

## **COBB'S CREEK RESERVOIR WATERSHED PROTECTION ORDINANCE**

### **ARTICLE I. – GENERAL PROVISIONS**

#### **Sec. 1-100. - Title and Authority**

This ordinance shall be known as the Watershed Protection Ordinance for the Cobbs Creek Reservoir. The ordinance has been adopted pursuant to the August 10, 2010 Memorandum of Understanding between Cumberland County and Henrico County.

#### **Section 1-101. - Definitions.**

*“Cobbs Creek Regional Water Supply Reservoir” (“Cobbs Creek Reservoir”)* means the fourteen point eight (14.8) billion gallon raw water reservoir constructed by Henrico County in Cumberland County to allow for controlled releases from reservoir storage into the James River.

*“Cobbs Creek Reservoir Watershed”* means the reservoir watershed area identified on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office. It consists of the Reservoir Buffer and Other Reservoir Watershed Area as defined herein.

*“Other Reservoir Watershed Area”* means the portion of the Cobbs Creek Reservoir Watershed outside the Reservoir Buffer. Other Reservoir Watershed Area is shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

*“Owner”* means Henrico County which will construct, own, and operate the Cobbs Creek Reservoir.

*“Pollutant”* means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

*“Reservoir Buffer”* means the buffer which extends 150 feet landward from the reservoir normal pool elevation of 345 feet mean sea level. The Reservoir Buffer is shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

*“Reservoir Normal Pool”* means the reservoir's water area surrounded by the Reservoir Buffer as shown on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

*“Zoning administrator”* means the Director of Planning for Cumberland County.

#### **Section 1-102. - Jurisdiction**

Cumberland County has jurisdiction over the Cobbs Creek Reservoir and is responsible for enforcing the provisions of this ordinance.

#### **Section 1-103. - Purpose**

The purpose of this ordinance is to achieve water quality protection; to control and abate the discharge of pollutants; to permit beneficial use of the Cobbs Creek Reservoir; and to safeguard potential future use of the reservoir as a direct source of drinking water for Cumberland County.

**Section 1-104. - Effective Date**

This ordinance shall be effective upon adoption.

**Section 1-105. - Applicability**

This ordinance applies to all activities in the Cobbs Creek Reservoir Watershed.

**Section 1-106. - Establishment of Reservoir Protection Overlay District**

[Reserved]

**Section 1-107. - Interpretation of District Boundaries**

The zoning administrator shall determine the boundaries of the Reservoir Buffer and Other Reservoir Watershed Area based on the October 2015 Reservoir Buffer and Watershed Map maintained in the Cumberland County Planning Office.

**ARTICLE II. – WATERSHED PROTECTION**

**Section 2-100. - Reservoir Buffer**

**Section 2-100.1. - Intent**

These provisions codify the requirements established in the Cobbs Creek Reservoir Buffer Management Plan approved by the Virginia Department of Environmental Quality (“DEQ”) and the United States Army Corps of Engineers as well as restrictions contained in easements signed by persons owning land in the Reservoir Buffer. Compliance with the approved Cobbs Creek Reservoir Buffer Management Plan is mandatory in the Reservoir Buffer.

**Section 2-100.2. - Prohibited Uses**

Except as provided in Section 2-100.3, the following activities are prohibited in the Reservoir Buffer.

- 1) Construction of new buildings, structures, fences, roads or utilities
- 2) Industrial or commercial activities
- 3) Storage of compost, manure, fertilizers, chemicals, machinery, or equipment outside of existing buildings and structures
- 4) Burning or harvesting timber or otherwise removing any vegetation
- 5) Tree removal to provide for sight lines and vistas
- 6) Mowing, plowing, cultivating, or landscaping
- 7) Grading, blasting, mining, or performing other earth-disturbing activities
- 8) Damming, impounding, capturing, or diverting flowing water.
- 9) Dumping or depositing waste machinery, equipment, other waste materials, household refuse, lawn clippings, woody debris, leaves, or fill material.
- 10) Erecting or installing any billboards, signs, towers, playground equipment, or recreational fields
- 11) Operating any motorized vehicles
- 12) Pasturing or grazing any livestock or poultry

**Section 2-100.3. - Exceptions to Prohibited Uses**

Notwithstanding the prohibitions contained in Section 2-100.2, the following structures and activities are allowed within the Reservoir Buffer.

