

ORDINANCE NO. 26-18 ()

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia that Chapter 18, Zoning, Article I, General Provisions, Article II, Basic Regulations, Article III, District Regulations, is hereby reordained and amended as follows:

By Amending:

- Sec. 18-3.1 Definitions
- Sec. 18-4.2 Critical slopes
- Sec. 18-4.19 Setbacks and setbacks in residential districts
- Sec. 18-4.20 Setbacks and setbacks 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
- Sec. 18-20C.8 Building standards
- Sec. 18-30.7.4 Permitted uses
- Sec 18-30.3.11 Permitted and prohibited uses and structures

By Adding:

- Sec. 18-4.23 Riparian Buffer Protection Standards

Chapter 18: Zoning

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Article I – General Provisions

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Section 3 – Definitions

Sec. 3.1 Definitions

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Conservation area. The term "conservation area" means an area identified on a plan submitted for approval which contains cultural assets or natural features such as non-tidal wetlands, floodplain, slopes identified in the open space element of the comprehensive plan, or streams and riparian stream buffers, within which only limited disturbance or development is allowed. Uses allowed in conservation areas include, but are not limited to, utilities, greenways, pedestrian paths, streets, and stormwater management facilities, where, in the opinion of the County Engineer, no other location is reasonably available and when these improvements have the least impact possible on the environmental features of the area.

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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.

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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.

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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.

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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.

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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.

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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.

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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, or latest revision, issued by the Virginia Department of Environmental Quality, 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.

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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.

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

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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.

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Supportive infrastructure. "Supportive infrastructure" means structures or improvements needed to protect public health, safety, or welfare, and environmental features. They include but are not limited to drainage channels, structures and facilities, best management practices, and access roads used by emergency vehicles or for maintaining stormwater management facilities or water-dependent facilities.

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Water-dependent facility. "Water-dependent facility" means facilities a development that cannot exist outside of the flood hazard overlay district or riparian buffer, and must be located on the shoreline water or water's edge 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.

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Watershed. "Watershed" means a defined land area where all the surface water drains from a river, stream, or karst system to the same outlet point, such as a river, stream, or sinkhole in karst areas.

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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.

