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CHAPTER 1

Taxes

§ 15-1. Levy. The council of the Town of Bridgewater shall, each year, at the time of adoption of its budget order a town levy. The levy shall be for so much as is in the opinion of the council necessary to be raised, in addition to all sums received for licenses and from other sources for the operation of the town. Such levy may be upon any property located within the corporate limits of the town and subject to local taxation. (See Constitution of Virginia, Article X, § 4; Code of Virginia, § 58.1-3200.)

§ 15-2. Levy not an Appropriation. The making of such a levy or imposition of other taxes or the collection of such levy or taxes shall not constitute an appropriation or an obligation to appropriate any funds by the council for any purpose. The laying and making of a levy in an amount sufficient to cover or pay all estimated and contemplated expenditures for the fiscal year shall not be construed as imposing any obligation or duty on the council to appropriate any amount whatsoever. No part of the funds raised by the general town levy or taxes shall be considered available, allocated, or expended for any purpose until there has been an appropriation of funds for an expenditure or purpose by the council either annually, semiannually, quarterly, or monthly. There shall be no mandatory duty upon the council to appropriate any funds raised by general town levies or taxes except to pay the principal and interest on bonds and other legal obligations of the town and to pay obligations of the town arising under contracts executed or approved by the council. Any funds collected and not expended in any fiscal year shall be carried over to the succeeding fiscal year and shall be available for appropriations for any governmental purposes in those years.

§ 15-3. Tax Year. The tax year of the town shall be the calendar year.

§ 15-4. When Tax Due. All real property taxes shall become due, in equal installments, on June 5 and December 5 of the year for which assessed. All other property taxes shall become due as of December 5 of the year for which assessed. (*Amended July 11, 1989.*)

§ 15-5. Interest and Penalties. If taxes levied under this Title are not paid when due, interest and penalties on the delinquent sum shall accrue at the maximum rate allowed by state law. (See Code of Virginia, § 58.1-3916.)

§ 15-6. List of Delinquent Accounts. The town treasurer, ascertaining which of the taxes and levies assessed in his town cannot be collected, shall, not later than the first day of August in each year, make a list as follows:

- (a) A list of real estate improperly placed on the land book or not ascertainable with the amount of taxes and levies charged thereon.
- (b) A list of other real estate which is delinquent for the non-payment of the taxes and levies thereon.
- (c) A list of the uncollected taxes which amounted to less than five dollars each and for which no bill was sent,

§ 15-7. Lists to be Submitted to Council. The treasurer shall submit the lists prepared under § 6 of this Title to the town council at the first council meeting after the lists are completed. (See Code of Virginia, §§58.1-3921.58.1-3924.)

§ 15-8. Sale of Land. The town may cause land on which real estate taxes are delinquent to be sold within the time and under the procedures set forth by state law. (See Code of Virginia, §§ 58.1-3965, et seq.)

CHAPTER 2

Exemptions From Taxes

§ 15-9. Filing of Application. Any entity owning real property within the corporate limits of the Town of 15 which is exempt under the provisions of § 58.1-3600 et seq. of the Code of Virginia, 1950, as now or hereafter amended, other than the Commonwealth of Virginia and any political subdivisions of the Commonwealth, or the United States shall, after the giving by the town of 60 days written notice file biennially with the town treasurer an application seeking retention of the exempt status of the property. (See Code of Virginia, § 58.1-3605.)

§ 15-10. When Filed. Such filing shall be made within 60 days preceding the beginning of the tax year for which such exemption or the retention thereof is sought. The first filing hereunder shall be made within such 60 day period preceding the tax year 1976. (See Code of Virginia, § 58.1-3605.)

§ 15-11. What Application to Show. Such application shall show the ownership and usage of the property. (See Code of Virginia, § 58.1-3605.)

§ 15-12. Effect of Failure to File. Failure to file such an application after the giving of such notice shall result, in the discretion of the council, in loss of the exempt status of the property or in denial of such exempt status. (See Code of Virginia, § 58.1-3605.)

§ 15-13. Effective Date. This ordinance shall be in effect from July 15, 1975.

CHAPTER 2.1
Exemptions for the Elderly and Disabled
(Added April 10, 1990.)

§ 15-13.1. Definitions. For the purposes of this Chapter, the following words and phrases shall be defined as follows:

- (a) *Elderly* - A person is elderly if over the age of 65 at the beginning of the tax year for which an exemption is claimed.
- (b) *Dwelling* - The term "dwelling" shall have the same meaning as ascribed in § 6-22 of the Town Code, except for purposes of this Chapter only, the term shall include a mobile home as that term is defined by § 36-71 (4) of the Code of Virginia. (Code of Virginia, § 58.1-3210)
- (c) *Permanently and Totally Disabled* - A person is permanently and totally disabled if, at the beginning of the tax year for which the exemption is claimed, he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of his life. (Code of Virginia, § 58.1-3217)

§ 15-13.2. Exemptions Authorized. Subject to the provisions of this Chapter, qualifying real estate owned by elderly or permanently disabled persons shall be exempted (or partially exempted) from the Town's real estate tax to the extent provided in this Chapter. (Amended April 12, 2011.)

