

**GEORGIA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

APPLICATION FOR A 25 FOOT VEGETATIVE BUFFER ENCROACHMENT

[Required to conduct Land Disturbing Activities within state mandated 25-foot stream buffer in accordance with the Erosion and Sedimentation Act of 1975, as amended, O.C.G.A. 12-7-6(b)(15).]

MAIL COMPLETED APPLICATION TO: Erosion & Sedimentation Control Unit
Environmental Protection Division
4220 International Parkway
Suite 101
Atlanta, GA 30354
Telephone: (404) 675-6240

Owner's Name:(Person) _____ Telephone: () _____

Company Name: _____

Address: _____

Contact Person: _____ Telephone: () _____

Project Name: _____ Total Project Disturbed Acres: _____

Type of Project: _____

Basis under which variance shall be considered {391-3-7.05 (2)(A-J)}: _____

Location of Project: City or County (not both): _____

Detailed Directions to Project: _____

(Attach Location Map and USGS Quad Sheet)

Name of Stream(s) involved: _____
(NOTE: If unnamed, indicate the stream that this tributary flows into).

Calculation of the total area of buffer disturbance: _____(square feet)

Calculation of the total linear feet of buffer disturbance: _____

Signature: _____

Date: _____

- 1) **The Division shall consider all information pursuant to DNR Rule 391-3-7.05(2) thru (7) when considering whether a stream buffer variance should be issued. This information is available at www.dnr.state.ga.us/dnr/environ.**

- 2) **Variance applications will be reviewed by the Director only where the applicant provides reasonable evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable and only in the following cases:**
 - (a) The project involves the construction or repair of a structure that, by its nature, must be located within the buffer. Such structures include dams, public water supply intake structures, detention/retention ponds, waste water discharges, docks including access ways, boat launches including access ways, and stabilization of areas of public access to water; or
 - (b) The project will result in the restoration or enhancement to improve water quality and/or aquatic habitat quality; or
 - (c) Buffer intrusion is necessary to provide reasonable access to a property or properties; or
 - (d) The intrusion is for gravity-flow sewer lines that cannot reasonably be placed outside the buffer, and stream crossings and vegetative disturbance are minimized; or
 - (e) Crossing for utility lines, including but not limited to gas, liquid, power, telephone, and other pipelines, provided that the number of crossings and the amount of vegetative disturbance are minimized; or
 - (f) Recreational foot trails and viewing areas, providing that impacts to the buffer are minimal; or
 - (g) The project involves construction of one (1) single family home for residential use by the owner of the subject property and, at the time of adoption of this rule, there is no opportunity to develop the home under any reasonable design configuration unless a buffer variance is granted. Variances will be considered for such single family homes only if construction is initiated or local government approval is obtained prior to the effective date of this rule; or
 - (h) For non-trout waters, the proposed land disturbing activity within the buffer will require a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such a permit; or
 - (i) For non-trout waters, a plan is provided for buffer intrusion that shows that, even with the proposed land disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project; or
 - (j) For non-trout waters, the project with a proposed land disturbing activity within the buffer is located in, or upstream and within ten linear miles of, a stream segment listed as impaired under Section 303(d) of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1313(d) and a plan is provided that shows that the completed project will result in maintained or improved water quality in such listed stream segment and that the project has no adverse impact relative to the pollutants of concern in such stream segment.

- 3) **All items on the appropriate application checklist (i.e. temporary or permanent buffer**

impact) must be included before the EPD review process will continue. The completed checklist must be submitted to EPD with the stream buffer application and any additional necessary information.