(§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-

01; [Ord. 01-18\(9\)](#), 10-17-01; [Ord. 02-18\(2\)](#), 2-6-02; [Ord. 02-18\(5\)](#), 7-3-02; [Ord. 02-18\(7\)](#), 10-9-02; [Ord. 03-18\(1\)](#), 2-5-03; [Ord. 03-18\(2\)](#), 3-19-03; [Ord. 04-18\(2\)](#), 10-13-04; [Ord. 05-18\(2\)](#), 2-2-05; [Ord. 05-18\(7\)](#), 6-8-05; [Ord. 05-18\(8\)](#), 7-13-05; [Ord. 06-18\(2\)](#), 12-13-06; [Ord. 07-18\(1\)](#), 7-11-07; [Ord. 07-18\(2\)](#), 10-3-07; [Ord. 08-18\(3\)](#), 6-11-08; [Ord. 08-18\(4\)](#), 6-11-08; [Ord. 08-18\(6\)](#), 11-12-08; [Ord. 08-18\(7\)](#), 11-12-08; [Ord. 09-18\(3\)](#), 7-1-09; [Ord. 09-18\(5\)](#), 7-1-09; [Ord. 09-18\(8\)](#), 8-5-09; [Ord. 09-18\(9\)](#), 10-14-09; [Ord. 09-18\(10\)](#), 12-2-09; [Ord. 09-18\(11\)](#), 12-10-09; [Ord. 10-18\(3\)](#), 5-5-10; [Ord. 10-18\(4\)](#), 5-5-10; [Ord. 10-18\(5\)](#), 5-12-10; [Ord. 11-18\(1\)](#), 1-12-11; [Ord. 11-18\(5\)](#), 6-1-11; [Ord. 11-18\(6\)](#), 6-1-11; [Ord. 12-18\(3\)](#), 6-6-12; [Ord. 12-18\(4\)](#), 7-11-12; [Ord. 12-18\(6\)](#), 10-3-12, effective 1-1-13; [Ord. 12-18\(7\)](#), 12-5-12, effective 4-1-13; [Ord. 13-18\(1\)](#), 4-3-13; [Ord. 13-18\(2\)](#), 4-3-13; [Ord. 13-18\(3\)](#), 5-8-13; [Ord. 13-18\(5\)](#), 9-11-13; [Ord. 13-18\(6\)](#), 11-13-13, effective 1-1-14; [Ord. 13-18\(7\)](#), 12-4-13, effective 1-1-14; [Ord. 14-18\(2\)](#), 3-5-14; [Ord. 14-18\(4\)](#), 11-12-14; [Ord. 15-18\(1\)](#), 2-11-15; [Ord. 15-18\(2\)](#), 4-8-15; [Ord. 15-18\(4\)](#), 6-3-15; [Ord. 15-18\(5\)](#), 7-8-15; [Ord. 15-18\(10\)](#), 12-9-15; [Ord. 16-18\(1\)](#), 3-2-16; [Ord. 16-18\(7\)](#), 12-14-16; [Ord. 17-18\(1\)](#), 1-18-17; [Ord. 17-18\(2\)](#), 6-14-17; [Ord. 17-18\(4\)](#), 8-9-17; [Ord. 17-18\(5\)](#), 10-11-17; [Ord. 18-18\(1\)](#), 1-10-18; [Ord. 18-18\(4\)](#), 10-3-18; [Ord. 19-18\(3\)](#), 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, [Ord. 01-18\(3\)](#), 5-9-01; [Ord. 05-18\(4\)](#), 3-16-05; [Ord. 10-18\(1\)](#), 1-13-10; [Ord. 10-18\(3\)](#), 5-5-10; [Ord. 10-18\(5\)](#), 5-12-10; [Ord. 11-18\(1\)](#), 1-12-11; [Ord. 12-18\(2\)](#), 3-14-12; [Ord. 14-18\(3\)](#), 6-4-14; [Ord. 15-18\(3\)](#), 5-6-15; § 4.15.3; [Ord. 15-18\(11\)](#), 12-9-15; [Ord. 17-18\(4\)](#), 8-9-17) (§ 4.17.3: [Ord. 98-18\(1\)](#), 8-12-98; [Ord. 01-18\(8\)](#), 10-17-01; [Ord. 17-18\(5\)](#), 10-11-17) (§ 4.18.2: [Ord. 00-18\(3\)](#), 6-14-00; [Ord. 13-18\(4\)](#), 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, [Ord. 98-A\(1\)](#), 8-5-98; [Ord. 01-18\(6\)](#), 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; [Ord. 05-18\(1\)](#), 1-5-05, effective 2-5-05; § 30.3.5; [Ord. 14-18\(1\)](#), 3-5-14; [Ord. 17-18\(4\)](#), 8-9-17); § 3.1, [Ord. 19-18\(3\)](#), 6-5-19; [Ord. 19-18\(6\)](#), 8-7-19; [Ord. 20-18\(2\)](#), 9-2-20; [Ord. 20-18\(3\)](#), 9-16-20; [Ord. 21-18\(3\)](#), 6-2-21; [Ord. 22-18\(2\)](#), 4-6-22; [Ord. 22-18\(1\)](#), 8-3-22; [Ord. 23-18\(3\)](#), 12-6-23; [Ord. 24-A\(1\)](#), 1-10-24, effective 7-1-24; [Ord. 24-18\(3\)](#), 9-4-24; [Ord. 25-18\(1\)](#), 4-2-25; [Ord. 24-18\(1\)](#), 9-17-24; [Ord. 25-18\(2\)](#), 7-16-2025; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code § [15.2-2286\(A\)\(4\)](#).

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Article II -- Basic Regulations

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Section 4 - General Regulations

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Sec. 4.2 – Critical slopes and water protection.

The provisions in this section through [section 4.2.5](#) implement the comprehensive plan by protecting and conserving steep hillsides together with public drinking water supplies and flood plain areas because of the increased potential for soil erosion, sedimentation, water pollution and sewage disposal problems associated with the disturbance of critical slopes. The disturbance of critical slopes may result in: rapid and/or large-scale movement of soil and rock; excessive stormwater run-off; siltation of natural and man-made bodies of water; loss of aesthetic resource; and in the event of onsite sewage system failure, a greater travel distance of septic effluent, all of which constitute potential dangers to the public health, safety and/or welfare. The regulations in [sections 4.2.1](#), [4.2.2](#), [4.2.3](#) and [4.2.4](#) are intended to direct building

and onsite sewage system locations to terrain more suitable to development and to discourage development on critical slopes, and to supplement other regulations regarding the protection of public water supplies and encroachment of development into flood plains.

Each request to waive or modify any requirement of [sections 4.2.1, 4.2.2, 4.2.3](#) or [4.2.4](#) under [section 4.2.5](#) shall be by special exception under [section 33.5](#).

(§ 20-4.2, 12-10-80; 11-15-89; § 18-4.2, Ord. 98-A(1), 8-5-98; [Ord. 12-18\(4\)](#), 7-11-12; [Ord. 21-18\(5\)](#), 12-1-21; [Ord. 26-18 \(\)](#), 6-17-26, effective 9-1-26)

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; ~~(iv) 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 condition;~~ or (ii) development in a stream buffer on the parcel was authorized as provided in section 17-321.