§ 15-13.3. Requirements for Exemption.

- (a) No tax exemption shall be granted unless:
 - (1) The title to the property for which the exemption is claimed is held on January 1 of the tax year by the person claiming the exemption, except as provided in paragraph (b) of this section;
 - (2) The person claiming the exemption is elderly or totally and permanently disabled, as those terms are defined in this Chapter, except as provided in paragraph (b) of this section;
 - (3) The dwelling on the property for which the exemption is claimed is occupied as the sole dwelling of the person claiming the exemption; (Code of Virginia, § 58.1-3210);
 - (4) The total combined income during the immediately preceding year from all sources of the owner or owners of the dwelling living therein, and of the owners' relatives living in the dwelling does not exceed \$11,000, provided that the first \$2,000 of income of each relative, other than the spouse of the owner, who is living in the dwelling shall not be included in that total; (Code of Virginia, §§58.1-3211,58.1-3212);
 - (5) The net combined financial worth, including equitable interest, as of December 31 of the immediately preceding year, of the owner, and of the spouse of the owner, excluding the value of the dwelling and the land (not exceeding one acre) upon which it is situated shall not exceed \$30,000; (Code of Virginia, §§ 58.1-3211, 58.1-3212);
- (b) A dwelling jointly held by a husband and wife may qualify for the exemption if either spouse is elderly or is permanently and totally disabled. (Code of Virginia, § 58.1-3210).

§ 15-13.4. Claiming Exemption.

- (a) Annually, and not later than April 1 of the taxable year, all persons claiming exemptions must file a

real estate tax exemption affidavit with the Town Treasurer. Nothing in this Chapter shall be construed to permit more than one exemption even though a person may be both elderly and totally and permanently disabled.

- (b) The affidavit shall set forth, in a manner prescribed by the Treasurer, the location, assessed value, and the tax on the property and the names of the related persons occupying the dwelling for which exemption is claimed, and that their combined "income from all sources and the total combined net worth of the person claiming the exemption does not exceed the limits set forth in § 15-13.3.
- (c) If the applicant claims an exemption because he is permanently and totally disabled, the affidavit shall be accompanied by a certification by the Veteran's Administration or the Railroad Retirement Board, or if such person is not eligible for certification by either of those agencies, a sworn affidavit by two medical doctors licensed to practice medicine in Virginia, to the effect that the person is permanently and totally disabled, as defined in § 15-13.1. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based on medical information contained in records of the Civil Service Commission relevant to the standards for determining permanent and total disability as defined in § 15-13.1.
- (d) If the Treasurer determines that the person is qualified for exemption, she shall issue to the person a certificate which shall show the amount of the exemption from the applicant's real estate tax liability.
- (e) The Treasurer shall make any reasonably necessary inquiry of persons seeking the exemption established in this Chapter, requiring answers under oath, to determine qualifications as specified in this Chapter. Additionally, the Treasurer may require production of certified tax returns to establish the income or financial worth of any applicant for the tax exemption.

(Code of Virginia, § 58.1-3213)

§ 15-13.5. Amount of Exemption. Persons receiving an exemption under the terms of this Chapter shall be relieved of the percentage of the real estate tax levied on the qualifying dwelling and land shown in the following table:

**COMBINED TOTAL INCOME
(calculated under § 15-13.3)**

	COMBINED NET WORTH (calculated under § 15-13.3)			
	<u>0-\$15,000</u>	<u>\$15,0001-\$20,000</u>	<u>\$20,0001-\$25,000</u>	<u>\$25,0001-\$30,000</u>
0-\$6,500	80%	64%	56%	40%
\$6,501-\$8,000	60%	48%	42%	30%
\$8,001-\$9,500	40%	32%	28%	20%
\$9,501-\$11,000	20%	16%	14%	10%

All figures are to be rounded off to the nearest dollar.

[The table is based on the following formulae, which control in the event of a conflict with the table:

- A. If gross combined income is \$6,500 or less, the *gross* tax exemption shall be 80%;
- B. If gross combined income is from \$6,501 to \$8,000, inclusive, the *gross* tax exemption shall be 60%;
- C. If gross combined income is from \$8,001 to \$9,500, inclusive, the *gross* tax exemption shall be 40%;
- D. If gross combined income is from \$9,501 to \$11,000, inclusive, the *gross* tax exemption shall be 20%;
- E. If gross combined income exceeds \$11,000, there shall be no exemption provided that the *gross* exemption shall be reduced as follows:
 - A. If total combined net worth is \$15,000 or less, there is no reduction in the *gross* exemption;

- B. If total combined net worth is from \$15,001 to \$20,000, inclusive, the gross exemption is reduced by 20%;
- C. If total combined net worth is from \$20,001 to \$25,000, inclusive, the gross exemption is reduced by 30%;
- D. If total combined net worth is from \$25,001 to \$30,000, inclusive, the gross exemption is reduced by 50%;
- E. If total combined income exceeds \$30,000, there shall be no exemption.]

