

**Prince Edward County  
Sandy River Reservoir  
Protection Overlay District  
Ordinance**

**5<sup>th</sup> DRAFT**

**December 8, 2008**

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**ARTICLE I GENERAL PROVISIONS**

**Sec. 1-100 Title And Authority**

(A) This ordinance, and the Official Sandy River Reservoir Protection Overlay District Map of Prince Edward County, Virginia shall be known and referred to as the Prince Edward County Sandy River Reservoir Protection Overlay District Ordinance.

(B) The provisions of this ordinance have been adopted by the Prince Edward County Board of Supervisors pursuant to the declaration of legislative intent contained in Section 15.2-2200, the purpose of Zoning Ordinances contained in Sec. 15.2-2283, and the authority contained in Sections 15.2-2280 and 15.2-2281 of the Code of Virginia, as amended.

**Sec. 1-102 Jurisdiction**

(A) The provisions of this ordinance shall apply to all property identified as lying within the Sandy River Reservoir Watershed as defined by the Official Sandy River Reservoir Protection Overlay District Map (the RPOD Map), with the exception that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall be requested to follow the provisions of the ordinance in the spirit of cooperation for the common goal of water quality and quantity protection.

**Sec. 1-104 Purpose**

- (A) This ordinance, and any amendments hereto, have been adopted for the general purpose of providing adequate protection to the quality and quantity of waters within the Sandy River Reservoir and its tributaries, which is deemed by the County to be a valuable public resource in need of protection and for the purpose of promoting the health, safety, and/or general welfare of the public. This ordinance will identify uses that are prohibited or are allowed only by permitted exemptions granted under Section 2-300 of this ordinance within designated Reservoir Protection Areas. This ordinance is also designed to complement the purposes of the Comprehensive Plan, general Zoning Ordinance and the Erosion and Sediment Control Ordinance of Prince Edward County, Virginia.
- (B) Forested land use has been determined the highest and best use of lands within the Reservoir Management Area to accomplish the goals of water quality and quantity protection. This ordinance places strong emphasis on sound agricultural and forestry practices which consider stream buffers important. The protection of agricultural and forested land uses in this rural watershed is a priority.
- (C) This ordinance provides direction for watershed protection by building upon the following principles: land conservation, aquatic buffers, better site design, erosion and sediment control, stormwater management, non-stormwater discharges, and watershed stewardship.
- (D) Long term protection of water quality, quality of life, and fisheries have quantifiable community benefits including increased property values and enhanced quality of life which compound over time.

**Sec. 1-106 Effective Date**

(A) This ordinance shall be effective on (Insert Date).

**Sec. 1-108 Application of Regulations**

(A) All land uses and activities not specifically provided for or addressed in this ordinance shall comply with the general Zoning Ordinance of the county.

(B) If a land use or activity is deemed by the Zoning Administrator of Prince Edward County, Virginia (the Administrator) to be prohibited within the RPOD, that use or activity shall not be permitted within the RPOD.

(C) Where the standards imposed by this ordinance are more or less restrictive than the standards imposed by any other public regulation, the more restrictive standard shall apply.

(D) This ordinance shall not apply to, or interfere with, any private covenant. However, if the regulations imposed by this ordinance are more restrictive, or impose a higher standard than the private covenant, then the provisions of this ordinance shall apply.

(E) All county agencies and officials that have the responsibility to issue permits and licenses pertaining to the construction of buildings or the use of land within the RPOD shall do so only in accordance with the provisions of this ordinance. If a permit or license is issued in conflict with the provisions of this ordinance, the permit or license shall be null and void.

(F) Where the standards and management requirements as set out in this ordinance are in conflict with other laws, regulations, and policies or other environmental protection measures made effective in this area, the more restrictive shall apply.

(G) Should any section, subsection, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance in whole or any part thereof other than the part so declared to be invalid.

**Sec. 1-110 Establishment of Reservoir Protection Overlay District Zones**

(A) The RPOD shall be divided into two distinct zones: Reservoir Protection Areas (RPAs) and Reservoir Management Areas (RMAs) as shown on the RPOD Map. RPAs are a more restrictive land use designation as compared to RMAs and are intended to provide the maximum protection for the reservoir, achieving a land cover of 100% natural and vegetated. All regulations defined in this ordinance which apply to RMAs shall also apply to RPAs; where a conflict occurs, the more restrictive requirement shall apply. It is most desirable to have a maximum impervious cover of 5% and a minimum of 95% natural or farm cover in the RMA.

(B) Underlying zoning districts shall also apply within the Sandy River Reservoir Protection Overlay District.

**Sec. 1-110.1 Reservoir Protection Areas**

(A) Reservoir Protection Areas include all areas within the Sandy River Reservoir Watershed which are within:

1. a distance of 0.5 miles of a public water supply intake;
2. a distance of 200 ft from the Sandy River Reservoir normal pool elevation;
3. a distance of 100 ft on each side of perennial streams measured from the crest of the streambank;
4. the 100yr floodplain as defined by FEMA;

5. wetlands; or
6. are considered to have an elevated risk of contributing pollutants to Sandy River Reservoir through runoff. These areas will be determined through a site specific assessment using the evaluation criteria in Table 1, in Appendix A. Areas downslope of a designated RPA shall also be included so that RPAs will be continuous all the way to water's edge.

(B) Sensitive areas, as determined using the evaluation criteria, which are not contiguous with a surface water body (such as a stream, pond, or reservoir) may be exempt from inclusion as a RPA. Such exemption will be determined by the Zoning Administrator.

**Sec. 1-110.3 Reservoir Management Areas**

(A) RMAs include all areas within the Sandy River Reservoir Watershed, as defined on the RPOD Map, that are not designated as RPAs.

**Sec. 1-112 Interpretation of District Boundaries**

(A) The RPOD Map shows the location of RPA and RMA boundaries and should be consulted by persons contemplating activities within the Watershed prior to engaging in a regulated activity in conjunction with the Site Development Plan Process outlined in Article IV of this ordinance.

(B) If, in the opinion of the Applicant, the RPAs shown on the RPOD Map do not adequately reflect the site conditions defined in Section 1-110, the Applicant may perform a site-specific delineation of the boundaries. Such a site-specific delineation must follow the delineation requirements of Section 1-110 and be based on data surveyed from the site or updated maps published by State or Federal Agencies at a scale no smaller than 1:24,000.

(C) Where the applicant has provided a site-specific determination of the Resource Protection Area, the County shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the County may render adjustments to the applicant's boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief through a written request to the Board of Zoning Appeals to interpret the location of the district boundary pursuant to the authority granted by Sec. 5-128.1 of the General Zoning Ordinance and by Sec. 5-102 of this Ordinance.

(D) If, in the judgment of the County, the RPAs shown on the RPOD Map do not accurately reflect the site conditions defined in Section 1-110, the County may either perform or require the applicant to perform a site-specific delineation of the boundaries. Such a site-specific delineation must follow the delineation requirements of Section 1-110 and be based on data surveyed from the site or on updated maps published by State or Federal Agencies at a scale no smaller than 1:24,000.

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**ARTICLE II DISTRICT REGULATIONS**

**Sec. 2-100 Reservoir Protection Areas**

**Sec. 2-100.1 Statement of Intent**

(A) The Reservoir Protection Area district applies to areas designated as sensitive and which are likely to pose a significant risk to reservoir water quality from runoff. RPAs are intended to provide the maximum amount of protection for the reservoir and severely limit the amount of development and types of use which may be allowed within them to achieve this intent.

(B) The Reservoir Protection Area shall be clearly shown on all plats and site plans.

**Sec. 2-100.3 Permitted Uses**

(A) The following uses are permitted within the Reservoir Protection Areas:

1. Buffer Areas,
2. Infrastructure directly related to the public supply and treatment of water, and
3. Specially exempt uses.

(B) Buffer Areas shall consist of a forested strip of land covering the entire RPA within non-exempt areas of a plot. Where a forest strip has been established and subsequently disturbed, the area shall be planted with an erosion resistant vegetative cover consisting of native species. A Riparian Buffer, for the purposes of local real estate classification shall mean an area of trees, shrubs or other vegetation, subject to a perpetual easement permitting inundation by water, that is at least fifty-feet in width, adjacent to a body of water, and managed to maintain the integrity of stream channels and shorelines and reduce the effects of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, chemicals and other suspended pollutants.

(C) When the property where a proposed reservoir buffer RPA encroachment is owned by a public water supply utility and such an entity specifically and in writing authorizes and approves the encroachment, it shall be allowed. Such water supply utility facilities shall be designed, constructed and operated so as to minimize negative impacts to the reservoir and public health.

