

**ORD-3337**

1 AN ORDINANCE TO REPEAL APPENDIX D  
2 OF THE CITY CODE, (STORMWATER  
3 MANAGEMENT) AND ADDING A NEW  
4 APPENDIX D OF THE CITY CODE  
5 (STORMWATER MANAGEMENT)  
6 PERTAINING TO THE PURPOSE AND  
7 AUTHORITY, THE ESTABLISHMENT OF THE  
8 STORMWATER MANAGEMENT PROGRAM,  
9 DEFINITIONS, APPLICABILITY AND  
10 EXEMPTIONS, SUBMISSION AND  
11 APPROVAL OF PLANS, CONTENT OF  
12 STORMWATER MANAGEMENT PLANS,  
13 REVIEW OF PLANS, CONTENT OF  
14 STORMWATER POLLUTION PREVENTION  
15 PLANS, CONTENT OF POLLUTION  
16 PREVENTION PLANS, WATER QUALITY  
17 DESIGN CRITERIA, WATER QUALITY  
18 COMPLIANCE, WATER QUANTITY, OFFSITE  
19 COMPLIANCE, DESIGN STORM AND  
20 HYDROLOGIC METHODS, STORMWATER  
21 HARVESTING, LINEAR DESIGN PROJECTS,  
22 STORMWATER MANAGEMENT  
23 IMPOUNDMENT STRUCTURES OR  
24 FACILITIES, COMPREHENSIVE  
25 STORMWATER MANAGEMENT PLANS,  
26 GRANDFATHER PROVISIONS, VARIANCES,  
27 TECHNICAL CRITERIA FOR PROJECTS  
28 NOT GOVERNED BY THE NEW CRITERIA,  
29 LONG TERM MAINTENANCE, MONITORING  
30 AND INSPECTIONS, HEARINGS, APPEALS,  
31 ENFORCEMENT, FEES, PERFORMANCE  
32 BONDS, STANDARDS AND  
33 SPECIFICATIONS, SEVERABILITY AND  
34 EFFECTIVE DATE  
35

36 Section Repealed and Added: Appendix D, Stormwater  
37 Management  
38

39 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA  
40 BEACH, VIRGINIA:

41  
42 That Appendix D (Stormwater Management Ordinance), of the City Code of the  
43 City of Virginia Beach, Virginia, is hereby repealed and replaced to read as follows:  
44

45 **Sec. 1. Title.**

46  
47 This ordinance is adopted pursuant to Article 1.1, Chapter 6, Title 10.1,  
48 Section 10.1-603.1 et seq. of the Code of Virginia as amended, and shall be  
49 known as the "Stormwater Management Ordinance."  
50

51 **Sec. 2. Findings of fact.**

52  
53 The City of Virginia Beach finds that uncontrolled drainage and  
54 development of land has a significant adverse impact upon the health, safety and  
55 welfare of the community. More specifically:

- 56  
57 (a) Stormwater runoff can carry pollutants into receiving water bodies, degrading  
58 water quality;  
59 (b) The increase in nutrients such as phosphorous and nitrogen accelerates  
60 eutrophication of receiving waters, adversely affecting flora and fauna;  
61 (c) Improperly channeling water increases the velocity of runoff, thereby increasing  
62 erosion and sedimentation;  
63 (d) Construction requiring the alteration of natural topography and removal of  
64 vegetation tends to increase erosion;  
65 (e) Siltation of water bodies resulting from increased erosion decreases their  
66 capacity to hold and transport water, interferes with navigation and harms flora  
67 and fauna;  
68 (f) Impervious surfaces increase the volume and rate of stormwater runoff and  
69 allow less water to percolate into the soil, thereby decreasing groundwater  
70 recharge;  
71 (g) Improperly managed stormwater runoff can increase the incidence of flooding  
72 and the level of floods which occur, endangering property and human life;  
73 (h) Improperly managed stormwater runoff can interfere with the maintenance of  
74 optimum salinity in estuarine areas, thereby disrupting biological productivity;  
75 (i) Substantial economic losses result from these adverse impacts on city waters;  
76 and  
77 (j) Many future problems can be avoided if land is developed in accordance with  
78 sound stormwater runoff management practices.  
79

80 **Sec. 3. Objectives.**

81  
82 In order to protect, maintain, and enhance both the immediate and the  
83 long-term health, safety and general welfare of the citizens of the City of Virginia  
84 Beach, this ordinance has the following objectives:

- 85  
86 (a) To encourage productive and enjoyable harmony between development  
87 interests and the natural resources of the city;  
88 (b) To protect, restore and maintain the chemical, physical and biological integrity  
89 of city waters;

- 90 ~~(c) To prevent activities which harm the city by adversely affecting water resources;~~  
91 ~~(d) To encourage the construction of drainage systems which maintain or~~  
92 ~~functionally approximate existing natural systems;~~  
93 ~~(e) To encourage the protection of natural drainageways and the use of them in~~  
94 ~~ways which do not impair their beneficial functioning;~~  
95 ~~(f) To encourage the use of drainage systems which minimize the consumption of~~  
96 ~~electrical energy or petroleum fuels to move water, remove pollutants or~~  
97 ~~maintain the systems;~~  
98 ~~(g) To minimize the transport of pollutants to city waters;~~  
99 ~~(h) To maintain or restore groundwater levels;~~  
100 ~~(i) To protect, maintain or restore natural salinity levels in estuarine areas;~~  
101 ~~(j) To minimize erosion and sedimentation;~~  
102 ~~(k) To prevent damage to wetlands;~~  
103 ~~(l) To prevent damage from flooding, while recognizing that natural fluctuations in~~  
104 ~~water levels are beneficial;~~  
105 ~~(m) To protect, restore and maintain fish and wildlife habitat in the watersheds of~~  
106 ~~the city;~~  
107 ~~(n) To ensure that attainment of these objectives by requiring the approval and~~  
108 ~~implementation of stormwater management plans for all activities which may~~  
109 ~~have an adverse impact upon city waters;~~  
110 ~~(o) To provide appropriate access, for the purposes of future inspection and~~  
111 ~~maintenance of stormwater management facilities constructed under the~~  
112 ~~requirements of this ordinance; and~~  
113 ~~(p) To provide for the long-term responsibility for and maintenance of stormwater~~  
114 ~~management facilities and other techniques specified to manage the quality and~~  
115 ~~quantity of runoff.~~

116  
117 **Sec. 4. Definitions.**  
118

119 ~~Unless specifically defined below, words or phrases shall be interpreted so~~  
120 ~~as to give them the meaning they have in common usage and to give this~~  
121 ~~ordinance its most effective application. Words used in the singular shall include~~  
122 ~~the plural, and the plural the singular; words used in the present tense shall~~  
123 ~~include the future tense. The word "shall" connotes mandatory and not~~  
124 ~~discretionary; the word "may" is permissive.~~

125  
126 ~~*Adverse impacts* are any modifications, alterations or effects on a feature~~  
127 ~~or characteristic of community waters or wetlands, including their quality,~~  
128 ~~quantity, hydrodynamics, surface area, species composition, living resources,~~  
129 ~~aesthetics or usefulness for human or natural uses which are or may potentially~~  
130 ~~be harmful or injurious to human health, welfare, safety or property, to biological~~  
131 ~~productivity, diversity or stability or which unreasonably interfere with the~~  
132 ~~enjoyment of life or property, including outdoor recreation. The term includes~~  
133 ~~secondary and cumulative as well as direct impacts.~~

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~~*Applicant* means any person submitting a stormwater management plan for approval.~~

~~*Channel* means a natural or man-made stream.~~

~~*Clearing* means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.~~

~~*Department* means the department of planning.~~

~~*Developer* means any person who engages in land development either as the owner or as the agent of an owner of property.~~

~~*Director* means the director of the department of planning or his designee.~~

~~*Drainage system* is the system through which water flows from the land. Drainage systems include, but are not limited to, all channels, stormwater management facilities, water bodies and wetlands.~~

~~*Erosion* is the wearing or washing away of soil by the action of wind or water.~~

~~*Flooding* means a volume of water that is too great to be confined within the banks or walls of the stream, water body or drainage system and that overflows onto adjacent lands, causing or threatening damage.~~

~~*Floodplain* means those areas adjoining a river, stream, watercourse, ocean, bay, or lake, which are subject to inundation. Floodplains shall be determined as the land situated below the elevation of:~~

- ~~(a) That recorded by the maximum elevation of the flood water of record;~~
- ~~(b) The intermediate flood level as determined by the U.S. Army Corps of Engineers; or~~
- ~~(c) The flood level as determined by the department of public works, whichever is greater.~~

~~Any changes in the delineation of the intermediate flood level are subject to approval by the federal insurance administrator.~~

173 ~~*Impervious surface* means a surface which has been compacted or~~  
174 ~~covered with a layer of material so that it is highly resistant to infiltration by water.~~  
175 ~~It includes semi-impervious surfaces such as compacted clay, as well as most~~  
176 ~~conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar~~  
177 ~~structures.~~

178  
179 ~~*Infiltration facility or infiltration trench* means a stormwater management~~  
180 ~~facility which temporarily impounds runoff and discharges it via infiltration through~~  
181 ~~the surrounding soil. While an infiltration facility may also be equipped with an~~  
182 ~~outlet structure to discharge impounded runoff, such discharge is normally~~  
183 ~~reserved for overflow and other emergency conditions. Since an infiltration facility~~  
184 ~~impounds runoff only temporarily, it is normally dry during nonrainfall periods.~~

185  
186 ~~*Land development, development activity, or land development project*~~  
187 ~~means a manmade change to the land surface that potentially changes its runoff~~  
188 ~~characteristics.~~

189  
190 ~~*Linear development project* means a land development project that is~~  
191 ~~linear in nature such as, but not limited to, (i) the construction of electric and~~  
192 ~~telephone utility lines; (ii) construction of tracts, rights-of-way, bridges,~~  
193 ~~communication facilities and other related structures of a railroad company; and~~  
194 ~~(iii) highway construction projects.~~

195  
196 ~~*Natural systems* means systems which predominantly consist of or use~~  
197 ~~those communities of plants, animals, bacteria and other flora and fauna which~~  
198 ~~occur indigenously on the land, in the soil, or in the water.~~

199  
200 ~~*Owner* is the person in whom is vested the fee ownership, dominion or title~~  
201 ~~of property, i.e., the proprietor. This term may also include a tenant, if chargeable~~  
202 ~~under his lease for the maintenance of the property, and any agent of the owner~~  
203 ~~or tenant including a developer.~~

204  
205 ~~*Person* means any and all persons, natural or artificial and includes any~~  
206 ~~individual, firm, corporation, government agency, business trust, estate, trust,~~  
207 ~~partnership, association, two (2) or more persons having a joint or common~~  
208 ~~interest or any other legal entity.~~

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210 ~~*Postdevelopment conditions* are those conditions that reasonably may be~~  
211 ~~expected or anticipated to exist after completion of the development activity on a~~  
212 ~~specific site or tract of land.~~

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~~*Predevelopment conditions* are those conditions which existed before alteration, resulting from human activity, of the natural topography, vegetation and rate, volume or direction of surface or ground water flow, as indicated by the best available historical data.~~

~~*Receiving bodies of water* shall mean any water bodies, channels or wetlands into which surface waters flow, in manmade or natural, closed or open ditches or conduit systems.~~

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

~~*Sediment* is fine particulate material, whether mineral or organic, that is in suspension or has settled in a water body.~~

~~*Site* means any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in one (1) ownership or are contiguous and in diverse ownership where land development is to be performed as part of a unit, subdivision or project.~~

~~*Stormwater detention basin or detention basin* means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream drainage system. Since a detention basin impounds runoff only temporarily, it is normally dry during nonrainfall periods.~~

~~*Stormwater management facility* means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow. For purposes of this ordinance, the term also includes retention basins and detention basins which are no more than fifteen (15) feet deep, as measured from normal (dry weather) water level to the lowest level of excavation. The term specifically excludes borrow pits as defined in the city zoning ordinance (Appendix A).~~

~~*Stormwater management plan* refers to the detailed analysis and documentation required by section 6 for development activity described in section 5 of this ordinance.~~

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~~*Stormwater retention basin or retention basin* means a stormwater management facility, which similar to a detention basin, temporarily impounds runoff and discharges its outflow through a hydraulic outlet structure to a downstream drainage system. Unlike a detention basin, however, a retention basin also includes a permanent impoundment and, therefore, is normally wet, even during nonrainfall periods.~~

~~*Structure* means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner but shall not include fences or signs.~~

~~*Subdivide* means to divide the ownership of a parcel of land, whether improved or unimproved, into two (2) or more contiguous lots or parcels of land in accordance with the provisions of the subdivision regulations.~~

~~*Vegetation* means all plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.~~

~~*Waters or community of waters* means any and all water on or beneath the surface of the ground. It includes the water in any channel, water body or drainage system. It also includes diffused surface water and water percolating, standing or flowing beneath the surface of the ground, as well as coastal waters.~~

~~*Water body* means any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water and which has a discernible shoreline.~~

~~*Watershed* means a defined land area drained by a river or stream or system of connecting rivers or streams such that all surface water within the area flows through a single outlet.~~

~~*Wetlands* means those areas defined in section 1401 (e)(f)(j) of the City Zoning Ordinance (Appendix A) and shall also include tidal wetlands, which are vegetated and nonvegetated wetlands, as defined in section 1401 of the City Zoning Ordinance (Appendix A); and nontidal wetlands, which are those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as identified or referred to in the City of~~

292 ~~Virginia Beach Soil Survey by soil names Backbay Mucky Peat; Duckston portion~~  
293 ~~of Corolla-Duckston Fine Sands; Dorovan Mucky Peat; Duckston Fine Sand;~~  
294 ~~Nawney Silt Loam; Pamlico Mucky Peat; Pamlico Lakehurst Variant Complex;~~  
295 ~~Rapahannock Mucky Peat, Strongly Saline or Pocaty Peat; and any other lands~~  
296 ~~which under normal conditions are saturated to the ground surface and~~  
297 ~~connected by surface flow and contiguous to tidal wetlands or tributary streams.~~

298  
299 **~~Sec. 5. Applicability.~~**

300  
301 ~~(a) [Submission of stormwater management plan.] Unless exempted pursuant to~~  
302 ~~subsection (b), a stormwater management plan must be submitted and approved~~  
303 ~~before the issuance of any grading, building, or other permit for land development.~~

304  
305 ~~(b) Exemptions. The following development activities are exempt from the requirements~~  
306 ~~of this ordinance:~~

307  
308 ~~(1) Single family residences separately built and not part of a subdivision, including~~  
309 ~~additions or modifications to existing single family detached residential~~  
310 ~~structures;~~

311 ~~(2) All agricultural, horticultural, or forest crops activities not associated with land~~  
312 ~~development;~~

313 ~~(3) Land development activities that disturb less than one (1) acre of land area;~~

314 ~~(4) Permitted surface or deep mining operations or projects or oil and gas~~  
315 ~~operations conducted under the provisions of Title 45.1 of the Code of Virginia;~~  
316 ~~or~~

317 ~~(5) Linear development projects, provided that (i) less than one acre of land will be~~  
318 ~~disturbed per outfall or watershed, (ii) there will be insignificant increases in~~  
319 ~~peak flow rates, and (iii) there are no existing or anticipated flooding or erosion~~  
320 ~~problems downstream of the discharge point.~~

321  
322 ~~(c) Variances. The applicant may submit a written request for a variance from any~~  
323 ~~requirement of this ordinance. The director may grant a variance in accordance with~~  
324 ~~the following criteria:~~

325  
326 ~~(1) The variance requested is the minimum necessary to afford relief. Economic~~  
327 ~~hardship is not sufficient reason to grant a variance from the requirement of this~~  
328 ~~ordinance; and~~

329 ~~(2) The granting of the variance will not:~~

330 ~~(i) Increase the flow rate of stormwater runoff;~~

331 ~~(ii) Have an adverse impact on a wetland, channel, water body or, upstream~~  
332 ~~and/or downstream of a receiving body of water;~~

333 ~~(iii) Contribute to the degradation of water quality;~~

334 ~~(iv) Be of substantial detriment to adjacent property or adversely affect the~~  
335 ~~character of adjoining neighborhoods; or~~

336 ~~(v) Otherwise impair attainment of the objectives of this ordinance.~~

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338 ~~Variances in the Chesapeake Bay Preservation areas shall also meet the~~  
339 ~~following additional criteria:~~

- 340
- 341 ~~(1) The granting of the variance will not confer upon the applicant any special~~  
342 ~~privileges that are denied to other property owners who are subject to the~~  
343 ~~provisions of the Chesapeake Bay Preservation Area Ordinance and who are~~  
344 ~~similarly situated;~~
- 345 ~~(2) The granting of the variance is in harmony with the purpose and intent of the~~  
346 ~~Chesapeake Bay Preservation Area Ordinance and is not of substantial~~  
347 ~~detriment to water quality; and~~
- 348 ~~(3) The request for a variance is not based upon conditions or circumstances that~~  
349 ~~are self-created or self-imposed.~~

350

351 **~~Sec. 6. Stormwater management plan.~~**

- 352
- 353 ~~(a) It is the responsibility of an applicant to include in the stormwater management plan~~  
354 ~~sufficient information for the department to evaluate the environmental~~  
355 ~~characteristics of the affected areas, the potential and predicted impacts of the~~  
356 ~~proposed activity on city waters, and the effectiveness and acceptability of those~~  
357 ~~measures proposed by the applicant for reducing adverse impacts. The stormwater~~  
358 ~~management plan shall contain maps, charts, graphs, tables, photographs,~~  
359 ~~narrative descriptions, and explanations and citations to supporting references, as~~  
360 ~~appropriate, to communicate the information required by this section.~~
- 361 ~~(b) The stormwater management plan shall contain the name, address and telephone~~  
362 ~~number of the applicant, the owner, the developer and all persons who will be~~  
363 ~~responsible for maintenance of the stormwater management facilities. In addition,~~  
364 ~~the legal description of the property shall be provided and its location with reference~~  
365 ~~to such landmarks as major water bodies, adjoining roads, railroads or subdivisions~~  
366 ~~shall be clearly identified by a map. All maps, plans and designs shall be prepared,~~  
367 ~~stamped and endorsed by a professional engineer or Class III B surveyor licensed~~  
368 ~~in the Commonwealth of Virginia.~~
- 369 ~~(c) The existing environmental and hydrologic conditions of the site shall be described~~  
370 ~~in detail, including the following:~~
- 371
- 372 ~~(1) The direction and flow rate of stormwater runoff under existing conditions;~~  
373 ~~(2) The location of areas on the site where stormwater collects or percolates into~~  
374 ~~the ground;~~
- 375 ~~(3) A description of all channels, conveyance systems, water bodies and wetlands~~  
376 ~~on or adjacent to the site or into which stormwater flows. Information regarding~~  
377 ~~their water quality and the current water quality classification, if any, given them~~  
378 ~~by the Virginia Water Control Board shall be included;~~
- 379 ~~(4) Groundwater levels, including seasonal fluctuations;~~  
380 ~~(5) Location of floodplain;~~  
381 ~~(6) Vegetation;~~  
382 ~~(7) Topography; and~~  
383 ~~(8) Soils.~~
- 384
- 385 ~~(d) Proposed alterations of the site shall be described in detail, including:~~

- 386  
387 (1) ~~Changes in topography;~~  
388 (2) ~~Areas where vegetation will be cleared or otherwise killed;~~  
389 (3) ~~Areas that will be covered with an impervious surface and a description of the~~  
390 ~~surfacing material; and~~  
391 (4) ~~The size and location of any buildings or other structures.~~  
392  
393 (e) ~~Predicted impacts of the proposed development activity on existing conditions shall~~  
394 ~~be described in detail, including:~~  
395  
396 (1) ~~Changes in water quality;~~  
397 (2) ~~Changes in groundwater levels;~~  
398 (3) ~~Changes in the incidence and duration of flooding on the site and upstream and~~  
399 ~~downstream from it;~~  
400 (4) ~~Impacts on wetlands; and~~  
401 (5) ~~Impacts on vegetation.~~  
402  
403 (f) ~~All components of the drainage system and any measures for the detention,~~  
404 ~~retention or infiltration of water or for the protection of water quality shall be~~  
405 ~~described in detail, including:~~  
406  
407 (1) ~~The channel, direction, flow rate and quality of stormwater that will be conveyed~~  
408 ~~from the site, with a comparison to existing conditions and, to the extent~~  
409 ~~practicable, predevelopment conditions;~~  
410 (2) ~~Location of all stormwater management facilities, including plans for the~~  
411 ~~discharge of contained waters, maintenance plans and predictions of water~~  
412 ~~quality in and downstream of such facilities;~~  
413 (3) ~~Areas of the site to be used or reserved for percolation including a prediction of~~  
414 ~~the impact on groundwater quality;~~  
415 (4) ~~A plan for the control of erosion and sedimentation which describes in detail the~~  
416 ~~type and location of control measures, the stage of land development at which~~  
417 ~~they will be put into place or used and provisions for their maintenance and final~~  
418 ~~disposition. Such plan shall be filed in accordance with the provisions of [article](#)~~  
419 ~~[3](#) of [chapter 30](#) of the Code of the City of Virginia Beach (City Code sections~~  
420 ~~[30-56](#) through [30-78](#)); and~~  
421 (5) ~~Any other information reasonably necessary for an evaluation of the~~  
422 ~~development activity.~~  
423  
424 (g) ~~A certification by the applicant or developer that all land clearing, construction,~~  
425 ~~development activity and drainage shall be performed in accordance with the~~  
426 ~~stormwater management plan.~~  
427 (h) ~~A maintenance agreement and adequate easements, as set forth in section 12 of~~  
428 ~~this ordinance, which will ensure responsibility for the maintenance of any~~  
429 ~~stormwater management facilities constructed under the requirements of this~~  
430 ~~ordinance and which will ensure appropriate access to such facilities for~~  
431 ~~maintenance, inspection and corrective action.~~

432 ~~(i) Minor changes to an approved stormwater management plan may be made during~~  
433 ~~the site development process with the written consent of the director. Such minor~~  
434 ~~changes shall be documented and shall be coordinated with the department.~~  
435

436 **Sec. 7. Procedures and fees.**  
437

438 ~~(a) Any person planning a development activity, as defined in this ordinance, unless~~  
439 ~~exempted, shall submit a stormwater management plan together with a request for~~  
440 ~~a variance, if applicable, to the director.~~

441 ~~(b) Requests for a variance shall be reviewed concurrently with the submitted~~  
442 ~~stormwater management plan pursuant to the procedures set forth in subsection (d)~~  
443 ~~herein.~~

444 ~~(c) A processing fee will be collected at the time the stormwater management plan is~~  
445 ~~submitted and will reflect the cost of administration and management of the review~~  
446 ~~process. The city council shall establish, by resolution, a prorated fee schedule~~  
447 ~~based upon the relative complexity of the project. The fee schedule may be~~  
448 ~~amended from time to time by the city council by resolution. Notice of such~~  
449 ~~resolution shall be published no less than fifteen (15) days prior to adoption.~~

450 ~~(d) A maximum of thirty (30) calendar days from the receipt of a stormwater~~  
451 ~~management plan shall be allowed for preliminary review of the plan for~~  
452 ~~completeness. During this period, the director will either accept the plan for review,~~  
453 ~~which will begin the sixty-day review period, or reject the plan for incompleteness~~  
454 ~~and inform the applicant in writing of the information necessary to complete the~~  
455 ~~plan. The sixty-day review period begins on the day the complete stormwater~~  
456 ~~management plan is accepted for review. At this time, the director will send an~~  
457 ~~acknowledgement letter to the applicant. During the sixty-day review period, the~~  
458 ~~director shall approve, with or without specified conditions or modifications, or reject~~  
459 ~~the plan and shall notify the applicant accordingly in writing. If the director has not~~  
460 ~~rendered a decision within the sixty day review period, the plan shall be deemed~~  
461 ~~approved and the applicant shall be authorized to proceed with the proposed~~  
462 ~~activity. If the plan is rejected or modified, the director shall specify the reasons for~~  
463 ~~rejection or such modifications, terms and conditions as will allow plan approval.~~  
464 ~~However, it is not the responsibility of the director to design an acceptable project.~~

465 ~~(e) The stormwater management plan shall not be approved unless it clearly indicates~~  
466 ~~that the proposed development activity will meet the performance standards~~  
467 ~~described in section 8 of this ordinance and the design standards described in~~  
468 ~~section 9 of this ordinance, except where a variance has been granted pursuant to~~  
469 ~~section 5, subsection (c) of this ordinance, or where an off-site stormwater~~  
470 ~~management facility is approved pursuant to section 10 of this ordinance. Such plan~~  
471 ~~shall also be in accordance with the specifications outlined in the manual of~~  
472 ~~stormwater management practices described in section 11 of this ordinance, the~~  
473 ~~state regulations and the Stormwater Management Act, [title 10.1](#), section 10.1-~~  
474 ~~603.1 et seq. of the Code of Virginia, as amended.~~

475 ~~(f) Inspections. No stormwater management plan may be approved without adequate~~  
476 ~~provision for inspection of the property. The director shall, when deemed~~  
477 ~~necessary, arrange with the applicant for scheduling an initial inspection prior to~~  
478 ~~approval of the stormwater management plan. The submission of a stormwater~~  
479 ~~management plan shall constitute authorization for an on-site inspection by the~~

480 director. After approval of the stormwater management plan, the applicant shall  
481 arrange with the director for scheduling the following inspections:

- 482
- 483 (1) Erosion control inspection: As necessary to ensure effective control of erosion  
484 and sedimentation;
  - 485 (2) Bury inspection: Prior to burial of any underground drainage structure;
  - 486 (3) Finish inspection: When all work including installation of all stormwater  
487 management facilities has been completed.
- 488

489 The director shall inspect the work and shall either approve it or notify the  
490 applicant in writing in what respects there has been a failure to comply with the  
491 requirements of the approved stormwater management plan. Any portion of the work  
492 which does not comply shall be promptly corrected by the applicant or the applicant will  
493 be subject to the penalty provisions of section 13.

494

495 (g) Bonds. Unless otherwise not required by the director pursuant to section 5(c) of this  
496 ordinance, prior to the approval of any stormwater management plan, the director  
497 shall require from the applicant therefor a reasonable performance bond, cash  
498 escrow, letter of credit or other legal surety, or any combination thereof acceptable  
499 to the city attorney, to ensure that measures may be taken by the city, at the  
500 applicant's expense, should he fail, after proper notice, within the time specified, to  
501 carry out his land development activity in accordance with the requirements of this  
502 ordinance. Except as otherwise provided, within sixty (60) days of the completion of  
503 the requirements of the approved stormwater management plan, such bond, cash  
504 escrow, letter of credit or other legal surety, or the unexpended or unobligated  
505 portion thereof, shall be refunded to the applicant or terminated, as the case may  
506 be. Where a stormwater management plan for a subdivision includes the  
507 construction of stormwater management facilities which may be affected by erosion  
508 and sedimentation from future development activities, all or portions of the bond,  
509 cash escrow, letter of credit or other legal surety may be withheld until the  
510 completion of such development activity. These requirements are in addition to all  
511 other provisions of law relating to the approval of such plans and are not intended  
512 to otherwise affect the requirements for such plans.

513 (h) Appeals. Any applicant or person aggrieved by a determination or decision of the  
514 director pursuant to this ordinance, shall have the right to appeal such determination  
515 or decision to the circuit court of the City of Virginia Beach. The petition for appeal  
516 shall be filed in writing within thirty (30) days of the date of the decision,  
517 determination or action, shall state clearly the grounds on which the appeal is  
518 based, and shall be reviewed in accordance with the provisions of the  
519 Administrative Process Act (section 9-6.14:1 et seq. of the Code of Virginia).

520

521 **Sec. 8. Performance standards.**

522

523 Stormwater management plans must demonstrate that the proposed  
524 development activity has been planned and designed and will be constructed and  
525 maintained to meet each of the following standards:

- 526  
 527 ~~(a) Ensure that after land development, runoff from the site approximates the rate of~~  
 528 ~~flow and timing of runoff that would have occurred following the same rainfall~~  
 529 ~~under existing conditions and, to the extent practicable, predevelopment~~  
 530 ~~conditions, unless runoff is discharged into an off-site stormwater management~~  
 531 ~~facility as provided in section 10;~~  
 532 ~~(b) Incorporate those measures which shall ensure compliance with the following~~  
 533 ~~design storm event criteria:~~  
 534

Drainage Area	Design Storm Event/24 Hour Duration or Critical Duration
Less than 300 acres	2 and 10-year storm
<u>300</u> to 500 acres	25-year storm
Greater than 500 acres	50-year storm

- 535 -  
 536 ~~(c) Maintain the natural hydrodynamic characteristics of the watershed;~~  
 537 ~~(d) Protect or restore the quality of ground and surface waters;~~  
 538 ~~(e) Ensure that erosion during and after development is minimized;~~  
 539 ~~(f) Protect groundwater levels;~~  
 540 ~~(g) Protect the beneficial functioning of wetlands as areas for the natural storage of~~  
 541 ~~surface waters and the chemical reduction and assimilation of pollutants;~~  
 542 ~~(h) Prevent increased flooding and damage that results from improper location,~~  
 543 ~~construction and design of structures in areas which are presently subject to an~~  
 544 ~~unacceptable danger of flooding;~~  
 545 ~~(i) Prevent or reverse salt water intrusion;~~  
 546 ~~(j) Protect the natural fluctuating levels of salinity in estuarine areas;~~  
 547 ~~(k) Minimize injury to flora and fauna and adverse impacts to fish and wildlife~~  
 548 ~~habitat; and~~  
 549 ~~(l) Otherwise further the objectives of this ordinance.~~  
 550

551 **Sec. 9. Design criteria.**  
 552

553 ~~To ensure attainment of the objectives of this ordinance and to ensure that~~  
 554 ~~performance standards will be met, the design, construction and maintenance of~~  
 555 ~~drainage systems shall be in accordance with the specifications outlined in the~~  
 556 ~~manual of stormwater management practices described in section 11 and shall~~  
 557 ~~meet the following design criteria:~~

- 558  
 559 ~~(a) Channeling runoff directly into water bodies shall be prohibited. Instead, runoff shall~~  
 560 ~~be routed through systems designed to increase time of concentration, decrease~~  
 561 ~~velocity, increase infiltration, allow suspended solids to settle and remove~~  
 562 ~~pollutants.~~  
 563 ~~(b) Natural channels shall not be dredged, cleared of vegetation, deepened, widened,~~  
 564 ~~straightened, stabilized or otherwise altered. Water shall be retained or detained~~

565 ~~before it enters any natural channel in order to preserve the natural hydrodynamics~~  
566 ~~of the channel and to prevent siltation or other pollution.~~

567 ~~(c) Streambank erosion control shall be designed so as to meet or exceed the~~  
568 ~~minimum state stormwater management criteria, which requires runoff be~~  
569 ~~discharged into a channel which can convey runoff from a two-year storm event~~  
570 ~~without flooding or erosion.~~

571 ~~(d) The area of land disturbed by land development shall be as small as practicable.~~  
572 ~~Those areas which are not to be disturbed shall be protected by an adequate barrier~~  
573 ~~from construction activity. Whenever possible, all natural vegetation on the site of~~  
574 ~~the development activity shall be retained and protected.~~

575 ~~(e) No grading, cutting or filling shall be commenced until erosion and sedimentation~~  
576 ~~control measures have been installed between the disturbed area and water bodies,~~  
577 ~~channels and wetlands. Such measures shall be installed in conformance with an~~  
578 ~~approved plan filed in accordance with the provisions of [article 3](#) of [chapter 30](#) of~~  
579 ~~the Code of the City of Virginia Beach (City Code sections [30-56](#) through [30-78](#)).~~

580 ~~(f) Land which has been cleared for land development and upon which construction~~  
581 ~~has not commenced shall be protected from erosion by appropriate techniques~~  
582 ~~designed to revegetate the area.~~

583 ~~(g) Sediment shall be retained on the site of the development activity.~~

584 ~~(h) Wetlands and other water bodies shall not be used as sediment traps during land~~  
585 ~~development.~~

586 ~~(i) Erosion and sedimentation measures shall receive regular maintenance to ensure~~  
587 ~~that they continue to function properly.~~

588 ~~(j) Artificial channels shall be designed with consideration given to soil type(s), so that~~  
589 ~~the flow rate is low enough to prevent erosion.~~

590 ~~(k) Vegetated filter strips shall be created or, where practicable, retained in their natural~~  
591 ~~state along the banks of all channels, water bodies or wetlands. The width of the~~  
592 ~~filter shall be sufficient to prevent erosion, trap the sediment in overland runoff,~~  
593 ~~provide access to the water body and allow for periodic flooding without damage to~~  
594 ~~structures.~~

595 ~~(l) Intermittent channels should be vegetated.~~

596 ~~(m) Detention and retention basins shall be used to detain, retain or infiltrate the~~  
597 ~~increased and accelerated runoff which the land development generates. Water~~  
598 ~~shall be released from detention and retention basins into channels or wetlands at a~~  
599 ~~rate and in a manner approximating the natural flow which would have occurred~~  
600 ~~before land development.~~

601 ~~(n) Although the use of wetlands for storing and purifying water is encouraged, care~~  
602 ~~must be taken not to overload their capacity, thereby harming the wetlands and~~  
603 ~~transitional vegetation. Wetlands should not be damaged by the construction of~~  
604 ~~detention or retention basins.~~

605 ~~(o) Runoff from parking lots shall be treated to remove oil, grease and sediment before~~  
606 ~~it enters receiving waters.~~

607 ~~(p) Detention and retention basins shall be designed so that shorelines are winding~~  
608 ~~rather than straight and so that the length of shoreline is maximized, thus offering~~  
609 ~~more space for the growth of littoral vegetation.~~

610 ~~(q) The banks of detention and retention basins shall slope at a gentle grade into the~~  
611 ~~water as a safeguard against drowning, personal injury or other accidents, to~~

- 612 ~~encourage the growth of vegetation and to allow the alternate flooding and~~  
 613 ~~exposure of areas along the shore as water levels periodically rise and fall.~~  
 614 ~~(r) The use of the natural drainage system and vegetated buffer zones as open space~~  
 615 ~~and conservation areas shall be encouraged.~~  
 616 ~~(s) Detention and retention basins shall be reasonably sized according to the drainage~~  
 617 ~~area based on calculations submitted to the director.~~  
 618 ~~(t) Except as otherwise provided herein, the edge of any excavation or the top of bank~~  
 619 ~~for any detention or retention basin shall be located in accordance with the following~~  
 620 ~~minimum setbacks:~~

Type of Stormwater Management Facility	Existing Right-of-Way (feet)	Proposed Right-of-Way (feet)	Existing Property Line (feet)	Proposed Property Line (feet)
Retention Basin (no fencing or guard rail)	25	25	25	0
Retention basin (if fencing and/or guard rail are used)	10	10	10	10
Detention basin (greater than 6" but less than 18" deep)	5	5	5	0
Detention basin (greater than 18" but less than 36")	10	10	10	0
Detention basin (greater than 36" but less than 60")	15	15	15	0
Infiltration trenches	0	0	0	0
Retention basin (linear development)	10	10	10	N/A
Detention basin (linear development)	10	10	10	N/A

- 621 -  
 622 ~~All setbacks shall be measured from the nearest property line to the edge of excavation~~  
 623 ~~or the top of bank, whichever is less.~~  
 624  
 625 ~~(u) No structural stormwater management facilities shall be constructed within the one~~  
 626 ~~hundred-year floodplain of the floodplain subject to special restrictions, as~~  
 627 ~~enumerated in 5B.5(c) of the site plan ordinance (Appendix C) or in the southern~~  
 628 ~~watersheds as enumerated in 2(a) of the southern watersheds management~~  
 629 ~~ordinance (Appendix G).~~

630  
 631 **Sec. 10. Off-site stormwater management facilities.**  
 632

- 633 ~~(a) The director may allow stormwater runoff that is otherwise of unacceptable quality or~~  
 634 ~~which would be discharged at rates in excess of those otherwise allowed by this~~  
 635 ~~ordinance to be discharged into stormwater management facilities off the site of the~~  
 636 ~~development activity only if each of the following conditions is met:~~  
 637

- 638 ~~(1) The off-site stormwater management facilities and channels leading to them are~~  
639 ~~designed, constructed and maintained in accordance with the requirements of~~  
640 ~~this ordinance;~~  
641 ~~(2) Adequate provision is made for the sharing of acquisition, construction,~~  
642 ~~maintenance and operating costs of the facilities. The developer may be~~  
643 ~~required to pay all or a portion of such costs as a condition to receiving approval~~  
644 ~~of the stormwater management plan; and~~  
645 ~~(3) Adverse environmental impacts on the site of land development will be~~  
646 ~~minimized.~~  
647  
648 ~~(b) A request to use off-site stormwater management facilities and all information~~  
649 ~~related to the proposed off-site facilities should be made a part of a submitted~~  
650 ~~stormwater management plan. Guidelines for the consideration of an off-site facility~~  
651 ~~use are outlined in the manual of stormwater management practices described in~~  
652 ~~section 11 of this ordinance.~~

653  
654 **~~Sec. 11. Manual of stormwater management practices.~~**  
655

- 656 ~~(a) The manual of stormwater management practices, compiled by the department of~~  
657 ~~public works as part of the Public Works Specifications and Standards Manual,~~  
658 ~~including all future amendments thereto is hereby adopted and incorporated by~~  
659 ~~reference into this ordinance. The manual is available to the public at the offices of~~  
660 ~~the departments of planning and public works.~~  
661 ~~(b) The manual of stormwater management practices includes guidance in the~~  
662 ~~selection of environmentally sound stormwater management practices and facilities~~  
663 ~~and, specifications for the preparation of stormwater management plans including~~  
664 ~~acceptable techniques for obtaining, calculating and presenting the information~~  
665 ~~required in the stormwater management plans.~~  
666 ~~(c) The manual also includes minimum specifications for the construction, operation~~  
667 ~~and maintenance of stormwater management facilities.~~  
668

669 **~~Sec. 12. Maintenance.~~**  
670

- 671 ~~(a) Drainage and other appropriate easements shall be dedicated to the City of Virginia~~  
672 ~~Beach where they are determined by the director to be appropriately a part of the~~  
673 ~~local stormwater management system or are unlikely to be adequately maintained~~  
674 ~~by the developer or owner of the property.~~  
675 ~~(b) For systems maintained by the developer or owner, a maintenance agreement and~~  
676 ~~adequate easements, satisfactory to the city attorney, shall be recorded in the~~  
677 ~~Office of the Clerk of the Circuit Court of the City of Virginia Beach to permit the~~  
678 ~~department of public works to perform maintenance inspections of the drainage~~  
679 ~~system as required under section (c) herein and, if necessary, to take such~~  
680 ~~corrective action should the developer, owner or person(s) responsible for~~  
681 ~~maintaining the drainage system fail to properly maintain such system or the system~~  
682 ~~becomes a danger to the public health or safety. The developer, owner or~~  
683 ~~responsible person(s) shall be given notice of an inspection and an opportunity to~~  
684 ~~be present at the inspection. Before taking corrective action, the department of~~  
685 ~~public works shall give written notice of the nature of the existing defects by~~



686 ~~registered or certified mail, postage prepaid, return receipt requested to the~~  
687 ~~developer, owner or person(s) responsible for maintaining the system at their last~~  
688 ~~known address. If the developer, owner or responsible person(s) fails within thirty~~  
689 ~~(30) days from the date of notice to commence corrective action or to appeal the~~  
690 ~~matter to the circuit court, the department of public works may take necessary~~  
691 ~~corrective action, the cost of which shall be billed to the developer, owner or~~  
692 ~~responsible person(s) and shall be collected in any manner provided by law.~~  
693 ~~(c) Maintenance inspections shall be performed by the department of public works on a~~  
694 ~~semiannual basis and after any storm event which causes the capacity of the~~  
695 ~~stormwater management facilities to be exceeded.~~  
696 ~~(d) Drainage systems shall be maintained in accordance with the minimum~~  
697 ~~maintenance requirements and procedures outlined in the manual of stormwater~~  
698 ~~management practices described in section 11.~~

699

700 **Sec. 13. Violations and enforcement.**

701

702 ~~(a) *Injunction.* Any violation or threatened violation of any of the provisions of this~~  
703 ~~ordinance may be restrained by injunction without the necessity of showing that an~~  
704 ~~adequate remedy at law does not exist.~~

705 ~~(b) *Criminal penalties.* In addition to or as an alternative to any penalty provided herein~~  
706 ~~or by law, any person who violates any of the provisions of this ordinance shall be~~  
707 ~~guilty of a misdemeanor and shall be subject to a fine of not more than one~~  
708 ~~thousand dollars (\$1,000.00) or by confinement in jail for not more than thirty (30)~~  
709 ~~days, for each violation or both.~~

710 ~~(c) *Civil penalties and civil charges:*~~

711

712 ~~(1) Without limiting the remedies which may be obtained under this ordinance, any~~  
713 ~~person who violates any provision of this ordinance or who violates any term or~~  
714 ~~condition of an approved stormwater management plan shall, upon such finding~~  
715 ~~by the circuit court, be assessed a civil penalty not to exceed two thousand~~  
716 ~~dollars (\$2,000.00) for each violation.~~

717 ~~(2) With the consent of any person who has violated any provision of this~~  
718 ~~ordinance, or who has violated any term or condition of any approved~~  
719 ~~stormwater management plan, the director or the department of public works~~  
720 ~~may provide, in an order issued by the director or the department of public~~  
721 ~~works against such person, for the payment of civil charges for each violation in~~  
722 ~~specific sums, not to exceed two thousand dollars (\$2,000.00) for each~~  
723 ~~violation. Such civil charges shall be in lieu of any appropriate civil penalty~~  
724 ~~which could be imposed under subsection (c)(1) hereof.~~

725

726 ~~(c) *Notice of violation.* When the director determines that development activity is not~~  
727 ~~being carried out in accordance with the requirements of this ordinance, he shall~~  
728 ~~issue a written notice of violation to the applicant, the responsible person(s) or~~  
729 ~~owner of the property. The notice of violation shall contain:~~

730

731 ~~(1) The name and address of the owner, responsible person(s) or applicant;~~

- 732 ~~(2) The street address when available or a description of the building, structure or~~  
733 ~~land upon which the violation is occurring;~~  
734 ~~(3) A statement specifying the nature of the violation;~~  
735 ~~(4) A description of the remedial actions necessary to bring the land development~~  
736 ~~activity into compliance with this ordinance and a time schedule for completion~~  
737 ~~of such remedial action;~~  
738 ~~(5) A statement that upon failure to comply within the time specified, the~~  
739 ~~stormwater management plan and all permits issued for land development~~  
740 ~~pursuant to such stormwater management plan may be revoked, and that the~~  
741 ~~person to whom the notice of violation is directed shall be deemed in violation of~~  
742 ~~the ordinance and upon conviction shall be subject to penalties provided in~~  
743 ~~section 13 of this ordinance; and~~  
744 ~~(6) A statement that the director's determination of violation may be appealed to the~~  
745 ~~circuit court, provided an appeal is filed within thirty (30) days of service of~~  
746 ~~notice of violation.~~

747 \_\_\_\_\_  
748 The notice of violation shall be served upon the person(s) to whom it is directed  
749 either by delivery at the site of the development activity to the agent or employee  
750 supervising such activity, or by mailing a copy of the notice of violation by registered or  
751 certified mail, postage prepaid, return receipt requested to such person at his last  
752 known address.

753  
754 A notice of violation issued pursuant to this section constitutes a  
755 determination from which an appeal may be taken to the circuit court.

756  
757 ~~(e) This ordinance shall be enforced by the director, and the department of public~~  
758 ~~works, who shall exercise all authority of police officers in the performance of their~~  
759 ~~duties. Such authority shall include, without limitation, the authority to issue~~  
760 ~~summonses directing the appearance before a court of competent jurisdiction of any~~  
761 ~~person alleged to have violated any of the provisions of this ordinance.~~

762  
763 **~~Sec. 14. Severability.~~**

764  
765 Each separate provision of this ordinance is deemed independent of all  
766 other provisions herein so that if any provision or provisions of this ordinance be  
767 declared invalid, all other provisions thereof shall remain valid and enforceable.

768  
769 **~~Sec. 15. Effective date.~~**

770  
771 This ordinance shall become effective on June 1, 1988.

772  
773 **~~Sec. 16. Incorporation of Chesapeake Bay Preservation Area Ordinance and~~**  
774 **~~Southern Watersheds Management Ordinance.~~**

775

776           ~~The provisions of the Chesapeake Bay Preservation Area Ordinance (Appendix~~  
777 ~~F) and the Southern Watersheds Management Ordinance (Appendix G), and any future~~  
778 ~~amendments thereto, are hereby adopted and incorporated by reference as~~  
779 ~~requirements of this ordinance in the areas of the city to which they apply. Such~~  
780 ~~provisions shall be deemed to be in addition to, and not in lieu of, the provisions of this~~  
781 ~~ordinance except in cases of conflict, in which event the more restrictive provisions shall~~  
782 ~~apply.~~

783 **Sec. 1-1. Purpose and authority.**

784  
785           A. The purpose of this Ordinance is to ensure the general health, safety, and  
786 welfare of the citizens of the City of Virginia Beach and protect the quality and quantity  
787 of state waters from the potential harm of unmanaged stormwater, including protection  
788 from a land disturbing activity causing unreasonable degradation of properties, water  
789 quality, stream channels, and other natural resources, and to establish procedures  
790 whereby stormwater requirements related to water quality and quantity shall be  
791 administered and enforced.

792  
793           B. This ordinance is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of  
794 Chapter 3.1 of Title 62.1 of the Code of Virginia, and in compliance with 9VAC25-870-  
795 10 et seq. of the Virginia Stormwater Management Regulations.

796  
797 **Sec. 1-2. Stormwater management program established.**

798  
799           Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Virginia Beach  
800 hereby establishes a Virginia stormwater management program for land-disturbing  
801 activities and adopts the applicable Regulations that specify standards and  
802 specifications for VSMPs promulgated by the State Board for the purposes set out in  
803 Section 1-1 of this Ordinance. The City Council of the City of Virginia Beach hereby  
804 designates the City Manager, or his designee(s), as the Administrator of the Virginia  
805 stormwater management program.

806  
807 **Sec. 1-3. Definitions.**

808  
809           In addition to the definitions set forth in 9VAC25-870-10 of the Virginia  
810 Stormwater Management Regulations, as amended, which are expressly adopted and  
811 incorporated herein by reference, the following words and terms used in this Ordinance  
812 have the following meanings unless otherwise specified herein. Where definitions differ,  
813 those incorporated herein shall have precedence.

814  
815           "Administrator" means the City Manager, or his designee(s).

816  
817           "Agreement in lieu of a stormwater management plan" means a contract between  
818 the VSMP authority and the owner or permittee that specifies methods that shall be  
819 implemented to comply with the requirements of a VSMP for the construction of a  
820 single-family residence; such contract may be executed by the VSMP authority in lieu of  
821 a stormwater management plan.

822

823 "Applicant" means any person submitting an application for a permit or  
824 requesting issuance of a permit under this Ordinance.

825  
826 "Best management practice" or "BMP" means schedules of activities, prohibitions  
827 of practices, including both structural and nonstructural practices, maintenance  
828 procedures, and other management practices to prevent or reduce the pollution of  
829 surface waters and groundwater systems from the impacts of land-disturbing activities.

830  
831 "Channel" means a natural or manmade waterway.

832  
833 "Chesapeake Bay Preservation Act land-disturbing activity" means a land-  
834 disturbing activity including clearing, grading, or excavation that results in a land  
835 disturbance equal or greater than 2,500 square feet and less than one acre in all areas  
836 of jurisdictions designated as subject to the Chesapeake Bay Preservation Area  
837 Designation and Management Regulations (9VAC25-830) adopted pursuant to the  
838 Chesapeake Bay Preservation Act.

839  
840 "Common plan of development or sale" means a contiguous area where separate  
841 and distinct construction activities may be taking place at different times on different  
842 schedules.

843  
844 "Construction activity" means any clearing, grading or excavation associated with  
845 large construction activity or associated with small construction activity.

846  
847 "Control measure" means any best management practice or stormwater facility,  
848 or other method used to minimize the discharge of pollutants to state waters.

849  
850 "Clean Water Act" or "CWA" means the federal Clean Water Act (33 U.S.C  
851 §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or  
852 Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as  
853 amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law  
854 97-117, or any subsequent revisions thereto.

855  
856 "Department" means the Department of Environmental Quality.

857  
858 "Development" means land disturbance and the resulting landform associated  
859 with the construction of residential, commercial, industrial, institutional, recreation,  
860 transportation or utility facilities or structures or the clearing of land for non-agricultural  
861 or non-silvicultural purposes.

862  
863 "Drainage area" means a land area, water area, or both from which runoff flows  
864 to a common point.

865  
866 "Flooding" means a general or temporary condition of partial or complete  
867 inundation of normally dry land areas from:

868

- 869 (a) The overflow of inland or tidal waters,  
870 (b) The unusual and rapid accumulation or runoff of surface waters from any  
871 source, or  
872 (c) Mudflows, which area proximately caused by flooding as defined in paragraph  
873 (1)(b) of this definition and are akin to a river of liquid and flowing mud on the  
874 surfaces of normally dry land areas, as when earth is carried by a current of  
875 water and deposited along the path of the current.

876  
877 The collapse or subsidence of land along the shore of a lake or other body of  
878 water as a result of erosion or undermining caused by waves or currents of water  
879 exceeding anticipated cyclical levels or suddenly caused by an unusually high water  
880 level in a natural body of water, accompanied by a severe storm, or by an unanticipated  
881 force of nature such as flash flood or an abnormal tidal surge, some similarly unusual  
882 and unforeseeable event that results in flooding as defined above.

883  
884 "Floodplain" means any land area susceptible to being inundated by water from  
885 any source.

886  
887 "General permit" means the state permit titled GENERAL PERMIT FOR  
888 DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in  
889 Chapter 880 (9VAC25-880-1 et seq.) of the Regulations authorizing a category of  
890 discharges under the CWA and the Act within a geographical area of the  
891 Commonwealth of Virginia.

892  
893 "Hydrologic Unit Code" or "HUC" means a watershed unit established in the most  
894 recent version of Virginia's 6<sup>th</sup> Order National Watershed Boundary Dataset unless  
895 specifically identified as another order.

896  
897 "Impervious cover" means a surface composed of material that significantly  
898 impedes or prevents natural infiltration of water into soil.

899  
900 "Land disturbance" or "land-disturbing activity" means a man-made change to the  
901 land surface that potentially changes its runoff characteristics including clearing,  
902 grading, or excavation except that the term shall not include those exemptions specified  
903 in Section 1-4 of this Ordinance.

904  
905 "Large construction activity" means construction activity including clearing,  
906 grading and excavation, except operations that result in the disturbance of less than five  
907 acres of total land area. Large construction activity also includes the disturbance of less  
908 than five acres of total land areas that is a part of a larger common plan of development  
909 or sale if the larger common plan will ultimately disturb five acres or more. Large  
910 construction activity does not include routine maintenance that is performed to maintain  
911 the original line and grade, hydraulic capacity, or original purpose of the facility.

912

913 “Layout” means a conceptual drawing sufficient to provide for the specified  
914 stormwater management facilities required at the time of approval.

915  
916 “Linear development project” means a land-disturbing activity that is linear in  
917 nature such as, but not limited to, (i) the construction of electric and telephone utility  
918 lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges,  
919 communication facilities and other related structures of a railroad company; (iii) highway  
920 construction projects; (iv) construction of stormwater channels and stream restoration  
921 activities; and (v) water and sewer lines. Private subdivision roads or streets shall not  
922 be considered linear development projects.

923  
924 “Major municipal separate storm sewer outfall” or “major outfall” means a  
925 municipal separate storm sewer outfall that discharges from a single pipe with an inside  
926 diameter of 36 inches or more or its equivalent (discharge from a single conveyance  
927 other than circular pipe which is associated with a drainage areas of more than 50  
928 acres); or for municipal separate storm sewers that receive stormwater from lands  
929 zoned for industrial activity (based on comprehensive zoning plans or the equivalent),  
930 with an outfall that discharges from a single pipe with an inside diameter of 12 inches or  
931 more or from its equivalent (discharge from other than a circular pipe associated with a  
932 drainage areas of two acres or more).

933  
934 “Minor modification” means an amendment to an existing general permit before  
935 its expiration not requiring extensive review and evaluation including, but not limited to,  
936 changes in EPA promulgated test protocols, increased monitoring frequency  
937 requirements, changes in sampling locations, and changes to compliance dates within  
938 the overall compliance schedules. A minor general permit modification or amendment  
939 does not substantially alter general permit conditions, substantially increase or decrease  
940 the amount of surface water impacts, increase the size of the operation, or reduce the  
941 capacity of the facility to protect human health or the environment.

942  
943 “Natural channel design concepts” means the utilization of engineering analysis  
944 based on fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an  
945 open conveyance system for the purpose of creating or recreating a stream that  
946 conveys its bankfull storm event within its banks and allows larger flows to access its  
947 floodplain.

948  
949 “Natural stream” means a tidal or nontidal watercourse that is part of the natural  
950 topography. It usually maintains a continuous or seasonal flow during the year and is  
951 characterized as being irregular in cross-section with a meandering course. Constructed  
952 channels such as drainage ditches or swales shall not be considered natural streams;  
953 however, channels designed utilizing natural channel design concepts may be  
954 considered natural streams.

955  
956 “Nonpoint source pollution” means pollution such as sediment, nitrogen,  
957 phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be  
958 pinpointed but rather are washed from the land surface in a diffuse manner by  
959 stormwater runoff.

960

961 "Operator" means the owner or operator of any facility or activity subject to the  
962 Act and this chapter. In the context of stormwater associated with a large or small  
963 construction activity or Chesapeake Bay Preservation Act land-disturbing activity,  
964 operator means any person associated with a construction project that meets either of  
965 the following two criteria: (i) the person has direct operation control over construction  
966 plans and specifications, including the ability to make modifications to those plans and  
967 specifications or (ii) the person has day-to-day operational control of those activities at a  
968 project that are necessary to ensure compliance with a stormwater pollution prevention  
969 plan for the site or other state permit or VSMP authority permit conditions (i.e., they are  
970 authorized to direct workers at a site to carry out activities required by the stormwater  
971 pollution prevention plan or comply with other permit conditions). In the context of  
972 stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s),  
973 operator means the operator of the regulated MS4 system.

974  
975 "Outfall" means, when used in reference to municipal separate storm sewers, a  
976 point source at the point where a municipal separate storm sewer discharges to surface  
977 waters and does not include open conveyances connecting two municipal separate  
978 storm sewers, or pipes, tunnels or other conveyances with connected segments of the  
979 same stream or other surface waters and are used to convey surface waters.

980  
981 "Owner" means the Commonwealth or any of its political subdivisions including,  
982 but not limited to, sanitation district commissions and authorities, and any public or  
983 private institution, corporation, association, firm or company organized or existing under  
984 the laws of this or any other state or country, or any officer or agency of the United  
985 States, or any person or group of persons acting individually or as a group that owns,  
986 operates, charters, rents, or otherwise exercises control over or is responsible for any  
987 actual or potential discharge of sewage, industrial wastes, or other wastes or pollutants  
988 to state waters, or any facility or operation that has the capability to alter the physical,  
989 chemical, or biological properties of state waters in contravention of § 62.14-44.5 of the  
990 Code of Virginia, the Act and this chapter.

991  
992 "Peak flow rate" means the maximum instantaneous flow from a prescribed  
993 design storm at a particular location.

994  
995 "Percent impervious" means the impervious area within the site divided by the  
996 area of the site multiplied by 100.

997  
998 "Permit" or "VSMP Authority Permit" means an approval to conduct a land-  
999 disturbing activity issued by the Administrator for the initiation of a land-disturbing  
1000 activity, in accordance with this Ordinance, and which may only be issued after  
1001 evidence of general permit coverage has been provided by the Department, if required.

1002  
1003 "Permittee" means the person to whom the VSMP Authority Permit is issued.

1004  
1005 "Person" means any individual, corporation, partnership, association, state,  
1006 municipality, commission, or political subdivision of a state, governmental body,  
1007 including federal, state, or local entity as applicable, any interstate body or any other  
1008 legal entity.

1009  
1010 “Point of discharge” means a location at which concentrated stormwater runoff is  
1011 released.

1012  
1013 “Pollutant discharge” means the average amount of a particular pollutant  
1014 measured in pounds per year or other standard reportable unit as appropriate, delivered  
1015 by stormwater runoff.

1016  
1017 “Pollution” means such alteration of a physical, chemical or biological properties  
1018 of any state waters as will or is likely to create a nuisance or render such waters (a)  
1019 harmful or detrimental or injurious to the public health, safety or welfare, or to the health  
1020 of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as  
1021 present or possible future sources of public water supply; or (c) unsuitable for  
1022 recreational, commercial, industrial, agricultural, or other reasonable uses, provided that  
1023 (i) an alteration of the physical, chemical, or biological property of state waters, or a  
1024 discharge or deposit of sewage, industrial wastes or other wastes to state waters by any  
1025 owner which by itself is not sufficient to cause pollution, but which in combination with  
1026 such alteration of or discharge or deposit to state waters by other owners, is sufficient to  
1027 cause pollution; (ii) the discharge of untreated sewage by any owner into state waters;  
1028 and (iii) contributing to the contravention of standards of water quality duly established  
1029 by the State Water Control Board, are “pollution” for the terms and purposes of this  
1030 chapter.

1031  
1032 “Postdevelopment” refers to conditions that reasonably may be expected or  
1033 anticipated to exist after completion of the land development activity on a specific site.

1034  
1035 “Predevelopment” refers to the conditions that exist at the time that plans for the  
1036 land development of a tract of land are submitted to the VSMP authority. Where phased  
1037 development or plan approval occurs (preliminary grading, demolition of existing  
1038 structures, roads and utilities, etc.), the existing conditions at the time prior to the first  
1039 item being submitted shall establish predevelopment conditions.

1040  
1041 “Prior developed lands” means land that has been previously utilized for  
1042 residential, commercial, industrial, institutional, recreation, transportation or utility  
1043 facilities or structures, and that will have the impervious area associated with those uses  
1044 altered during a land-disturbing activity.

1045  
1046 “Qualified personnel” means a person knowledgeable in the principles and  
1047 practices of erosion and sediment and stormwater management controls who  
1048 possesses the skills to assess conditions at the construction site for the operator that  
1049 could impact stormwater quality and quantity and to assess the effectiveness of any  
1050 sediment and erosion control measures or stormwater management facilities selected to  
1051 control the quality and quantity of stormwater discharges from the construction activity.  
1052 For VSMP authorities this requires the use of a person who holds a certificate of  
1053 competency from the board in the area of project inspection for ESC and project  
1054 inspection for SWM or combined administrator for ESC and combined administrator for  
1055 SWM as defined in 9VAC25-850-10 or a combination of ESC and SWM qualifications  
1056 from these two area.



1057  
1058 "Regulations" means the Virginia Stormwater Management Program (VSMP)  
1059 Regulations, 9VAC25-870, as amended.

1060  
1061 "Runoff coefficient" means the fraction of total rainfall that will appear at a  
1062 conveyance as runoff.

1063  
1064 "Runoff" or "stormwater runoff" means that portion of precipitation that is  
1065 discharged across the land surface or through conveyances to one or more waterways.

1066  
1067 "Runoff characteristics" include maximum velocity, peak flow rate, volume, and  
1068 flow duration.

1069  
1070 "Runoff volume" means the volume of water that runs off the site from a  
1071 prescribed design storm.

1072  
1073 "Schedule of compliance" means a schedule of remedial measures included in a  
1074 state permit, including an enforceable sequence of interim requirements (for example,  
1075 actions, operations, or milestone events) leading to compliance with the Act, the CWA  
1076 and regulations.

1077  
1078 "Site" means the land or water area where any facility or land-disturbing activity  
1079 is physically located or conducted, including adjacent land used or preserved in  
1080 connection with the facility or land-disturbing activity. Areas channelward of mean low  
1081 water shall not be considered part of a site.

1082  
1083 "Site hydrology" means the movement of water on, across, through and off the  
1084 site as determined by parameters including, but not limited to, soil types, soil  
1085 permeability, vegetative cover, seasonal water tables, slopes, land cover, and  
1086 impervious cover.

1087  
1088 "Small construction activity" means

- 1089  
1090 1. Construction activities including clearing, grading, and excavating that results  
1091 in land disturbance of equal to or greater than one acre, and less than five  
1092 acres. Small construction activity also includes the disturbance of less than  
1093 one acre of total land area that is part of a larger common plan of  
1094 development of sale if the larger common plan will ultimately disturb equal to  
1095 or greater than one and less than five acres. Small construction activity does  
1096 not include routine maintenance that is performed to maintain the original line  
1097 and grade, hydraulic capacity, or original purpose of the facility. The board  
1098 may waive the otherwise applicable requirements in a general permit for a  
1099 stormwater discharge from construction activities that disturb less than five  
1100 acres where stormwater controls are not needed based on a "total maximum  
1101 daily load" (TMDL) that addresses the pollutant(s) of concern or, for  
1102 nonimpaired waters that do not require TMDLs, an equivalent analysis that  
1103 determines allocations for small construction sites for the pollutant(s) of  
1104 concern or that determines that such allocations are not needed to protect

1105 water quality based on consideration of existing in-stream concentrations,  
1106 expected growth in pollutant contributions from all sources, and a margin of  
1107 safety. For the purpose of this subdivision, the pollutant(s) of concern include  
1108 sediment or a parameter that addresses sediment (such as total suspended  
1109 solids, turbidity or siltation) and any other pollutant that has been identified as  
1110 a cause of impairment of any water body that will receive a discharge from  
1111 the construction activity. The operator must certify to the board that the  
1112 construction activity will take place and stormwater discharges will occur,  
1113 within the drainage area addressed by the TMDL or equivalent analysis.  
1114

1115 2. Any other construction activity designated by the either board or the EPA  
1116 regional administrator, based on the potential for contribution to a violation of  
1117 a water quality standard or for significant contribution of pollutants to surface  
1118 waters.  
1119

1120 "Special Flood Hazard Area" means the land in the floodplain subject to a one (1)  
1121 percent or greater chance of being flooded in any given year as set forth in the  
1122 Floodplain Ordinance (Appendix K).  
1123

1124 "State" means the Commonwealth of Virginia.  
1125

1126 "State Board" means the State Water Control Board.  
1127

1128 "State permit" means an approval to conduct a land-disturbing activity issued by  
1129 the State Board in the form of a state stormwater individual permit or coverage issued  
1130 under a state general permit or an approval issued by the State Board for stormwater  
1131 discharges from an MS4. Under these state permits, the Commonwealth imposes and  
1132 enforces requirements pursuant to the federal Clean Water Act and regulations, the  
1133 Virginia Stormwater Management Act and the Regulations.  
1134

1135 "State Water Control Law" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1  
1136 of the Code of Virginia.  
1137

1138 "State waters" means all water, on the surface and under the ground, wholly or  
1139 partially within or bordering the Commonwealth or within its jurisdiction, including  
1140 wetlands.  
1141

1142 "Stormwater" means precipitation that is discharged across the land surface or  
1143 through conveyances to one or more waterways and that may include stormwater  
1144 runoff, snow melt runoff, and surface runoff and drainage.  
1145

1146 "Stormwater Appeals Board" is the appeal authority designated by City Council to  
1147 hear appeals from any permit applicant or permittee, or person subject to Ordinance  
1148 requirements, aggrieved by any action of the City taken in regard to the Ordinance  
1149 without a formal hearing. The Board shall be appointed by City Council and shall  
1150 consist of six (6) members, one (1) from the Department of Planning, one (1) from the  
1151 Department of Public Works, one (1) from the Department of Public Utilities and three

1152 (3) citizen members. The city attorney or his designee shall serve as legal counsel to  
1153 the Stormwater Appeals Board.

1154  
1155 "Stormwater conveyance system" means a combination of drainage components  
1156 that are used to convey stormwater discharge, either within or downstream of the land-  
1157 disturbing activity. This includes:

1158  
1159 1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated  
1160 swale, or other stormwater conveyance system constructed by man except  
1161 for restored stormwater conveyance systems;

1162  
1163 2. "Natural stormwater conveyance system" means the main channel of a  
1164 natural stream and the flood-prone area adjacent to the main channel; or

1165  
1166 3. "Restored stormwater conveyance system" means a stormwater conveyance  
1167 system that has been designed and constructed using natural channel design  
1168 concepts. Restored stormwater conveyance systems include the main  
1169 channel and the flood-prone area adjacent to the main channel.

1170  
1171 "Stormwater discharge associated with construction activity" means a discharge  
1172 of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading,  
1173 or excavation); construction materials or equipment storage or maintenance (e.g., fill  
1174 piles, borrow area, concrete truck washout, fueling); or other industrial stormwater  
1175 directly related to the construction process (e.g., concrete or asphalt batch plants) are  
1176 located.

1177  
1178 "Stormwater management facility" means a control measure that controls  
1179 stormwater runoff and changes the characteristics of that runoff including, but not  
1180 limited to, the quantity and quality, the period of release or the velocity of flow.

1181  
1182 "Stormwater management plan" means a document(s) containing material  
1183 describing methods for complying with the requirements of Section 1-6 of this  
1184 Ordinance.

1185  
1186 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is  
1187 prepared in accordance with good engineering practices and that identifies potential  
1188 sources of pollutants that may reasonably be expected to affect the quality of  
1189 stormwater discharges from the construction site, and otherwise meets the  
1190 requirements of this Ordinance. In addition the document shall identify and require the  
1191 implementation of control measures, and shall include, but not be limited to the inclusion  
1192 of or the incorporation by reference of, an approved erosion and sediment control plan,  
1193 an approved stormwater management plan, and a pollution prevention plan.

1194  
1195 "Subdivision" means the same as defined in Section 1.4 of the Subdivision  
1196 Regulations of the City of Virginia Beach [Appendix B].

1197  
1198 "Total maximum daily load" or "TMDL" means the sum of the individual  
1199 wasteload allocations for point sources, load allocations for nonpoint sources, natural

1200 background loading and a margin of safety. TMDLs can be expressed in terms of either  
1201 mass per time, toxicity, or other appropriate measure. The TMDL process provides for  
1202 point versus nonpoint source trade-offs.

1203  
1204 "Virginia Stormwater BMP Clearinghouse Website" means a website that  
1205 contains detailed design standards and specifications for control measures that may be  
1206 used in Virginia to comply with the requirements of the Virginia Stormwater  
1207 Management Act and associated regulations.

1208  
1209 "Virginia Stormwater Management Act" or "Act" means Article 2.3 (§62.1-  
1210 44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

1211  
1212 "Virginia Stormwater Management Handbook" means a collection of pertinent  
1213 information that provides general guidance for compliance with the Act and associated  
1214 regulations and is developed by the department with advice from a stakeholder advisory  
1215 committee.

1216  
1217 "Virginia Stormwater Management Program" or "VSMP" means a program  
1218 approved by the State Board after September 13, 2011, that has been established by a  
1219 locality to manage the quality and quantity of runoff resulting from land-disturbing  
1220 activities and shall include such items as local ordinances, rules, permit requirements,  
1221 annual standards and specifications, policies and guidelines, technical materials, and  
1222 requirements for plan review, inspection, enforcement, where authorized in this article,  
1223 and evaluation consistent with the requirements of this article and associated  
1224 regulations.

1225  
1226 "Virginia Stormwater Management Program authority" or "VSMP authority"  
1227 means an authority approved by the State Board after September 13, 2011, to operate  
1228 a Virginia Stormwater Management Program.

1229  
1230 **Sec. 1-4. Stormwater applicability and exemptions.**

1231  
1232 A. Except as provided herein, no person may engage in any land-disturbing activity  
1233 until a VSMP authority permit or an executed agreement in lieu of a stormwater plan  
1234 has been issued by the Administrator in accordance with the provisions of this  
1235 Ordinance.

1236  
1237 B. When a VSMP permit is not required pursuant to an exemption listed below, all  
1238 land disturbing activities that disturb 2,500 square feet or more of land must obtain a  
1239 Land Disturbing Permit in accordance with the provisions of the City of Virginia Beach  
1240 Erosion and Sediment Control Ordinance (Chapter 30).

1241  
1242 C. A Chesapeake Bay Preservation Act Land-Disturbing Activity shall not be  
1243 required to obtain a general Permit, but will be required to obtain a Land Disturbing  
1244 Permit and be subject to an erosion and sediment control plan consistent with the  
1245 requirements of the Erosion and Sediment Control Ordinance, a stormwater  
1246 management plan as outlined under Section 1-6, the technical criteria and  
1247 administrative requirements for land-disturbing activities outlined in Sections 1-10

1248 through 1-19 and 1-22 through 1-27, the variance procedures of Section 1-21 and the  
1249 requirements for control measures and long-term maintenance outlined under Section  
1250 1-28.

1251  
1252 D. Single-family residences separately built and disturbing less than one (1) acre  
1253 and that are part of a larger common plan of development or sale, and not located in the  
1254 Chesapeake Bay Preservation Area, shall operate in accordance with the general  
1255 permit and required SWPPP, but shall not be required to complete a registration  
1256 statement.

1257  
1258 E. Notwithstanding any other provisions of this Ordinance, the following activities  
1259 are exempt, unless otherwise required by federal law:

1260  
1261 1. Permitted surface or deep mining operations and projects, or oil and gas  
1262 operations and projects conducted under the provisions of Title 45.1 of the  
1263 Code of Virginia;

1264  
1265 2. Clearing of lands specifically for agricultural purposes and the management,  
1266 tilling, planting, or harvesting of agricultural, horticultural, or forest crops,  
1267 livestock feedlot operations, or as additionally set forth by the State Board in  
1268 regulations, including engineering operations as follows: construction of  
1269 terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches,  
1270 strip cropping, lister furrowing, contour cultivating, contour furrowing, land  
1271 drainage, and land irrigation; however, this exception shall not apply to  
1272 harvesting of forest crops unless the area on which harvesting occurs is  
1273 reforested artificially or naturally in accordance with the provisions of Chapter  
1274 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to  
1275 bona fide agricultural or improved pasture use as described in Subsection B  
1276 of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

1277  
1278 3. Single-family residences separately built and disturbing less than one acre  
1279 and not part of a larger common plan of development or sale, including  
1280 additions or modifications to existing single-family detached residential  
1281 structures, unless the land disturbance is located in the Chesapeake Bay  
1282 watershed. In the Chesapeake Bay watershed, single-family residences  
1283 separately built and disturbing less than 2500 square feet are exempt;

1284  
1285 4. Land disturbing activities that disturb less than one acre of land area, and not  
1286 part of a larger common plan of development or sale, except in areas  
1287 designated by the City as subject to the Chesapeake Bay Preservation Area  
1288 Designation and Management Regulations, where land disturbing activities  
1289 less than 2500 square feet are exempt;

1290  
1291 5. Discharges to a sanitary sewer;

1292  
1293 6. Activities under a State or federal reclamation program to return an  
1294 abandoned property to an agricultural or open land use;

1295

- 1296 7. Routine maintenance that is performed to maintain the original line and grade,  
1297 hydraulic capacity, or original construction of the project. The paving of an  
1298 existing road with a compacted or impervious surface and reestablishment of  
1299 existing associated ditches and shoulders shall be deemed routine  
1300 maintenance if performed in accordance with this Subsection; and  
1301
- 1302 8. Conducting land-disturbing activities in response to a public emergency  
1303 where the related work requires immediate authorization to avoid imminent  
1304 endangerment to human health or the environment. In such situations, the  
1305 Administrator shall be advised of the disturbance within seven days of  
1306 commencing the land-disturbing activity and compliance with the  
1307 administrative requirements of subsection A. is required within 30 days of  
1308 commencing the land-disturbing activity.  
1309

1310 **Sec. 1-5. Submission and approval of plans.**  
1311

1312 A. No VSMP authority permit shall be issued by the Administrator, until the following  
1313 items have been submitted to and approved by the Administrator as prescribed herein:  
1314

- 1315 1. A plan review package that includes a general permit registration statement, if  
1316 required. Registration statements are not required for detached single-family  
1317 home construction, within or outside of a common plan of development or  
1318 sale; however the such construction must adhere to the requirements of the  
1319 general permit;  
1320
- 1321 2. An erosion and sediment control plan approved in accordance with the City of  
1322 Virginia Beach Erosion and Sediment Control Ordinance (Chapter 30);  
1323
- 1324 3. A stormwater management plan that meets the requirements of Section 1-6 of  
1325 this Ordinance or an executed agreement in lieu of a stormwater  
1326 management plan; and  
1327
- 1328 4. When the development of property is proposed, a site plan or subdivision  
1329 construction plan incorporating all applicable requirements of the Subdivision  
1330 Regulations (Appendix B) and Site Plan Ordinance (Appendix C).  
1331

1332 B. No VSMP authority permit shall be issued until evidence of general permit  
1333 coverage is obtained, if required.  
1334

1335 C. No VSMP authority permit shall be issued until the fees required to be paid  
1336 pursuant to Section 1-33, are received, and a reasonable performance bond required  
1337 pursuant to Section 1-34 of this Ordinance has been accepted.  
1338

1339 D. No VSMP authority permit shall be issued until the Stormwater Management  
1340 Facility Maintenance Agreement is submitted and approved pursuant to Section 1-28 of  
1341 this Ordinance.  
1342

1343 E. No VSMP authority permit shall be issued unless and until the permit application  
1344 and attendant materials and supporting documentation demonstrate that all land  
1345 clearing, construction, disturbance, land development and drainage will be done  
1346 according to the approved plan.

1347  
1348 F. No grading, building or other local permit shall be issued for a property unless a  
1349 VSMP authority permit has been issued by the Administrator, unless such activity is  
1350 exempt.

1351  
1352 G. No VSMP authority permit shall be issued until an Agreement in Lieu of a  
1353 Stormwater Plan, if required, has been executed, submitted and approved.

1354  
1355 **Sec. 1-6. Stormwater management plan; content of plan.**

1356  
1357 A. The Stormwater Management Plan, required in Section 1-4 of this Ordinance,  
1358 must apply the stormwater management technical criteria set forth in Sections 1-10  
1359 through 1-19 and 1-22 through 1-27 of this Ordinance to the entire site or common plan  
1360 of development or sale where applicable, consider all sources of surface runoff and all  
1361 sources of surface and groundwater flows converted to surface runoff. Individual lots in  
1362 new residential, commercial or industrial developments shall not be considered  
1363 separate land-disturbing activities. Approved stormwater management plans for  
1364 residential, commercial or industrial subdivisions govern the individual parcels within  
1365 that plan throughout the development life of the lots even with subsequent owners.

1366  
1367 The Stormwater Management Plan shall include the following information:

- 1368  
1369 1. Information on the type and location of stormwater discharges; information on  
1370 the features to which stormwater is being discharged including surface waters  
1371 and the predevelopment and postdevelopment drainage areas;  
1372  
1373 2. Contact information including the name, address, and telephone number of  
1374 the owner, and the applicant if not the owner, and the GPIN and parcel  
1375 number of the property or properties affected;  
1376  
1377 3. A narrative that includes a description of current site conditions and final site  
1378 conditions;  
1379  
1380 4. A general description of the proposed stormwater management facilities and  
1381 the mechanism through which the facilities will be operated and maintained  
1382 after construction is complete;  
1383  
1384 5. Information on the proposed stormwater management facilities, including:  
1385  
1386 i. The type of facilities;  
1387 ii. Location, including geographic coordinates expressed in U.S. Survey  
1388 Feet and based on the Virginia State Plane Coordinate System, South  
1389 Zone, NAD 1983/1993 (High Accuracy Reference Network) (HARN) or  
1390 Latitude and Longitude;

- 1391                   iii. Area treated, measured in square feet and acreage; and  
1392                   iv. The surface waters into which the facility will discharge.  
1393  
1394                   6. Hydrologic and hydraulic computations, including runoff characteristics;  
1395  
1396                   7. Documentation and calculations verifying compliance with the water quality  
1397                   and quantity requirements of Sections 1-10 through 1-19 or 1-22 through 1-27  
1398                   of this Ordinance.  
1399  
1400                   8. A map or maps of the site that depicts the topography of the site and  
1401                   includes:  
1402  
1403                   i. All contributing drainage areas;  
1404                   ii. Existing streams, ponds, culverts, ditches, wetlands, other water bodies,  
1405                   and floodplains;  
1406                   iii. Soil types, forest cover, and other vegetative areas;  
1407                   iv. Current land use including existing structures, roads, and locations of  
1408                   known utilities and easements;  
1409                   v. Sufficient information on adjoining parcels to assess the impacts of  
1410                   stormwater from the site on these parcels;  
1411                   vi. The limits of clearing and grading, and the proposed drainage patterns on  
1412                   the site;  
1413                   vii. Proposed buildings, roads, parking areas, utilities, and stormwater  
1414                   management facilities;  
1415                   viii. Proposed land use with tabulation of the percentage of surface area to be  
1416                   adapted to various uses, including but not limited to planned locations of  
1417                   utilities, roads, and easements;  
1418                   ix. All Chesapeake Bay Preservation Area designations of Resource  
1419                   Protection Areas, including variable width buffers;  
1420                   x. All Southern Watershed buffers and nontidal wetlands, pursuant to  
1421                   Appendix G of the Virginia Beach City Code; and  
1422                   xi. Any other information reasonably necessary for an evaluation of the  
1423                   development activity.  
1424

1425                   B. If an operator intends to meet the water quality or quantity requirements set forth  
1426                   in Sections 1-10 through 1-19 and 1-22 through 1-27 of this Ordinance through the use  
1427                   of off-site compliance options, where applicable, then a letter of availability from the off-  
1428                   site provider must be included. Approved off-site options must achieve the necessary  
1429                   nutrient reductions prior to the commencement of the applicant's land-disturbing activity  
1430                   except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.  
1431

1432                   C. If an operator intends to meet the water quality and quantity requirements  
1433                   available in an existing off-site regional or locally shared stormwater management  
1434                   facility, pursuant to a previously approved plan, documentation shall be required  
1435                   indicating that the facility meets the quality and quantity technical criteria set forth in  
1436                   Sections 1-10 through 1-19 and 1-22 through 1-27 of this Ordinance and that a  
1437                   Stormwater Management Facilities Maintenance Agreement acceptable to the City has



1438 been recorded and that all necessary easements are in place to access and utilize the  
1439 Stormwater Management Facility.

1440  
1441 D. Elements of the stormwater management plans that include activities regulated  
1442 under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be  
1443 appropriately sealed and signed by a professional registered in the Commonwealth of  
1444 Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code  
1445 of Virginia.

1446  
1447 E. A maintenance agreement and adequate easements, executed and recorded to  
1448 ensure responsibility for the maintenance of any stormwater management facilities  
1449 constructed under the requirements of this ordinance, unless exempted from this  
1450 requirement under section 1-28, and to ensure appropriate access to such facilities for  
1451 maintenance, inspection and corrective action.

1452  
1453 **Sec. 1-7. Review of stormwater management plans.**

1454  
1455 A. The Administrator shall review stormwater management plans and shall approve  
1456 or disapprove a stormwater management plan according to the following:

- 1457  
1458 1. The Administrator shall determine the completeness of a plan submittal  
1459 package in accordance with Section 1-6 of this Ordinance, and shall notify the  
1460 applicant, in writing, of such determination, within 15 calendar days of receipt.  
1461 If the plan is deemed to be incomplete, the above written notification shall  
1462 contain the reasons the plan submittal package is deemed incomplete.  
1463  
1464 2. The Administrator shall have an additional 60 calendar days from the date of  
1465 the communication of completeness to review the plan, except that if a  
1466 determination of completeness is not made within the time prescribed in  
1467 subdivision 1., then the plan shall be deemed complete and the Administrator  
1468 shall have 60 calendar days from the date of submission to review the plan.  
1469  
1470 3. The Administrator shall review any plan that has been previously  
1471 disapproved, within 45 calendar days of the date of resubmission.  
1472  
1473 4. During the review period, the plan shall be approved or disapproved and the  
1474 decision communicated in writing to the person responsible for the land-  
1475 disturbing activity or his designated agent. If the plan is not approved, the  
1476 reasons for not approving the plan shall be provided in writing. Approval or  
1477 denial shall be based on the plan's compliance with the requirements of this  
1478 Ordinance.  
1479  
1480 5. If a plan meeting all requirements of this Ordinance is submitted and no  
1481 action is taken within the time provided above in subdivision 2. for review, the  
1482 plan shall be deemed approved.

1483

1484 6. All written correspondence shall be by email or facsimile unless requested  
1485 otherwise in writing by the applicant.

1486  
1487 B. Approved stormwater plans may be modified as follows:

1488  
1489 1. Modifications to an approved stormwater management plan shall be allowed  
1490 only after review and written approval by the Administrator. The Administrator  
1491 shall have 60 calendar days to respond in writing either approving or  
1492 disapproving such request.

1493  
1494 2. The Administrator may require that an approved stormwater management  
1495 plan be amended, within a time prescribed by the Administrator, to address  
1496 any deficiencies noted during inspection.

1497  
1498 C. The Administrator shall require the submission of a construction record drawing  
1499 for permanent stormwater management facilities. The Administrator may elect not to  
1500 require construction record drawings for stormwater management facilities for which  
1501 recorded maintenance agreements are not required pursuant to Section 1-28. Prior to  
1502 the release of the surety and final approval of the facility by the City a construction  
1503 record drawing for permanent stormwater management facilities shall be submitted,  
1504 inspected and approved by the Administrator. The construction record drawing shall be  
1505 appropriately sealed and signed by a professional registered in the Commonwealth of  
1506 Virginia, certifying that the stormwater management facilities have been constructed in  
1507 accordance with the approved plan.

1508  
1509 **Sec. 1-8. Stormwater pollution prevention plan; content of plan.**

1510  
1511 A. The Stormwater Pollution Prevention Plan (SWPPP) is not required to be  
1512 submitted for review and approval, however, it is a requirement of the VSMP and  
1513 general permit and will be reviewed during inspections. Specific components of the  
1514 SWPPP, as required by Section 1-6 will be reviewed.

1515  
1516 B. The Stormwater Pollution Prevention Plan (SWPPP) shall include the content  
1517 specified by Section 9VAC25-870-54, but not limited to, an approved erosion and  
1518 sediment control plan, an approved stormwater management plan, a pollution  
1519 prevention plan for regulated land disturbing activities and a description of any  
1520 additional control measures necessary to address a TMDL if required.

1521  
1522 C. The SWPPP must also comply with the requirements and general information set  
1523 forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the  
1524 general permit.

1525  
1526 D. The SWPPP shall be amended by the operator whenever there is a change in  
1527 design, construction, operation, or maintenance that has a significant effect on the  
1528 discharge of pollutants to state waters which is not addressed by the existing SWPPP.

1529  
1530 E. The SWPPP must be maintained by the operator at a central location onsite. If  
1531 an onsite location is unavailable, notice of the SWPPP's location must be posted near

1532 the main entrance at the construction site. Operators shall make the SWPPP available  
1533 for public review in accordance with Section II of the general permit, either electronically  
1534 or in hard copy.

1535

1536 **Sec. 1-9. Pollution prevention plan; content of plan.**

1537

1538 A. A Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed,  
1539 implemented, and updated as necessary and must detail the design, installation,  
1540 implementation, and maintenance of effective pollution prevention measures to  
1541 minimize the discharge of pollutants. At a minimum, such measures must be designed,  
1542 installed, implemented, and maintained to:

1543

1544 1. Minimize the discharge of pollutants from equipment and vehicle washing,  
1545 wheel wash water, and other wash waters. Wash waters must be treated in a  
1546 sediment basin or alternative control that provides equivalent or better  
1547 treatment prior to discharge;

1548

1549 2. Minimize the exposure of building materials, building products, construction  
1550 wastes, trash, landscape materials, fertilizers, pesticides, herbicides,  
1551 detergents, sanitary waste, and other materials present on the site to  
1552 precipitation and to stormwater; and

1553

1554 3. Minimize the discharge of pollutants from spills and leaks and implement  
1555 chemical spill and leak prevention and response procedures.

1556

1557 B. The pollution prevention plan shall include effective best management practices  
1558 to prohibit the following discharges:

1559

1560 1. Wastewater from washout of concrete, unless managed by an appropriate  
1561 control;

1562

1563 2. Wastewater from washout and cleanout of stucco, paint, form release oils,  
1564 curing compounds, and other construction materials;

1565

1566 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and  
1567 maintenance; and

1568

1569 4. Soaps or solvents used in vehicle and equipment washing.

1570

1571 C. Discharges from dewatering activities, including discharges from dewatering of  
1572 trenches and excavations, are prohibited unless managed by appropriate controls.

1573

1574 **Sec. 1-10. Applicability of technical criteria for regulated land disturbing**  
1575 **activities.**

1576

1577 Except as grandfathered in accordance with the provisions of Section 1-20,  
1578 Sections 1-10 through 1-19 establish the minimum technical criteria for regulated land-  
1579 disturbing activities that shall be employed to protect the quality and quantity of state

1580 water from the potential harm of unmanaged stormwater runoff resulting from land-  
1581 disturbing activities.

1582

1583 **Sec. 1-11. Water quality design criteria requirements.**

1584

1585 A. In order to protect the quality of state waters and to control the discharge of  
1586 stormwater pollutants from regulated activities, the following minimum design criteria  
1587 and statewide standards for stormwater management shall be applied to the site.

1588

1589 1. New development. The total phosphorus load of new development projects  
1590 shall not exceed 0.41 pounds per acre per year, as calculated pursuant to  
1591 Section 1-12.

1592

1593 2. Development on prior developed lands.

1594

1595 a. For land-disturbing activities disturbing greater than or equal to one  
1596 acre that results in no net increase in impervious cover from the  
1597 predevelopment condition, the total phosphorus load shall be reduced  
1598 at least 20% below the predevelopment total phosphorus load.

1599 b. For regulated land-disturbing activities disturbing less than one acre  
1600 that result in no net increase in impervious cover from the  
1601 predevelopment condition, the total phosphorus load shall be reduced  
1602 at least 10% below the predevelopment total phosphorus load.

1603 c. For land-disturbing activities that result in a net increase in impervious  
1604 cover over the predevelopment condition, the design criteria for new  
1605 development shall be applied to the increased impervious area.  
1606 Depending on the area of disturbance, the criteria of subdivisions a or  
1607 b above, shall be applied to the remainder of the site.

1608 d. In lieu of subdivision c, the total phosphorus load of a linear  
1609 development project occurring on prior developed lands shall be  
1610 reduced 20% below the predevelopment total phosphorus load.

1611 e. The total phosphorus load shall not be required to be reduced to below  
1612 the applicable standard for new development unless a more stringent  
1613 standard has been established by the City.

1614

1615 B. Compliance with subsection A of this section shall be determined in accordance  
1616 with Section 1-12.

1617

1618 **Sec. 1-12. Water quality compliance.**

1619

1620 A. Compliance with the water quality design criteria set out in Sections A1 and A2 of  
1621 Section 1-11 shall be determined by utilizing the Virginia Runoff Reduction Method or  
1622 another equivalent methodology that is approved by the State Water Control Board.

1623

1624 B. The BMPs listed in 9VAC25-870-65.B are approved for use as necessary to  
1625 effectively reduce the phosphorus load and runoff volume in accordance with the  
1626 Virginia Runoff Reduction Method. Other approved BMPs found on the Virginia  
1627 Stormwater BMP Clearinghouse Website may also be utilized. Design specifications

1628 and the pollutant removal efficiencies for all approved BMPs are found on the Virginia  
1629 Stormwater BMP Clearinghouse Website.

1630  
1631 C. However, where a site drains to more than one HUC, the pollutant load reduction  
1632 requirements shall be applied independently within each HUC unless reductions are  
1633 achieved in accordance with a comprehensive watershed stormwater management plan  
1634 in accordance with Section 1-19.

1635  
1636 D. Offsite alternatives where allowed in accordance with Section 1-14 may be  
1637 utilized to meet the design criteria of subsection A of Section 1-11.

1638  
1639 **Sec. 1-13. Water quantity.**

1640  
1641 A. Channel protection and flood protection shall be addressed in accordance with  
1642 the minimum standards set out in this section.

1643  
1644 B. Channel protection. Concentrated stormwater flow shall be released into a  
1645 stormwater conveyance system and shall meet the criteria in subdivision 1, 2, or 3 of  
1646 this subsection, where applicable, from the point of discharge to a point to the limits of  
1647 analysis in subdivision 4 of this subsection.

1648  
1649 1. Manmade stormwater conveyance systems. When stormwater from a  
1650 development is discharged to a manmade stormwater conveyance system,  
1651 following the land-disturbing activity, either:

- 1652  
1653 a. The manmade stormwater conveyance system shall convey the  
1654 postdevelopment peak flow rate from the two-year 24-hour storm event  
1655 without causing erosion of the system. Detention of stormwater or  
1656 downstream improvements may be incorporated into the approved  
1657 land-disturbing activity to meet this criterion, at the discretion of the  
1658 VSMP authority; or  
1659 b. The peak discharge requirements for concentrated stormwater flow to  
1660 natural stormwater conveyance systems in subdivision 3 of this  
1661 subsection shall be met.

1662  
1663 2. Restored stormwater conveyance systems. When stormwater from a  
1664 development is discharged to a restored stormwater conveyance system that  
1665 has been restored using natural design concepts, following the land-  
1666 disturbing activity, either:

- 1667  
1668 a. The development shall be consistent, in combination with other  
1669 stormwater runoff, with the design parameters of the restored  
1670 stormwater conveyance system that is functioning in accordance with  
1671 the design objectives; or  
1672 b. The peak discharge requirements for concentrated stormwater flow to  
1673 natural stormwater conveyance systems in subdivision 3 of this  
1674 subsection shall be met.

1676 3. Natural stormwater conveyance systems. When stormwater from a  
1677 development is discharged to a natural stormwater conveyance system, the  
1678 maximum peak flow rate from the one-year 24-hour storm following the land-  
1679 disturbing activity shall be calculated either:  
1680

1681 a. In accordance with the following methodology:

1682 
$$Q_{\text{Developed}} \leq \text{I.F.} \cdot (Q_{\text{Pre-Developed}} \cdot RV_{\text{Pre-Developed}}) / RV_{\text{Developed}}$$

1683 Under no condition shall  $Q_{\text{Developed}}$  be greater than  $Q_{\text{Pre-Developed}}$  nor  
1684 shall  $Q_{\text{Developed}}$  be required to be less than that calculated in the  
1685 equation  $(Q_{\text{Forest}} \cdot RV_{\text{Forest}}) / RV_{\text{Developed}}$ ; where

1686 I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites  $\leq$   
1687 1 acre.

1688  $Q_{\text{Developed}}$  = The allowable peak flow rate of runoff from the developed  
1689 site.

1690  $RV_{\text{Developed}}$  = The volume of runoff from the site in the developed  
1691 condition.

1692  $Q_{\text{Pre-Developed}}$  = The peak flow rate of runoff from the site in the pre-  
1693 developed condition.

1694  $RV_{\text{Pre-Developed}}$  = The volume of runoff from the site in pre-developed  
1695 condition.

1696  $Q_{\text{Forest}}$  = The peak flow rate of runoff from the site in a forested  
1697 condition.

1698  $RV_{\text{Forest}}$  = the volume of runoff from the site in a forested condition; or

1699 b. In accordance with another methodology that is demonstrated by the  
1700 City to achieve equivalent results and is approved by the State Water  
1701 Control Board.  
1702

1703 4. Limits of analysis. Unless subdivision 3 of this subsection is utilized to  
1704 show compliance with the channel protection criteria, stormwater conveyance  
1705 systems shall be analyzed for compliance with channel protection criteria to a  
1706 point where either:  
1707

1708 a. Based on land area, the site's contributing drainage area is less than  
1709 or equal to 1.0% of the total watershed area; or

1710 b. Based on peak flow rate, the site's peak flow rate from the one-year  
1711 24-hour storm is less than or equal to 1.0% of the existing peak flow  
1712 rate from the one-year 24-hour storm prior to the implementation of  
1713 any stormwater quantity control measures.  
1714

1715 C. Flood protection. Concentrated stormwater flow shall be released into a  
1716 stormwater conveyance system and shall meet one of the following criteria as  
1717 demonstrated by use of acceptable hydrologic and hydraulic methodologies:  
1718

1719 1. Concentrated stormwater flow to stormwater conveyance systems that  
1720 currently do not experience localized flooding during the 10-year 24-hour  
1721 storm event: The point of discharge releases stormwater into a stormwater  
1722 conveyance system that, following the land-disturbing activity, confines the  
1723 postdevelopment peak flow rate from the 10-year 24-hour storm event within

1724 the stormwater conveyance system. Detention of stormwater or downstream  
1725 improvements may be incorporated into the approved land-disturbing activity  
1726 to meet this criterion, at the discretion of the VSMP authority.

1727  
1728 2. Concentrated stormwater flow to stormwater conveyance systems that  
1729 currently experience localized flooding during the 10-year 24-hour storm  
1730 event. The point of discharge either:

- 1731
- 1732 a. Confines the postdevelopment peak flow rate from the 10-year 24-hour  
1733 storm event within the stormwater conveyance system to avoid the  
1734 localized flooding. Detention of stormwater or downstream  
1735 improvements may be incorporated into the approved land-disturbing  
1736 activity to meet this criterion, at the discretion of the VSMP authority; or
  - 1737 b. Releases a postdevelopment peak flow rate for the 10-year 24-hour  
1738 storm event that is less than the predevelopment peak flow rate from  
1739 the 10-year 24-hour storm event. Downstream stormwater conveyance  
1740 systems do not require any additional analysis to show compliance  
1741 with flood protection criteria if this option is utilized.

1742

1743 3. Limits of analysis. Unless subdivision 2 b of this subsection is utilized to  
1744 comply with the flood protection criteria, stormwater conveyance systems  
1745 shall be analyzed from compliance with flood protection criteria to a point  
1746 where:

- 1747
- 1748 a. The site's contributing drainage area is less than or equal to 1.0% of  
1749 the total watershed area draining to a point of analysis in the  
1750 downstream stormwater conveyance system;
  - 1751 b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-  
1752 hour storm event is less than or equal to 1.0% of the existing peak flow  
1753 rate from the 10-year 24-hour storm event prior to the implementation  
1754 of any stormwater quantity control measures; or
  - 1755 c. The stormwater conveyance system enters a mapped floodplain or  
1756 other flood-prone area, adopted by ordinance, of any locality.

1757

1758 D. Increased volumes of sheet flow resulting from pervious or disconnected  
1759 impervious areas, or from physical spreading of concentrated flow through level  
1760 spreaders, must be identified and evaluated for potential impacts on down-gradient  
1761 properties or resources. Increased volumes of sheet flow that will cause or contribute to  
1762 erosion, sedimentation, or flooding of down gradient properties or resources shall be  
1763 diverted to a stormwater management facility or a stormwater conveyance system that  
1764 conveys the runoff without causing down-gradient erosion, sedimentation, or flooding. If  
1765 all runoff from the site is sheet flow and the conditions of this subsection are met, no  
1766 further water quantity controls are required.

1767

1768 E. For purposes of computing predevelopment runoff, all pervious lands on the site  
1769 shall be assumed to be in good hydrologic condition in accordance with the U.S.  
1770 Department of Agriculture's Natural Resources Conservation Service (NRCS)  
1771 standards, regardless of conditions existing at the time of computation. Predevelopment

1772 runoff calculations utilizing other hydrologic conditions may be utilized provided that it is  
1773 demonstrated to and approved by the VSMP authority that actual site conditions warrant  
1774 such considerations.

1775  
1776 F. Predevelopment and postdevelopment runoff characteristics and site hydrology  
1777 shall be verified by site inspections, topographic surveys, available soil mapping or  
1778 studies, and calculations consistent with good engineering practices. Guidance provided  
1779 in the Virginia Stormwater Management Handbook and on the Virginia Stormwater BMP  
1780 Clearinghouse website shall be considered appropriate practices.

1781  
1782 **Sec. 1-14. Offsite compliance options.**

1783  
1784 A. Offsite compliance options that the City may allow an operator to use to meet  
1785 required phosphorus nutrient reductions include the following:

- 1786  
1787 1. Offsite controls utilized in accordance with a comprehensive stormwater  
1788 management plan adopted pursuant to Section 1-19 for the local watershed  
1789 within which a project is located;  
1790  
1791 2. A locality pollutant loading pro rata share program established pursuant to §  
1792 15.2-2243 of the Code of Virginia or similar local funding mechanism;  
1793  
1794 3. The nonpoint nutrient offset program established pursuant to § 62.1-44.15:35  
1795 of the Code of Virginia;  
1796  
1797 4. Any other offsite options approved by an applicable state agency or state  
1798 board; and  
1799  
1800 5. When an operator has additional properties available within the same HUC or  
1801 upstream HUC that the land-disturbing activity directly discharges to or within  
1802 the same watershed as determined by the City, offsite stormwater  
1803 management facilities on those properties may be utilized to meet the  
1804 required phosphorus nutrient reductions from the land-disturbing activity.

1805  
1806 B. Notwithstanding subsection A of this section, and pursuant to § 62.1-44.15:35 of  
1807 the Code of Virginia, operators shall be allowed to utilize offsite options identified in  
1808 subsection A of this section under any of the following conditions:

- 1809  
1810 1. Less than five acres of land will be disturbed;  
1811  
1812 2. The postconstruction phosphorus control requirement is less than 10 pounds  
1813 per year; or  
1814  
1815 3. At least 75% of the required phosphorus nutrient reductions are achieved on-  
1816 site. If at least 75% of the required phosphorus nutrient reductions cannot be  
1817 met on-site, and the operator can demonstrate to the satisfaction of the City  
1818 that (i) alternative site designs have been considered that may accommodate  
1819 on-site best management practices, (ii) on-site best management practices



1820 have been considered in alternative site designs to the maximum extent  
1821 practicable, (iii) appropriate on-site best management practices will be  
1822 implemented, and (iv) full compliance with postdevelopment nonpoint nutrient  
1823 runoff compliance requirements cannot practicably be met on-site, then the  
1824 required phosphorus nutrient reductions may be achieved, in whole or in part,  
1825 through the use of off-site compliance options.

1826  
1827 C. Notwithstanding subsections A and B of this section, offsite options shall not be  
1828 allowed:

1829  
1830 1. Unless the selected offsite option achieves the necessary nutrient reductions  
1831 prior to the commencement of the operator's land-disturbing activity. In the  
1832 case of a phased project, the operator may acquire or achieve offsite nutrient  
1833 reductions prior to the commencement of each phase of land-disturbing  
1834 activity in an amount sufficient for each phase.

1835  
1836 2. In contravention of local water quality-based limitations at the point of  
1837 discharge that are (i) consistent with the determinations made pursuant to  
1838 subsection B of § 62.1-44.19:7 of the Code of Virginia, (ii) contained in a  
1839 municipal separate storm sewer system (MS4) program plan accepted by  
1840 DEQ, or (iii) as otherwise may be established or approved by the board.

1841  
1842 D. In order to meet the requirements of Section 1-13 described in subdivisions 1  
1843 and 2 of subsection A of this section may be utilized.

1844  
1845 E. In accordance with § 62.1-44.15:35F of the Code of Virginia, nutrient credits used  
1846 pursuant to subsection A shall be generated in the same or adjacent eight-digit  
1847 hydrologic unit code as defined by the United States Geological Survey as the permitted  
1848 site except as otherwise limited in subsection C. Nutrient credits outside the same or  
1849 adjacent eight-digit hydrologic unit code may only be used if it is determined by the  
1850 Director that no credits are available within the same or adjacent eight-digit hydrologic  
1851 unit code when the Director accepts the final site design. In such cases, and subject to  
1852 other limitations imposed in this section, credits available within the same tributary may  
1853 be used. In no case shall credits from another tributary be used.

1854  
1855 **Sec. 1-15. Design storms and hydrologic methods.**

1856  
1857 A. Unless otherwise specified, the prescribed design storms are the one-year, two-  
1858 year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency  
1859 data recommended by the U.S. National Oceanic and Atmospheric Administration  
1860 (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

1861  
1862 B. Unless otherwise specified, all hydrologic analyses shall be based on the existing  
1863 watershed characteristics and how the ultimate development condition of the subject  
1864 project will be addressed.

1865  
1866 C. The U.S. Department of Agriculture's Natural Resources Conservation Service  
1867 (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to

1868 TR-55 and TR-20; hydrologic and hydraulic methods developed by the U.S. Army Corps  
1869 of Engineers; or other standard hydrologic and hydraulic methods, shall be used to  
1870 conduct the analyses described in this part.

1871  
1872 D. For drainage areas of 200 acres or less, the City may allow for the use of the  
1873 Rational Method for evaluating peak discharges.

1874  
1875 E. For drainage areas of 200 acres or less, the city may allow for the use of the  
1876 Modified Rational Method for evaluating volumetric flows to stormwater conveyances.

1877  
1878 **Sec. 1-16. Stormwater harvesting.**

1879  
1880 In accordance with § 62.1-44.15:28 of the Code of Virginia, stormwater  
1881 harvesting is encouraged for the purposes of landscape irrigation systems, fire  
1882 protection systems, flushing water closets and urinals, and other water handling  
1883 systems to the extent such systems are consistent with federal, state and City  
1884 regulations.

1885  
1886 **Sec. 1-17. Linear development projects.**

1887  
1888 Linear development projects shall control postdevelopment stormwater runoff in  
1889 accordance with a site-specific stormwater management plan or a comprehensive  
1890 watershed stormwater management plan developed in accordance with these technical  
1891 criteria.

1892  
1893 **Sec. 1-18. Stormwater management impoundment structures or facilities.**

1894  
1895 Stormwater management wet ponds and extended detention ponds that are not  
1896 covered by the Impounding Structure Regulations (4VAC50-20) shall, at a minimum, be  
1897 engineered for structural integrity for the 100-year storm event.

1898  
1899 **Sec. 1-19. Comprehensive stormwater management plans.**

1900  
1901 The City may develop comprehensive stormwater management plans to be  
1902 approved by DEQ that meet the water quality objectives, quantity objectives, or both of  
1903 this chapter:

1904  
1905 1. Such plans shall ensure that offsite reductions equal to or greater than those  
1906 that would be required on each contributing site are achieved within the same  
1907 HUC or within another locally designated watershed. Pertaining to water  
1908 quantity objectives, the plan may provide for implementation of a combination  
1909 of channel improvement, stormwater detention, or other measures that are  
1910 satisfactory to the locality's VSMP authority to prevent downstream erosion  
1911 and flooding.

1912  
1913 2. If the land use assumptions upon which the plan was based change or if any  
1914 other amendments are deemed necessary by the locality's VSMP authority,

1915 such authority shall provide plan amendments to the department for review  
1916 and approval.

1917  
1918 3. During the plan's implementation, the locality's VSMP authority shall  
1919 document nutrient reductions accredited to the BMPs specified in the plan.

1920  
1921 4. State and federal agencies may develop comprehensive stormwater  
1922 management plans, and may participate in locality-developed comprehensive  
1923 stormwater management plans where practicable and permitted by the  
1924 locality's VSMP authority.

1925  
1926 **Sec. 1-20. Grandfather provisions.**

1927  
1928 A. Any land-disturbing activity shall be considered grandfathered by the  
1929 Administrator and shall not be subject to the technical criteria of Sections 1-10 through  
1930 1-19 of this Ordinance, but shall be subject to the technical criteria of Sections 1-22  
1931 through 1-27 of this Ordinance provided:

1932  
1933 1. A proffered or conditional zoning plan, zoning with a plan of development,  
1934 preliminary or final subdivision plat or a preliminary or final site plan or any  
1935 document determined by the City to be equivalent thereto was (i) approved by  
1936 the City prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-  
1937 10, (iii) will comply with Sections 1-22 through 1-27 of this Ordinance, and (iv)  
1938 has not been subsequently modified or amended in a manner resulting in an  
1939 increase in the amount of phosphorus leaving each point of discharge, and  
1940 such that there is no increase in the volume or rate of runoff; and

1941  
1942 2. A state permit has not been issued prior to July 1, 2014; and

1943  
1944 3. Land disturbance did not commence prior to July 1, 2014.

1945  
1946 B. Local, state and federal projects shall be considered grandfathered and shall be  
1947 subject to the technical criteria of Sections 1-22 through 1-27 of this Ordinance  
1948 provided:

1949  
1950 1. There has been an obligation of local, state or federal funding, in whole or in  
1951 part, prior to July 1, 2012, or the department has approved a stormwater  
1952 management plan prior to July 1, 2012; and

1953  
1954 2. A state permit has not been issued prior to July 1, 2014; and

1955  
1956 3. Land disturbance did not commence prior to July 1, 2014.

1957  
1958 C. Land-disturbing activities grandfathered under this Subsection shall remain  
1959 subject to the criteria of Section 1-22 through 1-27 for one additional state permit cycle.  
1960 After such time, portions of the project not under construction shall become subject to  
1961 the technical requirements of Sections 1-10 through 1-19 and any new technical criteria  
1962 adopted by the board.

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D. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall become subject to the technical requirements of Sections 1-22 through 1-27 of this Ordinance.

E. Land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014 shall be conducted in accordance with the technical criteria found in Sections 1-22 through 1-27 of this Ordinance. Such projects shall remain subject to these technical criteria for two additional state permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

F. Land-disturbing activities that obtain an initial state permit on or after July 1, 2014 shall be conducted in accordance with the technical criteria found in Sections 1-10 through 1-19 of this Ordinance, except as provided for above. Such projects shall remain subject to these technical criteria for two additional state permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

**Sec. 1-21. Variances.**

A. The Administrator may grant variances to the technical requirements of Sections 1-10 through 1-19 and 1-22 through 1-27 , provided that:

1. the variance is the minimum necessary to afford relief;
2. reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved;
3. granting the variance will not confer any special privileges that are denied in other similar circumstances;
4. variance requests are not based upon conditions or circumstances that are self-imposed or self-created;
5. the variance will not substantially increase the flow rate of stormwater runoff;
6. the variance will not have an adverse impact on a wetland, channel, water body or upstream or downstream of a receiving body of water;
7. the variance will not contribute to the degradation of water quality; and
8. will not be of substantial detriment to adjacent property or adversely affect the character of adjoining neighborhoods.
9. Economic hardship alone is not sufficient reason to grant a variance from the requirements of this Ordinance.
10. No variance to the requirement that the land-disturbing activity obtain required VSMP authority permit shall be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure not duly approved by the Department of Environmental Quality.

2007 11. No variance to requirements for phosphorus reductions shall be allowed  
2008 unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have  
2009 been considered and found not available.  
2010

2011 B. The Administrator may grant variances to the City requirements of this  
2012 Ordinance, provided that:

2013 1. The variance does not involve any requirements imposed under the State  
2014 Code or Regulations; and

2015 2. Reasonable and appropriate conditions may be imposed so that the intent of  
2016 the Act, the Regulations and this Ordinance are preserved.  
2017

2018 C. Nothing in this Section shall preclude an operator from constructing to a more  
2019 stringent standard at their discretion.  
2020

2021 **Sec. 1-22. Applicability.**  
2022

2023 The following sections 1-22 through 1-27 specify the technical criteria for  
2024 regulated land-disturbing activities that are not subject to the technical criteria of  
2025 sections 1-10 through 1-19.  
2026

2027 **Sec. 1-23. General.**  
2028

2029 A. Determination of flooding and channel erosion impacts to receiving streams due  
2030 to land-disturbing activities shall be measured at each point of discharge from the land  
2031 disturbance and such determination shall include any runoff from the balance of the  
2032 watershed that also contributes to that point of discharge.  
2033

2034 B. The specified design storms shall be defined as either a 24-hour storm using the  
2035 rainfall distribution recommended by the U.S. Department of Agriculture's Natural  
2036 Resources Conservation Service (NRCS) when using NRCS methods or as the storm of  
2037 critical duration that produces the greatest required storage volume at the site when  
2038 using a design method such as the Modified Rational Method.  
2039

2040 C. For purposes of computing runoff, all pervious lands in the site shall be assumed  
2041 prior to development to be in good condition (if the lands are pastures, lawns, or parks),  
2042 with good cover (if the lands are woods), or with conservation treatment (if the lands are  
2043 cultivated); regardless of conditions existing at the time of computation.  
2044

2045 D. Construction of stormwater management facilities or modifications to channels  
2046 shall comply with all applicable laws, regulations, and ordinances. Evidence of approval  
2047 of all necessary permits shall be presented.  
2048

2049 E. Impounding structures that are not covered by the Impounding Structure  
2050 Regulations (4VAC50-20) shall be engineered for structural integrity during the 100-year  
2051 storm event.  
2052

2053 F. Predevelopment and postdevelopment runoff rates shall be verified by  
2054 calculations that are consistent with good engineering practices.

2055  
2056 G. Outflows from a stormwater management facility or stormwater conveyance  
2057 system shall be discharged to an adequate channel.

2058  
2059 H. Proposed residential, commercial or industrial subdivisions shall apply these  
2060 stormwater management criteria to the land disturbance as a whole. Individual lots in  
2061 new subdivisions shall not be considered separate land-disturbing activities, but rather  
2062 the entire subdivision shall be considered a single land development project.  
2063 Hydrologic parameters shall reflect the ultimate land disturbance shall be used in all  
2064 engineering calculations.

2065  
2066 I. All stormwater management facilities shall have an inspection and maintenance  
2067 plan that identifies the owner and the responsible party for carrying out the inspection  
2068 and maintenance plan.

2069  
2070 J. Construction of stormwater management impoundment structures within a  
2071 Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall  
2072 be avoided to the extent possible. When this is unavoidable, all stormwater  
2073 management facility construction shall be in compliance with all applicable regulations  
2074 under the National Flood Insurance Program, 44CFR Part 59.

2075  
2076 K. Natural channel characteristics shall be preserved to the maximum extent  
2077 practicable.

2078  
2079 L. Land-disturbing activities shall comply with the Virginia Erosion and Sediment  
2080 Control Law and attendant regulations.

2081  
2082 M. Flood control and stormwater management facilities that drain or treat water from  
2083 multiple development projects or from a significant portion of a watershed may be  
2084 allowed in resource protection areas defined in the Chesapeake Bay Preservation Act  
2085 provided such facilities are allowed and constructed in accordance with the Stormwater  
2086 Management Act and this chapter, and provided that (i) the local government has  
2087 conclusively established that the location of the facility within the resource protection  
2088 area is the optimum location; (ii) the size of the facility is the minimum necessary to  
2089 provide necessary flood control, stormwater treatment, or both; (iii) the facility must be  
2090 consistent with a comprehensive stormwater management plan developed and  
2091 approved in accordance with Section 1-19 or with a VSMP that has been approved prior  
2092 to July 1, 2012, by the board, the Chesapeake Bay Local Assistance Board prior to its  
2093 abolishment on July 1, 2012, or the Board of Conservation and Recreation; (iv) all  
2094 applicable permits for construction in state or federal waters must be obtained from the  
2095 appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the  
2096 Virginia Department of Environmental Quality, and the Virginia Marine Resources  
2097 Commission; (v) approval must be received from the local government prior to  
2098 construction; and (vi) routine maintenance is allowed to be performed on such facilities  
2099 to assure that they continue to function as designed. It is not the intent of this  
2100 subdivision to allow a best management practice that collects and treats runoff from

2101 only an individual lot or some portion of the lot to be located within a resource protection  
2102 area.

2103

2104 **Sec. 1-24. Water quality.**

2105

2106 A. Compliance with the water criteria may be achieved by applying the  
2107 performance-based criteria or the technology-based criteria to either the site or a  
2108 planning area.

2109

2110 B. Performance-based criteria. For land-disturbing activities, the calculated  
2111 postdevelopment nonpoint source pollutant runoff load shall be compared to the  
2112 calculated predevelopment load based upon the average land cover condition or the  
2113 existing site condition. A BMP shall be located, designed, and maintained to achieve the  
2114 target pollutant removal efficiencies specified in Table 1 of this section to effectively  
2115 reduce the pollutant load to the required level based upon the following four applicable  
2116 land development situations for which the performance criteria apply:

2117

2118 1. Situation 1 consists of land-disturbing activities where the existing percent  
2119 impervious cover is less than or equal to the average land cover condition  
2120 and the proposed improvements will create a total percent impervious cover  
2121 that is less than the average land cover condition.

2122 Requirement: No reduction in the after disturbance pollutant discharge is  
2123 required.

2124

2125 2. Situation 2 consists of land-disturbing activities where the existing percent  
2126 impervious cover is less than or equal to the average land cover condition  
2127 and the proposed improvements will create a total percent impervious cover  
2128 that is greater than the average land cover condition.

2129 Requirement: The pollutant discharge after disturbance shall not exceed the  
2130 existing pollutant discharge based on the average land cover condition.

2131

2132 3. Situation 3 consists of land-disturbing activities where the existing percent  
2133 impervious cover is greater than the average land cover condition.

2134 Requirement: The pollutant discharge after disturbance shall not exceed (i)  
2135 the pollutant discharge based on existing conditions less 10% or (ii) the  
2136 pollutant discharge based on the average land cover condition, whichever is  
2137 greater.

2138

2139 4. Situation 4 consists of land-disturbing activities where the existing percent  
2140 impervious cover is served by an existing stormwater management BMP that  
2141 addresses water quality.

2142 Requirement: The pollutant discharge after disturbance shall not exceed the  
2143 existing pollutant discharge based on the existing percent impervious cover  
2144 while served by the existing BMP. The existing BMP shall be shown to have  
2145 been designed and constructed in accordance with proper design standards  
2146 and specifications, and to be in proper functioning condition.

2147

2148 C. Technology-based criteria. For land-disturbing activities, the postdeveloped  
 2149 stormwater runoff from the impervious cover shall be treated by an appropriate  
 2150 BMP as required by the postdeveloped condition percent impervious cover as  
 2151 specified in Table 1 of this section. The selected BMP shall be located, designed,  
 2152 and maintained to perform at the target pollutant removal efficiency specified in  
 2153 Table 1 or those found in Section 1-12. Design standards and specifications for  
 2154 the BMPs in Table 1 that meet the required target pollutant removal efficiency are  
 2155 available in the 1999 Virginia Stormwater Management Handbook. Other  
 2156 approved BMPs available on the Virginia Stormwater BMP Clearinghouse  
 2157 Website may also be utilized.

2158 Table 1\*

<u>Water Quality BMP</u>	<u>Target Phosphorus Removal Efficiency</u>	<u>Percent Impervious Cover</u>
<u>Vegetated filter strip</u>	<u>10%</u>	<u>16-21%</u>
<u>Grassed Swale</u>	<u>15%</u>	
<u>Constructed wetlands</u>	<u>20%</u>	<u>22-37%</u>
<u>Extended detention (2 x WQ Vol)</u>	<u>35%</u>	
<u>Retention basin I (3 x WQ Vol)</u>	<u>40%</u>	
<u>Bioretention basin</u>	<u>50%</u>	<u>38-66%</u>
<u>Bioretention filter</u>	<u>50%</u>	
<u>Extended detention-enhanced</u>	<u>50%</u>	
<u>Retention basin II (4 x WQ Vol)</u>	<u>50%</u>	
<u>Infiltration (1 x WQ Vol)</u>	<u>50%</u>	
<u>Sand filter</u>	<u>65%</u>	<u>67-100%</u>
<u>Infiltration (2 x WQ Vol)</u>	<u>65%</u>	
<u>Retention basin III (4 x WQ Vol with aquatic bench)</u>	<u>65%</u>	
<u>*Innovative or alternate BMPs not included in this table may be allowed at the discretion of local program administrator or the department.</u>		
<u>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.</u>		

2161  
2162

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



2163  
2164 A. Properties and receiving waterways downstream of any land-disturbing activity  
2165 shall be protected from erosion and damage due to changes in runoff rate of flow and  
2166 hydrologic characteristics, including, but not limited to, changes in volume, velocity,  
2167 frequency, duration, and peak flow rate of stormwater runoff in accordance with the  
2168 minimum design standards set out in this section.

2169  
2170 B. The VSMP authority shall require compliance with subdivision 19 of 9VAC25-  
2171 840-40 of the Erosion and Sediment Control Regulations, promulgated pursuant to the  
2172 Erosion and Sediment Control Law.

2173  
2174 C. The VSMP authority may determine that some watersheds or receiving stream  
2175 systems require enhanced criteria in order to address the increased frequency of  
2176 bankfull flow conditions (top of bank) brought on by land-disturbing activities or where  
2177 more stringent requirements are necessary to address total maximum daily load  
2178 requirements or to protect exceptional waters. Therefore, in lieu of the reduction of the  
2179 two-year postdeveloped peak rate of runoff as required in subsection B of this section,  
2180 the land development project being considered shall provide 24-hour extended  
2181 detention of the runoff generated by the one-year, 24-hour duration storm.

2182  
2183 D. In addition to subsection B and C of this section, the VSMP authority by local  
2184 ordinance may in accordance with § 62.1-44.15:33 of the Code of Virginia, or the board  
2185 by state regulation may, adopt more stringent channel analysis criteria or design  
2186 standards to ensure that the natural level of channel erosion, to the maximum extent  
2187 practicable, will not increase due to the land-disturbing activities. These criteria may  
2188 include, but are not limited to, the following:

- 2189  
2190 1. Criteria and procedures for channel analysis and classification.  
2191  
2192 2. Procedures for channel data collection.  
2193  
2194 3. Criteria and procedures for the determination of the magnitude and frequency  
2195 of natural sediment transport loads.  
2196  
2197 4. Criteria for the selection of proposed natural or manmade channel linings.  
2198

2199 **Sec. 1-26. Flooding.**

2200  
2201 A. Downstream properties and waterways shall be protected from damages from  
2202 localized flooding due to changes in runoff rate of flow and hydrologic characteristics,  
2203 including, but not limited to, changes in volume, velocity, frequency, duration, and peak  
2204 flow rate of stormwater runoff in accordance with the minimum design standards set out  
2205 in this section.

