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## SECTION 58

# Gateway Conservation Zone

### 58.0 PURPOSE

*To preserve the unique scenic, ecological, scientific or historic values that the lower Connecticut River possesses; to prevent deterioration of the scenic quality of the lower Connecticut River valley for the enjoyment of present and future generations of Connecticut citizens; and to encourage development and use of property within the Gateway Conservation Zone that is consistent with this purpose.*

### 58.1 GENERAL

The Lower Connecticut River *Gateway Conservation Zone* is a class of *zone* in addition to and overlapping one or more of the other *districts*. The boundaries of the “*Gateway Conservation Zone*” encompass all areas adjacent to the Connecticut River as shown on the Zoning Map of the Town of Old Saybrook. In the event that any *lot* or *parcel* is partially within the *Gateway Conservation Zone*, then the Commission considers the entire *lot* or *parcel* as within the *zone*. The requirements of this section are in addition to all other requirements of these regulations and do not substitute for any permits or obligations, such as requirements for *setbacks*, or the need to obtain approval of a Special Exception for specific *uses* within each *district*. Any *use*, activity, *building*, *structure* or improvement, including those allowed by a floating *zone* eligible to be established and approved in the underlying District, is bound by the prevailing standards of the *Gateway Conservation District*.

### 58.2 RIPARIAN BUFFER AREA

Within the *Gateway Conservation Zone*, the Commission establishes a *riparian buffer area* of one hundred feet (100') measured in a horizontal plane, from any point of the *high tide line* of the Connecticut River, its tributaries or its associated *wetlands* or to the most landward extent of the *tidal wetlands* boundary. The most landward setback of these distances is utilized to determine the *riparian buffer area*.

Within the *riparian buffer area*, the Commission prohibits removal, cutting or destruction of trees, shrubs or other native, non-invasive vegetation, except in conjunction with a non-commercial tree-cutting plan; the destruction of wildlife or its habitat; the application of pesticides or herbicides; or any other activity or *use* that is or has the potential for being detrimental to drainage, flood control, water quality, *erosion* control, *soil* conservation, wildlife or the land and water areas in their natural condition.

Before commencement of site work on any property in the *Gateway Conservation Zone* that contains or is adjacent to a *riparian buffer area*, the property owner arranges for a licensed Land Surveyor to locate the boundaries of the *riparian buffer area* with oak stakes, labeled

“*Riparian buffer area*” with waterproof ink and tied with red flags at each change of boundary direction and at every one hundred foot (100’) interval on straight-aways. The stakes remain in place until after completion of construction when the property owner installs permanent markers in the same manner.

58.2.1 No person will clear land within the *riparian buffer area* for development, including, but not limited to: surface re-grading, stormwater drainage *structures*, construction of retention walls, construction of principal or *accessory structures*, *driveway* construction, sewage disposal areas, lawns or gardens.

58.2.1a. Exception for lots with a total lot area of twelve-thousand, five hundred square feet (12,500 s.f.) or less:

If the applicant can demonstrate that there is no feasible or prudent alternative for the location of a sewage disposal area, drainage or utilities within the one hundred (100) foot *riparian buffer area*, the applicant will be permitted to install these amenities within the *riparian buffer area* if they are located fifty-one to one hundred feet (51’ – 100’) from any point of the high tide line of the Connecticut River or its tributaries or its associated *wetlands* or to the most landward extent of the *tidal wetlands* boundary, whichever is located most landward. The applicant must demonstrate that installation activities will (1) consist of the minimal amount of clearing, grading and general riparian buffer disruption, (2) will not be visible from the Connecticut River or its tributaries and (3) will not be detrimental to the environment. The applicant must submit a landscape plan for planting and stabilization of the disrupted area for approval consistent with Section 58.8.9 of these regulations.

58.2.2 No person will create clear-cut openings, and owners of property will maintain a well-distributed stand of trees or other vegetation, including existing ground cover. Cleared openings legally in existence on the effective date of these regulations may be maintained but not enlarged; fields, which have reverted primarily to shrubs, trees or other woody vegetation, are regulated under the provisions of this section. No person will remove existing understory vegetation less than four feet (4’) from the natural elevation of the ground nor disturb the treed canopy higher than twenty feet (20’) from the natural elevation of the ground, except to provide for a footpath or other permitted *uses*.

