

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 17<sup>th</sup> day of June, 2014:

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<u>MEMBERS:</u>	<u>VOTE:</u>
Jack R. Cavalier, Chairman	Yes
Gary F. Snellings, Vice Chairman	Yes
Meg Bohmke	Yes
Paul V. Milde III	Yes
Laura A. Sellers	Yes
Cord A. Sterling	Yes
Robert "Bob" Thomas, Jr.	Yes

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On motion of Mr. Milde, seconded by Mr. Thomas, which carried by a vote of 7 to 0, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD  
COUNTY CODE CHAPTER 21.5, "STORMWATER MANAGEMENT"

WHEREAS, on September 3, 2011, the Virginia Soil and Water Conservation Board adopted revised stormwater management regulations; and

WHEREAS, in accordance with the revised state regulations, the County is required to revise its stormwater management program to implement the new regulations; and

WHEREAS, staff developed a revised Stormwater Management Ordinance for Board consideration; and

WHEREAS, the revised stormwater management ordinance must be submitted to the Virginia Department of Environmental Quality for its approval prior to June 15, 2014; and

WHEREAS, the Board conducted a public hearing and carefully considered the recommendations of staff and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that this ordinance secures and promotes the health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 17<sup>th</sup> day of June, 2014, that Stafford County Code Chapter 21.5, "Stormwater Management," be and it hereby is amended and reordained as follows, all other sections remaining unchanged:

**Chapter 21.5 - STORMWATER MANAGEMENT**  
**ARTICLE I. - IN GENERAL**

**Sec. 21.5-1 ————— INTRODUCTION.**

~~(a) *Purpose.*~~

~~(1) The board of supervisors desires to protect the safety, welfare, and property of Stafford County residents and businesses, and the quality of waters within Stafford County. The board recognizes that development tends to degrade these waters through increased flooding, stream channel erosion, and the transport and deposition of waterborne pollutants. This degradation is due, in part, to increased stormwater runoff as property is developed. The regulation of stormwater runoff from developments can control the negative impacts of generating increased flooding, erosion, and nonpoint source pollutant runoff. Hence, the board has determined that it is in the public interest to establish requirements, which regulate the discharge of stormwater runoff from developments.~~

~~(2) The purpose of this chapter is to establish minimum stormwater management requirements which: Protect the safety and welfare of Stafford County residents and businesses; reduce flood damage to property; minimize the impacts of increased stormwater runoff from new land development; maintain the adequacy of existing and proposed culverts, bridges, dams, and other structures; prevent, to the greatest extent feasible, an increase in nonpoint source pollution; maintain the integrity of stream channels for their biological functions and drainage; minimize the impact of development upon stream erosion; and preserve and protect water supply facilities from increased flood discharges, stream erosion, and nonpoint source pollution.~~

~~(b) *Statutory authority.* This chapter is enacted in accordance with the Stormwater Management Act (section 10.1-603 et seq., Code of Virginia, (1950), as amended).~~

~~(c) *Conflict of provisions.* In any case where the requirements of this chapter conflict with any other provisions of the Stafford County Code, whichever imposes the more stringent restrictions shall apply. Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure applicable federal, state, or local permits or approvals for regulated activities. When any referenced code citation is amended, the amended code shall be the applied standard.~~

- ~~(d) *Severability.* If any part of this chapter, or application thereof of this chapter to any person, property, or circumstance is held invalid by a court of the competent jurisdiction, the remainder of this chapter and its application to other persons, property or circumstances shall not be affected.~~
- ~~(e) *Administration.* This chapter shall be administered and enforced by the program administrator. The program administrator or designee, upon proper identification, shall have the right to enter upon any land for the purpose of making an inspection or acquiring information to determine whether or not the property conforms to the requirements of this chapter.~~
- ~~(f) *Applicability.*~~
- ~~(1) Except as provided for in subsection (f)(2), all land development projects within Stafford County shall comply with the requirements of this chapter.~~
- ~~(2) The following activities shall be exempt from this chapter:~~
- ~~a. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1, Code of Virginia.~~
  - ~~b. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops.~~
  - ~~c. Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge points.~~
  - ~~d. Single-family detached residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures, provided that all applicable requirements of section 28-62 (Chesapeake Bay preservation area overlay districts) of the Code are met.~~
  - ~~e. Structures considered ancillary to single-family detached and semidetached residences, duplexes, and townhouses, including, but not limited to, garages, decks, patios, and barns provided that all applicable requirements of section 28-62 (Chesapeake Bay preservation area overlay districts) of the Code are met.~~
  - ~~f. Land development projects that disturb less than two thousand five hundred (2,500) square feet of land.~~

~~(g) *Incorporation by reference.* For the purpose of this chapter, the following documents are incorporated by reference:~~

- ~~(1) Stafford County Stormwater Management Design Manual prepared by Stafford County, Virginia, dated March 2003 and subsequent modifications and updates thereof.~~
- ~~(2) Virginia Stormwater Management Handbook, Volumes I and II, prepared by the Virginia Department of Conservation and Recreation dated 1999 and subsequent modifications and updates thereof.~~
- ~~(3) Low Impact Development Design Strategies: An Integrated Design Approach, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-003 dated June 1999 and subsequent modifications and updates thereof.~~
- ~~(4) Low Impact Development Hydrologic Analysis, United States Environmental Protection Agency, Office of Water, EPA 841-B-00-002 dated June 1999 and subsequent modifications and updates thereof.~~

~~(h) *Definitions.*~~

~~*Adequate channel* means a natural or manmade channel which is capable of conveying runoff from a ten year storm without overtopping its banks and from a two year storm without eroding. A pipe or storm sewer system is adequate if runoff from a ten year storm is contained within the system.~~

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

~~*As-built plan* means a set of engineering or site drawings that adequately depict stormwater management facilities and stormwater drainage systems as they were actually constructed.~~

~~*Best management practice (BMP)* means a structural or nonstructural practice, which is designed to minimize the impacts of development on surface or groundwater systems.~~

~~*Channel* means a natural stream or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.~~

~~*Development* means a tract of land developed or to be developed as a unit under single ownership or unified control that is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units.~~

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

~~*Floodplain* means the floodplain districts defined in chapter 28 (zoning ordinance) of this Code as being areas subject to inundation by waters of the hundred-year flood.~~

~~*Hotspot* means an area where the land use or activities are considered to generate runoff with concentrations of pollutants in excess of those typically found in stormwater.~~

~~*Integrated management practice* means low impact development microscale and distributed management techniques used to maintain predevelopment site hydrology. Integrated management practices shall include bioretention facilities, dry wells, filter/buffer strips, grassed swales, rain barrels, cisterns, infiltration trenches and amended soils as specified in the low impact development design manuals.~~

~~*Land development or land development project* means a manmade change to the land surface that potentially changes its runoff characteristics.~~

~~*Linear development project* means a land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines and natural gas pipelines; (ii) construction of tracks, rights of way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.~~

~~*Low impact development* means a hydrologically functional site design with pollution prevention measures to reduce impacts and compensate for development impacts on hydrology and water quality.~~

~~*Low impact development design manuals* refer to the Low Impact Development Design Strategies: An Integrated Design Approach Manual and the Low Impact Development Hydrologic Analysis Manual as incorporated by reference in this chapter.~~

~~*Maintenance agreement* means a legally binding agreement between the landowner of a stormwater management structure and Stafford County outlining each party's responsibility towards the operation, maintenance and general upkeep of said structure.~~

~~*Maintenance plan* means a component of the stormwater management design plan describing the stormwater management structures at the land development project and identifying maintenance items that will be performed by the landowner to ensure proper functioning of said structures.~~

~~*Nonpoint source pollution* means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from urban land development and use.~~

