

1 APPENDIX D - STORMWATER MANAGEMENT⁽¹⁾

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3 Footnotes:

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5 **Editor's note**— Ord. No. 3337, adopted April 22, 2014, effective July 1, 2014, repealed the former App.
6 D, §§ 1—16, and enacted a new App. D as set out herein. The former App. D pertained to similar subject
7 matter. See Code Comparative Table for complete derivation.

8 **Cross reference**— Beaches, boats and waterways, Ch. 6; sewers and sewage disposal, Ch. 28; soil
9 removal and other land-disturbing activities, Ch. 30; streets and sidewalks, Ch. 33; water supply, Ch. 37;
10 zoning ordinance, App. A; subdivision regulations, App. B; site plan ordinance, App. C; Chesapeake Bay
11 Preservation Area Ordinance, App. F; Southern Watersheds Management Ordinance, App. G; storm
12 sewer system discharge ordinance, App. H.

13 Sec. 1-1. - Purpose and authority.

14 A. The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of
15 the City of Virginia Beach and protect the quality and quantity of state waters from the potential harm
16 of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable
17 degradation of properties, water quality, stream channels, and other natural resources, and to establish
18 procedures whereby stormwater requirements related to water quality and quantity shall be
19 administered and enforced.

20 B. This ordinance is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1
21 of the Code of Virginia, and in compliance with 9VAC25-870-10 et seq. of the Virginia Stormwater
22 Management Regulations, except as amended by this Ordinance.

23 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

24 Sec. 1-2. - Stormwater management program established.

25 Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Virginia Beach hereby establishes a
26 Virginia stormwater management program for land-disturbing activities and adopts the applicable
27 Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the
28 purposes set out in Section 1-1 of this Ordinance. The City Council of the City of Virginia Beach hereby
29 designates the City Manager, or his designee(s), as the Administrator of the Virginia stormwater
30 management program.

31 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

32 Sec. 1-3. - Definitions.

33 In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management
34 Regulations, as amended, which are expressly adopted and incorporated herein by reference, the
35 following words and terms used in this Ordinance have the following meanings unless otherwise specified
36 herein. Where definitions differ, those incorporated herein shall have precedence.

37 "*Administrator*" means the City Manager, or his designee(s).

38 "*Agreement in lieu of a stormwater management plan*" means a contract between the VSMP
39 authority and the owner or permittee that specifies methods that shall be implemented to comply with the

40 requirements of a VSMP for the construction or demolition of a single-family residence; such contract may
41 be executed by the VSMP authority in lieu of a stormwater management plan.

42 "*Applicant*" means any person submitting an application for a permit or requesting issuance of a
43 permit under this Ordinance.

44 "*Best management practice*" or "*BMP*" means schedules of activities, prohibitions of practices,
45 including both structural and nonstructural practices, maintenance procedures, and other management
46 practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts
47 of land-disturbing activities.

48 "*Channel*" means a natural or manmade waterway.

49 "*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity including
50 clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet
51 and less than one acre in all areas of jurisdictions designated as subject to the Chesapeake Bay
52 Preservation Area Designation and Management Regulations (9VAC25-830) adopted pursuant to the
53 Chesapeake Bay Preservation Act.

54 "*Common plan of development or sale*" means a contiguous area where separate and distinct
55 construction activities may be taking place at different times on different schedules.

56 "*Construction activity*" means any clearing, grading or excavation associated with large construction
57 activity or associated with small construction activity.

58 "*Control measure*" means any best management practice or stormwater facility, or other method
59 used to minimize the discharge of pollutants to state waters.

60 "*Clean Water Act*" or "*CWA*" means the federal Clean Water Act (33 U.S.C §1251 et seq.), formerly
61 referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act
62 Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public
63 Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

64 "*Department*" means the Department of Environmental Quality.

65 "*Depression storage*" means the amount of rain that is retained on the surface in micro-depressions,
66 ditches, and other terrain irregularities where water is allowed to collect and pond.

67 "*Development*" means land disturbance and the resulting landform associated with the construction
68 of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures
69 or the clearing of land for non-agricultural or non-silvicultural purposes.

70 "*Drainage area*" means a land area, water area, or both from which runoff flows to a common point.

71 "*Flooding*" means a general or temporary condition of partial or complete inundation of normally dry
72 land areas from:

- 73 (a) The overflow of inland or tidal waters, or
74 (b) The unusual and rapid accumulation or runoff of surface waters from any source, or
75 (c) Mudflows, which are akin to a river of liquid and flowing mud on the surfaces of normally dry land
76 areas, as when earth is carried by a current of water and deposited along the path of the current.
77 (d) The collapse or subsidence of land along the shore of a lake or other body of water as a result
78 of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical
79 levels or suddenly caused by an unusually high water level in a natural body of water,
80 accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an
81 abnormal tidal surge, some similarly unusual and unforeseeable event that results in flooding as
82 defined above.

83 "*Floodplain*" means any land area susceptible to being inundated by water from any source.

84 "*General permit*" means the state permit titled GENERAL PERMIT FOR DISCHARGES OF
85 STORMWATER FROM CONSTRUCTION ACTIVITIES found in Chapter 880 (9VAC25-880-1 et seq.) of

86 the Regulations authorizing a category of discharges under the CWA and the Act within a geographical
87 area of the Commonwealth of Virginia.

88 "*Hydraulic grade line (HGL)*" means a line coinciding with the level of flowing water in an open
89 channel. In a closed conduit flowing under pressure, the HGL is the level to which water would rise in a
90 vertical tube at any point along the pipe. It is equal to the energy grade line elevation minus the velocity
91 head, $V^2/2g$.

92 "*Hydrologic Unit Code*" or "*HUC*" means a watershed unit established in the most recent version of
93 Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

94 "*Impervious cover*" means a surface composed of material that significantly impedes or prevents
95 natural infiltration of water into soil.

96 "*Land disturbance*" or "*land-disturbing activity*" means a man-made change to the land surface that
97 potentially changes its runoff characteristics including clearing, grading, or excavation except that the
98 term shall not include those exemptions specified in section 1-4 of this Ordinance.

99 "*Large construction activity*" means construction activity including clearing, grading and excavation,
100 except operations that result in the disturbance of less than five acres of total land area. Large
101 construction activity also includes the disturbance of less than five acres of total land areas that is a part
102 of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres
103 or more. Large construction activity does not include routine maintenance that is performed to maintain
104 the original line and grade, hydraulic capacity, or original purpose of the facility.

105 "*Layout*" means a conceptual drawing sufficient to provide for the specified stormwater management
106 facilities required at the time of approval.

107 "*Linear development project*" means a land-disturbing activity that is linear in nature such as, but not
108 limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii)
109 construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a
110 railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream
111 restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be
112 considered linear development projects.

113 "*Localized flooding*" means smaller scale flooding that may occur outside of a stormwater
114 conveyance system. This may include high water, ponding, or standing water from stormwater runoff,
115 which is likely to cause property damage or unsafe conditions.

116 "*Major municipal separate storm sewer outfall*" or "*major outfall*" means a municipal separate storm
117 sewer outfall that discharges from a single pipe with an inside diameter of thirty-six (36) inches or more or
118 its equivalent (discharge from a single conveyance other than circular pipe which is associated with a
119 drainage areas of more than fifty (50) acres); or for municipal separate storm sewers that receive
120 stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the
121 equivalent), with an outfall that discharges from a single pipe with an inside diameter of twelve (12) inches
122 or more or from its equivalent (discharge from other than a circular pipe associated with a drainage areas
123 of two (2) acres or more).

124 "*Minor modification*" means an amendment to an existing general permit before its expiration not
125 requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test
126 protocols, increased monitoring frequency requirements, changes in sampling locations, and changes to
127 compliance dates within the overall compliance schedules. A minor general permit modification or
128 amendment does not substantially alter general permit conditions, substantially increase or decrease the
129 amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility
130 to protect human health or the environment.

131 "*Natural channel design concepts*" means the utilization of engineering analysis based on fluvial
132 geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the
133 purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and
134 allows larger flows to access its floodplain.

135 "*Natural stream*" means a tidal or nontidal watercourse that is part of the natural topography. It
136 usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in
137 cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall
138 not be considered natural streams; however, channels designed utilizing natural channel design concepts
139 may be considered natural streams.

140 "*Nonpoint source pollution*" means pollution such as sediment, nitrogen, phosphorous,
141 hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from
142 the land surface in a diffuse manner by stormwater runoff.

143 "*Operator*" means the owner or operator of any facility or activity subject to the Act and this chapter.
144 In the context of stormwater associated with a large or small construction activity or Chesapeake Bay
145 Preservation Act land-disturbing activity, operator means any person associated with a construction
146 project that meets either of the following two criteria: (i) the person has direct operation control over
147 construction plans and specifications, including the ability to make modifications to those plans and
148 specifications or (ii) the person has day-to-day operational control of those activities at a project that are
149 necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state
150 permit or VSMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out
151 activities required by the stormwater pollution prevention plan or comply with other permit conditions). In
152 the context of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator
153 means the operator of the regulated MS4 system.

154 "*Outfall*" means, when used in reference to municipal separate storm sewers, a point source at the
155 point where a municipal separate storm sewer discharges to surface waters and does not include open
156 conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances
157 with connected segments of the same stream or other surface waters and are used to convey surface
158 waters.

159 "*Owner*" means the Commonwealth or any of its political subdivisions including, but not limited to,
160 sanitation district commissions and authorities, and any public or private institution, corporation,
161 association, firm or company organized or existing under the laws of this or any other state or country, or
162 any officer or agency of the United States, or any person or group of persons acting individually or as a
163 group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any
164 actual or potential discharge of sewage, industrial wastes, or other wastes or pollutants to state waters, or
165 any facility or operation that has the capability to alter the physical, chemical, or biological properties of
166 state waters in contravention of § 62.14-44.5 of the Code of Virginia, the Act and this chapter.

