

01/06/14 Proposed Final Stormwater Management Ordinance

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02/15/13: Revised Model Ordinance Provided to Attorney for Preliminary Review & Comment

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RICHMOND COUNTY, VIRGINIA STORMWATER MANAGEMENT ORDINANCE

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- 41 2-9 **"Development"** means land-disturbance and the resulting landform associated with the
42 construction of residential, commercial, industrial, institutional, recreation,
43 transportation, or utility facilities or structures or the clearing of land for non-agricultural
44 or non-silvicultural purposes.
- 45 2-10 **"Director"** means the Director of the Department of Environmental Quality or his
46 designee.
- 47 2-11 **"General Permit"** means the state permit titled General Permit for Discharges of
48 Stormwater from Construction Activities found in Part XIV (94VAC25-870-1170 et seq.)
49 of the Regulations authorizing a category of discharges under the CWA and the Act
50 within a geographical area of the Commonwealth of Virginia.
- 51 2-12 **"Land Disturbance"** or **"Land-disturbing Activity"** means a manmade change to the
52 land surface that potentially changes its runoff characteristics including any clearing,
53 grading, or excavation except that the term shall not include those exemptions specified
54 in Section 4-2 of this Ordinance.
- 55 2-13 **"Minor Modification"** means an amendment of an existing permit before its expiration
56 not requiring extensive review and evaluation including, but not limited to, changes in
57 EPA promulgated test protocols, increasing monitoring frequency requirements, changes
58 in sampling locations, and changes to compliance dates within the overall compliance
59 schedules. A minor permit modification or amendment does not substantially alter permit
60 conditions, substantially increase or decrease the amount of surface water impacts,
61 increase the size of the operation, or reduce the capacity of the facility to protect human
62 health or the environment.
- 63 2-14 **"Operator"** means the owner or operator of any facility or activity subject to regulation
64 under this Ordinance.
- 65 2-15 **"Permit"** or **"VSMP Authority Permit"** means an approval to conduct a land-
66 disturbing activity issued by the permit-issuing authority for the initiation of a land-
67 disturbing activity, in accordance with this Ordinance, and which may only be issued
68 after evidence of general permit coverage has been provided by the Department, where
69 required.
- 70 2-16 **"Permittee"** means the person to whom a VSMP Authority Permit is issued.
- 71 2-17 **"Person"** means any individual, corporation, partnership, association, state,
72 municipality, commission, or political subdivision of a state, governmental body
73 (including but not limited to a federal, state, or local entity), any interstate body or any
74 other legal entity.
- 75 2-18 **"Pollutant"** means dredged spoil, solid waste, incinerator residue, filter backwash,
76 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,
77 radioactive materials (except those regulated under the Atomic Energy Act of 1954, as
78 amended (42 USC § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand,
79 cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does
80 not mean: 1. Sewage from vessels; or 2. Water, gas, or other material that is injected into
81 a well to facilitate production of oil or gas, or water derived in association with oil and
82 gas production and disposed of in a well if the well used either to facilitate production or
83 for disposal purposes is approved by the board and if the board determines that the

- 84 injection or disposal will not result in the degradation of groundwater or surface water
85 resources.
- 86 2-19 **"Pollution"** means such alteration of the physical, chemical or biological properties of
87 any state waters as will or is likely to create a nuisance or render such waters (a) harmful
88 or detrimental or injurious to the public health, safety or welfare, or to the health of
89 animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or
90 possible future sources of public water supply; or (c) unsuitable for recreational,
91 commercial, industrial, agricultural, or other reasonable uses, provided that (i) an
92 alteration of the physical, chemical, or biological property of state waters, or a discharge
93 or deposit of sewage, industrial wastes or other wastes to state waters by any owner
94 which by itself is not sufficient to cause pollution, but which, in combination with such
95 alteration of or discharge or deposit to state waters by other owners, is sufficient to cause
96 pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii)
97 contributing to the contravention of standards of water quality duly established by the
98 State Water Control Board, are "pollution" for the terms and purposes of this chapter.
- 99 2-20 **"Regulations"** means the Virginia Stormwater Management Program (VSMP) Permit
100 Regulations, 94VAC25-870-60 as amended.
- 101 2-21 **"Site"** means the land or water area where any facility or land-disturbing activity is
102 physically located or conducted, including adjacent land used or preserved in connection
103 with the facility or land-disturbing activity. Areas channelward of mean low water in
104 tidal Virginia shall not be considered part of a site.
- 105 2-22 **"State"** means the Commonwealth of Virginia.
- 106 2-23 **"State Board"** means the State Water Control Board (SWCB).
- 107 2-24 **"State Water Control Law"** means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the
108 Code of Virginia.
- 109 2-25 **"State Waters"** means all water, on the surface and under the ground, wholly or partially
110 within or bordering the Commonwealth or within its jurisdiction, including wetlands.
- 111 2-26 **"Stormwater"** means precipitation that is discharged across the land surface or through
112 conveyances to one or more waterways and that may include stormwater runoff, snow
113 melt runoff, and surface runoff and drainage.
- 114 2-27 **"Stormwater Management Plan"** means a document or compilation of documents
115 meeting the requirements of Section 7-9 of this ordinance.
- 116 2-28 **"Stormwater Pollution Prevention Plan"** or **"SWPPP"** means a document or
117 compilation of documents meeting the requirements of Section 6-1 of this Ordinance, and
118 which include at minimum, an approved erosion and sediment control plan, an approved
119 stormwater management plan, and a pollution prevention plan.
- 120 2-29 **"Subdivision"** means the same as defined in Article 2, Section 2 of Richmond County
121 Subdivision Ordinance (or § 15.2-2201 of the Code of Virginia).
- 122 2-30 **"Total Maximum Daily Load"** or **"TMDL"** means the sum of the individual wasteload
123 allocations for point sources, load allocations (LAs) for nonpoint sources, natural
124 background loading and a margin of safety. TMDLs can be expressed in terms of either
125 mass per time, toxicity, or other appropriate measure. The TMDL process provides for
126 point versus nonpoint source trade-offs.

