

# **APPENDIX A**

## **SUSTAINABILITY SCORING MATRICES**

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ARTICLE V. - RESERVOIR PROTECTION

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Sec. 42-79. - General.

- (a) *Purpose and intent.* The purpose and intent of this article is to protect against and minimize the pollution and degradation of the drinking water supply reservoirs in the City of Newport News resulting from land development in the respective watersheds thereof.
- (b) *Applicability.* The provisions of this article shall apply to areas in the city with stormwater runoff that would eventually be deposited into the Skiffe's Creek, Lee Hall, or Harwood's Mill Reservoirs.

(Ord. No. 6233-06, § 1)

Sec. 42-80. - Definitions.

The following words and terms used in this article shall have the following meanings:

*Acreage.* Any parcel of land described by metes and bounds and not shown on a plat of a recorded subdivision.

*Bulk storage.* Storage equal to or exceeding six hundred sixty (660) gallons.

*Design Criteria Manual.* The city's department of engineering Design Criteria Manual, latest revision.

*Development.* Any construction, external repair, land-disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the physical character of any parcel of land.

*Intermittent stream.* A stream or portion of a stream that flows only in direct response to precipitation which is identified as such on the most recent published United States Geological Survey quadrangle map, except that the designation of intermittent may go beyond the limits identified on this map based upon field verification by the department.

*Lot.* Any piece, parcel or portion of real property created by a subdivision.

*Lot of record.* A portion of a subdivision identified for the purpose of transfer of ownership or building development on a plat which has been recorded in the office of the clerk of the appropriate court.

*Perennial stream.* A stream that flows continuously, which is identified as such on the most recently published United States Geological Survey quadrangle map, except that the designation of perennial may go beyond the limits identified on this map based on field verification by the department.

*Reservoir.* Any public impoundment of surface water used to provide public drinking water for the waterworks system.

*Reservoir protection appeals committee.* A committee composed of the director, the city attorney and a citizen civil engineer appointed by the city council.

*Reservoir protection area.* A special purpose area delineated as reservoir watershed drainage areas on maps in the department of engineering.

*Runoff control official.* The director or his designated representative trained in runoff control who acts as the administrator of this article. The runoff control official shall be vested with all the necessary authority on behalf of the city to administer and enforce the provisions of this article.

*Utility.* A provider of essential energy or communication services to the general public. This includes but is not limited to: electric, natural gas, water, sewer, and telephone companies.

*Watershed.* The portion of the city lying within the drainage basin of any reservoir.

(Ord. No. 6233-06, § 1)

