

ORDINANCE NO. ?????()

AN ORDINANCE TO AMEND CHAPTERS 7, HEALTH AND SAFETY; 14, SUBDIVISION OF LAND; 17, WATER PROTECTION; 18, ZONING; AND APPENDIX A.1 ACQUISITION OF CONSERVATION EASEMENTS PROGRAM, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapters 7, Health and Safety; 14, Subdivision of Land; 17, Water Protection; 18, Zoning, and Appendix A.1 Acquisition of Conservation Easements Program, are hereby amended and reordained as follows:

BY REPEALING:

Chapter 17 Water Protection

Article IV – Procedure for submitting, reviewing and acting on applications; post-approval rights and obligations

Sec. 17-406 Mitigation plan if development allowed in stream buffer; form and content

Article VI – Stream Buffers

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

Sec. 17-601 Management of stream buffer

Sec. 17-602 Types of improvements and activities exempt from duties to retain, establish or maintain a stream buffer

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

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

BY AMENDING:

Chapter 7 Health and Safety

Article 5 Nuisances

Sec. 7-503 Exemptions

Chapter 14 Subdivision Ordinance

Sec. 14-234 A (1) (b)

Sec. 14-302 B (10)

Sec. 14-404 D (1) and (2)

Sec. 14-409 C (1) and (2), D (1) and (2)

Sec. 14-410 I (1)

Sec. 14-422 E (1) and (2), F (1)

Chapter 17 Water Protection

Sec. 17-103 Applicability

Sec. 17-205 Definitions

Sec. 17-401 Land-disturbance permit application; form and content.

Sec. 17-416 Effect of approvals.

Sec. 17-500 Erosion and sediment control plans; applicable technical criteria.

Sec. 17-501 Applicability of other laws and regulations; time limits on applicability of approved design criteria.

Chapter 18 Zoning

Article I – General Provisions

Sec. 18-3.1 – Definitions

Article II – Basic Regulations

Sec. 18-4.2 – Critical slopes

Sec. 18-4.19 – Setbacks and stepbacks in residential districts

Sec. 18-4.20 – Setbacks and stepbacks in conventional commercial and industrial districts

Sec. 18-5.1.28 – Clean earth and inert waste fill activity

Sec. 18-5.1.44 – Farm worker housing

Article III – District Regulations

Sec. 18-20C.8 – Building standards

Sec. 18-30.7.4 – Permitted uses

Appendix A.1 Acquisition of Conservation Easements Program

Sec. A.1-109 – Easement terms and conditions

BY ADDING:

Chapter 18 Zoning

Article II – Basic Regulations

Sec. 18-4.23 – Riparian Buffer Protection Standards

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REPEALING:

Chapter 17 Water Protection

Sec. 17-406 [Repealed]

~~Each owner who seeks to develop in a stream buffer pursuant to section 17-604 shall submit a mitigation plan that includes the following in the form required by the administrator:~~

~~A. *Elements of plan.* Except as provided in subsection (B), each mitigation plan shall contain all of the following:~~

~~1. *Identify impacts and specify mitigation measures.* Identify the impacts of the proposed development on water quality and lands within the stream buffer, and specify the mitigation measures that will address water quality and stream buffer impacts.~~

~~2. *Disturbance to land and vegetation minimized.* Ensure that, where development takes place within a stream buffer: (i) the proposed development, including the alignment and design of any stream crossing, shall be located on those portions of a site and in a manner that will be least disruptive to the natural functions of the stream buffer; (ii) no more land shall be disturbed than is necessary to allow a development that is permitted in the underlying zoning district under the applicable regulations of the Zoning Ordinance; and~~

~~(iii) native vegetation shall be preserved to the fullest extent possible, consistent with the proposed development.~~

~~3. *Multiple stream crossings; demonstrate environmental advantage over single stream crossing.* If an owner seeks to establish more than one stream crossing as provided in section 17-604(C)(7), demonstrate that the environmental impacts from the entire road, street or driveway necessitated by a single stream crossing would be greater than the environmental impacts caused by an additional crossing and its associated road, street or driveway. For the purposes of this subsection, the environmental impacts considered by the administrator include, but are not limited to, impacts to soil, soil erosion, stormwater quantity, water quality, loss of vegetated stream buffer, impacts to stream beds and stream banks, the creation of impervious surfaces, and the disturbance of slopes of twenty-five (25) percent or greater.~~

~~4. *Additional information.* Additional information deemed necessary by the administrator for a complete review of the plan.~~

~~B. — *Building permit in lieu of satisfying requirements of subsection (A).* For any mitigation plan pertaining to the development of one single-family detached dwelling, the administrator may, in his discretion, accept the building permit for the dwelling in lieu of satisfying the requirements of subsection (A).~~

~~(§ 19.3-46, 2-11-98; § 19.2-8, 6-19-91, § 8; § 19.1-13, 6-19-91, § 13; Code 1988, §§ 19.1-13, 19.2-8, 19.3-46; § 17-322, Ord. 98-A(1), 8-5-98; Ord. 08-17(2), 5-7-08; Ord. 11-17(1), 10-5-11; § 14-406, Ord. 14-17(1), 5-7-14, effective 7-1-14)~~

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

ARTICLE VI. STREAM BUFFERS

Sec. 17-600 [Repealed]

~~Except as provided in section 17-602, each ESM plan and each VSMP 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 one hundred (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) one hundred (100) feet on each side of any perennial or intermittent 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; or (ii) the limits of the floodplain. The stream buffer must be no less than two hundred (200) horizontal feet wide from the floodplain of any public water 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)~~

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

Sec. 17-601 [Repealed]

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.~~

Sec. 17-602 [Repealed]

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)~~

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

Sec. 17-603 [Repealed]

~~If otherwise authorized by the applicable regulations of the Zoning Ordinance, the following types of structures, control measures and activities shall be allowed in a stream buffer, provided that the requirements of this section are 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 [Repealed]

~~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 fifty (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. ~~Perennial streams.~~ For crossings of perennial streams, bridges, arch culverts, or box culverts shall be used for the stream crossing and shall be sized to pass the ten (10) year storm, or the twenty five (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. 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 (6) 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 (10) year storm, or the twenty five (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 thirty (30) linear feet of stream for driveways and sixty (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 (7) 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 (2) square feet of stream buffer restored for every one (1) 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.~~

6. ~~Evidence of required permits.~~ The owner shall provide the administrator with copies of approved State and Federal permits associated with the stream crossing, if applicable.
7. ~~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 fifty (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 9-1-24)

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

AMENDING:

CHAPTER 7 HEALTH AND SAFETY

Sec. 7-503 Exemptions.

This division does not apply in: ...

- F. Any ~~stream~~ riparian buffer required by the County Code or which is protected under a permanent conservation or open-space easement.

CHAPTER 14 – SUBDIVISION OF LAND

Sec. 14-234 Procedure to authorize private street and related matters.

~~Requests~~ Proposals under sections 14-232 and 14-233 ~~shall~~ will be submitted, processed, and acted upon as follows:

- A. A subdivider ~~shall~~ must submit a ~~request~~ proposal in writing to the agent at the time of the submittal of the preliminary plat or may, within the development areas, submit the written request prior to submittal of a preliminary plat or with an application to rezone the land.

- 1. The ~~request~~ proposal ~~shall~~ must state the reasons and justifications for the ~~request~~ proposal, and ~~shall~~ must particularly address one or more applicable bases for granting the ~~request~~ proposal as identified in sections 14-232 or 14-233, and each of the five findings identified in paragraph (C) required to be made...

