

TROUT BUFFER ZONES ARE PROTECTED AREAS

- ❖ If you propose to undertake a land-disturbing activity along the margin of a stream classified by the North Carolina Environmental Management Commission as “Trout Waters”, you are required to provide an undisturbed buffer zone at least 25 feet wide between your activity and the stream. The trout buffer zone is measured horizontally from the top of the bank. If the top of the bank is not easily discerned, the “top of the bank” is considered the “normal high water mark” or the edge of the “bank-full” condition. In mapped flood zones, the edge of the mapped floodway may be considered the delineation of the beginning of the trout buffer zone, to extend outward away from the stream.
- ❖ If 25 feet is not wide enough to protect the stream from sedimentation damage, you must provide a buffer zone of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land-disturbing activity. However, in no event shall sediment be allowed to enter the 25-foot trout buffer zone.
- ❖ The streams of our state have been classified by the North Carolina Environmental Management Commission. The classification is made in regards to the quality of stream waters. It specifies those waters “suitable for natural trout propagation and maintenance of stocked trout.” Trout do not have to be present to justify the classification. The schedule of classifications is available for your inspection at this office or on the state’s web site in “APPENDIX-Rule 15A NCAC 2B .0301” of the North Carolina Administrative Code, Section .0300-Assignment of Stream Classifications. (<http://h2o.enr.state.nc.us/bims/Reports/reportsWB.html>)
- ❖ Each side of a stream is considered a separate buffer zone.
- ❖ All tributaries flowing to designated “trout waters” (including springs and intermittent streams) automatically carry the “trout waters” designation, unless they are specifically named otherwise in the schedule of classifications, this by 15A NCAC 02B .0301(i)(1).
- ❖ You are required to obtain approval to conduct a land-disturbing activity in a trout buffer zone (Trout Buffer Variance Request). Also, the duration of the disturbance must be “temporary” and the extent of the disturbance must be “minimal”.
- ❖ To obtain a “Trout Buffer Variance” to perform a land-disturbing activity in a regulated trout buffer zone, you must obtain approval from either Haywood County or the State of North Carolina. Haywood County staff may approve disturbance in not more than 10% of a trout buffer zone on your property, and that cannot exceed 100 linear feet of disturbance in each 1000 linear feet of trout buffer zone. For example, if someone owns property having 120 feet of buffer zone along DEM classified Trout Waters, the County may approve up to 12 feet of a temporary and minimal disturbance. More than 12 feet (in this scenario) has to be approved by the Director of the Division of Energy, Mineral, and Land Resources, Land Quality Section.
- ❖ Installing a culvert of any length in a classified trout stream requires a permit from the Department of the Army, Corps of Engineers...as does armoring a stream bank, moving a channel, or constructing a pond in a channel. It is a violation of State and Federal water quality laws if you do not obtain the proper permits for this type work. You may contact the Corps office in Asheville, N.C. at 828-271-7980, Extension 6 for the federal regulator overseeing Haywood County. A permit may also be required from the N.C. Division of Water Quality, Water Quality Section. The Water Quality Section at the Asheville Regional Office may be contacted at 828-296-4500.
- ❖ It is advisable for you to determine the regulated conditions on your property before you disturb land. It is good planning to conduct your development activities in ways to stay compliant with local, state and federal regulations related to “Trout Waters”.
- ❖ If you determine your project may affect trout waters, please complete the information accompanying this form.
- ❖ To contact the Division of Energy, Mineral, and Land Resources Director and the Land Quality Section Chief:
Mr. Tracy E. Davis, PE, CPM, Director (Phone: 919-733-4574, Fax: 919-733-2876)
Mr. F. Mell Nevils, P.E., Land Quality Section Chief (same phone numbers as above)
North Carolina Department of Environment and Natural Resources
1612 Mail Service Center (512 North Salisbury Street)
Raleigh, NC 27699-1612

Reference Term 15A NCAC 04A .0105 (6) is: “Lake or Natural Watercourse” means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Reference Section 15A NCAC 02B .0301 (i)(1) says: Any stream which is not named in the schedule of stream classifications carries the same classification as that assigned to the stream segment to which it is tributary...”



