing toxic or hazardous materials (fuels, lubricants, solvents, pesticides, or fertilizers).
- (d) Administrative Action. The decision on any application for a zoning approval or a permit for an activity on property subject to the riparian area protection standards of this Chapter shall be made by the Zoning Administrator.

**SECTION 25.03 OVERLAY SUB-AREAS: NATURAL VEGETATION ZONES AND TRANSITION ZONES: DEFINITION, INTENT AND DELINEATION**

- (a) Definition and Intent: The land area subject to the riparian area overlay protection standards of this section shall be comprised of two sub-area zones. The definitions and intended purposes of each of these sub-areas are as follows:
- (1) *Natural Vegetation Zone*. The natural vegetation zone includes at a minimum, all lands located within thirty-five (35) feet of the ordinary high water mark of the stream. It also extends to the outer wetland boundary of contiguous wetland and therefore includes all contiguous wetlands as defined in this ordinance. The natural vegetation zone is intended to provide a functional vegetative corridor along the edge of a stream. Its functions shall be to protect water quality, animal habitat and aesthetic values of the riparian feature by minimizing erosion, stabilizing the bank, minimizing nutrient flows into the water, shading the water to maintain low water temperatures, and screening man-made structures.

(2) *Transition Zone.* The "transition zone," extends for a distance of fifteen (15) feet beyond the edge of the natural vegetation zone, only where there are no contiguous wetlands that extend beyond the 35 foot natural vegetation zone. The transition zone is intended to provide distance between upland development and the natural vegetation zone, in an area outside of the natural vegetation zone where there are fewer restrictions on disturbance and improvements, but where some restrictions remain necessary to protect water quality, animal habitat and the integrity of the adjacent stream. The transition zone is not applied in areas where contiguous wetlands extend beyond the 35 feet from the ordinary high water mark.

(b) Delineation of Sub-Area Zones. The limits of the "natural vegetation zone" and the "transition zone" as used and defined in this Chapter is required to be accurately shown on all site plans, land division plans, subdivision plans (plats), site condominium plans, plans for planned unit developments, and all applications for building permits submitted for review by Salem Township. Any such plans for sites on which is located any protected riparian area subject to these regulations shall include the following statement: "There shall be no clearing, grading, earth change, placement of fill, construction or disturbance of vegetation within the area labeled as being subject to the riparian area protection standards of the Salem Township zoning regulations, except as permitted by Chapter 25 of the Salem Township Zoning Regulations."

#### **SECTION 25.04. DEVELOPMENT STANDARDS.**

(a) Natural Vegetation Zone Land located within the natural vegetation zone shall be subject to the following development standards:

(1) No dwelling unit or other principal building and no accessory building may be constructed within the natural vegetation zone. The following structures may be permitted:

(1) Flood control or bank protection structures permitted or constructed by authorized state or federal agencies.

(2) Pedestrian or vehicular bridges when designed and constructed in a manner that minimizes impact on the riparian feature.

(3) Boardwalk access to or through wetlands when constructed in accordance with a permit issued by the Michigan Department of Environmental Quality.

(4) 4. One pump house per lot housing a pump used for irrigation when setback at least fifteen (15) feet from the high water mark, and having a maximum ground coverage of nine (9) square feet.

(b) On-site sanitary waste treatment systems are prohibited within the natural vegetation zone.

(c) The area within the natural vegetation zone shall be kept in a predominantly natural condition. Clearing or removal of existing trees shrubs and groundcover shall be limited to the following:

(1) 1). Removal of isolated diseased or dead trees and damaged trees that are in an unstable condition and that pose a safety hazard. The stumps and root structures of removed trees shall be left in place.

- (2) 2). Removal of noxious plants and shrubs, including poison ivy, poison sumac and poison oak and other plants regarded as common nuisance in Section 2, Public Act 359 of 1941 as amended and species that are recognized as highly invasive, as contained on a "List of Invasive Species" maintained on file in the office of the Township Clerk.
- (3) 3). Planting of native species that are contained on a "List of Native Species" maintained on file in the office of the Township Clerk is permitted.
- (4) 4). Limited removal of vegetation in order to provide a filtered view of the riparian feature from adjacent property and to provide reasonable private access to the riparian feature. The term "filtered view" connotes the maintenance or establishment of woody vegetation of sufficient density to screen the riparian feature from adjacent property, while also providing for bank stabilization and erosion control and to serve as an aid to infiltration of surface runoff. The vegetation need not be so dense as to completely block the view of the riparian feature. To that end the following standards shall apply:
  - a) Sufficient live root system and vegetation must be retained to provide for bank stabilization and erosion control, to encourage infiltration of runoff, and to provide shading of the water surface.
  - b) Existing vegetation between a height of three (3) feet above the ground and the ground surface shall remain undisturbed and in a natural condition except as otherwise provided for herein.
  - c) Select pruning and removal of vegetation above a height of three (3) feet shall be permitted.
  - d) Existing vegetation may be removed and/or managed, including maintaining a turf lawn, in an area with a maximum width of fifteen (15) feet to, and ten (10) feet along, one or both sides of the riparian feature. Within this corridor a paved or unpaved trail or path with a maximum width of nine (9) feet is permitted.
  - e) Clearing that is required to construct the exempt structures permitted in Section 25.02, sub-section b above, is permitted.
- (d) Prohibited activities: The following activities are prohibited in the natural vegetation zone:
  - (1) Storage of motorized vehicles or petroleum products
  - (2) Storage or use of toxic or hazardous materials
  - (3) Storage of herbicides or pesticides
  - (4) Storage of fertilizer
  - (5) Placement of fill or dumping of any refuse
  - (6) Concentrated drainage flow by ditches, under drains or other similar systems.
  - (7) Topsoil, sand and gravel extraction.

**SECTION 25.05. DEVELOPMENT STANDARDS IN THE TRANSITION ZONE (15 FEET LANDWARD OF NATURAL VEGETATION ZONE).**

Land located within the transition zone shall be subject to the following development standards and restrictions:

- (a) No dwelling unit or other principal building and no accessory building may be constructed within the transition zone. The following structures may be permitted:
  - (1) Flood control structures constructed by authorized state or federal agencies.
  - (2) Pedestrian or vehicular bridges, when deemed necessary and designed and constructed in a manner that minimizes impact on the riparian feature.
  - (3) One (1) viewing platform deck or gazebo with maximum ground coverage of two hundred (200) square feet.
  - (4) One pump house per lot housing a pump used for irrigation when setback at least fifteen (15) feet from the high water mark, and ground coverage of not more than nine (9) square feet.
- (b) On-site sanitary waste treatment systems are prohibited within the transition zone.
- (c) Except for public or private access and recreational trails not exceeding ten (10) feet in width, the construction of impermeable surfaces such as paved driveways, paved parking areas, tennis courts and other similar surfaces is prohibited in the transition zone.
- (d) Vegetation within the transition zone may be altered and managed in a manner customary for the uses permitted in the zoning district applicable to the subject property.

**SECTION 25.06 MINIMUM LOT SIZES & PRINCIPAL STRUCTURE SETBACKS.**

Within any Agricultural, Residential, Commercial or Industrial zoning district affected by the Riparian Area Protection Overlay, the minimum lot width and depth for all lots with any part located within this Riparian Area Protection Overlay and created after the effective date of this Chapter shall be as follows:

- (a) Minimum Lot area: Forty thousand (40,000) square feet
- (b) Minimum Lot Width: one hundred (100) feet.
- (c) Maximum Lot Depth: The depth of each lot shall be sufficient to accommodate all setbacks and yard requirements of this overlay zone and the underlying district, and shall not have a width to depth ratio of more than 1 to 5.
- (d) Minimum Principal Structure Setback: No principal structure shall be erected closer than (100 feet) from the high water mark of the stream or contiguous wetland except on non-conforming lots of record or where there are steep banks.
  - (1) Non-conforming lots of record. A lot of record existing on the effective date of this chapter that is non-conforming by reason of width or depth on may be used and a principal structure and accompanying septic system may be sited closer to the stream than the required setback line, only if after review by the Zoning Board of Appeals it is found that:
    - a) The lot could not be developed in conformance with the requirements of this Section,
    - b) The proposal for use will place the principal structure in a location as nearly in conformance with the setback requirements of both this Chapter and the underlying zoning district as possible.
    - c) Such location does not result in placement within the flood plain or a wetland without appropriate approvals by the Michigan D.E.Q.

The Board of Appeals may attach reasonable conditions to its approval

- (2) Principal Structure exception for steep banks. Where there is a steep stream bank, a principal structure (but not a septic system) may be constructed closer to the riparian feature according to the following schedule:

Where the bank height, at the bluff, is (a) feet as measured in vertical feet from the high water mark, the principal structure may locate no closer than (b) horizontal feet from the bluff or the high water mark, whichever is greater:

<b>Bank height</b> <b><u>(a)</u></b>	<b>Setback from Bluff or high water</b> <b>mark</b> <b><u>(b)</u></b>
10	90
15	80
20	70
25	60