(§ 20-4.2.1, 12-10-80; 11-11-87; 9-9-92; § 18-4.2.1, Ord. 98-A(1), 8-5-98; [Ord. 11-18\(6\)](#), 6-1-11; [Ord. 12-18\(4\)](#), 7-11-12; [Ord. 14-18\(2\)](#), 3-5-14; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code §§ [15.2-2280](#), [15.2-2286\(A\)\(3\)](#)

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Sec. 4.19 - Setbacks and stepbacks in residential districts.

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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.

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([Ord. 15-18\(4\)](#), 6-3-15; [Ord. 16-18\(1\)](#), 3-2-16; [Ord. 17-18\(4\)](#), 8-9-17; [Ord. 19-18\(5\)](#), 7-17-19; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code § [15.2-2280](#).

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

Setbacks and setbacks shall must be provided as follows:

a. *Conventional commercial districts.* The following shall provisions apply within the C-1, CO, and HC districts:

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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.

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([Ord. 15-18\(4\)](#), 6-3-15; [Ord. 16-18\(1\)](#), 3-2-16; [Ord. 17-18\(4\)](#), 8-9-17, [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code § [15.2-2280](#).

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Sec. 4.23 – Riparian Buffer Protection Standards

Sec. 4.23.1 – Intent

A. Purpose. These riparian buffer standards are adopted pursuant to the State Water Control Law (Virginia Code § 62.1-44.2 et seq.) 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 to include preservation of mature trees or planting of trees or native vegetation as a water quality protection tool;
6. Reduce existing pollution; and
7. Promote water resource conservation to provide for the health, safety, and welfare of the present and future residents of Albemarle County and the Commonwealth of Virginia.

B. *Additional Intent.* These standards also:

1. Limit development and land disturbance next to surface watercourses and contiguous nontidal wetlands; and

2. Encourage preservation of native vegetation to:

- a. Protect public and private water supplies;
- b. Trap sediment and other pollutants in runoff;
- c. Stabilize stream and river banks;
- d. Protect fish and wildlife habitat;
- e. Reduce storm and flood impacts; and
- f. Preserve scenic and recreational resources.

(§18-4.23.1, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code §§ 62.1-44.2, 62.1-44.15:72, 62.1-44.15:73, 62.1-44.15:75, 9VAC25-830-120

Sec. 4.23.2 – Applicability

A. *Relationship to other regulations.* Section 4.23 supersedes any less-restrictive County regulations. If a riparian buffer overlaps the Flood Hazard Overlay District, the more restrictive provisions of section 30.3 apply.

B. *Pre-existing uses and improvements.* Any lawful use or improvement (other than buildings or structures) existing on the effective date of this section that does not comply with section 4.23 is deemed nonconforming and may continue subject to the nonconforming provisions of section 6.2; provided that any expansion, intensification, or relocation within a riparian buffer must comply with sections 4.23.6 and 4.23.9.

C. *Buildings and structures.* Any building or structure lawfully existing on February 11, 1998 may remain. Repair and in-kind replacement following casualty are permitted. Expansion or enlargement within the riparian buffer requires approval by the Riparian Buffer Administrator under section 4.23.8 and must comply sections 4.23.6, and 6.3, and section 30.3 where applicable.

(§18-4.23.2, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code § 15.2-2307, 9VAC25-830-150

Sec. 4.23.3 – Authority, Powers, and Duties of Riparian Buffer Administrator

A. *Designation.* The County Engineer, or designee, is the Riparian Buffer Administrator.

B. Power and duties. The Riparian Buffer Administrator has all necessary authority to administer section 4.23, including but not limited to:

1. Interpret and make site-specific determinations of riparian buffer boundaries and stream designations under section 4.23.5;
2. Determine whether structures, improvements, and activities are permitted under section 4.23.7 or eligible for authorization under section 4.23.8;
3. Require surveys, delineations, and studies reasonably necessary to administer section 4.23;
4. Maintain and update the County's Geographic Information System (GIS) layer to reflect approved site-specific determinations;
5. Enforce section 4.23 in coordination with the Zoning Administrator, including issuance of notices of violation; and
6. Require, review, and approve mitigation plans and surety under section 4.23.9.

C. Appeals. Appeals of an official determination under section 4.23 must be filed in accordance with section 34.

(§18-4.23.3, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code §§ 62.1-44.15:73, 62.1-44.15:75, 62.1-44.15:76

Sec. 4.23.4 – Boundaries – General

A. Mapping. The County's GIS layer depicts approximate riparian buffer locations and is advisory only. Site-specific adjustments occur as set forth in section 4.23.5.