- (b) If the ~~request~~ proposal is made prior to submittal of a preliminary plat or with an application to rezone the land, it also ~~shall~~ must include: (i) a justification for the ~~request~~ proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; (vii) proposed private street profiles; and (viii) the maximum number of lots to be served.

Sec. 14-302 Contents of preliminary plat.

A preliminary plat ~~shall~~ must contain the following information: ...

B. A preliminary plat ~~shall~~ must also contain the following information, provided that the preliminary plat ~~shall is not be deemed~~ incomplete for purposes of section 14-218 if it does not include this information in the initial plat submittal: ...

1. ~~Stream Riparian~~ buffers. The location of ~~stream~~ required riparian buffers required by the ~~water protection zoning~~ ordinance, with the following note: "The ~~stream riparian~~ buffer(s) shown hereon ~~shall~~ must be managed in accordance with the applicable standards of the Albemarle County Code the ~~Albemarle County Water Protection Ordinance.~~"

Sec. 14-404 Lot location to allow access from lot onto street or shared driveway.

Each lot within a subdivision ~~shall~~ must be located as follows:

D. Standards for variation or exception. ~~The requirement of~~ Subsection (A) may be varied or excepted by the agent as provided in section 14-203.1. A request proposal for a variation or exception may be made prior to or with submittal of a preliminary or final plat, as follows:

1. Information to be submitted. A request proposal ~~shall~~ must include a justification for the variation or exception and a conceptual plan. The conceptual plan ~~shall~~ must: (i) be drawn at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property or an alternative scale approved by the agent; (ii) show the topography of the property at the best interval available from the County including delineation of proposed building sites; (iii) show the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, and known wetlands; and (v) show the proposed layout of lots, location of existing features such as buildings, fences, drainfields, existing driveways or other access ways, or other significant features.
2. Consideration. In reviewing a request proposal for a variation or exception and determining whether the findings provided in section 14-203.1 can be made, the agent ~~shall~~ will consider whether: (i) installing a single point of access would substantially impact environmental resources such as streams, ~~stream~~ riparian buffers, steep slopes, and floodplain; (ii) construction of a single point of access would substantially impact features existing on the property prior to October 14, 2009; (iii) granting the variation or exception would contribute to maintaining an agricultural or forestal use of the property; and (iv) granting the a variation or exception would facilitate development of areas identified in the open space plan as containing significant resources.

Sec. 14-409 Coordination and extension of streets.

Public streets within the development areas ~~shall~~ must be coordinated and extended as follows: ...

C. Variation or exception by commission of coordination requirement. The requirements of subsection (A) may varied or excepted by the commission as provided in section 14-203.1. A ~~request~~ proposal for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. Information to be submitted. If such a ~~request~~ proposal is made, it ~~shall~~ must include: (i) a justification for the ~~request~~ proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of the nearest development and rural area boundaries, and the maximum number of lots proposed in the subdivision.

2. Consideration. In reviewing a ~~request~~ proposal for a variation or exception under section 14-203.1, the commission ~~shall~~ will consider: (i) the engineering requirements for coordination and connection; (ii) whether the need for coordination and connection outweighs the impacts on environmental resources such as streams, ~~stream~~ riparian buffers, steep slopes, and floodplain; (iii) whether the street would and should be extended into the rural areas; (iv) whether there is an alternative street connection from another location in the subdivision that is preferable because of design, traffic flow, or the promotion of the goals of the comprehensive plan, including the neighborhood model, and the applicable neighborhood master plan; and (v) whether the variation or exception would enable a different principle of the neighborhood model to be satisfied to a greater extent so that the overall goals of the neighborhood model are more fully achieved.

D. Variation or exception by agent of extension requirement. The requirements of subsection (B) may be varied or excepted by the agent as provided in section 14-203.1. A ~~request~~ proposal for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. Information to be submitted. If such a ~~request~~ proposal is made, it ~~shall~~ must include: (i) a justification for the ~~request~~ proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers,

steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) identification of the location of the nearest development and rural area boundaries and the maximum number of lots proposed in the subdivision.

2. Consideration. In reviewing a ~~request~~ proposal for a variation or exception under section 14-203.1, the agent ~~shall~~ will consider whether: (i) extending the street to the abutting property line would require offsite easements; (ii) the need for the extension outweighs the impacts on environmental resources such as streams, ~~stream~~ riparian buffers, steep slopes, and floodplain; (iii) alternative connections to the abutting lands from a different location would provide a better connection; (iv) the subdivider would contribute to the cost to complete the extension to the abutting property line when the adjoining lands are developed, and how; and (v) the street would be extended into the rural areas.

Sec. 14-410 Standards for all streets and alleys.

The following minimum design standards ~~shall~~ apply to all streets and alleys within a subdivision: ...

- I. Variation of or exception to requirement for curb or curb and gutter. The requirement for curb or curb and gutter may be varied or excepted by the commission as provided in section 14-203.1. A ~~request~~ proposal for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. Information to be submitted. If such a ~~request~~ proposal is made, it ~~shall~~ must include: (i) a justification for the ~~request~~ proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the maximum number of lots to be served by the rural cross-section street, the location of the nearest development and rural area boundaries, and a cross-section of existing streets to which the proposed subdivision streets would be extended, if any.

Sec. 14-422 Sidewalks and planting strips.

Sidewalks and planting strips ~~shall~~ must be provided as follows:...

- E. Variation of or exception to sidewalk requirements. The requirements for sidewalks may be varied or excepted by the commission as provided in section 14-203.1. A

request proposal for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. Information to be submitted. If such a request proposal is made, it ~~shall~~ must include: (i) a justification for the request proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of any existing pedestrian network in the area, whether it is publicly or privately maintained, descriptions by widths and surfaces of the pedestrian ways within the existing pedestrian network, a proposed alternative profile and the intended ownership and maintenance.
2. Consideration. In reviewing a request proposal to vary or except the requirement for sidewalks, the commission ~~shall~~ will consider whether: (i) a variation or exception to allow a rural cross-section has been granted; (ii) a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood; (iii) sidewalks on one side of the street are appropriate due to environmental constraints such as streams, ~~stream~~ riparian buffers, steep slopes, floodplain, or wetlands, or because lots are provided on only one side of the street; (iv) the sidewalks reasonably can connect into an existing or future pedestrian system in the area; (v) the length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit; (vi) an alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider; (vii) the sidewalks would be publicly or privately maintained; (viii) the waiver promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and (ix) waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved.

F. Variation of or exception to planting strip requirements. The requirements for planting strips may be varied or excepted by the commission as provided in section 14-203.1. A request proposal for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. Information to be submitted. If such a request proposal is made, it ~~shall~~ must include: (i) a justification for the request proposal; (ii) a vicinity map showing a larger street network at a scale no smaller than one inch equals 600 feet; (iii) a conceptual plan at a scale no smaller than one inch equals 200 feet showing surveyed boundaries of the property; (iv) topography of the property at five-foot intervals for the property being subdivided and on abutting lands to a

distance of 500 feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, ~~stream~~ riparian buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable.

CHAPTER 17 – WATER PROTECTION

ARTICLE I – GENERAL

Sec. 17-103 Applicability.