58.2.3 There will be no tree cutting, except to remove safety hazards from diseased, storm-damaged, unsafe or dead trees without approval by the Enforcement Officer or Tree Warden or by a written report of a public or consulting forester stating an official determination as to the necessity to remove trees due to a deteriorated condition. Any resulting openings will be replanted with native tree species unless there exists natural “new tree” growth.

58.2.4 A footpath not to exceed five feet (5’) in width is permitted so long as it does not create a cleared line-of-sight from the water through the *riparian buffer area*.



58.2.5 Stairs or similar *structures* may be allowed with a permit from the enforcement officer to provide shoreline access in areas of steep slopes or unstable soils, provided that the *structure* is limited to a maximum of five feet (5') in width and does not extend waterward of or over the *high tide line* of the Connecticut River or its tributaries or its associated *wetlands* or to the most landward extent of the *tidal wetlands* boundary or the upland edge of a *wetlands*, whichever is located most landward, if the applicant demonstrates that no reasonable access alternative exists on the property.

### 58.3 DEVELOPED AREAS

Within the *Gateway Conservation Zone*, the Applicant will depict on a site plan where *developed areas* exist on a site for the purposes of determining where to conserve a *riparian buffer area*. The Commission considers the *developed area* as any development, including paving, bulkheads, rip-rap or other structural stabilization methods or materials, clearing or construction activities, that makes the retention or replacement of vegetation within *riparian buffer area* impractical, infeasible or undesirable. If part of the *riparian buffer area* is developed, then the Commission considers the remainder as undeveloped.

In the *developed areas*, property owners must maintain trees or shrubs immediately adjacent to the water to avoid *erosion* and to enhance the scenic quality of the river scene. An existing lawn is not a *developed area*. The Commission considers every portion of the *riparian buffer area* on its own merits even within the confines of a single *lot* or *parcel*.

### 58.4 PERMITTED USES & ACTIVITIES

The *uses* or improvements permitted in an underlying *district* remain permitted within the *Gateway Conservation Zone*.

58.4.1 **Non-commercial tree cutting (visible from Connecticut River).** The Commission does not require a permit to cut trees that are not visible from the Connecticut River. For trees visible from the Connecticut River, the Commission designates the Tree Warden to issue permits for the cutting of trees, and no *commercial tree cutting* occurs in the absence of the issuance of a permit. In the event of the unavailability of the Tree Warden, the Enforcement Officer acts as the authority for the issuance of this permit. Either agent of the Commission grants a permit upon approval of a *Non-Commercial Tree Cutting Plan*.

### 58.5 SPECIAL EXCEPTION USES

The *uses* or improvements permitted in an underlying *district* remain permitted within the *Gateway Conservation Zone*. The construction, reconstruction, enlargement or *structural alteration* of all principal or *accessory structures* relating to any of the following *uses* requires approval as a Special Exception *use*:

58.5.1 **Single detached dwelling for one (1) family** in excess of thirty-five hundred square feet (3,500 s.f.) of combined *Gross Floor Area* (*Gateway Conservation Zone*).

58.5.2 **Dwelling containing two (2) dwelling units** in excess of thirty-five hundred square feet (3,500 s.f.) of combined *Gross Floor Area* (*Gateway Conservation Zone*).

58.5.3 **Shoreline flood & erosion control structure.**

**Exemption.** The Commission does not require approval of a *use* as a Special Exception for residential *structures* over thirty-five hundred square feet (3,500 s.f.) in total area under this section if the applicant demonstrates that the proposed *structure* or *structures* will not be visible from the Connecticut River. Demonstration that a *structure* will not be visible from the Connecticut River consists of an area topographic map showing that there is intervening ground at an elevation at least thirty-five feet (35') above ground elevation of the proposed *structure*.

### 58.6 SETBACK (GATEWAY CONSERVATION ZONE)

Within the *Gateway Conservation Zone*, the Commission prohibits construction or alteration of any *building* within less than one hundred feet (100'), measured in a horizontal plane, from any point of the *high tide line* of the Connecticut River or any of its tributaries or its associated *wetlands* or to the most landward extent of the *tidal wetlands* boundary, whichever is located most landward.

