

ALBEMARLE COUNTY VIRGINIA



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Albemarle County, VA Code of Ordinances

CODE OF ALBEMARLE COUNTY VIRGINIA

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ARTICLE VI - STREAM BUFFERS

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Sec. 17-600 - Extent of stream buffers; retention and establishment.

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Except as provided in [section 17-602](#), each ESM plan and each land-disturbance permit must provide for stream buffers for the purposes of retarding runoff, preventing erosion, filtering nonpoint source pollution from runoff, moderating stream temperature, and providing for the ecological integrity of stream corridors and networks, as provided herein:

- A. *Development within a development area.* If the development is located within a development area, stream buffers must be retained if present and established where they do not exist on any lands subject to this chapter containing perennial streams, contiguous nontidal wetlands, or both. The stream buffer must be no less than 100 feet wide on each side of any perennial stream and contiguous nontidal wetlands, measured horizontally from the edge of the contiguous nontidal wetlands, or the top of the stream bank if no wetlands exist.
- B. *Development within a water supply protection area or other rural land.* If the development is located within a water supply protection area or other rural land, stream buffers must be retained if present and established where they do not exist on any lands subject to this chapter containing perennial or intermittent streams, contiguous nontidal wetlands, and floodplains. The stream buffer must extend to whichever of the following is wider: (i) 100 feet on each side of any perennial or intermittent stream and contiguous nontidal wetlands,

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ontidal wetlands, or the top of the stream

n. The stream buffer must be no less than 200
ter supply impoundment.

(§ 17-301: § 19.2-6, 6-19-91, § 6; § 19.3-25, 2-11-98; Code 1988, §§ 19.2-6, 19.3-25; § 17-301, Ord. 98-A(1), 8-5-98; Ord. 07-17(1), 2-14-07) (§ 17-317: § 19.3-41, 2-11-98; § 19.2-8, 6-19-91; Code 1988, §§ 19.2-8, 19.3-41; § 17-317, Ord. 98-A(1), 8-5-98; Ord. 08-17(1), 2-6-08; § 17-600, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 24-17(1), 6-5-24)

State Law reference— Va. Code § 62.1-44.15:73; 9VAC25-890-40.

Sec. 17-601 - Management of stream buffer.

Each stream buffer required to be retained or established pursuant to [section 17-600](#) shall be managed as provided herein:

- A. *Target vegetative cover.* The preferred vegetative cover in a stream buffer shall be a native riparian forest with ground cover, shrub, and tree canopy layers.
- B. *Preservation of native vegetation.* When evaluating a development design under subsection (C), when native vegetation may be disturbed or removed under subsection (D) and [sections 17-603](#) and [17-604](#), and when stream buffers are maintained under subsection (E), native vegetation shall be preserved to the fullest extent possible.
- C. *Incorporation into development design.* Each stream buffer shall be incorporated into the design of the development by keeping stream buffers in open or natural spaces, and out of residential lots or areas of active use, to the fullest extent possible.
- D. *Retaining native vegetation; disturbance or removal.* In order to maintain the runoff, erosion, nonpoint source pollution control, stream temperature, and ecological values of the stream buffer, no native vegetation within the stream buffer shall be disturbed or removed, regardless of the size of the area affected, except to maintain the stream buffer as provided in subsection (E), provided that native vegetation may be removed to construct, install, operate or maintain any improvement, or engage in any activity, authorized by [sections 17-603](#) and [17-604](#).
- E. *Maintaining the stream buffer.* Each stream buffer shall be maintained in as natural a condition as possible.

(§ 19.3-42, 2-11-98, § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-8, 19.3-42; § 17-318, Ord. 98-A(1), 8-5-98; § 17-601, Ord. 14-17(1), 5-7-14, effective 7-1-14)

State Law reference— Va. Code § 62.1-44.15:73; 9VAC25-890-40.