- 127 2-31 **"Virginia Stormwater Management Act"** or **"Act"** means Article 2.3 (§ 62.1-44.15:24
128 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.
- 129 2-32 **"Virginia Stormwater BMP Clearinghouse Website"** means a website that contains
130 detailed design standards and specifications for control measures that may be used in
131 Virginia to comply with the requirements of the Virginia Stormwater Management Act
132 and associated regulations.
- 133 2-33 **"Virginia Stormwater Management Program"** or **"VSMP"** means the program
134 established by the County to manage the quality and quantity of runoff resulting from
135 land-disturbing activities in accordance with state law, and which has been approved by
136 the State Water Control Board (SWCB).
- 137 2-34 **"Virginia Stormwater Management Program Authority"** or **"VSMP Authority"**
138 means the County.

139 **SECTION 3 STORMWATER MANAGEMENT PROGRAM ESTABLISHED**

- 140 3-1 Pursuant to § 62.1-44.15:27 of the Code of Virginia, the County hereby establishes a
141 Stormwater Management Program for land-disturbing activities and adopts the applicable
142 Stormwater Management Regulations that specify standards and specifications for such
143 programs promulgated by the State for the purposes set out in Section 1 of this
144 Ordinance. The Board hereby designates the Land Use Administrator as the
145 Administrator of the Stormwater Management Program.

146 **SECTION 4 STORMWATER PERMIT REQUIREMENT; EXEMPTIONS**

- 147 4-1 Except as provided herein, no person may engage in any land-disturbing activity until a
148 permit has been issued by the Administrator in accordance with the provisions of this
149 ordinance.
- 150 4-2 Notwithstanding any other provision of this Ordinance, the following activities are
151 exempt from the requirements of subsection (1) of this Section, unless otherwise required
152 by federal law:
- 153 1) Permitted surface or deep mining operations and projects, or oil and gas operations
154 and projects conducted under the provisions of Title 45.1;
 - 155 2) Clearing of lands specifically for agricultural purposes and the management, tilling,
156 planting or harvesting of agricultural, horticultural, or forest crops; or livestock
157 feedlot operations or as set forth by the VSWCB in regulations, including engineering
158 operations as follows: ponds, ditches, strip cropping, lister furrowing, contour
159 cultivating, contour furrowing, land drainage, and land irrigation; however, this
160 exception shall not apply to harvesting of forest crops unless the area on which
161 harvesting occurs is reforested artificially or naturally in accordance with the
162 provisions of Chapter 11 (§ 10.1-1100 et seq.) or is converted to bona fide
163 agricultural or improved pasture use as described in subsection B of § 10.1-1163 of
164 the Code of Virginia;
 - 165 3) Single-family residences separately built and disturbing less than 2,500 square feet
166 and not part of a larger common plan of development or sale, including additions or
167 modifications to existing single-family detached residential structures;

- 168 4) Land-disturbing activities that disturb less than 2,500 square feet of land area, and
 169 which are not part of a larger common plan of development or sale that is one acre or
 170 greater of disturbance;
- 171 5) Discharges to a sanitary sewer or combined sewer systems;
- 172 6) Activities under a State or Federal reclamation program to return an abandoned
 173 property to an agricultural or open land use;
- 174 7) Routine maintenance that is performed to maintain the original line and grade,
 175 hydraulic capacity, or original construction of the project. The paving of an existing
 176 road with a compacted or impervious surface and reestablishment of existing
 177 associated ditches and shoulders shall be deemed routine maintenance if performed in
 178 accordance with this ordinance.
- 179 8) Conducting land-disturbing activities in response to a public emergency where the
 180 related work required immediate authorization to avoid imminent endangerment to
 181 human health or the environment. In such situations, the VSMP authority shall be
 182 advised of the disturbance within seven days of commencing the land-disturbing
 183 activity and compliance with the administrative requirement of Section 8 of this
 184 ordinance within 30 days of commencing the land-disturbing activity.

185 **SECTION 5 PERMIT REQUIREMENTS; SUBMISSION and APPROVAL of PLANS;**
 186 **PROHIBITIONS**

- 187 5-1 No VSMP authority permit shall be issued by the Administrator, until the following items
 188 have been submitted to and approved by the Administrator as prescribed herein:
- 189 1) A permit application that includes a General Permit Registration statement which,
 190 among other things, certifies that a Stormwater Pollution Prevention Plan (SWPPP)
 191 has been prepared in accordance with state law;
- 192 2) An erosion and sediment control plan approved in accordance with Richmond
 193 County's Erosion and Sediment Control Ordinance.
- 194 3) A stormwater management plan that meets the requirements of Section 8-1 of this
 195 Ordinance.
- 196 5-2 Notwithstanding any other provision of this Section, an Applicant seeking to conduct a
 197 Chesapeake Bay Preservation Act Land-Disturbing Activity shall not be required to
 198 provide the General Permit Registration set forth in Section 5-1(1), nor provide evidence
 199 of General Permit coverage, which coverage is not required for such activities. Except as
 200 otherwise required in this subsection, the Applicant shall not be required to comply with
 201 the requirements of Section 6.