~~*Nonstructural stormwater practice* means a stormwater runoff treatment technique which uses natural measures to reduce pollutant levels, does not require extensive construction efforts and/or promotes pollution reduction by eliminating the pollutant source.~~

~~*Off-site stormwater management facility* means a stormwater management facility located outside the subject property boundary described in the stormwater management design plan for the land development activity.~~

~~*On-site stormwater management facility* means a stormwater management facility located within the subject property boundary described in the stormwater management design plan for the land development activity.~~

~~*Overcompensation* means the extra water quantity or quality control provided at one site discharge point in order to allow another discharge point(s) to go uncontrolled.~~

~~*Person* means any firm, association, organization, partnership, trust, company, or corporation, as well as an individual.~~

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

~~*Predevelopment* refers to the land condition that exists at the time that plans for the land development are submitted to the locality. Where phased development or plan approval occurs (preliminary grading, roads, and utilities, etc.), the existing land use at the time the first item is submitted shall establish predevelopment conditions.~~

~~*Pretreatment* means the techniques employed in a stormwater management plan to provide storage or filtering to help trap course materials before they enter the stormwater BMP. Pretreatment is required on some BMPs to help avoid costly maintenance.~~

~~*Program administrator* means the county administrator or his designee.~~

~~*Redevelopment* means the process of developing land that is or has been previously developed.~~

~~*Regional stormwater management facility (regional facility)* means a facility or series of facilities designed to control stormwater runoff from a specific watershed and for one or more developments.~~

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

~~*Stormwater drainage* means the collection and conveyance of storm and other surface flows through the land development project in a manner to prevent flooding of structures and associated properties and erosion of channels. Stormwater drainage systems shall include stormwater conveyance channels, storm sewers and culverts.~~

~~*Stormwater management* means the collection, conveyance, storage, treatment, and disposal of stormwater runoff in a manner to prevent accelerated channel erosion, increased flood damage, and degradation of water quality.~~

~~*Stormwater management concept plan* means a generalized plan provided with the preliminary plan of subdivision or preliminary site development plan describing how stormwater runoff through and from a land development project will be conveyed and controlled.~~

~~*Stormwater management design manuals* refer to the Stafford County Stormwater Management Design Manual and the Virginia Stormwater Management Handbook as incorporated by reference in this chapter.~~

~~*Stormwater management design plan* means a set of drawings and supporting documents that comprises all of the information and specifications for the systems and structures that will be used to convey and control stormwater runoff in accordance with the requirements of this chapter.~~

~~*Stormwater management extended detention basin (extended detention basin)* means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure over a specified period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. Since an extended detention facility 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.~~

~~*Stormwater management filtering system* means a stormwater treatment practice that utilizes an artificial media [medium] to filter out pollutants. Filtering systems shall include bioretention facilities and sand filters, as specified in the Virginia Stormwater Management Design Manuals.~~

~~*Stormwater management infiltration facility* means a stormwater management facility that temporarily impounds runoff and discharges it via infiltration through the surrounding soil. Infiltration facilities shall include infiltration~~

basins, infiltration trenches, dry wells and porous pavement as specified in the stormwater management design manuals.

*Stormwater management open channel system* means a vegetated open channel designed to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

*Stormwater management retention basin (retention basin)* means a stormwater management facility that temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system, and also includes a permanent impoundment. Therefore, it is normally wet, even during nonrainfall periods.

*Stormwater management wetland* means an area intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

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

## ~~SEC. 21.5-2 STORMWATER MANAGEMENT TECHNICAL CRITERIA.~~

### ~~(a) General.~~

- ~~(1) Site designs shall minimize the generation of stormwater and maximize pervious areas for stormwater treatment. Structural and nonstructural infiltration BMPs shall be encouraged to provide stormwater quality and quantity control and groundwater recharge.~~
- ~~(2) Natural channel characteristics shall be preserved to the maximum extent practicable.~~
- ~~(3) Residential, commercial or industrial developments shall apply these stormwater management criteria to land development as a whole. Individual residential lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations. The design criteria, methodologies and construction specifications for all stormwater management facilities, and structural and nonstructural BMPs shall be those of the stormwater management design manuals. The design shall be certified by a professional licensed in Virginia to perform such work.~~

- ~~(4) Predevelopment and postdevelopment runoff rates shall be verified by calculations that are consistent with good engineering practices and methodologies found in the stormwater management design manuals.~~
- ~~(5) Outflows from a stormwater management facility shall be discharged to an adequate channel, and velocity dissipaters shall be placed at the outfall of all stormwater management facilities and along the length of any outfall channel as necessary to provide a nonerosive velocity of flow from the facility to a channel.~~
- ~~(6) Safety measures shall be incorporated into the design of all stormwater management facilities in accordance with the stormwater management design manuals.~~
- ~~(7) Stormwater management facilities shall be designed to minimize the propagation of insects, particularly mosquitoes, provided that design features proposed will not negatively impact the functions of the facility.~~
- ~~(8) Impounding structures that are not covered by the Virginia Impounding Structures Regulations (4VAC50-20-10, et seq.) shall be engineered for structural integrity during the 100-year storm event in accordance with the stormwater management design manuals.~~
- ~~(9) All stormwater management facilities shall have a maintenance plan and agreement, which identifies the owner and responsible party for carrying out the maintenance plan in accordance with section 21.5-5.~~
- ~~(10) Storm drainage easements shall be required on lots or parcels where the conveyance, storage or treatment of stormwater is proposed or can reasonably be expected to occur. These drainage easements shall be located in accordance with the provisions of section 22-152 (Lots for stormwater management facilities) of the Code and shall be computed and identified on the plat of record prior to recordation in accordance with the stormwater management design manuals.~~
- ~~(11) Notwithstanding any other provisions of this chapter or waivers or exemptions thereto, land development projects shall comply with chapter 11 (Erosion and Sediment Control) and section 28-62 (Chesapeake Bay preservation area overlay districts) of the Code.~~
- ~~(12) Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of all applicable federal and state permits required for construction of the facility shall be presented to the program administrator prior to issuance of a grading permit.~~

- ~~(13) If stormwater management facilities are provided through which water passes at times other than rainfall, the program administrator shall be consulted to ensure the appropriateness of design prior to submission of the stormwater management design plan. This applies to all onstream or online stormwater management facilities.~~
- ~~(14) Construction of stormwater management impoundment structures within a Federal Emergency Management Agency (FEMA) designated floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable requirements of the flood hazard overlay district as defined in chapter 28 (zoning ordinance) of this Code.~~

~~(b) *Water quality.*~~

- ~~(1) For land development, the postdeveloped stormwater runoff shall be treated by an appropriate technology-based water quality BMP(s) based on the imperviousness of the drainage area as specified in the stormwater management design manuals.~~
- ~~(2) The selected water quality BMP(s) shall be located, designed and maintained to perform at or higher than the target pollutant removal efficiency identified in the stormwater management design manuals.~~
- ~~(3) The following water quality BMPs shall be used to satisfy the applicable water quality control requirements in this subsection:~~
- ~~a. Stormwater management retention and extended detention basins;~~
  - ~~b. Stormwater management wetlands;~~
  - ~~c. Stormwater management infiltration facilities;~~
  - ~~d. Stormwater management filtering systems;~~
  - ~~e. Stormwater management open channel systems;~~
  - ~~f. Low impact development site planning and integrated management practices in accordance with subsection (e); and~~
  - ~~g. Regional stormwater management facilities in accordance with subsection (f).~~

~~Innovative and alternative water quality BMPs may be allowed for land development at the discretion of the program administrator subject to pollutant removal efficiencies recognized by the Virginia Department of Conservation and Recreation.~~