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Activities exempt from duties to

The following types of improvements and activities are not required to retain, establish, or manage a stream buffer, provided that the requirements of this section are satisfied:

- A. *Utility and transportation improvements.* The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the Virginia Department of Transportation, and their appurtenant structures, which are accomplished in compliance with the Stormwater Management Act (Virginia Code § 62.1-44.15:24 *et seq.*) or an ESM plan approved by the State Water Control Board.
- B. *Public water and sewer improvements.* The construction, installation, and maintenance by public agencies of water and sewer lines, including water and sewer lines constructed by private interests for dedication to public agencies, only if all of the following are satisfied:
 - 1. *Location.* To the extent practical, as determined by the Albemarle County Service Authority or the Rivanna Water and Sewer Authority, the location of the water or sewer lines must be outside of all stream buffer areas.
 - 2. *Disturbance minimized.* No more land may be disturbed than is necessary to construct, install and maintain the water or sewer lines.
 - 3. *Compliance with applicable requirements.* All construction, installation, and maintenance of the water or sewer lines must comply with all applicable Federal, State, and local requirements and permits and be conducted in a manner that protects water quality.
- C. *Silvicultural activities.* Silvicultural activities that are conducted in compliance with the water quality protection procedures established by the Virginia Department of Forestry in its "Virginia's Forestry Best Management Practices for Water Quality."
- D. *Public airport improvements.* The construction, installation and maintenance of runways, taxiways, and other similar or appurtenant improvements at public airports, including the expansion or extension of those improvements, provided that all applicable Federal, State, and local permits are obtained.

(§ 19.3-43, 2-11-98; § 19.2-12, 6-19-91, § 12; Code 1988, §§ 19.2-12, 19.3-43; § 17-319, Ord. 98-A(1), 8-5-98; Ord. 08-17(4), 9-3-08; § 17-602, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 24-17(1), 6-5-24)

State Law reference— Va. Code § 62.1-44.15:73; 9VAC25-890-40.

Sec. 17-603 - Types of structures, improvements and activities authorized in a stream buffer.

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ions of the Zoning Ordinance, the following
ies shall be allowed in a stream buffer,
e satisfied:

- A. *Pre-existing buildings or structures.* Any building or structure which existed on February 11, 1998 may continue in its location on that date. However, nothing in this section authorizes the continuance, repair, replacement, expansion or enlargement of any such building or structure except as provided in sections 18-6 and 18-30.3.
- B. *Water-dependent facilities and miscellaneous uses.* Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities; provided that all applicable Federal, State and local permits are obtained.

(§ 19.3-44, 2-11-98; § 19.2-7, 6-19-91, § 7; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-7, 19.2-8, 19.3-44; § 17-320, Ord. 98-A(1), 8-5-98; Ord. 08-17(2), 5-7-08; § 17-603, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

State Law reference— Va. Code § 62.1-44.15:73; 9VAC25-890-40.

Sec. 17-604 - Types of structures, improvements and activities which may be allowed in a stream buffer by program authority.

Structures, improvements and activities may be authorized by the administrator in the circumstances described below, provided that a mitigation plan satisfying the requirements of [section 17-406](#), is submitted to, and approved, by the administrator:

- A. *Within the landward 50 horizontal feet.* On a lot within the 50 horizontal feet of a stream buffer that is the most landward (furthest from the stream), if the structures, improvements or activities either: (i) would be for necessary infrastructure to allow reasonable use of the lot; or (ii) would be on a lot that is within a water supply protection area where the stream buffer protects an intermittent stream and the lot is within a development area. In all cases under this subsection, any new building site and sewage disposal system shall be located outside of the stream buffer.
- B. *Lakes, ponds or restoration projects.* On a lot on which the development in the stream buffer will consist of a lake, pond, or ecological/wetland restoration project.
- C. *Stream crossings.* Stream crossings of perennial and intermittent streams for roads, streets or driveways, provided they meet the following minimum criteria:
 - 1. *Bridges and culverts.* Bridges and culverts shall satisfy the following:
 - a.

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bridges, arch culverts, or box culverts shall be the ten-year storm, or the 25-year storm if the apply, without backing water onto upstream properties. Bridges or arch culverts shall either leave the stream section, consisting of the stream bed and the stream bank, undisturbed or shall allow the stream to return to a natural stabilized cross-section upon completion of installation. The lowest interior elevation (invert) of a box culvert installation shall be a minimum of six inches below the stream bed. Culvert walls and bridge columns should be located outside the stream banks wherever possible.