167 "*Peak flow rate*" means the maximum instantaneous flow from a prescribed design storm at a
168 particular location.

169 "*Percent impervious*" means the impervious area within the site divided by the area of the site
170 multiplied by 100.

171 "*Permit*" or "*VSMP Authority Permit*" means an approval to conduct a land-disturbing activity issued
172 by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and
173 which may only be issued after evidence of general permit coverage has been provided by the
174 Department, if required.

175 "*Permittee*" means the person to whom the VSMP Authority Permit is issued.

176 "*Person*" means any individual, corporation, partnership, association, state, municipality,
177 commission, or political subdivision of a state, governmental body, including federal, state, or local entity
178 as applicable, any interstate body or any other legal entity.

179 "*Point of discharge*" means a location at which concentrated stormwater runoff is released.

180 "*Pollutant discharge*" means the average amount of a particular pollutant measured in pounds per
181 year or other standard reportable unit as appropriate, delivered by stormwater runoff.

182 "*Pollution*" means such alteration of a physical, chemical or biological properties of any state waters
183 as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the
184 public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with

185 reasonable treatment for use as present or possible future sources of public water supply; or (c)
186 unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i)
187 an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of
188 sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to
189 cause pollution, but which in combination with such alteration of or discharge or deposit to state waters by
190 other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into
191 state waters; and (iii) contributing to the contravention of standards of water quality duly established by
192 the State Board, are "pollution" for the terms and purposes of this chapter.

193 *"Postdevelopment"* refers to conditions that reasonably may be expected or anticipated to exist after
194 completion of the land development activity on a specific site.

195 *"Predevelopment"* refers to the conditions that exist at the time that plans for the land development of
196 a tract of land are submitted to the VSMP authority. Where phased development or plan approval occurs
197 (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at
198 the time prior to the first item being submitted shall establish predevelopment conditions.

199 *"Prior developed lands"* means land that has been previously utilized for residential, commercial,
200 industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the
201 impervious area associated with those uses altered during a land-disturbing activity.

202 *"Qualified personnel"* means a person knowledgeable in the principles and practices of erosion and
203 sediment and stormwater management controls who possesses the skills to assess conditions at the
204 construction site for the operator that could impact stormwater quality and quantity and to assess the
205 effectiveness of any sediment and erosion control measures or stormwater management facilities
206 selected to control the quality and quantity of stormwater discharges from the construction activity. For
207 VSMP authorities this requires the use of a person who holds a certificate of competency from the State
208 Board in the areas of project inspection for ESC and project inspection for SWM or combined
209 administrator for ESC and combined administrator for SWM as defined in 9VAC25-850-10 or a
210 combination of ESC and SWM qualifications from these two areas.

211 *"Regulations"* means the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-
212 870, as amended.

213 *"Runoff coefficient"* means the fraction of total rainfall that will appear at a conveyance as runoff.

214 *"Runoff"* or *"stormwater runoff"* means that portion of precipitation that is discharged across the land
215 surface or through conveyances to one or more waterways.

216 *"Runoff characteristics"* include maximum velocity, peak flow rate, volume, and flow duration.

217 *"Runoff volume"* means the volume of water that runs off the site from a prescribed design storm.

218 *"Schedule of compliance"* means a schedule of remedial measures included in a state permit,
219 including an enforceable sequence of interim requirements (for example, actions, operations, or milestone
220 events) leading to compliance with the Act, the CWA and regulations.

221 *"Site"* means the land or water area where any facility or land-disturbing activity is physically located
222 or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing
223 activity. Areas channelward of mean low water shall not be considered part of a site.

224 *"Site hydrology"* means the movement of water on, across, through and off the site as determined by
225 parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal water
226 tables, slopes, land cover, and impervious cover.

227 *"Small construction activity"* means

- 228 1. Construction activities including clearing, grading, and excavating that results in land disturbance
229 of equal to or greater than one acre, and less than five acres. Small construction activity also
230 includes the disturbance of less than one acre of total land area that is part of a larger common
231 plan of development of sale if the larger common plan will ultimately disturb equal to or greater
232 than one and less than five acres. Small construction activity does not include routine
233 maintenance that is performed to maintain the original line and grade, hydraulic capacity, or

234 original purpose of the facility. The State Board may waive the otherwise applicable requirements
235 in a general permit for a stormwater discharge from construction activities that disturb less than
236 five acres where stormwater controls are not needed based on a "total maximum daily load"
237 (TMDL) that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require
238 TMDLs, an equivalent analysis that determines allocations for small construction sites for the
239 pollutant(s) of concern or that determines that such allocations are not needed to protect water
240 quality based on consideration of existing in-stream concentrations, expected growth in pollutant
241 contributions from all sources, and a margin of safety. For the purpose of this subdivision, the
242 pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total
243 suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause
244 of impairment of any water body that will receive a discharge from the construction activity. The
245 operator must certify to the State Board that the construction activity will take place and
246 stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent
247 analysis.

248 2. Any other construction activity designated by the either State Board or the EPA regional
249 administrator, based on the potential for contribution to a violation of a water quality standard or
250 for significant contribution of pollutants to surface waters.

251 "*Special Flood Hazard Area*" means the land in the floodplain subject to a one (1) percent or greater
252 chance of being flooded in any given year as set forth in the Floodplain Ordinance (Appendix K).

253 "*State*" means the Commonwealth of Virginia.

254 "*State Board*" means the State Water Control Board.

255 "*State permit*" means an approval to conduct a land-disturbing activity issued by the State Board in
256 the form of a state stormwater individual permit or coverage issued under a state general permit or an
257 approval issued by the State Board for stormwater discharges from an MS4. Under these state permits,
258 the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and
259 regulations, the Virginia Stormwater Management Act and the Regulations.

260 "*State Water Control Law*" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of
261 Virginia.

262 "*State waters*" means all water, on the surface and under the ground, wholly or partially within or
263 bordering the Commonwealth or within its jurisdiction, including wetlands.

264 "*Stormwater*" means precipitation that is discharged across the land surface or through conveyances
265 to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff
266 and drainage.

267 "*Stormwater Appeals Board*" is the appeal authority designated by City Council to hear appeals from
268 any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action
269 of the City taken in regard to the Ordinance.. The Stormwater Appeals Board shall be appointed by City
270 Council and shall consist of five (5) voting citizen members and two (2) alternates. The five (5) voting
271 members and two (2) alternates shall include citizens from the City of Virginia Beach who will serve a
272 term of three (3) years with a maximum of two (2) consecutive terms and three (3) of whom shall have
273 professional or educational experience in civil engineering, land surveying, landscape architecture,
274 environmental sciences, earth science, soil science, natural resources, chemistry, or other commensurate
275 professional or educational background. The city attorney or his designee shall serve as legal counsel to
276 the Stormwater Appeals Board and the departments of Public Works and Planning shall be staff to the
277 Stormwater Appeals Board.

278 "*Stormwater conveyance system*" means a combination of drainage components that are used to
279 convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

280 1. "*Manmade stormwater conveyance system*" means a pipe, ditch, vegetated swale, or other
281 stormwater conveyance system constructed by man except for restored stormwater conveyance
282 systems;

283 2. *"Natural stormwater conveyance system"* means the main channel of a natural stream and the
284 flood-prone area adjacent to the main channel; or

285 3. *"Restored stormwater conveyance system"* means a stormwater conveyance system that has
286 been designed and constructed using natural channel design concepts. Restored stormwater
287 conveyance systems include the main channel and the flood-prone area adjacent to the main
288 channel.

289 *"Stormwater discharge associated with construction activity"* means a discharge of stormwater runoff
290 from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials
291 or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or
292 other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch
293 plants) are located.

294 *"Stormwater management facility"* means a control measure that controls stormwater runoff and
295 changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period
296 of release or the velocity of flow.

297 *"Stormwater management plan"* means a document(s) containing material describing methods for
298 complying with the requirements of section 1-6 of this Ordinance.

299 *"Stormwater Pollution Prevention Plan" or "SWPPP"* means a document that is prepared in
300 accordance with good engineering practices and that identifies potential sources of pollutants that may
301 reasonably be expected to affect the quality of stormwater discharges from the construction site, and
302 otherwise meets the requirements of this Ordinance. In addition the document shall identify and require
303 the implementation of control measures, and shall include, but not be limited to the inclusion of or the
304 incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater
305 management plan, and a pollution prevention plan.

306 *"Subdivision"* means the same as defined in Section 1.4 of the Subdivision Regulations of the City of
307 Virginia Beach [Appendix B].

308 *"Total maximum daily load" or "TMDL"* means the sum of the individual wasteload allocations for
309 point sources, load allocations for nonpoint sources, natural background loading and a margin of safety.
310 TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The
311 TMDL process provides for point versus nonpoint source trade-offs.

312 *"Virginia Stormwater BMP Clearinghouse Website"* means a website that contains detailed design
313 standards and specifications for control measures that may be used in Virginia to comply with the
314 requirements of the Virginia Stormwater Management Act and associated regulations.

315 *"Virginia Stormwater Management Act" or "Act"* means Article 2.3 (§ 62.1-44.15:24 et seq.) of
316 Chapter 3.1 of Title 62.1 of the Code of Virginia.

317 *"Virginia Stormwater Management Handbook"* means a collection of pertinent information that
318 provides general guidance for compliance with the Act and associated regulations and is developed by
319 the department with advice from a stakeholder advisory committee.

320 *"Virginia Stormwater Management Program" or "VSMP"* means a program approved by the State
321 Board after September 13, 2011, that has been established by a locality to manage the quality and
322 quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances,
323 rules, permit requirements, annual standards and specifications, policies and guidelines, technical
324 materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and
325 evaluation consistent with the requirements of this article and associated regulations.

326 *"Virginia Stormwater Management Program authority" or "VSMP authority"* means an authority
327 approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management
328 Program.