§ 15-13.6. Changes in Circumstances, Loss of Exemption.

- (a) Except as provided in paragraph (b) of this section, changes in income, financial worth, or other factors occurring during the taxable year which have the effect of exceeding or violating the limitations and conditions provided in this Chapter shall nullify any exemption for the remainder of the current tax year and the tax year immediately following. Any tax due after the change in circumstances shall be due in its entirety, as if there had been no exemption.
- (b) When exempt real estate changes ownership and thus loses its exemption, the exemption shall be prorated for the portion of the year for which the property qualified. The proceeds of a sale of exempt property shall not be included in the computation of net worth or income. The prorated portion shall be determined by multiplying the amount of the exemption by a fraction of which the numerator is the number of complete months for which the property qualified for the exemption and the denominator is 12. (Code of Virginia, § 58.1-3215)

§ 15-13.7. Notice of Exemption. The Town Treasurer shall see that a notice is enclosed in each real estate tax bill describing the terms and conditions of this Chapter. Further, the Treasurer shall employ other reasonable means to notify town residents of the provisions of this Chapter. (Code of Virginia, § 58.1-3213.1)

CHAPTER 2.2
(Added April 12, 2011)

§ 15-13.8. Exemption for disabled veterans. Provided the requirements of this Chapter are satisfied, there shall be no town real estate tax on property (i) owned by a veteran rated by the United States Department of Veterans Affairs as having a 100% service-connected, permanent, and total disability and (ii) used as the veteran's principal place of residence.

§ 15-13.9. Spouses.

(a) The exemption set out in § 15-13.8 shall apply to property owned by the disabled veteran, or to property owned jointly by veteran and spouse. Even after the veteran's death, it shall continue to apply to the surviving spouse, provided (i) the veteran's death is on or after January 1, 2011, (ii) the surviving spouse does not remarry, and (iii) the property continues to be used as the spouse's principal residence.

§ 15-13.10. Application for exemption. The veteran or surviving spouse claiming the exemption under this article shall file with the Treasurer an affidavit (on a form supplied by the Town) (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by husband and wife, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

CHAPTER 3

Erosion and Sedimentation Controls

§ 15-14. Purpose. An ordinance providing for, both during and following development, the control of erosion and sedimentation; and establishing procedures for the administration and enforcement of such controls. This Chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (§ 10.1-560, *et seq.*), known as the Erosion and Sedimentation Control Law. (*Amended July 14, 1998.*)

§ 15-15. General Requirement. Except as provided for in § 15-17, no person may engage in any land disturbing activity except in compliance with an erosion and sediment control plan approved by the Town of Bridgewater, as such plan may be amended from time to time.

Furthermore, no Owner of an Erosion Impact Area, identified under § 15-17.1, shall fail to file a proper plan in a timely manner or fail to comply with an approved plan, as it may be amended from time to time.

It is the intent of this ordinance to be an adjunct to both the Town's Subdivision and Zoning Ordinances wherein such apply to the development and subdivision of land within the Town of Bridgewater or such apply to development on previously subdivided land within the Town of Bridgewater.

(*Amended December 9, 1997; amended July 14, 1998.*)

§ 15-16. Definitions. For the purpose of this ordinance, certain terms and words used herein shall be interpreted as follows:

- (a) "Administrator" shall mean the Director of Public Works. (*Amended April 10, 1990.*)
- (a01) "Agreement in Lieu of a Plan" shall mean a contract between the plan approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence, which is not constructed in conjunction with a subdivision development; this contract may be executed by the plan approving authority in lieu of a formal site plan. (*Added December 9, 1997.*)
- (al) "Applicant" shall mean any person submitting an erosion or sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence. (Code of Virginia, § 10.1-560) (*Added April 10, 1990; Amended December 9, 1997.*)
- (b) "Clearing" shall mean any activity which removes the vegetative ground cover including but not limited to the removal, root mat removal and topsoil removal.
- (c) "District or Soil and Water Conservation District" shall mean a governmental subdivision of the State organized in accordance with the provisions of the Soil Conservation Districts Law Title 21, Chapter 1, Code of Virginia as amended.
- (c1) "Erosion impact area" shall mean an area of land not associated with current land disturbing activity, but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters; provided, however that the term shall not apply to any lot or parcel of land of 10,000 square feet or less which is used for residential purposes. (*Added April 10, 1990; amended December 9, 1997; amended July 14, 1998.*)
- (d) "Erosion and Sedimentation Control Plan" or "Plan" shall mean a document containing planning materials and methods for the conservation of soil and water resources of a unit or a group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The "Plan" shall contain all major conservation decisions to assure that the

entire unit or units of land will be so treated to achieve the conservation objectives.