58.6.1 **Exception.** The Commission may permit by Special Exception the following *uses*, other than for human occupancy or *non-commercial communication equipment*, within the *setback* for the *Gateway Conservation Zone*:

- A. *Shoreline flood & erosion control structure*, if the Commission finds consistency with the policies and standards of the Connecticut Coastal Management Act.
- B. A dock, wharf, slip basin or similar landing facility for pleasure *boats* and excursion *boats* serving the public, expressly excluding vessels engaged in commercial fishery or shellfishery.
- C. A dock, wharf, slip basin or similar landing facility for fishery and shellfishery business, including as an *accessory use* of the business a store or market for the sale of fish, shellfish and other related food products, or the commercial *bulk* processing of fish and shellfish.
- D. Establishments for the sale, repair or servicing of pleasure *boats*, including the dispensing of fuel and lubricants for *boats* at retail, but expressly excluding dry storage of *boats* and bulk storage of fuel.
- E. A sail loft or ship chandlery, including the retail sale of marine equipment, engines and provisions for *boats*.
- F. Public walkways, parks, and fishing piers.
- G. Storage of *boats* when *accessory* and subordinate to a permitted *use*.



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## 58.7 HEIGHT (GATEWAY CONSERVATION ZONE)

Within the *Gateway Conservation Zone*, no *building* or other *structure* will be constructed, reconstructed, enlarged, extended, moved or structurally altered in a manner so as to exceed a maximum *height* of thirty-five feet (35') as calculated by the definition of *Height (Gateway Conservation Zone)* or any Special Exception *use* regarding calculation of maximum *height* from a new finished grade. The Commission will make a specific finding as to how it calculates *height* for the purposes of a particular Special Exception *use*.

Any architectural feature exceeding thirty-five feet (35') is prohibited in this *zone*, except when in connection with the granting of a Special Exception *use*, the Commission may approve also the construction, reconstruction, enlargement, extension, movement or *structural alteration* of a spire, *cupola*, weathervane, tower, flagpole or other similar architectural feature, occupying not more than ten percent (10%) of the *building* footprint and not designed for human occupancy, to a reasonable or necessary *height*. The Commission will make a specific finding that the architectural feature will not have a significant visual impact on the natural and traditional riverway scene.

## 58.8 CONSIDERATIONS FOR DECISION

Within the *Gateway Conservation Zone*, the Commission or its agent approves a *use*, activity, *building*, *structure* or improvement only upon demonstration by the applicant that it meets the following general standards:

- 58.8.1 The proposed design preserves or enhances significant natural features and maintains or restores the natural and traditional character of the riverway scene.
- 58.8.2 Site development maintains the essential natural characteristics of the site, such as major landforms, natural vegetative or wildlife communities, hydrologic features, scenic qualities, or *open space*, that contribute to the sense of place along the Connecticut River, its tributaries or *wetlands*.
- 58.8.3 *Structures* adapt to the existing terrain rather than the earth altered to create a platformed development site.
- 58.8.4 Minimized disturbance to existing topographic forms and grading or excavation does not result in *soil erosion* or silting of lower slopes.
- 58.8.5 *Structures* facing the Connecticut River located below the crest of hillsides to maintain a clear sense of the hillside brow in its natural coordination as seen from the River.
- 58.8.6 Vertical elements of *structures* do not disrupt the natural silhouette of the hillside (e.g. sloped angle of a roof pitch at or below the angle of the natural hillside or manufactured slope).

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- 58.8.7 Mass of *building* forms broken apart, varied or scaled to the actual environmental setting to avoid excessive forms that fail to enhance the hillside character (e.g. large roof areas broken up to approximate natural slopes).
- 58.8.8 Dark-colored roof treatments, which reduce visual impact of the *structure* on the landscape, and rooftop treatment designed to avoid monotony of materials, forms or colors.
- 58.8.9 Preservation of the existing natural vegetation where possible and new landscaping that is compatible with the existing natural vegetation to maintain or enhance the scenic character of the visual buffering between all development and the Connecticut River, its tributaries or *wetlands*.
- 58.8.10 Cut or fill slopes with curved configurations to reflect the forms or shapes of surrounding topography as closely as possible. Avoidance of abrupt angular intersections of manufactured and natural slopes faces.
- 58.8.11 *Shoreline flood & erosion control structures* minimized to the greatest extent possible.