

FAIRFAX WATER
OCOCOQUAN RESERVOIR
SHORELINE EASEMENT POLICY

February 17, 2011

I. Purpose

The Occoquan Reservoir (the "Reservoir"), located in Fairfax and Prince William Counties, Virginia, was constructed for and is maintained and operated as a major drinking water source serving the Northern Virginia community. The purpose of this Occoquan Reservoir Shoreline Easement Policy ("this Policy"), as adopted and as may be amended, is to protect the Reservoir and all related water supply structures and facilities for water supply purposes, through regulation of activities in the Fairfax County Water Authority's ("Fairfax Water's") existing water supply easements (the "Easements") immediately adjacent to the Reservoir.

II. Authority

The Easements grant Fairfax Water exclusive possession, use, occupancy, and control of the areas within the Easements for water supply purposes. Certain limited activities are permitted in the Easements, but Fairfax Water is expressly authorized to impose reasonable restrictions, rules, and regulations on all such activities within the Easements, after due notice to the owners of the properties on which the Easements are located, as described in the individual deeds by which the Easements were granted (the "Deeds").

III. Applicability

This Policy applies to all areas within the Easements as defined by the Deeds.

IV. Regulated Activities

- a. Permitted Structures. Construction and maintenance of piers and floats are permitted where allowed by and as described in the Deeds subject to the provisions of this Policy. All piers and floats shall be subject to review and permission by Fairfax Water in accordance with Section XIII of this Policy. A "pier" as used herein is defined as a rigid structure built on pilings and extending into the water from the shoreline. A "float" as used herein is defined as a platform which floats on the surface of the water and is securely attached to either the shore or to a pier. Any pier, float, or combination pier/float structure: (i) must not extend from the shoreline beyond a point where, when the Reservoir is at full pool, the water is 3 feet deep or must not be more than 25 feet long perpendicular to

the shoreline (at full pool), whichever is greater, and (ii) must not exceed 250 square feet in total area. Determination of this point shall be the responsibility of the property owner with guidance from Fairfax Water as to the permitted length of the pier or float. No more than one pier, float, or combination pier/float structure is permitted per residential property lot. All piers and floats must be able to withstand 100-year flooding conditions. Wooden piers and floats must be constructed to resist submersion and wet conditions and must comply with all current and applicable laws, rules, regulations and guidelines for wood preservatives. Free-standing, movable objects such as chairs, tables, and portable grills are not considered structures and are thus not regulated by this Policy. The installation of signs of less than 1 square foot of land disturbance is allowed with the prior permission of Fairfax Water.

- b. Fences. Fences are allowed within the Easement with the prior permission of Fairfax Water. Fences shall be placed such that the entire Easement area remains visible and accessible from the shoreline. Fences may not be used as a means of providing closed storage.
- c. Prohibited Structures. All structures other than the piers and floats permitted in subparagraph a. above are prohibited, including, but not limited to: (i) enclosed structures, including those located on piers and floats; (ii) structures that impede Reservoir flow or displace water within the Reservoir, such as concrete pads and sea walls; (iii) pipes and equipment related to withdrawing or discharging water from the Reservoir except for storm drainage facilities approved by Fairfax County or Prince William County; and (iv) structures made with loose materials such as tires, rubble, scrap machinery, tree trunks or limbs, guard rail, creosote railroad ties, landscaping timbers, non-encapsulated foam or similar materials.
- d. Trees and Vegetation. Removal of vegetation or trees located within the Easements, for purposes other than providing a walking path for Reservoir access as described in item d. is prohibited; the area within the Easements shall be left in its natural state. Dead and dying trees may be removed from the Easements, provided that they are removed completely from the Easements and are not placed in the Reservoir. Invasive or non-native species may be removed from the Easements with prior permission of Fairfax Water and approval of other agencies as required, such as the Departments of Public Works of Prince William County or Fairfax County.
- e. Paths and Stairs. Removal of trees and brush within the Easements to allow a walking path is permitted with the prior permission of Fairfax Water in accordance with Section XIII of this Policy. Path width must be consistent with limits in each County for disturbance of Resource

Protection Areas under the Chesapeake Bay Preservation Act. The path must be designed to minimize erosion and provide adequate switchbacks to reduce channelization.