- (e) "Excavating" shall mean any digging, scooping or other methods of removing earth materials.
- (f) "Filling" shall mean any depositing or stock-piling of earth materials.
- (g) "Governing Body" shall mean the Town Council of the Town of Bridgewater.
- (h) "Grading" shall mean any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- (i) "Land Disturbing Activity" shall mean any land change which may result in soil erosion from water or wind and the movement or sediments into waters or onto lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land, unless such activity is an exception under § 15-17.
- (j) "Land Disturbing Permit" shall mean a permit issued by the Town of Bridgewater for clearing, filling, excavating, grading or transporting, or any combination thereof.
- (j1) "Owner" shall mean the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property. (Code of Virginia, § 10.1-560) (*Added April 10, 1990.*)
- (j2) "Permittee" shall mean the person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed. (Code of Virginia, § 10.1-560) (*Added April 10, 1990.*)
- (k) "Person" shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, or any other legal entity.
- (l) "Plan Approving Authority" shall mean the administrator. (*Amended April 10, 1990.*)
- (11) "State erosion and sediment control program" shall mean the program administered by the Virginia Soil and Water Conservation Board pursuant to Article 4, Chapter 5, Title 10.1 of the Code of Virginia, (including subsequent amendments and recodifications), including regulations designed to minimize erosion and sedimentation. (Code of Virginia, § 10.1-560) (*Added April 10, 1990.*)
- (12) (*Repealed December 9, 1997*)
- (m) "Transporting" shall mean any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

§ 15-17. Non-Controlled Activities. The following are not to be construed as a form of land disturbing activity:

- (a) such minor land disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work;
- (b) individual service connections;
- (bi) installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided the land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced; (*Added April 10, 1990.*)
- (c) septic tank lines or drainage fields unless included in an overall plan for land disturbing activity

relating to construction of the building to be served by the septic tank system;

- (d) surface or deep mining; *(Amended April 10, 1990.)*
- (dl) exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas; (Code of Virginia, § 10.1-560) *(Added April 10, 1990.)*
- (d2) tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feed lot operations; 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; provided, however that this exception shall not apply to the harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Virginia Code § 10.1-100 et seq. or is converted to bona fide agricultural or improved pasture use as described in Virginia Code § 10.1-1163(B); (Code of Virginia, § 10.1-560) *(Added April 10, 1990; Amended December 9, 1997.)*
- (e) repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company; *(Amended April 10, 1990.)*
- (f) *(Repealed December 9, 1997.)*
- (g) disturbed land areas for commercial or noncommercial uses of less than ten thousand square feet in size;
- (h) installation offence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (i) *(Repealed April 10, 1990.)*
- (j) emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan-approving authority or the Virginia Soil and Water Conservation Board when applicable; *(Amended April 10, 1990.)*
- (k) agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2, Chapter 6, Title 10.1 of the Code of Virginia (including subsequent amendments or recodifications), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation. *(Added April 10, 1990.)*

§ 15-17.1 Erosion Impact Area. The Administrator may identify land within the Town to be an "Erosion Impact Area," provided the land meets the definition set forth in § 15-16 above. Upon such identification, the Administrator shall notify the Owner of the land that he must submit a plan within 30 days. *(Added July 14, 1998.)*

§ 15-18. Plan Submission. Three copies of the erosion and sediment control plan shall be submitted to the administrator by physical delivery or by mailing, certified mail, return receipt requested.

§15-19. Inspection and Enforcement.

- (a) Inspection and enforcement of this Chapter shall be the responsibility of the administrator.

Inspections shall occur

- (i) during or immediately after installation of erosion and sediment controls,

- (ii) at least once in every two week period,
- (iii) within 48 hours after any runoff producing storm event, and
- (iv) at the completion of the project prior to the release of any performance bonds.

Moreover, the administrator may require monitoring and reports from the person responsible for carrying out the plan, to insure compliance with approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The administrator shall also have the power to oversee projects conducted pursuant to an agreement in lieu of a plan (Code of Virginia, § 10.1-566,4 VAC 50-30-60) (*Amended December 9,1997; amended July 14, 1998.*)

- (a) Enforcement of an agreement in lieu of a plan shall be enforced in the same way as a submitted and approved plan.
- (b) If the administrator determines that there is a failure to comply with the plan, notice shall be served upon the committee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this Chapter.
- (c) Upon the receipt of a sworn complaint of a violation of § 15-15 (or the filing thereof by himself), the administrator may, in conjunction with or subsequent to a notice to comply as specified in paragraph (b) above, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land disturbing activities have commenced without an approved plan as provided in § 15-15, requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in paragraph (b) above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the administrator or his designee may issue an order to the owner requiring that all construction and other work on the site other than corrective measures be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of Rockingham County. The owner may appeal the issuance of an order to the Circuit Court of Rockingham County. Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of Rockingham County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits the order shall immediately be lifted. Nothing in this section shall prevent the administrator or his designee from taking action authorized by § 15-27. (*Amended December 9, 1997.*)

(*Amended April 10, 1990.*)

§ 15-20. Handbook. The Town of Bridgewater hereby adopts the current edition of the Virginia Erosion and Sediment Control Handbook as the Erosion and Sediment Control Handbook of the Town of Bridgewater, and any subsequent amendments or revisions. (*Amended April 10, 1990.*)

§ 15-21. Erosion and Sedimentation Control Plan.