- 202 5-3 An Applicant seeking to conduct land disturbing associated with a single-family
 203 residence, separately built, disturbing less than one acre but part of a common plan of
 204 development or sale is not required to submit a General Permit registration statement or
 205 Stormwater Management Plan (as required in (b)(1) and (b)(3) above) provided;
- 206 1) A comprehensive Stormwater Management Plan covering the entire development
 207 including the residential lot has been implemented;

208 | 2) The Applicant complies with the remaining SWPPP requirements, including but not
209 | limited to the development of a Pollution Prevention Plan in accordance with Sections
210 | 6 and 7, and performs water quality computation to demonstrate compliance with the
211 | technical criteria set forth in Section 10.

212 | ~~5-35-4~~ No VSMP authority permit shall be issued until evidence of General permit coverage is
213 | obtained by DEQ, where required.

214 | ~~5-45-5~~ No permit shall be issued until the fees required to be paid pursuant to Section 18, are
215 | received, and the surety required pursuant to Section 19 of this Ordinance has been
216 | submitted; however Applicants seeking to conduct land disturbing associated with a
217 | single-family residence and who are not required to submit a General Permit registration
218 | statement are not required to pay the state portion of the permit fee.

219 | ~~5-55-6~~ No permit shall be issued unless and until the permit application and attendant materials
220 | and supporting documentation demonstrate that all land clearing, construction,
221 | disturbance, land development and drainage will be done according to the approved
222 | permit.

223 | ~~5-65-7~~ No grading, building or other permit shall be issued for a property unless a VSMP
224 | authority permit has been issued.

225 | **SECTION 6 STORMWATER POLLUTION PREVENTION PLAN (SWPPP);**
226 | **CONTENTS OF PLANS (94VAC25-870-54)**

227 | 6-1 The Stormwater Pollution Prevention Plan (SWPPP) that is required to be prepared
228 | before a registration statement for General permit coverage (as referenced in Section 5-
229 | 1(1)), that may be submitted to DEQ for approval, shall include the content specified by
230 | Section 94VAC25-870, 94VAC25-870-1170, and any other applicable regulations
231 | including, but not limited to i) a County-approved Erosion and Sediment Control plan
232 | approved pursuant to Richmond County's Erosion and Sediment Control Ordinance, ii) a
233 | pollution prevention plan that meets the requirements of 94VAC25-870-56, and iii) a
234 | stormwater management plan that meets the requirements of this Ordinance.

235 | 6-2 The SWPPP shall be amended by the operator whenever there is a change in design,
236 | construction, operation, or maintenance that has a significant effect on the discharge of
237 | pollutants to state waters which is not addressed by the existing SWPPP. The SWPPP
238 | shall also be amended by the Operator if an inspection reveals that the SWPPP is
239 | inadequate to satisfy applicable regulations. All amendments must be approved by the
240 | Administrator, as required.

241 | 6-3 The SWPPP must be maintained by the operator at a central location onsite for use by
242 | those identified as having responsibilities under the SWPP whenever they are on the
243 | construction site. If an onsite location is unavailable to store the SWPPP when no
244 | personnel are present, notice of the SWPPP's location must be posted near the main
245 | entrance at the construction site. The SWPPP must be made available for public review in
246 | an electronic format or in a hard copy as required by the Regulations.

247

248 ~~6-4 Construction activities that are part of a common plan of development and disturb less~~
249 ~~than one acre may utilize a SWPPP template provided by DEQ and need not provide a~~
250 ~~separate stormwater management plan if one has been prepared and implemented for the~~
251 ~~larger development project, to the extent permitted by state law.~~

252 **SECTION 7 POLLUTION PREVENTION PLAN; CONTENTS OF PLAN**
253 **(94VAC25-870-56)**

254 7-1 A Pollution Prevention Plan required in Section 6-1, shall be developed, implemented
255 and updated as necessary. The plan shall detail the design, installation, implementation,
256 and maintenance of effective pollution prevention measures to minimize the discharge of
257 pollutants. At a minimum, such measures must be designed, installed, implemented, and
258 maintained to:

- 259 1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel
260 wash water and other waters. Wash waters must be treated in a sediment basin or
261 alternative control that provides equivalent or better treatment prior to discharge;
- 262 2) Minimize the exposure of building materials, building products, construction wastes,
263 trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste
264 and other materials present on the site to precipitation and to stormwater; and
- 265 3) Minimize the discharge of pollutants from spills and leaks and implement chemical
266 spill and leak prevention and response procedures.

267 7-2 The pollution prevention plan shall include effective best management practices to
268 prohibit the following discharges:

- 269 1) Wastewater from washout of concrete, unless managed by an appropriate control;
- 270 2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing
271 compounds and other construction materials;
- 272 3) Fuels, oils or other pollutants used in vehicle and equipment operation and
273 maintenance; and
- 274 4) Soaps or solvents used in vehicle and equipment washing.

275 7-3 Discharges from dewatering activities, including discharges from dewatering of trenches
276 and excavations, are prohibited unless managed by appropriate controls.