This chapter, or the applicable parts thereof, ~~shall apply~~ applies to: ---

A. *Land-disturbing activity within the County and the Town of Scottsville.* Any land-disturbing activity within the County and within the Town of Scottsville, including that portion of the Town of Scottsville located within the County of Fluvanna, to which the VESMP applies under this chapter and under State and Federal law.

B. *Erosion impact areas.* Any land identified by the administrator as an erosion impact area within the County and the Town of Scottsville, to which the parts of this chapter pertaining to erosion and sediment control, including the requirement for the submittal and approval of an erosion and sediment control plan.

~~C. *Stream buffers.* Any area within the County and the Town of Scottsville designated as a stream buffer under this chapter.~~

~~D.C.~~ D. *Permanent stormwater management facilities.* Any areas served by a public permanent stormwater management facility.

~~E.D.~~ E. *Discharges, connections and dumping.* All activities that cause or allow to be caused direct or indirect illicit discharges, illicit connections, and the prohibited dumping of refuse and pollutants, or that negatively impede the flow capacity of the County's MS4 or State waters.

ARTICLE II – ADMINISTRATION

Sec. 17-205 Definitions.

~~Contiguous nontidal wetlands.~~ The term "contiguous nontidal wetlands" means nontidal wetlands that lie within or adjacent to a stream channel or within the flood plain of that stream channel so that there is a hydrologic connection between the stream and

the wetland, and that include impoundments of water along a natural stream channel.

~~*Development area.* The term “development area” means any portion of the County designated as such in the Comprehensive Plan.~~

~~*Mitigation plan.* The term “mitigation plan” means a plan that meets the requirements of section 17-406 that describes how encroachments into a stream buffer will be mitigated through runoff treatment, revegetation, the addition of extra buffer areas, or other appropriate best management practices. A mitigation plan may be a component of a land-disturbance permit or an ESM plan.~~

~~*Necessary infrastructure.* The term “necessary infrastructure” means components of a site development necessary for the protection of the public health, safety, or welfare, and environmental features and they include, but are not limited to, drainage channels, structures and facilities, best management practices, access roads for emergency vehicles, and access roads in order to maintain stormwater management facilities or water-dependent facilities, or both.~~

~~*Other rural land.* The term “other rural land” means any portion of the County that is designated Rural Area in the Comprehensive Plan but that is not within a water supply protection area.~~

~~*Perennial stream.* The term “perennial stream” means any stream that is depicted as a continuous blue line on the most recent United States Geological Survey 7.5 minute topographic quadrangle maps (scale 1:24,000), which is determined by the program authority to be perennial following a site-specific evaluation using the guidance entitled “Determinations of Water Bodies with Perennial Flow,” dated September 2003, issued by the Chesapeake Bay Local Assistance Department, or which is delineated as a perennial stream by the United States Army Corps of Engineers, the Virginia Department of Environmental Quality, or under the Virginia Water Protection program, or MS4.~~

~~*Stream buffer.* The term “stream buffer” means an area of land at or near a tributary streambank or nontidal wetland, or both, that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to the quality of State waters.~~

~~*Streamside Management Zone.* The term “streamside management zone” means an area of reduced management activity on both sides of the banks of perennial and intermittent streams and bodies of open water where extra precaution is used in carrying out forest practices to protect bank edges and water quality.~~

~~*Water-dependent facility.* The term “water-dependent facility” means a development that cannot exist outside of the stream buffer and must be located on the shoreline because of the intrinsic nature of its operation and which include, but are not limited to: (i) the intake and outfall structures of power plants, sewage treatment plants, water treatment plants, and storm sewers; (ii) public water-oriented recreation areas; and (iii) boat docks and ramps.~~

~~*Water supply protection area.* The term “water supply protection area” means those areas of land within the County that are within the watershed of a public water~~

~~supply reservoir or water supply intake, and those areas consist of all land within the County that drains naturally to the South Fork Rivanna Reservoir, Beaver Creek Reservoir, Totter Creek Reservoir, Sugar Hollow Reservoir, Ragged Mountain Reservoir, the North Fork Rivanna River intake, and to any impoundment or water supply intake designated in the future by the board of supervisors as a public water supply reservoir.~~

ARTICLE IV. PROCEDURE FOR SUBMITTING, REVIEWING AND ACTING ON APPLICATIONS; POST-APPROVAL RIGHTS AND OBLIGATIONS

DIVISION 1. APPLICATION REQUIREMENTS

Sec. 17-401 Land disturbance permit application; form and content.

Any owner whose proposed land disturbing activity is subject to this chapter must submit an application for a land disturbance permit that includes all of the following, in the form required by the administrator:

- A. *Application form.* A completed application on a form or in a format provided by the administrator, signed by the owner.
- B. *Fees.* All applicable fees required by County Code Chapter 1, Article 5 and the applicable fee form.
- C. *Registration statement.* A complete and accurate registration statement, if such a statement is required, from the operator on the official form provided by the Virginia Department of Environmental Quality in order to apply for general permit coverage. The registration statement must be signed by the owner in accordance with 9VAC25-875-940 and 9VAC25-880-70. A registration statement is not required for construction of a detached single-family dwelling within or outside of a common plan of development or sale, provided that the project complies with the requirements of the general permit.
- D. *Erosion and sediment control plan.* An erosion and sediment control plan satisfying the requirements of sections 17-402 and 17-500 or an executed agreement in lieu of an erosion and sediment control plan, if allowed by the administrator.
- E. *Stormwater management plan.* A stormwater management plan satisfying the requirements of sections 17-403 or an executed agreement in lieu of a plan, if allowed by the administrator.
- F. *Pollution prevention plan.* A pollution prevention plan satisfying the requirements of section 17-404.
- G. *Stormwater pollution prevention plan.* An SWPPP satisfying the requirements of section 17-405.
- H. *Mitigation plan.* A mitigation plan satisfying the requirements of chapter 18 section 4.23 17-406 if land disturbing activity is proposed within a stream-riparian buffer, ~~under section 17-604.~~

- I. ~~Requested~~ Proposed variations or exceptions. A ~~request~~ proposal for any variation or exception as provided in sections 17-407 and 17-408.
- J. *Construction record drawings*. Construction record drawings if existing stormwater management facilities are used, satisfying the requirements of section 17-422.

DIVISION 4. POST-APPROVAL RIGHTS AND OBLIGATIONS

Sec. 17-416 Effect of approvals.

The effect of an approval of a land-disturbance permit, is as follows:

- A. *Land-disturbance permit*. An approved, land disturbance permit is a consolidated permit authorizing the owner to engage in land disturbing activity as provided by the approved erosion and sediment control plan, the approved stormwater management plan, the pollution prevention plan, the SWPPP, and the mitigation plan, if applicable, and the general permit, if applicable, subject to any applicable requirements of any such plans and this chapter including, but not limited to, sections 17-417 through 17-424, and sections 17-800 through 17-807, and State and Federal law. The consolidated permit must include a copy of, or a reference to, the general permit coverage to discharge stormwater. Any land-disturbing activity may be conducted only as approved under the land-disturbance permit. Any plan approved in conjunction with a land-disturbance permit must be implemented only as it was approved.
- B. *Erosion and stormwater management (ESM) plans for residential, commercial or industrial subdivisions govern development*. The approved ESM plan will govern the development of the individual parcels until development of the project is complete, including those parcels developed under subsequent owners.

ARTICLE V. TECHNICAL CRITERIA

Sec. 17-500 Erosion and sediment control plans; applicable technical criteria.

