

**A G E N D A**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**April 11, 2019**  
**4:00 PM**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MINUTES**

1. March 7, 2019 Meeting Minutes

**D. OLD BUSINESS**

1. ORD-18-0013. Proposed Zoning Ordinance Amendments Regarding Master Plan Consistency Determinations
2. Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity, Stage I

**E. NEW BUSINESS**

**F. ADJOURNMENT**

**ITEM SUMMARY**

DATE: 4/11/2019  
TO: The Policy Committee  
FROM: Paul D. Holt, III, Secretary  
SUBJECT: March 7, 2019 Meeting Minutes

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**ATTACHMENTS:**

	Description	Type
▣	Minutes of the March 7, 2019 Meeting	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Policy	Secretary, Policy	Approved	4/5/2019 - 1:40 PM

**MINUTES**  
**JAMES CITY COUNTY POLICY COMMITTEE**  
**REGULAR MEETING**  
**Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg, VA 23185**  
**March 7, 2019**  
**4:00 PM**

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**A. CALL TO ORDER**

Mr. Jack Haldeman called the meeting to order at approximately 4:00 p. m.

**B. ROLL CALL**

Mr. Paul Holt stated that Ms. Julia Leverenz has asked to participate in the meeting remotely due to an illness preventing her from physically attending the meeting.

Mr. Rich Krapf made a motion to approve the remote participation of Ms. Leverenz.

The motion passed 3-0.

Ms. Leverenz joined the meeting remotely.

Present:

Jack Haldeman, Chair

Rich Krapf

Julia Leverenz

Tim O'Connor

Staff:

Paul Holt, Director of Community Development and Planning

Tammy Rosario, Principal Planner

Jose Ribeiro, Senior Planner II

Tori Haynes, Planner

Terry Costello, Deputy Zoning Administrator

John Risinger, Community Development Assistant

Sue Mellen, Director of Financial and Management Services

Sharon Day, Assistant Director of Financial and Management Services

Jeffrey Wiggins, Budget and Accounting Analyst

**C. MINUTES**

1. February 14, 2019 Meeting Minutes

Mr. Tim O'Connor made a motion to approve the February 14, 2019, meeting minutes.

The motion passed 4-0.

2. February 21, 2019 Meeting Minutes

Mr. O'Connor made a motion to approve the February 21, 2019, meeting minutes.

The motion passed 3-0-1, with Mr. Krapf abstaining as he was not present at the meeting.

3. February 28, 2019 Meeting Minutes

Mr. O'Connor made a motion to approve the February 28, 2019, meeting minutes.

The motion passed 3-0-1, with Mr. Krapf abstaining as he was not present at the meeting.

#### **D. OLD BUSINESS**

1. ORD-18-0013. Proposed Zoning Ordinance Amendments Regarding Master Plan Consistency Determinations

Mr. Holt presented a spreadsheet comparing the options discussed at previous meetings for amending the Zoning Ordinance regarding master plan consistency determinations.

Mr. Krapf stated that the only difference between the options is the procedure for decreases in number or density of dwelling units.

Ms. Leverenz stated that Option No. 2 is consistent with the directive given by the Board of Supervisors (BOS).

Mr. Haldeman stated that simplifying the process to reduce the number or density of dwelling units is in the County's best interest.

Mr. O'Connor stated that master plans should allow for flexibility because the housing market changes over time.

Mr. Holt stated that under the current Ordinance, a master plan consistency determination cannot allow a greater number of units than the total unit cap approved by the BOS.

Mr. Krapf stated that amending the Ordinance would make the master plan process more complicated for developers.

Ms. Leverenz asked if an applicant could appeal a master plan consistency determination that was denied by the Planning Commission.

Mr. Holt stated that under the current Ordinance, if the Planning Commission determined that the proposal was not consistent with the approved master plan, the developer would have to submit an application to amend the master plan.

Ms. Leverenz stated that the current process is adequate for determining consistency with the approved master plan. She stated that broader criteria could be added to give the Planning Commission more discretion.

Mr. Holt stated that the BOS would like a public hearing to be part of the process.

Mr. Haldeman asked how an appeal would be handled with the proposed changes.

Mr. Holt stated that, under the proposed Ordinance, there would be no appeal of the Planning Director's determination. He stated that the developer would have to submit a master plan amendment and go through the public hearing process.

Ms. Leverenz asked if the Policy Committee could recommend not changing the current Ordinance.

Mr. Holt stated that staff could draft a proposed Ordinance that reflects the initiating resolution passed by the BOS. He stated that the Policy Committee and Planning Commission could have a motion to recommend or not recommend the proposed Ordinance.



Mr. Krapf stated that when making the recommendation, the Policy Committee could investigate if any tweaks can be made to the current Ordinance.

Mr. Holt stated that he would draft a proposed Ordinance reflecting the initiating resolution and then bring it to a future Policy Committee for a vote to recommend or not recommend it to the BOS.

Mr. Haldeman asked if there were any further questions.

There were none.

## 2. FY 2020-2024 Capital Improvements Program Review

Mr. Jose Ribeiro stated that the Policy Committee could discuss its rankings for the Capital Improvements Program (CIP) applications. He stated that staff would be available to help answer questions.

Ms. Tori Haynes answered technical questions from the Commissioners related to using the rankings website.

Mr. O'Connor asked if they could have separate rankings for parts of an application. He stated that for the Warhill High School Expansion application he would prioritize the construction of an auxiliary gym to provide an equivalent quality of facilities between the high schools.

Ms. Tammy Rosario stated that the Commissioners could choose to include additional comments in their recommendation.

Ms. Sue Mellen stated that different parts of applications might fall under separate goals of the Comprehensive Plan.

Mr. O'Connor stated that the Chickahominy Riverfront Park Phase III Improvements application had a special consideration because its special use permit requires a stormwater master plan to be created.

Ms. Rosario stated that the Commissioners could discuss the relative rankings of applications using the composite and individual scores for the applications.

Ms. Leverenz stated that she ranked the new elementary school application higher on her list because it would address infrastructure concerns for the future.

Mr. Krapf stated that he ranked the new elementary school application lower on his list because there may be alternatives to consider.

Mr. O'Connor agreed.

Mr. Haldeman stated that he ranked the new elementary school as 10th on his list.

Mr. Krapf stated that he was content with the rankings based on the composite scores.

Ms. Leverenz stated that she agreed with the top seven applications ranked by the composite scores.

Mr. Krapf stated that he agreed with the Ambler's House application being eighth in the composite rankings.

Mr. Haldeman stated he ranked the Ambler's House application lower due to it being less urgent.

Ms. Leverenz asked why the other Commissioners ranked the Chickahominy Riverfront Park restrooms higher.

Mr. Krapf stated that the restroom facilities had deteriorated. He stated that if there is additional damage to the structure, the restrooms might not adequately meet the needs of citizens at Chickahominy Riverfront Park.

Mr. Haldeman stated that he ranked the James City County Marina Phase I application higher. He stated that addressing safety concerns with the bulkheads was important. He stated that he ranked the James City County Marina Phase II application lower.

Ms. Leverenz stated that she gave the James City County Marina Phase II application a higher score due to the revenue generating opportunities.

Ms. Rosario asked how the Commissioners would like to decide their final rankings.

Mr. Krapf stated that the Policy Committee could vote on its top 10 priorities and agree to the composite rankings for the last 10 applications.

Ms. Leverenz stated that the new elementary school application should be in the top 10 priorities.