277 **SECTION 8 STORMWATER MANAGEMENT PLAN; CONTENTS of PLAN**
278 **(94VAC25-870-55)**

279 8-1 The Stormwater Management Plan required in Section 5-1(3) must apply the stormwater
280 management technical criteria set forth in Section 10 to the entire land-disturbing
281 activity, consider all sources of surface runoff and all sources of subsurface and
282 groundwater flows converted to subsurface runoff, and include the following
283 information:

- 284 1) Contact information including the name, address, telephone number of the owner and
285 the tax reference number and parcel number of the property or properties affected
- 286 2) Information on the type and location of stormwater discharges; information on the
287 features to which stormwater is being discharged including surface waters or karst
288 features if present, and the pre-development and post-development drainage areas;

- 289 3) A narrative that includes a description of current site conditions and final site
290 conditions;
- 291 4) A general description of the proposed stormwater management facilities and the
292 mechanism through which the facilities will be operated and maintained after
293 construction is complete;
- 294 5) Information on the proposed stormwater management facilities, including:
295 a. the type of facilities;
296 b. location, including geographic coordinates;
297 c. acres treated; and
298 d. the surface waters or karst features into which the facility will discharge.
- 299 6) Hydrologic and hydraulic computations, including runoff characteristics;
- 300 7) Documentation and calculations verifying compliance with the water quality and
301 quantity requirements of Section 10;
- 302 8) A map or maps of the site that depicts the topography of the site and includes:
303 a. All contributing drainage areas;
304 b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and
305 floodplains;
306 c. Soil types, geologic formations if karst features are present in the area, forest
307 cover, and other vegetative areas;
308 d. Current land use including existing structures, roads, and locations of known
309 utilities and easements;
310 e. Sufficient information on adjoining parcels to assess the impacts of stormwater
311 from the site on these parcels;
312 f. The limits of clearing and grading, and the proposed drainage patterns on the site;
313 g. Proposed buildings, roads, parking areas, utilities, and stormwater management
314 facilities; and
315 h. Proposed land use with tabulation of the percentage of surface area to be adapted
316 to various uses, including but not limited to planned locations of utilities, roads,
317 and easements.

318 8-2 Stormwater management facilities shall be designed and located in a manner that protects
319 existing and proposed structures and infrastructure shown on the proposed site plan for
320 the development (including but not limited to buildings, roads, parking lots, onsite
321 sewage disposal systems and utilities), from adverse impacts that may be caused by
322 stormwater discharges. Such facilities shall also be designed and located so that existing
323 or planned structures and infrastructure shall not impact or interfere with the
324 effectiveness of such control measures and so as not to interfere with any existing
325 easement(s) or right-of-way(s) encumbering the subject property.

326 8-3 If an operator intends to meet the requirements established in Section 10 through the use
327 of off-site compliance options, where applicable, then a letter of availability from the off-
328 site provider must be included. Approved off-site options must achieve the necessary
329 nutrient reductions prior to the commencement of the applicant's land-disturbing activity
330 except as otherwise allowed by § 62.1-44.15.35 of the Code of Virginia.

331

332 8-4 Elements of the stormwater management plans that include activities regulated under
333 Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately
334 sealed and signed by a professional registered in the Commonwealth of Virginia pursuant
335 to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

336 8-5 As a condition of permit approval, a construction record drawing for permanent
337 stormwater management facilities shall be submitted to the Administrator upon
338 completion of construction. The construction record drawing shall be appropriately
339 sealed and signed by a professional registered in the Commonwealth of Virginia,
340 certifying that the stormwater management facilities have been constructed in accordance
341 with the approved plan.

342 1) An Administrator may elect not to require construction record drawings for
343 stormwater management facilities for which maintenance agreements are not required
344 pursuant to subsection 13-2.

345 **SECTION 9 REVIEW of STORMWATER MANAGEMENT PLAN (94VAC25-870-108)**

346 9-1 The Administrator shall review stormwater management plans and shall approve or
347 disapprove a stormwater management plan according to the following:

348 1) The Administrator shall determine the completeness of a plan in accordance with
349 Section 8 of this ordinance, and shall notify the applicant, in writing, of such
350 determination, within 15 calendar days of receipt. If the plan is deemed to be
351 incomplete, the above written notification shall contain the reasons the plan is
352 deemed incomplete.

353 2) The Administrator shall have an additional 60 calendar days from the date of the
354 communication of completeness to review the plan, except that if a determination of
355 completeness is not made within the time prescribed above in subsection 9-1(1), then
356 the plan shall be deemed complete and the Administrator shall have 60 calendar days
357 from the date of submission to review the plan.

358 3) The Administrator shall review any plan that has been previously disapproved, within
359 45 calendar days of the date of resubmission.

360 4) During the review period, the plan shall be approved or disapproved and the decision
361 communicated in writing to the person responsible for the land-disturbing activity or
362 his designated agent. If the plan is not approved, the reasons for not approving the
363 plan shall be provide in writing. Approval or denial shall be based on the plan's
364 compliance with the requirements of this ordinance.

365 5) If a plan meeting all requirements of this Ordinance is submitted and no action is
366 taken within the time provided above in subsection 9-1(2) for review, the plan shall
367 be deemed approved.

368 9-2 Approved stormwater management plans may be modified as follows:

369 1) Modifications to an approved stormwater management plan shall be allowed only
370 after review and written approval by the Administrator. The Administrator shall have
371 60 calendar days to respond in writing either approving or disapproving such request.

372 2) The Administrator may require that an approved stormwater management plan be
373 amended, within a time prescribed by the Administrator, to address any deficiencies
374 noted during inspection.

375 9-3 The Administrator shall require the submission of a construction record drawing for
376 permanent stormwater management facilities. The Administrator may elect not to require
377 construction record drawings for stormwater management facilities for which recorded
378 maintenance agreements are not required pursuant to Section 13-2.