- b. *Intermittent streams.* For crossings of intermittent streams, bridges or culverts shall be used for the stream crossing and sized to pass the ten-year storm, or the 25-year storm if the design standards in either [section 14-410](#) or 18-32.7.2.1 apply, without backing water onto upstream properties.
2. *Stream stabilization and energy dissipation.* Stream stabilization and energy dissipation measures below each bridge or culvert shall be provided.
3. *Disturbance minimized.* The stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the Subdivision Ordinance. Stream crossings shall not disturb more than 30 linear feet of stream for driveways and 60 linear feet for roads or streets, provided that the administrator may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length.
4. *Stream bed and stream bank stabilization.* The stream bed and stream banks shall be stabilized within seven days from the start of backfilling for the bridge or culvert.
5. *Establishment of buffer vegetation.* For stream crossings where any portion of the pre-construction stream buffer is not fully vegetated as determined by the administrator, and for any portion of a vegetated stream buffer that is disturbed during the installation of the stream crossing, buffer vegetation shall be established and maintained within the stream buffer but outside of the stream crossing at a ratio of two square feet of stream buffer restored for every one square foot of stream buffer that was either not fully vegetated or is disturbed during the installation of the stream crossing. Buffer vegetation shall be established and maintained at the 2:1 ratio to the extent that the stream buffer is fully vegetated outside of the stream crossing, provided that the owner shall not be required to establish vegetation outside of the stream buffer in order to satisfy the 2:1 ratio. The administrator may require that the owner enter into an agreement providing for the ongoing maintenance of the plantings in the stream buffer, and may require a bond with surety or other acceptable instrument as provided in [section 17-414](#). Stream buffer plantings shall be consistent with guidance supplied by the administrator.

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shall provide the administrator with copies of
dated with the stream crossing, if applicable.

1. Limitation on number of stream crossings, exception. In order to ensure that the

encroachment into or across the stream buffer is minimized, on and after May 7, 2008, it shall be presumed that one stream crossing is adequate to serve the owner's lot(s) existing on that date and all lots created therefrom on and after that date. The administrator shall allow only one stream crossing to serve all lots, provided that it may allow additional crossings under subsection (D).

- D. *Stream crossings not allowed under subsection (C).* On a lot on which the development in the stream buffer will consist of the construction and maintenance of a road, street or driveway that would not satisfy the requirements of subsection (C) and the administrator determines that the stream buffer would prohibit access to the lot necessary for the lot to be used and developed as permitted in the underlying zoning district and under the applicable regulations of the Subdivision Ordinance, or to establish more than one stream crossing.
- E. *Water and sewer facilities or sewage disposal systems on pre-existing lots.* On a lot which was of record prior to February 11, 1998, on which the development in the stream buffer will consist of the construction, installation and maintenance of water and sewer facilities or sewage disposal systems, and the administrator determines that the stream buffer would prohibit the practicable development of those facilities or systems. Any sewage disposal system must comply with all applicable State laws.
- F. *Sole building sites on pre-existing lots.* On a lot which was of record prior to February 11, 1998, if the stream buffer would result in the loss of a building site, and there are no other available building sites outside the stream buffer on the lot, or to allow redevelopment as permitted in the underlying zoning district.
- G. *Temporary erosion and sediment control measures.* Temporary erosion and sediment control measures within the 50 horizontal feet of a stream buffer that is the most landward (furthest from the stream), provided that to the extent practical, as determined by the administrator, the control measures must be located outside of the stream buffer and the disturbance impacts minimized.

(§ 19.3-45, 2-11-98; § 19.2-8, 6-19-91, § 8; Code 1988, §§ 19.2-8, 19.3-45; § 17-321, Ord. 98-A(1), 8-5-98; Ord. 08-17(1), 2-6-08; Ord. 08-17(2), 5-7-08; Ord. 11-17(1), 10-5-11; Ord. 12-17(1), 5-9-12; § 17-604, Ord. 14-17(1), 5-7-14, effective 7-1-14; Ord. 21-17(1), 4-21-21, effective 9-1-21)

State Law reference— Va. Code § 62.1-44.15:73; 9VAC25-890-40.

< Sec. 17-502 - Offsite nutrient credits.

ARTICLE VII - ILLICIT DISCHARGES, ILLICIT CONNECTIONS, AND PROHIBITED DUMPING >

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