

APPENDIX C

**TOWN OF MALONE
WATERFRONT OVERLAY DISTRICT**

Town of Malone Waterfront Overlay District

A local law to establish standards for protecting the natural, scenic, and historic values of the Salmon River while encouraging compatible land uses along the waterfront.

A. Purpose and intent.

- (1) The Town intends to protect a scenic corridor along the Salmon River and its tributaries, in accordance with the Town and Village of Malone Local Waterfront Revitalization Plan. The purpose of the district is to maintain a green, undeveloped corridor along much of the Town's waterfront and to provide a consistent level of protection of the visual, environmental and historic resources within this corridor.
- (2) The existing vegetation along the Salmon River is effective in creating a secluded natural experience for waterfront land owners, boaters, hikers and other waterfront users. In addition, a vegetative buffer reduces the velocity and volume of stormwater runoff entering the River, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers and agricultural pesticides. Therefore protection of the Salmon River waterfront is critical to its users as well as its ecology.
- (3) The Waterfront Overlay (WO) District is overlaid onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision shall apply. The principal control mechanisms of the WO are construction setbacks from the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the district. The WO will extend two-hundred (200) feet from the Salmon River high water mark.
- (4) The specific purposes of this district include the following:
 - (a) To preserve natural, scenic, and historic values along the Salmon River.
 - (b) To preserve woodlands, wetlands, and other green space.
 - (c) To regulate uses and structures along the Salmon River to avoid increased erosion and sedimentation.
 - (d) To encourage compatible land uses along the Salmon River.

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- (e) To recognize areas of significant environmental sensitivity that should not be intensely developed.
 - (f) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the community.

B. Permitted uses; prohibited uses.

- (1) The underlying zoning district determines the permitted principal uses, accessory uses and special permit uses within the Waterfront Overlay District. Underlying districts within the WO District include those districts located within 200 feet of the high water mark.
- (2) The following uses, however, are specifically prohibited within the WO District:
 - (a) Junkyards and solid waste disposal or processing facilities.
 - (b) Mineral extraction or surface mining.
 - (c) Freight or truck terminals.
 - (d) Bulk fuel storage.
 - (e) Bulk industrial chemical storage or processing.
 - (f) Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.

C. Development regulations.

- (1) Setback requirements.
 - (a) The minimum setback from the high water mark of the river shall be 200 feet for principal and accessory buildings.
 - (b) Structures demonstrated to be directly related to the Salmon River may be authorized within the required setback distance; however, the Planning Board shall have the authority to impose additional conditions at the time of site plan review as may be warranted such as buffering or screening.
- (2) Riparian area vegetated buffer. Riparian areas shall be maintained with a natural vegetation strip on each parcel or lot between the normal high water mark of the river and a point 100 feet from and perpendicular to the normal high water mark. Removal of

vegetation in the riparian area shall require a special permit in accordance with the following requirements:

- (a) No clear-cutting shall be allowed.
- (b) One hundred percent of the vegetation strip may be selectively thinned as follows. No more than 35% of the number of trees six inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. No more than 25% of trees four inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. Additional trees may be removed if the applicant can demonstrate one or more of the following conditions:
 - [1] It is clearly necessary for traffic safety.
 - [2] It is clearly necessary for the development of an approved principal or accessory use or building, street, sidewalk, paved area, driveway, stormwater facility, utility or sewage system.
 - [3] It is within 25 feet of the foundation of an approved structure.
 - [4] It is diseased, dead or poses a clear danger to public safety, structure, utility or public improvement.
 - [5] It is related to agricultural activities, such as orchards or cultivation activities.
- (c) Existing soil and organic matter shall not be altered or disturbed within the vegetation strip except in connection with an activity otherwise permitted.
- (d) No structures shall be permitted within the vegetation strip, with the exception of docks, boat ramps, bulkhead, pump houses, utilities, pervious walkways, and elevated walkways which provide the property owner with reasonable access to the water. Park-related furnishings (benches, picnic tables, pavilions, refuse containers, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the river.
- (e) No potentially polluting material, including but not limited to lawn clippings, leaves, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.
- (f) Where there is no preexisting natural vegetation, new development requiring Planning Board approval pursuant to this section or Site Plan Review shall include vegetation which shall screen the proposed development from the water and any existing waterfront trails or pathways. The width of this revegetated strip should

be at least 75 feet from the high water mark of the river. The plant material should consist of indigenous trees, shrubs, and grasses.

- (g) Reasonable efforts shall be taken during construction to ensure that trees protected by this section are not accidentally injured or removed, including root compaction by equipment or change in grade level. The developer shall replace any protected trees which are destroyed or injured with mature trees of similar diameter.

(3) Protection of water quality.

- (a) There shall be no disturbance of existing Federal and New York State wetlands as identified by the NYS Department of Environmental Conservation located within this WO District unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and US Army Corp of Engineers.
- (b) Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control, the New York State Stormwater Management Design Manual and the Town/Village of Malone Stormwater Management and Erosion and Sediment Control Law.

(4) Docks and water surface use.

- (a) Not more than one dock shall be permitted per residence.
- (b) Multiple boat slips may be clustered.
- (c) Bulkhead docks or off-channel basins are preferred for permanent docking.

(5) Agricultural activities.

Soil shall not be tilled within 100 feet of the high water mark of the river or within 100 feet of direct tributaries that are within the WO District.

(6) Additional requirements and standards.

- (a) Parking, fences and signs shall not detract from water views and are subject to regulations contained in the zoning ordinance. The following signs are prohibited within 300 feet of the river:

- [1] Off-premises signs such as billboards.

- [2] Freestanding signs on site with a total height of greater than 12 feet above the surrounding average ground level or a sign area of greater than 40 square feet.

[3] Signs intended to be towed from one location to another.

- (b) Development shall not interfere with or in any way prohibit, hinder or discourage the public use of waterfront trails.
- (c) New development shall provide opportunities for trail linkages as identified in the Town/Village of Malone Local Waterfront Revitalization Plan. Any easement or trail construction should accommodate a pedestrian walkway or pathway having a right of way width of at least twenty (20) feet along the length of and abutting the Salmon River shoreline.
- (c) When located adjacent to historic structures, new buildings shall reflect the architectural character of the existing historic structure.

D. Site plan.

Any proposed principal building or any proposed or expanded paved area larger than 5,000 square feet that would be partially or entirely located within the WO District shall be submitted for review by the Planning Board. Site plan review shall be conducted in accordance with the procedures established in the zoning ordinance.