(D) Specially exempt uses include nonconforming uses and variances as permitted in Section 2-300 of this Ordinance. Such specially exempt uses include, but are not limited to, single family dwellings which existed at the effective date of this ordinance.

**Sec. 2-100.5 Regulated Uses**

(A) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the County, to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed as necessary to provide for sight lines, vistas, and pedestrian access provided that where removed, they shall be replaced with other vegetation that has been demonstrated to be equally effective in retarding runoff,

preventing erosion, and filtering nonpoint source pollution from runoff. Openings in crown cover shall not exceed 60 feet.

2. Any path shall be constructed and surfaced so as to effectively control erosion.
3. Dead, diseased, or dying trees or shrubbery, noxious weeds, and undesired invasive species may be removed, following written notification to the County, pursuant to sound horticultural practices. Commercial Forest Harvesting practices are prohibited in the RPA, except as provided in Section 3-300 “Silviculture” of this ordinance.
4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(B) Encroachments into RPAs that directly surround the reservoir may be permitted by the County through a special use permit if the proposed land use change or development is:

1. water-dependant;
2. a public park or recreational area which otherwise meets the provisions of this ordinance; or
3. a flood control or stormwater management facility which is demonstrated to be more effective than a forested RPA or is otherwise in compliance with all other provisions of this ordinance and cannot be reasonably sited outside the RPA.

(C) A new or expanded water dependent facility may be allowed through a special use permit provided that the following criteria are met:

1. It does not conflict with the Comprehensive Plan;
2. It complies with the relevant performance criteria set forth in Article III of this Ordinance;
3. Any non water-dependent component is located outside of the RPA; and
4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

(D) Encroachments into RPAs which border streams may be permitted by the County through an easement for roads, main-line utilities, and stormwater management structures, provided the following performance standards are met in addition to the performance standards defined in Article III:

1. The County makes a finding that there are no reasonable alternatives to aligning the proposed road, main-line utility, or stormwater management structure in or across the RPA;
2. Where a buffer crossing is proposed, the crossing shall:
  - (a) minimize the disturbance to the stream’s floodplain,
  - (b) avoid disturbance to adjacent wetlands,
  - (c) minimize disturbance to steep slopes and forested areas,
  - (d) be located on straight, not meandering, sections of the stream channel, and
  - (f) be as perpendicular to the stream channel as possible;
3. any stormwater management facilities located within the buffer should be sited within the context of a larger watershed stormwater management program;
4. no more land shall be disturbed than is necessary;
5. indigenous vegetation shall be preserved to the maximum extent possible; wherever possible, disturbed areas shall be planted with trees and shrubs;

6. development designs minimize the number and extent of stream buffer crossings;
7. free span bridges are preferred to the use of culvert pipes; and
8. where possible, water and sewer lines and other utilities shall be located outside of the RPA. Written justification shall be provided to the County for instances where it may not be feasible to avoid buffer area disturbance. Where permitted, disturbances shall be minimized and restored.

(E) Where an encroachment into an RPA is to be permitted by the County, the following additional requirements must be met in addition to the performance standards defined in Article III of this Ordinance:

1. The developer shall provide a Reservoir Protection Easement encompassing the RPA. The easement shall be shown on the site development plan, included on the construction drawings and final record plat, and conveyed to the County at the time of recordation of the plat.
2. A note shall be placed on the final record plat stating “The area shown hereon as a Reservoir Protection Easement shall be granted to Prince Edward County by deed intended to be recorded herewith.”
3. The developer shall provide the acreage and length of stream within the Reservoir Protection Easement.
4. The developer shall provide permanent signs to identify the Reservoir Protection Easement Area. These signs shall be installed at 100 ft intervals around the perimeter of the easement. Signs shall be constructed of non-biodegradable materials and affixed to posts of non-toxic lasting materials (e.g., oak or metal stakes). Posts shall be four feet above ground and two feet below.

#### Sec. 2-100.7 Prohibited Uses

(A) RPAs, including forested areas, wetlands, and floodplains, shall be managed to enhance and maximize the unique value of these resources. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are prohibited within RPAs, except for permitted non-conforming uses, special uses, conditional uses, and variances as provided for in Sections 2-100.3, 2-100.5, and 2-300 of this Ordinance:

1. The existing vegetation within the RPAs shall not be disturbed except as provided in Sections 2-100.5. This includes, but is not limited to, disturbance by tree removal, shrub removal, clearing, mowing, burning, spraying, and grazing.
2. Soil disturbance shall not take place within the RPA by grading, stripping of topsoil, plowing, cultivating, or other practices;
3. New development, use, or construction other than permitted in Section 2-100.3 and Section 2-100.5.
4. Filling or dumping shall not occur within the RPA;
5. Draining by ditching, underdrains, or other drainage systems;
6. Application, storage, or use of pesticides and herbicides within the RPA, except for the spot spraying of noxious weeds consistent with the recommendations contained in the current Pest Management Guide published by the Virginia Cooperative Extension;
7. Animals shall not be grazed or otherwise maintained within RPAs;
8. Sewage disposal systems and/or sewage treatment works, as designated by the Virginia Department of Health Sewage Handling and Disposal Regulations; and

9. Withdrawal of water from the Sandy River Reservoir for the purpose of irrigation uses as prohibited by the County Code (Chapter 82: Waterways, Article II: Sandy River Reservoir Area Section 82-31: Prohibited Activities)

(B) Additionally, the following practices and activities are restricted within the RPAs and within an additional 50 feet beyond, except as provided for in Article V of this Ordinance:

1. Housing, stabling or otherwise confining of livestock or kenneling of animals;
2. Storage, stockpiling, or accumulating of manure or animal wastes.
3. Land application of Bio-solids.

(C) The siting of sewerage systems and/or sewage treatment works, as designated by the Virginia Department of Health Sewage Handling and Disposal Regulations, shall be prohibited within 500 feet of the normal pool elevation of the reservoir per the County Code (Chapter 82: Waterways, Article II: Sandy River Reservoir Area, Section 82-31: Prohibited Activities)

## **Sec. 2-200 Reservoir Management Areas**

### **Sec. 2-200.1 Statement of Intent**

(A) The Reservoir Management Area district applies to the remaining areas within the Sandy River Reservoir watershed. RMAs are intended to provide a reasonable amount of protection to the reservoir and its tributaries by promoting development and land uses that minimize both point and non-point source pollution and the potential for adverse impacts to water quality and public health. Furthermore, RMAs are intended to complement the underlying zoning districts defined in the general zoning ordinance.

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

(A) Unless specifically prohibited or modified by the provisions of this ordinance, the permitted uses, special permit uses and accessory uses, development standards and dimensional requirements established by the underlying general zoning district shall apply within Reservoir Management Areas and are subject to the additional performance standards as specified in Section 2-200.5.

### **Sec. 2-200.5 Regulated Uses**

(A) All land uses and activities within the RMAs not exempt by the provision of Article II Section 2-300 shall be subject to the following performance standards with the purpose and intent of protecting public health and water quality and quantity in the Sandy River Reservoir:

1. Development shall be subject to the performance standards of Section 3-100,
2. Agriculture shall be subject to the performance standards of Section 3-200,
3. Silviculture shall be subject to the performance standards of Section 3-300, and
4. Golf Courses shall be subject to the performance standards of Sections 3-100 and 3-100.5

### **Sec. 2-200.7 Prohibited Uses**

(A) The following are considered as potentially contaminating uses and shall be prohibited within RMAs, except existing uses at the time of the effective date of this ordinance or through the provisions of Article II Section 2-300:

1. Bulk storage, production, distribution, or disposal of hazardous materials;

2. Treatment of hazardous material, except rehabilitation programs authorized by a government agency to treat hazardous material present at a site prior to the adoption of this ordinance;
3. Dry-cleaning, dyeing, printing, photo processing and any other business that stores, uses, or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous materials and have undergone an inspection by certified authority to certify they are in compliance with hazardous material regulations;
4. Fuel storage tanks in the absence of secondary containment structures such as earthen berms around the tanks.
5. Pesticide storage containers 5 gallons or smaller which are not stored in a secure building with concrete floor. Pesticide storage containers greater than 5 gallons which are not returnable bulk safety tanks to be returned to the manufacturer after the planting season.
6. Trash containers and dumpsters which are not under roof or which are located so that leachate from the receptacle could escape unfiltered and untreated;
7. Discharging types of sewage systems;
8. Disposal of septage or septic sludge;
9. Activities involving the manufacture, processing, bulk storage and/or distribution of petroleum, chemical, or asphalt products or any materials hazardous to a water supply (as defined in the Hazardous Materials Spill Emergency Handbook, American Waterworks Association, 1975, as revised) including specifically the following general classes of materials:
  - a. oil and oil products,
  - b. radioactive materials,
  - c. any material transported in large commercial quantities that is a very soluble acid or base, highly biodegradable, or can create a severe oxygen demand,
  - d. biologically accumulative poisons,
  - e. 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
  - f. substances highly lethal to mammalian or aquatic life;
10. Gas stations and/or automotive service stations;
11. Junkyards;
12. Land Application of Industrial Solids; and
13. Sanitary, solid waste or other landfills;

## **Sec. 2-300 Exemptions**

The structures, land uses, activities and practices shall be exempt from the provisions of this ordinance as follows:

### **Sec. 2-300.1 Nonconforming Uses and Structures**

(A) Within the RPOD established by this Ordinance, there exist lots, parcels, structures and uses of land which were lawful before this ordinance was adopted or amended, but which would be prohibited under the terms of this ordinance or future amendment. Such structure's uses and characteristics are considered non-conformities, and are hereby declared by the Board of Supervisors to be inconsistent with the character of the districts in which they occur.