Stairs are permitted in steeper areas with prior permission of Fairfax Water and approval of local, state, and federal regulatory agencies as required. Stairs may be permitted where the natural topography does not allow for safe or convenient access to the Reservoir through use of a path alone. In general, stairs may be permitted when slopes approach 10 percent or greater, or when necessary to minimize erosion and clearing.

- f. Shoreline Stabilization. Shoreline stabilization and erosion control projects are permitted with prior permission of Fairfax Water and approval of local, state, and federal regulatory agencies as required. Vegetative stabilization practices are required unless severe erosion of the shoreline or other technical considerations justify the installation of a hardened or structural stabilization practice.
- g. Debris. Debris, trash, and vegetative waste (i.e., grass clippings, cut tree limbs) shall not be placed in the Easements or the Reservoir at any time.
- h. Fuel Storage. Fuel storage is prohibited within the Easements.
- i. Chemical Use. Storage, manufacture, or application of pesticides, herbicides, fertilizers, or any other materials hazardous to a drinking water supply are prohibited within the Easements.
- j. Septic Tanks. Septic tanks and any associated structures are prohibited within the Easements under all conditions.

V. Public Facilities

Due to the unique nature of the Reservoir and its value to the surrounding community, special consideration shall be given to public facilities located within the Easements.

A public facility for the purposes of this Policy is an area or facility that is operated by a governmental entity or authority and open to the public with equal and unobstructed use to all members of the public without regard to race, color, religious creed, or national origin. Such uses may be subject to specific operating hours or a reasonable fee for use, or both. Public facilities support various public recreational amenities or areas that are used for the public good, such as regional or county parks located adjacent to the Reservoir. The following public facility activities are permitted within the Easements with prior permission of Fairfax Water, by exception to the Policy:

- Larger piers and floats as necessary to accommodate greater use and public access to boating and fishing;
- Boat ramps;
- Minimal clearing as necessary to access the water or observe activities on the Reservoir; and
- Other public facility structures such as closed storage, sheds, and buildings where practical alternatives to their construction outside of the Easement are not available

VI. Existing Structures

Structures existing as of January 1, 2004, that do not comply with this Policy, including piers and floats not meeting the criteria established in Section IV a, and other structures not expressly permitted by this Policy, may remain in place provided they otherwise comply with all applicable federal, state, and local laws. This includes but is not limited to securing required zoning approval, building permits, wetlands permits, and other relevant reviews and approvals. All such structures must be repaired as needed to maintain their integrity. The existing footprint of the non-complying pier, float, or other structure must not be expanded.

When it becomes necessary to replace the non-complying structure, the new structure must comply with the requirements in effect at the time of replacement. Replacement shall be considered repairs of more than 51 percent of the total structure. In the case of natural disaster, damaged structures may be replaced within the existing footprint with the prior permission of Fairfax Water within 1 year, only if it is not feasible to relocate the structure outside the Easements, with the exception of enclosed storage or housing facilities. Enclosed storage or housing facilities, such as buildings or sheds, may not be replaced after a natural disaster if more than 51 percent of the structure must be replaced. If it is not so replaced, any remaining portion of such structure shall be removed and the area on which such structure was located shall be stabilized and revegetated in accordance with this Policy.

Notwithstanding the foregoing, nothing in this Policy shall prevent Fairfax Water from requiring the immediate removal of any structure that is not allowed under the terms of the applicable easement if the Board determines that the structure poses a safety hazard, a danger to the Reservoir, or a threat to the Fairfax Water's water supply operations.

VII. Previously Cleared Areas

Areas which are not in compliance with item IV c, Trees and Vegetation, or which have been cleared or thinned prior to February 5, 2004, may be maintained. Revegetation and/or stabilization of these areas to increase the buffering capability of the area is encouraged. Fairfax Water will provide guidance on available resources to support revegetation efforts but will not be responsible for any costs incurred by the property owner during this restoration. Property owners shall not use invasive or non-native species for revegetation efforts pursuant to this Policy.