- (a) *Generally.* The Erosion And Sedimentation Control Plan shall detail those methods and techniques to be utilized in the control of erosion and sedimentation. As a minimum, the Plan shall meet the requirements of 4 Va. Admin. Code 50-30-40 as it may be amended from time to time.
- (b) *Multi-Jurisdictional Projects.* Where Land-Disturbing Activities involve lands under the jurisdiction of the Town and another local control program, a Plan may, at the option of the applicant, be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than to each jurisdiction concerned.
- (c) *Owner's Responsibility.* When Land-Disturbing Activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of a Plan shall be the responsibility of the Owner.

(*Amended December 9, 1997; amended July 14, 1998.*) (Ed.: 4 V AC 50-30-40, as it existed on July 14, 1998 is appended to this Title.)

§ 15-22. Approval. Any erosion and sedimentation plan submitted under the provisions of this Chapter will be acted on in forty-five (45) days from receipt by either approving or disapproving in writing and giving specific reasons for disapproval. If no formal action has been taken by the Plan Approving Authority in forty-five (45) days after receipt of plan, the plan shall be deemed approved.

§ 15-23. Certification: Bonding of Performance.

- (a) Before any land disturbing permit is issued, the applicant shall sign a certificate stating that all measures and procedures required by this Chapter or the plan will be followed and implemented.
- (b) All control measures required by the provisions of this Chapter shall be undertaken at the expense of the owner or his agent. The Administrator is hereby granted the authority, to require a performance bond (with approved surety) in favor of the Town guaranteeing construction of the conservation actions required by the plan. The amount of the bond shall be the estimate cost of performing the conservation action required by the plan (based unit pricing for construction in the Town), plus no more than 25% for administrative costs and inflation. In the absence of accurate, site-specific data for calculating the amount of the bond, the Administrator may calculate the bond at \$2,000 per disturbed acre.

In lieu of a performance bond the administrator is authorized to accept a cash escrow, letter of credit, deed of trust, or any combination thereof.

Within sixty (60) days of the adequate stabilization of the land disturbing activity in any project or section thereof, the bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or section thereof. (Code of Virginia, § 15.1-565) (*Amended April 10, 1990; amended December 9, 1997; amended July 14, 1998.*)

§ 15-24. Issuance of Land Disturbing Permit; Fees.

- (a) Except as provided in § 15-17, no person shall engage in any land disturbing activity as defined in § 15-16 within the Town of Bridgewater until he has acquired a land disturbing permit.
- (b) Issuance of a land disturbing permit is conditioned on an approved erosion and sediment control plan which shall be presented at the time of application, upon the certification and bonding

required under § 15-23, and upon payment of the fees herein levied.

- (c) The Town hereby levies the following fees and plan reviewing and inspection: For the first 40,000 square feet of land subject to the plan \$4.00 per 1,000 square feet; for the next 60,000 square feet, \$2.00 per 1,000 square feet; and for all square footage above 100,000, \$1.00 per 1,000 square feet.

(Amended April 10, 1990; December 9, 1997.)

§ 15-25. Amendment. An approved erosion and sedimentation plan may be amended by the administrator where

- (i) inspection has revealed that the plan is inadequate to satisfy applicable regulations or
- (ii) the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this Chapter are agreed to by the administrator and the person responsible for carrying out the plan.

(Amended April 10, 1990; December 9, 1997.)

§ 15-26. Administrative Appeal: Judicial Review. Final decisions of the Administrator under this Chapter shall be subject to review by the Governing Body, provided an appeal is filed within thirty (30) days from the date of any written decision by the Administrator.

Final decisions of the Governing Body under this Chapter shall be subject to review by the Circuit Court of Rockingham County, Virginia, provided an appeal is filed within thirty (30) days from the date of the final written decision.

§ 15-27. Penalties, Injunctions, and Other Legal Actions.

- (a) *(Amended December 9, 1997; repealed July 14, 1998.)*
- (a1) Violations of § 15-15 may be punished by a civil penalty of \$100 (or \$1,000 for engaging in land disturbing activities without an approved plan). Each day the violation continues shall be deemed a separate violation, but no series of violations arising from the same set of operative facts shall authorize a penalty of more than \$3,000 (\$10,000 for engaging in land disturbing activities without an approved plan). (Virginia Code, §§ 10.1-562(J), 10.1-569(B) *(Added December 9, 1997; amended July 14, 1998.)*)
- (b) To the extent authorized by Virginia Code, § 10.1-569(c) the administrator or the owner of property which has sustained damage or is in imminent danger of being damaged, may apply for an injunction of a violation or threatened violation of this Title, without necessity of showing that an adequate remedy at law does not exist. *(Amended December 9, 1997.)*
- (c) Without limiting the remedies which may be obtained under this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. With the consent of any person who has violated or failed, neglected or refused to obey any condition of a permit or any provision of this Chapter, the plan approving authority may provide in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed \$2,000 for each such violation. Such civil charges shall be instead of any appropriate civil penalty which could have been imposed by the court under this paragraph. (Code of Virginia, § 10.1-569)

(Amended April 10, 1990.)