- ~~(4) When a land development project contains or is divided by multiple drainage areas, water quality BMPs shall be evaluated for each drainage area. If a portion of the site is left uncontrolled or a portion of the site is treated with a lower than target pollutant removal efficiency BMP, the program administrator may require performance-based water quality calculations to verify total site water quality compliance in accordance with~~

~~methodologies in the stormwater management design manuals. Overcompensation of water quality shall be in accordance with requirements outlined in the stormwater management design manuals.~~

- ~~(5) Water quality BMPs shall have an acceptable form of water quality pretreatment in accordance with pretreatment requirements found in the stormwater management design manuals.~~
- ~~(6) Stormwater discharges from stormwater hotspots may require the use of specific structural BMPs and pollution prevention practices. Stormwater from a hotspot shall not be infiltrated without proper pretreatment.~~
- ~~(7) All redevelopment projects not served by an existing water quality BMP shall reduce post development pollutant loads to ninety (90) percent of predevelopment levels through the reduction of site impervious areas or the application of water quality BMPs in accordance with performance-based criteria in the stormwater management design manuals. For redevelopment of any property that is currently and adequately served by one or more water quality BMPs, the postdevelopment pollution load shall not exceed the predevelopment pollution load.~~

~~(c) *Stream channel erosion.*~~

- ~~(1) Properties and receiving waterways downstream of any land development project shall be protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this subsection.~~
- ~~(2) The land development project shall provide twenty four hour extended detention of runoff generated by the one year, twenty four hour duration storm.~~
- ~~(3) The extended detention storage volume, release rate and orifice size shall be determined using the design methods in the stormwater management design manuals.~~
- ~~(4) Stream channel erosion impacts to receiving streams due to land development projects shall be addressed for each point of discharge from the development project.~~
- ~~(5) In lieu of extended detention of the one year storm, land development may provide channel improvements, nonstructural practices, low impact development site design or other measures satisfactory to the program administrator to prevent channel erosion.~~

~~(d) *Flooding.*~~

- ~~(1) Downstream properties and waterways shall be protected from localized flooding due to increases in volume, velocity and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this subsection.~~
  - ~~(2) The ten-year storm post-developed peak rate of runoff from the development site shall not exceed the ten-year predeveloped rate.~~
  - ~~(3) The design storm shall be defined as either a twenty-four-hour storm using the rainfall distribution recommended by the U.S. Natural Resources Conservation Service (i.e., Soil Conservation Service) when using Soil Conservation Service methods or as the storm of critical duration that produces the greatest required storage volume at the site when using a design method such as the rational method. Selection of appropriate hydrology method and corresponding calculations shall be in accordance with requirements of the stormwater management design manuals.~~
  - ~~(4) For the purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition (if lands are pastures, lawns or parks), with good cover (if lands are woods), or with conservation treatment (if lands are cultivated), regardless of conditions existing at time of computation.~~
  - ~~(5) Determination of flooding impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed, which also contributes to that point of discharge. Overcompensation of ten-year peak controls shall be in accordance with requirements of the stormwater management design manuals.~~
  - ~~(6) Linear development projects shall not be required to control post-developed stormwater runoff for flooding, except in accordance with watershed or regional stormwater management plan.~~
  - ~~(7)~~
    - ~~a. Dam break inundation zones shall be developed as required by Code of Virginia, §§ 10.1-606.2 and 10.1-606.3.~~
    - ~~b. Any proposal to encroach the dam break inundation zone shall meet the requirements set forth in Code of Virginia §§ 10.1-606.2 and 10.1-606.3.~~
    - ~~c. Establish a potential dam break inundation zone to provide guidance to design professionals and citizens.~~
- ~~(e) Low-impact development sites.~~

- ~~(1) The use of low impact development site planning and integrated management practices shall be encouraged to control stormwater runoff at the source and more closely approximate predevelopment runoff conditions.~~
  - ~~(2) Low impact development stormwater management design plans developed consistent with the requirements of this subsection shall satisfy the water quality and quantity performance criteria of subsections (b), (c) and (d).~~
  - ~~(3) The design criteria, hydrologic analysis and computational procedures for low impact development stormwater management design plans shall be those of the low impact development design manuals.~~
  - ~~(4) Low impact development stormwater management design plans shall not conflict with existing state or Stafford County laws, ordinances, regulations or policies.~~
  - ~~(5) Storm drainage easements shall be recorded to identify the locations of integrated management practices on lots or parcels. The property owner shall not remove or structurally alter integrated management practices without prior written approval from the program administrator.~~
  - ~~(6) Stormwater runoff from parking lots shall utilize stormwater management infiltration facilities and/or stormwater management filtering systems. These shall be placed within or near the parking lot islands.~~
- ~~(f) *Regional stormwater management facilities.*~~
- ~~(1) Land development projects shall implement regional stormwater management facilities identified in adopted stormwater management plans in accordance with requirements in the stormwater management design manuals and regulations adopted by the board of supervisors.~~
  - ~~(2) When a land development project desires to install a regional stormwater management facility at a location not identified in an adopted stormwater management plan, the program administrator shall require submission of a comprehensive watershed study. The watershed study shall include sufficient information to evaluate impacts of the proposed facility on runoff rates, volumes and velocities, and environmental characteristics of the affected areas.~~
  - ~~(3) Land development projects served by an existing or planned regional stormwater management facility shall pay a pro-rata share of the cost of implementing the facility in accordance with regulations adopted by the board of supervisors.~~

~~SEC. 21.5-3. STORMWATER DRAINAGE TECHNICAL CRITERIA.~~

- ~~(a) All land development projects shall provide for a system of adequate stormwater drainage. The system shall be based on sound engineering practices and shall be certified as adequate to provide for the necessary stormwater drainage by a professional licensed in Virginia to perform such work.~~
- ~~(b) Stormwater drainage systems shall be designed and constructed in accordance with the stormwater management design manuals. Design details for stormwater drainage systems shall be identified on the stormwater management design plan.~~
- ~~(c) Stormwater drainage systems shall be designed such that properties over which surface waters are conveyed, from the development site to discharge point(s), are not adversely affected. The increase in runoff volume caused by the development shall not aggravate an existing drainage problem or cause a drainage problem. A downstream drainage system may be created, expanded or improved in combination with or in lieu of on-site stormwater detention if approved by the program administrator.~~
- ~~(d) Stormwater drainage systems and stormwater management facilities shall be designed to honor natural drainage divides to the maximum extent practicable.~~
- ~~(e) Concentrated surface waters, including outflows from stormwater management facilities, shall not be discharged onto an adjoining developed property (such as any developed nonresidential property, a residential lot less than three (3) acres or the improved portion of a residential lot three (3) acres or greater), unless a storm drainage easement has been recorded on the affected property or unless the discharge is into a well-defined natural stream (i.e., incised channel with bed and banks) or an existing drainage system of adequate capacity. Such drainage easement(s) shall be obtained prior to approval of the stormwater management design plan and shall extend to the nearest recorded storm drainage easement, well-defined natural stream, or manmade stormwater facility, channel or pipe of adequate capacity.~~
- ~~(f) Stormwater drainage easements shall be extended where necessary to upstream property lines to permit future development reasonable access to on-site drainageways or drainage systems for connections.~~
- ~~(g) Surface runoff greater than three (3) cubic feet per second for the ten-year storm event that flows through lots shall be piped when average lot size is less than thirty thousand (30,000) square feet except that the program administrator may approve an open-channel system where the preservation of a natural drainageway is desirable or the use of an open channel will not interfere with the use of the property. This requirement shall not apply to low-impact development sites designed in accordance with the requirements of subsection (e) of section 21.5-2.~~

- (h) Residential lots in which lot size is less than thirty thousand (30,000) square feet shall be graded in such a manner that surface runoff does not cross more than three (3) lots before it is collected in a storm sewer system or designed stormwater conveyance channel.

