

BOARD OF SUPERVISORS WORK SESSION

GOVERNMENT CENTER BOARD ROOM

FEB. 26, 2013 - 4 P.M.

A. Call to Order

B. Roll Call

C. Board Discussions

1. Jamestown Beach Briefing (Summary) (Memorandum) (Attachment 1) (Attachment 2) (Attachment 3 - Special Use Permit)
2. New Virginia Stormwater Management Regulations Briefing (Summary) (Memorandum) (Attachment 2 - Stormwater Management Slide Presentation) (Attachment 3 - Staff Handout) (Attachment 4 - Program Development) (Attachment 5) (Attachment 6)

D. Adjournment

MEMORANDUM COVER

Subject: Jamestown Beach Park

Action Requested: None

Summary: Prior to the Board of Supervisors considering the rezoning of the Jamestown Beach property and the associated Special Use Permit (SUP), staff will provide a brief overview of the approved master plan and actions that have been completed since the acquisition of the property, and address any questions that Board members may have.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Drawings
3. Staff Report

WORK SESSION

Date: February 26, 2013

MEMORANDUM

DATE: February 26, 2013
TO: The Board of Supervisors
FROM: John H. Carnifax, Jr., Director of Parks and Recreation
SUBJECT: Jamestown Beach Park

Since the Board of Supervisors is considering the rezoning of the Jamestown Beach property and the associated Special Use Permit (SUP), staff thought it would be helpful to provide a brief overview of the approved master plan and actions that have been completed since the County acquired the property.

Below is a brief timeline of actions that have been taken on the property and enclosed are several maps that can be reviewed at the work session. Map No. 1 excludes the Vermillion House from the grant area and therefore there are no restrictions on what can be done with the house and the access road. Map No.2 is the approved conceptual master plan for the site.

December 2006: Property was purchased, partially funded through grants from Virginia Land Conservation Foundation and Coastal and Estuarine Land Conservation Programs, resulting in portions of property subject to conservation easements. It was zoned B1 with no plans for development at the time.

March 2009: The Board of Supervisors provided consensus guidance during a work session for the development of the conceptual master plan for the park.

June 2009: The Board of Supervisors endorsed by resolution the Shaping our Shores Master Plans after significant public input and analysis of feasible uses for each site.

January 2011: The Board of Supervisors accepted a \$100,000 Living Shoreline Grant from the Chesapeake Bay Trust for Phase I of the beach improvements. Additional funds to complete the project came from Capital Improvements Program (CIP) funding.

March 2012: The Board of Supervisors approved an application for Land and Water Conservation Funds to support funding for Phase II of the beach improvements, Americans with Disabilities Act (ADA) trail, parking, and restrooms. Acceptance of the grant would require the property to be retained in perpetuity as a public outdoor recreation area.

July 2012: Received \$304,000 in CIP Funds to support Phase II improvements at Jamestown Beach Park through the FY 13/14 budget.

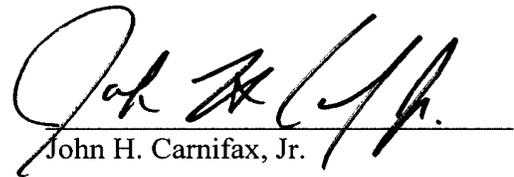
August 2012: Archaeological and Cultural Solutions was awarded a contract to prepare documentation to nominate the Vermillion House for listing on the Virginia Landmarks Register and the National Register of Historic Places.

October 2012: The Board of Supervisors accepted a \$152,000 Land and Water Conservation Grant for Phase II improvements.

November 2012: The Board of Supervisors awarded the construction contract to Henry S. Branscome LLC for shoreline restoration work as part of Phase II of the park improvements.

November 2012: At the direction of the Planning Division, a rezoning and SUP application was completed to bring the park into compliance. The Department of Health notified the need to bring utilities on-site to meet State regulations for water and sewer for permanent restroom facilities.

January 2013: Rezoning and SUP applications were approved by the Planning Commission.



John H. Carnifax, Jr.

JHC/nb
JtownBchPark_mem

Attachment

KEY	
A - Vermilion House Restored	M - Secondary Beach Access / Picnic Area
B - Event Tents	- Small Non - Motorized Boats
C - Formal Gardens	- Day Sailers
D - "Great Road" Interpretive Area	- Kayaks
E - Events/Parking and Overflow	N - Preserved Viewshed
F - Maintenance Center	O - Fishing Pier
G - Beach Access and Parking	P - Ropes Course
H - Beach Pavilions	Q - Rental Cabins
- Concessions	S - Environmental Education Area
- Vending	T - Trailhead with Restrooms
I - Playground Area	U - Mainland Farm Interpretive Area
J - Shoreline Stabilization and Beach	V - Large Events Fair Only
- Restroom	W - Area for Group Tent Camping
K - Great Lawns / Special Event Area	X - Bioretention Basins
L - Performance Venue	



SHAPING OUR SHORES
Master Plan for Jamestown Beach Campground, Jamestown Yacht Basin & Chickahominy Riverfront Park

Figure 2-2
Master Plan
 Jamestown Beach Campground

Jamestown Beach



LWCF Boundary
33.6 acres

Beach Restoration
Phase II

Future
Parking

Future
Walkway

Future
Walkway

Future
Restrooms

Existing
Parking

Existing
Entrance

VDOT Right of Way

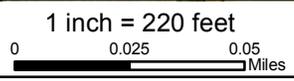
Jamestown Rd

Entrance

-76.7876
37.2239

-76.7838
37.2271

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.



**REZONING-0008-2012/Special Use Permit-0017-2012. Jamestown Beach
Staff Report for the February 12, 2013, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

January 9, 2013, 7:00 p.m.
February 12, 2013, 7:00 p.m.

SUMMARY FACTS

Applicant: Ms. Nancy Ellis, James City County Parks and Recreation

Land Owner: James City County

Proposal: Rezone the property to PL, Public Lands with a Special Use Permit (SUP) to allow for a community recreation facility in accordance with the Board endorsed *Shaping Our Shores* Master Plan.

Location: 2205 Jamestown Road

Tax Map/Parcel No.: 4630100005

Project Acreage: 94.74 acres ±

Existing Zoning: B-1, General Business

Proposed Zoning: PL, Public Land

Comprehensive Plan: Park, Public, or Semi-Public Open Space

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to be consistent with the 2009 Comprehensive Plan, the Zoning Ordinance, and the *Shaping Our Shores* Master Plan. Staff recommends that the Board of Supervisors approve the rezoning and SUP subject to the conditions outlined in the resolution.

Staff Contact: Leanne Reidenbach, Planner III Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended approval of this rezoning and SUP at its January 9, 2013, meeting by a vote of 7-0.

Changes Since the Planning Commission Meeting

No changes have been made since the Planning Commission meeting.

Proffers: No proffers are proposed for this project.

BRIEF HISTORY OF THE JAMESTOWN BEACH PROPERTY

The Jamestown Beach Campground was purchased by the County in December 2006 through a partnership with the Trust for Public Land. The purchase was partially funded by grants from the Virginia Land Conservation Foundation and the Coastal and Estuarine Land Conservation Program through the National Oceanic and Atmospheric Administration. As a result, portions of the property are subject to conservation covenants which influence future uses of the property. When the land was purchased, it was zoned B-1, General Business, and the County decided not to include it in the comprehensive Public Land rezoning when the district was created in 2006 since at that time there was no plan for developing the property. The County then undertook the *Shaping Our Shores* master planning process, which included the Jamestown Beach Campground in addition to the Jamestown Yacht Basin and Chickahominy Riverfront Park. The process included much public input and analysis of each property and what uses were feasible and desired for each area. The result was a narrative document and conceptual master plan for each property, which were endorsed by resolution from the Board of Supervisors on June 9, 2009. The master plans identify uses that:

1. Are feasible given the environmental and other site constraints and reasonably fit within available program space;
2. Match, to the greatest extent possible, the broad concepts or "visions" for the three sites presented by citizens, elected and appointed officials, community groups, neighbors, and James City County staff;
3. Bring the maximum benefit to the maximum number of users; and
4. Provide opportunities for James City County to generate revenue to offset operational and maintenance costs for the properties.

The complete *Shaping Our Shores* document is available at the following link and an excerpt has been included as an attachment: <http://www.jamescitycountyva.gov/sos/master-plan.html>.

PROJECT DESCRIPTION

Ms. Nancy Ellis of James City County Parks and Recreation has applied to rezone the Jamestown Beach Campground property from B-1, General Business, to PL, Public Lands with an SUP to construct a community recreation facility. Community recreation facilities are neither a permitted nor specially permitted use on property zoned B-1. The project is across the street from Jamestown Settlement, which is zoned PL and designated as Park, Public, or Semi-Public Open Space on the 2009 Comprehensive Plan Land Use Map. The Jamestown Yacht Basin is also across the street, which is zoned B-1 and designated Mixed Use on the Comprehensive Plan. Other adjacent properties are zoned R-8, Rural Residential, and are designated as Low Density Residential.

The proposed master plan (see attached) generally shows the types and locations of facilities, though it should be noted that the numbers and specific types are not meant to be binding. The master plan is intended to address the long-range physical development, use, and stewardship of the property over the next 20+ years. The proposed master plan includes several bathroom and concession facilities, event tents, and restoration of the Vermillion House, playground, historic interpretation areas, handicap accessible trail access between the drop-off loop and the beach, parking, camping, non-motorized boat launch, fishing facilities, performance venue, special event area, and environmental education area. Development of the park is proposed to be completed in phases as grant and capital improvement program funding becomes available.

A rezoning and SUP are being sought at this time as a result of proposed improvements to the beach area including shoreline restoration, additional parking, handicap drop-off loop, and accessible trails to the beach. The initial improvements are geared towards ameliorating existing conditions for current beach users rather than adding new uses that would attract new visitors. These are shown on the attached conceptual plan. The locations for the uses are generally in accordance with the *Shaping Our Shores* master plan. Previous work on the property was for shoreline stabilization only and did not represent any viable recreation component and therefore did not trigger the need at the time for a rezoning and special use permit. The conceptual improvements continue to use an existing access point from Jamestown Road that is closer to the Jamestown-Scotland Ferry entrance to take advantage of access to an existing parking lot. The *Shaping Our Shores* master

plan does not include this entrance because the Virginia Department of Transportation (VDOT) had purchased additional right-of-way in that area. When VDOT chooses to make use of that right-of-way and as part of a future phase of improvements, the park's main entrance will have to be changed to the entrance that is shown on the master plan.

