

**CITY OF RENSSELAER
PROPOSED LOCAL LAW ____**

BE IT ENACTED by the Common Council of the City of Rensselaer as follows:

SECTION 1. TITLE

This Local Law shall be entitled “A Local Law Establishing a Stream Protection Overlay District”

SECTION 2. AUTHORITY AND SUPERSESSION

This law is enacted pursuant to Section 10(1)(ii)(a)(11) and (12) of the Municipal Home Rule Law and Section 19 and 20 of the General City Law. It is the intention of the Common Council to supersede any inconsistent terms in state law to the extent authorized by the Constitution and Municipal Home Rule Law.

SECTION 3. ENACTMENT OF STREAM PROTECTION OVERLAY DISTRICT

The Code of the City of Rensselaer is hereby amended by adding section ____, to read as follows:

§ 179-__ Stream Protection Overlay (SPO) District.

- A. Purpose and intent. The goals of the Stream Protection Overlay (SPO) District are to:
- (1) Promote the ecological health of stream corridors within the City of Rensselaer by protecting and restoring streams and adjacent lands.
 - (2) Provide for responsible development of parcels adjacent to the City's streams.
 - (3) Protect public health and welfare by reducing pollution risks, preserving water quality, filtering runoff, and reducing the risk of damage from flooding.
 - (4) Protect and enhance habitat for birds, fish, and other wildlife.
 - (5) Enhance the aesthetic character of the City's streams, which are a source of civic pride.
 - (6) Promote public access to stream corridors where appropriate.
 - (7) Foster public awareness of protecting the City's streams.
- B. Overlay boundaries and effect.
- (1) The SPO District includes all land lying within 100 feet of the centerline of designated streams, including the Mill Creek and its tributaries, the Quackenderry Creek and its tributaries, and the network of unnamed streams north of Washington Avenue.
 - (2) Regulated stream corridors are shown on the Stream Protection Overlay District Map, as incorporated in the zoning code and available at the City Clerk's Office.
 - (3) Within the SPO District, the regulations herein shall apply in addition to the regulations of the underlying zoning district.
- C. Permitted uses. All permitted and special permitted uses in the underlying zoning district in which the parcel is located are allowed under the same terms, except:

- (1) Commercial and industrial uses that are permitted in the underlying zoning district require a Special Use Permit in the SPO District.
- (2) Prohibited uses. The following uses and activities are specifically prohibited within the SPO District to safeguard water quality:
 - (a) Motor vehicle service station or fueling station;
 - (b) Cemetery or crematorium;
 - (c) Parking garage;
 - (d) Quarries and pits;
 - (e) Drive-in facility;
 - (f) Contractor's yard;
 - (g) Manufacturing, light;
 - (h) Manufacturing operations;
 - (i) Warehouse, wholesale or distribution center;
 - (j) Dry-cleaning facilities, and dry-cleaning outlets;
 - (k) Junkyard, salvage, or impoundment yards (including used motor vehicle parts and scrap/waste materials);
 - (l) Motor vehicle washing, cleaning, and polishing facilities, or facilities for the self-service washing of motor vehicles (e.g., car washes);
 - (m) Landfill;
 - (n) Any primary or accessory use or activity that involves the outdoor use, outdoor storage or disposal of petroleum, deicing compounds, hazardous substances, radioactive material, fertilizer, herbicides, pesticides, or aqueous-carried waste.
 - (i) Upon enactment of this law, any lawful pre-existing land use may continue, but no new outdoor use, storage or disposal of the materials listed above is permitted.
 - (ii) Routine seasonal application of deicing compounds is not restricted.
- D. Steep slope protection. No construction activities, removal of trees (other than trees identified as hazardous by a certified arborist), excavation or depositing of fill shall be permitted on slopes of 15% or greater in the SPO District.
- E. New construction in the SPO. Within the SPO District, no person shall undertake any construction, clearing, excavation, or fill activity disturbing more than 200 square feet of land (the "regulated activity") except pursuant to the following requirements.
 - (1) Setback. Within the SPO District, there shall be no disturbance of a stream bed, and no regulated activity shall be located within 50 feet of a stream, measured from the mean high-water line. Exceptions:
 - (a) Actions designed to restore past streambank disturbance and restore a healthy stream corridor are encouraged, such as removing impervious surfaces, restoring stable streambanks, adding native vegetation, or daylighting buried streams. Such action is only permitted if approved through site plan review as described below.