B. Defined boundaries. Riparian buffers extend landward from any perennial or intermittent stream, pond, lake, or contiguous nontidal wetland to the farther of the following:

1. Development Areas (outside any water supply protection area). 100 feet measured horizontally from the top bank of any perennial stream and its contiguous nontidal wetlands, on each side;
2. Development Areas (within a water supply protection area). The greater of:
 - a. 100 feet measured horizontally from the top bank of any perennial or intermittent stream and its contiguous nontidal wetlands, on each side; or
 - b. the limits of the Flood Hazard Overlay District;
3. Public water-supply impoundments. 200 feet landward of the Flood Hazard Overlay District limits surrounding the impoundment, measured horizontally; or
4. All other locations. The greater of:

- a. 100 feet measured horizontally from the top of the bank; or
- b. the limits of the Flood Hazard Overlay District.

C. *Measurement.*

1. Distances from a stream are measured horizontally from the top of the bank.
2. Distances from a pond, lake, or contiguous nontidal wetlands are measured horizontally from the ordinary high-water mark.
3. Prior clearing, grading, or encroachments do not reduce the required riparian buffer width.

(§18-4.23.4, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code §§ 62.1-44.15.73, 62.1-44.15.75, 62.1-44.15.76; 9 VAC25-830-140; 9VAC25-890-40;

4.23.5 – Site-Specific Determinations of Riparian Buffers

A. *Development applications:* Each application, plan, or permit proposing development must include either:

1. A site-specific survey of riparian buffer boundaries, applying the standards in the Engineering Design Standards Manual (DSM) and as required pursuant to subsection D; or
2. A certified statement with supporting basis (topography, hydrology, mapping) that no riparian buffer is present.

The Riparian Buffer Administrator may require the applicant to provide a site-specific survey, regardless of whether the County’s GIS mapping depicts a riparian buffer or of any statement made under subsection A(2).

B. *Optional boundary determinations.* An applicant may request a review and confirmation of riparian buffer boundaries at any time by submitting a site-specific survey to the Riparian Buffer Administrator.

C. *Exemption.* The Riparian Buffer Administrator may exempt building permit applications for single-family detached residences in the Rural Areas (RA) zoning district from a site-specific survey if no disturbance within a riparian buffer is proposed.

D. *Survey standards.* Site-specific surveys must be prepared and sealed by a Virginia-licensed engineer, land surveyor, landscape architect, or a certified scientist, or wetland delineator, and must delineate:

1. Perennial and intermittent streams;
2. Contiguous nontidal wetlands;
3. Flood Hazard Overlay District limits; and

4. Riparian buffer boundaries pursuant to section 4.23.4.

Field verification may be required.

(§18-4.23.5, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code § 62.1-44.15:76; 9VAC25-830-120

Sec. 4.23.6 – General Performance Standards

A. Landcovers. Landcover changes within riparian buffers must conform to the Permitted Landcover Change Matrix in the DSM. Increases in impervious area are prohibited except as expressly permitted under sections 4.23.7 or 4.23.8.

B. Buffer management. Except as authorized by sections 4.23.7 or 4.23.8, riparian buffers must be managed as follows:

1. Native vegetation within the riparian buffer must not be disturbed or removed;
2. Buffers must be maintained in as natural a condition as possible; and
3. The preferred vegetative cover is a native forest with ground cover, shrub/understory, and tree canopy layers.

C. Replanting after cessation or conversion. When an activity permitted under sections 4.23.7 (A) or 4.23.7 (B) ceases or is converted to a non-permitted use, buffer vegetation must be installed at densities specified in the DSM, consistent with the current Virginia Department of Conservation and Recreation's (VDCR) Riparian Buffers Modification and Mitigation Guidance Manual.

D. Performance standards. Any use, development, or redevelopment within a riparian buffer must meet the following performance standards:

1. No more land may be disturbed than is necessary to provide for the proposed use or development;
2. Native vegetation must be preserved to the maximum extent practicable, consistent with the proposed use or development;
3. Impervious cover must be the minimum necessary for the proposed use or development;
4. Comply with all applicable County requirements for land-disturbing activity;
5. Be designed and constructed to minimize erosion;

E. Common areas in subdivisions or developments. Lots should not include riparian buffers; however the Riparian Buffer Administrator may allow buffers on lots only if a

permanent easement or recorded covenant ensures preservation consistent with section 4.23 et seq.

F. *Signage.* For subdivisions creating lots or construction requiring a site plan (other than properties used for bona fide agricultural and/or silvicultural activities), the developer must install signage marking the landward boundary of the buffer at locations and with text specified in the DSM. Signs must be installed upon final stabilization of disturbed areas and in accordance with the DSM.