329 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3449, 5-3-16; Ord. No. 3618, 6-16-20)

- 330 Sec. 1-4. - Stormwater applicability and exemptions.
- 331 A. Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority
332 permit or an executed agreement in lieu of a stormwater plan has been issued by the Administrator in
333 accordance with the provisions of this Ordinance.
- 334 B. When a VSMP permit is not required pursuant to an exemption listed below, all land disturbing activities
335 that disturb two thousand five hundred (2,500) square feet or more of land must obtain a Land
336 Disturbing Permit in accordance with the provisions of the City of Virginia Beach Erosion and Sediment
337 Control Ordinance (Chapter 30).
- 338 C. A Chesapeake Bay Preservation Act Land-Disturbing Activity shall not be required to obtain a general
339 Permit, but will be required to obtain a Land Disturbing Permit and be subject to an erosion and
340 sediment control plan consistent with the requirements of the Erosion and Sediment Control
341 Ordinance, a stormwater management plan as outlined under section 1-6, the technical criteria and
342 administrative requirements for land-disturbing activities outlined in sections 1-10 through 1-19 and 1-
343 22 through 1-27, the variance procedures of section 1-21 and the requirements for control measures
344 and long-term maintenance outlined under section 1-28.
- 345 D. Single-family residences separately built and disturbing less than one (1) acre and that are part of a
346 larger common plan of development or sale, and not located in the Chesapeake Bay Preservation
347 Area, shall operate in accordance with the general permit and required SWPPP, but shall not be
348 required to complete a registration statement.
- 349 E. Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless
350 otherwise required by federal law:
- 351 1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects
352 conducted under the provisions of Title 45.1 of the Code of Virginia;
- 353 2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or
354 harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as
355 additionally set forth by the State Board in regulations, including engineering operations as
356 follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds,
357 ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and
358 land irrigation; however, this exception shall not apply to harvesting of forest crops unless the
359 area on which harvesting occurs is reforested artificially or naturally in accordance with the
360 provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted
361 to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of
362 Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- 363 3. Single-family residences separately built and disturbing less than one acre and not part of a larger
364 common plan of development or sale, including additions or modifications to existing single-family
365 detached residential structures, unless the land disturbance is located in the Chesapeake Bay
366 watershed. In the Chesapeake Bay watershed, single-family residences separately built and
367 disturbing less than two thousand five hundred (2,500) square feet are exempt;
- 368 4. Land-disturbing activities that disturb less than one acre of land area, and not part of a larger
369 common plan of development or sale, except in areas designated by the City as subject to the
370 Chesapeake Bay Preservation Area Designation and Management Regulations, where land
371 disturbing activities less than two thousand five hundred (2,500) square feet are exempt;
- 372 5. Discharges to a sanitary sewer;
- 373 6. Activities under a State or federal reclamation program to return an abandoned property to an
374 agricultural or open land use;
- 375 7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity,
376 or original construction of the project. The paving of an existing road with a compacted or
377 impervious surface and reestablishment of existing associated ditches and shoulders shall be
378 deemed routine maintenance if performed in accordance with this subsection; and

379 8. Conducting land-disturbing activities in response to a public emergency where the related work
380 requires immediate authorization to avoid imminent endangerment to human health or the
381 environment. In such situations, the Administrator shall be advised of the disturbance within seven
382 days of commencing the land-disturbing activity and compliance with the administrative
383 requirements of subsection A. is required within thirty (30) days of commencing the land-
384 disturbing activity.

385 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

386 Sec. 1-5. - Submission and approval of plans.

387 A. No VSMP authority permit shall be issued by the Administrator, until the following items have been
388 submitted to and approved by the Administrator as prescribed herein:

389 1. A plan review package that includes a general permit registration statement, if required.
390 Registration statements are not required for detached single-family home construction, within or
391 outside of a common plan of development or sale; however such construction must adhere to the
392 requirements of the general permit;

393 2. An erosion and sediment control plan approved in accordance with the City of Virginia Beach
394 Erosion and Sediment Control Ordinance (Chapter 30);

395 3. A stormwater management plan that meets the requirements of section 1-6 of this Ordinance or
396 an executed agreement in lieu of a stormwater management plan; and

397 4. When the development of property is proposed, a site plan or subdivision construction plan
398 incorporating all applicable requirements of the Subdivision Regulations (Appendix B) and Site
399 Plan Ordinance (Appendix C).

400 B. No VSMP authority permit shall be issued until evidence of general permit coverage is obtained, if
401 required.

402 C. No VSMP authority permit shall be issued until the fees required to be paid pursuant to section 1-33,
403 are received, and a reasonable performance bond required pursuant to section 1-34 of this Ordinance
404 has been accepted.

405 D. No VSMP authority permit shall be issued until the Stormwater Management Facility Maintenance
406 Agreement is submitted and approved pursuant to section 1-28 of this Ordinance.

407 E. No VSMP authority permit shall be issued unless and until the permit application and attendant
408 materials and supporting documentation demonstrate that all land clearing, construction, disturbance,
409 land development and drainage will be done according to the approved plan.

410 F. No grading, building or other local permit shall be issued for a property unless a VSMP authority permit
411 has been issued by the Administrator, unless such activity is exempt.

412 G. No VSMP authority permit shall be issued until an Agreement in Lieu of a Stormwater Plan, if required,
413 has been executed, submitted and approved.

414 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

415 Sec. 1-6. - Stormwater management plan; content of plan.

416 A. The Stormwater Management Plan, required in section 1-4 of this Ordinance, must apply the
417 stormwater management technical criteria set forth in sections 1-10 through 1-19 and 1-22 through 1-
418 27 of this Ordinance to the entire site or common plan of development or sale where applicable,
419 consider all sources of surface runoff and all sources of surface and groundwater flows converted to
420 surface runoff. Individual lots in new residential, commercial or industrial developments shall not be
421 considered separate land-disturbing activities. Approved stormwater management plans for

422 residential, commercial or industrial subdivisions govern the individual parcels within that plan
423 throughout the development life of the lots even with subsequent owners.

424 The Stormwater Management Plan shall include the following information:

- 425 1. Information on the type and location of stormwater discharges; information on the features to
426 which stormwater is being discharged including surface waters and the predevelopment and
427 postdevelopment drainage areas;
- 428 2. Contact information including the name, address, and telephone number of the owner, and the
429 applicant if not the owner, and the GPIN and parcel number of the property or properties affected;
- 430 3. A narrative that includes a description of current site conditions and final site conditions;
- 431 4. A general description of the proposed stormwater management facilities and the mechanism
432 through which the facilities will be operated and maintained after construction is complete;
- 433 5. Information on the proposed stormwater management facilities, including:
 - 434 i. The type of facilities;
 - 435 ii. Location, including geographic coordinates expressed in U.S. Survey Feet and based on the
436 Virginia State Plane Coordinate System, South Zone, NAD 1983/1993 (High Accuracy
437 Reference Network) (HARN) or Latitude and Longitude;
 - 438 iii. Area treated, measured in square feet and acreage; and
 - 439 iv. The surface waters into which the facility will discharge;
- 440 6. Hydrologic and hydraulic computations, including runoff characteristics;
- 441 7. Documentation and calculations verifying compliance with the water quality and quantity
442 requirements of sections 1-10 through 1-19 or 1-22 through 1-27 of this Ordinance;
- 443 8. A map or maps of the site that depicts the topography of the site and includes:
 - 444 i. All contributing drainage areas;
 - 445 ii. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - 446 iii. Soil types, forest cover, and other vegetative areas;
 - 447 iv. Current land use including existing structures, roads, and locations of known utilities and
448 easements;
 - 449 v. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site
450 on these parcels;
 - 451 vi. The limits of clearing and grading, and the proposed drainage patterns on the site;
 - 452 vii. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities;
 - 453 viii. Proposed land use with tabulation of the percentage of surface area to be adapted to
454 various uses, including but not limited to planned locations of utilities, roads, and easements;
 - 455 ix. All Chesapeake Bay Preservation Area designations of Resource Protection Areas,
456 including variable width buffers;
 - 457 x. All Southern Rivers Watershed buffers and nontidal wetlands, pursuant to Appendix G of the
458 Virginia Beach City Code; and
 - 459 xi. Any other information reasonably necessary for an evaluation of the development activity.
- 460 B. If an operator intends to meet the water quality or quantity requirements set forth in sections 1-10
461 through 1-19 and 1-22 through 1-27 of this Ordinance through the use of off-site compliance options,
462 where applicable, then a letter of availability from the off-site provider must be included. Approved off-
463 site options must achieve the necessary nutrient reductions prior to the commencement of the

464 applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of
465 Virginia.

466 C. If an operator intends to meet the water quality and quantity requirements available in an existing off-
467 site regional or locally shared stormwater management facility, pursuant to a previously approved plan,
468 documentation shall be required indicating that the facility meets the quality and quantity technical
469 criteria set forth in sections 1-10 through 1-19 and 1-22 through 1-27 of this Ordinance and that a
470 Stormwater Management Facilities Maintenance Agreement acceptable to the City has been recorded
471 and that all necessary easements are in place to access and utilize the Stormwater Management
472 Facility.

473 D. Elements of the stormwater management plans that include activities regulated under Chapter 4 (§
474 54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a
475 professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of
476 Chapter 4 of Title 54.1 of the Code of Virginia.

477 E. A maintenance agreement and adequate easements shall be executed and recorded to ensure
478 responsibility for the maintenance of any stormwater management facilities constructed under the
479 requirements of this ordinance, unless exempted from this requirement under section 1-28, and to
480 ensure appropriate access to such facilities for maintenance, inspection and corrective action.

481 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3369, 9-16-14; Ord. No. 3618, 6-16-20)

482 Sec. 1-7. - Review of stormwater management plans.

483 A. The Administrator shall review stormwater management plans and shall approve or disapprove a
484 stormwater management plan according to the following:

485 1. The Administrator shall determine the completeness of a plan submittal package in accordance
486 with section 1-6 of this Ordinance, and shall notify the applicant, in writing, of such determination,
487 within fifteen (15) calendar days of receipt. If the plan is deemed to be incomplete, the above
488 written notification shall contain the reasons the plan submittal package is deemed incomplete.