#### **Sec. 42-81. - Requirements for development.**

- (a) *Runoff control permit.* Except as herein expressly provided, it shall be illegal to engage in any development otherwise permitted by law in the watershed of any reservoir until a runoff control permit is issued by the city's runoff control official. It shall thereafter be illegal for anyone to willfully fail to conform to the provisions of said permit in carrying out such development or in operating and maintaining the activities or improvements so developed. Nothing herein shall be construed to prohibit the approval of any subdivision plat where no physical development is to be carried out within any watershed.
- (1) Any person applying for a runoff control permit shall submit an application to the runoff control official that includes a runoff control plan prepared by a registered professional engineer with specifications for the temporary and permanent control of surface water runoff sufficient in detail to meet the requirements of this article regarding the quantity and quality of surface runoff. If the runoff control official determines that the natural drainage system is sufficient to contain and decontaminate the runoff created by the development, and that the drainage system is under the control of the applicant and unavailable for future development, a permit may be granted without a specific runoff control plan or further review by staff.
  - (2) The runoff control official shall review the plans and specifications to ensure that the quality and quantity of surface water runoff will not be detrimental to the water quality of the reservoir. Plans should provide for a diversion/retention system that is equal to or more effective than wet ponds (outlined in the Design Criteria Manual) in containing and removing potential pollutants. Plans should also provide for the complete containment of a spill of any materials stored on the property and long-term maintenance of the system.
  - (3) In the event that the runoff control official shall determine that the plans and specifications are insufficient in any respect, the runoff control official shall promptly notify the applicant to correct the deficiencies. In addition, the runoff control official may require the submission of such additional data as may be reasonably necessary to carry out a thorough review of the application.
  - (4) In the event that the plans and specifications submitted are found to be adequate, the runoff control official may require, prior to issuing a permit, a bond with surety or other security satisfactory to the runoff control official sufficient for and conditioned upon completion of the controls specified in such plans and specifications, in the manner and within the time prescribed in such permit.
  - (5) Failure of the city to act on any permit application within sixty (60) days after all the necessary information has been properly filed with the runoff control official shall constitute approval of the application. The city shall be deemed to have acted whenever written notice of conditional approval, rejection or modification shall have been mailed by the runoff control official to the applicant at the address shown on the application.
  - (6) In the event of any change in any plan for development, the developer shall submit to the runoff control official any additional data, plans and specifications as may be reasonably necessary to ensure the control of the quantity and quality of any additional surface water runoff occasioned by such change. The procedure for submission of such additional data shall conform to the original application procedure.
  - (7) Whenever any development is proposed to be carried out by any person, other than the owner of the land, the responsibility for complying with this article and with all conditions imposed pursuant hereto, including, but not limited to, the maintenance, repair and replacement of any temporary or permanent runoff control measure, shall remain on the property owner.
  - (8) In the event that a developer wishes to utilize a city-owned and maintained diversion/retention system to ensure that the quality and quantity of surface water runoff will not be detrimental to the water quality of the reservoir, the developer shall submit such request to the runoff control official with plans, specifications and calculations of sufficient detail for the runoff control official to determine if this is a feasible option. The runoff control official will approve or deny the request. Should approval be granted, the developer shall be responsible for a pro rata share of design, construction, maintenance costs and any required bond with surety or other security required by

- city, and shall enter into an agreement with the city for use of the diversion/retention system consistent with the department's best management practice cost sharing policy.
- (b) *Exceptions to permit requirements.* Notwithstanding the provisions of subsection (a) hereof, no runoff control permit shall be required for any of the following activities:
- (1) The installation, repair, replacement, enlargement or modification of any water supply intended to serve a total of not more than two (2) dwelling units; and
  - (2) The interior repair, remodeling or reconstruction of any existing structure.
- (c) *Existing uses.* Any exterior modification to a use whether renovation, expansion or reconstruction, which results in an increase in impervious surface, requires a runoff control permit.
- (d) *Septic tanks and drain fields.* Notwithstanding the city council's long-term goal to prohibit the installation of new septic tanks and drainage fields in the reservoir protection area, the council nevertheless promulgates the following regulations to permit such new installations in the reservoir protection area in accordance with the conditions prescribed below:
- (1) New septic tanks and drainage fields may be installed in acreage or lots of record existing prior to September 13, 1988; provided that in no case shall such installation require use of the buffer zone described in paragraph (f) below; and provided further that the required health department approval is first obtained.
  - (2) From and after September 13, 1988, septic tanks and drainage fields may be installed in lots of newly created subdivisions provided that such lots are one (1) acre or larger in size; provided that in no case shall such installation require use of the buffer zone described in paragraph (f) below; and provided further that the required health department approval is first obtained.
  - (3) Properties in which septic systems are installed pursuant to this section must connect to the Newport News public sewer system when such public system is reasonably available. For the purposes of this section, the term "reasonably available" shall mean that a public sewer line to which connections are permitted is within one hundred (100) feet in length in a straight line or one hundred twenty-five (125) feet in length if a connection must be installed which circumvents an obstacle of a permanent nature. The distances are measured from the property line closest to the public sewer line to the public sewer line.
- (e) *Prohibited uses.* Notwithstanding the provisions of subsections (b)(1) and (2) hereof, it shall be illegal to do the following activities unless the activity is accessory to a utility and it can be proven to the satisfaction of the runoff control official that adequate measures can be taken to achieve the same degree of water quality with the acceptable best management practices (outlined in the Design Criteria Manual):
- (1) Activities involving the manufacture, bulk storage, or any type of distribution of petroleum, chemical, asphalt products, or any hazardous substances as defined in Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and substances designated under section 311(b)(2)(A) of the Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended in 1977).
  - (2) Installing a new septic tank and drain field unless otherwise permitted by this article. This does not preclude the maintenance of existing septic tanks or drain fields.
- (f) *Buffer zones.* It shall be illegal for any permitted development to occur within two hundred (200) horizontal feet from the center of any perennial stream or from the edge of any city reservoir and within one hundred (100) horizontal feet from the center of any intermittent stream. Crossing of perennial or intermittent streams, by roads, utilities and the like should be limited to the least impactive portion of the stream as verified by the department. Where such crossings are necessary for the development of the site and required by other city regulations, the standards for construction as outlined in the Design Criteria Manual shall apply.
- (g) *Waiver option.* The buffer requirement may be reduced to no less than fifty (50) feet when it can be proven to the satisfaction of the runoff control official that the reduction would achieve the same degree of water quality with acceptable best management practices (outlined in the Design Criteria Manual) as with the two hundred- or one hundred-foot buffer. If it is determined a significant hardship exists after the maximum allowable waiver is granted, then the runoff control official may grant, after consultation with the director, an additional parcel waiver. This waiver will only be granted in the case of a proven hardship and would allow single-family development (one detached single-family structure with such accessory structures as are permitted in the city's zoning ordinance) on one-acre minimum lots or lots of record when parcel size is less than one (1) acre and would allow a buffer reduction to a minimum of twenty-five (25) feet. A detail of an acceptable best management practice appears in the Design Criteria Manual.
- Under no circumstances will the following uses be permitted within either buffer area:
- (1) Septic tanks and drain fields.
  - (2) Trash containers and dumpsters.
  - (3) Feed lots or other livestock impoundments.
  - (4) Any prohibited use as defined in subsection (e) of this section.