(B) Nothing shall be construed to grant conforming status to uses or structures that existed as legal nonconforming uses prior to the adoption of this ordinance, or amendment thereto, unless such uses or structures now conform to all applicable provisions of this ordinance as amended.

(C) Permitted non-conforming uses and structures, as defined in Sec. 5-126 of the general zoning ordinance, shall be exempt from the provisions of this ordinance, except those uses which are specifically prohibited by Sections 2-100.7 and 2-200.7 of this ordinance.

(D) Nonconforming uses which are specifically prohibited by Sections 2-100.7 and 2-200.7 of this ordinance may be required to demonstrate, in writing, and to the satisfaction of the Administrator that the uses are, and will be, conducted or modified in such a way as to minimize the impacts to the water quality and quantity of the reservoir and its tributaries. In deliberating whether the uses minimize impacts, the Administrator shall consider:

1. the potential and magnitude of impacts to the reservoir by the specifically prohibited nonconforming uses;
2. the level of effort required to modify such uses; and
3. any undue hardship caused by requiring or implementing such modifications.

(E) The Administrator may require those modifications which would greatly reduce either the potential or the magnitude of impacts to the reservoir without causing any undue hardships to the owner/operator of such specifically prohibited uses. Any such requirements may be appealed to the BZA.

#### **Sec. 2-300.3 Conditional Zoning**

(A) In accordance with the authority granted to the county per Sec. 15.2-2297 of the Code of Virginia, the owner of property for which a zoning map amendment is requested, may voluntarily proffer in writing reasonable conditions that are in addition to the regulations of the requested zoning district. All proffered conditions must be signed by the owner of the property.

(B) The county's acceptance of proffered conditions shall be in accordance with the procedures, standards, and stipulations contained in this and the general zoning ordinance.

(C) All conditions proffered by the owner shall meet the standards outlined in the general zoning ordinance and, in addition, must comply with the requirements, goals, and intent of this ordinance.

#### **Sec. 2-300.5 Special Use Permits**

(A) The procedures and standards contained in this section shall apply to all uses specifically permitted as special uses in the district regulations found elsewhere in this ordinance.

(B) Special uses are hereby established in recognition that in addition to uses permitted by right, certain uses may, depending on their scale, design, location and conditions imposed by the Board of Supervisors, be compatible with existing and future land uses in the district.

(C) The review and subsequent approval or disapproval of a special use permit, shall be considered a legislative act, and shall be governed by the procedures thereof.

(D) The standards for review and acceptance of shall be in accordance with the procedures, standards, and stipulations contained in this and the general zoning ordinance with an emphasis on preserving the stated purpose and intent of this ordinance.

**Sec. 2-300.7 Variances**

(A) Variances may be granted by the BZA, in accordance with Section 5-128 of the general zoning ordinance, provided the following:

1. the Variance must be in harmony with the spirit, purposes, goals and intent of this ordinance;
2. in no circumstance may the BZA grant a variance where such a variance would create a significant potential for negative impacts to the water quality or quantity of the reservoir or its tributaries;
3. in granting a variance, the BZA may impose such conditions regarding the location, character, practices, and other features of the proposed structures or land uses as it may deem necessary in the public interest and in keeping with the spirit, purposes, goals and intent of this ordinance, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

**ARTICLE III USE AND DESIGN STANDARDS**

**Sec. 3-100 General Performance Standards**

(A) The standards contained in Article II District Regulations shall apply to all use types, unless specifically modified and/or superseded by the use and design standards in this article.

(B) The standards listed as general standards shall apply to all lands within the Reservoir Protection Overlay District.

**Sec. 3-100.1 Statement of Purpose and Intent**

(A) The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential.

**Sec. 3-100.3 Development Standards**

(A) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

1. In accordance with an approved Site Development Plan, the limits of clearing or grading shall be strictly defined by the construction footprint. The County shall review and approve the construction footprint through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked in the development site.
2. The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.
3. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the County.

(B) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use and development permitted and in accordance with the Prince Edward County Erosion and Sediment Control Ordinance.

1. Harvesting of existing trees outside the approved construction footprint shall not exceed 50 percent of the basal area. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed. Other woody vegetation on site shall also be preserved outside the approved construction footprint.
2. Site clearing for construction activities shall be allowed as approved by the County through the Site Development Plan process outlined under Article IV of this Ordinance.
3. Prior to clearing and grading, suitable protective barriers, like safety fencing, shall be erected 5 feet outside the dripline of any tree or stand of trees to be preserved. Tree Protection barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(C) For any use or development, except individual single-family dwellings, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.) as amended. Compliance with the water quality criteria may be achieved by applying the performance-based criteria (Appendix C) or the technology-based criteria (Appendix D).

(F) Land development shall minimize impervious cover consistent with the proposed use or development; with this in mind, cluster subdivision (as described by Sec. 2-1200 of the General Zoning Ordinance) is the preferred pattern for development of new residential zones within the RMAs. Low density zoning is the most inefficient land use.

(G) Notwithstanding any other provisions of this Ordinance or exceptions or exemptions thereto, any land disturbing activity exceeding 5,000 square feet, including construction of all single-family houses, shall comply with the requirements of the Prince Edward County Erosion and Sediment Control Ordinance.

(H) All development within RPAs and RMAs that exceeds 5,000 square feet of land disturbance shall be subject to a Site Development Plan Process as defined in Article IV of this Ordinance.

(I) All on-site sewage disposal systems should be pumped out at least once every five years, in accordance with the provisions of County Health Code. Each subdivision plat and site plan shall contain the following statement: “The Virginia Department of Health advises that septic tanks should be pumped every three (3) to five (5) years to maximize the life of the on-site wastewater area.” *Note: Alternatives for pump-out are also permitted including the installation of a plastic filter in the outflow pipe from the septic tank as long as the filter satisfies the standards established in the Sewage Handling and Disposal Regulations under 12 VAC 5-6-10 et. seq. as administered by the Virginia Department of Health or owners of on-site sewage treatment systems may submit, every five years, documentation certified by a sewage handler permitted by the Virginia Department of Health that the septic system has been inspected and is functioning properly and does not need to be pumped out.*

(J) All conventional onsite sewage disposal systems (i.e., septic tank and drainfield systems) installed or repaired after the adoption date of this ordinance shall require two septic tanks in series with a minimum hydraulic detention time of 96 hours (based on daily design flow). Other types of onsite sewage disposal systems will be considered on a case by case basis by Prince Edward County in cooperation with the Virginia Department of Health.

(K) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with Virginia Department of Health and applicable County Codes. All drain field and reserve drain field spaces shall be shown on subdivision plats and project site plans. This requirement shall not apply to any lot or parcel recorded prior to the effective date of this Ordinance if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Virginia Department of Health. Building or the construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the Virginia Department of Environmental Quality, until the structure is served by public sewer.

(L) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the County, in accordance with Section 4-106 of this Ordinance.