Staff determined that these improvements were a first step to establishing Jamestown Beach as a permanent community recreation facility, which is not a permitted use in the B-1 zoning district. Parks and Recreation anticipates completing most of the initial improvements within the next year to alleviate parking and access issues for existing beach visitors. The permanent restroom location closest to the beach is anticipated to be connected to public water and sewer. As a result, this improvement will be installed within 12 to 18 months using either grant funding that the County is currently applying for this year or existing capital project funds. Restroom locations on the site are designated on the master plan as "H" and "T."

The easement holders mentioned earlier were informed throughout the *Shaping Our Shores* process to ensure that proposed improvements were in keeping with the easement guidelines. They will continue to be consulted regarding project phasing and specific proposals.

PUBLIC IMPACTS

Historic Resources

A widespread Phase I archaeological study was conducted for this property as part of the *Shaping Our Shores* master planning effort. There has also been some targeted Phase II archaeological work on the property. As a result of the findings of these studies, staff has included a condition that requires additional excavation for any areas proposed to be disturbed that could impact archaeological resources that are either 'eligible' or 'potentially eligible' for listing on the National Register of Historic Places (NRHP) or noted as requiring further work. The additional studies would have to be completed prior to land-disturbing for the associated project.

The historic Vermillion House is also located on this property and is currently in the process of being nominated to the NRHP. There is a proposed condition for the SUP which limits interior and exterior improvements to the house to those that would not inhibit the house from being listed on the NRHP and are consistent with those guidelines.

Engineering and Resource Protection

Watershed: James River

Staff Comments: The property is on the waterfront on the James River and does include some Resource Protection Areas. Wetland delineations and Perennial Stream Determinations were completed at the beginning of the *Shaping Our Shores* process and considered during development of the master plan. The Engineering and Resource Protection Division was involved in the master planning effort and recommend that the suggestions in the master plan document be followed as development moves forward. Suggestions include using bioretention, infiltration, and sheet flow patterns; avoiding the increase of impervious cover aside from what is shown on the master plan; using Low Impact Development (LID) techniques; encouraging rainwater harvesting; and addressing water quantity. Staff has included a condition requiring a master stormwater management plan that addresses the above suggestions prior to the next major phase of development on the property. This is exclusive of currently proposed access improvements (parking, trails and restroom facility) and shoreline restoration projects for which stormwater management will be handled as required for the associated project.

Additionally, there is a condition limiting tree clearing on the property to the minimum necessary for the proposed improvements. This will help to preserve the naturally wooded character of Jamestown Beach.

Public Utilities

The property is located within the Primary Service Area (PSA), but has historically been served by a

system of water wells and private septic systems. Existing public water and sewer infrastructure is located nearby and is readily accessible.

Staff Comments: Staff has identified potential routings for public water and sewer to be brought to the property initially for use by a proposed restroom facility near the existing beach parking area along Jamestown Road. Parks and Recreation staff is currently completing grant applications to fund these initial improvements or will use existing capital project funds to complete utility connections within the next 12 to 18 months. In the interim, the beach area will continue to be served by temporary restroom facilities. The *Shaping Our Shores* master plan indicates that all uses on the property will be served by public water and sewer at buildout. Permanent restrooms are a high priority for Parks and Recreation and no improvements shown on the master plan that would generate higher visitation (such as the cabins or event areas) will be completed before restrooms are connected to public water and sewer. There is also an SUP condition which requires implementation of water conservation guidelines.

Virginia Department of Health Comments (VDH): Staff has had discussions about the restroom facility with VDH since uses on the property originally operated on private well and septic. These facilities still exist on the property, but there is no information available on their status and available capacities. Given this and the proximity of public water and sewer, VDH has determined that temporary pump and haul restrooms were not an appropriate solution. This prompted Parks and Recreation to plan to extend utilities in an earlier phase of the project than originally planned. Temporary restrooms can be used as an interim solution while work on extending the utilities progresses so long as it is a reasonable time frame (typically a year or less).

Transportation

A preliminary traffic impact analysis for Jamestown Beach Campground was prepared by Vanasse Hangen Brustlin, Inc. (VHB) during the *Shaping Our Shores* master plan. The primary site access for ingress and egress to the site will remain in its existing location on Jamestown Road and the entrance will be improved as necessary to meet VDOT entrance standards. The primary focus of the study was to determine whether turn lanes may be required on Jamestown Road and where.

2007 County Traffic Counts: Jamestown Road from the James River to Ironbound Road had a daily traffic volume of 7,965 vehicles.

2035 Daily Traffic Volume Projected (from 2009 Comprehensive Plan): On Jamestown Road between the James River and Ironbound Road, 6,903 average annual daily trips (AADT) are projected – this is in the category of OK.

VDOT Comments: VDOT has indicated that no right- or left-turn lanes would be required for the park entrance from Jamestown Road (Route 31) and that it appears that this portion of Jamestown Road will remain with excess capacity. The subject of VDOT's review focused on the development on the north side of Jamestown Road. The study should be reevaluated before plans for the south side of Jamestown Road (specifically the Jamestown Yacht Basin) move forward.

COMPREHENSIVE PLAN

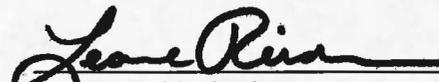
The property is designated Park, Public, and Semi-Public Open Space on the 2009 Comprehensive Plan Land Use Map and is in the Jamestown Island – Jamestown Settlement – Greensprings Road Community Character Area. Park, Public, and Semi-Public Open Space areas should be large undeveloped areas owned by institutions or the public and used for recreation or open space. Properties serve as buffers to historic sites and sensitive areas such as reservoirs, educational resources, and area for public recreation and enjoyment. The Parks and Recreation section of the Comprehensive Plan calls for park master plans to be adopted to enable coordination of construction phasing and validation of capital improvement requests. The Jamestown Beach master plan was created following significant public, County staff and Board of Supervisors input, but was endorsed by the Board of Supervisors on June 9, 2009, rather than being formally rezoned and adopted. Parks and Recreation Strategy 4 also calls for developing the recreational components of the Jamestown Beach property in accordance with this master plan and for creating and expanding public water access on the James River. This rezoning and SUP are the initial steps towards progress on this strategy and the first phase of the construction will improve the current parking situation and handicap access to the water.

Several goals, strategies, and actions in the Environmental section also encourage use of Low Impact Development (LID) features, promoting the protection of trees and ensuring that water dependent activities and related sanitation facilities are conducted in an environmentally sensitive manner. The master plan for Jamestown Beach, along with the proposed conditions, support these directives by planning for public utilities, designing facilities to minimize impervious cover, coordinating site-wide stormwater management, and minimizing tree clearing and disturbance in the most environmentally sensitive areas of the property.

Finally, the Comprehensive Plan's description for the Jamestown Island – Jamestown Settlement – Greensprings Road Community Character Area supports the development of Jamestown Beach in accordance with the *Shaping Our Shores* Master Plan. It notes that parking and uses should be setback and screened from Jamestown Road, specimen trees should be preserved, pedestrian and bicycle access and circulation should be promoted, and public access to the waterfront should be an integral feature of new development designed to limit the visual impact on views from the river. The master plan accomplishes these goals by having most of the use areas set back from Jamestown Road and working within the existing site topography and tree cover.

RECOMMENDATION

Staff finds the proposal to be consistent with the 2009 Comprehensive Plan, the Zoning Ordinance and the *Shaping Our Shores* Master Plan. Staff recommends that the Board of Supervisors approve the rezoning and SUP subject to the conditions outlined in the attached resolution.



Leanne Reidenbach

CONCUR:



Allen J. Murphy, Jr.

LR/nb
Z08-12SUP17-12JBeach.doc

Attachments:

1. Rezoning resolution
2. Special use permit resolution
3. Location map
4. Unapproved minutes of the January 9, 2013, Planning Commission meeting
5. Master plan
6. Supporting information from *Shaping Our Shores* document
7. Conceptual plan for initial improvements

MEMORANDUM COVER

Subject: Briefing Materials – New Virginia Stormwater Management Regulations

Action Requested: Shall the Board provide guidance on local development and implementation of the new Virginia Stormwater Management Regulations and Virginia Stormwater Management Program (VSMP)?

Summary: At a work session scheduled for February 26, 2013, Development Management/Engineering and Resource Protection staff will provide an update on the new Virginia Stormwater Management Regulations and the Virginia Stormwater Management Program (VSMP), which were adopted into law by the Commonwealth of Virginia in September 2011. Implementation of the new Virginia Stormwater Management Regulations and the VSMP is required by localities by July 1, 2014, (FY 15) and a “Substantive Progress” package is required by James City County by April 1, 2013. If the substantive progress application is approved by the Virginia Department of Conservation and Recreation (DCR) and Virginia Soil and Water Conservation Board, an additional one-year extension will be granted for continued program development.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Memorandum
 - 2. Staff handout
 - 3. DCR FAQ
 - 4. DCR substantive progress guidance
 - 5. DCR model ordinance

WORK SESSION

Date: February 26, 2013

MEMORANDUM

DATE: February 26, 2013

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection

SUBJECT: Briefing Materials – New Virginia Stormwater Management Regulations

The purpose of this memorandum is to provide the Board of Supervisors with information in support of a work session scheduled for February 26, 2013. At the work session, Development Management/Engineering and Resource Protection staff will provide an update on the new Virginia Stormwater Management Regulations and the Virginia Stormwater Management Program (VSMP). Staff will brief the Board during the work session with a PowerPoint slide presentation, which will provide detailed information about the new stormwater management regulations and local implementation requirements of the VSMP.

The new Virginia Stormwater Management Regulations have been in progress since 2004 with the adoption of Chapter 372 of the 2004 Virginia Acts of Assembly (HB1177) and related Commonwealth reorganization activities. The VSMP is authorized by the Virginia Stormwater Management Act, Article 1.1 §10.1-603.1 et. seq. of the Code of Virginia and the VSMP Regulations, 4VAC50-60-10 et. seq. The regulations were adopted by the Virginia Soil and Water Conservation Board on May 24, 2011, and were signed into law, becoming effective well over a year ago, on September 13, 2011.

Based on the adopted law and regulations, implementation of the new Virginia Stormwater Management Regulations and VSMP is required by localities by July 1, 2014 (FY 15). Local implementation of the regulations and VSMP is mandatory for James City County because of our status as one of 84 localities within Tidewater Virginia subject to the provisions of the Chesapeake Bay Act and Regulations and because of County designation as a National Pollutant Discharge Elimination System (NPDES) Phase 2 municipal storm sewer system Municipal Separate Storm Sewer System (MS4) community.

Submittal of a “Substantive Progress” package is required by James City County by April 1, 2013, for the Virginia Department of Conservation and Recreation (DCR) review and for a Virginia Soil and Water Conservation Board (VSWCB) meeting in June 2013. If the VSWCB approves the “Substantive Progress” package for James City County, an additional one-year extension will be granted until June/July 2014; otherwise, information must be submitted to adopt a program by June 1, 2013. It is in the County’s best interest to submit a “Substantive Progress” application in order to obtain a one-year extension for program development and final implementation efforts.

Information required for the “Substantive Progress” application due to the DCR on April 1, 2013, will be reviewed during the work session along with other items deemed of significant importance.

Attachments to this memorandum include a two-page summary developed by staff and three bulletins and guidance documents developed and released by the Virginia DCR in December 2012.

1. Two-page staff overview – “New Virginia Stormwater Management Program (VSMP) Regulations, Briefing to County Administrator and Board of Supervisors”;

2. Virginia DCR issued publication – “Frequently Asked Questions, Local Virginia Stormwater Management Program Development”;
3. Virginia DCR issued publication, December 13, 2012 – “Activities Constituting Substantive Progress Towards Local Development of a Virginia Stormwater Management Program”; and
4. Virginia DCR issued publication, December 13, 2012 – “Stormwater Management Model Ordinance.”

Current final versions of the Virginia Stormwater Management Act and VSMP Regulations are well over 150 pages and are not attached to this memo packet. If you are interested, these items can be viewed at the following Virginia DCR Stormwater Management program web links:

Law and Regs: http://www.dcr.virginia.gov/stormwater_management/documents/smhbdraft02.pdf

Law: http://www.dcr.virginia.gov/stormwater_management/documents/vaswmlaw.pdf

Regs: http://www.dcr.virginia.gov/stormwater_management/documents/vsmpregs112112.pdf



Scott J. Thomas

CONCUR:

Allen J. Murphy, Jr.

SJT/nb
VAStmwtrMgmt_mem

Attachments

New Virginia Stormwater Management Program (VSMP) Regulations

Briefing to County Administrator and Board of Supervisors

HISTORICAL CONTEXT

- In progress since 2004, increased activity since end of 2011
- Internal County meetings and coordination throughout entire process
- Various stages of public input through state legislative processes
- Attended many workshops (DCR, HRPDC, VAMSA, etc.)
- Recent DCR bulletins, advisory groups, rollout and regional meetings. Recent 6 hour training at VIMS on 12/19/12
- Weekly/daily email updates and notifications
- Overlaps with other significant programs CBTMDL, WIPS, MS4 etc.
- VPDES/VSMP program has existed for many years with state, not locally implemented in past
- Basic frameworks are set, cannot change, except by Virginia legislative acts
- Extensive development community input during state comment periods through public meetings Virginia Register and Virginia TownHall.
- New program will now consolidate state & local permit programs
- New ordinance, new program elements – some we do already

BASIS FOR NEW SWM REGULATIONS

- Mandated because of County MS4-PH2 and Bay Act status
- Key theme of regulations is property protection, runoff reduction & pollutant load removal
- Law (Article 1.1, §10.1-603.1 et. seq. of Chapter 6 of Title 10.1 of the Code of Virginia, Virginia Stormwater Management Act)
- VSMP Permit Regulations (4VAC50-60-10 et. seq.)
- Virginia Soil & Water Conservation Board adopted May 24, 2011
- Signed into law effective September 13, 2011
- Consolidation Bill effective July 1, 2012
- New state stormwater handbook and clearinghouse website (BMPs)
- State law is adopted, local implementation is required; Virginia Soil & Water Conservation Board and DCR oversight
- County first officially notified of implementation phase (February 2012)

URBAN STORMWATER

SIGNIFICANT NEW PROGRAMS, POLICIES AND WORK EFFORTS

General Services - STW

- CHESAPEAKE BAY TMDL
- VA PHASE 1 & 2 WIPS
- MS4 - PHASE 2 RENEWAL
- DEQ 305B/303D IMPAIRED LIST
- DEQ - TMDL IP
- 2010 CENSUS URBAN AREA
- EPA MS4 AUDITS

Development Mgmt - ERP

- NEW VA SW REGULATIONS**
- MS4 – CONST GP RENEWAL
- VA E&S LAW & REGULATIONS
- NUTRIENT TRADING & OFFSET
- VTAP BMP PROTOCOL
- EPA NATIONAL RULEMAKING

Other

- 2012 CONSOLIDATION BILL
- RECONVENE VA ASSEMBLY
- TRANSFER BILL DEQ/DCR

EXISTING PROGRAMS, POLICIES AND WORK EFFORTS

- LAWN FERTILIZER HB1831
- CURRENT JCC MS4 PLAN
- JCC WATERSHED MGMT PLAN
- SPECIAL SW CRITERIA
- FEDERAL: NPDES, NFIP, WETLANDS
- STATE: VDOT, VPDES, VSMP, BAY ACT, E&S, MS4, TMDL, FLOODPLAIN, WETLANDS, DAM SAFETY
- LOCAL: BAY ACT, E&S, MS4, FLOODPLAIN, WETLANDS, ZONING, SUBDIV, COMP PLAN,
- STREET & ROAD PROGRAMS
- BMP EMERGING TECHNOLOGY

HIGHLIGHTS OF MAIN DIFFERENCES/CHANGES COMPARED TO EXISTING PROGRAM

- Overall, changes equal or slightly better than current stormwater criteria
- Expect reduction in specific proffers/conditions for stormwater on legislative cases
- New program administration processes; state E-permit registration & fee pay system
- Elimination of County current 10-point system for water quality and BMPs
- Managed turf is now considered a pollutant generator, used to be forest or open space
- Expanded BMP list for compliance and flexibility to choose “levels” of design
- New offsite compliance options for water quality (not quantity); has strict limitations
- New phosphorous limit for water quality on new development (0.41 lbs/ac./year) and reduction goal of 20% on redevelopment sites > 1 acre (still 10% for sites < 1 acre)
- New Virginia Runoff Reduction Model (VRRM) spreadsheet tool for screening sites
- New detailed and up-to-date state BMP website and revised stormwater handbook.
- New water quantity (channel and flood protection) control criteria.
- New Stormwater Pollution Prevention Plan (SWPPP) requirements for construction sites. A SWPPP includes a E&S, SWM, Pollution Prevention Plan (PPP) and demonstration of TMDL compliance (if applicable).
- The PPP is a new plan review and inspection component
- New administrative completeness check for plan review submittals (15 calendar days)
- New stormwater training and certification programs for staff
- New enforcement court-civil penalty provisions (\$32,500 per violation)
- New permit maintenance fees (annual renewals) and permit termination procedures
- New program reporting and recordkeeping requirements
- Consolidation/flexibility for Bay Act sites < 1 acre will not need to register for VSMP but SWPPP components still apply

IMPORTANT KEY ITEMS FOR DISCUSSION

1. Draft Ordinance* – acceptability of submitting state model as placeholder
2. Substantive Progress Application – due by April 1, 2013
3. Final Ordinance – program development and additional elements (local)
4. Locally administered, state E-permit system for registration, identification of the local program authority and person who will accept registration statements
5. Higher levels of program administration, plan review, inspection and enforcement (SWPPP – pollution prevention plan component): Draft staffing and funding plan
6. New fee structure (in addition to current E&S program fee)

* The preliminary draft ordinance does not have to be approved by the locality and the draft funding and staffing plan needs to list roles of personnel, departments responsible, estimated number of staff and a list of sources of funding.

UPCOMING DEADLINES, SUBMITTAL REQUIREMENTS AND BOS DECISION POINTS

- Condensed briefing package and work session with BOS; 2nd meeting in February 2013
- Possible follow-up 2nd work session with BOS with completed “minimum submittal items” including preliminary draft ordinance and funding/staffing plan
- Package from County is due to Virginia DCR by April 1, 2013 (FY13)
- Purpose of minimum submittal is to allow for a 1-year extension
- Target adoption & implementation date by localities is July 1, 2014 (FY15)

Important Dates to Remember!

- 1. November 21, 2012**
Revisions to the stormwater management regulations to comport with the Integration Bill become effective.
- 2. April 1, 2013**
Date to submit request for one-year extension to complete local stormwater management program.
- 3. June 13, 2013**
Final local stormwater programs must be adopted, unless one-year extension has been granted.
- 4. July 1, 2014**
Implementation deadline for local stormwater management programs.

Local Virginia Stormwater Management Program Development

FREQUENTLY ASKED QUESTIONS

The revisions to the Virginia Stormwater Management Regulations (SWM) became effective on September 13, 2011 after a significant and successful stakeholder process. These regulations are an important part of the state's efforts to protect the quality of local waters and the Chesapeake Bay. During their 2012 session, the Virginia General Assembly passed legislation that requires localities throughout the state, with the exception of towns that do not hold a Municipal Separate Storm Sewer System (MS4) permit, to adopt local Virginia Stormwater Management Programs (VSMPs).

DCR has developed this document to address key questions and issues. It is DCR's desire that local adoption of the regulations be as seamless and efficient as possible.

1. WHAT ARE THE BENEFITS OF ADOPTING A STORMWATER MANAGEMENT PROGRAM?

Answer: The benefits to a local government adopting stormwater management program include:

- **Local Development Control.** Local governments will have direct oversight of development activities in their jurisdiction, including the speed with which plans are reviewed and approved. Administering a local program provides an economic development advantage and the ability to address local issues. Localities will also have the ability to quickly and effectively address compliance issues.
- **One-Stop-Shop.** Implementation of a local program provides "one-stop-shopping" for the development community in that they can comply with all of their stormwater regulatory requirements through local programs.
- **Revenue Source.** Local governments will receive 72 percent of the state-set permitting fees for stormwater management program operation, providing a new source of local revenue. They will have the option to increase or decrease those fees, as necessary, to support the local program activities.

- Protecting Local Waters/Reducing Future Costs. The resource protection made possible by administering a local stormwater program, particularly criteria related to managing the quantity of storm water runoff, will avoid future, expensive stream restoration costs and damage to properties.

2. WHICH LOCALITIES HAVE TO ADOPT A LOCAL VSMP PROGRAM?

Answer: All localities in the Commonwealth, excluding towns, (unless such towns operate a regulated MS4), are required to adopt a VSMP program that is consistent with the revised stormwater management regulations and the revised General Permit for Discharges of Stormwater from Construction Activities.

3. WHAT ARE THE ELEMENTS OF A LOCAL VSMP?

Answer: In accordance with § 4VAC50-60-148 A 1-9, of the Stormwater Management Regulations, the nine program elements that must be incorporated in local VSMP program include:

1. Identification of the authorities for accepting VSMP registration statements and for completing plan review, plan approval, inspection, and enforcement.
2. Provisions for submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and regulations and the submission and approval of stormwater management plans.
3. Requirements to ensure compliance with a Stormwater Pollution Prevention Plan, which includes an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan and a description of any additional control measures necessary to address a Total Maximum Daily Load (TMDL).
4. Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances.
5. Requirements for long-term inspection and maintenance of stormwater management facilities.
6. Provisions for the collection, distribution to the state if required, and expenditure of fees.
7. Enforcement procedures and civil penalties where applicable.
8. Policies and procedures to obtain and release bonds, if applicable.
9. Procedures for complying with the applicable reporting and recordkeeping requirements in 4VAC50-60-126.

4. WHICH OF THE ABOVE ELEMENTS HAVE TO BE INCLUDED IN LOCAL ORDINANCES?

Answer: In accordance with § 4VAC50-60-148 B of the Stormwater Management Regulations, the six program elements that must be included in local ordinances include:

1. Identification of the authorities for accepting VSMP registration statements and for completing plan review, plan approval, inspection, and enforcement.
2. Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and regulations and the submission and approval of stormwater management plans.
3. Requirements to ensure compliance with a Stormwater Pollution Prevention Plan, which includes an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan and a description of any additional control measures necessary to address a TMDL.
4. Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances.
5. Requirements for long-term inspection and maintenance of stormwater management facilities.
6. Enforcement procedures and civil penalties where applicable.

5. WHAT DOES THE LOCAL GOVERNMENT HAVE TO SUBMIT TO OBTAIN APPROVAL FOR ITS VSMP PROGRAM?

Answer: In accordance with § 4VAC50-60-150 A. of the Stormwater Management Regulations, the three items that have to be included in the submittal package to the regional office include:

1. A draft local stormwater management ordinance.
2. Policies and procedures to administer the local VSMP program.
3. A funding and staffing plan that demonstrates the locality has adequate resources to administer the program.
4. Such ordinances, plans, policies, and procedures must account for any town lying within the county as part of the locality's VSMP program unless such towns choose to adopt their own program.

6. WHEN SHOULD I START DEVELOPING MY LOCAL VSMP PROGRAM?

Answer: The Stormwater Management Act requires localities to adopt local VSMP programs within 15 to 21 months of Sept. 13, 2011, the effective date of the revised stormwater management regulations; or between December 2012 and June 2013. The act also specifies, however, that the Soil and Water Conservation Board can

grant a one-year extension to this deadline. In order to obtain an extension, the local program must demonstrate that substantive progress is being made. Accordingly, in order to obtain an extension, information concerning staff who will accept registration statements and conduct plan review, inspections and enforcement, a preliminary draft local VSMP ordinance, and draft funding and staffing plans must be submitted to the DCR Regional Office that covers your locality by April 1, 2013.

7. WHEN DO LOCALITIES HAVE TO START IMPLEMENTING A LOCAL VSMP PROGRAM?

Answer: Local VSMP programs must begin implementing those programs on July 1, 2014. This date is the expected effective date of the revised General Permit for Discharges of Stormwater from Construction Activities. Although localities cannot implement the program before July 1, 2014, they can begin using the Runoff Reduction spread sheet to identify pollutant control technologies. Localities may also use more recent water pollution control Best Management Practices (BMPs). It is important to note however, that if the locality chooses to use the Runoff Reduction method, the method should be used consistently – a locality cannot “mix and match” the procedures for stormwater compliance.

8. TO WHOM IS THE DRAFT PROGRAM SUBMITTED FOR REVIEW AND APPROVAL?

Answer: The draft program materials should be submitted to the DCR Regional Office that covers your locality.

9. CAN MY LOCALITY PARTNER WITH OTHER LOCALITIES AND ENTITIES IN THE ADMINISTRATION OF THEIR LOCAL VSMP?

Answer: Yes. The Stormwater Management Act specifically authorizes a local VSMP authority to “enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other entities” to assist with the administration of the VSMP program. This coordination is limited, however, to plan reviews and inspections.” (§10.1-603.3 A)

10. IF MY LOCALITY PARTNERS WITH ANOTHER LOCALITY, DO WE STILL HAVE TO ADOPT A LOCAL ORDINANCE?

Answer: Yes. Although the revised Stormwater Management Act does authorize localities to partner with other localities or entities as explained above, the locality remains ultimately responsible for the administration of the VSMP program. Any enforcement actions in particular rest with the local government. Plan reviews and inspections can be provided by partner localities, districts or entities.

11. IF THE VSMP PROGRAM FOR MY NON-MS4 TOWN IS GOING TO BE ADMINISTERED BY THE COUNTY, DOES THE TOWN STILL NEED A LOCAL ORDINANCE?

Answer: No. For towns that choose not to adopt a local VSMP program, such programs are to be administered by the county in which the town lies. In these cases, the town does not have to adopt a local VSMP ordinance. The town should indicate its choice on program adoption to DCR and to the county. If a town boundary lies in two county jurisdictions, then the county encompassing the majority of the town boundary will operate the entire town program.

12. I UNDERSTAND THERE IS A STATE FEE SCHEDULE. DOES THE LOCAL VSMP PROGRAM HAVE TO USE THAT EXACT SCHEDULE?

Answer: No. The local VSMP program is required to assess the state wide fee schedule and shall have the authority to reduce or increase such fees. Whatever fee schedule is decided upon by the locality, the fees, as well as other funding sources shall be sufficient to effectively administer the local VSMP program consistent with the revised stormwater management regulations. Any fee change must be approved by the Virginia Soil and Water Conservation Board.

13. CAN THE LOCAL VSMP RETAIN ALL OF THE FEES COLLECTED?

Answer: The local VSMP is required to forward 28 percent of the state fee schedule to DCR to support the agency's program oversight and technical assistance activities even if the locality lowers the fee schedule. The locality retains 72 percent of the fees set in the schedule of fees contained in the revised stormwater management regulations or those set locally, less 28 percent of the state fee schedule.

14. DOES SINGLE FAMILY RESIDENTIAL CONSTRUCTION HAVE TO OBTAIN VSMP PERMIT COVERAGE?

Answer: If a single-family residence disturbs more than one acre or is part of a common plan of development, permit coverage is required. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development, including additions or modifications to existing single-family detached residential structures, are exempt from the VSMP requirements. However, localities subject to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) shall regulate these single family residences where land disturbance exceeds 2,500 square feet.

15. WHAT IS A STORMWATER POLLUTION PREVENTION PLAN (SWPPP)?

Answer: In accordance with the revised stormwater management regulations, a Stormwater Pollution Prevention Plan or SWPPP is an umbrella that must include, but not be limited to:

- An approved erosion and sediment control plan;
- An approved stormwater management plan;
- A pollution prevention plan for land-disturbing activities; and
- A description of any additional control measures necessary to address a TMDL.

Below is a link with some useful information on SWPPPs.

<http://cfpub.epa.gov/npdes/stormwater/swppp.cfm>

16. MAY LOCALITIES REVIEW THE POLLUTION PREVENTION PLAN (PPP) COMPONENT OF THE SWPPP AS PART OF THE PLAN REVIEW PROCESS?

Answer: Yes, but they are not required to do so. § 4VAC 50-60-340 A states that “The board, the department, or the permit-issuing authority may require every permit applicant or permittee 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. . .”

17. WHAT IS A COMMON PLAN OF DEVELOPMENT OR SALE?

Answer: As defined in § 4VAC50-60-10 (Definitions) of the Stormwater Management Regulations. “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. There is no expiration date for the common plan of development.

18. WILL THERE BE ANY TRAINING ON THE NEW STORMWATER MANAGEMENT REGULATIONS?

Answer: Yes. DCR is conducting a comprehensive training program for local staff, engineers and other interested stakeholders. The training involves a series of regional training sessions for local government staff focusing on the technical provisions of the regulations. DCR is also developing a stormwater certification program to compliment the current Erosion and Sediment Control (ESC) certification program. The stormwater certification program is expected in the Spring 2013.

19. DOES DCR EXPECT LOCALITIES TO COORDINATE EROSION AND SEDIMENT CONTROL, STORMWATER MANAGEMENT, AND CHESAPEAKE BAY PRESERVATION ACT PROGRAMS?

Answer: DCR's overall goal is to have consolidated or unified local stormwater management programs that integrate the stormwater management requirements with the erosion and sediment control, flood insurance, flood plain management and Chesapeake Bay Preservation Act requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the locality and those responsible for compliance with these programs.

However, how this integration occurs is up to each individual local government. Where feasible, local governments should attempt to consolidate and streamline local reviews in a coordinated manner so they can be implemented as efficiently as possible, facilitating ease of compliance. A good example of such consolidation is when the local government review team confers with the developer in advance of submitting a site plan and the developer receives input from staff from all applicable reviewing departments (including those for Erosion & Sediment and CBPA).

20. WILL THE EXISTING CERTIFICATION FOR EROSION AND SEDIMENT CONTROL BE EXPANDED TO INCLUDE STORMWATER CERTIFICATION, OR WILL IT BE A SEPARATE CERTIFICATION?

Answer: Based on the provisions of the 2012 Integration Bill, DCR will be developing separate certifications for stormwater which will parallel those in place already for ESC. Stormwater Plan Reviewer, Stormwater Inspector, and Stormwater Combined Administrator certifications will be provided. A Dual Program Administrator certificate will be provided to those who obtain ESC Program Administrator and Stormwater Program Administrator certifications.

21. WILL THERE BE OPPORTUNITIES TO OBTAIN FINANCIAL GRANTS TO ASSIST WITH THE DEVELOPMENT OF LOCAL STORMWATER MANAGEMENT PROGRAMS?

Answer: Yes. DCR released an RFP for local program development on July 30, 2012 and the deadline for the finalized grant agreements is December 1, 2012. It is anticipated that future RFPs will be released for additional grant resources pending availability of federal funds.