Mr. Haldeman stated that the Warhill High School expansion application should also be in the top 10 priorities.

Mr. Krapf stated that there should be more analysis before committing to funding the new elementary school application.

Ms. Rosario asked if the Policy Committee would like to use Mr. Krapf's suggestion and decide on its top 10 priorities.

Mr. Krapf asked if the Ambler's House Utilities application should be removed from the top 10.

Mr. Haldeman agreed. He asked what application should be ranked eighth.

Ms. Leverenz stated that the Jamestown Beach improvements application could be moved to the eighth position.

Mr. Krapf stated that the Chickahominy Riverfront Park restroom application would be in the ninth position. He asked if the new elementary school application would be number 10.

Mr. Haldeman stated that he would rather have the Warhill High School expansion application as number 10.

Ms. Leverenz agreed.

Mr. O'Connor asked if a memorandum could be drafted to capture the discussions of how certain applications were ranked.

Ms. Rosario stated that notes could be added to the recommendation memo that the Planning

Commission would forward to the BOS.

Mr. Haldeman stated that land acquisition should be the priority for the Lower County Park and Grove Convenience Center applications. He stated that replacement of the bulkheads should be the priority of the James City County Marina Phase I application.

Mr. Haldeman stated that the 10 top CIP applications were:

1. Stormwater Capital Improvement Program
2. Transportation Match
3. Fire Station 6
4. Columbia Drive
5. Lower County Park
6. James City County Marina Phase I
7. Grove Convenience Center
8. Jamestown Beach Event Park Improvements
9. New Restroom and Concession Building at Chickahominy Riverfront Park
10. Warhill High School Expansion

Ms. Leverenz made a motion to approve the top 10 ranked CIP applications.

The motion passed 4-0.

#### **E. NEW BUSINESS**

1. Annual Review of the Planning Commission Bylaws

Ms. Rosario stated that in the past the Planning Commission had requested to have an annual review of the Bylaws. She stated that the Policy Committee typically conducts that review. She asked if there were any comments or questions related to the Bylaws.

Ms. Leverenz stated that the Code of Virginia states that if a Commissioner is absent from three consecutive meetings or is absent from 25% of meetings in the year, the Commissioner could be asked to resign. She asked if the Bylaws should make reference to that section of the Code of Virginia.

Mr. Haldeman stated that the Member Duties section of the Bylaws state that Commissioners should attend regular and special meetings of the Planning Commission. He stated that the Member Duties section allows for attendance concerns to be addressed.

Ms. Leverenz asked if the Bylaws address the limitations Commissioners have on meeting in public.

Mr. Krapf stated that the Code of Virginia might place limits on elected and appointed bodies meeting in public.

Ms. Rosario stated that staff would identify where those limitations are addressed and notify the Commissioners.

Mr. Haldeman asked if there were any further comments.

There were none.

#### **F. ADJOURNMENT**

Mr. O'Connor made a motion to adjourn. The motion passed 4-0.

Mr. Haldeman adjourned the meeting at approximately 5:40 p.m.

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Mr. Jack Haldeman, Chair

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Mr. Paul Holt, Secretary

**ITEM SUMMARY**

DATE: 4/11/2019

TO: The Policy Committee

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: ORD-18-0013. Proposed Zoning Ordinance Amendments Regarding Master Plan Consistency Determinations

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**ATTACHMENTS:**

	Description	Type
☐	memorandum	Cover Memo
☐	Proposed Ordinance Revisions	Backup Material

**REVIEWERS:**

Department	Reviewer	Action	Date
Policy Secretary	Secretary, Policy	Approved	4/5/2019 - 9:20 AM
Publication Management	Burcham, Nan	Approved	4/5/2019 - 10:00 AM
Policy Secretary	Secretary, Policy	Approved	4/5/2019 - 12:11 PM

## MEMORANDUM

DATE: April 11, 2019

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Case No. ORD-18-0013. Proposed Zoning Ordinance Amendments Regarding Master Plan Consistency Determinations

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Currently, Section 24-23 of the Zoning Ordinance states that final development plans may be approved after approval of a master plan by the Board of Supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if the Planning Director concludes that the development plan does not: significantly affect the general location or classification of housing units or buildings; significantly alter the distribution of recreation or open space areas; significantly affect the road layout; or, significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case.

In the event the Planning Director determines that a proposed change would deviate from the approved master plan, the applicant may appeal the decision to the Development Review Committee.

At its May 22, 2018, work session, the Board of Supervisors asked the Commission to consider limiting the number of residential dwelling units that could be transferred via a master plan consistency determination that is made under Section 24-23 of the Zoning Ordinance.

The Policy Committee discussed this code section and possible revisions on July 10, 2018 and August 9, 2018. At the request of the Policy Committee, the Board of Supervisors provided input into this matter at its November 27, 2018, work session. The Policy Committee discussed this item further at its December 13, 2018 meeting, January 10, 2019 meeting, and March 7, 2019 meeting.

Staff looks forward to having a discussion with the Policy Committee on this item.

PDH/nb  
ORD18-0013ZonAmd-mem

Attachment:

1. Proposed edits to Section 24-23 (proposed revisions do not yet contain formatting and grammatical changes for ease of reading)

Sec. 24-23. - Submittal requirements.

- (a) The following information shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.
  - (1) The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:
    - a. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/or those projects with an entrance or exit onto a roadway with a level of service "D" or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact analysis; and
    - b. A water and sewer impact study for all projects with an anticipated average daily flow greater than 15,500 gallons, and/or for proposed residential projects containing 50 lots or more. Water conservation information shall be submitted in accordance with water conservation guidelines policy; and
    - c. Environmental information shall be submitted in accordance with the environmental constraints analysis for legislative cases; and
    - d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the adequate public school facilities test policy; and
    - e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
    - f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
    - g. An environmental inventory in accordance with the James City County natural resource policy; and
    - h. A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the state using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and
    - i. Parks and recreation information based on parks and recreation master plan proffer guidelines.
  - (2) The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-way (with an indication of whether public or private), accesses, open spaces, public uses and other features to

be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:

- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;
- b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
- c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
- d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;
- e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
- f. If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:

<b>Type of Development</b>	<b>Area Designation</b>
Single family	<b>A</b>
Multi-family dwellings containing up to and including four dwelling units	<b>B</b>
Multi-family dwellings containing more than four dwelling units	<b>C</b>
Apartments	<b>D</b>
Commercial uses	<b>E</b>
Wholesale and warehouse uses	<b>F</b>
Office uses	<b>G</b>
Light industrial uses	<b>H</b>
Institutional or public uses	<b>I</b>
Areas of common open space, with recreation areas noted	<b>J</b>
Structures containing a mixture of uses	<b>M*</b>



Other structures, facilities or amenities	X
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\* Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parentheses, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g. M (CG)) in the order of their proportion in the mixed use structure.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if the planning director concludes that the development plan does not:

1. ~~Significantly affect the general location or classification of housing units or buildings as shown on the master plan;~~
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout or *traffic patterns* as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.

*Any development plan that proposes significant changes in dwelling unit location, dwelling unit counts and/or dwelling unit type over that shown on the adopted Master Plan, shall be submitted and approved in accordance with section 24-13 and such decisions by the Planning Director are not subject to appeal to the DRC.*

For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.