Sec. 3-100.5 Golf Courses

(A) Golf Courses require Special Use Permits to be considered a permitted land-use in the Sandy River RMA. In addition to any other requirements contained in this Ordinance, the following requirements will apply for Site Development Plans associated with Golf Courses:

1. A plan of the golf course layout will be submitted along with the Site Development Plan including:
  - a. all planned construction areas,
  - b. chemical storage areas,
  - c. proposed grading with underdrain system and outfalls shown,
  - d. alternatives to surface (lakes, streams) and groundwater (wells) withdrawal for irrigation purposes must be utilized.
2. Aerial photo scales are not to exceed 1"=100' showing proposed layout.
3. Total acreage of fairways, green/tees
4. Total acreage of impervious areas.
5. Wetland Impacts
  - a. identify the potential impacts to wetlands including proposed clearing, filling, change in vegetation type and dominance, and change due to increase in drainage from proposed roads, trails, and underdrain systems
6. Surface Water Impacts
  - a. Where stream buffers are to be crossed, indicate how impacts will be addressed.
  - b. Determine the nutrient loadings to the receiving streams from stormwater runoff and mitigation measures to reduce nutrient loads for the entire project area. Site conditions to consider include:
    - i. Vegetation Type
    - ii. Nutrient Application Rates
    - iii. Slope
    - iv. Distance to Stream
  - c. Identify potential impacts to stream flows from a reduction in baseflow due to groundwater withdrawals for irrigation
  - d. Identify potential impacts to the stream from outfalls for underdrain systems, stormwater management, drainage systems or water hazards. Impacts should include:
    - i. Temperature,
    - ii. Pesticides,
    - iii. Nutrients from fertilizers, and
    - iv. Sediment delivery generation
7. Groundwater Impacts
  - a. Identify soils which may be susceptible to leaching. Examples include, but are not limited to, soils associated with high water table and/or high permeability.
  - b. Verify soil types and extent in areas deemed as highly vulnerable to leaching where greens, tees, and hazards are proposed.
  - c. Impacts which may be associated with groundwater extraction for on-site irrigation shall be identified
8. The following Mitigation/Design Measures shall be implemented:
  - a. An Integrated Pest Management plan as may be recommended by the Virginia Cooperative Extension System shall be developed for use on the site. The plan shall be submitted to the County.
9. A listing of all herbicides, soil amendments, or pesticides to be used on the site including the following shall be submitted:
  - a. Pesticide Classification
  - b. Application Rates

- c. Toxicity
- d. Leachability
- e. Environmental Persistence

A design for storage and handling of all such materials shall be provided.

10. Forest cover replacement areas and wetland mitigation areas shall be identified on the plan.
11. A nutrient management plan shall be prepared in accordance with Virginia Department of Conservation and Recreation guidelines.
12. The following standards shall be used in the development of the Golf Course Design:
  - a. Fairway stream crossings shall:
    - i. Minimize the number of stream crossings;
    - ii. Cross perpendicular to any wetland and/or stream;
    - iii. Be maintained as unplayable rough with shrub-scrub or herbaceous vegetation. Shrubs and small trees along the stream banks should be preserved or planted to provide shading and stability;
    - iv. Be located at the narrowest possible area of wetland and/or stream to minimize disturbance;
    - v. Minimize clearing, filling, or grading in buffers, wetlands or floodplains; and
    - vi. Utilize cart paths constructed with minimal disturbance. Paths should not be located on steep or erodible slopes. Paths should be treated with a non-erodible surface treatment.
  - b. Greens and tees should be located in areas where the maximum high water or bedrock is greater than four feet below final grade, including underdrain systems.
  - c. Nutrient losses to groundwater and surface water shall be reduced through the use of best management practices.
  - d. Site design considerations shall emphasize:
    - i. Selection of drought and disease resistant grass species for fairways, tees and greens.
    - ii. Use of biological control of pests instead of chemicals.
    - iii. Selection of those chemicals which are less toxic, less mobile and have a shorter environmental persistence.
    - iv. Elimination or reduction of pesticide applications in sensitive or highly vulnerable areas.

### Sec. 3-200 Agriculture

(A) On agricultural lands, areas adjacent to RPAs shall be managed to prevent concentrated flows of surface water from breaching the buffer area. Appropriate measures may be taken to prevent noxious weeds from invading the buffer area.

(B) A Conservation Farm Plan meeting the Resource Management System (RMS) level shall be developed, approved by the Piedmont Soil & Water Conservation District, and implemented for lands upon which agricultural activities are being conducted. An RMS is a combination of conservation practices and resource management, identified by land or water uses, for the treatment of all resource concerns for soil, water, air, plants and animals that meets or exceeds the quality criteria in the U.S. Department of Agriculture (USDA) – Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) for resource sustainability. Quality criteria for an RMS are approved by the State conservationist and are located in the FOTG, Section III. A grace period extending five (5) years from the effective date of this ordinance will be available for agricultural producers to comply with this Conservation Plan requirement.

(C) Where land uses such as agriculture within the buffer area cease and the lands area proposed to be converted to other uses, the full 100-foot wide buffer shall be established. In establishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions for water quality. ~~An agricultural use shall be considered new if it has not been conducted in the same area for a period of two years or more. Fields where grass or hay is planted in rotation with row crops may still be considered cropland after being grass for more than two years. New agricultural uses must maintain forest buffer areas within RPAs subject to the conditions of Section 2-100.~~

(D) Livestock on all agricultural uses shall be excluded from riparian buffer areas along perennial creeks. Where there is existing agriculture, the riparian buffer width may be reduced to a minimum of thirty-five (35) feet on each side of the stream when a Conservation Plan in adherence to (B) above has been implemented on the adjacent land. This reduction in buffer strip width may only be applied if the plan achieves water quality protection of at least the equivalent of that provided by the 100-foot buffer strip. The buffer area is not required for agricultural ephemeral streams if the adjacent land has in place Best Management Practices in accordance with an approved conservation plan.

(E) Permanent cover crops which do not require seasonal tillage nor pesticide applications, such as hay crops, are encouraged in the buffer strip and may be harvested as they would be elsewhere. Row Crops requiring conventional tillage shall not be permitted within the RPA buffer area.

(E) Land application of biosolids may only be conducted in the RMA area under a valid permit issued by the State Board of Health in compliance with the provisions of Virginia Code § 32.1-164.5 and under the supervision of a county approved monitoring program. Additionally, no holding or storage of biosolids shall be permitted in the county in excess of 12 hours prior to the actual application of the biosolids. The temporary storage of biosolids during the actual application process is the only storage of biosolids allowed in the county. Land application of biosolids is not permitted in the RPA.

(F) Land application of livestock waste, poultry litter, or other animal waste is prohibited within the RPA, except in strict accordance with a nutrient management plan approved by the Piedmont Soil & Water Conservation District and reviewed by the appropriate public water supply authority.

(G) The County recommends that existing agricultural lands within RPAs should be converted to Riparian Forest Buffers as defined by the USDA NRCS (practice code 391).

(H) All concentrated animal feeding operations (CAFOs) as defined by 9VAC25-31-10 shall obtain and operate in compliance with the conditions of a valid VPDES permit.

(I) If specific problems are identified pertaining to existing agricultural activities which are causing pollution of the nearby water body with perennial flow or violation of performance standards pertaining to the vegetated buffer area, the county, in cooperation with the Soil and Water Conservation District or with the Virginia Department of Agriculture and Consumer Services Agricultural Stewardship Program, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal

considerations so that the probability for successfully implementing the corrective measures is greatest.

**Sec. 3–200.1 Horses**

(A) The minimum area of any parcel used for the keeping or raising of horses other than a commercial stable shall be three (3) acres for the first horse. One (1) additional horse may be kept or raised for each additional two (2) acres.

(B) The minimum area of any parcel proposed for the keeping of horses as a commercial stable in an agriculturally zoned area, shall be five (5) usable acres. In determining usable acreage, the area occupied by any residential structures, the area of required front or side yards, and any areas unsuitable for keeping of horses by reason of topographic or drainage conditions shall not be included in the computation.

(C) The maximum number of horses permitted for commercial stables shall be one (1) upon the first three (3) acres and one (1) per usable acre of land thereafter or such fewer number as the zoning administrator may deem appropriate given the characteristics of the subject property and the surrounding area.

(D) Horses shall not be stabled, pastured, or otherwise kept within two hundred-feet (200') of the Sandy River Reservoir. This shall not be interpreted to preclude the riding of horses or establishment of bridle trails closer than the specified distance provided that the health department and the zoning administrator approve.

(E) Horses shall not be stabled or otherwise kept within one hundred feet (100') of an active well nor shall they be stabled, pastured or kept in any manner whatsoever that causes drainage or water runoff from the stable, pasture or animal yard to flow within one hundred feet (100') of an active well.

(F) Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate within any Reservoir Protection Area (RPA) or within 50' of the RPA. Drainage associated with the storage or stockpiling of animal manure shall not be permitted to contaminate or pollute any stream, watercourse, or drainage way, natural or manmade.