379 **SECTION 10 TECHNICAL CRITERIA for REGULATED LAND-DISTURBING**
380 **ACTIVITIES (94VAC25-870-10 [Part IIB and IIC])**

381 To protect the quality and quantity of state water from the potential harm of unmanaged
382 stormwater runoff resulting from land-disturbing activities, the County hereby adopts the
383 technical criteria for regulated land-disturbing activities set forth in Part IIB of the Stormwater
384 Regulations, as amended, which shall apply to all land-disturbing activities regulated pursuant to
385 this Ordinance, except as expressly set forth in Section 11 of this ordinance.

386
387 **SECTION 11 GRANDFATHERED LAND-DISTURBING ACTIVITIES**
388 **(94VAC25-870-48)**

389 11-1 Until June 30, 2019, a land-disturbing activity shall be considered grandfathered by
390 Richmond County if it meets the following criteria:

- 391 1) One of the following documents was approved by Richmond County prior to July 1,
392 2012:
- 393 a. A currently valid proffered or conditional zoning plan;
 - 394 b. Preliminary or final subdivision plat;
 - 395 c. Preliminary or final site plan; or
 - 396 d. Zoning with a plan of development; or
 - 397 e. Any document determined by Richmond County as being equivalent to one of the
398 above.
- 399 2) No coverage has been issued prior to July 1, 2012 under the VSMP General Permit
400 for Discharge of Stormwater from Construction Activities.
- 401 3) The approved document(s) listed in Subsection 11-1(1) meet the following:
- 402 a. Includes conceptual drawing(s) sufficient to provide for the specified stormwater
403 management facilities required at the time of approval and,
 - 404 b. Demonstrated that the resulting land-disturbing activity will be compliant with the
405 requirements of Section 11.
- 406 4) Land-disturbing activities that Richmond County determines to be grandfathered in
407 accordance with above criteria shall comply with the technical requirements of Part
408 IIC of the Regulations, as amended, which are expressly adopted herein by reference.
- 409 5) Any applicable requirements of Code of Virginia § 15.2-2307 have been satisfied.

410

411 11-2 Until June 30, 2019, for locality, state, and federal projects for which there has been an
412 obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012,
413 or for which the department has approved a stormwater management plan prior to July 1,
414 2012, such projects shall be considered grandfathered by Richmond County and shall not
415 be subject to the technical requirements of Section 10 of this Ordinance, but shall be
416 subject to the technical requirements of Part IIC of the Regulations for those areas that
417 were included in the approval.

418 11-3 For land-disturbing activities grandfathered under subsection 11-1, construction must be
419 completed by June 30, 2019, or portions of the project not under construction shall
420 become subject to the technical requirements of Section 10 of this Ordinance.

421 11-4 In cases where governmental bonding of public debt financing has been issued for a
422 project prior to July 1, 2012, such project shall be subject to the technical requirements of
423 Part IIC of the Regulations.

424 11-5 Nothing in the section shall preclude an operator from construction to a more stringent
425 standard at their discretion.

426 **SECTION 12 EXCEPTIONS (94VAC25-870-57 and 94VAC25-870-122)**

427 12-1 The Administrator may grant exceptions to the technical criteria adopted in Sections 10
428 and 11 of this Ordinance, provided that the Administrator find the following:

- 429 1) The exception is the minimum necessary to afford relief;
- 430 2) Reasonable and appropriate conditions are imposed so that the intent of the Act and
431 this Ordinance are preserved;
- 432 3) Granting the exception will not confer any privileges that are denied in other similar
433 circumstances; and
- 434 4) Exception requests are not based upon conditions or circumstances that are self-
435 imposed or self-created.

436 12-2 Exceptions to the requirement that the land-disturbing activity obtain the required VSMP
437 permit shall not be given by the Administrator, nor shall the Administrator approve the
438 use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any
439 other control measure duly approved by the Director.

440 12-3 Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite
441 options otherwise permitted pursuant to 94VAC25-870-69 have been considered and
442 found not available.

443 12-4 Economic hardship alone is not a sufficient reason to grant an exception from the
444 requirements of this Ordinance.

445

446 **SECTION 13 LONG-TERM MAINTENANCE of PERMANENT STORMWATER**
447 **FACILITIES (94VAC25-870-112)**

448 13-1 The Administrator shall require the applicant to provide evidence of the provision for the
449 long-term responsibility for and maintenance of stormwater management facilities and
450 other techniques specified to manage the quality and quantity of runoff that are installed
451 pursuant to an approved stormwater management plan. Such requirements shall be set
452 forth in an instrument, satisfactory to the County Attorney, recorded in the local land
453 records and shall at a minimum:

- 454 1) Be submitted to the Administrator for review and approval prior to the approval of the
455 stormwater management plan;
- 456 2) Recite that they are intended "to run with the land";
- 457 3) Identify the facilities;
- 458 4) Provide for all necessary access to the property for purposes of maintenance and
459 regulatory inspections;
- 460 5) Identify the necessary maintenance and inspections of the facilities and the
461 submission of inspection and maintenance reports to the Administrator; and
- 462 6) Be enforceable by all appropriate governmental parties.

463 13-2 At the discretion of the Administrator, such recorded instruments need not be required for
464 stormwater management facilities designed to treat stormwater runoff primarily from an
465 individual residential lot on which they are located, provided it is demonstrated to the
466 satisfaction of the Administrator that future maintenance of such facilities will be
467 addressed through an enforceable mechanism at the discretion of the Administrator.