- (3) Any other submittal requirement which may be required by this chapter.
  - (4) An application and fee in accordance with section 24-7 of this chapter.
- (b) Supplemental information should be submitted in accordance with the "Supplemental Submittal Requirements for Special Use Permits and Rezoning" policy as adopted by the board of supervisors and any additional policies as deemed necessary by the planning director.
  - (c) In addition to the paper copies of all documents required by this chapter, all information and plans required under (a)(1), (a)(2) or (a)(3) shall be submitted in an electronic format in accordance with the "Electronic Submittal Requirements for Legislative Applications" policy, as approved by the planning commission.

- (d) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.

In the R-4 District, Section 24-276(b)(1):

The above designation shall be the highest and densest use to which such land may be put without amending the master plan. ~~However, where the planning director finds the project does not vary the basic concept or character of the planned community and where it does not exceed the maximum density permitted under [section 24-279](#), the planning director may approve final plans for projects with lower densities or a lower category of uses than those shown on the master plan without amending the master plan.~~ *Any development plan that proposes significant changes in dwelling unit location, dwelling unit counts and/or dwelling unit type over that shown on the adopted Master Plan, shall be submitted and approved in accordance with section 24-13 and such decisions by the Planning Director are not subject to appeal to the DRC.*

In the MU District, Section 24-516 (a) and (b)

Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning director concludes that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted for this purpose in a form sufficient to illustrate the proposed deviations. If the planning director determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with [section 24-13](#).

Appeals. In the event the planning director disapproves the items specified in [section 24-516](#) (a) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. *Any development plan that proposes significant changes in dwelling unit location, dwelling unit counts and/or dwelling unit type over that shown on the adopted Master Plan, shall be submitted and approved in accordance with section 24-13 and such decisions by the Planning Director are not subject to appeal to the DRC.*

**ITEM SUMMARY**

**DATE:** 4/11/2019

**TO:** The Policy Committee

**FROM:** Tori Haynes, Planner and Thomas Wysong, Senior Planner

**SUBJECT:** Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity, Stage I

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**ATTACHMENTS:**

	<b>Description</b>	<b>Type</b>
☐	Memorandum	Cover Memo
☐	Attachment 1. Initiating Resolution	Resolution
☐	Attachment 2. Newport News Reservoir Protection Ordinance	Backup Material
☐	Attachment 3. York County Watershed Management and Protection Area Overlay District Ordinance	Backup Material
☐	Attachment 4. Comparison of Proposed Regulations with Existing Newport News and York County Regulations	Backup Material
☐	Attachment 5. Skiffe's Creek Reservoir Watershed Map	Backup Material
☐	Attachment 6. Little Creek Reservoir Watershed Map	Backup Material
☐	Attachment 7. Diascund Reservoir Watershed Map	Backup Material

**REVIEWERS:**

<b>Department</b>	<b>Reviewer</b>	<b>Action</b>	<b>Date</b>
Policy	Secretary, Policy	Approved	4/5/2019 - 1:40 PM

## MEMORANDUM

DATE: April 11, 2019

TO: The Policy Committee

FROM: Tori Haynes, Planner  
Thomas Wysong, Senior Planner

SUBJECT: Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity Stage I

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### Introduction

At its May 22, 2018 work session, the Board of Supervisors expressed interest in examining and discussing regulations to protect the drinking water supply and areas of public health and water quality sensitivity, and on November 13, 2018, the Board adopted the corresponding initiating resolution. At its November 27, 2018 work session, the Board further directed the Planning Commission and staff to develop these regulations within the Special Regulations section of the Zoning Ordinance.

Special regulations represent a text amendment in the Ordinance and can be a useful tool when creating enhanced or additional requirements for particular uses (e.g., uses that sell, distribute, or store petroleum-based products of a certain size). Special regulations can also be a useful tool when enhanced or additional requirements are needed within a certain distance of another use or feature (e.g., the regulations would be applicable for uses and features that are within a certain distance of a reservoir or public water supply).

### Background

While the County Code does not currently address water supply reservoirs specifically, the topic has been visited legislatively several times.

- In 1983, the County adopted the Reservoir Protection Overlay District (RPOD) in anticipation of a new reservoir to be created by damming a section of Ware Creek along the James City County/New Kent County border. Although Newport News Waterworks already owned and operated reservoirs in James City County at the time, the RPOD applied only to the Ware Creek Reservoir. Parcels within the reservoir's anticipated watershed were rezoned into the overlay district. The RPOD supplemented the underlying zoning district with additional protections, such as specific prohibited uses and buffers of up to 200 feet around the reservoir and its tributary streams. It also required early versions of stormwater management studies and Best Management Practices (BMPs) implementation. The Ware Creek Reservoir project was ultimately abandoned after the Environmental Protection Agency determined that the reservoir's environmental impact would be too significant (a ruling upheld by the courts), and previously issued permits were revoked. The Board of Supervisors subsequently repealed the RPOD Ordinance in 1995.
- In 1996, James City County and the City of Newport News signed a joint Memorandum of Understanding regarding a proposed reservoir in King William County. Included in the memorandum was an agreement for James City County to adopt a RPOD to protect the three Newport News-owned reservoirs located within the County. Development of the new RPOD continued through approximately 2001, but was never formally adopted. The King William Reservoir project was ultimately abandoned in 2009.

- In 2008, Newport News again requested that the County look into developing a reservoir protection Ordinance, but no changes were made at that time in consideration of the protections provided by some of the existing regulations described in the current code section below.

### **Current Code**

Despite not having a reservoir-specific Ordinance, James City County does currently provide watershed runoff protection through a combination of existing regulations, topography, and land ownership.

#### *Chapter 23. Chesapeake Bay Preservation Area (CBPA)*

The Chesapeake Bay Preservation Area Ordinance was adopted in 1990 by James City County in order to fulfill the purpose of the Chesapeake Bay Preservation Act, which had been approved by the Commonwealth two years prior. All land in James City County is within the jurisdiction of the CBPA; comparatively, the City of Newport News' Chesapeake Bay Preservation Ordinance governs approximately 10% of its land.

The purpose of the CBPA is to “control and regulate runoff at the source to protect against and minimize pollution and deposition of sediment in wetlands, streams, and lakes in James City County which are tributaries of the Chesapeake Bay” and to “assist in protection of the Chesapeake Bay and its tributaries from nonpoint source pollution from land uses or appurtenances within the Chesapeake Bay drainage area.” To accomplish this, the CBPA classifies all land in the County as either Resource Protection Area (RPA) or Resource Management Area (RMA).

RPAs are comprised of land adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. RPAs include:

1. Tidal wetlands.
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
3. Tidal shores.
4. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions 1 through 3 above, and along both sides of any water body with perennial flow.

RMAs comprise all other County lands not located within the RPA. Lands of particular sensitivity within RMAs include, but are not limited to, nontidal wetlands not in RPAs, floodplains, highly erodible soils, highly permeable soils, and hydric soils.

Development within the 100-foot RPA vegetated buffer is heavily restricted and requires a waiver approval process through the Stormwater and Resource Protection (SRP) Division and the Chesapeake Bay Board. For all development elsewhere in the County, the CBPA requires environmental inventories, feature delineations, narratives, and Water Quality Impact Assessments as part of plan submittal. The CBPA also requires structural BMPs for new development, and includes general performance standards for proposed development throughout the County, including an impervious cover limit (maximum 60% of the total site), tree preservation, ingress and egress limitation during construction, etc.