(G) If conducted on residentially-zoned property, the keeping of horses shall be solely for the recreational purposes of the family living on the premises. The commercial boarding of horses which are not owned by the resident family shall be prohibited.

(H) The commercial boarding of horses shall constitute bona fide agricultural use.

(I) The owner of a commercial boarding operation shall provide the county with a soil conservation and management plan prepared by or approved by the Piedmont Soil and Water Conservation District which shall include:

1. a nutrient management plan for the proper storage and application of animal waste;
2. an erosion control plan to ensure the integrity of the slopes; and
3. a best management practices program for controlling and treating surface runoff.

(J) In determining consistency with the above conditions, the Zoning Administrator may request the assistance of the Piedmont SWCD, the Virginia Department of Conservation and Recreation, the USDA NRCS, or other related agencies.

### Sec. 3-300 Silviculture

(A) Land upon which silvicultural activities are being conducted shall be part of a Forest Management Plan, Forest Stewardship Plan, or similar Conservation Plan which shall outline practices needed to ensure that water quality protection is accomplished consistent with this Ordinance.

(B) Commercial forestry operations shall be considered those operations which intensively harvest or otherwise remove trees for the purposes of commerce. All forestry operations shall be in accordance with standards prescribed as the Forestry Best Management Practices for Water Quality, as published by the Virginia Department of Forestry in the publication. *Virginia's Forestry Best Management Practices for Water Quality*.

(C) No logging roads, skid trails, or logging decks are allowed in the RPA. A logging road to access a parcel isolated by the RPA is permitted to cross through an RPA. Any stream crossing with a watershed above the crossing of less than 5 square miles shall adhere to the Best Management Practices for Stream Crossings as outlined in the publication. *Virginia's Forestry Best Management Practices for Water Quality*. Any stream crossing with more than a 5 square mile watershed drainage area above the crossing will require a permit from the Virginia Marine Resources Commission.

(D) No tree harvesting or other silvicultural activities may take place within the 100-foot riparian buffer area within the RPA. Tree Harvesting within Reservoir Protection Areas must be conducted in strict accordance with a BMP program approved by the VDOF. Removal of trees to prevent the spread of disease or insect infestation within the forested buffer as recommended by the Virginia Department of Forestry or Professional Forester is permitted.

(E) At least one week prior to commencing a timber harvest operation in the Sandy River Watershed Reservoir Management Area, notice shall be provided to the Prince Edward County Department of Planning and Community Development. The notice should include the following:

1. location(s) of logging road entrance points from public roads;
2. proximity of the tract to RPA areas, identifying any RPA areas on parcel;
3. tract topography, identifying steep slopes of fifteen (15) percent or greater;
4. tract hydrology, including the location of any stream crossing structures;
5. tract boundaries, easements, and rights-of-way;
6. potential problem areas such as fragile soils that may require special treatment during the harvesting operation;
7. the location of main haul roads, skid trails, potential log landings and stream or drainage crossings, acknowledgement of sensitive areas and Streamside Management Zones, and timing of harvest; and
8. regeneration specifications describing natural or replanting practices needed to ensure water quality protection is accomplished through successful stand regeneration.

(F) Where stump removal, grubbing, or other soil disturbing activities are proposed in conjunction with tree harvesting, except those preparations for landings, logging road construction or reforestation that are in accordance with the approved pre-harvest plan, an

erosion and sedimentation control plan shall be submitted to and approved by the County prior to commencement of any land disturbing activity or tree removal.

(G) All property which is harvested shall be replanted with seedling trees or otherwise encouraged to regenerate forest cover within two (2) years after the forestry operation is completed unless the applicant can provide sufficient evidence satisfactory to the County as to why reforestation is not required. Tree Planting rates shall result in a successful establishment of 200 hardwood trees per acre or 300 pine trees per acre unless otherwise prescribed by a Professional Forester, a Conservation or Resource Management Plan, Forest Management Plan, or in conjunction with a bona-fide conservation program.

(H) In accordance with Section 62.1-194.2 of the Code of Virginia, it shall be unlawful for any person to throw or otherwise dispose of trash, debris, tree laps, logs, or fell timber or make or cause to be made any obstruction which exists for more than a week (excepting a lawfully constructed dam) in, under, over or across any river, creek, stream, or swamp, so as to obstruct the free passage of boats, canoes, or other floating vessels, or fish in such waters.

(I) Section 10.1-1181.1 – 10.1-1181.7 of the Code of Virginia refers to the Silvicultural Water Quality Law. This law gives the State Forester legal authority to protect water quality from sedimentation originating from silvicultural operations on any stream in Virginia.

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**ARTICLE IV SITE DEVELOPMENT PLANS**

**Sec. 4-100 Applicability**

(A) A comprehensive RPOD site development plan meeting the requirements of section 4-102 shall be submitted for approval to the County for each of the following:

1. All new development within the RPOD that disturbs more than 5,000 square feet of land, except for single-family dwellings and permitted accessories.
2. The conversion of any single family dwelling to any other use or to a higher intensity residential use.
3. Additions or modifications to buildings or sites, except single family dwellings, if said addition or modification results in a 500 square foot or greater increase in impervious surface area of the site.
4. The conversion of any property from fee simple ownership to a condominium form of ownership.
5. The conversion of any building or property to a different use category, e.g., commercial to industrial.
6. The subdivision or aggregation of two or more parcels with the purpose of development, except for the purpose of constructing one single-family dwelling.

(B) A condensed site plan meeting the requirements of section 4-104 shall be submitted for approval to the County for development within the RPOD that disturbs more than 5,000 square feet and is exempt from the comprehensive site plan process. All new forest harvesting operations and new agricultural activities within the RPOD should comply with the Agriculture and Silviculture sections.

**Sec. 4-102 Comprehensive RPOD Site Development Plan Requirements**

**Sec. 4-102.1 Content**

The comprehensive RPOD site development plan shall set forth an informative, conceptual and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents so as to enable the County and stakeholders an opportunity to make a reasonably informed decision regarding the proposed activity. The plan shall follow the guidelines of the general zoning ordinance Section 4-100 and also contain the following components:

(A) Project Description: The plan shall show the general location of all existing and proposed land uses and site features. Specifically it shall include the following sections:

1. A location or vicinity map;
2. 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;
3. Plan(s) of the following information drawn to scale:
  - a. Property lines;
  - b. Existing structures or facilities including buildings, roads, wells, and sewage disposal systems (include one hundred (100) feet into adjacent properties where possible);
  - c. Proposed structures, facilities, and impervious surfaces;

- d. Existing and proposed contour lines;
- e. Field delineated, marked, and surveyed streams, springs, seeps, bodies of water, and wetlands (include two hundred (200) feet into adjacent properties where possible);
- f. Existing vegetation;
- g. County approved one-hundred-year floodplain limits;
- h. Slopes greater than five (5) percent and slopes greater than fifteen (15) percent;
- i. Location and type of storm water management facilities;
- j. Existing and proposed utility lines and easements;
- k. The site-specific delineated Reservoir Protection Area delineated in accordance with Section 1-110 of this Ordinance.
- l. A note indicating: "There shall be no clearing, grading, construction or disturbance of vegetation in the RPA, except as permitted by Prince Edward County";
- m. Any proposed encroachments into RPAs, in compliance with Section 2-100.
- n. Any plant material to be added to establish or supplement the buffer area, as required by this ordinance.
- o. Within the buffer area, trees and other woody vegetation to be removed or replaced for approved encroachments, as provided, shall be shown on the plan.

4. Supporting documentation for proposed RPA encroachments and/or supplementation, including alternatives analyses and conceptual mitigation plans. The plan should demonstrate compliance with the following guidelines:

- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a 3 planted trees to 1 removed. Replacement trees shall be a minimum of 1.5 inches in diameter at a height of 4.5 feet above ground surface at the time of planting.
- d. Native or indigenous species must be used.
- e. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the re-establishment of vegetation in the RPA.

(B) Erosion and Sediment Controls: The plan shall describe erosion and sediment controls for the project, consistent with the guidelines of the Virginia Erosion and Sediment Control Handbook and the Prince Edward County Erosion and Sediment Control Ordinance. If an erosion and sediment control plan is prepared separately from the comprehensive RPOD site plan, it may be incorporated by reference and included as an appendix.