489 2. The Administrator shall have an additional sixty (60) calendar days from the date of the
490 communication of completeness to review the plan, except that if a determination of completeness
491 is not made within the time prescribed in subdivision 1., then the plan shall be deemed complete
492 and the Administrator shall have sixty (60) calendar days from the date of submission to review
493 the plan.

494 3. The Administrator shall review any plan that has been previously disapproved, within forty-five
495 (45) calendar days of the date of resubmission.

496 4. During the review period, the plan shall be approved or disapproved and the decision
497 communicated in writing to the person responsible for the land-disturbing activity or his
498 designated agent. If the plan is not approved, the reasons for not approving the plan shall be
499 provided in writing. Approval or denial shall be based on the plan's compliance with the
500 requirements of this Ordinance.

501 5. If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the
502 time provided above in subdivision 2., the plan shall be deemed approved.

503 6. All written correspondence shall be by email or facsimile unless requested otherwise in writing by
504 the applicant.

505 B. Approved stormwater plans may be modified as follows:

506 1. Modifications to an approved stormwater management plan shall be allowed only after review and
507 written approval by the Administrator. The Administrator shall have sixty (60) calendar days to
508 respond in writing either approving or disapproving such request.

- 509 2. The Administrator may require that an approved stormwater management plan be amended,
510 within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- 511 C. The Administrator shall require the submission of a construction record drawing for permanent
512 stormwater management facilities and stormwater conveyance systems. The Administrator may elect
513 not to require construction record drawings for stormwater management facilities and stormwater
514 conveyance systems for which recorded maintenance agreements are not required pursuant to section
515 1-28. Prior to the release of the surety and final approval of the facility by the City a construction record
516 drawing for permanent stormwater management facilities and stormwater conveyance systems shall
517 be submitted, inspected and approved by the Administrator. The construction record drawing shall be
518 appropriately sealed and signed by a professional registered in the Commonwealth of Virginia,
519 certifying that the stormwater management facilities and stormwater conveyance systems have been
520 constructed in accordance with the approved plan.

521 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

522 Sec. 1-8. - Stormwater pollution prevention plan; content of plan.

- 523 A. The Stormwater Pollution Prevention Plan (SWPPP) is not required to be submitted for review and
524 approval, however, it is a requirement of the VSMP and general permit and will be reviewed during
525 inspections. Specific components of the SWPPP, as required by section 1-6 will be reviewed.
- 526 B. The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section
527 9VAC25-870-54, but not limited to, an approved erosion and sediment control plan, an approved
528 stormwater management plan, a pollution prevention plan for regulated land disturbing activities and
529 a description of any additional control measures necessary to address a TMDL if required.
- 530 C. The SWPPP must also comply with the requirements and general information set forth in Section
531 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit.
- 532 D. The SWPPP shall be amended by the operator whenever there is a change in design, construction,
533 operation, or maintenance that has a significant effect on the discharge of pollutants to state waters
534 which is not addressed by the existing SWPPP.
- 535 E. The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is
536 unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction
537 site. Operators shall make the SWPPP available for public review in accordance with Section II of the
538 general permit, either electronically or in hard copy.

539 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

540 Sec. 1-9. - Pollution prevention plan; content of plan.

- 541 A. A Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and
542 updated as necessary and must detail the design, installation, implementation, and maintenance of
543 effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such
544 measures must be designed, installed, implemented, and maintained to:
- 545 1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and
546 other wash waters. Wash waters must be treated in a sediment basin or alternative control that
547 provides equivalent or better treatment prior to discharge;
- 548 2. Minimize the exposure of building materials, building products, construction wastes, trash,
549 landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other
550 materials present on the site to precipitation and to stormwater; and
- 551 3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak
552 prevention and response procedures.

553 B. The pollution prevention plan shall include effective best management practices to prohibit the
554 following discharges:

- 555 1. Wastewater from washout of concrete, unless managed by an appropriate control;
- 556 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds,
557 and other construction materials;
- 558 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
- 559 4. Soaps or solvents used in vehicle and equipment washing.

560 C. Discharges from dewatering activities, including discharges from dewatering of trenches and
561 excavations, are prohibited unless managed by appropriate controls.

562 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

563 Sec. 1-10. - Applicability of technical criteria for regulated land disturbing activities.

564 Except as grandfathered in accordance with the provisions of section 1-20, sections 1-10 through 1-
565 19 establish the minimum technical criteria for regulated land-disturbing activities that shall be employed
566 to protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff
567 resulting from land-disturbing activities.

568 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

569 Sec. 1-11. - Water quality design criteria requirements.

570 A. In order to protect the quality of state waters and to control the discharge of stormwater pollutants from
571 regulated activities, the following minimum design criteria and statewide standards for stormwater
572 management shall be applied to the site.

573 1. New development. The total phosphorus load of new development projects shall not exceed 0.41
574 pounds per acre per year, as calculated pursuant to section 1-12.

575 2. Development on prior developed lands.

576 a. For land-disturbing activities disturbing greater than or equal to one acre that results in no
577 net increase in impervious cover from the predevelopment condition, the total phosphorus
578 load shall be reduced at least twenty (20) percent below the predevelopment total
579 phosphorus load.

580 b. For regulated land-disturbing activities disturbing less than one acre that result in no net
581 increase in impervious cover from the predevelopment condition, the total phosphorus load
582 shall be reduced at least 10% below the predevelopment total phosphorus load.

583 c. For land-disturbing activities that result in a net increase in impervious cover over the
584 predevelopment condition, the design criteria for new development shall be applied to the
585 increased impervious area. Depending on the area of disturbance, the criteria of subdivisions
586 a. or b. above, shall be applied to the remainder of the site.

587 d. In lieu of subdivision c., the total phosphorus load of a linear development project occurring
588 on prior developed lands shall be reduced twenty (20) percent below the predevelopment
589 total phosphorus load.

590 e. The total phosphorus load shall not be required to be reduced to below the applicable
591 standard for new development unless a more stringent standard has been established by
592 the City.

593 B. Compliance with subsection A. of this section shall be determined in accordance with section 1-12.

594 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

595 Sec. 1-12. - Water quality compliance.

- 596 A. Compliance with the water quality design criteria set out in sections A.1. and A.2. of section 1-11 shall
597 be determined by utilizing the Virginia Runoff Reduction Method or another equivalent methodology
598 that is approved by the State Water Control Board.
- 599 B. The BMPs listed in 9VAC25-870-65.B are approved for use as necessary to effectively reduce the
600 phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction Method. Other
601 approved BMPs found on the Virginia Stormwater BMP Clearinghouse Website may also be utilized.
602 Design specifications and the pollutant removal efficiencies for all approved BMPs are found on the
603 Virginia Stormwater BMP Clearinghouse Website.
- 604 C. However, where a site drains to more than one HUC, the pollutant load reduction requirements shall
605 be applied independently within each HUC unless reductions are achieved in accordance with a
606 comprehensive watershed stormwater management plan in accordance with section 1-19. The City's
607 Stormwater Drainage Basin boundary shall be used in lieu of the HUC boundaries for pollutant load
608 reduction calculations except in the Lower Southern Rivers drainage basin where HUCs have been
609 combined.
- 610 D. Offsite alternatives where allowed in accordance with section 1-14 may be utilized to meet the design
611 criteria of subsection A. of section 1-11.

612 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

Sec. 1-13. - Water quantity.

- A. Channel protection, flood protection, design storm, and check storm criteria shall be addressed in accordance with the minimum standards set out in this section.
- B. Channel protection. Concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet the criteria in subdivision 1, 2, or 3 of this subsection, where applicable, from the point of discharge to the limits of analysis defined in subdivision 4 of this subsection.
1. Manmade stormwater conveyance systems. When stormwater from a development is discharged to a manmade stormwater conveyance system, following the land-disturbing activity, either:
 - a. The manmade stormwater conveyance system shall convey the postdevelopment peak flow rate from the two-year 24-hour storm event without causing erosion of the system. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the VSMP authority; or
 - b. The peak discharge requirements for concentrated stormwater flow to natural stormwater conveyance systems in subdivision 3 of this subsection shall be met.
 2. Restored stormwater conveyance systems. When stormwater from a development is discharged to a restored stormwater conveyance system that has been restored using natural design concepts, following the land-disturbing activity, either:
 - a. The development shall be consistent, in combination with other stormwater runoff, with the design parameters of the restored stormwater conveyance system that is functioning in accordance with the design objectives; or
 - b. The peak discharge requirements for concentrated stormwater flow to natural stormwater conveyance systems in subdivision 3 of this subsection shall be met.
 3. Natural stormwater conveyance systems. When stormwater from a development is discharged to a natural stormwater conveyance system, the maximum peak flow rate from the one-year 24-hour storm following the land-disturbing activity shall be calculated either:

- a. In accordance with the following methodology:

$$Q_{\text{Developed}} \leq \text{I.F.} * (Q_{\text{Pre-Developed}} * RV_{\text{Pre-Developed}}) / RV_{\text{Developed}}$$

Under no condition shall $Q_{\text{Developed}}$ be greater than $Q_{\text{Pre-Developed}}$ nor shall $Q_{\text{Developed}}$ be required to be less than that calculated in the equation $(Q_{\text{Forest}} * RV_{\text{Forest}}) / RV_{\text{Developed}}$; where

I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites ≤ 1 acre.

$Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed site.

$RV_{\text{Developed}}$ = The volume of runoff from the site in the developed condition.

$Q_{\text{Pre-Developed}}$ = The peak flow rate of runoff from the site in the pre-developed condition.

$RV_{\text{Pre-Developed}}$ = The volume of runoff from the site in pre-developed condition.

Q_{Forest} = The peak flow rate of runoff from the site in a forested condition.