Each erosion and sediment control plan must satisfy the following, as applicable:

- A. *Erosion and sediment control minimum standards*. The criteria, techniques and methods provided in 9VAC25-875-560.
- B. *Annual standards and specifications*. Any applicable annual standards and specifications approved by the Virginia Department of Environmental Quality.
- C. *Stormwater pollution prevention*. If the land disturbing activity also requires a land-disturbance permit, the requirements in 9VAC25-875-500(F) and as

specified in 40 CFR 450.21.

- D. ~~Stream~~ Riparian buffers. The procedures and requirements for land disturbing activity and development in riparian stream buffers, as provided in chapter 18 section 4.23 17-600 et seq.
- E. *County design standards*. The technical criteria, including County notes and details, as provided in the Design Standards Manual.

Sec. 17-501 Applicability of other laws and regulations; time limits on applicability of approved design criteria.

Each land disturbance permit application must satisfy the following criteria, techniques, and methods:

- A. *Land disturbing activity that obtained general permit coverage or commenced land disturbing activity prior to July 1, 2014.* Any land disturbing activity that obtained general permit coverage or commenced land disturbing activity prior to July 1, 2014 must be conducted in accordance with the technical criteria of 9VAC25-875-670 through 9VAC25-875-730. These projects remain subject to the technical criteria of 9VAC25-875-670 through 9VAC25-875-730 for an additional two general permit cycles. After that time, the portions of the project not under construction will become subject to any new technical criteria adopted by the State Water Control Board.
- B. *Land disturbing activity that obtains initial general permit coverage on or after July 1, 2014.* Any land disturbing activity that obtains initial general permit coverage on or after July 1, 2014 must be conducted in accordance with the technical criteria of 9VAC25-875-570 through 9VAC25-875-660, except as provided in subsection (C). These projects remain subject to the technical criteria of 9VAC25-875-570 through 9VAC25-875-660 for an additional two general permit cycles. After that time, the portions of the project not under construction will become subject to any new technical criteria adopted by the State Water Control Board.
- C. *Land disturbing activity related to certain development approvals prior to July 1, 2012.* Any land disturbing activity will be subject to the technical criteria of 9VAC25-875-670 through 9VAC25-875-730, provided all of the following apply:
 - 1. *Prior qualifying approval.* A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the County to be equivalent thereto (i) was approved by the County prior to July 1, 2012; (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of 9VAC25-875-670 through 9VAC25-875-730; and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the

amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff.

2. *General permit not issued.* A general permit has not been issued prior to July 1, 2014.
 3. *Land disturbing activity not commenced.* Land disturbing activity did not commence prior to July 1, 2014.
 4. *Duration.* Land disturbing activities under this subsection (C) will remain subject to the technical criteria of 9VAC25-875-670 through 9VAC25-875-730 for one additional general permit cycle. After that time, the portions of the project not under construction will become subject to any new technical criteria adopted by the State Water Control Board.
- D. *Land disturbing activity related to County, State or Federal funded projects.* County, State and Federal projects are subject to the technical criteria of 9VAC25-875-670 through 9VAC25-875-730, provided all of the following apply:
1. *Prior qualifying obligation.* There has been an obligation of County, state or federal funding, in whole or in part, prior to July 1, 2012, or DEQ has approved a stormwater management plan prior to July 1, 2012.
 2. *General permit not issued.* A general permit has not been issued prior to July 1, 2014.
 3. *Land disturbing activity not commenced.* Land disturbance did not commence prior to July 1, 2014.
 4. *Duration.* Land disturbing activities under this subsection (D) will remain subject to the technical criteria in 9VAC25-875-670 through 9VAC25-875-730 for one additional general permit cycle. After that time, the portions of the project not under construction will become subject to any new technical criteria adopted by the State Water Control Board.
- E. *Land disturbing activity related where government bonds or other instruments of public debt financing issued.* In cases where government bonding or public debt financing has been issued for a project prior to July 1, 2012, the project will be subject to the technical criteria in 9VAC25-875-670 through 9VAC25-875-730.
- F. *TMDLs.* The Chesapeake Bay TMDL as provided in 9VAC25-890-40 and any other local TMDLs applicable to a regulated land disturbing activity apply to land disturbing activities under this section.

- G. ~~Stream buffers.~~ Riparian buffers. Any land disturbing activity under subsections (A) through (E) also must comply with the requirements for riparian buffers in section 17-600 et seq. 18-4.23.
- H. *Pre-existing County requirements.* Any criterion more stringent than the technical criteria set forth in subsections (A) through (F) existing prior to January 1, 2005 in either this chapter or the Design Standards Manual applies to land disturbing activities under this section.
- I. *More stringent standards.* Nothing in this section precludes an operator from constructing to a more stringent standard at the operator's discretion.

CHAPTER 18 – ZONING

ARTICLE I – GENERAL PROVISIONS

Sec. 3.1 – Definitions

Contiguous nontidal wetlands. "Contiguous nontidal wetlands" means nontidal wetlands that lie within or adjacent to a stream channel or within the floodplain of that stream channel so that there is a hydrologic connection between the stream and the wetland, and which include impoundments of water along a natural stream channel.

Engineering Design Standards Manual. "Engineering Design Standards Manual" or "DSM" means the manual developed and maintained by the County Engineer that includes, among other things, technical criteria and best management practices.

Development. "Development," as used in regulations pertaining to dam break inundation zones, means one or more lots developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more dwelling units, but does not include any lot or lots that will be principally devoted to agricultural production. For purposes of floodplain management and riparian buffer protection standards, "development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Development area. "Development area" means any portion of the County designated as such in the Comprehensive Plan.

Intermittent stream. "Intermittent stream" means a natural stream or portion of a natural stream that has a defined bed and defined banks within which water flows in response to precipitation, through near surface groundwater flow, or from springs, and that is not a perennial stream.

Mitigation plan. "Mitigation plan" means a plan to address, avoid, reduce, repair, and/or minimize riparian impacts, and that meets the requirements of Section 4.23.9.

Natural stream. "Natural stream" means a tidal or nontidal watercourse that both: (i) is part of the natural topography, (ii) usually maintains a continuous or seasonal flow during the year, and (iii) is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales are not considered natural streams. Channels designed using natural channel design concepts may be considered natural streams.

Ordinary high-water mark. "Ordinary high-water mark" means that line established by fluctuations of water and indicated by physical characteristics such as (i) a clear, natural line impressed on the bank shelving; (ii) changes in the character of soil; (iii) destruction of terrestrial vegetation; (iv) the presence of litter and debris; or (v) other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream. "Perennial stream" means any stream that is: (i) depicted as a continuous blue line on the most recent United States Geological Survey 7.5 minute topographic quadrangle maps (scale 1:24,000), (ii) determined by the Riparian Buffer Administrator to be perennial following a site-specific evaluation using the guidance entitled "Determinations of Water Bodies with Perennial Flow," dated September 2003, issued by the Chesapeake Bay Local Assistance Department, or (iii) delineated as a perennial stream by the United States Army Corps of Engineers, the Virginia Department of Environmental Quality, or under the Virginia Water Protection program.

Riparian Buffer. "Riparian buffer" means the area extending from any applicable waterbody or wetlands as further defined in section 4.23.4.

Riparian Buffer Administrator. "Riparian Buffer Administrator" means the County Engineer or their designee, who has all necessary powers and authority to administer section 4.23.