Haywood County Erosion Control Program
157 Paragon Parkway, Suite 200, Clyde, NC 28721
Phone: 828-452-6706 or fax: 828-452-6798

**AFFIDAVIT TO COMPLY WITH TROUT BUFFER REGULATIONS/
TROUT BUFFER VARIANCE REQUEST**

TO ALL APPLICANTS: This form is for you to use to tell us about your intended development activity. Please take the time to complete all sections applying to your site. When the form is adequately completed, we can clear your building permit application. Incorrect, insufficient, false or misleading information may result in costly delays or enforcement action. Authority to require completion of this form is given by Section 154.70(D) of Chapter 154 of the Haywood County Code of Ordinances: Erosion and Sediment Control, which says, "The Inspector shall also have the power to require written statements or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities."

Name of project: _____

Property owner and mailing address: _____

Telephone numbers: _____

Address of project: _____

PIN# _____

Total acreage expected to be disturbed: _____ Date of this application: _____

NOTE Check the box in front of one of the two paragraphs below best representing your intent for your activity.

1. I hereby agree to conduct my land-disturbing activity in such a way that I will abide by the rules and regulations regarding DEM classified "trout waters" and trout buffer zones. I will provide the 25-foot minimum width of undisturbed buffer zone adjacent to classified trout waters measured horizontally from the top of the bank. I understand that these requirements also apply to all tributary waters flowing to classified trout waters. I will take all reasonable measures to prevent sediment from entering the subject lake or natural watercourse. I know I am responsible if I fail to meet the requirements for land-disturbing activity in regulated buffer zones, and that civil penalties may apply for non-compliance or knowing and willful violations. My land-disturbing activity will not affect the regulated trout buffer zone.

2. I hereby request a variance to conduct a temporary and minimal disturbance in the trout buffer zone on my land identified and described herein.

NOTE Please complete the following section if you checked box number 2. To be compliant, you must obtain permission from Haywood County or the State of North Carolina to conduct your development activity by obtaining a trout buffer variance before you begin any development activity in a regulated trout buffer zone.

- a. This project contains _____ feet of a stream, tributary or natural watercourse subject to the State of North Carolina, Division of Environmental Management "TROUT WATERS" classification.
- b. Measuring parallel to the stream, the length of the proposed encroachment is: _____ linear feet.
- c. From edge of disturbed area toward the stream, the width of proposed encroachment is: _____ feet.
- d. Watercourse and designation: _____
- e. Type of watercourse: Spring, Swamp or wetland area, Stream, brook, branch or creek, River, Pond or lake, Reservoir, Run or waterway, Other: _____
- f. Will both sides of the stream be affected? _____
- g. Width and depth of the stream: _____
- h. Project requires installation of a culvert (or culverts) in the stream? No, Yes, How many? _____
- i. Does work in a "wet" land area need to be performed: Yes, No
- j. Type of vegetation around the stream (pasture, woodland, briar bushes, etc.): _____

- k. Are multiple encroachments proposed? Yes, No Describe: _____

- l. Longest contiguous encroachment: _____
- m. Total length of all encroachments on the project: _____
- n. The intended use, structure, or final objective for this land-disturbing activity is: _____

- o. Longest contiguous encroachment: _____
- p. Total length of all encroachments on the project: _____
- q. The intended use, structure, or final objective for this land-disturbing activity is: _____

- r. Reason the stream must be affected: _____

- s. My land-disturbing activity will meet the best intent of "temporary in duration" because: _____

- t. My land-disturbing activity will meet the best intent of "minimal in extent" because: _____

The above information and the information on page 1 of this form are true and correct to the best of my knowledge and belief, and this information was provided by me under oath. I am aware that I can be held liable for providing false or misleading information.

Financially Responsible Person: _____
(Using black ink, sign your full legal name, then print your name and include any nicknames.)

The Landowner(s) of Record: _____
(Using black ink, sign your full legal name, then print your name and include any nicknames.)

I, _____, a Notary Public of the County of _____
 in the State of _____, hereby certify that _____
 _____ personally appeared before me this day and
 acknowledged the execution of the foregoing instrument.

Witness my hand and Official Seal, this _____ **day of** _____, **20** _____.



Notary: _____

My commission expires: _____

FOR OFFICIAL USE ONLY: VARIANCE DENIED, VARIANCE GRANTED CONDITIONAL TO THE FOLLOWING REQUIREMENTS:

REFERRED TO THE DIRECTOR OF THE DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES, LAND QUALITY SECTION BECAUSE SITE MEETS CRITERIA FOR STATE APPROVAL.

DATE OF ACTION: _____ BY: _____

Copies furnished: COE, EPA, DWQ, FEMA, LQS, Other:

Authority to require completion of this form is given by Section 154.70(D) of Chapter 154 of the Haywood County Code of Ordinances: Erosion and Sediment Control, which says, "The Inspector shall also have the power to require written statements or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities."