

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL**

ORDINANCE

SEPTEMBER 24, 2024

Ordinance- to amend Chapter 26 (ENVIRONMENT), Article III. (Erosion and Sediment Control), Sec. 26-49 (Erosion and sediment control program), Article VIII. (Stormwater Management), Sec. 26-322 (Definitions), Sec. 26-325 (Stormwater pollution prevention plan contents), Sec. 26-328 (Pollution prevention plan contents), and Sec. 26-329 (Technical criteria for regulated land disturbing activities), to replace repealed Virginia Administrative Code references with the newly adopted Virginia Administrative Code references.

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that:

1. The following sections or provisions of the Herndon Town Code (2000), as amended, are amended as follows:

CHAPTER 26 (ENVIRONMENT)

Article III. – Erosion and Sediment Control

Sec. 26-49. – Title.

- (a) Virginia Erosion and Sediment Control Regulations **Stormwater Management Regulation**, 9VAC25-840 are **9VAC25-875 is** incorporated by reference to serve as an integral part of the town erosion and sedimentation control program. In accordance with Code of Virginia, § 62.1-44.15:52:

Article VIII. – Stormwater Management

Sec. 26-322. - Definitions.

In addition to the definitions set forth in 9VAC25-870-10 **9VAC25-875-20** of the Virginia **Erosion and Stormwater Management Program Regulations Regulation** the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Off-site compliance option means an option allowed by ~~9VAC25-870-69~~ **9VAC25-875-610** where an owner may achieve the phosphorous reduction requirements of this article on a site other than where the regulated land disturbing activity occurs.

Regulations means the Virginia **Erosion and Stormwater Management Program (VSMP) Regulations Regulation**, ~~9VAC25-870~~ **9VAC25-875**, as amended.

Sec. 26-325. - Stormwater pollution prevention plan contents.

- (a) The SWPPP shall include the content specified by Section ~~9VAC25-870-54~~ **9VAC25-875-500** and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section **Part II** of the general permit.

Sec. 26-328. - Pollution prevention plan contents.

- (a) The pollution prevention plan shall include the content specified by ~~9VAC25-870-56~~ **9VAC25-875-520**, shall be developed, implemented, and updated as necessary, and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

Sec. 26-329. - Technical criteria for regulated land disturbing activities.

- (a) All land disturbing activities regulated pursuant to this article within the town shall comply with the technical criteria for land disturbing activities set forth in ~~9VAC25-870-62~~ **9VAC25-875-570** (applicability), ~~9VAC25-870-63~~ **9VAC25-875-580** (water quality design criteria requirements), ~~9VAC25-870-65~~ **9VAC25-875-590** (water quality compliance), ~~9VAC25-870-66~~ **9VAC25-875-600** (water quantity), ~~9VAC25-870-72~~ **9VAC25-875-620** (design storms and hydrologic methods), ~~9VAC25-870-74~~ **9VAC25-875-630** (stormwater harvesting), ~~9VAC25-870-76~~ **9VAC25-870-640** (linear development), ~~9VAC25-870-85~~ **9VAC25-875-650** (stormwater management impoundment structures or facilities), and ~~9VAC25-870-92~~ **9VAC25-875-660**

(comprehensive stormwater management plans). In addition, the following shall apply:

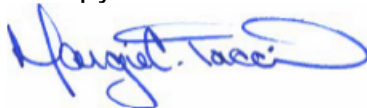
- (b) Notwithstanding subsection (a) above, a land-disturbing activity as defined in ~~9VAC25-870-48~~ **9VAC25-875-490** shall be grandfathered and meet the technical criteria in ~~9VAC25-870-93~~ **9VAC25-875-670** through ~~9VAC25-870-99~~ **9VAC25-875-730** except that the more stringent of technical criteria in ~~9VAC25-870-93~~ **9VAC25-875-670** through ~~9VAC25-870-99~~ **9VAC25-875-730** or the Herndon Town Code in effect prior to July 1, 2014 **at the time of the approved application filed in accordance with chapter 26 and 9VAC25-875-490** shall apply to the land-disturbing activity.
- (c) The public works director shall allow operators to utilize off-site compliance options in accordance with ~~9VAC25-870-69~~ **9VAC25-875-610** under the following conditions:

- (f) The public works director may grant exceptions to the technical requirements of subsection (a) provided that the exception is the minimum necessary to afford relief, reasonable and appropriate conditions are imposed so that the intent of this article are preserved, granting the exception will not confer any special privileges that are denied in other similar circumstances, and exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this article.

- (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to ~~9VAC25-870-69~~ **9VAC25-875-610** have been considered and found not available.

2. This ordinance shall be effective on and after the date of its adoption.

A Copy – Teste:



Margie C. Tacci
Acting Chief Deputy Town Clerk



MOTION: Dhakal
SECOND: del Aguila
RE: Ordinance 24-O-28
ACTION: Adopted

Votes

Ayes: Hedrick, del Aguila, Dhakal, LeBlanc, Scherff, Mayor Olem

Nays: None

Absent from Vote: Alam

Absent from Meeting: Alam