2206  
2207 B. The 10-year postdeveloped peak rate of runoff from the development site shall  
2208 not exceed the 10-year predeveloped peak rate of runoff.  
2209

2210 C. In lieu of subsection B of this section, the City may, by ordinance in accordance  
2211 with § 62.1-44.15:33 of the Code of Virginia, adopt alternate design criteria based upon  
2212 geographic, land use, topographic, geologic factors, or other downstream conveyance  
2213 factors as appropriate.

2214  
2215 D. Linear development projects shall not be required to control postdeveloped  
2216 stormwater runoff for flooding, except in accordance with a watershed or regional  
2217 stormwater management plan.

2218  
2219 **Sec. 1-27. Regional (watershed-wide) stormwater management plans.**

2220  
2221 Water quality requirements and where allowed, water quantity requirements, may  
2222 be achieved in accordance with section 1-14 and 1-19.

2223  
2224 **Sec. 1-28. Long-term maintenance of permanent stormwater facilities.**

2225  
2226 A. The Administrator shall require the provision of long-term responsibility for and  
2227 maintenance of stormwater management facilities and other techniques specified to  
2228 manage the quality and quantity of runoff. Such requirements shall be set forth in a  
2229 Stormwater Management Facilities Maintenance Agreement recorded in the local land  
2230 records of the Virginia Beach Circuit Court, prior to issuance of a VSMP permit and  
2231 shall:

- 2232  
2233 1. Be submitted to the Administrator for review, approval and recordation prior to  
2234 the issuance of the VSMP permit;  
2235  
2236 2. Be stated to run with the land;  
2237  
2238 3. Provide for all necessary access to the property for purposes of maintenance  
2239 and regulatory inspections;  
2240  
2241 4. Provide for inspections and maintenance and the submission of inspection  
2242 and maintenance reports to the Administrator;  
2243  
2244 5. Be enforceable by all appropriate governmental parties; and  
2245  
2246 6. Be approved for legal sufficiency by the City Attorney.

2247  
2248 B. At the discretion of the Administrator, such recorded instruments need not be  
2249 required for stormwater management facilities designed to treat stormwater runoff  
2250 primarily from an individual residential lot on which they are located, provided it is  
2251 demonstrated to the satisfaction of the Administrator that future maintenance of such  
2252 facilities will be addressed through an enforceable mechanism.

2253  
2254 C. If a recorded instrument is not required pursuant to the subsection above, the  
2255 Administrator shall develop a strategy for addressing maintenance of stormwater  
2256 management facilities designed to treat stormwater runoff primarily from an individual  
2257 residential lot on which they are located. Such a strategy may include periodic

2258 homeowner inspections, homeowner outreach and education, or other method targeted  
2259 at promoting the long-term maintenance of such facilities. Such facilities shall not be  
2260 subject to the requirement for an inspection to be conducted by the Administrator.

2261  
2262 **Sec. 1-29. Monitoring and inspections.**

2263  
2264 A. The Administrator shall inspect the land-disturbing activity during construction for:

- 2265  
2266 1. Compliance with the approved erosion and sediment control plan;  
2267  
2268 2. Compliance with the approved stormwater management plan;  
2269  
2270 3. Development, updating, and implementation of a pollution prevention plan;  
2271 and  
2272  
2273 4. Development and implementation of any additional control measures  
2274 necessary to address a TMDL.

2275  
2276 B. The Administrator may, at reasonable times and under reasonable  
2277 circumstances, enter any establishment or upon any property, public or private, for the  
2278 purpose of obtaining information or conducting surveys or investigations necessary in  
2279 the enforcement of the provisions of this Ordinance.

2280  
2281 C. In accordance with a performance bond with surety, cash escrow, letter of credit,  
2282 any combination thereof, or such other legal arrangement or instrument, the  
2283 Administrator may also enter any establishment or upon any property, public or private,  
2284 for the purpose of initiating or maintaining appropriate actions which are required by the  
2285 permit conditions associated with a land-disturbing activity when a permittee, after  
2286 proper notice, has failed to take acceptable action within the time specified.

2287  
2288 D. Pursuant to § 62.1-44.15:40 of the Code of Virginia, the Administrator may  
2289 require every VSMP authority permit applicant or permittee, or any such person subject  
2290 to VSMP authority permit requirements under this Ordinance, to furnish when requested  
2291 such application materials, plans, specifications, and other pertinent information as may  
2292 be necessary to determine the effect of his discharge on the quality of state waters, or  
2293 such other information as may be necessary to accomplish the purposes of this  
2294 Ordinance.

2295  
2296 E. Post-construction inspections of stormwater management facilities required by  
2297 the provisions of this Ordinance shall be conducted by the Administrator pursuant to the  
2298 City's adopted and State Board approved inspection program, and shall occur, at  
2299 minimum, at least once every five (5) years.

2300  
2301 **Sec. 1-30. Hearings.**

2302  
2303 A. Any permit applicant or permittee, or person subject to Ordinance requirements,  
2304 aggrieved by any action of the City taken in regard to the Ordinance without a formal  
2305 hearing, may demand in writing a formal hearing by the Stormwater Appeals Board,

2306 who is designated by the City Council as its appeals body, provided a petition  
2307 requesting such hearing is filed with the Administrator within 30 days after notice of  
2308 such action is given by the Administrator.

2309  
2310 B. The hearings held under this Section shall be conducted by the Stormwater  
2311 Appeals at any time and place authorized by the Stormwater Appeals Board.

2312  
2313 C. A verbatim record of the proceedings of such hearings shall be taken and filed  
2314 with the Stormwater Appeals Board. Depositions may be taken and read as in actions  
2315 at law.

2316  
2317 D. The Stormwater Appeals Board, shall have power to issue subpoenas and  
2318 subpoenas duces tecum, and at the request of any party shall issue such subpoenas.  
2319 The failure of a witness without legal excuse to appear or to testify or to produce  
2320 documents shall be acted upon by the Stormwater Appeals Board, whose action may  
2321 include the procurement of an order of enforcement from the circuit court. Witnesses  
2322 who are subpoenaed shall receive the same fees and reimbursement for mileage as in  
2323 civil actions.

2324  
2325 **Sec. 1-31. Appeals.**

2326  
2327 Within thirty days of the decision of the Stormwater Appeals Board a decision  
2328 entered pursuant to Section 1-30 may be appealed to the Circuit Court of the City of  
2329 Virginia Beach. The petition for appeal shall be filed in writing within thirty (30) days of  
2330 the date of the decision, determination or action, shall state clearly the grounds on  
2331 which the appeal is based.

2332  
2333 **Sec. 1-32. Enforcement.**

2334  
2335 A. If the Administrator determines that there is a failure to comply with the VSMP  
2336 authority permit conditions or determines there is an unauthorized discharge, notice  
2337 shall be served upon the permittee or person responsible for carrying out the permit  
2338 conditions by any of the following: verbal warnings and inspection reports, notices of  
2339 corrective action, consent special orders, and notices to comply. Written notices shall  
2340 be served by registered or certified mail to the address specified in the permit  
2341 application or by delivery at the site of the development activities to the agent or  
2342 employee supervising such activities.

2343  
2344 1. The notice shall specify the measures needed to comply with the permit  
2345 conditions and shall specify the time within which such measures shall be  
2346 completed. Upon failure to comply within the time specified, a stop work order  
2347 may be issued in accordance with subsection B. or the permit may be  
2348 revoked by the Administrator.

2349  
2350 2. If a permittee fails to comply with a notice issued in accordance with this  
2351 section within the time specified, the Administrator may issue an order  
2352 requiring the owner, permittee, person responsible for carrying out an  
2353 approved plan, or the person conducting the land-disturbing activities without

2354 an approved plan or required permit to cease all land-disturbing activities until  
2355 the violation of the permit has ceased, or an approved plan and required  
2356 permits are obtained, and specified corrective measures have been  
2357 completed.

2358  
2359 Such orders shall become effective upon service on the person by  
2360 certified mail, return receipt requested, sent to his address specified in the  
2361 land records of the locality, or by personal delivery by an agent of the  
2362 Administrator. However, if the Administrator finds that any such violation is  
2363 grossly affecting or presents an imminent and substantial danger of causing  
2364 harmful erosion of lands or sediment deposition in waters within the  
2365 watersheds of the Commonwealth or otherwise substantially impacting water  
2366 quality, it may issue, without advance notice or hearing, an emergency order  
2367 directing such person to cease immediately all land-disturbing activities on the  
2368 site and shall provide an opportunity for a hearing, after reasonable notice as  
2369 to the time and place thereof, to such person, to affirm, modify, amend, or  
2370 cancel such emergency order. If a person who has been issued an order is  
2371 not complying with the terms thereof, the Administrator may institute a  
2372 proceeding for an injunction, mandamus, or other appropriate remedy in  
2373 accordance with this section.

2374  
2375 B. In addition to any other remedy provided by this Ordinance, if the Administrator  
2376 or his designee determines that there is a failure to comply with the provisions of this  
2377 Ordinance, they may initiate such informal or formal administrative enforcement  
2378 procedures in a manner that is consistent with the provisions of this Ordinance, State  
2379 law and regulations.

2380  
2381 C. Any person violating or failing, neglecting, or refusing to obey any rule,  
2382 regulation, ordinance, order, approved standard or specification, or any permit condition  
2383 issued by the Administrator may be compelled in a proceeding instituted in the Circuit  
2384 Court of the City of Virginia Beach by the City to obey same and to comply therewith by  
2385 injunction, mandamus or other appropriate remedy.

2386  
2387 D. Any person who violates any provision of this Ordinance or who fails, neglects, or  
2388 refuses to comply with any order of the Administrator, shall be subject to a civil penalty,  
2389 ordered by the Circuit Court, not to exceed \$32,500 for each violation within the  
2390 discretion of the court. Each day of violation of each requirement shall constitute a  
2391 separate offense.

2392  
2393 1. Violations for which a penalty may be imposed under this Subsection shall  
2394 include but not be limited to the following:

- 2395 i. No state permit registration;
- 2396 ii. No SWPPP;
- 2397 iii. Incomplete SWPPP;
- 2398 iv. SWPPP not available for review;
- 2399 v. No approved erosion and sediment control plan;
- 2400 vi. Failure to install stormwater BMPs or erosion and sediment controls;

- 2401 vii. Stormwater BMPs or erosion and sediment controls improperly installed or  
 2402 maintained;  
 2403 viii. Operational deficiencies;  
 2404 ix. Failure to conduct required inspections;  
 2405 x. Incomplete, improper, or missed inspections; and  
 2406 xi. Discharges not in compliance with the requirements of Section 9VAC 25-  
 2407 870-1170 of the general permit.
- 2408
- 2409 2. The Administrator may institute proceedings for collection of the civil penalty  
 2410 and the action may be prosecuted in the appropriate court.
- 2411
- 2412 3. In imposing a civil penalty pursuant to this Subsection, the court may consider  
 2413 the degree of harm caused by the violation and also the economic benefit to  
 2414 the violator from noncompliance.
- 2415
- 2416 4. Any civil penalties assessed by a court as a result of a summons issued by  
 2417 the City shall be paid into a segregated account into the treasury of the City of  
 2418 Virginia Beach to be used for the purpose of minimizing, preventing,  
 2419 managing, or mitigating pollution of the waters of the locality and abating  
 2420 environmental pollution therein.
- 2421
- 2422 5. Notwithstanding any other civil or equitable remedy provided by this Section  
 2423 or by law, any person who willfully or negligently violates any provision of this  
 2424 Ordinance, any order of the Administrator, any condition of a permit, or any  
 2425 order of a court shall, be guilty of a misdemeanor punishable by confinement  
 2426 in jail for not more than 12 months or a fine of not less than \$2,500 or both.

2427

2428 **Sec. 1-33. Fees.**

2429

2430 A. Fees to cover costs associated with implementation of a VSMP related to land  
 2431 disturbing activities and issuance of general permit coverage and VSMP authority  
 2432 permits shall be imposed in accordance with the fees in Table 1. When a site or sites  
 2433 has been purchased for development within a previously permitted common plan of  
 2434 development or sale, the Applicant shall be subject to fees in accordance with the  
 2435 disturbed acreage of their site or sites according to Table 1.

2436

2437 **Table 1: Fees for stormwater plan review**

2438

<b><u>Fee type</u></b>	<b><u>City Stormwater Plan Review Fee</u></b>	<b><u>Fee paid directly to the Commonwealth</u></b>
<u>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)</u>	<u>Single family: \$205</u> <u>Duplex: \$205</u> <u>All others: \$600</u>	<u>\$0</u>

<u>General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)</u>	<u>Single family: \$205</u> <u>Duplex: \$205</u> <u>All others: \$600</u>	<u>\$81</u> <u>Single family: \$0</u>
<u>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)</u>	<u>Single family: \$205</u> <u>Duplex: \$205</u> <u>All others: \$1944</u>	<u>\$756</u> <u>Single family: \$0</u>
<u>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)</u>	<u>\$2,448</u>	<u>\$952</u>
<u>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)</u>	<u>\$3,240</u>	<u>\$1,260</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$4,392</u>	<u>\$1,708</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$6,912</u>	<u>\$2,688</u>

2439 \* If the project is completely administered by the Department such as may be the  
2440 case for a state or federal project or projects covered by individual permits, the  
2441 entire applicant fee shall be paid to the Commonwealth.  
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2443 B. Fees for the modification or transfer of registration statements from the general  
2444 permit issued by the State Board shall be imposed in accordance with Table 2. If the  
2445 general permit modifications result in changes to stormwater management plans that  
2446 require additional review by the City of Virginia Beach, such reviews shall be subject to  
2447 the fees set out in Table 2. The fee assessed shall be based on the total disturbed  
2448 acreage of the site. In addition to the general permit modification fee, modifications  
2449 resulting in an increase in total disturbed acreage shall pay the difference in the initial  
2450 permit fee paid and the permit fee that would have applied for the total disturbed  
2451 acreage in Table 1.  
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2453 **Table 2: Fees for the modification or transfer of registration statements for the**  
2454 **General Permit for Discharges of Stormwater from Construction Activities**  
2455

<b><u>Type of Permit</u></b>	<b><u>Fee Amount</u></b>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)</u>	<u>\$20</u>

<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 1 and less than 5 acres)</u>	<u>\$200</u>
<u>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)</u>	<u>\$250</u>
<u>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)</u>	<u>\$300</u>
<u>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)</u>	<u>\$450</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$700</u>

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

**Table 3: Permit Maintenance Fees**

<b><u>Type of Permit</u></b>	<b><u>Fee Amount</u></b>
<u>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)</u>	<u>\$50</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)</u>	<u>\$50</u>
<u>General / Stormwater Management – Small Construction Activity/Land Clearing (Sites with land disturbance equal to or greater than 1 acre and less than 5 acres)</u>	<u>\$400</u>
<u>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)</u>	<u>\$500</u>
<u>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)</u>	<u>\$650</u>
<u>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)</u>	<u>\$900</u>
<u>General / Stormwater Management – Large Construction Activity/Land Clearing (Sites with land disturbance acreage equal to or greater than 100 acres)</u>	<u>\$1,400</u>



to or greater 100 acres)

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

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

1. All persons seeking coverage under the general permit, if required.
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
3. Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater From Construction Activities.
4. Permit and permit coverage maintenance fees outlined under Section 1-33 C. may apply to each general permit holder.

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

1. Permittees who request minor modifications to general permits as defined in section 1-3 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.
2. Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

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

**Sec. 1-34. Performance bond.**

Prior to issuance of any permit, the Applicant may be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the City Attorney, to ensure that

2510 measures could be taken by the City at the Applicant's expense should he fail, after  
2511 proper notice, within the time specified to initiate or maintain appropriate actions which  
2512 may be required of him by the permit conditions as a result of his land disturbing  
2513 activity. If the City takes such action upon such failure by the Applicant, the City may  
2514 collect from the Applicant for the difference should the amount of the reasonable cost of  
2515 such action exceed the amount of the security held, if any. Within 60 days of the  
2516 completion of the requirements of the permit conditions, such bond, cash escrow, letter  
2517 of credit or other legal arrangement, or the unexpended or unobligated portion thereof,  
2518 shall be refunded to the Applicant or terminated.

2519  
2520 **Sec. 1-35. Public works specifications and standards.**

2521  
2522 The Public Works Specifications and Standards, including all future amendments  
2523 thereto is hereby adopted and incorporated by reference into this ordinance. However,  
2524 whenever the Public Works Specifications and Standards and the State regulations,  
2525 including the BMP Clearinghouse conflict, the State regulations and the BMP  
2526 Clearinghouse shall control, unless the more stringent provision of the Specification  
2527 and Standards was applicable prior to January 1, 2013.

2528  
2529 **Sec. 1-36. Severability.**

2530  
2531 Each separate provision of this ordinance is deemed independent of all other  
2532 provisions herein so that if any provision or provisions of this ordinance be declared  
2533 invalid, all other provisions thereof shall remain valid and enforceable.

2534  
2535 **Sec. 1-37. Effective date.**

2536  
2537 This ordinance shall become effective on July 1, 2014.

Adopted by the Council of the City of Virginia Beach, Virginia, on the 22<sup>nd</sup> day of April, 2014.