RV_{Forest} = the volume of runoff from the site in a forested condition; or

- b. In accordance with another methodology that is demonstrated by the City to achieve equivalent results and is approved by the State Board.
4. Limits of analysis. Unless subdivision 3 of this subsection is utilized to show compliance with the channel protection criteria, stormwater conveyance systems shall be analyzed for compliance with channel protection criteria to a point where either:
- a. Based on land area, the site's contributing drainage area is less than or equal to 1.0% of the total watershed area or where a City model is used; or
 - b. Based on peak flow rate, the site's peak flow rate from the one-year 24-hour storm is less than or equal to 1.0% of the existing peak flow rate from the one-year 24-hour storm prior to the implementation of any stormwater quantity control measures.
- C. Flood protection. Concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet the following criteria as demonstrated by use of acceptable hydrologic and hydraulic methodologies. Adequacy of the downstream system must be demonstrated for all the following:
1. Concentrated stormwater flow to stormwater conveyance systems that currently do not experience localized flooding during the 10-year 24-hour storm event: The point of discharge releases stormwater into a stormwater conveyance system that, following the land-disturbing activity, confines the post-development peak flow rate from the 10-year 24-hour storm event within the stormwater conveyance system. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the VSMP authority.
 2. Concentrated stormwater flow to stormwater conveyance systems that currently experience localized flooding during the 10-year 24-hour storm event. The point of discharge either:
 - a. Confines the post-development peak flow rate from the 10-year 24-hour storm event within the stormwater conveyance system to avoid the localized flooding. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the VSMP authority; or
 - b. Releases a post-development peak flow rate for the 10-year 24-hour storm event that is less than the predevelopment peak flow rate from the 10-year 24-hour storm event. Downstream stormwater conveyance systems do not require any additional analysis to show compliance with flood protection criteria if this option is utilized.

3. Limits of analysis. Unless subdivision 2.b. of this subsection is utilized to comply with the flood protection criteria, stormwater conveyance systems shall be analyzed for compliance with flood protection criteria to a point where:
 - a. The site's contributing drainage area is less than or equal to 1.0% of the total watershed area draining to a point of analysis in the downstream stormwater conveyance system;
 - b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour storm event is less than or equal to 1.0% of the existing peak flow rate from the 10-year 24-hour storm event prior to the implementation of any stormwater quantity control measures; or
 - c. The stormwater conveyance system enters a mapped floodplain or other flood-prone area, adopted by ordinance, of any locality.
- D. Design and Check Storms. In addition to satisfying the criteria in Section 2.C above, concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet all applicable criteria as outlined in the Public Works Design Standards Manual. All land disturbance projects that increase the impervious area by more than 20,000 square feet shall:
 1. Use EPA SWMM or value enhanced SWMM programs that can directly exchange input data with EPA SWMM for hydrologic and hydraulic calculations; and,
 2. Perform upstream and downstream drainage analyses to demonstrate adequacy of the downstream system.
- E. Increased volumes of sheet flow resulting from pervious or disconnected impervious areas, or from physical spreading of concentrated flow through level spreaders, must be identified and evaluated for potential impacts on down-gradient properties or resources. Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or flooding of down gradient properties or resources shall be diverted to a stormwater management facility or a stormwater conveyance system that conveys the runoff without causing down-gradient erosion, sedimentation, or flooding.
- F. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated to and approved by the VSMP authority that actual site conditions warrant such considerations. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated to and approved by the VSMP authority that actual site conditions warrant such considerations.
- G. Predevelopment and postdevelopment runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and on the Virginia Stormwater BMP Clearinghouse website shall be considered appropriate practices.

(Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

- 1 Sec. 1-14. - Offsite compliance options.
- 2 A. Offsite compliance options that the City may allow an operator to use to meet required phosphorus
- 3 nutrient reductions include the following:
 - 4 1. Offsite controls utilized in accordance with a comprehensive stormwater management plan
 - 5 adopted pursuant to section 1-19 for the local watershed within which a project is located;

- 6 2. A locality pollutant loading pro rata share program established pursuant to § 15.2-2243 of the
7 Code of Virginia or similar local funding mechanism;
 - 8 3. The nonpoint nutrient offset program established pursuant to § 62.1-44.15:35 of the Code of
9 Virginia;
 - 10 4. Any other offsite options approved by an applicable state agency or state board; and
 - 11 5. When an operator has additional properties available within the same HUC or upstream HUC that
12 the land-disturbing activity directly discharges to or within the same watershed as determined by
13 the City, offsite stormwater management facilities on those properties may be utilized to meet the
14 required phosphorus nutrient reductions from the land-disturbing activity.
- 15 B. Notwithstanding subsection A. of this section, and pursuant to § 62.1-44.15:35 of the Code of Virginia,
16 operators shall be allowed to utilize offsite options identified in subsection A. of this section under any
17 of the following conditions:
- 18 1. Less than five (5) acres of land will be disturbed;
 - 19 2. The postconstruction phosphorus control requirement is less than ten (10) pounds per year; or
 - 20 3. At least seventy-five (75) percent of the required phosphorus nutrient reductions are achieved on-
21 site. If at least seventy-five (75) percent of the required phosphorus nutrient reductions cannot be
22 met on-site, and the operator can demonstrate to the satisfaction of the City that (i) alternative
23 site designs have been considered that may accommodate on-site best management practices,
24 (ii) on-site best management practices have been considered in alternative site designs to the
25 maximum extent practicable, (iii) appropriate on-site best management practices will be
26 implemented, and (iv) full compliance with postdevelopment nonpoint nutrient runoff compliance
27 requirements cannot practicably be met on-site, then the required phosphorus nutrient reductions
28 may be achieved, in whole or in part, through the use of off-site compliance options.
- 29 C. Notwithstanding subsections A. and B. of this section, offsite options shall not be allowed:
- 30 1. Unless the selected offsite option achieves the necessary nutrient reductions prior to the
31 commencement of the operator's land-disturbing activity. In the case of a phased project, the
32 operator may acquire or achieve offsite nutrient reductions prior to the commencement of each
33 phase of land-disturbing activity in an amount sufficient for each phase.
 - 34 2. In contravention of local water quality-based limitations at the point of discharge that are (i)
35 consistent with the determinations made pursuant to subsection B of § 62.1-44.19:7 of the Code
36 of Virginia, (ii) contained in a municipal separate storm sewer system (MS4) program plan
37 accepted by DEQ, or (iii) as otherwise may be established or approved by the State Board.
 - 38 3. Within the Southern Rivers watershed, the exchange of credits within an area subject to an
39 approved local TMDL, for total phosphorus or total nitrogen shall be limited to those credits
40 generated upstream of where the discharge reaches impaired waters in accordance with the
41 Virginia State Water Control Board regulation 9VAC25-900-91 Exchange of credits.
- 42 D. In order to meet the requirements of section 1-13 described in subdivisions 1. and 2. of subsection A.
43 of this section may be utilized.
- 44 E. In accordance with § 62.1-44.15:35F of the Code of Virginia, nutrient credits used pursuant to
45 subsection A. shall be generated in the same or adjacent eight-digit hydrologic unit code as defined
46 by the United States Geological Survey as the permitted site except as otherwise limited in subsection
47 C. Nutrient credits outside the same or adjacent eight-digit hydrologic unit code may only be used if it
48 is determined by the Director that no credits are available within the same or adjacent eight-digit
49 hydrologic unit code when the Director accepts the final site design. In such cases, and subject to
50 other limitations imposed in this section, credits available within the same tributary may be used. In no
51 case shall credits from another tributary be used.

53 Sec. 1-15. - Design storms and hydrologic methods.

- 54 A. Unless otherwise specified, the prescribed design storms are one hundred twenty (120) percent of the
55 one-year, two-year, ten-year, twenty-five-year, fifty-year and one hundred-year twenty-four-hour
56 storms using the rainfall precipitation frequency data recommended by the U.S. National Oceanic and
57 Atmospheric Administration (NOAA) Atlas 14, Volume 2 Version 3.0. Partial duration time series, as
58 adjusted by the City of Virginia Beach Public Works Design Standards Manual, shall be used for the
59 precipitation data.
- 60 B. Unless otherwise specified, all hydrologic analyses shall be based on the existing watershed
61 characteristics and how the ultimate development condition of the subject project will be addressed.
- 62 C. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-
63 hour rainfall distribution and models, including, but not limited to TR-55 and TR-20; hydrologic and
64 hydraulic methods developed by the U.S. Army Corps of Engineers; or other standard hydrologic and
65 hydraulic methods, shall be used to conduct the analyses described in this part. Predeveloped vs.
66 post-developed runoff comparisons shall be performed using the same method of analysis.
- 67 D. When total proposed (increased) impervious area is greater than 20,000 square feet of new impervious
68 area, the hydrologic methods in the PWDSM shall apply in lieu of subsection C above. Project shall
69 use EPA SWMM or value enhanced SWMM programs that can directly exchange input data with EPA
70 SWMM for hydrologic and hydraulic calculation. E. The entire drainage area must be considered when
71 determining the design storm and hydrologic methods. This includes both onsite and offsite
72 contributing drainage areas. For drainage areas less than three hundred (300) acres, a ten-year,
73 twenty-four-hour design storm event for capacity design shall be used; for drainage areas equal to or
74 greater than three hundred (300) acres, but less than five hundred (500) acres, a twenty-five-year,
75 twenty-four-hour design storm event shall be used; for drainage areas equal to or greater than five
76 hundred (500) acres, a fifty-year, twenty-four-hour design storm event shall be used.

77

78 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

79 Sec. 1-16. - Stormwater harvesting.

80 In accordance with § 62.1-44.15:28 of the Code of Virginia, stormwater harvesting is encouraged for
81 the purposes of landscape irrigation systems, fire protection systems, flushing water closets and urinals,
82 and other water handling systems to the extent such systems are consistent with federal, state and City
83 regulations.