~~SEC. 21.5-4. STORMWATER MANAGEMENT PLANS.~~

~~(a) Stormwater management concept plans.~~

- ~~(1) All preliminary plans of subdivision and major site development plans shall provide a stormwater management concept plan describing, in general, how stormwater runoff through and from the development will be conveyed and controlled.~~
- ~~(2) The stormwater management concept plan must be approved prior to submission of a stormwater management design plan (as part of the construction or final site plan) for the entire development, or portions thereof.~~
- ~~(3) A copy of the approved stormwater management concept plan shall be submitted with the stormwater management design plan. The program administrator shall check the design plan for consistency with the concept plan and may require a revised stormwater management concept plan if changes in the site development proposal have been made.~~
- ~~(4) The stormwater management concept plan shall provide all appropriate information as identified in the stormwater management design manuals.~~
- ~~(5) The stormwater management concept plan shall include a hydrologic/hydraulic analysis of the downstream watercourse for all concentrated surface waters that will be discharged onto a developed property. The program administrator may request relocation of a stormwater outfall if other alternative discharge locations are practical.~~
- ~~(6) Prior to approval of the stormwater management concept plan, the program administrator, or his designee, shall meet on site with the applicant or his representative to field verify the hydraulic conditions of all receiving channels.~~
- ~~(7) The stormwater management concept plan shall utilize to the maximum extent practicable low impact development site planning in accordance with the low impact development design manuals.~~

~~(b) Stormwater management design plans.~~

- ~~(1) Except as provided for in subsection 21.5-1(f)(2), no grading or building permit shall be issued for land development without approval of a~~

~~stormwater management design plan unless the applicant can demonstrate compliance with section 21.5-2.~~

- ~~(2) The applicant shall demonstrate that the project meets the criteria set forth in this chapter through submission of a stormwater management design plan. Failure of the applicant to demonstrate that the project meets these criteria, as determined by the program administrator, shall be reason to deny approval of the plan.~~
  - ~~(3) A stormwater management design plan containing all appropriate information as specified in this chapter shall be submitted to the department of planning and community development in conjunction with the construction plan or final site plan.~~
- ~~(c) *Stormwater management design plan contents.* The stormwater management design plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this chapter and the stormwater management design manuals and the low impact development design manuals. At a minimum, the stormwater management design plan shall contain the following:~~
- ~~(1) *General.*~~
    - ~~a. Description of the project, and proposed design, including how water quality, quantity and stormwater drainage requirements will be addressed.~~
    - ~~b. Proposed erosion and sediment controls, and proposed temporary and permanent stormwater management facilities.~~
    - ~~c. Project schedule, including a sequence of construction.~~
    - ~~d. Maps depicting all pertinent stormwater management information necessary for review of the plan as identified in the stormwater management design manuals, including, but not limited to maps of the drainage area, soils and plan view of the development project.~~
  - ~~(2) *Stormwater management facilities.*~~
    - ~~a. Stormwater management facilities identified on a map, including details, plan, profile, cross sections, and other pertinent data necessary for review as identified in the stormwater management design manuals.~~
    - ~~b. Comprehensive hydrologic and hydraulic design calculations, including all assumptions and criteria, for the pre-development and~~

~~post-development conditions for the design storms specified in this chapter or the stormwater management design manuals.~~

- ~~e. If infiltration facilities are proposed, the location of existing and proposed wells and septic system drain fields shall be shown along with an analysis that supports the location of the infiltration facility in the soil type identified.~~
- ~~d. A geotechnical report with recommendations and earthwork specifications in accordance with requirements in the stormwater management design manuals. The geotechnical engineer shall acknowledge on the design plan that the geotechnical recommendations have been incorporated into the design of stormwater management facilities.~~
- ~~e. A landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater management facility in accordance with standards in the stormwater management design manuals.~~
- ~~f. Identification of all easements needed for inspection and maintenance of stormwater management facilities in accordance with specifications in the stormwater management design manuals.~~
- ~~g. A maintenance plan identifying the parts or components of the stormwater management facility that need to be maintained to ensure continued proper functioning of the facility. If the designated maintenance responsibility is with a party other than Stafford County, then a maintenance agreement shall be executed between the responsible party and Stafford County.~~

~~(3) Low-impact development sites.~~

- ~~a. Integrated management practices identified on a map and corresponding design details in accordance with the low impact development design manuals.~~
- ~~b. Hydrologic computations to determine low-impact development stormwater requirements in accordance with the low-impact development design manuals.~~
- ~~e. Hydrologic evaluation and design details for supplemental conventional stormwater management facilities in the event that integrated management practices alone cannot meet site stormwater management requirements.~~
- ~~d. Identification of all storm drainage easements needed to establish locations of integrated management practices.~~

~~(4) Stormwater drainage systems.~~

- ~~a. Hydrologic and hydraulic design calculations, including calculations for overlot drainage systems.~~
- ~~b. Design specifications in accordance with the stormwater management design manuals.~~
- ~~c. Identification of all easements needed for inspection and maintenance of drainage systems in accordance with specifications in the stormwater management design manuals.~~
- ~~d. All existing and proposed drainage systems, natural or manmade, shall be analyzed for the one hundred year storm impact as required in subsection 11-12(b)(3) a., b. and c.~~

~~(d) Stormwater management design plan approval.~~

- ~~(1) A maximum of thirty (30) calendar days from the receipt of an application will be allowed for preliminary review of the application to determine if the application is complete. During this period, the application will be accepted for review, which will begin the sixty-day review period, or rejected for incompleteness. The applicant will be informed in writing of the information necessary to complete the application.~~
- ~~(2) The sixty-day review period begins on the day the complete stormwater management design plan is accepted for review. At this time an acknowledgment letter will be sent to the applicant. During the sixty-day review period, the program administrator shall either approve or disapprove the plan and communicate the decision to the applicant in writing.~~

~~Approval or denial shall be based on the plan's compliance with this chapter and the stormwater management design manuals. In cases where modifications are required to approve the plan, the county shall have an additional sixty (60) days to review the revised plan from the initial and any subsequent resubmission dates. If the plan is approved, one copy bearing certification of such approval shall be returned to the applicant. If the plan is disapproved, the applicant shall be notified in writing of the reasons.~~

- ~~(3) All plans, profiles, and specifications shall be distributed to the appropriate county departments and/or state agencies for review and recommendation. Comments and recommendations shall be coordinated at the meeting of the technical review committee. The technical review committee shall review the plan for compliance with this chapter.~~
- ~~(4) The applicant or any aggrieved party authorized by law may appeal the program administrator's decision of approval or disapproval of a~~

~~stormwater management design plan application within thirty (30) days after rendering of such decision by the program administrator, to the board of supervisors.~~

~~(e) Conditions of approval.~~

- ~~(1) The applicant shall comply with all applicable requirements of the approved plan.~~
- ~~(2) No substantive changes shall be made to an approved plan without review and written approval by the program administrator.~~
- ~~(3) No transfer, assignment, or sale of the rights granted by virtue of an approved plan shall be made unless a written notice of transfer is filed with the program administrator and the transferee certifies agreement to comply with all obligations and conditions of the approved plan.~~
- ~~(4) The stormwater management design plan's approval expires in one year from the date of approval unless a final plat is recorded or unless work has actually begun on the site. The recordation of a final plat for a section of a subdivision (or initiation of construction in a section) does not vest the approval of the stormwater management design plan for the remainder of the subdivision. If the stormwater management design plan expires, the applicant shall file with the program administrator for reapproval of the stormwater management design plan.~~
- ~~(5) Three (3) sets of certified as-built plans, meeting the specifications documented in the stormwater management design manuals, shall be submitted to the program administrator upon completion of the project.~~
- ~~(6) Each as-built plan shall have a certification statement by a professional licensed in Virginia to perform such work.~~
- ~~(7) The applicant shall be responsible for implementing the approved plan, and may be required to conduct a monitoring program, if deemed necessary by the program administrator.~~

