

# *Caroline County*

## *Department of Planning & Codes*



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### **Planning Commission Staff Report, July 12, 2023**

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**Item:** Text Amendment Request for Stream Buffer Regulations

#### **Summary:**

At the June 14<sup>th</sup> Planning Commission meeting the Board discussed a potential text amendment to the County Code regarding stream buffer regulations. The current stream buffer regulations are located in two separate chapters of the County Code, Chapter 175-40 Streams and Stream Buffers and Chapter 109 Forest Conservation.

The 1992 Maryland Planning Act required the County to adopt measures to protect environmentally sensitive areas, which included streams and stream buffers. The Planning Department at that time drafted a Sensitive Areas Element to be included with the County's Comprehensive Plan, which led to the passing of Ordinance #98-008. Ordinance #98-008 was enacted on June 30, 1998, for the purpose of establishing stream buffer regulations for perennial and intermittent streams. This ordinance is now reflected in Chapter 175-40; which requires a 100-foot buffer for perennial streams and 25-foot buffer for intermittent streams. State regulations at the time of passage required a minimum 25-foot buffer from non-tidal streams.

In 2000, the State changed the regulations regarding stream setbacks to 50-feet for both perennial and intermittent streams; this is the minimum stream buffer as defined in Annotated Code of Maryland and the Code of Maryland Regulations (COMAR). The County updated Chapter 109 Forest Conservation on October 10, 2000 to reflect the minimum intermittent stream setback of 50-feet but did not update Chapter 175-40 to meet the minimum requirement.

The proposed text amendments will modify the conflicting language in our code and set the minimum stream buffers as required in Annotated Code and COMAR; which is 50-feet for both perennial and intermittent streams. It should be noted that these proposed stream buffer regulation changes are only for streams which are located outside of the Chesapeake Bay Critical Area.

#### **Recommended Action:**

Review the proposed text amendments, propose any necessary edits, and forward with a recommendation to the Caroline County Commissioners for their consideration.

§ 175-40 Streams and stream buffers.

The following regulations shall apply to streams and stream buffers:

- A. For perennial streams and intermittent streams there shall be ~~one hundred foot~~ fifty (50) buffers required, ~~and for intermittent streams there shall be twenty five foot buffers required~~ measured landward from the edge of each side of the stream.
- B. The buffer shall be expanded to include steep slopes 15% or greater.
- C. No new development shall occur within a stream buffer except as provided below.
- D. The following uses or activities shall be permitted within the stream or stream buffer:
  - (1) Agricultural practices, consistent with an approved soil, conservation and water quality plan or nutrient management plan or as approved by the Natural Resource Conservation Service.
  - (2) Maintenance, construction and repairs of drainage ditches consistent with approved plans and permits.
  - (3) Transportation facilities (e.g., road crossings), and/or utility transmission lines, when no practical or feasible alternative exists for locating structures outside the stream buffer and the disturbances proposed are the minimum necessary for such facilities.
  - (4) Forestry or timber harvesting, subject to an approved forest management or timber harvest plan.
  - (5) Appropriate maintenance of vegetation.
- E. Limited cutting or clearing of individual trees within the stream buffer shall be permitted as recommended by the Maryland Forest Service for the following purposes and shall be replaced and maintained on a one-to-one ratio:
  - (1) Personal use, provided that the buffer functions are not impaired.
  - (2) To maintain the health of individual trees.
  - (3) To protect trees from pests or disease infestation as approved by the Maryland Forest Service.
  - (4) To prevent trees from falling into and blocking streams, causing damage to structures or causing accelerated erosion.
  - (5) To install or construct an approved shore erosion protection device.
- F. The following uses are not permitted in the stream buffer unless a variance is approved by the Board of Zoning Appeals:
  - (1) Erection of structures.
  - (2) Construction of new roads, parking areas or other impervious surfaces.
  - (3) Placement of new wells and sewage disposal systems.
  - (4) Clearing of existing natural vegetation not otherwise permitted by Subsection D or E above.