84 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

85 Sec. 1-17. - Linear development projects.

86 Linear development projects shall control postdevelopment stormwater runoff in accordance with a
87 site-specific stormwater management plan or a comprehensive watershed stormwater management plan
88 developed in accordance with these technical criteria.

89 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

90 Sec. 1-18. - Stormwater management impoundment structures or facilities.

91 Stormwater management wet ponds and extended detention ponds that are not covered by the
92 Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be engineered for structural integrity
93 for the 100-year storm event.

94 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

95 Sec. 1-19. - Comprehensive stormwater management plans.

96 The City may develop comprehensive stormwater management plans to be approved by DEQ that
97 meet the water quality objectives, quantity objectives, or both of this chapter:

- 98 1. Such plans shall ensure that offsite reductions equal to or greater than those that would be
99 required on each contributing site are achieved within the same HUC or within another locally
100 designated watershed. Pertaining to water quantity objectives, the plan may provide for
101 implementation of a combination of channel improvement, stormwater detention, or other
102 measures that are satisfactory to the locality's VSMP authority to prevent downstream erosion
103 and flooding.
- 104 2. If the land use assumptions upon which the plan was based change or if any other amendments
105 are deemed necessary by the locality's VSMP authority, such authority shall provide plan
106 amendments to the department for review and approval.
- 107 3. During the plan's implementation, the locality's VSMP authority shall document nutrient reductions
108 accredited to the BMPs specified in the plan.
- 109 4. State and federal agencies may develop comprehensive stormwater management plans, and
110 may participate in locality-developed comprehensive stormwater management plans where
111 practicable and permitted by the locality's VSMP authority.

112 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

113 Sec. 1-20. - Grandfather provisions.

- 114 A. Any land-disturbing activity shall be considered grandfathered by the Administrator and shall not be
115 subject to the technical criteria of sections 1-10 through 1-19 of this Ordinance, but shall be subject to
116 the technical criteria of sections 1-22 through 1-27 of this Ordinance provided:
 - 117 1. A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final
118 subdivision plat or a preliminary or final site plan or any document determined by the City to be
119 equivalent thereto was (i) approved by the City prior to July 1, 2012, (ii) provided a layout as
120 defined in 9VAC25-870-10, (iii) will comply with sections 1-22 through 1-27 of this Ordinance, and
121 (iv) has not been subsequently modified or amended in a manner resulting in an increase in the
122 amount of phosphorus leaving each point of discharge, and such that there is no increase in the
123 volume or rate of runoff; and
 - 124 2. A state permit has not been issued prior to July 1, 2014; and
 - 125 3. Land disturbance did not commence prior to July 1, 2014.
- 126 B. Local, state and federal projects shall be considered grandfathered and shall be subject to the
127 technical criteria of sections 1-22 through 1-27 of this Ordinance provided:
 - 128 1. There has been an obligation of local, state or federal funding, in whole or in part, prior to July 1,
129 2012, or the department has approved a stormwater management plan prior to July 1, 2012; and
 - 130 2. A state permit has not been issued prior to July 1, 2014; and
 - 131 3. Land disturbance did not commence prior to July 1, 2014.
- 132 C. Land-disturbing activities grandfathered under subsections A and B shall remain subject to the criteria
133 of sections 1-22 through 1-27 for one additional state permit cycle. After such time, portions of the
134 project not under construction shall become subject to the technical requirements of sections 1-10
135 through 1-19 and any new technical criteria adopted by the State Board.

- 136 D. In cases where governmental bonding or public debt financing has been issued for a project prior to
137 July 1, 2012, such project shall become subject to the technical requirements of sections 1-22 through
138 1-27 of this Ordinance.
- 139 E. Land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July
140 1, 2014 shall be conducted in accordance with the technical criteria found in sections 1-22 through 1-
141 27 of this Ordinance. Such projects shall remain subject to these technical criteria for two (2) additional
142 state permit cycles. After such time, portions of the project not under construction shall become subject
143 to any new technical criteria adopted by the State Board.
- 144 F. Land-disturbing activities that obtain an initial state permit on or after July 1, 2014 shall be conducted
145 in accordance with the technical criteria found in sections 1-10 through 1-19 of this Ordinance, except
146 as provided for above. Such projects shall remain subject to these technical criteria for two (2)
147 additional state permit cycles. After such time, portions of the project not under construction shall
148 become subject to any new technical criteria adopted by the State Board.

149 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

150 Sec. 1-21. - Variances.

- 151 A. The Administrator may grant variances to the technical requirements of sections 1-10 through 1-14;
152 and ; 1-16 through 1-19; and 1-22 through 1-27, provided that:
- 153 1. The variance is the minimum necessary to afford relief;
 - 154 2. Reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations,
155 and this Ordinance are preserved;
 - 156 3. Granting the variance will not confer any special privileges that are denied in other similar
157 circumstances;
 - 158 4. Variance requests are not based upon conditions or circumstances that are self-imposed or self-
159 created;
 - 160 5. The variance will not substantially increase the flow rate of stormwater runoff;
 - 161 6. The variance will not have an adverse impact on a wetland, channel, water body or upstream or
162 downstream of a receiving body of water;
 - 163 7. The variance will not contribute to the degradation of water quality;
 - 164 8. The variance will not be of substantial detriment to adjacent property or adversely affect the
165 character of adjoining neighborhoods;
 - 166 9. Economic hardship alone is not sufficient reason to grant a variance from the requirements of this
167 Ordinance;
 - 168 10. No variance to the requirement that the land-disturbing activity obtain required VSMP authority
169 permit shall be given by the Administrator, nor shall the Administrator approve the use of a BMP
170 not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure
171 not duly approved by the Department of Environmental Quality; and
 - 172 11. No variance to requirements for phosphorus reductions shall be allowed unless offsite options
173 otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.
- 174 B. The Administrator may grant variances to the City requirements of this Ordinance, provided that:
- 175 1. The variance does not involve any requirements imposed under the State Code or Regulations;
176 and
 - 177 2. Reasonable and appropriate conditions may be imposed so that the intent of the Act, the
178 Regulations and this Ordinance are preserved.

179 C. Nothing in this section shall preclude an operator from constructing to a more stringent standard at
180 their discretion.

181 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

182 Sec. 1-22. - Applicability.

183 The following sections 1-22 through 1-27 specify the technical criteria for regulated land-disturbing
184 activities that are not subject to the technical criteria of sections 1-10 through 1-19.

185 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

186 Sec. 1-23. - General.

187 A. Determination of flooding and channel erosion impacts to receiving streams due to land-disturbing
188 activities shall be measured at each point of discharge from the land disturbance and such
189 determination shall include any runoff from the balance of the watershed that also contributes to that
190 point of discharge.

191 B. The specified design storms shall be defined as a twenty-four-hour storm using the NOAA Type "C"
192 twenty-four-hour, twenty-five-year rainfall distribution recommended by the U.S. Department of
193 Agriculture's Natural Resources Conservation Service (NRCS) when using NRCS methods or as the
194 storm of critical duration that produces the greatest required storage volume at the site.

195 C. For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development
196 to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are
197 woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing
198 at the time of computation.

199 D. Construction of stormwater management facilities or modifications to channels shall comply with all
200 applicable laws, regulations, and ordinances. Evidence of approval of all necessary permits shall be
201 presented.

202 E. Impounding structures that are not covered by the Impounding Structure Regulations (4VAC50-20)
203 shall be engineered for structural integrity during the 100-year storm event.

204 F. Predevelopment and postdevelopment runoff rates shall be verified by calculations that are consistent
205 with good engineering practices.

206 G. Outflows from a stormwater management facility or stormwater conveyance system shall be
207 discharged to an adequate channel.

208 H. Proposed residential, commercial or industrial subdivisions shall apply these stormwater management
209 criteria to the land disturbance as a whole. Individual lots in new subdivisions shall not be considered
210 separate land-disturbing activities, but rather the entire subdivision shall be considered a single land
211 development project. Hydrologic parameters shall reflect the ultimate land disturbance shall be used
212 in all engineering calculations.

213 I. All stormwater management facilities shall have an inspection and maintenance plan that identifies the
214 owner and the responsible party for carrying out the inspection and maintenance plan.

215 J. Construction of stormwater management impoundment structures within a Federal Emergency
216 Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible.
217 When this is unavoidable, all stormwater management facility construction shall be in compliance with
218 all applicable regulations under the National Flood Insurance Program, 44CFR Part 59.

219 K. Natural channel characteristics shall be preserved to the maximum extent practicable.

- 220 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment Control Law and
221 attendant regulations.
- 222 M. Flood control and stormwater management facilities that drain or treat water from multiple
223 development projects or from a significant portion of a watershed may be allowed in resource
224 protection areas defined in the Chesapeake Bay Preservation Act provided such facilities are allowed
225 and constructed in accordance with the Stormwater Management Act and this chapter, and provided
226 that (i) the local government has conclusively established that the location of the facility within the
227 resource protection area is the optimum location; (ii) the size of the facility is the minimum necessary
228 to provide necessary flood control, stormwater treatment, or both; (iii) the facility must be consistent
229 with a comprehensive stormwater management plan developed and approved in accordance with
230 Section 1-19 or with a VSMP that has been approved prior to July 1, 2012, by the board, the
231 Chesapeake Bay Local Assistance Board prior to its abolishment on July 1, 2012, or the Board of
232 Conservation and Recreation; (iv) all applicable permits for construction in state or federal waters must
233 be obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of
234 Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources
235 Commission; (v) approval must be received from the local government prior to construction; and (vi)
236 routine maintenance is allowed to be performed on such facilities to assure that they continue to
237 function as designed. It is not the intent of this subdivision to allow a best management practice that
238 collects and treats runoff from only an individual lot or some portion of the lot to be located within a
239 resource protection area.

