

Section 2. Streams

(A) Intent and Purpose

The intent of this Section is to establish regulations and procedures that govern all land uses and related development activities adjacent to streams. The streams covered by this Section are identified on Figure 3.2 and 5.1 from the Polk County 2030 Comprehensive Plan. These regulations shall require undisturbed buffers and impervious surface setbacks adjacent to streams.

The purpose of undisturbed buffers and impervious surface setbacks are:

- to protect, restore and maintain the chemical, physical and biological integrity of streams and their water resources;
- to remove pollutants delivered in urban storm water;
- to protect public water supplies;
- to maintain base flow of streams;
- to minimize erosion and control sedimentation;
- to provide infiltration for storm water runoff;
- to minimize impervious surfaces close to streams; and
- to provide riparian wildlife habitats and promote desirable aquatic habitat.

(B) Protection Criteria

(1) Buffer and Setback Requirements

- (a) Streams in all watersheds within unincorporated Polk County shall require a minimum 25-foot undisturbed buffer on each side of the stream, measured from the top of bank. Septic tanks and septic tank drain fields are prohibited within the undisturbed buffer and setback area;
- (b) An additional 25-foot setback shall be maintained adjacent to the undisturbed buffer in which all impervious surfaces shall be prohibited. Storm water retention or detention facilities are permitted within this setback but prohibited within the stream channel.
- (c) Within these watersheds, new hazardous waste treatment or disposal facilities are prohibited.

(C) Applicability

This article shall apply to all land development activity on property containing a stream or near a stream. The Protection areas as defined above shall be met. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under State Code.

(D) Exemptions

Exemption of these activities does not constitute an exemption for any other activity proposed on a property:

- (1) Any existing use that does not change use, zoning district or size is exempt from the requirements but shall meet the requirements for compliance for any new additions, structures or grading on the property.
- (2) A perpendicular stream crossing by a driveway, street, or utility lines;



- (3) A street or driveway where buffer intrusion is the only option to provide access to a property;
- (4) Paved and unpaved trails and paths for public use;
- (5) Public water supply intake or public wastewater outfall structures;
- (6) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
- (7) Utility lines and easements running parallel with the stream, except that all easements (permanent and construction) and clearing and grading shall recognize the sensitivity of the streams and use Best Management Practices to limit and repair the disturbance within the buffer area. This includes such impervious cover as necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- (8) Land development activities within a dedicated street right-of-way existing as of the effective date of this ordinance.
- (9) Forestry activities on land that is zoned for forestry or agricultural uses and are not incidental to other land development activity.
- (10) Minor land-disturbing activities for the intent of emergency erosion control and bank stabilization activities (i.e. for the purposes of corrective maintenance; measures for health, safety and welfare; post storm; or other disaster relief)

(E) Variance Procedures

No variance shall be granted to the undisturbed buffer and/or setback requirements contained in this section unless a hardship exists and relief, if granted, meets the general purpose and intent of this article. Variance requests shall only be considered if the public or private project with buffer and/or setback intrusion can demonstrate that the completed project will result in maintained and/or improved water quality downstream; and, yields no increase in storm water runoff.

(F) Liability

Neither the approval of a plan or issuance of a permit for any regulated activity under the provisions of this ordinance, or compliance with the provisions of this article shall relieve any person from responsibility or liability for:

- (1) Any damage to any person, property, tributary or other water body; or
- (2) Noncompliance with any other local, State or Federal ordinances, statutes, rules or regulations.