**~~SEC. 21.5-5. INSPECTION AND MAINTENANCE.~~**

~~(a) Inspections.~~

- ~~(1) A preconstruction conference between the county, the applicant, and the person(s) performing the work shall be required.~~
- ~~(2) On site inspections will be conducted by the county and the applicant in accordance with the stormwater management design manuals. Essential elements of such inspection shall include:~~

- ~~a. Inspection immediately following preliminary site preparation, including stripping of vegetation, stockpiling of soil, and construction of temporary stormwater management facilities.~~
- ~~b. Inspections during construction of the permanent stormwater management facilities.~~
- ~~c. Final inspection of the project to ensure that stormwater management facilities have been constructed in accordance with the approved stormwater management design plan and the stormwater management design manuals.~~

~~(3) All inspections pursuant to this section shall be documented by a written report or log containing dates and times of inspections and comments concerning verbal communications relating to the project.~~

~~(4) If, at any stage of the development, the county determines that the soil or other physical conditions on the site are not as stated or shown on the approved stormwater management plan, or the county determines that the storm drainage system or stormwater management facility is inadequate or not constructed as shown on the approved stormwater management design plan, the county may refuse to approve further work and the county may revoke existing permits or approvals until a revised stormwater management design plan has been submitted and approved.~~

~~(5) Final certification of compliance with the construction specifications and integrity of all storm drainage and stormwater management facilities and their appurtenant structures shall be provided on the as-built plan by a professional licensed in Virginia to perform such work.~~

~~(b) *Maintenance.*~~

~~(1) Responsibility for the operation and maintenance of the stormwater management facilities and storm drainage system, unless assumed by Stafford County, shall remain with the property owner or an owner's association. All maintenance activities shall be in accordance with standard maintenance practices for stormwater management facilities and the stormwater management design manuals.~~

~~(2) If the designated maintenance responsibility is with a party other than Stafford County, then a maintenance agreement and plan shall~~

~~be executed between the responsible party and Stafford County. The maintenance agreement shall be recorded with the Clerk of the Circuit Court of Stafford County prior to or in conjunction with recordation of a plat or approval of the site plan.~~

~~(3) To ensure proper performance of the stormwater facility, the property owner or owner's association is responsible for inspecting and performing all necessary maintenance and repairs to the stormwater management facility in accordance with the approved maintenance plan and the stormwater management design manuals. The responsible party shall keep written records of inspections and maintenance/repairs and make them available to the county upon request.~~

~~(4) The county shall notify the property owner or owner's association in writing when a determination has been made that the stormwater management facility is in disrepair or is not functioning as intended. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. If the responsible party fails to perform such maintenance and repair, the county shall have the authority to perform the work and recover the costs from the responsible party.~~

#### **~~SEC. 21.5 6. PERFORMANCE GUARANTEE.~~**

~~(a) No permits shall be issued unless the applicant furnishes a performance guarantee, in accordance with the current county security policy. This is to ensure that action can be taken by the county, at the applicant's expense, should the applicant fail, after proper notice and within the time specified, to initiate or maintain those measures identified in the approved stormwater management design plan. If the county takes such action upon such failure by the applicant, the county shall collect from the applicant the difference should the amount of reasonable cost of such action exceed the amount of the security held.~~

~~(b) A certified estimate of costs by the design engineer or land surveyor shall be used to verify costs for the purpose of determining the amount of the performance guarantee required by this section.~~

~~(c) The performance guarantee furnished pursuant to this section, or the unexpended or unobligated portion thereof, shall be returned to the applicant within sixty (60) days of the final acceptance of completion of the stormwater management facility by the program administrator. Final acceptance shall be defined as the time at which all clearing and grading on the land development site for roads, lots, and other ancillary activities such as recreational or institutional uses, as defined by the preliminary subdivision, construction, or site plan, on land which drains to the~~

~~stormwater management facility has been completed and stabilized, and construction certification and as-built plans have been received.~~

**SEC. 21.5-7. EXCEPTIONS.**

- ~~(a) Exceptions to the provisions of this chapter may be granted by the program administrator, upon receipt of request for such exception in writing from the applicant or property owner. The request shall include descriptions, drawings, calculations and other information that is necessary to evaluate the waiver of stormwater management requirements.~~
- ~~(b) An exception may be granted provided that: (i) exceptions to the criteria are the minimum necessary to afford relief, (ii) economic hardship is not sufficient reason to grant an exception, (iii) reasonable and appropriate conditions shall be imposed as necessary upon an exception granted so the intent of the chapter is preserved.~~
- ~~(c) The minimum requirements for stormwater management may be waived in whole or part provided at least one of the following conditions applies:
  - ~~(1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.~~
  - ~~(2) The program administrator finds that meeting the minimum on-site requirements is not feasible due to the natural or existing physical characteristics of the site.~~
  - ~~(3) The location of the land development project in the watershed is such that on-site stormwater management will result in increased flows on the main stream. The applicant or property owner must provide supporting hydrologic analysis in accordance with the stormwater management design manuals.~~
  - ~~(4) The proposed land development project will not generate more than a ten percent increase in the two-year and ten-year predevelopment peak discharge rates and the off-site receiving channel is adequate.~~
  - ~~(5) An existing off-site stormwater management facility provides the required controls.~~
  - ~~(6) An existing regional stormwater management facility provides the required controls, and the property owner agrees to a pro-rata share contribution in accordance with section 21.5-2.~~
  - ~~(7) A regional stormwater management facility has been identified for construction in the Stafford County Land Use Plan. The regional stormwater management facility will provide the required controls~~~~

~~for the land development project, the property owner agrees to construct all necessary interim stormwater management controls deemed necessary by the program administrator, and the property owner agrees to a pro rata share contribution in accordance with section 21.5-2.~~

**~~SEC. 21.5-8. FEES.~~**

~~Fees shall be paid to the county in accordance with the Stafford County Fee Schedule to defray the cost of plan review, permit administration, and necessary inspections.~~

**~~SEC. 21.5-9. PENALTIES; ENFORCEMENT.~~**

- ~~(a) If the program administrator determines that there is a failure to comply with the approved plan, notice of such failure shall be served upon the applicant or person responsible for implementing the plan by registered or certified mail or by delivery to the land development site. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed.~~
- ~~(b) Upon failure to comply within the time specified, the permit or approval may be revoked and the applicant or person responsible for implementing the plan shall be deemed to be in violation of this chapter.~~
- ~~(c) Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment for each violation, or both, as provided for in § 10.1-603.14, Code of Virginia (1950), as amended.~~
- ~~(d) The program administrator may apply to the circuit court to enjoin a violation or a threatened violation of this chapter as provided for in § 10.1-603.14, Code of Virginia (1950), as amended, without the necessity of showing that an adequate remedy of law does not exist.~~
- ~~(e) Without limiting the remedies which may be obtained in this section, the program administrator may bring a civil action against any person or violation of this chapter, or any condition of the permit or approval. The action may seek to impose a civil penalty of not more than two thousand dollars (\$2,000.00) for each violation as provided for in § 10.1-603.14 of the Code of Virginia 1950, as amended.~~
- ~~(f) With the consent of the person who has violated or failed, neglected, or refused to obey this chapter or any condition of the permit or approval, the program administrator may issue an order against or to such person for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section as provided for in § 10.1-603.14, Code of Virginia 1950, as amended. Such civil charges shall be~~

~~instead of any appropriate civil penalty, which could be imposed under subsection (e) of this section.~~

**~~SEC. 21.5 10. EFFECTIVE DATE.~~**

~~This chapter shall be effective for all new development applications submitted after the effective date of this chapter.~~