240 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

241 Sec. 1-24. - Water quality.

- 242 A. Compliance with the water quality criteria may be achieved by applying the performance-based criteria
243 or the technology-based criteria to either the site or a planning area.
- 244 B. Performance-based criteria. For land-disturbing activities, the calculated postdevelopment nonpoint
245 source pollutant runoff load shall be compared to the calculated predevelopment load based upon the
246 average land cover condition or the existing site condition. A BMP shall be located, designed, and
247 maintained to achieve the target pollutant removal efficiencies specified in Table 1 of this section to
248 effectively reduce the pollutant load to the required level based upon the following four applicable land
249 development situations for which the performance criteria apply:
- 250 1. Situation 1 consists of land-disturbing activities where the existing percent impervious cover is
251 less than or equal to the average land cover condition and the proposed improvements will create
252 a total percent impervious cover that is less than the average land cover condition.
- 253 Requirement: No reduction in the after disturbance pollutant discharge is required.
- 254 2. Situation 2 consists of land-disturbing activities where the existing percent impervious cover is
255 less than or equal to the average land cover condition and the proposed improvements will create
256 a total percent impervious cover that is greater than the average land cover condition.
- 257 Requirement: The pollutant discharge after disturbance shall not exceed the existing pollutant
258 discharge based on the average land cover condition.
- 259 3. Situation 3 consists of land-disturbing activities where the existing percent impervious cover is
260 greater than the average land cover condition.
- 261 Requirement: The pollutant discharge after disturbance shall not exceed (i) the pollutant
262 discharge based on existing conditions less 10% or (ii) the pollutant discharge based on the
263 average land cover condition, whichever is greater.
- 264 4. Situation 4 consists of land-disturbing activities where the existing percent impervious cover is
265 served by an existing stormwater management BMP that addresses water quality.

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

270 C. Technology-based criteria. For land-disturbing activities, the postdeveloped stormwater runoff from
 271 the impervious cover shall be treated by an appropriate BMP as required by the postdeveloped
 272 condition percent impervious cover as specified in Table 1 of this section. The selected BMP shall be
 273 located, designed, and maintained to perform at the target pollutant removal efficiency specified in
 274 Table 1 or those found in Section 1-12. Design standards and specifications for the BMPs in Table 1
 275 that meet the required target pollutant removal efficiency are available in the 1999 Virginia Stormwater
 276 Management Handbook. Other approved BMPs available on the Virginia Stormwater BMP
 277 Clearinghouse Website may also be utilized.

278 Table 1*

Water Quality BMP	Target Phosphorus Removal Efficiency	Percent Impervious Cover
Vegetated filter strip	10%	16—21%
Grassed Swale	15%	
Constructed wetlands	20%	22—37%
Extended detention (2 × WQ Vol)	35%	
Retention basin I (3 × WQ Vol)	40%	
Bioretention basin	50%	38—66%
Bioretention filter	50%	
Extended detention-enhanced	50%	
Retention basin II (4 × WQ Vol)	50%	
Infiltration (1 × WQ Vol)	50%	
Sand filter	65%	67—100%
Infiltration (2 × WQ Vol)	65%	
Retention basin III (4 × WQ Vol with aquatic bench)	65%	

*Innovative or alternate BMPs not included in this table may be allowed at the discretion of local program administrator or the department.

Innovative or alternate BMPs not included in this table that target appropriate nonpoint source pollution other than phosphorous may be allowed at the discretion of the local program administrator or the department.

279

280 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

281 Sec. 1-25. - Stream channel erosion.

282 A. Properties and receiving waterways, both upstream and downstream of any land-disturbing activity
283 shall be protected from erosion and damage due to changes in runoff rate of flow and hydrologic
284 characteristics, including, but not limited to, changes in volume, velocity, frequency, duration, and peak
285 flow rate of stormwater runoff in accordance with the minimum design standards set out in this section.

286 B. The VSMP authority shall require compliance with subdivision 19 of 9VAC25-840-40 of the Erosion
287 and Sediment Control Regulations, promulgated pursuant to the Erosion and Sediment Control Law.

288 C. The VSMP authority may determine that some watersheds or receiving stream systems require
289 enhanced criteria in order to address the increased frequency of bankfull flow conditions (top of bank)
290 brought on by land-disturbing activities or where more stringent requirements are necessary to address
291 total maximum daily load requirements or to protect exceptional waters. Therefore, in lieu of the
292 reduction of the two-year postdeveloped peak rate of runoff as required in subsection B. of this section,
293 the land development project being considered shall provide twenty-four-hour extended detention of
294 the runoff generated by the one-year, twenty-four-hour duration storm, as defined in this ordinance.

295 D. In addition to subsection B. and C. of this section, the VSMP authority by local ordinance may in
296 accordance with § 62.1-44.15:33 of the Code of Virginia, or the board by state regulation may, adopt
297 more stringent channel analysis criteria or design standards to ensure that the natural level of channel
298 erosion, to the maximum extent practicable, will not increase due to the land-disturbing activities.
299 These criteria may include, but are not limited to, the following:

300 1. Criteria and procedures for channel analysis and classification.

301 2. Procedures for channel data collection.

302 3. Criteria and procedures for the determination of the magnitude and frequency of natural sediment
303 transport loads.

304 4. Criteria for the selection of proposed natural or manmade channel linings.

305 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

306 Sec. 1-26. - Flooding.

307 A. Upstream, downstream and adjacent properties and waterways shall be protected from damages from
308 localized flooding due to changes in runoff rate of flow and hydrologic characteristics, including, but
309 not limited to, changes in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff
310 in accordance with the minimum design standards set out in this section.

- 311 B. The ten-year post developed peak rate of runoff from the development site shall not exceed the ten-
312 year predeveloped peak rate of runoff.
- 313 C. In lieu of subsection B. of this section, the City may, by ordinance in accordance with § 62.1-44.15:33
314 of the Code of Virginia, adopt alternate design criteria based upon geographic, land use, topographic,
315 geologic factors, or other downstream conveyance factors as appropriate.
- 316 D. Linear development projects shall not be required to control post developed stormwater runoff for
317 flooding, except in accordance with a watershed or regional stormwater management plan.

318 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

319 Sec. 1-27. - Regional (watershed-wide) stormwater management plans.

320 Water quality requirements and where allowed, water quantity requirements, may be achieved in
321 accordance with sections 1-14 and 1-19.

322 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

323 Sec. 1-28. - Long-term maintenance of permanent stormwater facilities.

324 A. The Administrator shall require the provision of long-term responsibility for and maintenance of
325 stormwater management facilities and other techniques specified to manage the quality and quantity
326 of runoff. Such requirements shall be set forth in a Stormwater Management Facilities Maintenance
327 Agreement recorded in the local land records of the Virginia Beach Circuit Court, prior to issuance of
328 a VSMP permit and shall:

- 329 1. Be submitted to the Administrator for review, approval and recordation prior to the issuance of the
330 VSMP permit;
- 331 2. Be stated to run with the land;
- 332 3. Provide for all necessary access to the property for purposes of maintenance and regulatory
333 inspections;
- 334 4. Provide for inspections and maintenance and the submission of inspection and maintenance
335 reports to the Administrator;
- 336 5. Be enforceable by all appropriate governmental parties; and
- 337 6. Be approved for legal sufficiency by the City Attorney.

338 B. A recorded instrument is not required for stormwater management facilities designed to treat
339 stormwater runoff primarily from an individual residential lot on which they are located. An agreement
340 in lieu of plan shall be entered into that provides an enforceable mechanism to ensure future
341 maintenance of such facilities.

342 C. The Administrator has developed a strategy for addressing maintenance of stormwater management
343 facilities designed to treat stormwater runoff primarily from an individual residential lot on which they
344 are located. Such a strategy may include periodic homeowner inspections, homeowner outreach and
345 education, or other method targeted at promoting the long-term maintenance of such facilities. Such
346 facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

347 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

348 Sec. 1-29. - Monitoring and inspections.

349 A. The Administrator shall inspect the land-disturbing activity during construction for:

- 350 1. Compliance with the approved erosion and sediment control plan;
351 2. Compliance with the approved stormwater management plan;
352 3. Development, updating, and implementation of a pollution prevention plan; and
353 4. Development and implementation of any additional control measures necessary to address a
354 TMDL.
- 355 B. The Administrator may, at reasonable times and under reasonable circumstances, enter any
356 establishment or upon any property, public or private, for the purpose of obtaining information or
357 conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.
- 358 C. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination
359 thereof, or such other legal arrangement or instrument, the Administrator may also enter any
360 establishment or upon any property, public or private, for the purpose of initiating or maintaining
361 appropriate actions which are required by the permit conditions associated with a land-disturbing
362 activity when a permittee, after proper notice, has failed to take acceptable action within the time
363 specified.
- 364 D. Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP
365 authority permit applicant or permittee, or any such person subject to VSMP authority permit
366 requirements under this Ordinance, to furnish when requested such application materials, plans,
367 specifications, and other pertinent information as may be necessary to determine the effect of his
368 discharge on the quality of state waters, or such other information as may be necessary to accomplish
369 the purposes of this Ordinance.
- 370 E. Post-construction inspections of stormwater management facilities required by the provisions of this
371 Ordinance shall be conducted by the Administrator pursuant to the City's adopted and State Board
372 approved inspection program, and shall occur, at minimum, at least once every five (5) years.

373 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

374 Sec. 1-30. - Hearings.

- 375 A. Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any
376 action of the City taken in regard to the Ordinance without a formal hearing, may demand in writing a
377 formal hearing by the Stormwater Appeals Board, who is designated by the City Council as its appeals
378 body, provided an application requesting such hearing is filed with the Department of Planning and
379 Community Development, Development Services Center within thirty (30) days after notice of such
380 action is given by the Administrator.
- 381 B. The hearings held under this Section shall be conducted by the Stormwater Appeals Board at any time
382 and place authorized by the Stormwater Appeals Board, but should be scheduled within sixty (60) days
383 of the notice of appeal.
- 384 C. A verbatim record of the proceedings of such hearings shall be taken and filed with the Stormwater
385 Appeals Board. Depositions may be taken and read as in actions at law.
- 386 D. The Stormwater Appeals Board, shall have power to request the issuance of subpoenas and
387 subpoenas duces tecum. The failure of a witness without legal excuse to appear or to testify or to
388 produce documents shall be acted upon by the Stormwater Appeals Board, whose action may include
389 the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed
390 shall receive the same fees and reimbursement for mileage as in civil actions.
- 391 E. The standard of appeal shall be as listed in section 1-21, A and B, Variances, of this Ordinance. The
392 Board's authority is to hear appeals and determine if the departments of Public Works or Planning's
393 administrative decisions and variances regarding interpretation and implementation of this ordinance
394 are valid. The Board should examine the evidence presented to the department and any additional
395 evidence that is relevant.