- 4) **Within 60 days of receipt of a complete buffer variance application, the Division will either provide written comments to the applicant or propose to issue a variance. When the Division proposes to issue a variance, the application process will continue in the following order:**
 - (a) EPD will send out a public advisory to all citizens and groups who request to receive the advisories.
 - (b) The applicant will then publish a notice in the legal organ of the local jurisdiction. The public advisory and public notice shall describe the proposed buffer modification, the location of the variance, where the public can go to review site plans, and where comments should be sent. The legal notice can be published by the applicant only after receiving notification by EPD that their variance proposal is being considered.
 - (c) The applicant will then send the original newspaper sheet with the notice and the published date to EPD to confirm the notice has been published.
 - (d) The public shall have 30 days from the date of publication of the notice in the legal organ to comment on a variance proposal.
- 5) **INCOMPLETE APPLICATIONS SUBMITTED TO EPD WILL BE RETURNED TO THE APPLICANT.**

TEMPORARY BUFFER IMPACT CHECKLIST

- 1. A site map that includes locations of all state waters, wetlands, floodplain boundaries and other natural features, as determined by field survey.
- 2. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
- 3. A dated and numbered detailed site plan that shows the locations of all structures, impervious surfaces, and the boundaries of the area of soil disturbance, both inside and outside of the buffer. The exact area of the buffer to be impacted shall be accurately and clearly indicated.
- 4. A description of the project, with details of the buffer disturbance, including estimated length of time for the disturbance and justification for why the disturbance is necessary.
- 5. A calculation of the total area and length of buffer disturbance.
- 6. A letter from the local issuing authority (as applicable) stating that they have visited the site, have determined the presence of state waters, and have documented that a stream buffer variance is required as per the local ordinance.
- 7. An erosion, sedimentation and pollution control plan, where applicable.
- 8. Proposed mitigation, if any, for the buffer disturbance and a restoration and re-vegetation plan, if applicable.
- 9. Any other reasonable information related to the project that the Division may deem necessary to effectively evaluate the variance request. Division shall determine if this information is needed within 20 business days of receipt.

PERMANENT BUFFER IMPACT CHECKLIST

If the buffer impact will be permanent, the buffer variance request shall include all of the information in

DNR Rule 391-3-7.05(3)(a) thru (i), as listed below, with the exception of (3)(h). A buffer variance request with permanent impact shall also include the following additional information:

- 1. A site map that includes locations of all state waters, wetlands, floodplain boundaries and other natural features, as determined by field survey.
- 2. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property.
- 3. A dated and numbered detailed site plan that shows the locations of all structures, impervious surfaces, and the boundaries of the area of soil disturbance, both inside and outside of the buffer. The exact area of the buffer to be impacted shall be accurately and clearly indicated.
- 4. A description of the project, with details of the buffer disturbance, including estimated length of time for the disturbance and justification for why the disturbance is necessary.
- 5. A calculation of the total area and length of buffer disturbance.
- 6. A letter from the local issuing authority (as applicable) stating that they have visited the site, have determined the presence of state waters, and have documented that a stream buffer variance is required as per the local ordinance.
- 7. An erosion, sedimentation and pollution control plan, where applicable.
- 8. Proposed mitigation, if any, for the buffer disturbance and a restoration and re-vegetation plan, if applicable.
- 9. Any other reasonable information related to the project that the Division may deem necessary to effectively evaluate the variance request. Division shall determine if this information is needed within 20 business days of receipt.

Additional Information Required:

- 10. For non-trout waters, a copy of the permit application, supporting documentation, and approved mitigation plan, if applicable, as submitted to the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, if applicable.
- 11. A buffer mitigation plan addressing impacts to critical buffer functions, including water quality, floodplain, watershed and ecological functions based on an evaluation of existing buffer conditions and predicted post construction buffer conditions pursuant to DNR Rule 391-3-7.05(7)(c).
- 12. A plan for stormwater control once site stabilization is achieved, where applicable.
- 13. For variance requests under DNR Rule 391-3-7.05(2)(i), the application must include documentation that post-development conditions of the project will meet the four

primary performance requirements in the Georgia Stormwater Management Manual or the equivalent. The four primary performance requirements are:

- (a) water quality**
- (b) downstream channel protection**
- (c) overbank flood protection**
- (d) extreme flood protection**

14. For variance requests under DNR Rule 391-3-7.05(2)(j), the application must include:

- (a) Predicted pollutant loading under pre- and post-development conditions as estimated by models accepted by the Division.**
- (b) In addition, the applicant must document how the proposed project is in compliance with the TMDL implementation plan, if available, as required in DNR Rule 391-3-7-.05(5)(i).**