- (5) Fuel storage in excess of fifty (50) gallons.
- (6) No sewage pumping stations or sewage lines unless standards are met as defined in the Design Criteria Manual.
- (h) *Reservoir protection appeals committee.* The reservoir protection appeals committee shall be responsible for reviewing and determining either to uphold or overturn decisions rendered by the runoff control official when appealed by a runoff control permit applicant. The reservoir protection appeals committee will also advise the city council on property acquisition for reservoir protection. The responsibilities of the reservoir protection appeals committee are as follows:
  - (1) Review of the runoff control official's denial of the runoff control permit applicant's request for full or partial "waiver of buffer" as outlined in subsection (g) of this section when review is requested by the applicant;
  - (2) Review of rejection of an application for a runoff control permit by the runoff control official when requested by the applicant; and
  - (3) Review of requests by property owners to have the city purchase partial or whole parcels which are claimed to be a severe hardship consistent with the department's reservoir protection property acquisition policy when requested by the property owner. Recommendations will be made to the city council regarding the purchase of property requests.

(Ord. No. 6233-06, § 1)

#### Sec. 42-82. - Review standards.

The runoff control official shall prepare guidelines for the calculation of pre- and post-development runoff flow and characteristics, and for the control of such runoff for inclusion in the Design Criteria Manual. These guidelines shall be used to review all applications for runoff control permits submitted pursuant to this article; provided, however, that the runoff control official may approve any alternative runoff control measure which the official finds provides runoff control in accordance with standards that are set out in the guidelines. Nothing herein shall be construed to require the approval of any application or part thereof which is found by the runoff control official to pose a danger to the public health, safety and general welfare, or to deviate from sound engineering practices.

(Ord. No. 6233-06, § 1)

#### Sec. 42-83. - Inspections and enforcement.

- (a) The runoff control official and his designated agents shall have the right to enter upon the property subject to this article at all reasonable times for the purposes of monitoring surface water runoff and of making inspections and investigations relating to compliance with the provisions of this article. The property owner shall permit access to all runoff control structures to facilitate said inspections.
- (b) In the event a person fails to comply with the specifications of any permit previously issued, he shall be notified by the runoff control official to comply with the provisions of said permit. Any person failing to comply within the time specified shall be subject to the revocation of any runoff control permit previously issued and, in addition, be deemed in violation of this article.
- (c) Any required runoff control structure or system shall be constructed in accordance with standards outlined in the Design Criteria Manual. The runoff control official may require a bond or other security for the maintenance of any permanent runoff control measure.