(C) Stormwater Management: The plan shall identify and describe all post-construction stormwater controls for the project to communicate the information required by this Ordinance. At a minimum, the stormwater management section must contain the following:

1. Location and conceptual design of all planned stormwater control devices;
2. Procedures for implementing non-structural stormwater control practices and techniques;
3. Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations indicating that the performance standards outlined in Article III of this Ordinance will be met or exceeded. All engineering calculations must be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook;
4. A schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the County then a maintenance agreement shall be executed between the responsible party and the County.
5. Where the developer of property subject to the terms of this overlay district seeks to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification that the owner of the off-site facilities will accept the runoff and be responsible for its adequate treatment to a level acceptable to the County.

(D) Spill Prevention, Control, and Countermeasures (SPCC): An SPCC plan shall be included in the comprehensive RPOD site development plan for sites that require an SPCC plan by federal or state law, or for sites where the bulk manufacture, storage, handling, or disposal of any materials may potentially act as pollutants to the Reservoir. If an SPCC plan is prepared separately from the comprehensive RPOD site development plan, it may be incorporated by reference and included as an appendix. At a minimum, the SPCC plan shall include the following elements:

1. Disclosure statements describing the types, quantities, and storage locations of all contaminants that will be part of the proposed project;
2. Contaminant handling and spill prevention techniques;
3. Spill reporting procedures, including a list of affected agencies to be contacted in the event of a spill, including the Administrator; and the County Fire Department;
4. Spill recovery plans, including a list of available equipment;
5. Spill clean-up and disposal plans; and
6. A statement that a summary of the approved plan, including procedures and emergency contact information shall be posted in one or more conspicuous onsite locations within the line of sight where a spill is most likely to occur.

#### **Sec. 4-102.3 Preparer Qualifications**

(A) A comprehensive RPOD site development plan shall be prepared by a professional engineer, land surveyor, or landscape architect who is registered by the Commonwealth of Virginia. The Administrator may waive this requirement if the type, scale or location of the proposed development does not necessitate such plans.

#### **Sec. 4-102.5 Proof of Permits**

(A) Developers who are required to submit a comprehensive RPOD site development plan shall also submit to the County copies of all approved applicable permits required by local, state, and federal laws. The copies may be submitted either as attachments to comprehensive RPOD site development plan or under separate cover as they become available. Copies of all required permits must be submitted prior to initiation of land-disturbing activities at the site.

**Sec. 4-104 Condensed Site Plan Requirements**

(A) A condensed site plan shall be required and shall be submitted for approval to the County for development within the RPOD for uses or structures exempt from the comprehensive site plan process. The Administrator shall determine, in accordance with this ordinance, the type of information necessary to review the permit application. At a minimum, the condensed site plan shall include the following information:

1. The name and location of the proposed development;
2. The name and address of the property owner and or developer of the site, if different than the owner. The name and address of the person or firm preparing the plan;
3. The boundary of the entire tract showing distances and bearings of existing and proposed structures;
4. Area and present zoning of the site proposed for development;
5. Location of the lot or parcel by vicinity map with graphical scale;
6. Location of RPAs, if any, on the site;
7. Adjacent and abutting properties with information on ownership, zoning and current use;
8. The names, and locations of existing and proposed public or private streets, alleys and easements on or adjacent to the site. The center lines or boundary of adjacent rights-of-way shall also be shown; and
9. A description of how the development will comply with the other provisions of this ordinance or otherwise not create any condition which degrades water quality of the reservoir.

(B) If, upon review of the condensed site plan, the Administrator finds that a proposed activity is likely to conflict with the provisions or intent of this ordinance, a comprehensive RPOD site plan may be required. Such a requirement shall be made in writing to the applicant with the opportunity to appeal to the BZA.

**Sec. 4-106 Administrative Procedures and Requirements**

(A) A minimum of three complete sets of site plans shall be submitted for review. A review fee shall be required for any site plan submitted. The County shall establish procedures for the collection of these fees.

(B) The Administrator will forward a copy of the plan to those agencies identified as interested parties, including those agencies which are responsible for managing the reservoir watershed, for review and comments.

(C) The Administrator shall have the administrative authority to establish County procedures for site plan review and approval. No procedure so established shall set a lesser standard than is legislated in this Ordinance. Only those plans that are consistent with the requirements of this Ordinance may be approved.

(D) The Administrator shall coordinate the County review of any site plan submitted in accord with County administrative procedures, and shall have the authority to request opinions or decisions from other County departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.

(E) The County shall review, and approve or disapprove any site plan submitted for its review within 45 days of the filing of the plan with the County. If an unapproved site plan is returned to the applicant or other agent of the property owner, due to lack of required information on the plan, or because the design or standards proposed on the site plan do not meet the provisions of this ordinance or other applicable County standards, the forty-five day time period shall begin again with the resubmittal of the plan to the County.

(F) Approval of a final site plan pursuant to the provisions of this ordinance shall expire five years from the date of approval in accordance with Section 15.2-2261 of the Code of Virginia, as amended, unless valid building and/or zoning permits have been obtained for the development.

(G) No building or zoning permit shall be issued by any County official for any building, structure or use depicted on a required site plan, until such time as the plan is approved by the County Zoning Administrator or appointed agent.

(H) No site plan that does not meet the provisions of this ordinance or any underlying ordinances may be approved.

(I) No change, revision, or erasure shall be made on any pending or approved site plan, nor on any accompanying data sheet where approval has been endorsed on the plan or sheets, unless authorization for such changes is granted in writing by the Administrator. The Administrator shall consult with all applicable departments or agencies prior to approving the change.

#### **Sec. 4-108 Minimum Standards and Improvements Required**

(A) Any improvement required by this ordinance, or any other ordinance of the County shall be installed at the cost of the developer unless other agreements have been reached between the developer, the County, the Virginia Department of Conservation and Recreation, and/or any other governmental agency.

(B) Any improvements must also comply with the provisions of all applicable Federal, State, and local laws.

**ARTICLE V ADMINISTRATION**

**Sec. 5-100 Planning Commission and Zoning Administrator**

(A) The Administrator, or his designee, shall have all the powers and duties assigned in the general zoning ordinance in addition to the authority to revoke any zoning permit if violations of the provisions of this ordinance occur. The Administrator, or his designee shall also have the power and duty to interpret the RPOD boundaries, provisions of this ordinance, and offer written opinions on their meaning and applicability.

(B) The Planning Commission shall have all the power, rights and duties as assigned in the general county ordinance and as authorized by Sec. 15.2, Chapter 22 of the Code of Virginia, as amended.

(C) The Board of Supervisors shall have all the power, rights and duties as assigned in the general county ordinance and as authorized by Sec. 15.2 Chapter 22 of the Code of Virginia, as amended.

**Sec. 5-102 Board of Zoning Appeals**

(A) The Prince Edward County Board of Zoning Appeals shall have all the power, rights and duties as assigned in the general county ordinance and as authorized by Sec. 15.2-2308 of the Code of Virginia, as amended.

**Sec. 5-104 Permits**

(A) Where the development is either wholly or partially within the RPOD, before the issuance of any zoning, grading, or building permit by the County or the approval of any stormwater management or sediment control plan, the County shall determine that the proposed development is in compliance with the provisions of the regulations herein. A permit may not be issued without compliance with the regulations herein.

(B) No grading or building permits may be issued by the County prior to the review and approval, in accordance with Sections 4-106 and 5-106 of this Ordinance.

(C) Where permitted RPA encroachments, stormwater management facilities, or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved final site plan.

(D) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the County a form of surety satisfactory to the County in an amount equal to the remaining plant materials, related materials, and/or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities.

(E) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the County.

(F) All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper

notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the County. The County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

(G) After all required actions of the approved Site Development Plan have been completed, the applicant must submit a written request for final inspection. If the requirements of the approved plan have been completed to the satisfaction of the County, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following receipt of the applicant's request for final inspection. The County may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor before making a final inspection.

(H) No building permit for the extension, erection, or alteration of any building or structure shall be issued before an application has been made and a zoning permit has been issued. No new or modified building or structure shall be occupied or used, or any new land use established until a certificate of zoning compliance has been issued by the county.

(I) All zoning permits issued shall be valid for a period of two years unless the structure, use or activity for which the permit was issued has commenced. The Administrator may reissue any expired permit provided the structure, use and/or activity complies with all applicable provisions of the ordinance at the time of re-issuance.

(J) The Administrator shall have the authority to approve the form and content of zoning permit applications.

#### **Sec. 5-104.1 Stormwater Control Permits**

(A) Before the issuance of any stormwater control permit by the County, the County shall determine that the proposed development is in compliance with the provisions of the regulations herein. A permit may not be issued without compliance with the regulations herein.