*Chapter 8. Erosion & Sediment Control (E&S)/Virginia Stormwater Management Program (VSMP)*

The Ordinances included in Chapter 8 pertain to Erosion & Sediment Control (E&S) and the VSMP, and work in conjunction with Chapter 23. Other related regulations include Chapter 24, Article VI, Division III, Floodplain Area Overlay District and Chapter 18A, Stormwater Management (Illicit Discharge). Together, this comprehensive suite of regulations minimize untreated runoff into the County's surface waters.

The purpose of the Erosion & Sediment Control Ordinance is "to conserve the land, water, air, and other natural resources of the county by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced." Its practical application helps prevent erosion and sedimentation of disturbed land from leaving the site during construction. Requirements include submittal of engineered phased development plans with proper E&S control measures, such as silt fencing and sediment basins.

The VSMP Ordinance was adopted to integrate CBPA, E&S, and stormwater management requirements into a unified stormwater program. Its practical application regulates approval of stormwater management plans, and gives James City County the authority to issue its own VSMP permits (required for land disturbance over one acre). Issuance of the permit implies that all E&S and CBPA plan requirements have been met. The permit also requires that a Stormwater Pollution Prevention Plan (SWPPP) be kept onsite during construction at all times. The SWPPP is a written document that describes stormwater pollution prevention practices and activities that will be implemented on the site during construction. It includes all approved E&S and stormwater plans, descriptions of the site and of each major phase of the planned activity, the roles and responsibilities of contractors and subcontractors, and the inspection schedules and logs. It is also documents modifications made to the plans during construction. A component of the SWPPP is a Pollution Prevention Plan, which identifies and mitigates potential non-stormwater sources of pollution during construction, such as fuel storage, dumpsters, etc. The SWPPP does not apply post-construction or include long-term pollution prevention plans.

### **Comprehensive and Strategic Plans**

The addition of special regulations regarding reservoirs is consistent with the Comprehensive Plan's Environmental Goals, Actions and Strategies, which already support the CBPA and other regulations to protect local surface waters.

- *ENV 1.3:* Through the Chesapeake Bay Preservation Ordinance, enforce Resource Protection Areas (RPAs) protecting all tidal wetlands, tidal shores, nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, perennial streams and a 100-foot-wide buffer adjacent to and landward of other RPA components.
- *ENV 1.7:* Identify the specific existing and potential uses of County streams and rivers and identify standards necessary to support these uses. Protect the quality and quantity of these surface waters so they will continue to support these uses. Consideration shall be given to protect existing and potential water resource uses when reviewing land development applications.
- *ENV 1.11:* Continue to implement the Chesapeake Bay Preservation Ordinance in order to protect water quality in all drinking water reservoirs within the County.

The 2035 Strategic Plan also supports the protection and management of the County's water sources. The plan begins with "Goal 1: Sustainable Long-Term Water Supply," which states "James City County will

provide an adequate, potable, long-term water supply that is financially sustainable for the County's current and future residences and businesses.”

### **Discussion Items**

Staff has examined the water protection Ordinances of York County and the City of Newport News. Both Ordinances incorporate similar protection methods, including prohibiting certain uses within reservoir watersheds (such as those involving storage of hazardous materials), requiring vegetated buffer strips around streams and reservoirs, and enhanced submittal requirements for impact studies and runoff analysis. Both Ordinances effectively regulate development around reservoirs; however, as Newport News owns and operates the reservoirs located within James City County and serves as the water provider to many of the County's residents, staff recommends that the proposed regulations meet or exceed those of Newport News.

As part of the Stage I materials, staff has identified basic applicability, buffer, and performance standards for certain uses within reservoir watersheds. The attached spreadsheet shows staff's initial recommendations compared to Newport News and York County. Staff notes that two of the three reservoirs are located outside of the PSA in areas designated Rural Lands in the Comprehensive Plan, thus agricultural-related performance standards may also provide additional reservoir protections; however, based on staff's understanding of the Board's guidance to date, staff's primary focus is related to commercial and industrial operations.

The items below briefly introduce each of the proposed subsections included in the attached spreadsheet.

1. *Applicability*. The proposed regulations apply to the three reservoir watersheds located within the County.
2. *Definitions*. Terms to be defined were researched from existing County Ordinances and adjacent localities.
3. *Proposed Buffers*. Buffer areas are proposed around reservoirs and their tributary streams.
4. *Prohibited Uses*. Two categories of prohibited uses will prohibit certain uses within buffer areas specifically, and reservoir watersheds in general. For example:
  - a. The discharge of hazardous materials would be prohibited within a reservoir watershed.
  - b. The manufacture, storage, or distribution of hazardous materials (such as a gas station) could be permitted within a reservoir watershed if certain conditions are met, but would be prohibited within a buffer.
5. *Enhanced Standards for the Manufacture, Bulk Storage, or Distribution of Hazardous Materials within Reservoir Watersheds*. Where facilities that manufacture, store, or distribute hazardous materials are permitted within a reservoir watershed (such as a gas station), enhanced performance standards must be met.
6. *Exceptions/Exemptions*. If certain criteria are met, exceptions/exemptions can apply to certain situations, such as interior alterations to a structure that do not increase impervious surface within a buffer.
7. *Waivers/Appeals*. Waivers/appeals are proposed to be determined by the Planning Director, with appeals heard by the Development Review Committee.

Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of  
Public Health and Water Quality Sensitivity Stage I

April 11, 2019

Page 5

Staff is seeking feedback from the Policy Committee as to whether these recommendations are aligned with the Board of Supervisors' initiating resolution. Based on the Committee's feedback, staff will prepare specific draft Ordinance language for review and discussion at a future Stage II meeting.

TH/TW/md

PublicHealth-WtrStg1-mem

Attachments:

1. Initiating Resolution
2. Newport News Reservoir Protection Ordinance
3. York County Watershed Management and Protection Area Overlay District (see Section 24.1-376)
4. Comparison of Proposed Regulations with Existing Newport News and York County Regulations
5. Skiffe's Creek Reservoir Watershed Map
6. Little Creek Reservoir Watershed Map
7. Diascund Reservoir Watershed Map



**RESOLUTION**

**INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING AND SUBDIVISION  
ORDINANCES TO ADDRESS PROTECTIONS FOR THE PUBLIC WATER SUPPLY AND  
AREAS OF PUBLIC HEALTH AND WATER QUALITY SENSITIVITY**

WHEREAS, the Code of Virginia § 15.2-2286 and County Code § 19-10 and § 24-13 permit the Board of Supervisors of James City County, Virginia (the "Board") to, by resolution, initiate amendments to the regulations of the Subdivision and Zoning Ordinances that the Board finds to be prudent; and

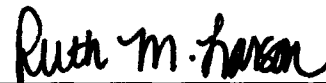
WHEREAS, the 2035 Comprehensive Plan Environment Chapter includes Strategy No. 1 to protect and improve the quality of water in County watersheds, wetlands and waterways; and

WHEREAS, water supply and water quality protection issues are inherently regional in nature and several adjacent localities have adopted regulations addressing these issues; and

WHEREAS, amendments to the Zoning and Subdivision Ordinances are necessary in order to identify and protect the public water supply and areas of public health and water quality sensitivity; and

WHEREAS, the Board is of the opinion that the public necessity, convenience, general welfare and good zoning practice warrant the consideration of amendments to the Zoning and Subdivision Ordinances.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate staff review of the entirety of Chapter 19, Subdivisions, and Chapter 24, Zoning of the James City County Code to amend the Subdivision and Zoning Ordinances, respectively, to address protections for the public water supply and areas of public health and water quality sensitivity. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinances and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.



Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:



Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MC GLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of November, 2018.

## ARTICLE V. - RESERVOIR PROTECTION

## 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 impactful 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.

of the business shall be considered “outdoor storage” and shall be screened/buffered from view from public rights-of-way. This shall not be deemed to require screening of vehicles stopped temporarily for delivery/pick-up or loading/unloading. Outdoor display areas shall not encroach into any required front yard landscape area.

- (12) Parking areas shall have ten percent (10%) of their surface areas in landscaped islands. Surface parking within forty-five feet (45') of a public road right-of-way shall be screened from direct view from the public road by shrubbery and earthforms.
- (13) Site landscaping shall be designed to blend the architecture of the structures on the site with the natural landscape and character of the surroundings.
- (14) Compliance with the provisions of this subsection shall be evidenced by the submission to the zoning administrator of the following plans and information, in addition to complying with all applicable provisions of the subdivision ordinance or article V of this chapter:
  - a. Comprehensive sign plan including design, materials, and colors to be utilized.
  - b. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors to be visible from an external roadway, including building materials and colors to be utilized.
  - c. Rendering of the landscape treatment in perspective view depicting parking areas visible from public road. If appropriate, this rendering may be combined with the one in subparagraph b. above.
  - d. The location and design of all proposed exterior site lighting within the proposed development.
  - e. Photographs or drawings of neighboring uses and architectural styles.
- (g) *Appeals.* In the event the zoning administrator disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant may request that such plans shall be forwarded to the planning commission for review and action at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. The plans shall be approved by the planning commission if it finds such plans to be in accordance with all applicable ordinances and consistent with the intent of protecting the aesthetic and visual character of the district. If the planning commission finds that such plans do not meet the above stated criteria, it shall deny approval of the plans or shall approve them with reasonable conditions which implement the intent of this district. This section shall not be interpreted to confer upon the planning commission any right to override the decision of the zoning administrator on any issue not directly related to the specific additional requirements of this section. In any case in which an applicant is dissatisfied with a decision of the planning commission, the applicant may appeal the decision to the board of supervisors within thirty (30) days by filing a notice of appeal with the clerk of the board of supervisors. Said appeal shall be reviewed by the board of supervisors at a public meeting at which the applicant shall have an opportunity to present its case and reasons for appeal. In accordance with the terms of section 15.2-2306 of the Code of Virginia, the applicant shall be entitled to appeal the decision of the board of supervisors to the circuit court within thirty (30) days of the board's decision.

(Ord. O98-22, 11/4/98; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 10-24, 12/21/10)

### **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 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.

(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') 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') wide buffer down to an absolute minimum of fifty feet (50') 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 pro-



tection 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') 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. O98-18, 10/7/98; Ord. No. 08-17(R), 3/17/09)

**Sec. 24.1-377. Yorktown Historic District Overlay.**

(a) Statement of Intent

The Yorktown Historic District is intended to promote and protect the historical significance, appearance, architectural quality, and general welfare of the Yorktown community through the identification, preservation, and enhancement of landmarks, buildings, structures, and areas which have special historical, cultural, architectural, or archaeological significance as provided by Section 15.2- 2306, Code of Virginia. The Historic District and the accompanying guidelines are drawn with the objective of protecting and improving the village character and ambiance and ensuring its preservation for the benefit of the residents of Yorktown and York County.

The preservation of the historical significance of Yorktown is of paramount importance and it is recognized that the deterioration, destruction, or alteration of Yorktown landmarks, buildings, structures, and significant areas may cause the permanent loss of unique resources which are of great value to the people of Yorktown and York County, the Commonwealth of Virginia, and the nation. These special controls and incentives are warranted to ensure that such losses are avoided when possible.

The purposes for establishing a special Yorktown Historic District zoning classification are:

- (1) To preserve and improve the historical significance of Yorktown for all residents of York County by protecting familiar and treasured visual and historical elements in the area.
- (2) To promote tourism by protecting historical and cultural resources attractive to visitors and thereby supporting local businesses.
- (3) To stabilize and improve property values by providing guidelines for the upkeep and rehabilitation of older structures and by encouraging desirable uses and forms of residential and commercial development.
- (4) To educate residents on the local cultural and historic heritage as embodied in the Historic District and to foster a sense of pride in this heritage.
- (5) To prevent the encroachment of buildings and structures which are architecturally incompatible with their environs within areas of architectural harmony and historic character.

(b) Definitions

- (1) *Historic Yorktown Design Committee (HYDC)* - A three-member board appointed by the York County Board of Supervisors, the purpose of which is to review and determine the appropriateness of proposed actions involving properties within the Historic District.
- (2) *Certificate of Appropriateness* - A statement signed by the Chair of the Historic Yorktown Design Committee, or his designee, which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building or structure within the Historic District, subject to the issuance of all other permits needed for the matter sought to be accomplished.
- (3) *Contributing Building/Structure* - A building or structure within the Yorktown Historic district that was constructed between and including the years 1866 to 1945.
- (4) *Demolition* - The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto.
- (5) *Exterior Features* - The architectural style, general design, and general arrangement of the exterior of a building or structure, including the kind and texture of the building mate-

**Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity Stage I**

<b>Proposed Subsection</b>	<b>Draft Proposed JCC Language</b>	<b>Newport News Equivalent (Reservoir Protection is part of Water Supply Ordinance)</b>	<b>York County Equivalent (Watershed Management Protection Area Overlay District)</b>
1. Applicability	The provisions of this article shall apply to the watersheds of Diascund Creek, Little Creek, and Skiffe's Creek Reservoirs.	"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."	<ul style="list-style-type: none"> <li>• Applies to areas designated on the Watershed Management and Protection (WMP) Area Overlay District Map</li> <li>• Other areas as determined by the zoning administrator</li> </ul>
2. Definitions	<u>Suggested</u> Buffer - An area of natural or established vegetation managed to protect other components of resource protection areas and county and state waters from significant degradation due to land disturbances or uses. [Definition to match Chapter 23, Chesapeake Bay Preservation Area Ordinance]	<u>Existing</u> Buffer area - A treed area remaining natural or landscaped and required to provide screening between districts of different intensities. [Definition found in Newport News Zoning Ordinance]	<u>Existing</u> Buffer - An area, fencing, landscaping, or a combination thereof which is used to separate one use from another or to shield or block noise, lights, glare, pollutants or other potential or actual nuisances. [Definition found in York County Zoning Ordinance]
	Bulk storage - Storage equal to or exceeding six hundred sixty (660) gallons.	Bulk storage - Storage equal to or exceeding six hundred sixty (660) gallons.	Bulk storage - Storage equal to or exceeding 660 gallons in a single above-ground container
	Development - The construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures. [Definition to match Chapter 23, Chesapeake Bay Preservation Area Ordinance]	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.	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.
	Hazardous material - Any waste regulated by state or federal law which, by reason of properties or quantities, is considered hazardous and therefore requires special disposal, including but not limited to (i) petroleum and petroleum based products, thinners and distillates; and (ii) toxic chemicals.	"Hazardous material" is not defined by Reservoir Protection Ordinance; however, "hazardous waste" is defined elsewhere in the City Code:  Hazardous waste - Any waste regulated by state or federal law which, by reason of properties or quantities, is considered hazardous and therefore requires special disposal, including but not limited to (i) petroleum and petroleum based products, thinners and distillates; and (ii) toxic chemicals.	Hazardous wastes - As defined in either or both of the following: <ul style="list-style-type: none"> <li>• Superfund Amendment and Reauthorization Act of 1986</li> <li>• Identification and Listing of Hazardous Wastes, 40 C.F.R. §261</li> </ul>
	Impervious surface - A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted aggregate surface.	"Impervious surface" is not defined by Reservoir Protection Ordinance; however, it is defined elsewhere in the City Code:  Impervious surface - A surface that is covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.	"Impervious surface" is not defined by WMP Ordinance; however, it is defined elsewhere in the York County Zoning Ordinance:  Impervious surface - A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to: roofs, buildings, decks, streets, parking areas, and any concrete, asphalt or compacted aggregate surface.
	Tributary stream - Any perennial or intermittent stream, including any lake, pond, or other body of water formed therefrom, flowing either directly or indirectly into a 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.	"Tributary stream" is not specifically defined by Newport News Reservoir Protection Ordinance; however, they do have definitions for perennial and intermittent streams. James City County defines perennial streams in Chapter 23, Chesapeake Bay Preservation Area Ordinance.  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.  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.	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.
	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, telephone, and cable companies.	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.	"Utility" is not specifically defined in York County Code; however, references to utilities within the zoning ordinance include "electric, telephone, gas, cable television, or similar services."
	Water supply reservoir - Any impoundment of surface waters designed to provide drinking water to the public.	Reservoir - Any public impoundment of surface water used to provide public drinking water for the waterworks system.	Reservoir - Any impoundment of surface waters designed to provide drinking water to the public.
	Watershed - Any area lying within the drainage basin of any reservoir.	Watershed - The portion of the city lying within the drainage basin of any reservoir.	Watershed - Any area lying within the drainage basin of any reservoir.
	<u>Other definitions included in Newport News Reservoir Protection Ordinance:</u> Acreage - equivalent definition in JCC zoning ordinance Lot/lot of record - equivalent definition in JCC zoning ordinance  <u>Definitions specific to the City of Newport News:</u> Design Criteria Manual Reservoir Protection Appeals Committee Reservoir Protection Area Runoff Control Official		

**Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity Stage I**

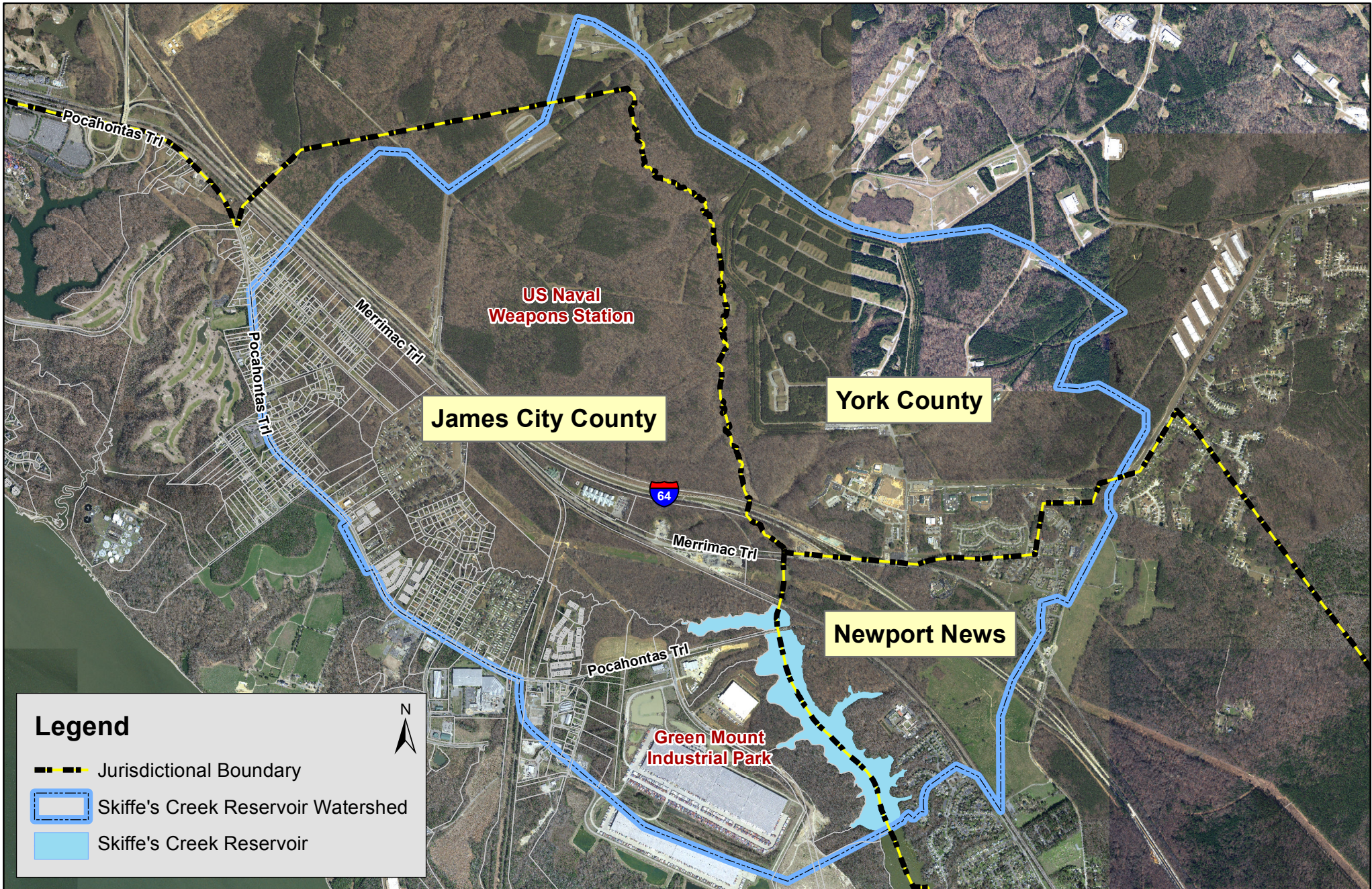
Proposed Subsection	Draft Proposed JCC Language	Newport News Equivalent (Reservoir Protection is part of Water Supply Ordinance)	York County Equivalent (Watershed Management Protection Area Overlay District)
3. Proposed buffers	<ul style="list-style-type: none"> <li>100 horizontal feet from the edge of tributary stream</li> <li>200 horizontal feet from the edge of any reservoir.</li> </ul> <p>The definition of the "edge" of reservoirs/streams to be determined pending SRP's recommendations, but currently under consideration are the following:</p> <p><u>Proposed for streams:</u> edge of the contiguous non-tidal wetlands, or top of the stream bank whichever results in the greatest buffer width.</p> <p><u>Proposed for reservoirs:</u> mean high water level or the edge of the contiguous non-tidal wetlands, whichever results in the greatest buffer width.</p>	<ul style="list-style-type: none"> <li>100 horizontal feet from center line of intermittent stream</li> <li>200 horizontal feet from center line of perennial stream or edge of reservoir</li> </ul>	<ul style="list-style-type: none"> <li>200' from center line of tributary streams or edge of reservoir</li> <li>Within 500' of the 200' buffer - additional restrictions apply</li> </ul>
4. Prohibited uses	<p><u>Within Reservoir Watershed</u></p> <ul style="list-style-type: none"> <li>Discharge of hazardous materials</li> <li>Manufacture, bulk storage, or distribution of hazardous materials unless enhanced performance standards are met</li> <li>Slurry coal facilities</li> <li>Land application of industrial wastes</li> <li>Sanitary landfills</li> </ul>	<p><u>Within Reservoir Protection Area</u></p> <ul style="list-style-type: none"> <li>Manufacture/storage/distribution of petroleum/chemical/asphalt products or hazardous substances are prohibited unless accessory to a utility and same degree of water quality achieved.</li> <li>Septic tanks/drain fields unless certain conditions apply. (ex. lots in existence prior to a certain date can have new septic systems)</li> </ul>	<p><u>Within 500' of the 200' buffer</u></p> <ul style="list-style-type: none"> <li>Septic tanks and drain fields</li> <li>Feed lots and other livestock impoundments</li> <li>Trash containers/dumpsters (if not located to prevent/contain spills)</li> <li>Fuel storage in excess of 50 gallons</li> <li>Sanitary landfills</li> <li>Activities involving the manufacture, bulk storage, or distribution of petroleum, chemical, or asphalt products or any materials hazardous to the water supply, specifically:                             <ul style="list-style-type: none"> <li>-oil and oil productions</li> <li>-radioactive materials</li> <li>-hazardous or highly biodegradable materials transported in large quantities</li> <li>-biologically accumulative poisons</li> <li>-certain active ingredients of poisons</li> <li>-substances highly lethal to mammalian or aquatic life</li> </ul> </li> </ul>
	<p><u>Within 100' and 200' buffers</u></p> <ul style="list-style-type: none"> <li>Structures</li> <li>Impervious surfaces</li> <li>Septic tanks</li> <li>Drain fields</li> <li>Trash containers/dumpsters</li> <li>Sewage pumping stations or sewage lines</li> <li>Fuel storage in excess of 50 gallons</li> <li>Manufacture, bulk storage, or distribution of hazardous materials</li> </ul>	<p><u>Within 100' and 200' buffers</u></p> <ul style="list-style-type: none"> <li>Septic tanks/drain fields</li> <li>Trash containers/dumpsters</li> <li>Feed lots or other livestock impoundments</li> <li>Fuel storage in excess of 50 gallons</li> <li>Sewage pumping stations or sewage lines unless certain design standards are met</li> </ul>	<p><u>Within 200' buffer</u></p> <ul style="list-style-type: none"> <li>All of the above, and all development unless an exception applies</li> </ul>
5. Enhanced standards for manufacture, bulk storage, or distribution of hazardous materials within reservoir watershed	<ul style="list-style-type: none"> <li>Increased tributary stream setback of 200'</li> <li>Spill handling and containment structures adequate to prevent release of hazardous materials in the event of a spill</li> <li>All underground storage tanks containing hazardous materials shall be double-walled and contain a warning device</li> <li>Required to submit:                             <ul style="list-style-type: none"> <li>List of all hazardous materials to be kept on site</li> <li>Soils report</li> <li>Description of surface and groundwater characteristics of the site</li> <li>Description of all spill prevention/containment/leakage control measures</li> </ul> </li> <li>Performance assurances required if not already required from another code section</li> </ul>	<p>Not specific to hazardous materials, but Runoff Control Permit is required for any development in the watershed of any reservoir. Permit submittal requirements include:</p> <ul style="list-style-type: none"> <li>Engineered runoff control plan</li> <li>BMP facility that ensures quality/quantity of runoff meets certain criteria</li> <li>Bond/surety can be required</li> </ul> <p>(JCC requires similar runoff control/BMP plans with performance assurances requirements for development within environmentally sensitive areas.)</p>	<p>Not specific to hazardous materials, but impact study is required for any development, including the subdivision of land, in WMP areas. Impact study must address:</p> <ul style="list-style-type: none"> <li>Description/exhibits of existing soils/topography/runoff conditions</li> <li>Proposed runoff control measures</li> <li>Proposed methods for complete containment of spills/leaching</li> <li>Performance assurances</li> </ul>