468 13-3 If a recorded instrument is not required pursuant to subsection 13-2, the Administrator
469 shall develop a strategy for addressing maintenance of stormwater management facilities
470 designed to treat stormwater runoff primarily from an individual residential lot on which
471 they are located. Such a strategy may include periodic inspections, homeowner outreach
472 and education, or other method targeted at promoting the long-term maintenance of such
473 facilities. Such facilities shall not be subject to the requirement for an inspection to be
474 conducted by the Administrator.

475 **SECTION 14 MONITORING and INSPECTIONS (94VAC25-870-114)**

476 14-1 The Administrator shall periodically inspect the land-disturbing activity during
477 construction for:

- 478 1) Compliance with the approved erosion and sediment control plan;
- 479 2) Compliance with the approved stormwater management plan;
- 480 3) Development, updating and implementation of a pollution prevention plan; and
- 481 4) Development and implementation of any additional control measures necessary to
482 address a TMDL.

483 14-2 The Administrator may, at reasonable times and under reasonable circumstances, enter
484 any establishment or upon any property, public or private, for the purpose of obtaining
485 information or conducting surveys or investigations necessary in the enforcement of the
486 provisions of this ordinance.

487 14-3 In accordance with a performance bond with surety, cash escrow, letter of credit, any
488 combination thereof, or such other legal arrangement or instrument, a VSMP authority
489 may also enter any establishment or upon any property, public or private, for the purpose
490 of initiating or maintaining appropriate actions which are required by the permit
491 conditions associated with a land-disturbing activity when a permittee, after proper
492 notice, has failed to take acceptable action within the time specified.

493 14-4 To the extent permitted by §62.1-44-15:40 of the Code of Virginia, the Administrator
494 may require every VSMP authority permit applicant or permittee, or any such person
495 subject to the VSMP authority permit requirements under this Ordinance, to furnish when
496 requested such application materials, plans, specifications, and other pertinent
497 information as may be necessary to determine the effect of his discharge on the quality of
498 state waters, or such other information as may be necessary to accomplish the purpose of
499 this ordinance.

500 14-5 Post-construction inspections of stormwater management facilities required by the
501 provisions of this Ordinance shall be conducted pursuant to the County's adopted and
502 State Board approved inspection program, and shall occur, at minimum at least once
503 every five years except as may otherwise be provided for in Section 13-3. The County
504 may utilize the inspection reports of the Owner if the inspection is conducted by a person
505 who is licensed as a professional engineer, architect, landscape architect, or land surveyor
506 pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works
507 under the direction and oversight of the licensed professional engineer, architect,
508 landscape architect, or land surveyor; or a person who holds an appropriate certificate of
509 competence from the State Board.

510 14-6 If the Administrator determines that there is a failure to comply with the conditions of a
511 VSMP Authority, notice shall be served upon the permittee or person responsible for
512 carrying out the permit conditions by registered or certified mail to the address specified
513 in the permit application, or by delivery at the site of the development activities to the
514 agent or employee supervising such activities. The notice shall specify the measures
515 needed to comply with the permit conditions and shall specify the time within which such
516 measures shall be completed. Upon failure to comply within the time specified, a stop
517 work order may be issued in accordance with subsection 14-6(1) by the Administrator, or
518 the permit may be revoked. The Administrator may pursue enforcement in accordance
519 with Section 17 of this Ordinance.

520 1) If a permittee fails to comply with a notice issued in accordance with Section 14-6
521 above, within the time specified, the Administrator may issue an order requiring the
522 owner, permittee, person responsible for carrying out an approved plan, or the person
523 conducting the land-disturbing activities without an approved plan or required permit
524 to cease all land-disturbing activities until the violation of the permit has ceased, or an
525 approved plan and required permits are obtained, and specified corrective measures
526 have been completed. Such orders shall be issued in accordance with the County's
527 local enforcement procedures, and shall become effective upon service on the person
528 by certified mail, return receipt requested, sent to his address specified in the land
529 records of the locality, or by personal delivery by an agent of the County.

- 530 2) If the Administrator determines that any such violation is grossly affecting or presents
531 an imminent and substantial danger of causing harmful erosion of lands or sediment
532 deposition in waters within the watersheds of the Commonwealth or otherwise
533 substantially impacting water quality, the Administrator may issue, without advance
534 notice or hearing, an emergency order directing such person to cease immediately all
535 land-disturbing activities on the site and shall provide an opportunity for a hearing,
536 after reasonable notice as to the time and place thereof, to such person, to affirm,
537 modify, amend, or cancel such emergency order.
- 538 3) If a person who has been issued an order is not complying with the terms thereof, the
539 Administrator may institute an injunctive proceeding in accordance with Section 17-
540 5, in addition to any other administrative and/or judicial proceedings initiated.

541 **SECTION 15 HEARINGS (94VAC25-870-118)**

- 542 15-1 Any permit applicant or permittee aggrieved by any action of Richmond County taken
543 without a formal hearing, or by inaction of Richmond County, may demand in writing a
544 formal hearing by the Board, provided a petition requesting such hearing is filed with the
545 Administrator within 30 days after notice of such action is given by the Administrator.
- 546 15-2 The hearings held under this section shall be conducted by the Board at a regular or
547 special meeting of the Board, or by at least one member of the Board designated by the
548 chairman to conduct such hearings on behalf of the Board at any other time and place
549 authorized by the Board.
- 550 15-3 A verbatim record of the proceedings of such hearings shall be taken and filed with the
551 Board. Depositions may be taken and read as in actions at law.
- 552 15-4 The Board or its designated member, as the case may be, shall have power to issue
553 subpoenas and subpoenas duces tecum, and at the request of any party shall issue such
554 subpoenas. The failure of a witness without legal excuse to appear or to testify or to
555 produce documents shall be acted upon by the Board, or its designated member, which
556 action may include the procurement of an order of enforcement from the circuit court.
557 Witnesses who are subpoenaed shall receive the same fees and reimbursement for
558 mileage as in civil actions.

