

JUN 12 2018

Board of Supervisors  
James City County, VA

ORDINANCE NO. 85A-22

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL OF THE CODE OF JAMES CITY COUNTY BY AMENDING ARTICLE I, EROSION AND SEDIMENT CONTROL, SECTION 8-5, PERMITS, FEES, BONDING, ETC., AND BY AMENDING ARTICLE II, THE VIRGINIA STORMWATER MANAGEMENT PROGRAM, SECTION 8-34, FEES, BY DELETING REFERENCES TO FEES AND ADDING THAT ADMINISTRATIVE FEES ARE SET FORTH IN COUNTY CODE APPENDIX A - FEE SCHEDULE FOR DEVELOPMENT RELATED PERMITS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Article I, Erosion and Sediment Control, Section 8-5, Permits fees, bonding, etc., and by amending Article II, The Virginia Stormwater Management Program, Section 8-34, Fees.

## Chapter 8. Erosion and Sediment Control

### Article I. Erosion and Sediment Control

#### Sec. 8-5. Permits, fees, bonding, etc.

- (a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.
- (b) No person may engage in any land disturbing activity until he has acquired a land disturbing permit, unless the proposed land disturbing activity is specifically exempt from the provisions of this chapter, and has paid the fees and posted the required bond.
- (c) Fees. ~~The following administrative fee shall be paid to the county.~~ *The administrative fees set forth in County Code Appendix A - Fee Schedule for Development Related Permits shall be paid to the County.*
  - (1) ~~Residential subdivisions shall pay \$70.00 per lot at the time of submission of the erosion and sediment control plan;~~
  - (2) ~~Nonresidential site plans and other land disturbing activities shall pay \$600.00 per acre of disturbance for the first 15 acres plus \$400.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan; and~~
  - (3) ~~Residential site plans shall pay \$840.00 per acre of disturbance for the first 15 acres plus \$560.00 per acre for each additional acre over 15 at the time of submission of the erosion and sediment control plan;~~
  - (4) ~~A \$100.00 fee shall be required for each single family residential structure at the time of submission of the building permit application.~~
  - (5) Payment of any permit fees ~~established in section 8-5~~ *set forth in County Code Appendix A - Fee Schedule for Development Related Permits* shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (i) The other parties to the regional entity similarly waive fees; and (ii) The regional entity has locations in more than one locality.
- (d) No land disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

- (e) Performance surety. All applicants for permits shall provide to the County a performance bond, cash escrow, or an irrevocable letter of credit, any combination thereof, or other legal arrangements as is acceptable to the County attorney, to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land disturbing activity.

The amount of the performance surety shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held.

Within 60 days of adequate stabilization, as determined by the engineering and resource protection division, in any project or section of a project, such performance surety, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.

- (f) Any land disturbing permit shall contain a right of entry to allow the manager or his designees access to the property until a final inspection determines that the land is adequately stabilized.
- (g) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.
- (h) Any approved erosion and sediment control plan shall become null and void one year after the date of issuance of the land disturbing permit, and no further work subject to this chapter shall be allowed unless and until an additional or updated erosion and sediment control plan has been submitted and approved in accordance with the provisions of this chapter or unless all requirements of the approved control plan have been completed in less than one year in accord with such plan and verified by the on-site inspection by the manager.

## **Article II. The Virginia Stormwater Management Program**

### **Sec. 8-34. Fees.**

- (a) Fees to cover the costs associated with erosion and sediment control plan review and inspection shall be imposed in accordance with requirements of the VESCP authority and section 8-5 of the county code *and are set forth in County Code Appendix A - Fee Schedule for Development Related Permits.*
- (b) Fees to cover the costs associated with stormwater facility inspections shall be imposed in accordance with requirements of the VSMP authority and section 19-15 and section 24-7, as applicable, of the county code *and are set forth in County Code Appendix A - Fee Schedule for Development Related Permits.*
- (c) Fees to cover costs associated with stormwater management and pollution prevention plan review including implementation of a VSMP related to land disturbing activities and issuance of permit coverage and VSMP authority permits shall be imposed by the VSMP authority ~~in accordance with~~

the fee schedule indicated in Table 1. and are set forth in County Code Appendix A - Fee Schedule for Development Related Permits. When a site or sites have been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1. which are set forth in County Code Appendix A - Fee Schedule for Development Related Permits. The VSMP authority portion of the statewide permit fee for coverage under the general permit for discharges of stormwater for construction activities for small construction activity involving a single-family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VSMP authority portion of the fee for coverage of sites or areas with a land disturbance acreage of less than one acre within a common plan of development or sale. Neither a registration statement nor payment of the Department's portion of the statewide permit fee established pursuant to subdivision A.5 of § 62.1-44.15:28 of the Code of Virginia shall be required for coverage under the general permit for discharges of stormwater from construction activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale.

