

Vermont ACT 110. (2010)

River Corridors and Buffers

The following is a summary of the river corridor and riparian buffer-related changes in Vermont law (10 V.S.A. Chapter 49 and 24 V.S.A. Chapter 117) as a result of the passage of Act 110 in May of 2010. In several parts of this summary, entire lists and their introductory paragraphs from pre-existing State Statute are presented for the sake of context and clarity, using underlining to indicate the new language enacted as part of Act 110. Unless otherwise noted, the following Vermont law takes effect on July 1, 2010:

It is in the public interest to encourage and promote protected river corridors and buffers adjacent to rivers and streams of the state, where:

“**River corridor**” means the land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel, and necessary to maintain or restore fluvial equilibrium conditions and minimize fluvial erosion hazards, as delineated by the agency of natural resources in accordance with river corridor protection procedures.

“**Buffer**” means an undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream, as determined by the secretary of natural resources.

It is in the public interest to establish policies, plans, and rules that encourage and promote protected river corridors and buffers for the following purposes:

- further the maintenance of safe and healthful conditions;
- prevent and control water pollution;
- protect spawning grounds, fish, and aquatic life;
- control building sites, placement of structures, and land uses;
- reduce property loss and damage;
- preserve shore cover, natural beauty, and natural stability; and
- provide for multiple uses of the waters in a manner to provide for the best interests of the citizens of the state.

A River Corridor Management Program will be established by the ANR Secretary to aid and support the municipal adoption of river corridor and buffer bylaws.

No later than February 1, 2011, state financial incentives shall be offered to municipalities through existing grants and pass-through funding programs which encourage municipal adoption and implementation of zoning bylaws that protect river corridors and buffers. The Agency of Natural Resources will define the minimum standards for a municipality to be eligible for financial incentives.

Under the River Corridor Management Program, beginning February 1, 2011, the secretary shall:

- (1) upon request, provide municipalities with maps of designated river corridors within the municipality. A river corridor map provided to a municipality shall delineate a recommended buffer that is based on site-specific conditions. The secretary shall provide maps under this subdivision based on a priority schedule established by the secretary in procedure; and
- (2) develop recommended best management practices for the management of river corridors and buffers.

Municipal zoning bylaws may permit, prohibit, restrict, regulate, and determine land development, including the following:

- (1) Specific uses of land and shoreland facilities;
- (2) Dimensions, location, erection, construction, repair, maintenance, alteration, razing, removal, and use of structures;
- (3) Areas and dimensions of land to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures;
- (4) Timing or sequence of growth, density of population, and intensity of use;
- (5) Uses within a river corridor and buffer, as those terms are (now) defined in 10 V.S.A. §§ 1422 and 1427.

Municipal Zoning (continued)

Provisions of zoning bylaws must be uniform for each class of use or structure within each zoning district, except that additional classifications may be made within any district to regulate, restrict, or prohibit uses or structures at or near any of the following:

- (A) Major thoroughfares, their intersections and interchanges, and transportation arteries.
- (B) Natural or artificial bodies of water.
- (C) Places of relatively steep slope or grade.
- (D) Public buildings and public grounds.
- (E) Aircraft and helicopter facilities.
- (F) Places having unique patriotic, ecological, historical, archaeological, or community interest or value, or located within scenic or design control districts.
- (G) Flood, fluvial erosion, or other hazard areas and other places having a special character or use affecting or affected by their surroundings.
- (H) River corridors and buffers, as those terms are defined in 10 V.S.A. §§ 1422 and 1427.

A municipality may define different and separate zoning districts, and identify within these districts which land uses are permitted as of right, and which are conditional uses requiring review and approval. The list of districts now includes:

River Corridors and Buffers A municipality may adopt bylaws to protect river corridors and buffers, as those terms are (now) defined in 10 V.S.A. §§ 1422 and 1427, in order to:

- protect public safety; prevent and control water pollution;
- prevent and control stormwater runoff;
- preserve and protect wetlands and waterways;
- maintain and protect natural channel, streambank, and floodplain stability;
- minimize fluvial erosion and damage to property and transportation infrastructure;
- preserve and protect the habitat of terrestrial and aquatic wildlife;
- promote open space and aesthetics; and
- achieve other municipal, regional, or state conservation and development objectives for river corridors and buffers.

River corridor and buffer bylaws may:

- regulate the design and location of development;
- control the location of buildings;
- require the provision and maintenance or reestablishment of vegetation, including no net loss of vegetation;
- require screening of development or use from waters; and
- reserve existing public access to public waters.