Silvicultural activity. Any forest management activity as defined in Virginia Code section 10.1-1181.1.

Streamside management zone. "Streamside management zone" means an area of reduced management activity on both sides of the banks of perennial and intermittent streams and bodies of open water where extra precaution is used in carrying out forest practices to protect bank edges and water quality.

Supportive infrastructure. "Supportive infrastructure" means structures or improvements necessary for the protection of the public health, safety, or welfare, and environmental features. They include, but are not limited to, drainage channels, structures and facilities, best management practices, access roads for emergency vehicles, and access roads to maintain stormwater management facilities or water-dependent facilities.

Water-dependent facility. The term "Water-dependent facility" means a development that cannot exist outside of the flood hazard overlay district or riparian buffer, and must be located on the shoreline because of the intrinsic nature of its operation and which include, but are not limited to: (i) the intake and outfall structures of power plants, sewage treatment plants, water treatment plants, and storm sewers; (ii) public water-oriented recreation areas; and (iii) boat docks and ramps.

Watershed. "Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet, provided that in karst areas, the karst feature to which water drains may be considered the single outlet for the watershed.

Water supply protection area. "Water supply protection area" means those areas of land within the County that are within the watershed of a public water supply reservoir or water supply intake.

Article II Basic Regulations

Section 4 - General Regulations

Sec. 4.2 Critical Slopes and Water Protection

Sec. 4.2.1. Building site required

No lot other than a special lot ~~shall~~ may have less than one building site, subject to the following:

- a. Composition of building site. A building site ~~shall~~ must be composed of a contiguous area of land and may not contain any area of land that is: (i) in critical or preserved slopes; (ii) within the Flood Hazard Overlay District; (iii) within any riparian buffer subject to Section 4.23; or (iv) under water during normal hydrological conditions; ~~(iiiiv) within 200 horizontal feet of the 100-year floodplain of any public water supply reservoir; and (v) within a stream buffer under chapter 17 of the Code, provided that nothing contained herein shall be deemed to prohibit or impair the program authority from exercising its discretion as authorized in chapter 17.~~
- b. Special exception. Notwithstanding section 4.2.5, any requirement of section 4.2.1(a) may be waived or modified by special exception under section 33.5 upon the board of supervisors' consideration of whether (i) the parcel has an unusual size, topography, shape, location or other unusual physical conditions; ~~or (ii) development in a stream buffer on the parcel was authorized as provided in section 17-321.~~

Sec. 4.19 Setbacks and setbacks in residential districts

1. Whether a site is an infill or non-infill development, and the minimum and maximum setback, will be determined by the zoning administrator as an official determination provided to the owner.
2. Any minimum setback and any minimum building separation for a side yard, may be reduced by special exception.

3. The maximum front setback for a non-infill development ~~shall be increased to~~ is the depth necessary to avoid existing utilities, significant existing vegetation, steep slopes, perennial and intermittent streams, ~~stream riparian~~ buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building ~~shall~~ must meet the maximum setback...

Sec. 4.20 Setbacks and setbacks in conventional commercial and industrial districts

- a. Conventional commercial districts. The following ~~shall~~ provisions apply within the C-1, C0, and HC districts:
 1. The maximum front setback ~~shall be increased to~~ is the depth necessary to avoid existing utilities, significant existing vegetation, steep slopes, perennial and intermittent streams, ~~stream riparian~~ buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building ~~shall~~ must meet the maximum setback.

Sec. 5.1.28 Clean earth and inert waste fill activity.

- a. Each clean earth fill activity or inert waste fill activity not established and operated in conjunction with a permitted use under Section 30.4 of this chapter or established and operated in conjunction with an approved site plan or subdivision are subject to the following requirements:
 1. Each active fill area ~~shall~~ must be shaped and sloped so that no undrained pockets or stagnant pools of water are created to the maximum extent reasonably practicable as determined by the program authority. All undrained pockets and stagnant pools of water resulting from drainage ~~shall~~ must be treated as required by the Virginia Department of Health to eliminate breeding places for mosquitoes and other insects. Slope may not exceed 3:1. The height of fill may not exceed eight feet above natural grade.
 2. No fill area ~~shall~~ may be located either (a) within the flood hazard overlay district, except as authorized by Section 30.3 and Section 4.23 of this chapter, ~~or~~ (b) in any ~~stream riparian~~ buffer area as defined by Chapter ~~18.47~~ of the Code of Albemarle or (c) on any hydric soils as identified by the United States Department of Agriculture.

Sec. 5.1.44 Farm worker housing.

Each farm worker housing facility ~~shall be~~ is subject to the following provisions:

- a. *Concept plan to be submitted with application for farm worker housing.* Before applying for the first building permit for a farm worker housing, Class A, facility, or in addition to any other information required to be submitted for a farm worker housing, Class B, special use permit, the applicant ~~shall~~ must submit a concept plan meeting the requirements of Section 5.1.44(b).
- b. *Contents of concept plan.* The concept plan ~~shall~~ must show the following: (i) the boundary lines of the farm (may be shown on an inset map if necessary); (ii) the location and general layout of the proposed structures at a scale of not more than one inch equals 40 feet; (iii) vehicular access, travelways and parking for the facility; (iv) topography (with a contour interval of no greater than ten feet); (v) critical slopes; (vi) streams, ~~stream~~ riparian buffers and floodplains; (vii) source(s) of water for fire suppression; (viii) building setback lines as provided in subsection 5.1.44(g) below; and (ix) outdoor lighting. The concept plan also ~~shall~~ must include a written description of each structure's construction and materials used, and the number of persons to be housed in the farm worker housing facility...

Sec. 30.7.4 Permitted uses.

The following uses and structures are permitted by right or by special use permit on managed or preserved slopes, provided that the land disturbing activity to establish the use or structure complies with design standards in Section 30.7.5 and all other applicable requirements of the Code: ...

- b. *Preserved slopes.* The uses permitted by right and by special use permit on preserved slopes are as follows, subject to the applicable requirements of this chapter:
 1. *By right.* The uses permitted by right on preserved slopes are the following:
 - a. *Existing single-family dwelling unit.* Any single-family detached or single-family attached dwelling unit ~~which~~ that was lawfully in existence prior to March 5, 2014 may be expanded, enlarged, extended, modified or reconstructed. For the purposes of this subsection, the term "lawfully in existence" includes, but is not limited to, any single-family detached or single-family attached dwelling unit for which a building permit was issued prior to March 5, 2014; provided that the building permit has not expired.
 - b. *Existing lot of record; first single-family detached dwelling unit.* Any lot ~~which~~ that was a lawful lot of record on March 5, 2014 may establish the first single-family detached dwelling unit on the lot; provided the lot does not contain adequate

land area outside of the preserved slopes to locate the dwelling unit. For the purposes of this subsection, the term "lawful lot of record" includes any lot shown on a subdivision plat approved prior to March 5, 2014; provided that the plat is still valid.

- c. *Necessary public facilities.* Public facilities necessary to allow the use of the lot, provided that the lot does not contain adequate land area outside of the preserved slopes to locate the public facilities and one or more of the following exist: (i) the land disturbing activity avoids impacts on other protected resources such as ~~stream~~ riparian buffers or floodplain; (ii) the alignment of the public facilities is consistent with the alignment of public facilities depicted or described in the comprehensive plan; (iii) the disturbance is necessary to provide interconnection required by the Code or the applicable regulations of other public entities; or (iv) prohibiting the facilities from being located on preserved slopes will cause an unnecessary hardship. To the extent that public facilities are established on preserved slopes, the preserved slopes should be preserved to the maximum extent practicable consistent with the intent and purpose of this overlay district. ...