**Table 1: Fee Schedule for Registration and Issuance of General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-820.**

<i>Fee Type</i>	<i>Fee Amount</i>
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 one acre)	\$290
General/Stormwater Management – small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than one acre)	\$290
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 one acre and less than five acres)	\$2,700**
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 five acres and less than ten acres)	\$3,400
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 ten acres and less than 50 acres)	\$4,500
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 50 acres and less than 100 acres)	\$6,100
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

<i>Type of Permit</i>	<i>Fee Amount</i>
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General/Stormwater Management—small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than one 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 one acre and less than five 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 five acres and less than ten 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 ten 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

~~\*\*Pursuant to amendments to the Virginia Stormwater Management Act, as amended, § 62.1-44.15:28 of the Code of Virginia, this fee tier will be \$290 for small construction activity involving a single family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres. In addition, neither a registration statement nor payment of the Department's portion of the statewide permit fee shall be required for construction activity involving a single family detached residential structure, within or outside a common plan of development or sale within this tier, and all other tiers consistent with § 62.1-44.15:28(A)(8).~~

- (d) Fees for the modification or transfer of registration statements from the general permit issued by the state board shall be imposed in accordance with the fee schedule *set forth in County Code Appendix A - Fee Schedule for Development Related Permits*. If the general permit modifications result in changes to stormwater management plans that require additional review by the county, such reviews shall be subject to the fees *set out in the fee schedule indicated in Table 2 set forth in County Code Appendix A - Fee Schedule for Development Related Permits*. 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 *the fee schedule indicated in Table 2 County Code Appendix A - Fee Schedule for Development Related Permits*. All fees specified in this subsection are payable to the locality.

**Table 2: Fee Schedule for the Modification or Transfer of Registration Statements for the General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-825.**

- (e) The following annual permit maintenance shall be imposed in accordance with *the fee schedule indicated in Table 3, County Code Appendix A - Fee Schedule for Development Related Permits*, 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 by the administrator or the VSMP authority. All fees specified in this subsection are payable to the County, except for those individual permits or for projects completely administered by the Department such as state or federal projects, which shall be paid to the Department. General permit coverage

maintenance fees shall be paid annually to the County on or before 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.

**Table 3: Fee Schedule for the Maintenance of the General VPDES Permit for Discharges of Stormwater from Construction Activities 9VAC25-870-830.**

<i>Type of Permit</i>	<i>Fee Amount</i>
Chesapeake Bay Preservation Act Land Disturbing Activity (not subject to the 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 one acre)	\$50
General/Stormwater Management—small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than one acre)	\$50
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 one acre and less than five 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 five 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 than 100 acres)	\$1,400

(e) The fees ~~set forth~~ established in sections (c) - (e), above *and set forth in County Code Appendix A - Fee Schedule for Development Related Permits* 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~~ established under section 8-34(e) *County Code Appendix A - Fee Schedule for Development Related Permits* may apply to each general permit holder.

(g) No permit application fees will be assessed to:

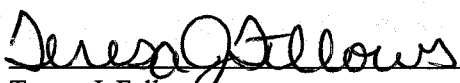
- (1) Permittees who request minor modifications to permits as defined in section 8-21 of this article. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the administrator shall not be exempt pursuant to this section.

- (2) Permittees whose 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.
- (3) The county, any entity created solely by the County and those regional entities to which the county is a party provided that: (1) the other parties to the regional entity similarly waive fees; (2) the regional entity has locations in more than one locality; and (3) those portions of the fees required to be paid to the Department are completed.
- (h) All incomplete payments will be deemed as non-payments, 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 will be calculated on a monthly basis at the applicable periodic rate. A 10 percent late payment fee shall be charged to any delinquent (over 90 days past due) account. The County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.
- (i) Nothing in this section shall prohibit the Department and VSMP authority from entering into an agreement whereby the total fee to be paid by the applicant for coverage under the general permit for discharge of stormwater from construction activities (VAR10) 9VAC25-880 is payable to the VSMP authority and the VSMP authority transmits the Department portion set forth in 9VAC25-870-820 of the Virginia Administrative Code to the Department on a schedule set forth by the Department.

BE IT FURTHER ORDAINED that this Ordinance shall be made effective on July 1, 2018.

  
Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

  
Teresa J. Fellows  
Deputy Clerk to the Board

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABST</u>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2018.

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