Staff is also continuing to identify other sources of funding and technical assistance opportunities to help local governments develop their local programs. Finally, DCR is in the process of developing a suite of technical assistance tools and guidance for local governments to assist with the development of local stormwater management programs.

22. CAN A LOCALITY ADOPT A PROGRAM WITHOUT HIRING ADDITIONAL STAFF?

Answer: There are several options for running a local program without hiring additional staff. The locality may enter into contracts with other localities, PDCs, Soil & Water Conservation Districts for the plan review and inspection functions of a local stormwater management program. Also, a locality may contract with a consulting engineering firm to perform functions such as plan review. Doing so can avoid the hiring of staff at the local level to perform those functions.

23. WILL THERE BE TWO SEPARATE “STORMWATER” PERMITS – ONE FROM DCR, THE OTHER FROM THE LOCAL VSMP?

Answer: DCR’s role in the approval of land disturbing activities is to provide coverage under the General Permit for Discharges of Stormwater from Construction Activities, whereas the locality, as a VSMP authority, will issue a permit to allow the commencement of a land disturbing activity as well other permits as required by the local government. The permit application for the local approval must include a VSMP registration statement, evidence of VSMP coverage, a stormwater management plan and an erosion and sediment control plan. Land disturbing activities are not to be conducted until approval has been issued by the local VSMP authority and all other local permit requirements have been met. An electronic permitting system is being designed to integrate this as one stormwater permit.

24. WILL DCR PROVIDE TECHNICAL ASSISTANCE?

Answer: Yes. Each locality has been assigned a regional office staff member to assist them with the development of their local VSMP programs. Further, DCR is in the process of finalizing a Local VSMP Program Development Tool Kit, which will contain a variety of program development templates and tools.



**ACTIVITIES CONSTITUTING
“SUBSTANTIVE PROGRESS”
TOWARDS LOCAL DEVELOPMENT
OF A VIRGINIA STORMWATER
MANAGEMENT PROGRAM**

(Approved December 13, 2012)

Summary:

This guidance document serves to identify those activities considered as constituting “substantive progress” made by a locality in developing a Virginia stormwater management program that warrant a 12-month extension by the Virginia Soil and Water Conservation Board (Board) for the locality to complete their program development in accordance with the Virginia Stormwater Management Act (§ 10.1-603.2 et seq. of the Code of Virginia) and its attendant regulations [Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60)]. Requests for the 12-month extension must be submitted to the Department of Conservation and Recreation’s (DCR’s) Regional Office staff by April 1, 2013 in order to be considered by the Board at its June 2013 meeting, otherwise, the VSMP adopted program must be submitted to the Board by June 13, 2013.

Electronic Copy:

An electronic copy of this guidance document is available in PDF format on the Regulatory Town Hall website at <http://townhall.virginia.gov/> under the “Guidance documents” tab (see Virginia Soil and Water Conservation Board).

Contact Information:

Please contact the Department of Conservation and Recreation’s Stormwater Management Division at the appropriate regional office with any questions regarding the application of this guidance (see http://www.dcr.virginia.gov/stormwater_management/swmrollout-tools.shtml for contact information). Additional information on the program adoption process may be found in the Frequently Asked Questions document also found at this web address.

Disclaimer:

This document is provided as guidance and, as such, sets forth the process for the Board and DCR to work with localities on the development of Virginia stormwater management programs. The guidance does not carry the force of law and is not intended, and cannot be relied on, to create any rights, substantive or procedural, on the part of any person or entity. DCR reserves the right to modify the guidance at any time without public notice. In addition, DCR may deviate from the guidance as it deems necessary and within the confines of law to carry out the intent of the stormwater management law and regulations.

“Substantive Progress” Towards Virginia Stormwater Management Program Development

I. Background:

Current law and regulation require localities in the Commonwealth, with the exception of towns who are not designated as Municipal Separate Storm Sewer Systems (MS4s), to adopt a Virginia stormwater management program as approved by the Virginia Soil and Water Conservation Board by June 13, 2013. Section 10.1-603.3 of the Code of Virginia establishes the timeframe for the development of a Virginia stormwater management program by a locality and the ability of the Virginia Soil and Water Conservation Board to issue a 12-month extension for program development provided that the locality “has made substantive progress” towards developing a program. In accordance with the Code of Virginia, the Virginia Administrative Code (see 4VAC50-60-148 and 150) sets out additional authorization procedures for Virginia stormwater management programs. This guidance document has been prepared to provide guidance to localities on the Virginia stormwater management program development schedule and outlines what is considered “substantive progress.”

II. Definitions:

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Board after September 13, 2011, that has been established by a VSMP authority 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 Board after September 13, 2011, to operate a Virginia Stormwater Management Program or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § 10.1-603.5, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102.

III. Authority:

Timeframe for Development Authority:

Section 10.1-603.3 of the Code of Virginia establishes the timeframe for development of Virginia stormwater management programs by localities.

§ 10.1-603.3. Establishment of Virginia stormwater management programs.

A. **Any locality, excluding towns, unless such town operates a regulated MS4, shall be required to adopt a VSMP for land-disturbing activities consistent with the provisions of this article according to a schedule set by the Board. Such schedule shall require adoption no sooner than 15 months and not more than 21 months following the effective date of the regulation that establishes local program criteria and delegation procedures, unless the Board deems that the Department's review of the VSMP warrants an extension up to an additional 12 months, provided the locality has made substantive progress.**

B. Any town lying within a county, which has adopted a VSMP in accordance with subsection A, may adopt its own program or shall become subject to the county program. If a town lies within the boundaries of more than one county, the town shall be considered to be wholly within the county in which the larger portion of the town lies. Towns shall inform the Department of their decision according to a schedule established by the Department. Thereafter, the Department shall provide an annual schedule by which towns can submit applications to adopt a VSMP.

NOTE: For the purposes of subsection A above, the effective date of “the regulation that establishes local program criteria and delegation procedures” was September 13, 2011.

Authorization Procedures:

The Virginia Stormwater Management Program (VSMP) Permit Regulations contain the following authorities applicable to this guidance.

4VAC50-60-150. Authorization procedures for Virginia stormwater management programs.

A. **A locality required to adopt a VSMP in accordance with § 10.1-603.3 A of the Code of Virginia or a town electing to adopt its own VSMP in accordance with § 10.1-603.3 B of the Code of Virginia, must submit to the board an application package** which, at a minimum, contains the following:

1. **The draft VSMP ordinance(s) as required in 4VAC50-60-148;**
2. **A funding and staffing plan;**
3. The policies and procedures including, but not limited to, agreements with Soil and Water Conservation Districts, adjacent localities, or other public or private entities for the administration, plan review, inspection, and enforcement components of the program; and
4. Such ordinances, plans, policies, and procedures must account for any town lying within the county as part of the locality's VSMP program unless such towns choose to adopt their own program.

B. Upon receipt of an application package, the board or its designee shall have 30 calendar days to determine the completeness of the application package. If an application package is deemed to be incomplete based on the criteria set out in subsection A of this section, the board or its designee must identify to the VSMP authority applicant in writing the reasons the application package is deemed deficient.

C. **Upon receipt of a complete application package, the board or its designee shall have 120 calendar days for the review of the application package, unless an extension of time, not to exceed 12 months unless otherwise specified by the board in accordance with § 10.1-603.3 M of the Code of Virginia, is requested by the department, provided the VSMP authority applicant has made substantive progress.** During the 120-day review period, the board or its designee shall either approve or disapprove the application, or notify the locality of a time extension for the review, and communicate its decision to the VSMP authority applicant in writing. If the application is not approved, the reasons for not approving the application shall be provided to the VSMP authority applicant in writing. Approval or denial shall be based on the application's compliance with the Virginia Stormwater Management Act and this chapter.

D. A VSMP authority applicant in accordance with § 10.1-603.3 A of the Code of Virginia shall submit a complete application package for the board's review pursuant to a schedule set by the board in accordance with § 10.1-603.3 and shall adopt a VSMP consistent with the Act and this chapter within the timeframe established pursuant to § 10.1-603.3 or otherwise established by the board.

4VAC50-60-148. Virginia stormwater management program administrative requirements.

A. A VSMP shall provide for the following:

1. Identification of the authority accepting complete registration statements and of the authorities completing plan review, plan approval, inspection, and enforcement;

B. A locality's VSMP authority shall adopt and enforce an ordinance(s) that incorporates the components set out in subdivisions 1 through 5 and 7 of subsection A of this section.

IV. Discussion and Interpretation:

A. Schedule for Virginia stormwater management program development.

Section 10.1-603.3. A. of the Code of Virginia stipulates that specified localities “shall be required to adopt a VSMP for land-disturbing activities consistent with the provisions of this article according to a schedule set by the Board”. It further states that “[s]uch schedule shall require adoption no sooner than 15 months and not more than 21 months following the effective date of the regulation that establishes local program criteria and delegation procedures, unless the Board deems that the Department's review of the VSMP warrants an extension up to an additional 12 months, provided the locality has made substantive progress”.

In accordance with the Code of Virginia, localities are therefore required to adopt a Virginia stormwater management program between December 13, 2012 (15 months) and June 13, 2013 (21 months) unless the Board provides an extension for such programs upon DCR's recommendation to do so. The benchmark for the Board issuing an extension from the specified 15-21 month schedule is for the locality to be making “**substantive progress**” towards program development by June 13, 2013.

The Department, upon its review of the locality's draft application package, will review the minimum activities set out in IV B below to develop a recommendation to the Board regarding whether an extension may be warranted. DCR's recommendations for an extension based on “substantive progress” will be considered by the Board at its June 2013 meeting. In order to meet the substantive progress criterion and to provide for adequate time for DCR staff review prior to presenting to the Board, supporting documentation for these three activities should be submitted to DCRs Region Offices **no later than April 1, 2013**.

B. Minimum requirements to show “substantive progress”.

The activities noted below and in Table 1 represent those activities that a local government should submit that will constitute “substantive progress” in the development of their local stormwater management program.

1. Identification of the authorities accepting registration statements, completing plan review and plan approval, and conducting inspections and enforcement functions;
2. Draft of the local stormwater management ordinance (the draft local ordinance does not have to be approved by the local elected and/or appointed local officials prior to submittal); and
3. Draft staffing and funding plan.

Approval of the 12-month extension in June of 2013 will allow localities additional time to complete their Virginia stormwater management program application package. All three activities listed as necessary prior to an extension being considered, represent a reasonable expectation of “substantive progress” as called for in the Virginia Stormwater Management Act and attendant regulations.