**Proposed Ordinance Amendments to Address Protections for the Public Water Supply and Areas of Public Health and Water Quality Sensitivity Stage I**

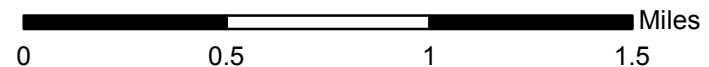
<b>Proposed Subsection</b>	<b>Draft Proposed JCC Language</b>	<b>Newport News Equivalent (Reservoir Protection is part of Water Supply Ordinance)</b>	<b>York County Equivalent (Watershed Management Protection Area Overlay District)</b>
6. Exceptions/exemption	<p><u>Except as provided below, all development shall be located outside of required buffers:</u></p> <ul style="list-style-type: none"> <li>• Supplemental landscaping which would enhance the effectiveness of the buffer</li> <li>• Development related to the public water supply by the public water supplier</li> <li>• Enroachment by roads, utilities, or BMPs may be permitted if criteria are met</li> </ul> <p><u>Other proposed exceptions/exemptions:</u></p> <ul style="list-style-type: none"> <li>• Buffer reduction possible if certain criteria are met. For example, runoff or tributary stream is upstream from adequate BMP.</li> <li>• Interior alterations and repairs that do not expand impervious surface</li> <li>• Lots/structures/uses in creation prior to a certain date (date to be determined)</li> </ul> <p><u>Permitted encroachments into buffer:</u></p> <ul style="list-style-type: none"> <li>• Permitted encroachments into the buffer would require Planning Director approval</li> <li>• Permitted encroachments into the buffer would require replacement of cleared vegetation. Proposed ratio is 2 new trees for every 1 removed.</li> </ul>	<p>Crossing of perennial or intermittent streams, by roads, utilities and the like should be limited to the least impactful portion of the stream as verified by the department.</p> <p>Exceptions that don't require Runoff Control Permit:</p> <ul style="list-style-type: none"> <li>• Installation/repair/replacement/enlargement of any water supply intended to serve not more than 2 homes</li> <li>• Interior repairs/remodeling of existing structures</li> </ul> <p>*Note: Changes to existing structures that result in increased impervious surface require a Runoff Control Permit</p>	<ul style="list-style-type: none"> <li>• Buffer reduction to 50' possible if tributary stream upstream from adequate BMP</li> </ul> <p><u>Exceptions to 200' buffer:</u></p> <ul style="list-style-type: none"> <li>• Development related to the water supply by the water supplier</li> <li>• Roads, utilities, BMPs if certain standards are met</li> </ul>
7. Waivers/appeals	<p>Waivers/exceptions granted by Planning Director; appeal to DRC.</p> <p>Note: Chapter 24 does not allow appeals to the Chesapeake Bay/Wetlands Board</p>	<p>Waivers/appeals granted by the Runoff Control Official; appeal to Reservoir Protection Appeals Committee.</p>	<p>No appeals language specified for WMP ordinance. In general, appeals of the zoning ordinance go to the BZA.</p>