(Ord. No. 6233-06, § 1)

#### Sec. 42-84. - Violation; punishment.

- (a) Any person violating the provisions of this article shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each day's violation shall constitute a separate offense.
- (b) Revocation of the runoff control permit shall also result in the revocation of the certificate of use and occupancy for such development.

(Ord. No. 6233-06, § 1)

| Secs. 42-85—42-89. - Reserved.

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**ZONING**

ARTICLE III. DISTRICTS

DIVISION 7. OVERLAY DISTRICTS

Sec. 24.1-376. WMP-Watershed management and protection area overlay district.

(a) Statement of intent. In accordance with the objectives of the comprehensive plan, the Watershed Management and Protection Area Overlay regulations are intended to ensure the protection of watersheds surrounding current or potential public water supply reservoirs. The establishment of these regulations is intended to prevent the causes of degradation of the water supply reservoir as a result of the operation or the accidental malfunctioning of the use of land or its appurtenances within the drainage area of such water sources.

(b) Applicability. The special provisions established in this section shall apply to the following areas:

(1) Areas designated on the Watershed management and protection area overlay district map, dated September 12, 2008, and made a part of this chapter by reference. (See Map III-2 in Appendix A)

(2) Such other areas as may be determined by the zoning administrator through drainage, groundwater and soils analyses conducted by the department of environmental and development services to be essential to protection of such existing or potential reservoirs from the effects of pollution or sedimentation.

(c) For the purposes of this section, the following terms shall have the following meanings:

**Bulk storage.** Storage equal to or exceeding 660 gallons [2500L] in a single above-ground container

**Development.** Any construction, external repair, land disturbing activity, grading, road building, pipe laying, or other activity resulting in a change in the physical character of any parcel or land.

**Reservoir.** Any impoundment of surface waters designed to provide drinking water to the public.

**Tributary stream.** Any perennial or intermittent stream, including any lake, pond or other body of water formed therefrom, flowing either directly or indirectly into any reservoir. Intermittent streams shall be those identified as such on the most recently published United States Geological Survey Quadrangle Map, or the Soil Conservation Service Soil Survey of James City and York Counties and the City of Williamsburg, Virginia, or as determined and verified upon field investigation approved by the zoning administrator.

**Watershed.** Any area lying within the drainage basin of any reservoir.

(d) Use regulations. Permitted uses, special permit uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

The following uses shall be specifically prohibited within the WMP areas:

(1) Storage or production of hazardous wastes as defined in either or both of the following:

- a. Superfund Amendment and Reauthorization Act of 1986; and
- b. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987).

(2) Land applications of industrial wastes.

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## (e) Special requirements.

(1) Except in the case of property proposed for construction of an individual single-family residential dwelling unit, any development proposal, including the subdivision of land, in WMP areas shall be accompanied by an impact study prepared in accordance with the requirements set forth in subsection (f) below.

(2) A two hundred foot (200') [60m] wide buffer strip shall be maintained along the edge of any tributary stream or reservoir. The required setback distance shall be measured from the centerline of such tributary stream and from the mean high water level of such reservoir. Such buffer strip shall be maintained in its natural state or shall be planted with an erosion resistant vegetative cover. In the case of tributary streams located upstream from a stormwater management facility designed to provide water quality protection, no buffer shall be required if such facility has been designed to accommodate and manage the quality of runoff from the subject site.

The zoning administrator may authorize a reduction in the two hundred foot (200') [60m] wide buffer down to an absolute minimum of fifty feet (50') [15m] upon presentation of an impact study, as defined herein, which provides documentation and justification, to the satisfaction of the zoning administrator, that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width buffer. In granting such authorization, the zoning administrator may require such additional erosion control and runoff control measures as deemed necessary.