G. *Prohibited practices.* Fertilization or herbicide application within the buffer is prohibited except for invasive-species control approved under section 4.23.7(K).

(§18-4.23.6, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code §§ 62.1-44.15:69, 62.1-44.15:73, 62.1-44.15:75, 9VAC25-830-130

Sec. 4.23.7 – Permitted Structures, Improvements, and Activities

The following are permitted within riparian buffers and must follow the performance standards in section 4.23.6 (C), and obtain all required Federal, State and County permits:

A. *Agriculture.* Bona fide agricultural activities, excluding roads not exempt under section 17-300 (D) and new agricultural structures.

B. *Silviculture.* Silvicultural activities only when conducted in compliance with the Virginia Department of Forestry’s “Best Management Practices for Water Quality”, including the establishment of Streamside Management Zones.

C. *Utilities and transportation.* The constructions, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and accessory structures constructed by the Virginia Department of Transportation (VDOT), if they comply with:

1. The Virginia Erosion and Stormwater Management Act and its regulations;
2. An approved soil erosion and stormwater management plan; or
3. Local water quality protection standards that are at least as stringent as state requirements.

D. *Local utility lines.* The construction, installation, and 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 if:

1. To the degree possible, such utilities and facilities are located outside of the riparian buffer; and
2. No more land is disturbed than is necessary to provide for the proposed utility installation; and

3. All such construction, installation, and maintenance of such utilities and facilities must comply with all applicable County, state and federal permits and designed and conducted in a manner that protects water quality.

E. *Water-dependent structures or facilities.* Permitted only when:

1. All non-water dependent components are outside the buffer;
2. There is only a single point of access; and
3. The disturbance is limited to only what is necessary to build and access the water-dependent structure or facility.

F. *Passive recreation.* Educational signs and kiosks, and pervious trails, paths, or boardwalks following the current VDCR Riparian Buffers Modification and Mitigation Guidance Manual, and DSM guidance. Paths serving individual lots must not exceed four feet in width except as necessary to meet ADA accessibility or emergency-services requirements.

G. *Historic and archaeological activities.* Permitted with prior approval by the Riparian Buffer Administrator and the Zoning Administrator.

H. *Buffer restoration and replacement.* Permitted only when:

1. A plan or narrative is approved by the Riparian Buffer Administrator.
2. Mature trees are preserved when possible. Any vegetation that is removed must be replaced with native vegetation that provides the same level of water quality or better quality protection and is consistent with the DSM. Trees or other vegetation that is removed must be:
 - a. Replaced with native vegetation that is appropriate to site conditions and is equally effective in reducing runoff, preventing erosion, and filtering nonpoint source pollution; and
 - b. Replanted in a way that maximizes the buffer's function and protects water quality.
3. Permitted replacement and restoration activities include:
 - a. Reestablishing buffers after agricultural or silvicultural land is changed to a land use other than bona fide agricultural or silvicultural activities;
 - b. Restoring vegetation where forestry or agricultural best management practices recommend removing and replacing vegetation to maintain a healthy buffer;
 - c. Replanting vegetation that was removed for a sightline, access path or for woodlot management; and

d. Replacing vegetation that was removed illegally or removed beyond what was authorized.

I. Native vegetation planting. Planting of native trees, shrubs, or other vegetation consistent with the DSM.

J. Minor installations. Installation of fences, sign posts, and poles (telephone, electric, or other kinds of posts or poles).

K. Limited vegetation removal. Removal of the following types of vegetation:

1. Dead, diseased or dying trees or shrubbery;
2. Noxious weeds or invasive plant species, to include but not be limited to Johnson grass, kudzu, and multiflora rose; or
3. Vegetation posing an imminent threat to buildings or public health or safety.

Upon demand by the Riparian Buffer Administrator, the landowner must provide evidence that removed vegetation qualified as one of the types identified above. The Riparian Buffer Administrator may require a mitigation plan and plantings as set forth in section 4.23.9 if it is determined the vegetation removed does not meet the criteria of this section.

(§18-4.23.7, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—Va. Code §§ 62.1-44.15:69, 62.1-44.15:72, 62.1-44.15:73; 9VAC25-830-140, 9VAC25-830-150

Sec. 4.23.8 Structures, Improvements, and Activities Subject to Approval by the Riparian Buffer Administrator

A. Conditions of authorization. The Riparian Buffer Administrator may authorize structures, improvements, and activities listed in section 4.23.8 (B) if:

1. A mitigation plan is approved under section 4.23.9;
2. The structure, improvement or activity complies with section 4.23.6 (D);
3. All required Federal, State and local permits are obtained; and
4. The structure, improvement or activity complies with all other applicable law.