APPENDIX A.1 ACQUISITION OF CONSERVATION EASEMENTS PROGRAM

Sec. A.1-109 Easement terms and conditions.

- B. *Protection of conservation resources.* The deed of easement ~~shall~~ must include the following restrictions if the owner is eligible for points under section A.1-108 for the resources identified therein: ...

3. *~~Stream~~ Riparian buffers.* If the parcel is eligible for points in the evaluation process under section A.1-108(C)(8) for adjoining or containing perennial streams, the deed of easement ~~shall~~ must provide for a ~~stream~~ riparian buffer at least 35 feet wide from the top of each bank of any perennial stream, as defined in section 3.1 and as set forth in section 4.23.4. ~~that term is defined in Chapter 17, Water Protection, of the Albemarle County Code.~~ At a minimum, the deed of easement ~~shall~~ must provide that within the ~~stream~~ riparian buffer, there be:

- (a) no livestock, except (i) during times of drought or other emergencies, (ii) for stream crossings, or (iii) for watering at limited access points;
- (b) no buildings or other substantial structures constructed;
- (c) no timber harvest(s); and
- (d) no plowing, cultivation, filling, dumping, or other earth-disturbing activity, except as may be reasonably necessary for the limited permitted activities set forth in the deed.

4. *Scenic rivers.* If the parcel is eligible for points in the evaluation process under section A.1-108(C)(9) for adjoining or containing a Virginia scenic river, the deed of easement ~~shall~~ must provide that each new dwelling (a) have a 250-foot setback from the top of

the subject stream bank or (b) if within 250 feet of the top of the subject stream bank, be sited in a location approved by each grantee prior to issuance of a building permit to assure that the dwelling is not visible from the scenic river at any time of the year.

DRAFT

ADDING:

CHAPTER 18 ZONING

Article II – Basic Regulations

Section 4 – General Regulations

Sec. 4.23 Riparian Buffer Protection Standards

Section 4.23.1 Intent

- A. **State Water Control Law.** Consistent with the State Water Control Law (Virginia Code § 62.1-44.2 *et seq.*), these Riparian Buffer Protection Standards are adopted to:
1. Protect existing high-quality state waters;
 2. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
 3. Safeguard the waters of the Commonwealth from pollution;
 4. Prevent any increase in pollution;
 5. Maintain and improve riparian habitat;
 5. Reduce existing pollution; and
 6. Promote water resource conservation in order to provide for the health, safety and welfare of the present and future residents of Albemarle County and the Commonwealth of Virginia.
- B. **Additional purposes.** These Riparian Buffer Protection Standards are further intended to protect riparian buffers by:
1. Limiting development and land disturbance adjacent to surface watercourses and contiguous nontidal wetlands; and
 2. Encouraging retention of native vegetation as necessary to:
 - a. Protect public and private water supplies;
 - b. Trap sediment and other pollutants in surface runoff;
 - c. Promote stream/river bank stabilization;

- d. Protect fish and wildlife habitat;
- e. Provide for storm and flood mitigation; and
- f. Preserve scenic and recreational resources.

Sec 4.23.2 – Applicability

- A. **Relationship to other regulations.** These Riparian Buffer Protection Standards in Section 4.23 supersede any less restrictive conflicting regulations. Any more restrictive provision of Section 30.3 applies to any riparian buffer that is both subject to Section 4.23 and within the Flood Hazard Overlay District.
- B. **Pre-existing uses and improvements.** Any use or improvement, not including buildings or structures, lawfully existing on XX (RB adoption date) is nonconforming if it is not in compliance with section 4.23.
- C. **Buildings and structures.** Any building or structure that existed on February 11, 1998 may continue in its location on that date. The repair, replacement, expansion or enlargement of any such building or structure may be permitted by the Riparian Buffer Administrator under a mitigation plan as required under section 4.23.9 unless prohibited by sections 6 and 30.3.

Sec 4.23.3 – Appointment, Powers, and Duties of Riparian Buffer Administrator

For the purposes of section 4.23, “Riparian Buffer Administrator” means the County Engineer or the Engineer’s designee. The Riparian Buffer Administrator has all necessary authority to administer section 4.23, including but not limited to the following powers and duties:

- 1. Interpret the exact location of riparian buffers.
- 2. Make interpretations related to the administration of section 4.23, including permitted structures, improvements, and activities.
- 3. Enforce section 4.23 in conjunction with the Zoning Administrator.

Sec 4.23.4 – Boundaries - General

- A. **Map.** The County’s Geographic Information System illustrates the general extent of the riparian buffer boundaries, subject to adjustments as provided in Section 4.23.5, but does not definitively identify all riparian buffers and boundaries.
- B. **Defined boundaries.** Riparian buffers extend from any applicable waterbody or wetlands to the farther of the following:

<u>Development Area</u>	<u>Not within a water supply protection area</u>	<u>100 feet wide on each side of a perennial stream and contiguous nontidal wetlands</u>
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	<u>Within a water supply protection area</u>	<u>The wider of either (i) 100 feet on each side of both a perennial or intermittent stream and its contiguous nontidal wetlands, or (ii) the limits of the Flood Hazard Overlay District</u>
<u>Public water supply impoundments</u>	<u>200 feet located adjacent to and landward of any such impoundment as measured horizontally from the limits of the Flood Hazard Overlay District</u>	
<u>All other locations</u>	<u>The wider of either (i) 100 feet on each side of both any perennial or intermittent stream and its contiguous nontidal wetlands or (ii) the limits of the Flood Hazard Overlay District</u>	

- C. **Measurement.** The distance from the side of a stream is measured from the top of its bank. The areal extent of a pond or lake is measured at its ordinary high-water mark. The full riparian buffer area extends as designated regardless of the presence of any permitted uses, encroachments, and/or vegetation clearing.

Sec. 4.23.5 – Site-Specific Survey and Determinations of Riparian Buffers

- A. **Development Applications:** All development applications, plans, or permits must include either (i) a site-specific survey of riparian buffer boundaries, applying the standards in Sections 4.23.4, or (ii) a statement that the site does not include riparian buffers. If, after reviewing such a statement, the Riparian Buffer Administrator determines that the site does include riparian buffers, the applicant must submit a site-specific survey.
- B. **Optional Boundary Determinations:** A site-specific surveys of the location of the riparian buffers may be submitted for review by the Riparian Buffer Administrator.
- C. **Exemption:** The Riparian Buffer Administrator may exempt single-family residences from Section 4.23.5(A).
- D. **Site-Specific Determinations of Boundaries.** All site-specific surveys of the location of riparian buffer boundaries are subject to review and approval by the Riparian Buffer Administrator. The surveys must be certified by a professional engineer, land surveyor, landscape architect, soil scientist, or wetland delineator, any of whom must be certified or licensed to practice in the Commonwealth of Virginia. As a result of a survey, the Riparian Buffer Administrator may add, remove, or adjust the location of the riparian buffer on a specific site and as shown on the County's GIS map.

Sec 4.23.6 – General Performance Standards.

- A. **Landcovers.** Permitted landcovers and changes thereto are subject to the Engineering Design Standards Manual's "Permitted Landcover Change Matrix."