§ 15-28. Liability. Compliance with the provisions of this Chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages. (*Amended April 10, 1990; December 9, 1997.*)

§ 15-29. Severability. Should any provision of this Chapter be held to be unconstitutional or invalid, such declaration shall not affect or impair the remainder of this Chapter. (*Amended December 9, 1997.*)

CHAPTER 4
Stormwater Management Utility
(*Enacted May 8, 2012. Effective June 30, 2013, except as noted.*)

§ 15-30. Findings and determinations.

This Council finds that

- (i) The Town is required to maintain a system of manmade and natural components to both limit and manage the volume of stormwater, to control flood events, and to prevent degradation of downstream water quality.
- (ii) Stormwater runoff is associated with all improved properties in the Town, whether residential or nonresidential, and the individual property impacts of runoff are correlated to the amount of impervious surface on the property and land-disturbing activities on property.
- (iii) The Town's stormwater management infrastructure provides benefit and service to properties within the Town, (i) through direct protection of property, (ii) through control of flooding of critical components of the infrastructure, and (iii) through protection of the Town's natural environment.
- (iv) The costs of monitoring, operating, maintaining, and constructing the stormwater system required in the Town, both to meet new regulations, such as the Chesapeake Bay TMDL, and to address identified flood event needs, should therefore be allocated, to the extent practicable, to all property owners based on their impact on the Stormwater Management System.

§ 15-31. Definitions.

For purposes of this Chapter, the following words and terms used in this section shall have the following meanings:

- (a) "Agricultural Property" means land carrying the Town's A-1 zoning designation and used for the tilling, planting or harvesting of agricultural, horticultural or forest crops or land used for raising livestock.
- (b) "Developed Multifamily Residential Property" means a parcel of Developed Property containing more than a single residence or dwelling unit. Mixed-use property where the residential component is predominant falls within this classification. However, dormitories and other housing units owned by a college and located within a college campus enclave are considered "Developed Nonresidential Property."
- (c) "Developed Nonresidential Property" means a parcel of Developed Property which does not serve a primary purpose of providing permanent dwelling units. Such property shall include, but not be limited to, commercial properties, schools, colleges, industrial properties, parking lots, recreational and cultural facilities, hotels, offices and churches. Mixed-use property where the residential component is not predominant falls within this classification.
- (d) "Developed Property" means real property which has been altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious surfaces.
- (e) "Developed Residential Property" means a parcel of Developed Property containing a single residence or dwelling unit (with accessory uses related to but subordinate to residential use). Dormitories and other housing units owned by a college and located within a college campus enclave are considered "Developed Nonresidential Property."

- (f) “*Equivalent Residential Unit*” or “*ERU*” means two thousand (2,000) square feet of Impervious Surface Area. The ERU is intended to approximate the amount of Impervious Surface Area in a typical single-family dwelling lot.
- (g) “*ERU Rate*” means the Utility Fee charged on an Equivalent Residential Unit, which shall be established by the Council from time to time. (Amended May 10, 2016, Effective July 1, 2016)
- (h) “*Impervious Surface Area*” means a surface which is compacted or covered with material that is highly resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, paved parking lots, and other similar structures.
- (i) “*Revenues*” means all Utility Fees and other income collected, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the Town.
- (j) “*Storm Drainage*” means any manmade system of pipes, swales, channels or other facilities which carries water off of a property.
- (k) “*Stormwater Management System*” or “*SMS*” means the stormwater management infrastructure and equipment of the Town and all improvements thereto. Without limiting the foregoing, such “infrastructure” and “equipment” include structural and natural stormwater control systems of all types, including retention basins, sewers, conduits, pipelines, pumping stations, levees, dams, and other plants, structures, and real and personal property used for support of the system. The system, however, does not include privately owned ditches or facilities.
- (l) “*Stormwater Management Utility*” or “*Utility*” means the enterprise fund created by this section to operate, maintain and improve the Town's Stormwater Management System.
- (m) “*Authorized Utility Activities*” means (i) the acquisition of real and personal property, or any interests therein, to construct, operate, and maintain the Stormwater Management System, (ii) planning, design, and engineering of the Stormwater Management System, (iii) operation and maintenance of the Stormwater Management System, (iv) inspection and monitoring of the Stormwater Management System and of water quality, (v) public education related to stormwater management, (vi) watershed planning, (vii) enforcement of applicable laws and regulations pertaining to stormwater management or the Stormwater Management System, (viii) water pollution prevention, planning, and implementation (including street sweeping), and (ix) the cost of administering the activities listed above.
- (n) “*Stormwater Quality Controls*” means a system engineered, constructed and maintained to limit harmful materials in stormwater runoff and fully compliant with 4 VAC 50-60-63 and 65.
- (o) “*Stormwater Quantity Controls*” means any system—typically consisting of water detention and controlled outfall—fully compliant with 4 VAC 50-60-66(B)(3) (irrespective of whether the stormwater is discharged into a “natural stormwater conveyance system,” a “manmade stormwater conveyance system,” a “restored stormwater conveyance system,” or otherwise).
- (p) “*Undeveloped Property*” means any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner which substantially reduces the rate of infiltration of stormwater into the earth.
- (q) “*Utility Fees*” means the monthly service charges based upon the ERU rate applied to property owners or occupants, including condominium unit owners or tenants (when the tenant or occupant is the party to whom water and sewer service is billed), of Developed Property, all as more fully described in § 15-33.