B. Authorized structures, improvements and activities.

1. Temporary erosion and sediment control measures. Temporary erosion and sediment control measures within the landward (outer) 50 horizontal feet of the riparian buffer if the Riparian Buffer Administrator determines:

- a. Such measures are located outside the riparian buffer as much as practical;

b. Disturbance of the riparian buffer are minimized; and

c. The disturbed area of the riparian buffer will be restored after the measures are removed pursuant to an approved mitigation plan.

2. Supportive infrastructure. Necessary supportive infrastructure located within the landward (outer) 50 feet of the riparian buffer that is:

a. Necessary to allow reasonable use of the lot as set forth in Section 4.23.8 (B)(8); or

b. Located along an intermittent stream within both a water supply protection area and a development area.

3. Environmental restoration projects. Environmental restoration projects approved by the County, a soil and water conservation district, or another authorized public agency.

4. Stream crossings. Stream crossings for roads, streets, or driveways, and related sidewalks, utilities, and drainage facilities if it meets the requirements of the DSM. In order to ensure that the encroachment into or across the riparian buffer is minimized, on or after May 7, 2008, it is presumed that one stream crossing is adequate to serve the lot(s) existing on that date and all lots created on and after that date. The Riparian Buffer Administrator will only allow one stream crossing to serve all lots, unless additional crossings are determined to be necessary as set forth in under Section 4.23.8 (B)(5).

5. Additional stream crossings. If the Riparian Buffer Administrator determines that a riparian buffer would prohibit access to a lot, and such access is necessary for the lot to be used and developed as permitted in the underlying zoning district and under the applicable regulations of Chapter 14, then an additional stream crossing may be authorized.

6. Agricultural roads included within a plan of development. Agricultural roads that are included within a plan of development as set forth in section 17-300 (D).

7. Water and sewer facilities or sewage systems. On lots of record lawfully existing prior to February 11, 1998 when:

a. Activities in the riparian buffer are limited to the construction, installation, and maintenance of those facilities or systems; and

b. The Riparian Buffer Administrator determines that the riparian buffer would prohibit the practicable development of those facilities or systems.

8. Single building site on pre-existing lots. On lots of record lawfully existing prior to February 11, 1998, the development of a single building site may be allowed when:

a. The riparian buffer would eliminate a building site;

- b. The lot has no building site outside of the riparian buffer;
- c. The underlying zoning district would permit redevelopment; and
- d. Impervious areas and disturbances are minimized.

9. Flood control or stormwater management facilities. Flood control or stormwater management facilities serving multiple developments or a watershed area if:

- a. Best management practices are used to collect or treat runoff;
- b. It complies with the Virginia Stormwater Management Act and all applicable County ordinances;
- c. The Riparian Buffer Administrator determines the location within the riparian buffer is necessary for flood or stormwater control and impacts to the riparian buffer are minimized;
- d. The facility is no larger than necessary for effective flood control or stormwater treatment; and
- e. It is part of a County-approved comprehensive stormwater management plan.

10. Stormwater management outfalls. All such outfalls must be designed in accordance with the DSM.

11. Passive recreation and facilities with limited impervious surfaces. Passive recreation access and facilities with impervious surfaces that are designed in accordance with the current VDCR's Riparian Buffers Modification & Mitigation Guidance Manual.

12. Public uses. All such public uses as defined in section 3.1.

(§18-4.23.8, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference-Va. Code § 62.1-44.15:73; 9VAC25-830-140, 9VAC25-890-40

4.23.9—Mitigation Plan: Form, Standards, Content, Surety

A. Form. Mitigation plans must meet the requirements of this sections and the DSM, in a format approved by the Riparian Buffer Administrator. For the development of a once single-family detached dwelling, the Riparian Buffer Administrator may accept the mitigation information with the building permit.

B. Standards.

1. Riparian buffers must be established or restored in accordance with section 4.23.6 and the DSM.

2. *Replanting and maintenance.* If any portion of a riparian buffer is disturbed or removed, or if property zoned Rural Areas is subdivided or converted to establish a primary residential use, vegetation must be planted and maintained as follows:

a. *Planting ratio.* Vegetation must be replanted at a ratio of two square feet of restored riparian buffer for every one square foot of riparian buffer that was disturbed (2:1 ratio).

b. *Vegetation.* Only native species listed in the DSM may be used. Riparian buffer vegetation must be planted, established and maintained as specified in the DSM.

c. *Mitigation bond.* The Riparian Buffer Administrator may require the owner post a mitigation bond until the plants are established.