559 **SECTION 16 APPEALS (Code of Virginia § 62.1-44.15:46)**

- 560 16-1 Final decisions of the Board of Supervisors under this Ordinance shall be subject to
561 review by the Circuit Court of Richmond County provided an appeal is filed within thirty
562 (30) days from the date of the final written decision which adversely affects the rights,
563 duties or privileges of the persons engaging in or proposing to engage in land-disturbing
564 activities.

565

566 **SECTION 17 ENFORCEMENT (94VAC25-870-116)**

567 17-1 Any person who violates any provision of this ordinance or who fails, neglects or refuses
568 to comply with any order of Richmond County, shall be subject to a civil penalty not to
569 exceed \$32,500 for each violation within the discretion of the court. Each day of violation
570 of each requirement shall constitute a separate offense.

571 1) Violations for which a penalty may be imposed under this subsection shall include
572 but not be limited to the following:

- 573 a. Failing to have a general permit registration;
- 574 b. Failing to prepare a SWPPP;
- 575 c. Having an incomplete SWPPP;
- 576 d. Not having a SWPPP available for review as require by law;
- 577 e. Failing to have an approved erosion and sediment control plan;
- 578 f. Failing to install stormwater BMPs or erosion and sediment controls as required
579 by this Ordinance and/or state law;
- 580 g. Having stormwater BMPs or erosion and sediment controls improperly installed
581 or maintained;
- 582 h. Operational deficiencies;
- 583 i. Failure to conduct required inspections or having incomplete, improper or missed
584 inspections; and
- 585 j. Discharges not in compliance with the requirements of 4VAC50-60-1170 of the
586 general permit.

587 2) The County may issue a summons for collection of the civil penalty and the action
588 may be prosecuted in the appropriate court. In imposing a civil penalty pursuant to
589 this subsection, the court may consider the degree of harm caused by the violation
590 and also the economic benefit to the violator from noncompliance.

591 3) Any civil penalties assessed by a court as a result of a summons issued by the County
592 shall be paid into the treasury of the County to be used for the purpose of minimizing,
593 preventing, managing, or mitigating pollution of the waters of the locality and abating
594 environmental pollution therein in such manner as the court may, by order, direct.

595 4) With the consent of any person who has violated or failed, neglected or refused to
596 obey any provision of this Ordinance, any condition of a permit or state permit, any
597 regulation or order of the County, the County may provide, in an order issued against
598 such person, for the payment of civil charges for violations in specific sums, not to
599 exceed the limit specified in this section. Such civil charges shall be instead of any
600 appropriate civil penalty that could be imposed under this section.

601 a. Any civil charges collected shall be paid to the locality or state treasury pursuant
602 to subsection 17-1(3).

603 17-2 Notwithstanding any other civil or equitable remedy provided by this section, any person
604 who willfully or negligently violates any provision of this ordinance, any order of the
605 County, any condition of a permit, or any order of a court shall be guilty of a
606 misdemeanor punishable by confinement in jail for not more than 12 months and a fine of
607 not less than \$2,500 nor more than \$32,500, either or both.

608 17-3 Any person who knowingly violates any provision of this ordinance, any regulation or
609 order of the SWCB or the County, any condition of a permit or any order of a court as
610 herein provided, or who knowingly makes any false statement in any form required to be
611 submitted under this ordinance or knowingly renders inaccurate any monitoring device or
612 method required to be maintained under this ordinance, shall be guilty of a felony
613 punishable by a term of imprisonment of not less than one year nor more than three years,
614 or in the discretion of the jury or the court trying the case without a jury, confinement in
615 jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000
616 for each violation. Any defendant that is not an individual shall, upon conviction of a
617 violation under this subsection, be sentenced to pay a fine of not less than \$10,000. Each
618 day of violation of each requirement shall constitute a separate offense.

619 17-4 Any person who knowingly violates any provision of this Ordinance, and who knows at
620 that time that he thereby places another person in imminent danger of death or serious
621 bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of
622 imprisonment of not less than two years nor more than 15 years and a fine of not more
623 than \$250,000, either or both. A defendant that is not an individual shall, upon conviction
624 of a violation under this subsection, be sentenced to pay a fine not exceeding the greater
625 of \$1 million or an amount that is three times the economic benefit realized by the
626 defendant as a result of the offense. The maximum penalty shall be doubled with respect
627 to both fine and imprisonment for any subsequent conviction of the same person under
628 this subsection.

629 17-5 Any person violating or failing, neglecting, or refusing to obey any rule, regulation,
630 ordinance, order, or any permit condition issued by the Administrator or any provisions
631 of this ordinance may be compelled in a proceeding instituted in any appropriate court by
632 the County to obey same and to comply therewith by injunction, mandamus or other
633 appropriate remedy.

634 **SECTION 18 FEES (94VAC25-870-700 thru 94VAC25-870-830)**

635 18-1 Fees to cover costs associated with implementation of a VSMP related to land-disturbing
636 activities and issuance of General Permit coverage and VSMP authority permits shall be
637 imposed in accordance with Table 1 of the County's adopted VSMP Fee Schedule. Sites
638 purchased for development within a previously permitted common plan of development
639 or sale shall be subject to fees in accordance with the disturbed acreage of the site or sites
640 according to the same table.