[Ed. Note: The enacted version of this ordinance refers to “Chapter 1,” rather than merely “Chapter” in the opening clause.]

§ 15-32. Establishment of stormwater management utility.

- (a) The Stormwater Management Utility is established to provide for the general welfare, health, and safety of the Town and its residents.
- (b) The Utility may engage in Authorized Utility Activities.

- (c) All Revenues collected by the Utility shall be held in a separate ledger account.
- (d) Revenues may only be used for Authorized Utility Activities.

§ 15-33. Imposition of utility fees.

Adequate Revenues shall be generated to provide for a balanced operating and capital improvement budget of the Stormwater Management System by setting sufficient Utility Fees. Income from Utility Fees shall not exceed actual costs incurred in providing Authorized Utility Activities. Utility Fees shall be charged to owners of all Developed Property in the Town.

- (a) For purposes of determining the Utility Fee, all parcels in the Town are classified into one of the following:
 - (1) Developed Residential Property;
 - (2) Developed Multifamily Residential Property;
 - (3) Developed Nonresidential Property;
 - (4) Undeveloped Property; or
 - (5) Agricultural Property.
- (b) The monthly Utility Fee for Developed Residential Property shall equal the ERU Rate.

Technical Note: The initial ERU Rate was 3.3¢ per day. Therefore, a single family dwelling paid 3.3¢ per day under this Chapter, or roughly one dollar per month, regardless of the actual amount of impervious surface on the parcel. This same logic applies today, even though the rates have been increased. (Amended May 10, 2016, Effective July 1, 2016)

- (c) The monthly Utility Fee for Developed Multifamily Residential Property shall be the ERU Rate multiplied by the ratio of the total Impervious Surface Area on the lot to one ERU (2,000 square feet). The minimum Utility Fee shall be the ERU Rate multiplied by the number of dwelling units on the lot.
- (d) The monthly Utility Fee for Developed Nonresidential Property shall be the ERU Rate multiplied by the ratio of the total Impervious Surface Area on the lot to one ERU (2,000 square feet). The minimum Utility Fee for any Developed Nonresidential Property shall equal the ERU Rate.

Technical Note: Paragraphs (c) and (d) are similar and apply the concept of “residential equivalents” to multi-family properties and nonresidential properties. If a nonresidential lot has 2.7 times the amount of impervious surface as a typical single-family lot (an ERU), its required payment is 2.7 times higher. The same is true for multifamily lots, with a small proviso: If a multifamily dwelling lot has 2.7 ERU’s, but it houses four dwelling units, its rate is four times the base rate. In no case will the fee ever be lower than that set for single-family dwellings.

- (e) The Utility Fee for vacant Developed Property, both residential and nonresidential, shall be the same as that for occupied property of the same class.
- (f) Undeveloped Property shall be exempt from the Utility Fee.
- (g) Agricultural Property shall be exempt from the Utility Fee, provided however, each dwelling unit situated on a parcel devoted to agricultural use shall be charged a fee equal to the ERU Rate.

§ 15-34. Billing and payment, interest, liens.

- (a) The Utility Fee is to be paid by the owner of each lot subject to the Utility Fee; provided, however, where a tenant or occupant is the person to whom water or sewer service is billed, the Utility Fee, in the discretion of the Treasurer, may be charged to such tenant or occupant. In any case in which a tenant or occupant fails to pay Utility Fees, the delinquent Utility Fees shall be collected from the owner of the property. All properties, except Undeveloped Property, shall be rendered bills or statements for stormwater services. Such bills or statements may be combined with water, sewer, refuse, and recycling bills levied, provided that all charges shall be separately stated. The combined bill shall be issued for one total amount. The Treasurer is hereby authorized and directed to create policies and procedures for the efficient billing and collection of the combined bill.
- (b) The bills or statements shall include a date by which payment shall be due, which shall be not less than 15 days after the bill is sent.
- (c) Billing for the Utility Fee shall be rendered monthly, in arrears, to all chargeable persons. If a landowner so requests, the Treasurer may agree to render annual bills (in arrears) rather than monthly bills, if she finds doing so would result in cost savings sufficient to offset any risk to the Town.
- (d) Any bill which has not been paid by the due date shall be deemed delinquent, and the account shall be collected by any means available to the Town. Notice to the owner shall be provided in every case when Utility Fees incurred by a tenant or occupant become more than ninety days' delinquent. All payments and interest due may be recovered by action at law or suit in equity. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. Records of all unpaid fees and interest, indexed by the name of the record owner of the real estate, shall be maintained in the Town treasurer's office.
- (e) If Utility Fees are not paid when due, interest thereon shall commence on the due date and accrue at the rate of ten percent per annum until paid.
- (f) When newly developed properties are brought into the Utility fees will accrue commencing upon the occupancy of the property or its use for its intended purpose, whichever is earlier.
- (g) In the event of alterations or additions to Developed Multifamily Property or Developed Nonresidential Property which alter the amount of impervious surface area, the Utility Fees will be adjusted upon the substantial completion of the alteration or addition.