Table 1: Substantive Progress Checklist

Item #	Code/Regulatory citation	Information needed for review	Review Strategy	Activities considered as constituting “substantive progress”
1	Section 4VAC50-60-148 A.1 Section 10.1-603.3 H 4VAC50-60-150 A.3	Identification of authorities, accepting registration statements, completing plan review and plan approval, and conducting inspections and enforcement functions. This includes identification of whether the locality intends to partner with adjacent localities or other entities and who those partners will or might be.	<i>Local staff should identify the responsible authorities that will be performing the listed functions.</i>	<p><i>Identify local positions that will perform the listed functions or partners that may perform specified functions.</i></p> <p><i>If working with a partner, No agreements, MOUs, or contracts are required for submittal at this time.</i></p>
2	Section 10.1-603.3 E 4VAC50-60-150 A.1	<p>Copy of the local Stormwater Management Ordinance (s).</p> <p>It is understood that the draft ordinance submitted as part of “substantive progress” should be consistent with the version of the model ordinance in place as of April 1, 2013 and will be updated in the final submittal to reflect the final model ordinance.</p>	<i>Local staff should provide a copy of the most recent Stormwater Management Ordinance(s) that reflect the necessary elements of a VSMP.</i>	<p><u><i>Preliminary draft stormwater ordinance (does not need to be approved by local elected and/or appointed officials), other ordinances and/or local manuals that include the following minimum information:</i></u></p> <ol style="list-style-type: none"> <i>1. Identification of plan review, inspection, enforcement & registration statement authorities;</i> <i>2. Erosion and Sediment Control plan review process;</i> <i>3. Preliminary requirements for compliance with Stormwater Pollution Prevention Plan (SWPPP), Pollution Prevention and Stormwater management plans;</i> <i>4. Inspection and monitoring;</i> <i>5. Long-term maintenance of Best Management Practices (BMPs); and</i> <i>6. Enforcement and civil penalty procedures.</i> <p><i>Due date to be established by the Board for final ordinance that includes necessary elements based on the revised General Permit for Stormwater Discharges from Construction Activities.</i></p>

3	Section 4VAC50-60-150 A.2	Provide funding and staffing plan.	<p><i>Local staff should provide a general description of staffing (i.e. number of new positions, estimation of percentages of existing positions, etc.) needed to operate their Virginia Stormwater Management Program. General description of how funds will be distributed. If partnering, the plan should also discuss staffing and funding relationships.</i></p>	<p><i>Draft funding and staffing plan to include:</i></p> <ol style="list-style-type: none"> <i>1. List of roles (plan review, inspection and administration/enforcement);</i> <i>2. Local department responsible;</i> <i>3. Number of staff estimated to be necessary under each role; and</i> <i>4. List of sources of funding.</i>
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V. Adoption, Amendments, and Repeal:

This guidance document shall remain in effect until rescinded, amended or superseded.



David A. Johnson
Director, Virginia Department of Conservation and Recreation

12/13/2012
Date



STORMWATER MANAGEMENT MODEL ORDINANCE

(Approved December 13, 2012)

Summary:

This guidance document contains a Stormwater Management Model Ordinance developed by the Department of Conservation and Recreation (Department) for use by a locality for establishing a Virginia Stormwater Management Program consistent with the Virginia Stormwater Management Act [Article 1.1 (§ 10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia] and the Virginia Stormwater Management Program (VSMP) Permit Regulations [4VAC50-60], including the General Permit for Discharges of Stormwater from Construction Activities [Part XIV (4VAC50-60-1100 et seq.)].

Electronic Copy:

An electronic copy of this guidance document is available in PDF format on the Regulatory Town Hall website at <http://townhall.virginia.gov/> under the “Guidance documents” tab (see Virginia Soil and Water Conservation Board).

Contact Information:

Please contact the Department of Conservation and Recreation’s Stormwater Management Division at the appropriate regional office with any questions regarding the application of this guidance (see http://www.dcr.virginia.gov/stormwater_management/swmrollout-tools.shtml for contact information). Additional information on the program adoption process may be found in the Frequently Asked Questions document also found at this web address.

Disclaimer:

This document is provided as guidance and, as such, sets forth the process for the Board and the Department to work with localities on the development of Virginia stormwater management programs. The guidance does not carry the force of law and is not intended, and cannot be relied on, to create any rights, substantive or procedural, on the part of any person or entity. The Department reserves the right to update the guidance within the confines of law to carry out the intent of the stormwater management law and regulations.

Virginia Stormwater Management Program Ordinance Development

I. Background:

Current law and regulation require localities in the Commonwealth, with the exception of towns who are not designated as Municipal Separate Storm Sewer Systems (MS4s), to adopt a Virginia stormwater management program as approved by the Virginia Soil and Water Conservation Board in accordance with a schedule set by the Board. One of the key elements of a Board approved Virginia Stormwater Management Program is a local ordinance that is consistent with the Stormwater Management Act and its attendant regulations including the General Permit for Discharges of Stormwater from Construction Activities. This guidance document has been prepared to provide guidance to localities on the elements of a “consistent” local ordinance.

II. Definitions:

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Board after September 13, 2011, that has been established by a VSMP authority 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.

[From the Virginia Stormwater Management Act]

"Virginia Stormwater Management Program authority" or "VSMP authority" means an authority approved by the board after September 13, 2011, to operate a Virginia Stormwater Management Program or, until such approval is given, the department. An authority may include a locality; state entity, including the department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with Subsection B of § 10.1-603.5 of the Code of Virginia, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 of the Code of Virginia. **Prior to approval, the board must find that the ordinances adopted by the locality's VSMP authority are consistent with the Act and this chapter including the General Permit for Discharges of Stormwater from Construction Activities (Part XIV (4VAC50-60-1100 et seq.) of this chapter).**

[From the Virginia Stormwater Management Program (VSMP) Permit Regulations]

III. Authority:

Section 10.1-603.3 of the Code of Virginia directs the Department to establish a model ordinance that a locality may utilize as they establish a Virginia Stormwater Management Program.

§ 10.1-603.3. Establishment of Virginia stormwater management programs.

D. The Department shall develop a model ordinance for establishing a VSMP consistent with this article and its associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

E. Each locality that administers an approved VSMP shall, by ordinance, establish a VSMP that shall be administered in conjunction with a local MS4 program and a local erosion and sediment control program where applicable, and which shall include, but is not limited to, the following:

The Virginia Stormwater Management Program (VSMP) Permit Regulations contain the following authority applicable to this guidance.

4VAC50-60-148. Virginia stormwater management program administrative requirements.

A. A VSMP shall provide for the following:

1. Identification of the authority accepting complete registration statements and of the authorities completing plan review, plan approval, inspection, and enforcement;

2. Submission and approval of erosion and sediment control plans in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations and the submission and approval of stormwater management plans;
3. Requirements to ensure compliance with 4VAC50-60-54, 4VAC50-60-55, and 4VAC50-60-56;
4. Requirements for inspections and monitoring of construction activities by the operator for compliance with local ordinances;
5. Requirements for long-term inspection and maintenance of stormwater management facilities;
6. Collection, distribution to the state if required, and expenditure of fees;
7. Enforcement procedures and civil penalties where applicable;
8. Policies and procedures to obtain and release bonds, if applicable; and
9. Procedures for complying with the applicable reporting and recordkeeping requirements in 4VAC50-60-126.

B. A locality's VSMP authority shall adopt and enforce an ordinance(s) that incorporates the components set out in subdivisions 1 through 5 and 7 of Subsection A of this Section. Other VSMP authorities shall provide supporting documentation that incorporate the components set out in subdivisions 1 through 5 of Subsection A of this Section in a format acceptable to the department.

(Other Sections that include direction toward the contents of an ordinance include, but are not limited to, 4VAC50-60-103, 106, and 150.)

IV. Discussion and Interpretation:

This model ordinance is an example of how a locality could adopt an ordinance that complies with VSMP requirements. A locality is not required to adopt this particular ordinance.

The locality is required to adopt an ordinance that satisfies the requirements of 4VAC50-60-148. Provisions in this model are mandatory unless otherwise noted. Among the items that are optional are references to karst features and karst areas, which would be required only when such features are present in a locality.

Certain provisions of this version of the Stormwater Management Ordinance are based on the current general permit, Part XIV (4VAC50-60-1100 et seq.), which expires on June 30, 2014. **The general permit is currently under revision and the model ordinance may need to be updated to reflect necessary requirements within the general permit.**

STORMWATER MANAGEMENT MODEL ORDINANCE

Pursuant to Code § 10.1-603.3, this ordinance is adopted as part of an initiative to integrate the [insert locality] stormwater management requirements with the [insert locality's] erosion and sediment control [local reference], flood insurance [local reference if applicable], flood plain management [local reference], and Chesapeake Bay Preservation Act [local code reference if applicable] requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both [insert locality] and those responsible for compliance with these programs. The

Department will assist localities in identifying where the required stormwater management provisions may be integrated into existing ordinances.

1-1. PURPOSE AND AUTHORITY. (Section 4VAC50-60-20, 4VAC-60-40)

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of [insert locality name] 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) This ordinance is adopted pursuant to Article 1.1 (§ 10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

1-2. DEFINITIONS. (4VAC50-60-10)

In addition to the definitions set forth in 4VAC50-60-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the VSMP authority including the [Locality] staff person or department responsible for administering the VSMP on behalf of the locality.

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

"*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.

"*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal 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, *Code of Virginia*, § 10.1-2100, et seq. *Required for localities within Tidewater Virginia.*

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

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

"*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.

"Department" means the Department of Conservation and Recreation.

"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.

"General permit" means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (4VAC50-60-1100 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

"Land disturbance" or *"land-disturbing activity"* means a man-made 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 Section 1-3 (c) of this Ordinance.

"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 not requiring extensive review and evaluation including, but not limited to, changes in EPA 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 regulation under this Ordinance.

"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 Ordinance, 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 a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

"Regulations" means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 4 VAC 50-60, as amended.

"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 Soil and Water Conservation 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 Commonwealth 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 Code of Virginia.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth 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 Section 1-6 of this Ordinance.

"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 Ordinance. 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 Section [citation to local Ordinance] of [insert Locality name] Subdivision Ordinance.