(B) All development within RPAs and RMAs that exceeds 1 acre of land disturbance shall be required to apply for a Virginia Stormwater Management Permit as administered by the VDCR.

(C) Failure to obtain a permit and maintain compliance with the permit will result in denial of County development and construction permits and may result in one or more penalties as described in Section 5-112 of this ordinance.

(D) All approved BMPs are subject to inspection by the County and/or VDEQ at any time to ensure compliance with permit conditions. Failure to allow access to inspectors within a 24 hr period of notice shall constitute a permit violation subject to the provisions of Sections 5-110 and 5-112 of this Ordinance.

#### **Sec. 5-106 Review Process**

(A) A copy of any new application for a building permit, zoning permit, area variance, use variance, zoning amendment, or other land development proposal, including the subdivision of land, occurring wholly or partly in an RMA or RPA shall be submitted to the County and shall be accompanied by a Site Development Plan prepared in accordance with the requirements set forth in Article IV of this ordinance.

(B) Applications for development within the Reservoir Protection Areas and Reservoir Management Areas will be evaluated by the County to ensure that the development is in compliance with the requirements of this Ordinance with the following additional considerations:

1. Non-point source pollution is prevented to the maximum extent possible, by taking into account site conditions such as slope, soil type and erosivity, and vegetative cover.
2. Management practices are in place sufficient to remove or neutralize those pollutants that present a potential impact to the reservoir.
3. Grading and removal of vegetation at a development site is minimized and erosion and sediment control measures are in place and properly installed.
4. All sewage disposal systems will be monitored, inspected and maintained on a regular basis to ensure proper functioning. If two or more dwelling units share a common sewage treatment system, a perpetual maintenance agreement shall be required by the County.
5. Businesses involved in potential contaminating activities within the Reservoir Management Area but which have received a special use permit must submit a spill control plan for approval.
6. The County shall approve, approve subject to conditions, or disapprove the plans in accordance with the provisions of this Ordinance. The County shall return notification of plan review results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

#### **Sec. 5-106.1 Denial of Plan, Appeal of Conditions or Modifications**

(A) In the event the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Board of Zoning Appeals. In granting or denying an appeal, the Board of Zoning Appeals must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Ordinance. If the Board of Zoning Appeals finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

#### **Sec. 5-108 Fees**

(A) Administrative review fees for all permits and procedures specified in this ordinance shall be established by the Board of Supervisors

#### **Sec. 5-110 Enforcement**

(A) The Administrator shall have the responsibility for enforcing the provisions of this ordinance, and may, as necessary, solicit the assistance of other local and state officials and agencies to assist with this enforcement.

(B) Violators of the provisions of this ordinance shall be notified in writing of observed violations. The Administrator shall state, in the written notice, the nature of the violation, the date the violation was observed, and the remedy or remedies necessary to correct the violation. A reasonable time period will be established for the correction of the violation.

(C) If the Administrator is not able to obtain compliance with these provisions, civil and or criminal procedures may be initiated in accordance with county law and procedures.

**Sec. 5-112 Penalties**

(A) Pursuant to Sec. 15.2-2286 (5) of the Code of Virginia, any violation of any provision of this ordinance shall be a misdemeanor punishable by a fine of not less than \$10.<sup>00</sup> nor more than \$1000.<sup>00</sup>.

**Sec. 5-112.1 Civil Penalties**

(A) Any person who violates any provision of these regulations, order, or permit condition promulgated or issued pursuant to these regulations may be assessed a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation with each day's continuance considered a separate violation.

(B) The Board of Supervisors shall have the authority to assess all civil penalties set forth in these regulations, giving due consideration to the business of the person being charged, the gravity of the violation, the good faith of the person, and the person's history of previous violations.

(C) Included with the citation as issued pursuant to Section 5-110 shall be included instructions for the payment of any assessment levied by the Board of Supervisors together with a notification that, upon certification to the Board, the assessment shall constitute a lien on the property owned by the person found to be in violation hereof and shall be collectible in the same manner and to the same extent as taxes.

**Sec. 5-112.3 Appeals**

(A) Any person found to be in violation by the Administrator may appeal from the final order issued by the Administrator or his designee to the board of appeals of the County within thirty (30) days after the date of such final order.

(B) The County shall be a party to all such appeals, and copies of the notice of appeal and petition shall be served on the Administrator, the Board of Supervisors, the County attorney and the director.

**Sec. 5-112.5 Criminal Penalties**

(A) Any violation of any provision of these regulations, order, or permit condition promulgated or issued pursuant to these regulations shall be a misdemeanor and punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days or by both. Any person who shall violate such regulations, orders, or permit conditions promulgated or issued pursuant to these regulations shall be deemed guilty of a separate offense for every day that such violation shall continue.

(B) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to these regulations shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than thirty (30) days or by both. Such violation shall be a misdemeanor.

(C) The Administrator, or the Administrator's designee, may issue a civil summons for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offence charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

(D) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

(E) No provision herein shall be construed to allow the imposition of civil penalties for (1) activities related to land development or (2) for violation of any provision of a local ordinance relating to the posting of signs on public property or public rights-of-way.

#### Sec. 5-112.7 Liability for Expenses Caused By Violation

(A) In addition to any other sanction under these regulations, a person who fails to comply with the provisions of these regulations, orders, or permit conditions promulgated or issued pursuant to these regulations pertaining to RPAs, forest buffers, stream systems, and water pollution shall be liable to the County in a civil action for damages in an amount equal to twice the cost of restoring the RPA, forest buffer, stream system, and water quality as determined by the department. Any damages that are recovered in accordance with this section shall be used as follows:

1. For the restoration of RPAs, forest buffers, stream systems, and water quality, or
2. For the administration of the County program for the protection and restoration of water quality, streams, wetlands, floodplains, and RPAs.

#### Sec. 5-114 Amendments To RPOD Ordinance

(A) Whenever the public necessity, general welfare, or good zoning practice require, the Board of Supervisors may, by ordinance, amend, supplement, or change these regulations, district boundaries, or classifications of property. Any such amendments may be initiated by:

1. Resolution of the Board of Supervisors, or;
2. Motion of the Commission, or;
3. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property which is the subject of the proposed zoning map amendment. Any petition submitted shall be in writing and shall be addressed to Board of Supervisors.
4. Any person may submit suggestions for zoning ordinance text amendments to the Administrator. The Administrator shall forward these requests to the Commission for their review. The Commission shall be under no obligation to schedule a public hearing on any such amendment request, except that the Board of Supervisors may direct the Commission to hold a public hearing on any text amendment request.

(B) The Administrator shall establish a schedule for the receipt of amendment applications. The Administrator shall also establish and maintain the amendment application materials. These application materials shall, at a minimum, include a water quality study of the reservoir and any other information the Administrator deems necessary for the county staff, Commission and

Board of Supervisors to adequately evaluate the amendment request. A concept plan shall accompany all map amendment requests. The Administrator shall establish minimum standards for concept plans.

(C) The Administrator shall not accept any amendment application for a lot or parcel that does not comply with intended goals of the RPOD ordinance. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the Administrator shall thereafter accept the amendment application for the consideration of the Commission and Board of Supervisors.

(D) If the Board of Supervisors denies any amendment application submitted for its review, or the application is withdrawn after Board of Supervisors consideration, the county shall not consider substantially the same application for the same property within one year of the Board of Supervisors action. The Administrator shall have the authority to determine whether new applications submitted within this one year period are substantially the same. In making any such determination the Administrator shall have the authority to consider any items pertaining to the proposed use or development of the site such as, but not limited to, the uses proposed, densities, access, building locations, and overall site design.

(E) All proposed amendments to the zoning ordinance text or maps shall be referred by the Board of Supervisors to the Commission for study and recommendation as stipulated in the general zoning ordinance and with special consideration for the intent and purpose of this RPOD Ordinance, where applicable.

**ARTICLE VI DEFINITIONS**

**Sec. 6-100 Definitions**

(A) For the purposes of this ordinance, the following rules of language shall apply:

1. The specific shall control the general.
2. The word person includes a firm, association, organization, partnership, trust, and company, as well as an individual.
3. The word he shall mean she, and she shall mean he.
4. The words used or occupied include the words intended, designed, or arranged to be used or occupied.
5. The word lot, shall include plot or parcel.
6. The present tense includes the future tense; the singular number includes the plural; the plural includes the singular.
7. The word shall is mandatory; the words may and should are permissive.
8. All public officials, bodies, and agencies referred to in this ordinance are those of the County of Prince Edward, Virginia, unless otherwise specifically indicated.

(B) Where terms in this ordinance are undefined, the meaning of the term shall be defined in the General Zoning Ordinance, as amended.