3. *Multiple stream crossings.* If more than one stream crossing is requested, the applicant must demonstrate:

a. *The proposed crossing is necessary for reasonable use of the lot under section 4.23.8 (B)(2)(a); or*

b. *A single crossing would cause greater environmental impacts than adding another crossing. Qualifying environmental impacts include:*

(i) impacts to soil;

(ii) soil erosion;

(iii) stormwater runoff;

(iv) water quality;

(v) loss of vegetated riparian buffer;

(vi) impacts to stream beds or banks;

(vii) additional impervious surfaces; and

(viii) the disturbance of slopes of 25 percent or greater

C. *Content.* Each mitigation plan must identify how the proposed development will affect water quality and riparian buffers, describe proposed mitigation measures, and include any additional information required by the Riparian Buffer Administrator.

D. *Surety.* When the Riparian Buffer Administrator requires a mitigation plan to have financial surety, the owner must provide it as follows:

1. *Purpose for surety; type of surety.* The owner must provide a surety to guarantee the mitigation plan is completed as approved. Acceptable forms of surety include a cash escrow, certified or official check, bond with surety, letter of credit or assigned collateral funds. Surety must be provided in a form approved by the County Attorney and acceptable to the Riparian Buffer Administrator.

2. *Estimate.* The owner must request an estimate of the surety amount from the Riparian Buffer Administrator. The Administrator will calculate the total cost to implement and maintain the mitigation plan, including up to 25 percent for administrative costs.

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 or maintain the bond with surety, letter of credit, or assigned funds; or (ii) the Riparian Buffer Administrator determines after written notice, that the owner has failed to start, complete or maintain the approved mitigation plan.

4. Right to collect shortfall. If the County must implement, complete or maintain the approved mitigation plan because the owner failed to do so, and the cost to the County is higher than the amount of surety held, the County may collect the difference from the owner.

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

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

b. Owner's request. The owner must certify that the mitigation requirements have been completed as required and pay the required fee specified in County Code Chapter 1, Article 5.

c. Riparian Buffer Administrator's review. Within 30 days of receiving the certification, the Riparian Buffer Administrator will inspect the site and either: (i) approve the partial release, if those requirements are satisfied; or (ii) inform the owner that the requirements are not met, identifying any defects, deficiencies or further required mitigation.

d. Release. If the Riparian Buffer Administrator grants the partial release the surety will be partially released within 60 days of receiving the owner's request. The amount released will correspond to the percentage of mitigation successfully completed as determined by the inspection.

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

i. Owner's request. The owner must pay the fee for required by County Code Chapter 1, Article 5 and certify that the mitigation plan has been fully satisfied as required.

ii. Riparian Buffer Administrator's review. Within 30 days of receiving the certification, the Riparian Buffer Administrator will either: a) approve the full release, if an inspection confirms the requirements are satisfied; or b) inform the owner that the requirements are not satisfied and specify any defects, deficiencies, or further required mitigation.

iii. Release. If full release is approved, the County will release the surety within 60 days after receiving the owner's request.

(§18-4.23.9, Ord. 26-18(), 6-17-26, effective 9-1-26)

Sec. 4.23.10 Special exceptions

A. Scope. Waiver(s) or modification(s) of sections 4.23.6, 4.23.7 and 4.23.8 may be authorized only by the special exception(s) specifically provided in this section.

B. Procedure. The Board of Supervisors may grant special exception(s) only after notice to abutting parcel owners.

C. Submission requirements. The Riparian Buffer Administrator may require the applicant to submit a water quality impact assessment or other necessary information for the review of the application.

D. Findings. Among other relevant factors, in granting a riparian buffer special exception, the Board of Supervisors may consider whether:

1. The requested exception to the criteria is the minimum necessary to afford relief;

2. Granting the exception will not confer upon the applicant any special privileges denied by this section to other property owners similarly situated in the vicinity;

3. The exception is in harmony with the purpose and intent of this section and is not of substantial detriment to water quality;

4. The exception request is not based upon conditions or circumstances that are self-created or self-imposed;

5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the exception request from causing a degradation of water quality; and

6. Other findings, as appropriate and required by the Board are met.

E. Conditions and surety. The Board may impose conditions to the granting of any special exception it deems necessary in the public interest and protection of water quality. To ensure compliance with the conditions, a performance bond may be required.

(§18-4.23.10, Ord. 26-18(), 6-17-26, effective 9-1-26)

State Law reference—9VAC25-830-150

Section 5 - Supplementary Regulations

. . .

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 [section 4.23](#) of this Chapter ~~Chapter 17~~ of the Code of Albemarle or on any hydric soils as identified by the United States Department of Agriculture.

. . .

(§ 5.1.28, 7-6-83; [Ord. 01-18\(6\)](#), 10-3-01; [Ord. 02-18\(5\)](#), 7-3-02; [Ord. 20-18\(3\)](#), 9-16-20; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

. . .