**~~SEC. 21.5 11 21.5 15. RESERVED.~~**

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**Sec. 21.5-1. Purpose and authority.**

- (a) Purpose. The purpose of this chapter is to ensure the general health, safety, and welfare of the citizens of Stafford County and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) Statutory Authority. This Ordinance is adopted pursuant to Virginia Code § 62.1-44.15.27.
- (c) Conflict of Provisions. To the extent possible, the provisions of the county code should be interpreted so as to not be in conflict with one another. In any case where the requirements of this chapter conflict with any other provisions of the county code, whichever imposes the more stringent restrictions shall apply. Approvals issues pursuant to this chapter do not relieve the applicant of the responsibility to secure applicable federal, state, and county permits or approvals for regulated activities. When any referenced Virginia Code or county code section is subsequently amended, the amended code section shall be the applied standard.
- (d) Severability. If any provision or application of this chapter to any person, property, or circumstance is held invalid by a court of competent jurisdiction, the remainder of this chapter shall remain in full force and effect and its application to other persons, property, or circumstances shall not be affected.
- (e) Incorporation by reference. For the purpose of this chapter, the following documents are incorporated herein and shall have the force and effect of this chapter:
- a. Stafford County Stormwater Management Design Manual; and
  - b. Virginia Stormwater Management Handbook.

**Sec. 21.5-2. Definitions.**

In addition to the definitions set forth in 9VAC25-870-10, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified. Where definitions differ, those incorporated herein shall have precedence.

Administrator means the VSMP authority including the County Administrator or his designee(s) responsible for administering the VSMP on behalf of the county.

Applicant means any person submitting an application for a permit or requesting issuance of a permit under this Chapter.

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

Board of supervisors means the Stafford County Board of Supervisors.

Chesapeake Bay Preservation Act land-disturbing activity means any land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal to or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Virginia Administrative Code 9VAC25-830 et seq.

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

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

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

County means Stafford County, Virginia.

Department means the Virginia Department of Environmental Quality.

Design manual means the Stafford County Stormwater Management Design Manual.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, or the clearing of land for non-agricultural or non-silvicultural purposes. The regulation of discharges from development, for purposes of these regulations, does not include the exemptions found in 9VAC25-870-300.

General permit means the state permit titled, GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES, found in Part XIV (9VAC25-880 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within Virginia.

Land disturbance or land-disturbing activity means a manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or

excavation, except that the term shall not include those exemptions specified in Virginia Code § 62.1-44.15:34.

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

*Minor modification* means an amendment to an existing general permit before its expiration that does not require extensive review and evaluation including, but not limited to, changes in Environmental Protection Agency promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

*Operator* means the owner or operator of any facility or activity subject to the Act and this chapter. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specification; or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state permit or VSMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of stormwater discharges from a Municipal Separate Storm Sewer System (MS4), operator means the operator of the regulated MS4.

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

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

*Person* means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of the Commonwealth of Virginia or another state, any governmental body (including a federal, state, or local entity as applicable), any interstate body, or any other legal entity.

*Regulations* means the Virginia Stormwater Management Program Permit Regulations, 9VAC25-870 et seq.

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

*State* means the Commonwealth of Virginia.

*State Board* means the Virginia State Water Control Board.

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

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

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

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

*Stormwater management plan* means a document(s) containing material describing methods for complying with the requirements of this Chapter.

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

*Subdivision* means the same as defined in Chapter 22 of the county code.

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

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

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

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

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

**Sec. 21.5-3. Stormwater permit requirement; exemptions.**

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP Authority Permit has been issued by the Administrator in accordance with the provisions of this article.
- (b) A Chesapeake Bay Preservation Act Land-Disturbing activity shall be subject to an erosion and sediment control plan consistent with the requirements of the Erosion and Sediment Control Ordinance, a stormwater management plan as outlined under county code section 21.5-6, the technical criteria and administrative requirements for land-disturbing activities outlined in county code section 21.5-9, and the requirements for control measures long-term maintenance outlined in county code section 21.5-12.
- (c) Notwithstanding any other provisions of this article, the following activities are exempt, unless otherwise required by federal law:
  - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects, conducted under the provisions of Title 45.1 of the Virginia Code;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes,

ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 *et seq.*) of Title 10.1 of the Virginia Code or is converted to bona fide agricultural or improved pasture use as described in Virginia Code § 10.1-1163(B);

- (3) Single-family residences separately built and disturbing less 2,500 square feet and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures in areas designated as a Chesapeake Bay Preservation Area;
- (4) Land disturbing activities that disturb less than 2,500 square feet of land area or activities that are part of a larger common plan of development or sale that includes one acre or greater of land disturbance;
- (5) Discharges to a sanitary sewer system or a combined sewer system;
- (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) of this section is required within 30 days of commencing the land-disturbing activity.

**Sec. 21.5-4. Stormwater management program established; submission and approval of plans; prohibitions.**

- (a) Pursuant to Virginia Code § 62.1-44.15:27, the county establishes a Virginia Stormwater Management Program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in county code section 21.5-1.

- (b) No VSMP Authority Permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:
- (1) A permit application that includes a general permit registration statement, if such registration statement is required;
  - (2) An erosion and sediment control plan approved in accordance with chapter 11 of the county code; and
  - (3) Stormwater management plans that meet the requirements of county code section 21.5-6.
- (c) No VSMP Authority Permit shall be issued until evidence of general permit coverage is obtained. Registration statements shall not be required for detached single-family home construction within or outside of a common plan of development, however, such project must adhere to the requirements of the general permit.
- (d) No VSMP Authority Permit shall be issued until the fees required to be paid pursuant to county code section 21.5-17 are received and a performance bond required pursuant to county code section 21.5-18 has been submitted and approved.
- (e) No VSMP Authority Permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development, and drainage will be done according to the approved permit.
- (f) No grading, building, or other county permit shall be issued for a property unless a VSMP Authority Permit has been issued by the Administrator, where applicable.

**Sec. 21.5-5. Stormwater pollution prevention plan; contents of plans.**

- (a) The SWPPP shall include the content specified by section 9VAC25-870-54 and shall comply with the requirements and general information set forth in 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to State waters which is not addressed by the existing SWPPP.
- (c) The operator shall maintain the SWPPP onsite at a central location onsite, unless an appropriate onsite location is not available. If an onsite location is

unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

**Sec. 21.5-6. Stormwater management plans; contents of plans.**

(a) Stormwater management concept plans.

- (1) All preliminary subdivision plans shall include a stormwater management concept plan generally describing how stormwater runoff through and from the development will be addressed.
- (2) The stormwater management concept plan must be approved prior to submission of a stormwater management design plan (as part of a construction plan) for the entire plan of development or sale where applicable, or portions thereof.
- (3) A copy of the approved stormwater concept plan shall be submitted with the stormwater management design plan. The Administrator shall check the design plan for consistency with the concept plan and may require a revised stormwater management concept plan if changes in the site development proposal have been made.
- (4) The stormwater management concept plan shall provide all appropriate information as identified in the Design manual.
- (5) The stormwater management concept plan shall include a hydrologic/hydraulic analysis of the downstream watercourse for all concentrated surface waters that will be discharged onto a developed property. The Administrator may request relocation of a stormwater outfall if other alternative discharge locations are practical.
- (6) The stormwater management concept plan shall identify any dam break inundation zones on the site. Any proposal to encroach into the dam break inundation zone shall meet the requirements set forth in Virginia Code §§ 10.1-606.2 and 10.1-603.3.

(b) Stormwater management design plans.