- (b) Docks, piers, bridges, and public access structures, which, by their nature, must be located in or over the stream may be permitted by the Planning Commission if the Commission finds that the proposal provides a significant public benefit, protects the ecological integrity of the stream, and meets the criteria below for site plan approval.
- (2) Site plan review required. For any regulated activity in the SPO District, site plan review is required. In addition to the standard requirements for site plan approval, the Planning Commission may only grant site plan approval for activities within the SPO District upon a finding that the activity meets the following criteria:
 - (a) The area within 50 feet of the stream (mean high water line) is maintained in a wooded and/or vegetated state to the maximum extent practicable.
 - (b) The proposed activity will not result in increased erosion.
 - (c) The proposed activity will not result in pollution from surface or subsurface runoff. It involves no storage of materials or equipment that could cause pollution or injure human, animal or plant life.
 - (d) The proposed activity includes appropriate measures to minimize stormwater quantity and velocity and protect stream water quality. Green infrastructure practices are integrated to the maximum extent practicable.
 - (e) Areas of natural resource preservation on the site shall be contiguously linked, to the extent practical, with preservation areas on adjacent parcels.
 - (f) Where possible, the design provides passive recreation and/or public pedestrian access to the stream. Public education opportunities are included if appropriate (e.g. signs, kiosks, viewing areas)
 - (g) The proposed site plan incorporates native vegetation where possible and does not include the planting of invasive species.
 - (h) The proposed activity will not result in degradation of scenic character and will be compatible with its surroundings.
- (3) Stormwater control.
 - (a) Any project in the SPO District involving 10,000 square feet or more of disturbance shall require a Stormwater Pollution Prevention Plan meeting standard New York State requirements and must be approved by the City Engineer.
 - (b) Smaller disturbances shall require an erosion and sediment control plan to the satisfaction of the Building Inspector.
- (4) Professional expertise for review.
 - (a) The City and/or Planning Commission are authorized to retain the services of an ecological consultant, hydrologist, engineer, or other consultant(s) as needed to assist with the review required herein.
 - (b) The fees charged by the consultant will be paid by the applicant. An escrow account may be established for such fees. Final approval will not be granted until all fees are paid.

F. Definitions. For purposes of the SPO District, the following words shall have the specified definitions:

- (1) Stream centerline: The stream centerline is the line halfway between low-water marks of the banks on each side of the stream.
- (2) Green infrastructure: Green infrastructure is an approach to managing stormwater that uses plants, soil, and landscape design to absorb, filter and disperse stormwater. Green infrastructure design should follow the requirements in Chapter 5 of the New York State Stormwater Management Design Manual, including preserving natural features, minimizing impervious surface, and using best management practices to capture and filter runoff.
- (3) Invasive species: A species that is non-native to the local ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Includes species prohibited and regulated in 6 NYCRR Part 575.
- (4) Mean high water line: The approximate average highwater level of a stream at a given location, which distinguishes between predominantly aquatic and predominantly terrestrial habitat.
- (5) Native vegetation: Flowers, grasses, ferns, and groundcovers, shrubs, trees and vines classified as native to New York State by the Department of Environmental Conservation Division of Lands and Forests.
- (6) Stream bed: That land area of a watercourse covered by water at mean high water.

SECTION 4. SEVERABILITY

If any part or provision of this local law of the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances.

SECTION 5. EFFECTIVE DATE

This law shall become effective immediately upon being filed in the office of the Secretary of State.