- 1) Public use areas designated by Henrico County, provided that DEQ approves the locations and that any activities conducted in public use areas will not contravene water quality protection goals.
- 2) Facilities supporting the water supply project.
- 3) Expansion, repair, or relocation of septic or drinking water systems when required by the Virginia Department of Health law or regulation.
- 4) Reconstruction of existing buildings, structures, fences, roads, or utilities damaged by natural events if the original dimensions and locations are maintained.
- 5) Industrial or commercial activities authorized within existing buildings and structures where no material alteration to the external appearance occurs and where no discharge of materials occurs.
- 6) Storage of compost, manure, fertilizers, chemicals, machinery, or equipment within existing buildings and structures where no discharge of materials occurs.
- 7) Burning or harvesting timber or otherwise removing vegetation when necessary for safety purposes or for fire, pest, or invasive species control. Prior approval from Henrico County will be required before a private landowner undertakes any burning, harvesting, or removal of vegetation.
- 8) Burning or harvesting timber or otherwise removing vegetation for water supply project-related activities approved by DEQ and for which a restoration plan is submitted and approved by DEQ.
- 9) Tree pruning to provide for sight lines and vistas, subject to the following conditions specified in the Cobbs Creek Reservoir Buffer Management Plan approved by the Virginia Department of Environmental Quality ("DEQ") and the United States Army Corps of Engineers: (1) pruning is conducted by a certified arborist with the intent that pruned trees survive, (2) maximum pruning area on a single property is a single pruning corridor up to one hundred (100) feet wide through the Reservoir Buffer in a corridor roughly perpendicular to the reservoir shoreline, and (3) a pruning plan is prepared by the property owner, approved by the U.S. Army Corps of Engineers, and provided by the owner to Henrico County and the Cumberland County Planning Office before the pruning occurs.
- 10) Mowing of existing lawn areas adjacent to existing buildings and cemeteries.
- 11) Grading, blasting, mining, or performing other earth-disturbing activities for upland borrow activities for construction of the water supply project.
- 12) Installation of billboards, signs, or towers necessary for operation of the water supply project.
- 13) Operation of motorized vehicles used for traveling on existing roads or for the mowing of existing lawn areas adjacent to the existing buildings and cemeteries.
- 14) Operation of motorized vehicles necessary for the operation, maintenance, or protection of the water supply project.
- 15) Pasturing or grazing livestock or poultry within an existing fenced or otherwise enclosed area that is already being used for such activity.

## **Section 2-200. - Other Reservoir Watershed Area**

**Section 2-200.1. - Statement of Intent.** These provisions establish the activities that are prohibited and permitted in Other Reservoir Watershed Area of the Cobbs Creek Reservoir Watershed.

### **Section 2-200.2. - Prohibited Uses**

The following activities are prohibited throughout Other Reservoir Watershed Area of the Cobbs Creek Reservoir Watershed.

- 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) Installation of long distance transmission pipelines for natural gas, liquid petroleum, petroleum products, slurry coal, and any other liquids or solids, except water lines, sewer lines and storm sewers.
- 3) Fuel storage tanks in the absence of secondary containment structures such as earthen berms around the tanks.
- 4) Gas stations and/or automotive service stations.
- 5) Junkyards.
- 6) Exploration, development or operation of oil wells, natural gas wells, strip mines or quarries.
- 7) Application to land surfaces or landfilling of industrial, commercial or residential waste.
- 8) Land application of biosolids.
- 9) Dumping or spreading of animal waste in areas not used in such manner prior to implementation of this ordinance.
- 10) Feed lots for more than fifty (50) animals.
- 11) Sewage system discharges to surface waters.
- 12) Discharges into the storm drainage system or state waters of any pollutants or waters containing any pollutants other than stormwater.
- 13) Any use prohibited by state or federal law, regulation, or permit.

### **Section 2-200.3. - Permitted Uses.**

Any uses allowed in the zoning district and not listed in Section 2-200.2 are permitted.

## **Section 2-300. - Reservoir Normal Pool**

**Section 2-300.1. - Statement of Intent.** These provisions establish the activities that are prohibited in the Reservoir Normal Pool of the Cobbs Creek Reservoir.

### **Section 2-300.2. - Prohibited Uses**

The following private activities are prohibited in the Reservoir Normal Pool of the Cobbs Creek Reservoir to protect water quality, public facilities, and safe recreational use.

- 1) All activities prohibited in the Reservoir Buffer and Other Reservoir Watershed Area.
- 2) Use of boats, sailboats, kayaks, canoes, and paddleboards within restricted areas.
- 3) Use of jet skis.

- 4) Use of a boat with any type of engine that exceeds ten (10) horsepower.
- 5) Swimming within restricted areas.
- 6) Littering or polluting the reservoir.
- 7) Use of firearms or explosives.
- 8) Accessing or mooring at dam facilities.