641 18-2 Fees for permit modifications (not including minor modifications) or transfer of
642 registration statements from the General Permit shall be imposed in accordance with
643 Table 2. The fee assessed shall be based on the total disturbed acreage of the site.

644 18-3 Fees for annual permit maintenance shall be imposed in accordance with Table 3,
645 including fees imposed on expired permits that have been administratively continued.
646 With respect to the General Permit these fees shall apply until the permit coverage is
647 terminated.

648

649 1) General permit coverage maintenance fees shall be paid annually to Richmond
650 County, by the anniversary date of general permit coverage. No permit will be
651 reissued or automatically continued without payment of the required fee. General
652 permit coverage maintenance fees shall be applied until a Notice of Termination is
653 effective.

654 18-4 No permit application fees will be assessed to:

655 1) Permittees who request minor modifications to permits as defined in Section 2-13 of
656 this ordinance; however, any such permit modifications that result in any change to an
657 approved stormwater management plan that requires additional review by the
658 Administrator shall not be exempt pursuant to this section.

659 2) Permittees whose permits are modified or amended at the request of the Department,
660 excluding errors in the registration statement identified by the Administrator or errors
661 related to the acreage of the site.

662 18-5 All incomplete payments will be deemed as non-payments, and the applicant shall be
663 notified of any incomplete payments. Interest may be charged for late payments at the
664 underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a
665 monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to
666 any delinquent (over 90 days past due) account. Richmond County shall be entitled to all
667 remedies available under the Code of Virginia in collecting any past due amount.

668 1) The Stormwater Management Fee Schedule shall be adopted by the Board by
669 Resolution, and may be amended by the Board, from time to time, in the same
670 manner, provided that the amount of fees charged shall conform to state law
671 requirements.

672 **SECTION 19 PERFORMANCE BOND (94VAC25-870-104.D)**

673 19-1 Prior to final approval or as a condition thereof and issuance of any permit, the Applicant
674 shall be required to submit a reasonable performance bond with surety, cash escrow,
675 letter of credit, any combination thereof, or such other legal arrangement acceptable to
676 the County Attorney, to ensure that all improvements required by this Ordinance shall be
677 completed and to ensure that measures could be taken by Richmond County at the
678 Applicant's expense should he fail, after proper notice, within the time specified to
679 initiate or maintain appropriate actions which may be required of him by the permit
680 conditions as a result of his land-disturbing activity. Notwithstanding the foregoing and
681 subject to Section 19-2, a performance bond may not be required for the construction of a
682 single family dwelling with an approved Stormwater Management Plan.

683 19-2 Where stormwater management facilities or other specifications of an approved
684 Stormwater Pollution Prevention Plan are required for the construction of a solitary single
685 family dwelling, no Certificate of Occupancy shall be issued until the installation of these
686 facilities is completed, in accordance with the approved SWPPP. When the occupancy of
687 a single family dwelling is desired prior to the completion of the required stormwater
688 management facilities, or other specifications of the approved plan, a Certificate of
689 Occupancy may be issued only if the applicant provides to the Board a form of surety

690 satisfactory to the County Attorney in the amount equal to the remaining materials and
691 installation costs of any required stormwater management facilities.

692 19-3 If Richmond County takes such action upon such failure by the Applicant, the Locality
693 may collect from the Applicant for the difference should the amount of the reasonable
694 cost of such action exceed the amount of the security held, if any.

695 19-4 Upon completion of the installation of all improvements, the developer shall furnish a
696 statement prepared by a certified surveyor or engineer, to the effect that all construction
697 is in substantial conformity to the regulations and requirements of this ordinance, and the
698 plans as approved by the County. If the submittal is approved by the County, such bond,
699 cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated
700 portion thereof, shall be refunded to the Applicant or terminated within thirty (30) days of
701 receipt of written notice from the developer to the Administrator, unless such developer is
702 notified in writing by the Administrator of a delay in such release and the reasons
703 therefore. The County may retain up to 25 percent of the bond or other obligation for the
704 use in repair of improvement as may be necessary within one year of completion.

705 19-5 In the event the developer has, in the opinion of the Administrator, just cause for not
706 completing the improvements in the entire development where a satisfactory performance
707 guarantee had been posted, the Administrator may release the developer from his
708 obligation to complete all of the improvements in the development provided the
709 developer furnishes a statement by a licensed surveyor or engineer to the effect that all
710 construction which has been completed, conforms to the regulations and requirements of
711 this Ordinance and the plans as approved by the County.

712 **SECTION 20 EFFECTIVE DATE**

713 20-1 This Ordinance was duly considered on [Month] XX, 2014, and was adopted by a
714 ~~unanimous~~ vote of the Board of Supervisors of Richmond County, Virginia at its regular
715 meeting held on [Month] XX, 2014.

716 20-2 This Ordinance shall be effective on and after 12:01 a.m. on July 1, 2014.

717 **SECTION 21 REPEAL OF CONFLICTING ORDINANCES**

718 21-1 All ordinances or portions of ordinance in conflict with this ordinance are hereby
719 repealed to the extent necessary to give this ordinance full force and effect.

720 **SECTION 22 SEVERABILITY**

721 22-1 If any court of competent jurisdiction invalidates any provision of this Ordinance, the
722 remaining provisions shall not be effected and shall continue in full force and effect.