(C) Where terms in this ordinance are both undefined in this ordinance and in the General Zoning Ordinance, the meaning of the term shall be defined as ascribed in the most recent edition of Webster’s Unabridged Dictionary, unless it is the opinion of the Administrator that based upon normal zoning practice, a different meaning shall apply.

(D) The words and terms listed below shall have the following meanings:

**ADMINISTRATOR** – the zoning administrator of Prince Edward County, Virginia, or an authorized agent thereof, also referred to in the ordinance as the administrator.

**AGRICULTURE** - the use of land for the production of food and fiber, including farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry. The keeping of a cow, pig, sheep, goat, chicken or similar animal shall constitute agriculture regardless of the size of the animal and regardless of the purpose for which it is kept. A garden accessory to a residence shall not be considered agriculture.

**BOARD OF ZONING APPEALS (BZA)** – the Prince Edward County Board of Zoning Appeals

**BUFFER AREA** – an area of natural or established vegetation managed to protect the Reservoir and other state waters from significant degradation due to land disturbances.

**CLUSTER SUBDIVISION** - An alternative means of subdividing and that concentrates building density in specific areas to allow the remaining land to be reserved for the preservation of environmentally-sensitive features and open space.

**COMMISSION** – the Planning Commission of Prince Edward County, Virginia.

**COUNTY** – Prince Edward County, Virginia

**DEVELOPMENT** - any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

**FOREST LAND USE** (per Code of Virginia 58.1-3230 “Real estate devoted to forest use”) - land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#).

**HAZARDOUS MATERIAL** – any material defined as a hazardous material by 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, as amended.

**INDIGENOUS VEGETATION** - native species that occur in the region.

**INTERMITTENT STREAM** – A stream or portion of a stream with defined stream banks and stream channel, showing evidence of streambed scouring or bare soil or rock showing on the streambed bottom, that flows during part of the year. Defined as a dotted blue line on the 1:24,000 USGS topographic maps. An Intermittent Stream is not to be confused with an EPHEMERAL STREAM which flows only in direct response to precipitation, and whose channel is at all times above the water table.

**MAP** – means the official Sandy River Reservoir Protection Overlay District Map of the Prince Edward County, unless otherwise specified.

**PERENNIAL STREAM** – A stream that maintains water in its channel throughout the year, except possibly during periods of extreme drought. Defined by a solid blue line on the 1:24,000 USGS topographic maps.

**PROFESSIONAL FORESTER** – a person trained in the practice of forestry by holding a baccalaureate or higher degree from a college or university curriculum accredited by the Society of American Foresters and such degree curriculum shall meet the minimum education criterion set forth by the Society in the fields of forest ecology and biology, management of forest resources, and forest resources policy and administration.

**RESERVOIR** – means the Sandy River Reservoir.

**RESERVOIR MANAGEMENT AREA (RMA)** – that component of the RPOD that is not classified as the Reservoir Protection Area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the RPAs and the Reservoir.

**RESERVOIR PROTECTION AREA (RPA)** – that component of the RPOD comprised of lands adjacent to water bodies 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 the Sandy River Reservoir and/or other state waters.

**RESERVOIR PROTECTION OVERLAY DISTRICT (RPOD)** – the watershed of the Sandy River Reservoir as shown on the Official Sandy River Reservoir Protection Overlay District Map

**RIPARIAN BUFFER** - means an area of trees, shrubs or other vegetation, subject to a perpetual easement permitting inundation by water, that is at least fifty-feet in width, adjacent to a body of water, and managed to maintain the integrity of stream channels and shorelines and reduce the effects of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, chemicals and other suspended pollutants.

**SILVICULTURE** – means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

**WATER DEPENDENT FACILITY** – a development of land that cannot exist outside of the Reservoir Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) the intake and outfall structures of water treatment plants and storm sewers; (ii) county approved public water-oriented recreation areas; and (iii) fisheries or other marine resources facilities.

**WETLAND** – an area that is inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b.

Appendix A Evaluation Criteria – Reservoir Protection Area

**TABLE 1 EVALUATION CRITERIA FOR AREAS WITH AN ELEVATED RISK OF POLLUTION FROM RUNOFF**

<b>Criteria</b>	<b>Threshold</b>	<b>Score*</b>
Distance from a Public Water Supply Intake	< 0.5 mi	100
Distance from Sandy River Reservoir	< 200 ft	100
	200 – 400 ft	50
100 Year Flood Plain	Within 100 yr Floodplain	100
Wetlands	Within Wetlands	100
Perennial Streams	< 100 ft	100
	100 - 300 ft	50
Intermittent Streams	< 50 ft	50
	50 – 100 ft	25
	100 - 300 ft	0
Land Slope	> 15%	50
	5 - 15 %	25
Soil Erodibility (Kf)	≥0.32	50
Drainage Area (areas within 200 ft of a stream which drains...)	> 3 sq.mi.	50
	1 - 3 sq.mi.	25

\*A combined score greater than or equal to 100 indicates inclusion in the RPA

**Appendix B Vegetative Replacement Standards**

Seeking permission from DCR to use Appendix D of the Riparian Buffer Guidance Manual  
Available for review at

[http://www.dcr.virginia.gov/chesapeake\\_bay\\_local\\_assistance/documents/RipBufferManual\\_Rev06/BufferManual\\_06Rev.pdf](http://www.dcr.virginia.gov/chesapeake_bay_local_assistance/documents/RipBufferManual_Rev06/BufferManual_06Rev.pdf)

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**APPENDIX C STORMWATER MANAGEMENT: PERFORMANCE BASED CRITERIA**

Performance-based criteria. For land development, the calculated post-development nonpoint source pollutant runoff load shall be compared to the calculated pre-development load based upon the average land cover condition within the entire RPOD or the existing site condition using the methods specified in the current Virginia Department of Conservation and Recreation (VDCR) Stormwater Management Handbook. A BMP shall be located, designed, installed, and maintained to achieve the target pollutant removal efficiencies specified in Table 2 to effectively reduce the pollutant load to the required level based upon the following four applicable land development situations for which the performance criteria apply:

1. Situation 1 consists of land development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is less than the average land cover condition.

**Requirement:** No reduction in the after development pollutant discharge is required.

2. Situation 2 consists of land development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is greater than the average land cover condition.

**Requirement:** The pollutant discharge after development shall not exceed the existing pollutant discharge based on the average land cover condition.

3. Situation 3 consists of land development where the existing percent impervious cover is greater than the average land cover condition.

**Requirement:** The pollutant discharge after development shall not exceed (i) the pollutant discharge based on existing conditions less 10% or (ii) the pollutant discharge based on the average land cover condition, whichever is greater.

4. Situation 4 consists of land development where the existing percent impervious cover is served by an existing stormwater management BMP that addresses water quality.

**Requirement:** The pollutant discharge after development shall not exceed the existing pollutant discharge based on the existing percent impervious cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition

**APPENDIX D STORMWATER MANAGEMENT: TECHNOLOGY BASED CRITERIA**

Technology-based criteria. For land development, the post-developed stormwater runoff from the impervious cover shall be treated by an appropriate BMP as required by the post-developed condition percent impervious cover as specified in the current version of the VDCR Stormwater Management Handbook (Table 2). The selected BMP shall be located, designed, installed, and maintained to perform at the target pollutant removal efficiency specified in Table 2. Design standards and specifications for the BMPs in Table 2 which meet the required target pollutant removal efficiency are specified in the current version of the Virginia Stormwater Management Handbook and will be available at the office of the Administrator.

**Table 2 Technology Based Criteria**

<b>Water Quality BMP</b>	<b>Target Phosphorus Removal Efficiency</b>	<b>Percent Impervious Cover</b>
Vegetated filter strip	10%	16-21%
Grassed swale	15%	
Constructed wetlands	30%	22 -37%
Extended detention (2 x WQ Vol)	35%	
Retention basin I (3 x WQ Vol)	40%	
Bioretention basin	50%	38 -66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 x WQ Vol)	50%	
Infiltration (1 x WQ Vol)	50%	
Sand filter	65%	67 -100%
Infiltration (2 x WQ Vol)	65%	
Retention basin III (4 x WQ Vol with aquatic bench)	65%	

**NOTES:**

- This table is subject to the revisions of the current DCR Stormwater Management Handbook
- Innovative or alternate BMPs not included in this table may be allowed at the discretion of the Administrator. Innovative or alternate BMPs not included in this table which target appropriate nonpoint source pollution other than phosphorous may be allowed at the discretion of the Administrator.