396 F. The time limitations above shall not commence until the application is complete, including a fee of five
397 hundred dollars (\$500.00), and all documentation.

398 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

399 Sec. 1-31. - Appeals.

400 Within thirty (30) days of the decision of the Stormwater Appeals Board a decision entered pursuant
401 to section 1-30 may be appealed to the Circuit Court of the City of Virginia Beach. The petition for appeal
402 shall be filed in writing within thirty (30) days of the date of the decision, determination or action, shall
403 state clearly the grounds on which the appeal is based.

404 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

405 Sec. 1-32. - Enforcement.

406 A. If the Administrator determines that there is a failure to comply with the VSMP authority permit
407 conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee
408 or person responsible for carrying out the permit conditions by any of the following: verbal warnings
409 and inspection reports, notices of corrective action, consent special orders, and notices to comply.
410 Written notices shall be served by registered or certified mail to the address specified in the permit
411 application or by delivery at the site of the development activities to the agent or employee supervising
412 such activities.

413 1. The notice shall specify the measures needed to comply with the permit conditions and shall
414 specify the time within which such measures shall be completed. Upon failure to comply within
415 the time specified, a stop work order may be issued in accordance with subsection B. or the permit
416 may be revoked by the Administrator.

417 2. If a permittee fails to comply with a notice issued in accordance with this section within the time
418 specified, the Administrator may issue an order requiring the owner, permittee, person
419 responsible for carrying out an approved plan, or the person conducting the land-disturbing
420 activities without an approved plan or required permit to cease all land-disturbing activities until
421 the violation of the permit has ceased, or an approved plan and required permits are obtained,
422 and specified corrective measures have been completed.

423 Such orders shall become effective upon service on the person by certified mail, return receipt
424 requested, sent to his address specified in the land records of the locality, or by personal
425 delivery by an agent of the Administrator. However, if the Administrator finds that any such
426 violation is grossly affecting or presents an imminent and substantial danger of causing harmful
427 erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth
428 or otherwise substantially impacting water quality, it may issue, without advance notice or
429 hearing, an emergency order directing such person to cease immediately all land-disturbing
430 activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to
431 the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency
432 order. If a person who has been issued an order is not complying with the terms thereof, the
433 Administrator may institute a proceeding for an injunction, mandamus, or other appropriate
434 remedy in accordance with this section.

435 B. In addition to any other remedy provided by this Ordinance, if the Administrator or his designee
436 determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such
437 informal or formal administrative enforcement procedures in a manner that is consistent with the
438 provisions of this Ordinance, State law and regulations.

439 C. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order,
440 approved standard or specification, or any permit condition issued by the Administrator may be

441 compelled in a proceeding instituted in the Circuit Court of the City of Virginia Beach by the City to
442 obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

443 D. Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply
444 with any order of the Administrator, shall be subject to a civil penalty, ordered by the Circuit Court, not
445 to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion
446 of the court. Each day of violation of each requirement shall constitute a separate offense.

447 1. Violations for which a penalty may be imposed under this Subsection shall include but not be
448 limited to the following:

449 i. No state permit registration;

450 ii. No SWPPP;

451 iii. Incomplete SWPPP;

452 iv. SWPPP not available for review;

453 v. No approved erosion and sediment control plan;

454 vi. Failure to install stormwater BMPs or erosion and sediment controls;

455 vii. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;

456 viii. Operational deficiencies;

457 ix. Failure to conduct required inspections;

458 x. Incomplete, improper, or missed inspections; and

459 xi. Discharges not in compliance with the requirements of Section 9VAC 25-870-1170 of the
460 general permit.

461 2. The Administrator may institute proceedings for collection of the civil penalty and the action may
462 be prosecuted in the appropriate court.

463 3. In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm
464 caused by the violation and also the economic benefit to the violator from noncompliance.

465 4. Any civil penalties assessed by a court as a result of a summons issued by the City shall be paid
466 into a segregated account into the treasury of the City of Virginia Beach to be used for the purpose
467 of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and
468 abating environmental pollution therein.

469 5. Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person
470 who willfully or negligently violates any provision of this Ordinance, any order of the Administrator,
471 any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by
472 confinement in jail for not more than twelve (12) months or a fine of not less than two thousand
473 five hundred dollars (\$2,500.00) or both.

474 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

475 Sec. 1-33. - Fees.

476 A. Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and
477 issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with
478 the fees in Table 1. When a site or sites has been purchased for development within a previously
479 permitted common plan of development or sale, the Applicant shall be subject to fees in accordance
480 with the disturbed acreage of their site or sites according to Table 1.

481 Table 1: Fees for stormwater plan review

Fee type	City Stormwater Plan Review Fee	Fee paid directly to the Commonwealth
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	Single family: \$205 Duplex: \$205 All others: \$600	\$0
General/Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	Single family: \$205 Duplex: \$205 All others: \$600	\$81 Single family: \$0
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	Single family: \$205 Duplex: \$205 All others: \$1944	\$756 Single family: \$0
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$2,448	\$952
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$3,240	\$1,260
General/Stormwater Management - Large Construction Activity/Land Clearing (with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$4,392	\$1,708
General/Stormwater Management - Large Construction Activity/Land Clearing (with land disturbance acreage equal to or greater than 100 acres)	\$6,912	\$2,688

483 * If the project is completely administered by the Department such as may be the case for a state or
 484 federal project or projects covered by individual permits, the entire applicant fee shall be paid to the
 485 Commonwealth.

486 B. Fees for the modification or transfer of registration statements from the general permit issued by the
 487 State Board shall be imposed in accordance with Table 2. If the general permit modifications result in
 488 changes to stormwater management plans that require additional review by the City of Virginia Beach,
 489 such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the
 490 total disturbed acreage of the site. In addition to the general permit modification fee, modifications
 491 resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid
 492 and the permit fee that would have applied for the total disturbed acreage in Table 1.

493 Table 2: Fees for the modification or transfer of registration statements for the General Permit for
 494 Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General/Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 100 acres)	\$700

495

496 C. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees
 497 imposed on expired permits that have been administratively continued. With respect to the general
 498 permit, these fees shall apply until the permit coverage is terminated.

499 Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount

Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General/Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater 100 acres)	\$1,400

500

501 General permit coverage maintenance fees shall be paid annually to the City of Virginia Beach, by the
502 anniversary date of general permit coverage. No permit will be reissued or automatically continued
503 without payment of the required fee. General permit coverage maintenance fees shall be applied until a
504 Notice of Termination is effective.

505 D. The fees set forth in subsections A. through C. above, shall apply to:

506 1. All persons seeking coverage under the general permit, if required.

507 2. All permittees who request modifications to or transfers of their existing registration statement for
508 coverage under a general permit.

509 3. Persons whose coverage under the general permit has been revoked shall apply to the
510 Department for an Individual Permit for Discharges of Stormwater From from Construction
511 Activities.

512 4. Permit and permit coverage maintenance fees outlined under section 1-33 C. may apply to each
513 general permit holder.

514 E. No general permit application fees will be assessed to:

515 1. Permittees who request minor modifications to general permits as defined in section 1-3 of this
516 Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater
517 management plans that require additional review by the Administrator shall not be exempt
518 pursuant to this Section.

519 2. Permittees whose general permits are modified or amended at the initiative of the Department,
520 excluding errors in the registration statement identified by the Administrator or errors related to
521 the acreage of the site.

522 F. All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any
523 incomplete payments. Interest may be charged for late payments at the underpayment rate set forth
524 in § 58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate.
525 A ten (10) percent late payment fee shall be charged to any delinquent (over ninety (90) days past
526 due) account. The City of Virginia Beach shall be entitled to all remedies available under the Code of
527 Virginia in collecting any past due amount.

528 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

529 Sec. 1-34. - Performance bond.

530 Prior to issuance of any permit, the Applicant may be required to submit a reasonable performance
531 bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement
532 acceptable to the City Attorney, to ensure that measures could be taken by the City at the Applicant's
533 expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate
534 actions which may be required of him by the permit conditions as a result of his land-disturbing activity. If
535 the City takes such action upon such failure by the Applicant, the City may collect from the Applicant for
536 the difference should the amount of the reasonable cost of such action exceed the amount of the security
537 held, if any. Within sixty (60) days of the completion of the requirements of the permit conditions, such
538 bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion
539 thereof, shall be refunded to the Applicant or terminated.

540 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

541 Sec. 1-35. - Public Works Design Standards Manual.

542 The Public Works Design Standards Manual, including all future amendments thereto is hereby
543 adopted and incorporated by reference into this Ordinance.

544 (Ord. No. 3337, 4-22-14, eff. 7-1-14; Ord. No. 3618, 6-16-20)

545 Sec. 1-36. - Severability.

546 Each separate provision of this Ordinance is deemed independent of all other provisions herein so
547 that if any provision or provisions of this Ordinance be declared invalid, all other provisions thereof shall
548 remain valid and enforceable.

549 (Ord. No. 3337, 4-22-14, eff. 7-1-14)

550 Sec. 1-37. - Reserved.

551 **Editor's note**— Ord. No. 3618, adopted June 16, 2020 repealed § 1-37, which pertained to
552 effective date and derived from Ord. No. 3337, 4-22-14, eff. 7-1-14.