- B. **Buffer management.** Except for any structures, improvements, and/or activities authorized by Sections 4.23.7 or 4.23.8, each riparian buffer must be managed as follows:
1. Native vegetation in the riparian buffer must not be disturbed or removed, regardless of the size of the area affected.
 2. Each riparian buffer must be maintained in as natural a condition as possible. The preferred vegetative cover is a native riparian forest with ground cover, shrub, understory, and tree canopy layers.
 3. Stream buffer vegetation must be installed at the planting densities recommended in the Virginia Department of Conservation and Recreation's most current Riparian Buffers Modification & Mitigation Guidance Manual when any activities permitted in section 4.23.7(B) cease or are converted to a use not permitted in that section.
- C. **Performance standards.** Any use, development, or redevelopment of land in riparian buffers must meet the following performance standards:
1. No more land may be disturbed than is necessary to provide for the proposed use, development, or redevelopment;
 2. Native vegetation must be preserved to the maximum extent practicable based on the use, development, or redevelopment proposed;
 3. Impervious cover must be minimized consistent with the use, development, or redevelopment proposed;
 4. Any land disturbing activity must comply with all applicable County requirements;
 5. Structures and improvements must be constructed to minimize erosion;
 6. For developments providing common areas (including open space), either:
 - a. Riparian buffers must be located outside individual building lots; or
 - b. The Riparian Buffer Administrator may authorize riparian buffers on individual building lots if a permanent easement or other legal instrument requires preservation of the buffer consistent with section 4.23.
 7. Where a development includes a riparian buffer, the developer must install signage to identify the landward boundary of the buffer. For purposes of this subsection, the term "development" means a subdivision creating one or more lots or a construction activity requiring a site plan, and does not apply to property principally devoted to *bona fide* agricultural production. The Riparian Buffer Administrator will determine the appropriate number, size, location, and wording of the signage, based on guidelines in the Engineering Design Standards Manual (DSM).

Sec. 4.23.7 – Permitted Structures, Improvements, and Activities.

- A. **Compliance with regulations.** To be permitted, any structure, use, or activity listed in section 4.23.7(B) must comply with all of the following requirements:
1. Section 4.23.6;
 2. All applicable federal, state, and County permits; and
 3. All applicable requirements of this Chapter.
- B. **Permitted structures, Improvements and Activities.** If they comply with all requirements of Section 4.23.7(A), the following structures, improvements, and activities are permitted within riparian buffers:
1. Agricultural activity, other than structures.
 2. Silvicultural activity conducted in compliance with the Virginia Department of Forestry's "Virginia's Forestry Best Management Practices for Water Quality," including the establishment of Streamside Management Zones.
 3. The construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads constructed by the Virginia Department of Transportation (VDOT) and their appurtenant structures, if such activities comply with all of the following requirements:
 - a. The Virginia Erosion and Stormwater Management Act and its regulations.
 - b. An approved soil erosion and stormwater management plan; and
 - c. Local water quality protection standards that are at least as stringent as state requirements.
 4. The construction, installation, and/or maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by a local government or regional service authority provided that:
 - a. To the degree possible, such utilities and facilities are located outside of riparian buffers;
 - b. No more land may be disturbed than is necessary to provide for the proposed utility installation; and
 - c. All such construction, installation, and maintenance of such utilities and facilities must comply with all applicable County, state, and federal permits and be designed and conducted in a manner that protects water quality.
 5. Water-dependent structures or facilities, provided that:

- a. Any non-water dependent component must be located outside of the buffer;
- b. Only a single point of access may be provided; and
- c. Disturbance must be minimized to that necessary for the access.
6. Passive recreation access and facilities, such as:
 - a. Educational signs and kiosks; and
 - b. Trails or paths with pervious surfaces and boardwalks, in accordance with the Virginia Department of Conservation and Recreation's most current Riparian Buffers Modification & Mitigation Guidance Manual. Paths serving individual residential lots must be no more than four feet wide except as necessary for ADA or emergency services accessibility.
7. Historic preservation and archaeological activities, as approved by the Riparian Buffer Administrator in conjunction with the Zoning Administrator.
8. Buffer replacement and restoration activities subject to the following standards:
 - a. A plan or narrative approved by the Riparian Buffer Administrator;
 - b. Mature trees must be preserved and either trimmed or pruned in lieu of removal as site conditions permit. Removal of native vegetation must be limited to the least amount feasible. Removal of trees or other vegetation must be replaced with:
 - (1) native vegetation that is appropriate to site conditions and equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff; and
 - (2) replaced so as to maximize the buffer function and to protect water quality.
 - c. Permitted replacement and restoration activities include:
 - (1) Buffer reestablishment after conversion of agricultural or silvicultural land to another land use;
 - (2) Restoration of vegetation where forestry or agricultural best management practices recommend removal and replacement of vegetation for the health of the buffer;
 - (3) Replacement of vegetation that was removed to achieve either a sightline or access path or for woodlot management; and
 - (4) Replacement of illegal removal or excessive removal of vegetation.

9. Planting trees, shrubs, or other native vegetation in accordance with the Engineering Design Standards Manual (DSM).
 10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.
 11. When authorized by the Riparian Buffer Administrator, removal of vegetation that either poses a clearly demonstrable danger to buildings or otherwise is a danger to public health or safety.
- C. **Pre-existing buildings or structures.** Any building or structure that existed on February 11, 1998 may continue in its location on that date. However, nothing in this section authorizes the repair, replacement, expansion, or enlargement of any such building or structure except as provided by sections 18-6 and 18-30.3.

Sec 4.23.8 – Additional Structures, Improvements, and Activities Subject to Approval by Riparian Buffer Administrator

- A. **Conditions of Authorization.** The Riparian Buffer Administrator may authorize the additional structures, improvements, and activities listed in section 4.23.8(B) if all of the following requirements are met:
1. The Riparian Buffer Administrator approves a mitigation plan meeting the requirements of section 4.23.9;
 2. The structure, improvement, or activity complies with Section 4.23.6;
 3. All applicable Federal, State, and local permits are obtained; and
 4. The structure, improvement, or activity complies with and is otherwise permitted by all other applicable law.
- B. **Additional Structures, Improvements, and Activities Authorized.** The following additional structures, improvements, and activities may be authorized by the Riparian Buffer Administrator if all the requirements of Section 4.23.8(A) are met:
1. Temporary erosion and sediment control measures within the landward 50 horizontal feet of a riparian buffer, provided that the Riparian Buffer Administrator determines that to the extent practical:
 - a. The control measures are located outside of riparian buffers;
 - b. The disturbance impacts are minimized; and
 - c. The area is restored after removal of the temporary measures, in compliance with Section 4.23 and an approved mitigation plan.