Except as provided below, all development shall be located outside of the required buffer strip.

a. The buffer strip requirement shall not apply to development which is appurtenant to the production, supply, distribution or storage of water by a public water supplier.

b. Encroachment into or through the required buffer by roads, main-line utilities, or stormwater management structures may be permitted by the zoning administrator provided the following performance standards are met:

1. Road and main-line utility crossings will be limited to the shortest path possible and that which causes the least amount of land disturbance and alteration to the hydrology of the watershed.
2. Stormwater management facilities located within the buffer must be designed to be a part of a watershed stormwater management program.
3. No more land shall be disturbed than is necessary.
4. Indigenous vegetation shall be preserved to the maximum extent possible.
5. Wherever possible, disturbed areas shall be planted with trees and shrubs.
6. The post-development non-point source pollutant loading rate shall be no greater than ninety percent (90%) of the pre-development pollutant loading rate.
7. Non-essential elements of the road or utility project, as determined by the zoning administrator, shall be excluded from the buffer.

c. When the property where an encroachment is proposed is owned by the entity owning and operating the water supply reservoir being protected, and such entity specifically and in writing authorizes and approves the encroachment, it shall be allowed.

(3) In the case of permitted non-residential uses within the WMP areas, performance assurances shall be provided to guarantee that all runoff control and reservoir protection measures proposed in the impact study shall be constructed, operated and maintained so as to meet the performance criteria set forth in the study. The form of agreement and type of letter of credit or other surety shall be approved by the county attorney. The amount of the letter of credit or other surety and designated length of completion time shall be set by the zoning administrator.

(4) The following uses shall not be permitted within the buffer strip required above or within five hundred feet (500') [150m] of the required buffer strip:



- a. septic tanks and drainfields;
- b. feed lots or other livestock impoundments;
- c. trash containers and dumpsters which are not under roof or which are located so that leachate from the receptacle could escape unfiltered and untreated;
- d. fuel storage in excess of fifty (50) gallons [200L];
- e. sanitary landfills;
- f. activities involving the manufacture, bulk storage or any type of distribution of petroleum, chemical or asphalt products or any materials hazardous to a water supply (as defined in the Hazardous Materials Spills Emergency Handbook, American Waterworks Association, 1975, as revised) including specifically the following general classes of materials:
  - 1. oil and oil products;
  - 2. radioactive materials;
  - 3. any material transported in large commercial quantities (such as in 55-gallon [200L] drums), which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a severe oxygen demand;
  - 4. biologically accumulative poisons;
  - 5. the active ingredients of poisons that are or were ever registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 135 et seq.); or
  - 6. substances highly lethal to mammalian or aquatic life.

## (f) Impact study.

(1) The impact study shall be performed or reviewed by a registered professional engineer who shall certify that the study has been conducted in accordance with good engineering practices. The study shall address, at a minimum, the following topics:

- a. Description of the proposed project including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features.
- b. Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate, and chemical composition including phosphorus concentration, nitrogen concentration, suspended solids, and other chemical characteristics as deemed necessary by the zoning administrator to make an adequate assessment of water quality.
- c. Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after.
- d. Proposed runoff control and reservoir protection measures for the project and performance criteria proposed to assure an acceptable level and rate of runoff quality. Such measures shall be consistent with accepted best management practices and shall be designed with the objective of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into the required buffer.
- e. Proposed methods for complete containment of a spill or leaching of any materials stored on the property which would or could cause contamination of drinking water sources.
- f. Where the developer of property which is subject to the terms of this overlay district desires to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification to the zoning administrator that the owner of the off-site facilities will accept the runoff and be responsible for its

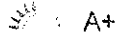
treatment to a level of treatment acceptable to the county and consistent with the requirements of this chapter.

(2) Such study shall be submitted to the zoning administrator for review and approval concurrent with the submission of applications for review and approval of site or subdivision plans or applications for land disturbing or erosion and sediment control permits. A copy of the impact study shall also be forwarded to the agency which owns or manages the subject watershed for review and comments.

(Ord. No. 098-18, 10/7/98; Ord. No. 08-17(R), 3/17/09)



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