

# Virginia Department of Forestry (VDOF)

## EASEMENT TERM GUIDELINES

### Background

The goal of the VDOF conservation easement program is to retain blocks of unfragmented forestland in larger, more manageable and functional pieces that are legally held by one owner.

A proposed easement must preserve and perpetually protect the open-space values of the property being placed under easement. This is accomplished by the easement restrictions, principally the number of permitted divisions and extent of development allowed by VDOF conservation easements.

### Purpose

The purpose of these guidelines is to provide a standard framework within which Forest Conservation Staff can develop and negotiate easement terms that ensure sufficient protection of the open-space values associated with the property taken under easement.

In addition to providing sideboards and subsequently some level of certainty and consistency for Forest Conservation Staff when negotiating easement terms, these guidelines will also:

- Reduce the average parcelization rate of our easement properties.
- Increase the average acreage of properties resulting when reserved division rights are exercised.
- Reduce the easement monitoring workload.

### STANDARD EASEMENT TERMS

#### **1. Divisions**

Parcelization has the greatest negative impact on forestal and open-space values; keeping properties intact provides the most conservation benefit. To protect forestal and open space values, properties should remain as a whole to the extent possible, and divisions or creation of new parcels should be minimized.

Divisions are allocated based on the amount of “buildable acreage”. For the purpose of this guideline, “buildable acreage” shall mean that area of the property with no development limitations and reasonably suitable for constructing a structure. Examples of development limitations include, but may not be limited to, habitat protection areas, enhanced riparian buffers, contiguous National Wetland Inventory (NWI) – designated wetlands, steep slopes, or those areas largely visible from designated scenic corridors.

In general, the divisions allocated per the table below are the *maximum* that will be permitted. No divisions are permitted on properties of 125 acres or less; for larger properties, one division for every 125 buildable acres is allowed on properties between 126 and 500 acres. Properties greater than 501 acres are allowed one additional division for every 100 buildable acres above 500. The maximum number of permitted divisions for a property is seven (eight resulting parcels).

Fewer parcels than permitted in the table may be more appropriate to protect specific conservation values. Additional parcels may be allowed in certain circumstances (such as the property being physically split by a road, river, or other feature) provided that the other terms of the easement help create an otherwise equivalently protective easement.

“Gray Areas” are those lower margins of an acreage range in which adjustments to the Division and Development Standards should be made to mitigate the development impact. The adjustment may be made by either reducing the number of divisions, reducing the amount of development and overall footprint cap, or some combination of both.

“Buildable” Acreage	Divisions	Resulting Parcels	“Gray Area” (Acres)
0 – 125	0	1	-
126 – 250	1	2	126 – 140
251 – 375	2	3	251 – 265
376 – 500	3	4	376 – 390
501 – 600	4	5	501 – 510
601 – 700	5	6	601 – 610
701 – 800	6	7	701 – 710
801+	7	8	801 – 810

## 2. Dwellings

A maximum of two dwellings may be allowed per parcel permitted by the terms of the easement as follows:

- One main dwelling up to 3000 square feet of above ground footprint.
- One additional dwelling up to 1000 square feet of above ground footprint.

If requested, the number of permitted dwellings may be increased only if there is a corresponding decrease in the number of permitted divisions or decrease in the individual footprint. No more than three dwellings will be allowed on a single parcel.

Similarly, the size of permitted dwellings may be increased only if there is a corresponding decrease in the number of divisions or dwellings. The maximum size of a dwelling shall not exceed 5000 square feet.

## 3. Outbuildings

Outbuildings and structures commonly and appropriately incidental to dwellings are permitted. Up to 2000 square feet of aggregate footprint is allowed per dwelling; the number of outbuildings is not limited provided the aggregate footprint is less than the cap.

If requested, the aggregate footprint for outbuildings may be increased only if there is a corresponding reduction in either: a) the number of dwellings allowed per parcel permitted by the terms of the easement; or b) a reduction in the size of the dwellings. In general, for every 1000 square foot reduction in dwelling size or every foregone dwelling, an additional 500 square feet of outbuildings may be allowed. The aggregate footprint of outbuildings shall not exceed 3500 square feet.

#### **4. *Collective Footprint***

The collective footprint of impervious surfaces on the property is limited by VDOF easements. This includes the ground area occupied by all dwellings, structures, and other impervious surfaces excluding roads.

The maximum collective footprint allowed is 15,000 square feet per parcel permitted by the terms of the easement.

If requested, the collective footprint for outbuildings may be increased only if there is a corresponding reduction in the number of divisions that would otherwise have been permitted. The collective footprint may be increased by an additional 1000 square feet per foregone division right, not to exceed an additional 5000 square feet (20,000 square feet total).

#### **5. *Developed Area***

The developed area on an easement includes the combined acreage of the collective footprint and associated clearings maintained in a use other than forestry, agriculture, or wildlife habitat, excluding roads and driveways.

VDOF easements allow a maximum of five (5) acres of developed area per parcel permitted by the terms of the easement.

If requested, the developed area may be increased only if there is a corresponding reduction in the number of dwellings allowed per parcel permitted by the terms of the easement. In general, up to an additional acre of developed area may be allowed for every dwelling foregone that would have been allowed by the terms of the easement.

#### **6. *Preservation of Forest Acreage***

For properties between 51 and 250 acres, a minimum of 80% of the property acreage must be maintained in a forest land use. For properties greater than 251 acres, a minimum of 75% of the property acreage must be maintained in a forest land use. If an easement is accepted on a property 50 acre or less in size, a minimum of 95% of the property acreage must be maintained in forest use. No additional forest conversion is permitted if the property does not meet these minimum thresholds at the time of the conveyance.

Total Acreage	Minimum Forest Preservation (% of <i>property</i> acreage)
0 – 50	95
51 - 250	80
251+	75

## 7. Stream Buffers

VDOF easements require riparian buffers all streams. Streams flowing through what can be considered “forested” portions of the property may be treated differently than streams flowing through what can be considered “non-forested” areas of the property (agricultural fields, pasture, curtilage, etc.).

### FORESTED AREAS

The minimum width for riparian buffers within forested portions of the property shall correspond to the VDOF Forestry Best Management Practices for Water Quality Technical Manual (p. 37). Specifically:

- The minimum width for municipal water supplies will be 100 feet.
- The minimum width for cold water fisheries, as identified by VDGIF, is sixty-six (66) feet.
- The minimum width for all other waters, including wetlands, is fifty (50) feet.

Enhanced buffers, where the minimum width is increased up to 100 feet may be considered if:

- Along primary tributaries of drinking water reservoirs, or rivers known to be sources of drinking water for downstream communities
- Along designated scenic rivers

In the event of a natural habitat element occurrence within the riparian buffer, or within the aquatic habitat adjacent to the riparian buffer, we will seek a buffer recommendation from DCR - Natural Heritage Division.

These buffers cannot be converted to a non-forest use, and must always remain in trees.

### NON-FORESTED AREAS

Fifty (50) feet is the preferred width for riparian buffers within non-forested portions of the property; thirty-five (35) feet is the minimum allowable width.

These buffers must be vegetated, which means they must be in some combination of trees, shrubs, ground cover, or grass.

Enhanced buffers up to 100 feet in width may be considered:

- Along drinking water reservoirs, or their primary tributaries, or rivers known to be sources of drinking water for downstream communities
- Along cold water fisheries, as identified by VDGIF.
- Along designated scenic rivers