The stormwater management design plan, required under county code section 21.5-4, must apply the stormwater management technical criteria set forth in county code section 21.5-9 to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff, and include the following information:

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged, including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas.
- (2) Contact information including the name, address, and telephone number of the owner and the Assessor's Parcel number of the property or properties affected.
- (3) A narrative that includes a description of current site conditions and final site conditions.
- (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete.
- (5) Information on the proposed stormwater management facilities, including, but not limited to:
  - i. The type(s) of facilities;
  - ii. The location of the facilities, including geographic coordinates;
  - iii. The number of acres treated; and
  - iv. The surface waters or karst features, if present, into which the facilities will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics.
- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of county code section 21.5-9.
- (8) Map(s) of the site that depicts the topography of the site, including, but not limited to:
  - i. All contributing drainage areas;
  - ii. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - iii. Soil types, geologic formations (if karst features are present in the area), forest cover, and other vegetative areas;
  - iv. Current land use(s), including existing buildings, structures, roads, and the locations of known utilities and easements;
  - v. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

- vi. The limits of clearing and grading, and the proposed drainage patterns on the site;
- vii. Proposed buildings, structures, roads, parking areas, utilities, stormwater management facilities, and any other improvements;
- viii. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including, but not limited to, the planned locations of utilities, roads, and easements;
- ix. Locations of floodplains and Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map Panel number reference; and
- x. Locations of Critical Resource Protection Areas (CRPAs) in accordance with county code section 28-62.

(9) If an operator intends to meet the water quality and/or quantity requirements set forth in county code section 21.5-9 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by Virginia Code § 62.1-44.15:350.

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

(c) As-built plans.

An as-built drawing for permanent stormwater management facilities, in accordance with the requirements of the Design manual shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional engineer, registered in Virginia, certifying that the stormwater management facilities have been constructed in accordance with the Design manual.

**Sec. 21.5-7. Pollution prevention plan; contents of plans.**

(a) A pollution prevention plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary. The pollution prevention plan shall 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:

- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
  - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
  - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective BMPs to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control(s);
  - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
  - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
  - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from the dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

**Sec. 21.5-8. Review of stormwater management plan.**

- (a) The Administrator shall review stormwater management plans. The Administrator shall approve or disapprove a stormwater management plan according to the following.
- (1) The Administrator shall determine the completeness of a plan in accordance with county code section 21.5-4, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt of a plan. If the plan is deemed to be incomplete, the Administrator's written notification shall contain the reasons that the plan is deemed incomplete.

- (2) The Administrator shall have an additional 60 calendar days from the date of the notification of completeness to review the plan, except that if a completeness determination is not made within the time prescribed in county code section 21.5-8(a)(1), then the plan shall be deemed complete and the Administrator shall have 60 calendar days from the submission date to review the plan.
  - (3) The Administrator shall review any plan that has been previously disapproved within 45 calendar days of the date of resubmission.
  - (4) During the review period, the plan shall be approved or disapproved and the decision, communicated in writing, to the applicant or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this article.
  - (5) If a plan meeting all requirements of this article is submitted and the Administrator takes no action within the time provided above in subsection (a)(2) of this section for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows.
- (1) Modification(s) to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to either approve or disapprove, in writing, a modification(s) request.
  - (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection(s).

**Sec. 21.5-9. Technical criteria for regulated land disturbing activities.**

- (a) General.
- (1) Site designs shall minimize the generation of stormwater and maximize pervious areas for stormwater treatment. The use of structural and non-structural infiltration facilities and Low Impact Development technologies shall be encouraged to provide stormwater quality and quantity control and groundwater recharge.
  - (2) Natural channel characteristics shall be preserved to the maximum extent practicable.
  - (3) Residential, commercial, and industrial development projects, as a whole, shall be subject to these stormwater management criteria. Individual residential lots in subdivisions shall not be considered separate land

development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations. Stormwater management plans that are approved for residential, commercial, and industrial subdivisions shall govern the development of the individual parcels.

- (4) Dam break inundation zones shall be developed as required by Virginia Code §§ 10.1-606.2 and 10.1-606.3. Any proposal to encroach into a dam break inundation zone shall meet the requirements of Virginia Code §§ 10.1-606.2 and 10.1-606.3.
- (5) Stormwater runoff from parking lots shall utilize stormwater management infiltration facilities and/or stormwater management filtering systems.
- (6) All land development projects shall provide for a system of adequate stormwater drainage. The system shall be based on sound engineering practices and shall be certified as adequate to provide for the necessary stormwater drainage by a professional licensed in Virginia to perform such work.
- (7) Concentrated surface waters, including outflows from stormwater management facilities, shall not be discharged onto an adjoining property, unless a storm drainage easement has been recorded on the affected property or unless the discharge is into a well-defined stream or channel (i.e. incised channel with bed and banks) or an existing drainage system of adequate capacity. Such drainage easement shall be obtained prior to approval of the stormwater management design plan and shall extend to the nearest recorded storm drainage easement, well defined natural stream, or manmade stormwater facility, channel, or pipe of adequate capacity.
- (8) Storm drainage easements shall be extended where necessary to upstream property lines to permit future development reasonable access to onsite drainageways or drainage systems for connections.
- (9) Surface runoff greater than three cubic feet per second for the ten year storm event that flows through lots shall be piped when the average lot size is less than 30,000 square feet except that the program administrator may approve an open channel system where the preservation of a natural drainageway is desirable or the use of an open channel will not interfere with the use of the property.
- (10) Any project for which the technical criteria of this article are not applicable shall be designed in accordance with the technical criteria of the most recent prior version of the Stafford County Stormwater Management Ordinance and Design manual for water quality, water quantity, drainage,

and other relevant technical criteria in effect prior to the adoption of this chapter.

(b) Water quality.

To protect the quality and quantity of State water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, including, but not limited to, 9VAC25-870-63 [water quality design criteria requirements] and 9VAC25-870-65 [water quality compliance]; which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, the activities shall comply with any additional requirements of the Design manual.

(c) Water quantity (Stream Channel Protection and Flood Protection).

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations expressly to include 9VAC25-870-66 [water quantity], which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

(d) Offsite compliance.

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, expressly to include 9VAC25-870-69 [offsite compliance options], which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

(e) Calculation methods.

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, including, but not limited to, 9VAC25-870-72 [design storms and hydrologic methods], which shall apply to all land-disturbing activities regulated pursuant to this article. In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

(f) Stormwater harvesting.

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, including, but not limited to, 9VAC25-870-74 [stormwater harvesting], which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

(g) Linear development projects.

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, including, but not limited to, 9VAC25-870-76 [linear development projects], which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

(h) Stormwater management impounding structures.

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, including, but not limited to, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in county code section 21.5-3(c). In addition, land-disturbing activities shall comply with any additional requirements of the Design manual.

**Sec. 21.5-10. Grandfathering provisions.**

(a) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary subdivision plan, final subdivision plat, preliminary or final site plan, zoning with a plan of development, or any document that is specifically determined by the county as being equivalent thereto, was approved by the county prior to July 1, 2012, and for which no coverage under the general permit has been issued prior to July 1, 2014, and for which land disturbance did not commence prior to July 1, 2014, shall be considered grandfathered by the Administrator. Such grandfathered projects shall not be subject to the technical criteria of Part II B of the Regulations, but shall be subject to the technical criteria of the most recent prior

version of the Stafford County Stormwater Management Ordinance and Design manual for water quality, water quantity, drainage, and other relevant technical criteria in effect prior to the approval of Ordinance O14-16 for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary subdivision plan, final subdivision plat, preliminary or final site plan, zoning with a plan of development, or any document that is specifically determined by the county as being equivalent thereto, (i) provides for a layout as defined in 9VAC25-870-10, and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C of the Regulations. The grandfathering shall continue in the event that the county-approved document is subsequently modified or amended in such a manner that there is no increase over the previous approval (i) in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and (ii) in the volume or rate of runoff.