# Skiffe's Creek Reservoir Watershed

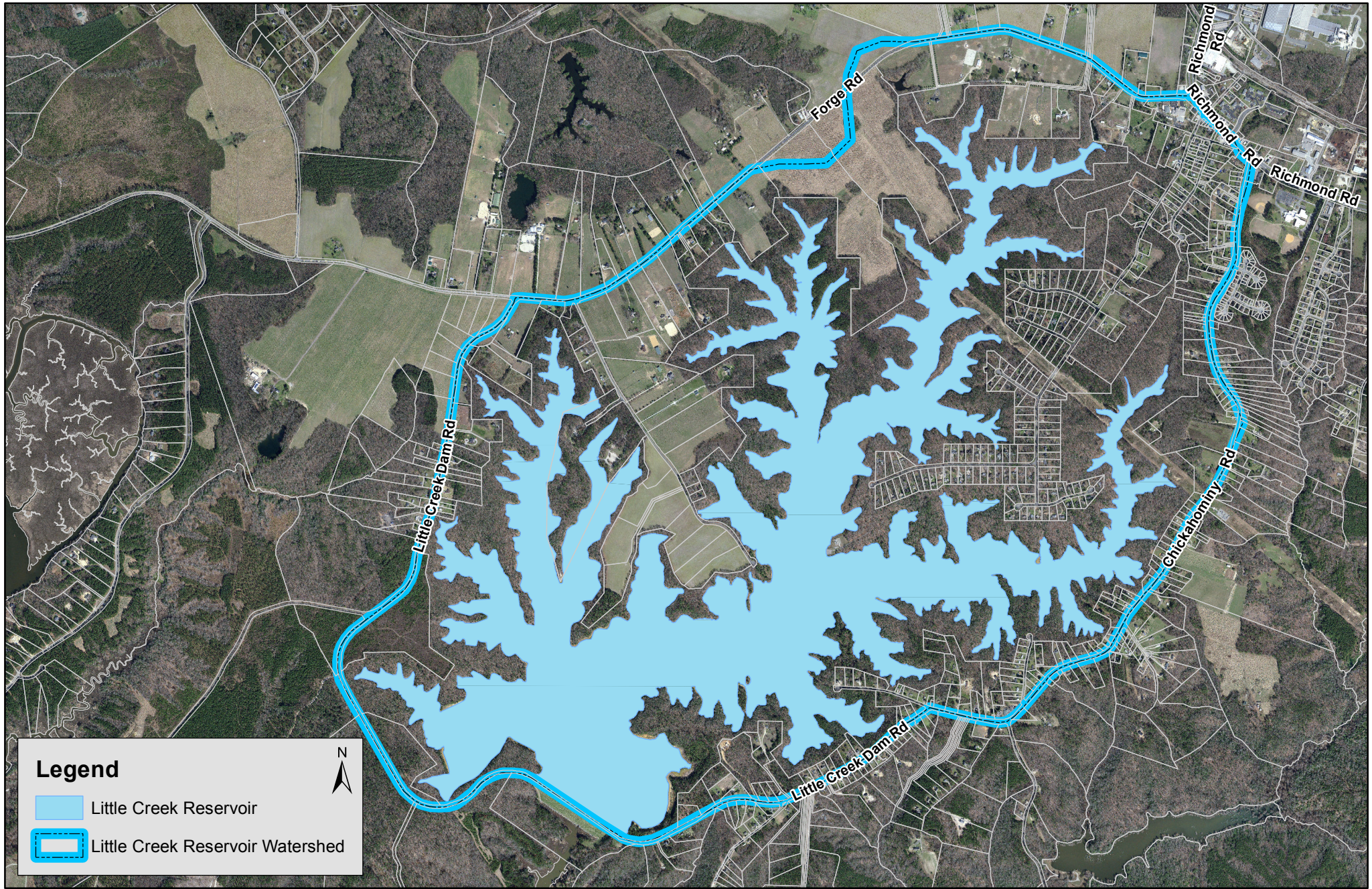


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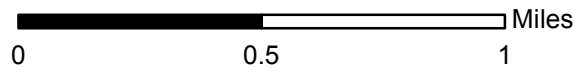




# Little Creek Reservoir Watershed

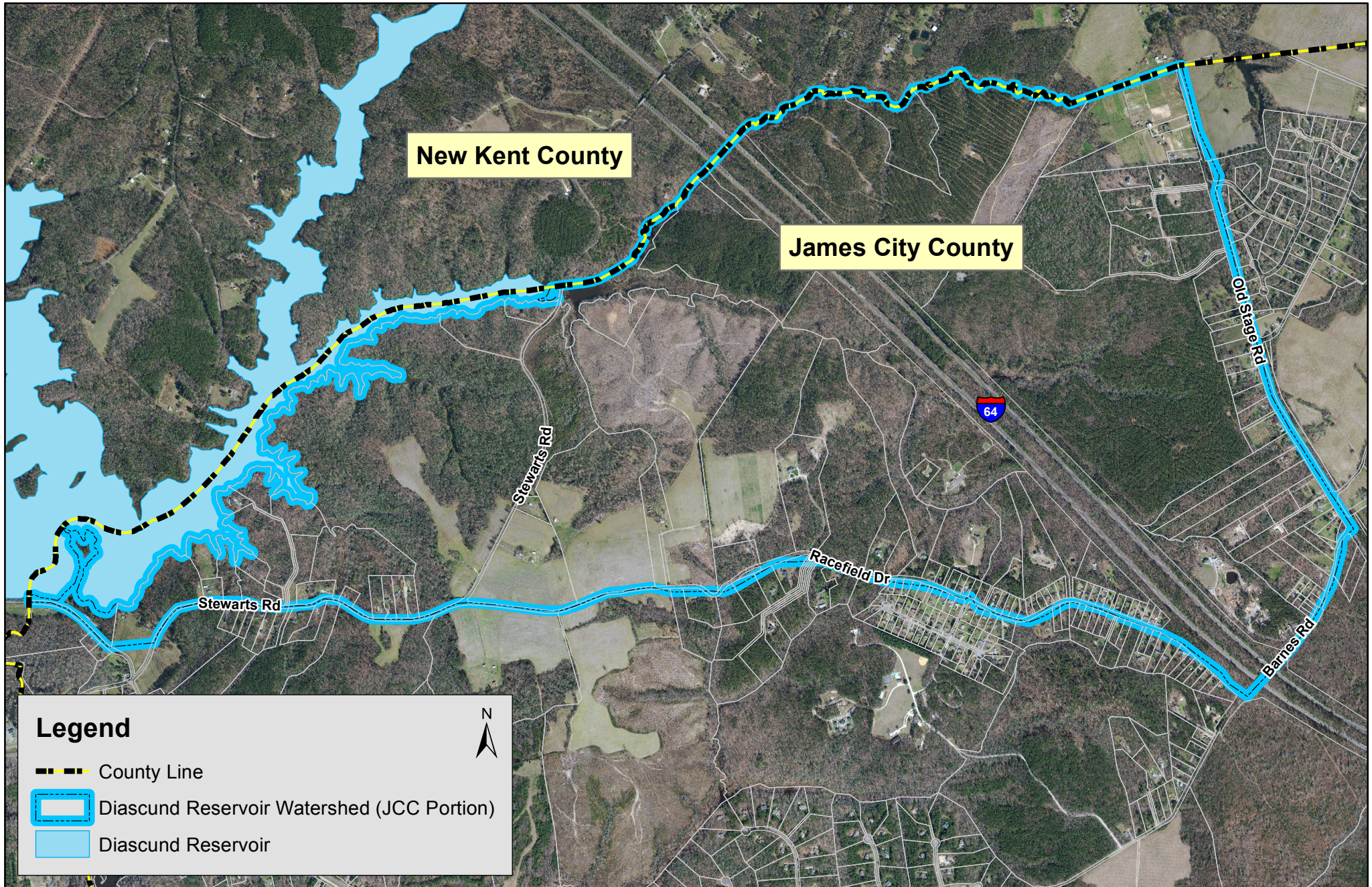


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# Diascund Reservoir Watershed



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