"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 1.1 (§10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"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. 1-3. - 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 Ordinance.
- (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 Section 1-6, the technical criteria and administrative requirements for land-disturbing activities outlined in Section 1-9, and the requirements for control measures long-term maintenance outlined under Section 1-10. **[NOTE: Not required for localities located outside of Tidewater Virginia]**
- (c) Notwithstanding any other provisions of this Ordinance, 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 Code of Virginia;
 - (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 Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures **[NOTE: Localities within Tidewater Virginia are required to regulate single family residences where land disturbance exceeds 2,500 square feet," pursuant to Chapter ___ [cross-reference Chesapeake Bay Preservation Ordinance]]**;
 - (4) Land disturbing activities that disturb less than one acre of land area **[NOTE: Localities within Tidewater Virginia are required to regulate land disturbing activities equal to or exceeding an area of 2,500 square feet in all areas designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations, pursuant to Chapter ___ [cross-reference Chesapeake Bay Preservation Ordinance]]**, or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance **[NOTE: The Locality may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply]**;
 - (5) Discharges to a sanitary sewer 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) is required within 30 days of commencing the land-disturbing activity.

**Sec. 1-4. - STORMWATER MANAGEMENT PROGRAM ESTABLISHED;
SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.**

- (a) Pursuant to § 10.1-603.3 of the Code of Virginia, **[Locality]** hereby 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 Section 1-1 of this Ordinance. The **[local governing body]** hereby designates _____ as the Administrator of the Virginia stormwater management program.

- (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;
 - (2) An erosion and sediment control plan approved in accordance with the **[insert locality name]** Erosion and Sediment Control Ordinance **[citation to local ordinance]**; and
 - (3) A stormwater management plan that meets the requirements of Section 1-6 of this Ordinance.
- (c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.
- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 1-15, are received, **[optional: and a reasonable performance bond required pursuant to Section 1-16 of this Ordinance has been submitted.]**
- (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 local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

Sec. 1-5. - STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 4VAC50-60-54 and must also comply with the requirements and general information set forth in Section 4VAC50-60-1170, 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 SWPPP must be maintained by the operator at a central location onsite. 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. 1-6. - STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

- (a) The Stormwater Management Plan, required in Section 1-4 of this Ordinance, must apply the stormwater management technical criteria set forth in Section 1-9 of this Ordinance 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 tax reference number and parcel number of the property or properties affected;
 - (3) A narrative that includes a description of current site conditions and final site conditions [**Alternatively, the locality may allow the information that addresses the current and final site conditions to be provided and documented during the review process**];
 - (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:
 - (i) The type of facilities;
 - (ii) Location, including geographic coordinates;
 - (iii) Acres treated; and
 - (iv) The surface waters or karst features, if present, into which the facility will discharge.
 - (6) Hydrologic and hydraulic computations, including runoff characteristics;
 - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of [**Section 1-9 of this Ordinance or the referenced local manual**].
 - (8) A map or maps of the site that depicts the topography of the site and includes:
 - (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 including existing structures, roads, and 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, roads, parking areas, utilities, and stormwater management facilities; and
 - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 1-9 of this Ordinance 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 § 10.1-603.8:1 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. **[NOTE: An Administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to Section 1-10 (b).]**

Sec. 1-7. – POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) Pollution Prevention Plan, required by 4VAC50-60-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (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 best management practices to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (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 dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

Sec. 1-8. - REVIEW OF STORMWATER MANAGEMENT PLAN.

- (a) The Administrator [**NOTE: May include “or any duly authorized agent of the Administrator”**] shall review stormwater management plans and 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 Section 1-6 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
 - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission 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 person responsible for the land-disturbing activity 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 Ordinance.

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

(b) Approved stormwater plans may be modified as follows:

(1) Modifications 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 respond in writing either approving or disapproving such 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.

(c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 1-10 (b).

Sec. 1-9 - TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

[NOTE: The technical criteria must be part of the VSMP, but are not required to be specifically set out in the local ordinance. Rather, these provisions may be included in a local manual that is referenced within the Ordinance or the Ordinance may reference to the technical criteria provisions of 4VAC50-60-62 through 4VAC50-60-92 of the Regulations as shown in Subsection (a) below. Such state technical criteria or more stringent local standards must be enforceable through the Ordinance.]

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the Locality hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 4VAC50-60-63 [water quality design criteria requirements]; 4VAC50-60-65 [water quality compliance]; 4VAC50-60-66 [water quantity]; 4VAC50-60-69 [offsite compliance options]; 4 VAC 50-60-72 [design storms and hydrologic methods]; 4VAC50-60-74 [stormwater harvesting]; 4VAC50-60-76 [linear development project]; and, 4VAC50-60-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (b) of this Section.

(b) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the Locality as being equivalent thereto, was approved by the Locality prior to July 1, 2012, and for

which no coverage under the general permit has been issued prior to July 1, 2014, shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B [of the Regulations], but shall be subject to the technical criteria of Part II C [of the Regulations] for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the Locality as being equivalent thereto, (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C. In the event that the Locality-approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.

- (1) Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, 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 **[insert locality name]** and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.
 - (2) For land-disturbing activities grandfathered under this Subsection, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.
- (c) 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 Part IIC of the Regulations, as adopted by the Locality in Subsection (b) of this Section.
- (d) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.
- (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.
 - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 4VAC50-60-69 have been considered and found not available.

- (e) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

Sec. 1-10 - LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- (a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:
 - (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
 - (2) Be stated to run with the land;
 - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
 - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
 - (5) Be enforceable by all appropriate governmental parties.
- (b) **[Optional]** At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator.
- (c) **[Optional - Applicable only if Subsection 1-10 (b) is included]** If a recorded instrument is not required pursuant to Subsection 1-10 (b), the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator **[NOTE: May include “or any duly authorized agent of the Administrator”]**.

Sec. 1-11. - MONITORING AND INSPECTIONS.

- (a) The Administrator **[NOTE: May include “or any duly authorized agent of 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 [**NOTE: May include “or any duly authorized agent of 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 Ordinance.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, 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 § 10.1-603.12:2 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, 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 Ordinance. [**NOTE: Please see § 10.1-603.12:2 regarding protection of specified confidential information.**]
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator [**NOTE: May include “or any duly authorized agent of the Administrator”**] pursuant to the Locality's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 1-10.

Sec. 1-12. – HEARINGS

- (a) Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the [**Locality**] taken without a formal hearing, or by inaction of the [**Locality**], may demand in writing a formal hearing by the [**Local governing or appeals body**] causing such grievance, provided a petition requesting 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 **[local governing or appeals body]** at a regular or special meeting of the **[local governing or appeals body]**, or by at least one member of the **[local governing or appeals body]** designated by the **[local governing or appeals body]** to conduct such hearings on behalf of the **[local governing or appeals body]** at any other time and place authorized by the **[local governing or appeals body]**.
- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the **[local governing or appeals body]**. Depositions may be taken and read as in actions at law.
- (d) The **[local governing or appeals body]** or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the 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 local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Sec. 1-13. - APPEALS.

[NOTE: The locality shall adopt an appeals procedure. This procedure should be appropriate for the stormwater ordinance provisions and be consistent with the limitations within § 10.1-603.13 of Chapter 6 of Title 10.1 of the Code of Virginia.]

Sec. 1-14. - ENFORCEMENT

- (a) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines 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) 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 the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with **[refer to local procedures]**. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of 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 of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and 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 Subsection 1-14 (c).

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with **[reference local public facilities/engineering manual and/or specific policy]**.
 - (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in **[insert appropriate local court]** by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
 - (d) Any person who violates any provision of this Ordinance 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 of each requirement shall constitute a separate offense.
- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be 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 not in compliance with the requirements of Section 4VAC 50-60-1170 of the general permit.
- (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 Subsection, 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 Locality shall be paid into the treasury of the **[Locality]** to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such 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 Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

Sec. 1-15. - FEES [INCLUSION OF FEES IN THE ORDINANCE IS OPTIONAL]

- (a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. **[NOTE: Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs.]** When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

Fee type	Total fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$81
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

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

(b) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the **[insert locality name]**, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1. **[NOTE: Fees specified in this Subsection go to the locality.]**

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

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

(c) The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated. **[NOTE: Fees specified in this Subsection go to the locality.]**

Table 3: Permit Maintenance Fees

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

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

(d) The fees set forth in Subsections (a) through (c) above, shall apply to:

- (1) All persons seeking coverage under the general permit.
- (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
- (3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater From Construction Activities.

(4) Permit and permit coverage maintenance fees outlined under Section 1-15 (c) may apply to each general permit holder.

(e) No general permit application fees will be assessed to:

(1) Permittees who request minor modifications to general permits as defined in Section 1-2 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.

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

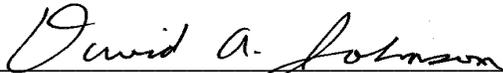
(f) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate.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

1-16. Performance Bond (4VAC50-60-104.D and Code § 603.8(A)) [Optional]

Prior to issuance of any permit, the Applicant [option: shall/may] be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the [local government attorney], to ensure that measures could be taken by the [Locality] at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the [Locality] takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.

V. Adoption, Amendments, and Repeal:

This guidance document shall remain in effect until rescinded, amended or superseded.