2. Structures, improvements, or activities located within the landward 50 horizontal feet of a riparian buffer that are either:
 - a. Supportive infrastructure necessary to allow reasonable use of the lot as provided in Section 4.23.8(B)(8) or (9); or
 - b. Located along an intermittent stream that lies within both a water supply protection area and a development area.
3. Environmental restoration projects approved by the County, a soil and water conservation district, or a public agency authorized to carry out environmental restoration.
4. Stream crossings for roads, streets, or driveways (including associated sidewalks, utilities, and drainage facilities), provided that both (a) they comply with the Engineering Design Standards Manual (DSM), and (b) only one stream crossing may serve both the owner's lot(s), as it (they) existed on May 7, 2008, and all subsequent lots created therefrom, unless additional crossing(s) is/are approved under subsection (5).
5. Stream crossings for roads, streets, or driveways that would not satisfy the requirements of subsection (4), if the Riparian Buffer Administrator determines that the riparian buffer would otherwise 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 Chapter 14.
6. Water and sewer facilities or sewage disposal systems on lots of record lawfully existing prior to February 11, 1998, on which the necessary development in the riparian buffer would consist of the construction, installation, and maintenance of water and sewer facilities or sewage disposal systems, if the Riparian Buffer Administrator determines that Section 4.23 would otherwise prohibit all reasonable use of the lot.
7. Development of a single building site on lots of record lawfully existing prior to February 11, 1998, if all of the following conditions are met:
 - a. The riparian buffer would result in the loss of a building site.
 - b. The lot otherwise contains no available building sites outside the riparian buffer on the lot.
 - c. The applicable zoning would permit redevelopment, and
 - d. Impervious cover and further encroachment within the riparian buffer are minimized.

9. Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed, if all of the following conditions are met:
 - a. Such facilities or improvements uses best management practices that collect and/or treat runoff and do not serve an individual lot, some portion of a lot, or a single development project;
 - b. Such facilities are allowed by the Virginia Stormwater Management Act and applicable County ordinances;
 - c. The Riparian Buffer Administrator has conclusively determined that the proposed location of the facility within the riparian buffer is both (1) necessary for reasonable use of the subject property and (2) minimizes impacts to the buffer;
 - d. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both; and
 - e. The facility is consistent with a comprehensive stormwater management plan developed and approved by the County in accordance with Virginia Erosion and Stormwater Management Program regulations.
10. Stormwater management facility outfalls.
11. Passive recreation access and facilities with impervious surfaces, designed in compliance with the Virginia Department of Conservation and Recreation's Riparian Buffers Modification & Mitigation Guidance Manual.
12. Public Uses.

Sec. 4.23.9 – Mitigation plan: form, standards, and content; and surety.

- A. **Form.** A mitigation plan must meet the requirements of both this section and the Engineering Design Standards Manual (DSM), in the form required by the Riparian Buffer Administrator.
 1. For the development of one single-family detached dwelling, the Riparian Buffer Administrator may accept required mitigation information with the building permit in lieu of a separate mitigation plan.
- B. **Standards.**
 1. Riparian buffers must be established and/or restored in compliance with the Riparian Buffer Protection Standards and the DSM.

2. Where any portion of a riparian buffer is disturbed, vegetation must be replanted and maintained with plantings at a ratio of two square feet of restored riparian buffer for every one square foot of riparian buffer that is disturbed (2:1 ratio). Plantings must include only native species as identified in the DSM. Buffer vegetation must be planted, established, and maintained as specified in the DSM. The Riparian Buffer Administrator may require that the owner post a mitigation bond until the plants are established.
3. If more than one stream crossing is sought, the applicant must demonstrate that either (a) the proposed crossing is necessary for use of the lot based on section 4.23.8(B)(6)(b), or (b) the environmental impacts from a single stream crossing would be greater than those caused by an additional crossing and its associated road, street, or driveway. For the purposes of this subsection, qualifying environmental impacts include but are not limited to: (i) impacts to soil, (ii) soil erosion, (iii) stormwater runoff, (iv) water quality, (v) loss of vegetated riparian buffer, (vi) impacts to stream beds and stream banks, (vii) the creation of impervious surfaces, and (viii) the disturbance of slopes of 25 percent or greater.

C. **Content.** Except as otherwise provided in section 4.23.8, each mitigation plan must:

1. Identify the water quality and riparian buffer impacts, and mitigation measures for the proposed development.
2. Provide any additional information deemed necessary by the Riparian Buffer Administrator for a complete review of the plan.

D. **Surety** Any mitigation plan required to have surety, as determined by the Riparian Buffer Administrator, must be provided by the owner as follows:

1. *Purpose for surety; type of surety.* The owner will provide a surety to guarantee the mitigation plan is implemented and satisfied. The owner will furnish to the Riparian Buffer Administrator a cash escrow, certified check, official check, bond with surety, letter of credit or collaterally assign funds in a manner satisfactory to the County attorney (collectively, the "surety instrument"), in an amount sufficient for and conditioned upon the satisfactory performance of the mitigation plan. Any proposed surety instrument will be subject to being acceptable to the Riparian Buffer Administrator, and will be in a form and have the substance approved by the County attorney, and will be subject to review and approval by the County attorney.
2. *Estimate.* The owner will submit a request for an estimate of the surety amount to the Riparian Buffer Administrator. The Riparian Buffer Administrator will prepare an estimate of the total cost to implement and maintain the mitigation plan based on a reasonable allowance for estimated administrative costs and inflation, which may not exceed 25 percent of the estimated cost of implementation and maintenance of the mitigation plan.

3. Use of surety. The County may make use of monies guaranteed by the surety instrument if either: (i) the owner fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the Riparian Buffer Administrator, in its discretion, determines the owner, after written notice, failed within the time specified in the notice to initiate, implement, complete or maintain the conditions and requirements as set forth in the approved mitigation plan.
4. Right to collect shortfall. If the County has to implement, complete or maintain the conditions and requirements of the approved mitigation plan because the owner failed to do so, the County may collect from the owner the difference if the costs to the County exceeds the amount of the security held.

5. Release of surety. The surety may be released as follows:

A. Partial release. In order for any surety to be partially released:

- (i) Request by owner. The owner must certify to the Riparian Buffer Administrator on a form provided by the Riparian Buffer Administrator that the mitigation requirements have been achieved, and pay the required fee for a partial release specified in County Code Chapter 1, Article 5.
- (ii) Response by Riparian Buffer Administrator. Within 30 days after receipt of the certification required by subsection (A)(i), the Riparian Buffer Administrator will either:
 - a. grant partial release, if an inspection of the mitigation by a certified inspector confirms the requirements for partial release are satisfied; or
 - b. inform the owner that an inspection of the mitigation by a certified inspector confirms that the requirements for partial release are not satisfied and specify any defects, deficiencies or further required mitigation.
- (iii) Release. If the Riparian Buffer Administrator grants the partial release as provided in subsection (A)(ii), the surety will be partially released within 60 days after receipt of the request by subsection (A)(i). The amount of the release will be based upon the percentage of mitigation that is established as determined by the inspection.

B. Full release. In order for any surety to be fully released:

- (i) Request by owner. The owner must certify to the Riparian Buffer Administrator on a form provided by the Riparian Buffer Administrator and pay the fee for a full release required by County Code Chapter 1, Article 5. For any surety required in conjunction with a mitigation plan, the owner must certify that mitigation of the riparian buffer has been achieved. For any surety required in conjunction with a mitigation plan, the owner must certify that the mitigation plan has been fully satisfied.

(ii) Response by Riparian Buffer Administrator. Within 30 days after receipt of the certification required by subsection (B)(i), the Riparian Buffer Administrator will either:

- a. grant the full release, if an inspection of the project by a certified inspector confirms that the requirements for full release are satisfied; or
- b. inform the owner that an inspection of the project by a certified inspector confirms that the requirements for full release are not satisfied and specify any defects, deficiencies, or further required mitigation.

(iii) Release. If the Riparian Buffer Administrator grants the full release as provided in subsection (B)(ii), the surety will be fully released within 60 days after receipt of the release request.