VIII. Coordination with Other Agencies and Regulations

This Policy shall not relieve the property owner from compliance with all applicable local, state, and federal laws and regulations, including but not limited to local Chesapeake Bay Ordinances, National Pollutant Discharge Elimination System permitting requirements, erosion and sediment control ordinances, local boating ordinances, and construction permits.

IX. Reservoir Inspections

Fairfax Water may from time to time perform a visual inspection of the Reservoir, by boat, along the Reservoir shoreline to identify structures or activities which may not be in compliance with this Policy. If structures or activities are identified which may not be in compliance with this Policy, Fairfax Water may exercise its rights to enter upon the Easements for the purpose of further documenting the condition and extent of the encroachments and to conduct property surveys as may be necessary to protect the Easements and Fairfax Water's rights.

X. Exceptions

Exceptions to this Policy are allowed only with the prior written permission of Fairfax Water. Exceptions that are generally consistent with the goals of this Policy may be granted to accommodate unique circumstances.

XI. Non-Compliance

If a structure or activity is found to be in non-compliance with this Policy and confirmed to be within the Easements, the property owner will be notified and required to remedy the situation in a manner consistent with this Policy. Vegetation or trees removed in violation of this Policy must be restored following Fairfax Water's approval of a restoration plan and in close coordination with other federal, state and local regulatory agencies. The property owner shall comply with the request within 90 days, unless this timeframe is extended with written permission of Fairfax Water. After the allowable timeframe has expired, Fairfax Water has the right, independently or with other applicable governing agencies, to take such actions as are available to it to enforce its rights under the Easements and/or to restore the safety and integrity of the drinking water supply.

XII. Disclaimer

Fairfax Water shall not be responsible for structures constructed pursuant to this Policy, including, without limitation, for damages to such structures resulting from storms or variations in the water level of the Reservoir. Permission pursuant to this Policy shall be granted subject to the property owner agreeing to defend, indemnify, and hold Fairfax Water and Fairfax Water's agents, employees, officers, and directors, harmless from and against all claims, demands, obligations, losses, fines, penalties, liabilities, damages (including consequential damages), costs, expenses, and suits, including, without limitation, reasonable attorneys' fees and costs of defense, imposed upon, incurred by, or asserted against, Fairfax Water as a result of the activities permitted by this Policy.

Nothing in this Policy shall be construed to restrict rights or privileges that are specifically authorized under a particular Easement.

XIII. Procedures

- a. Application. Property owners must obtain the permission of Fairfax Water before commencing within the Easements any of the activities permitted in Section IV of this Policy. Requests for permission or exceptions pursuant to Section X of this Policy must be made by submitting an application form and any other required information to:

Fairfax Water
ATTN: Chief, Source Water Planning and Protection
8560 Arlington Blvd.
Fairfax, VA 22031

Application forms are available on Fairfax Water's website at www.fairfaxwater.org or by contacting the Chief, Source Water Planning and Protection.

- b. Pending Approval. For activities found to be consistent with this Policy, Fairfax Water will provide a letter of preliminary approval to allow the property owner to proceed with any other federal, state, or local permissions and/or permits that may be required for the proposed activity. The pending approval constitutes Fairfax Water's initial review of the activity and does not constitute a permission to proceed with construction.
- c. Final Approval. Once the applicant obtains all necessary federal, state, and local permissions that are required for an activity, the applicant must furnish a copy of the approvals to Fairfax Water and obtain a final approval letter. The final approval letter shall constitute a license of that activity which may be revoked by Fairfax Water in the future.

XIV. License

The activities and permissions allowed by this Policy do not provide any additional rights not otherwise granted in the Deeds. To the extent this Policy or any decisions made hereunder allow any structures or activities in the Easements that are not permitted by the terms of the Easements, such authorization creates no vested rights in the continuation of that activity or structure, and such authorization by this Policy constitutes merely a license that may be revoked by Fairfax Water in the future.

XV. Modifications

Fairfax Water may modify this Policy subject to the applicable requirements of the Easements. Fairfax Water will provide notice of any proposed modifications by posting at at least 10 places around the perimeter of the reservoir and publication at least once a week for two successive weeks in a newspaper of general circulation in either or both of the counties of Prince William and Fairfax.