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~~ 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 must also shall 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.

. . .

([Ord. 06-18\(2\)](#), 12-13-06; [Ord. 12-18\(4\)](#), 7-11-12; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

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Article III – District Regulations

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Section 20C – Rio29 Form-Based Code Overlay District-Rio29 FBC District

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Sec. 20C.8 – Building standards.

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C. *Modifications to building standards.* The Agent may grant modifications to building standards as listed below, provided that the resulting building and site design still meets the purpose and intent of this section.

1. *Reduction of ground floor height.* The Agent may approve a reduction in ground floor height where a temporary false floor or drop ceiling is constructed to allow ground floor residential uses, consistent with [section 20C.6](#), provided that a future conversion to commercial uses could comply with this section.

2. *Block length.* The Agent may approve modifications to required block lengths for the following:

- a. To accommodate street connection(s) to existing or planned adjacent street(s);
- b. To accommodate a requirement of VDOT or the Department of Fire Rescue;
- c. To avoid a natural feature such as a ~~water protection ordinance~~ riparian buffer or preserved slopes;
- d. To avoid a planned or existing civic space;
- e. To allow future streets to align with existing travel ways, private streets, or parcel lines within or adjacent to the site;
- f. To avoid or accommodate existing utilities; or
- g. To allow smaller block sizes for drive aisles or counterflow streets along through corridors.

. . .

(§ 18-20C.8, [Ord. 21-18\(4\)](#), 9-1-21; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

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Section 30 – Overlay Districts

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Sec. 30.3 – Flood hazard overlay district – FH

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Sec. 30.3.11 – Permitted and prohibited uses and structures.

The uses and structures permitted by right and by special use permit, and the uses and structures expressly prohibited, in the flood hazard overlay district are as follows:

. . .

Stream Crossings and Grading Activities*		
Stream crossings for a driveway serving only one single-family dwelling and pedestrian trails, including,	BR	BR

<p>but not limited to, pedestrian and multi-use paths that are within county-owned or operated parks and greenways, and any footbridges necessary to cross tributary streams, watercourses and swales, that: (i) meet the applicable requirements of sections 17-406 18-4.23.9 and 17-604 18-4.23.8; (ii) demonstrate, in a floodplain impact plan, to the floodplain administrator's satisfaction, that construction of the crossing will have no impact on the elevations or limits of the floodplain; and (iii) will serve one dwelling unit that could not be accessed by any other means.</p>		
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((§ 30.3.04, 12-10-80); (§ 30.3.05, 12-10-80); (§ 30.3.05.1, 12-10-80); (§ 30.3.05.1.1, 12-10-80, 7-1-81, 5-12-93; Ord. 98-18(2); 9-16-98; Ord. 04-18(2), 10-13-04; [Ord. 09-18\(2\)](#), 5-13-09); (§ 30.3.05.1.2, 12-10-80; [Ord. 05-18\(1\)](#), 1-5-05, effective 2-5-05); (§ 30.3.05.2, 12-10-80); (§ 30.3.05.2.1, 12-10-80, 4-28-82, Ord. 98-18(2); 9-16-98; [Ord. 04-18\(2\)](#), 10-13-04); (§ 30.3.05.2.2, 12-10-80); § 30.3.11, [Ord. 14-18\(1\)](#), 3-5-14; [Ord. 17-18\(4\)](#), 8-9-17; [Ord. 19-18\(3\)](#), 6-5-19; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code § [15.2-2280](#).

Federal law reference—44 CFR § 60.1(d).

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Sec. 30.7 – Steep slopes overlay district

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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:

a. *Managed slopes.* The uses permitted by right and by special use permit on managed slopes are as follows, subject to the applicable requirements of this chapter:

1. *By right.* The uses permitted by right in the underlying district shall be permitted by right on managed slopes.
2. *By special use permit.* The uses permitted by special use permit in the underlying district shall be permitted by special use permit on managed slopes.

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.

. . .

(§ 30.7.4; [Ord. 14-18\(2\)](#), 3-5-14; [Ord. 26-18\(\)](#), 6-17-26, effective 9-1-26)

State Law reference— Va. Code §§ [15.2-2280](#)(1), (2), [15.2-2286](#)(A)(4).

This ordinance will be effective on and after September 1, 2026.

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of ____ to ____, as recorded below, at a regular meeting held on June 17, 2026.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Gallaway	_____	_____
Ms. Duncan	_____	_____
Ms. LaPisto-Kirtley	_____	_____
Ms. Mallek	_____	_____
Mr. Missel	_____	_____
Mr. Pruitt	_____	_____