David A. Johnson
Director, Virginia Department of Conservation and Recreation

12/13/2012
Date



New Virginia Stormwater Management Regulations

BOS Work Session

February 26, 2013

New Virginia Stormwater Management Regulations



Agenda:

- Importance/history of the new regulations
- Required to adopt and current timeline
- Comparisons - current vs. new program
- Fee structures
- Minimum substantive progress submittal
- Elements required beyond minimum submittal
- Preliminary staff assumptions on program development
- Actions/decisions/discussions

New Virginia Stormwater Management Regulations



Importance of the New Regulations:

- Property protection
- Required element MS4 program plan
- Required Virginia E&S law & regulations (VESCP)
- Satisfies Virginia commitments in the PH2 watershed implementation plan (WIP) to address the Chesapeake Bay TMDL (urban sector strategy)
- Now incorporates runoff reduction
- Equilibrium with neighboring Bay Act localities (SWM)

New Virginia Stormwater Management Regulations



History of the New Stormwater Regulations:

- 8 year history (2004 to current)
- Virginia Soil & Water Conservation Board
 - September 24, 2008 (Original approved regulations)
 - December 9, 2009 (Suspended because of public comments)
 - May 24, 2011 (final approved)
- Over 3,700 public comments received prior to the final adoption.
- Signed into law on September 13, 2011 (over one year ago)
- Final act & regulations combined are over 150 pages total.
- Consolidation-Integration Bill effective July 1, 2012



New Virginia Stormwater Management Regulations

Required to Adopt:

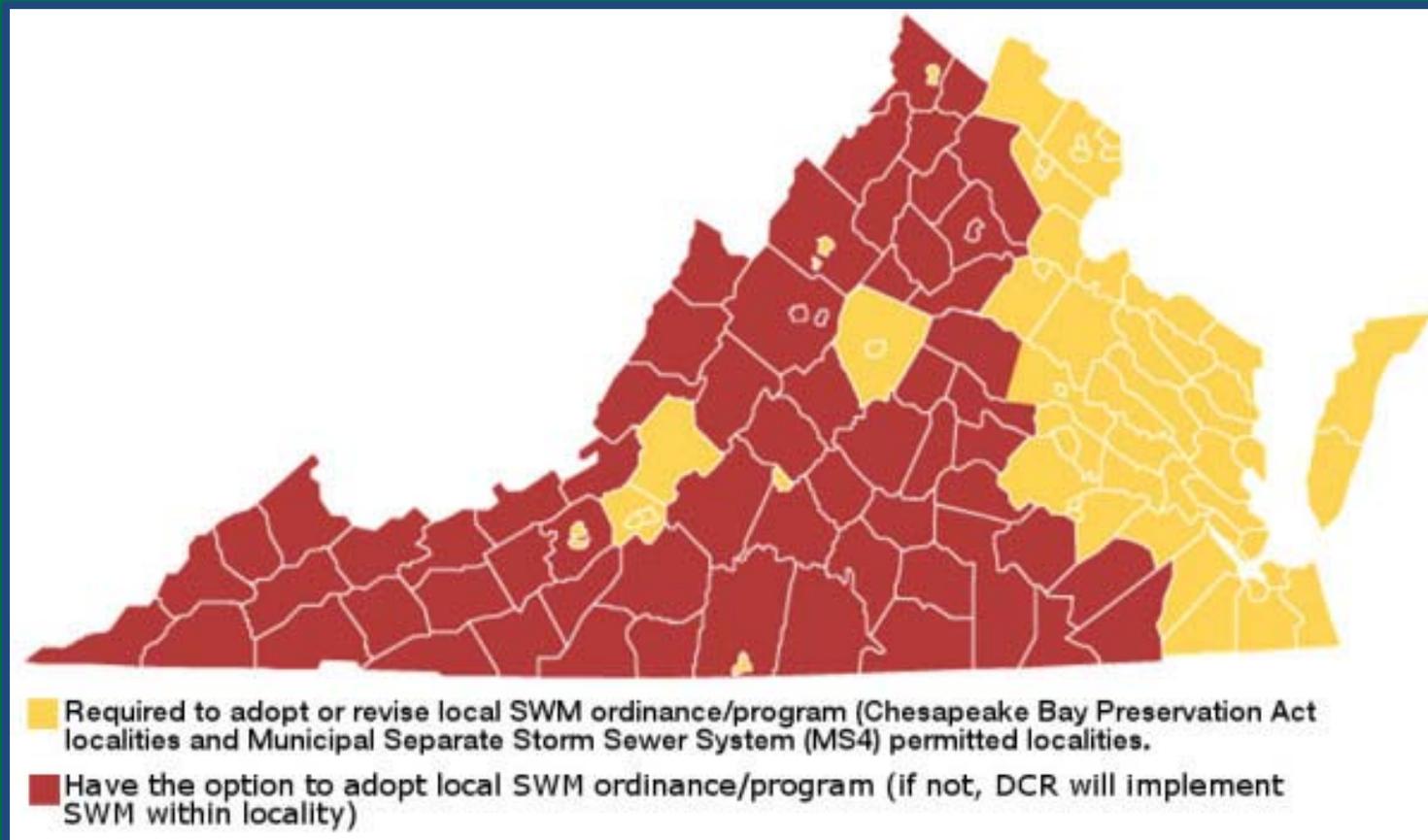
The County must adopt and administer by ordinance a Virginia Soil & Water Conservation Board and DCR approved local stormwater management program per §10.1-603.3 of the Code of Virginia because:

- Tidewater locality subject to the Bay Act & Regulations
- Locality designated as required to obtain coverage under an MS4 permit

Those Required Not to Adopt:

Localities outside the Bay Act – Tidewater area and those not subject to MS4 requirements may elect to adopt and administer a local stormwater management program. If locality does not decide to adopt, then the Virginia DCR and the Virginia Soil & Water Conservation Board will administer.

New Virginia Stormwater Management Regulations



Source: DCR Slide Presentation, June 2012

February 26, 2013

Engineering and Resource Protection

New Virginia Stormwater Management Regulations



Current Timeline:

- Adopted law requires local adoption no sooner than December 2012 or no later than June 13, 2013.
- However, the law has a “substantive progress” provision.
- A preliminary/draft “substantive progress” application is due from localities by April 1, 2013.
- DCR reviews/forwards to the Virginia Soil & Water Conservation Board for consideration at June 2013 meeting.
- Allows for a 12-month extension for local implementation.
- Therefore, local implementation date is July 1, 2014 (FY15)

New Virginia Stormwater Management Regulations



Notable Differences/Changes Compared to Current Program:

- Regulations are equal if not slightly better than current criteria.
- Based on sound science and current treatment technologies.
- The County has many of the required elements in place now.
- Expect reduction in legislative case proffers or conditions.
- New administrative and state E-permit process (registration).
- Use of the new Virginia Runoff Reduction Method (VRRM).

New Virginia Stormwater Management Regulations



Notable Differences/Changes Compared to Current Program:

- Managed turf is now considered a pollutant load generator.
- New state water quality criteria.
- Expanded BMP list and “levels” of design.
- New offsite compliance option for water quality.
- New water quantity control criteria.
- New modern BMP clearinghouse website and state SWM Handbook.



New Virginia Stormwater Management Regulations

Notable Differences/Changes to Current Program:

- New *Stormwater Pollution Prevention Plan* terminology
- *Pollution Prevention Plan* requirements for local staff.
- New administrative completeness check (15 days).
- New stormwater training and certification requirements.
- New enforcement provisions.
- New program reporting and record keeping aspects.
- New fee structure (adopted as part of the state law/act/regulations and included in the state model ordinance template).



New Virginia Stormwater Management Regulations

Current Local Program Fees:

- E&S plan review/inspection
- Stormwater facility installation & inspection (milestones, 2008)
- Bay Act Program (started 2008)

Currently, state VSMP registration and fee collection are independent of the County E&S plan review and land-disturbing permit process. The Commonwealth administrates VSMP program.

New VSMP Program Registration Fees:

- Fees for permit registration (coverage)
- Fees for permit modification or transfer
- Fees for permit annual maintenance (ie. permit renewals)

New Virginia Stormwater Management Regulations



Summary of Fee Schedule in New Regulations

Project Disturbance	Registration/Coverage	Modification/Transfer	Annual Permit Maintenance
CBPA: 2,500 sq. ft. to 1 acre	\$290	No tier \$20 for less than 1 acre	\$50
Less than 1 acre	\$290	\$20	\$50
1 acre - 5 acres	\$2,700	\$200	\$400
5 acres – 10 acres	\$3,400	\$250	\$500
10 acres - 50 acres	\$4,500	\$300	\$650
50 acres - 100 acres	\$6,100	\$450	\$900
Greater than 100 acres	\$9,600	\$700	\$1,400

New Virginia Stormwater Management Regulations



- **Fee Snapshot using FY13 Mid-Year Data:**
 - 15 land-disturbing permits issued.
 - \$8,246 collected under current County fee structure.
 - \$7,843 additional would have been collected under the new state stormwater management/VSMP structure (minimum one-year permit span).

New Virginia Stormwater Management Regulations



- **Preliminary Recommendations on Fees:**
 - Maintain current - existing County fees
 - Initially, adopt statewide VSMP fee schedule in accordance with most current law & regulations and the model ordinance.
 - Provides equilibrium with neighboring Bay Act communities and consistency for development community.



New Virginia Stormwater Management Regulations

Minimum “Substantive” Progress Submittal:

The minimum “substantive progress” application would consist of:

Minimum Preliminary Submittal Requirements – by April 1, 2013

1. Identifying the local program authority and person accepting registration statements;
2. Preliminary draft *** of the local stormwater management ordinance;
3. Draft staffing and funding plan;

*** The preliminary draft does not have to be approved by the locality and the draft funding and staffing plan needs to list roles of personnel, departments responsible, estimated number of staff and a list of sources of funding.

New Virginia Stormwater Management Regulations



Work Over the Next Year if Extension is Granted:

- Additional Element Additions to the ordinance (beyond the model-template)
- Policies/procedures
- Reporting and recordkeeping
- Further examination of fee structure and funding/staffing plan (if necessary)
- Education, training and certification of staff
- Communication and outreach to the public.
- Information to demonstrate appropriate partnerships with other entities
- Look at some case study examples – old way versus new way

New Virginia Stormwater Management Regulations



Preliminary Staff Assumptions on Program Development:

- Engineering and Resource Protection identified as local program/stormwater program administrative/VSMP authority for purpose of the VSMP program.
- Adopt “stand-alone” ordinance: Virginia Stormwater Management Program Ordinance (VSMPo) or similar name.
- General housekeeping to other ordinances, no major changes to Chapter 8 (E&S) or Chapter 23 (CBP) ordinances.

New Virginia Stormwater Management Regulations



Preliminary Staff Assumptions on Program Development:

- Adoption of no other more stringent criteria
- Use state clearinghouse website and new state SWM handbook.
- Final ordinance with “Additional Element Additions” beyond the base model-template. Items such as inclusion of Special Stormwater Criteria and other insertions based known issues or problems experienced.

New Virginia Stormwater Management Regulations



- **Actions/Decisions/Discussions:**

- Concurrence with overview and general approach
- Designation of the Department of Development Management, Division of Engineering and Resource Protection, Director of Engineering and Resource Protection as the Local Program/VSMP Stormwater Program Administrative Authority.
- Allow staff to develop the basic draft staff and funding plan.
- Allow staff to proceed with development of a preliminary-draft ordinance using the state provided model-template. Use to submit as basic placeholder ordinance. No additional elements beyond the model at this time.

New Virginia Stormwater Management Regulations



- **Actions/Decisions/Discussions:**

- Ordinance will need to be “refined” once 1-year extension is granted and will require full County processing, public comment, and Board of Supervisor approval.
- Program development and ordinance refinement once 1-year extension is granted.