- (b) Until June 30, 2019, for county, state, and federal projects for which there has been an obligation of county, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Department has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by the county. Such projects shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of the most recent version of the Stafford County Stormwater Management Ordinance and Design manual for water quality, water quantity, drainage, and other relevant technical criteria in effect prior to the adoption of Ordinance O14-16 for those areas that were included in the approval.
- (c) For land-disturbing activities grandfathered under this section, construction must be completed by June 30, 2019, or any portion(s) of the project that is not under construction shall become subject to the technical requirements of subsection (a) of this section.
- (d) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements of the most recent version of the Stafford County Stormwater Management Ordinance and Design manual for water quality, water quantity, drainage, and other relevant technical criteria in effect prior to the adoption of Ordinance O14-16.

**Sec. 21.5-11. Exceptions.**

- (a) Requests for exception(s) shall be submitted in writing to the Administrator.
- (b) The Administrator may grant exceptions to the technical requirements of this article, provided that:

  - (1) The requested exception 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 article are preserved;
  - (3) Granting the exception will not confer any special privileges that are denied in other similar circumstances; and
  - (4) Economic hardship alone is not a sufficient reason to grant an exception from the requirements of this article.
- (c) The Administrator shall not grant an exception to the requirement that the land-disturbing activity obtain required VSMP Authority Permit. The Administrator shall not approve the use of a BMP that is not found on the Virginia Stormwater BMP Clearinghouse Website or any other control measure.
- (d) The Administrator shall not grant exceptions to requirements for phosphorus reductions unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

**Sec. 21.5-12. Long-term maintenance of permanent stormwater facilities.**

- (a) For all permanent stormwater management facilities, a maintenance agreement shall be completed, shall be identified to run with the land in perpetuity, and shall be recorded in the land records of the county with the Clerk of the Circuit Court prior to approval. The maintenance agreement shall identify the roles of the county and owner for maintenance, allow access to the facilities for county inspection staff, and shall specify the frequency of required inspections.
- (b) Responsibility for the operation and maintenance of the stormwater management facilities and storm drainage system, unless assumed by the county, shall remain with the property owner(s) or property/home owners' association. All maintenance activities shall be in accordance with standard maintenance practices for stormwater facilities and the Design manual.
- (c) To ensure proper performance of the stormwater facility, the property owner(s) or property/home owners' association shall comply with the requirements of the maintenance agreement and the Stormwater Facility Maintenance Inspection Program.
- (d) The county shall notify the property owner(s) or property/home owners' association in writing when a determination has been made that the property/home owners' association stormwater facility is in disrepair or is not functioning as intended. The notice shall specify the measures needed to comply with the determination and state the time within such measures shall be completed. If the responsible party fails to perform such maintenance and repair, the county shall have the authority to perform the work and recover the costs from the responsible party.

**Sec. 21.5-13. Monitoring and inspections.**

- (a) The Administrator shall inspect the land-disturbing activity during construction for:
  - (1) Compliance with the approved erosion and sediment control plan;
  - (2) Compliance with the approved stormwater management plan;
  - (3) Development, updating, and implementation of a pollution prevention plan;  
and
  - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, or any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (d) Pursuant to Virginia Code § 62.1-44.15:37, the Administrator may require every VSMP Authority Permit applicant or permittee, or any such person subject to VSMP Authority Permit requirements under this article, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the Administrator, pursuant to the county's and State Board-approved inspection program, and shall occur, at minimum, at least once every five years, except as may otherwise be provided for in county code section 21.5-12.

**Sec. 21.5-14. Hearings.**

- (a) Any permit applicant or permittee, or person subject to the requirements of this article, aggrieved by any action of the county taken without a formal hearing, or by inaction of the county, may demand, in writing, a formal hearing by the

Board of Supervisors, provided that the written demand for such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.

- (b) The hearings held under this section shall be conducted by the Board of Supervisors at a regular or special meeting of the Board of Supervisors.
- (c) A verbatim record of the proceedings of such hearings shall be taken. Depositions may be taken and read as in actions at law.
- (d) The Board of Supervisors or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the reasonable request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Board of Supervisors, or its designated member, whose action may include the procurement of an order of enforcement from the Stafford County Circuit Court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

#### **Sec. 21.5-15. Appeals.**

Any person, including the county, aggrieved by a decision of the Board of Supervisors made pursuant to county code section 21.5-14, may seek judicial review of such decision in the Stafford County Circuit Court.

#### **Sec. 21.5-16. Enforcement.**

- (a) If the Administrator determines that there is a failure to comply with the VSMP Authority Permit conditions or determines that there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
  - (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection (b) of this section or the permit may be revoked by the Administrator.
  - (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing

activities until (i) the violation of the permit has ceased, or (ii) an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with the county's enforcement procedures. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the county land records, or by personal delivery by the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion to lands or sediment deposition in waters within State watersheds or otherwise substantially impacting water quality, he may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site. The Administrator shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with county code section 21.5-16.

- (b) In addition to any other remedy provided by this chapter, if the Administrator determines that there is a failure to comply with the provisions of this chapter, he/she may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the county's enforcement procedures.
- (c) Any person violating, failing, neglecting, or refusing to obey any rule, requirement, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted by the county, in the Stafford County Circuit Court, to obey the same and to comply therewith by injunction, mandamus, or other appropriate remedy.
- (d) Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation, within the discretion of the Court. Each day of violation shall constitute a separate offense.

  - (1) Violations for which a penalty may be imposed under this section shall include, but are not limited to, the following:

    - (i) No state permit registration;
    - (ii) No SWPPP;
    - (iii) Incomplete SWPPP;

- (iv) SWPPP not available for review;
  - (v) No approved erosion and sediment control plan;
  - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
  - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
  - (viii) Operational deficiencies;
  - (ix) Failure to conduct required inspections;
  - (x) Incomplete, improper, or missed inspections; and
  - (xi) Discharges that are not in compliance with the requirements of 9VAC25-880-70.
- (2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
- (3) In imposing a civil penalty pursuant to this section, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
- (4) Any civil penalties assessed by a court, as a result of a summons issued by the county, shall be paid into the county treasury to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of county waters and abating environmental pollution therein, in such a manner as the court may, by order, direct.
- (e) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this article, any order of the Administrator, any condition of a permit, or any relevant court order concerning enforcement of this article, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and/or a fine of not less than \$2,500 nor more than \$32,500.

**Sec. 21.5-17. Fees.**

Fees shall be paid to the county in accordance with the county fee schedule to defray the cost of program implementation, including administrative review, plan review, permitting, and inspection requirements.

**Sec. 21.5-18. Performance bond.**

Prior to issuance of any permit, the Applicant shall submit a performance bond to the Administrator in accordance with the County's Security Policy. The performance bond shall be subject to the Administrator's review and approval.

## **ARTICLE II. STORMWATER POLLUTION AND ILLICIT DISCHARGE**

### **Sec. 21.5-~~16~~19. Title.**

This article shall be known as the Stafford County Stormwater Pollution and Illicit Discharge Ordinance.

### **Sec. 21.5-~~17~~20. Findings.**

### **Sec. 21.5-~~18~~21. Definitions.**

### **Sec. 21.5-~~19~~22. Prohibitions.**

(b) Subject to the provisions of subsection (c) below, the following activities shall not be unlawful discharges:

(13) Dechlorinated swimming pool discharges.

### **Sec. 21.5-~~20~~23. Inspections and monitoring.**

### **Sec.21.5-~~21~~24. Notice to correct violation.**

### **Sec. 21.5-~~22~~25. Penalties and violations.**

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective on July 1, 2014, subject to the approval of the Virginia Department of Environmental Quality.

A Copy, teste:

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Anthony J. Romanello, ICMA-CM  
County Administrator

AJR:MTS:slh:tbn