

# CROZET COMMUNITY ASSOCIATION

## RESOLUTION

July 10, 2025

Whereas the Crozet Community Association (CCA) was established in 1985 to be a non-partisan and representative advocate for communicating areas of concern for the community of Crozet;

Whereas the purpose of Albemarle County's (the "County") Water Protection Ordinance (WPO) is to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources resulting from a land-disturbing activity;

Whereas we believe the County has misinterpreted its WPO and allowed our streams to be piped, filled in, and buried across the County by failing to enforce its legally established stream buffers<sup>1</sup>;

Whereas we strongly assert that the County's WPO is in fact applicable to every single stream in the County and that it clearly requires landowners to get an approved permit from the County prior to beginning any activity that would disturb any and all streams on their property<sup>2</sup>;

Whereas Section 17-600 of the WPO further describes the exact landward extent of stream buffers in the rural area, the development area, and the water supply protection area and requires landowners to retain those buffers if already present and establish them where they do not yet exist<sup>3</sup>;

Whereas the WPO measures the landward extent of stream buffers from the top of the banks of "natural streams"<sup>4</sup>, which Virginia defines as "a tidal or nontidal watercourse that is part of the natural topography"<sup>5</sup>;

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<sup>1</sup> WPO Section 17-103 makes it clear that the ordinance is applicable in any one of five distinct circumstances. One of the five circumstances is "C. Stream buffers. Any area within the County and the Town of Scottsville designated as a stream buffer under this chapter." The WPO goes on to define, establish, and designate "stream buffers" in 17-205 as "an area of land at or near the tributary of a stream bank". Note that the exact landward extent of a stream buffer is not required to establish a stream buffer as the phrase "at or near" sufficiently describes that physical stream buffer exists.

<sup>2</sup> Section 17-104 requires an approved permit prior to beginning any "land disturbing activity" which it broadly defines as "a manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics...". There is no requirement for a VESMP or for the land disturbance be 10,000 square feet or greater.

<sup>3</sup> An example of when landowners must establish a new stream buffer is when they discover a stream on their property that is not reflected in the County GIS or otherwise known to the County.

<sup>4</sup> The WPO ties the term "natural stream" to the definition of an "intermittent stream" as 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 which is not a perennial stream.

<sup>5</sup> <https://law.lis.virginia.gov/admincode/title9/agency25/chapter875/section20/> - "Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels, such as drainage ditches or swales, shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

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Whereas manmade changes to the natural topography do not cause “natural streams” to lose their inherent identity, including in situations where streams are piped, filled in, and buried underground;

Whereas the landward extent of the County’s stream buffers can and should continue to be measured from the top of the banks of “natural streams” as they existed before there was any manmade change to the natural topography, including when streams are piped, filled in, and buried underground;

The CCA urgently requests the County Executive, Jeff Richardson, who is appointed by the elected Board of Supervisors to manage the County's administrative operations, to take the following action by no later than July 31, 2025:

- Publish a legal memorandum to clarify, for the avoidance of all doubt, that buffers established by the County’s WPO remain in effect even on streams that have already been piped, buried underground, filled in, disturbed, or otherwise unnaturally altered.
- Re-establish stream buffers in the County’s GIS system and on all its maps (including those in the AC44 Comprehensive Plan) on all streams to the extent described in the WPO, including on streams that have already been piped, filled in, buried underground, filled in, disturbed, or otherwise unnaturally altered.

**BE IT SO RESOLVED,**

Crozet Community Association