§ 15-35. Adjustment of fees, exemptions.

- (a) Full waivers of the Utility Fee shall be provided for
 - (i) A federal, state, or local government, or other public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system, except that this waiver shall apply only to property covered by any such permit.

Legislative Intent: This full waiver applies when a public entity manages its own [utility] and bypasses the Towns' entirely.

- (ii) Public roads and street rights-of-way that are owned and maintained by state or local agencies, including property rights-of-way acquired through the acquisitions process, and
- (iii) Any other property belonging to the Town of Bridgewater, Virginia.

In order to encourage landowners to reduce the taxpayers' stormwater burden, partial waivers of the Utility Fee may be applied for as follows:

On property where a landowner owns, maintains, and operates a permanent private stormwater system, the Utility Fee shall be reduced in accord with the following table:

Type of System	Reduction
Storm Drainage and Stormwater Quantity Controls (see definitions)	20%
Storm Drainage, Stormwater Quantity Controls, and Stormwater Quality Controls (see definitions)	60%

Where only a portion of a property is served by a private Stormwater Management System, as described above, the waiver shall be adjusted according to the percentage of the total acreage of the property served by the private system. Any application pertinent to less than an entire parcel shall state the percentage of the parcel affected.

Legislative Intent: Often stormwater management systems are dedicated to the Town—and accepted by the Town for maintenance. In some situations, however, the systems remain privately held. Where the operative portions of the system—those which [affect] quantity control or quality control—remain private, the partial waiver applies.

- (b) In order to qualify for this waiver, every landowner shall supply to the Town Superintendent a statement that the private system has been maintained properly and is operating in conformity with (i) its design (ii) any plans approved by the Town, and (iii) the requirements of this Chapter. The statement shall be sealed and signed under oath by a licensed professional engineer, based on his personal inspection. The engineer's certification shall be less than 6 months old at the time of the application.

No waivers will be granted in the absence of all necessary permits from the Commonwealth of Virginia for the private system.

If granted, waivers are valid for 24 months. Waivers may be applied for only in the months of November and May, to take effect in January or July, respectively. (*Effective May 1, 2013.*)

Legislative Intent: These deadlines are a reasonable balancing of the landowners' ability to receive timely waivers and the Town's administrative capabilities. Having all waivers expire in December or June allows the Town to monitor the program efficiently.

§ 15-36. Appeals.

Any person who deems himself aggrieved by any action or inaction of the Town under this Chapter may file an appeal with the Town Superintendent. Without limiting the foregoing, this right of appeal shall apply to classifications of property, calculations of impervious-surface areas and rulings on waiver requests. Any appeal shall be filed within 30 days of the action or inaction complained of. Upon receipt of any such appeal, the Town Superintendent will conduct a hearing at which the appellant will be permitted to introduce relevant evidence. After the hearing, the Town Superintendent will render a written decision, which will be final.

§ 15-37. Interpretive Matters.

Section captions are for convenience only and have no significance. “Technical Notes” and “Legislative Intent” statements may be used to infer the intent of the Town Council and explain the provisions of this Chapter. Where references are made to state laws or regulations, those references shall be deemed to include future amendments or recodifications. Defined terms are typically capitalized, but no significance shall be placed on capitalization or the lack thereof. The provisions of this Chapter shall be deemed severable; and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this Chapter shall remain in full force and effect and their validity unimpaired.

CHAPTER 5 STORMWATER

Article 1 *Stormwater Management Ordinance* *Effective July 1, 2014*

§ 15-5-1. PURPOSE AND AUTHORITY.

- (a) The purpose of this Chapter is to ensure the general health, safety, and welfare of the citizens of the Town of Bridgewater and protect the quality and quantity of state waters from the potential harm of unmanaged Stormwater, including protection from 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 chapter is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

(See 9 VAC 25-870-20, 9 VAC 25-870-40)

LEGISLATIVE INTENT: Pursuant to Virginia Code § 62.1-44.15:27, this chapter is adopted as part of an initiative to integrate the Town's Stormwater management requirements with the Town's erosion and sediment control in Chapter 3 of this Title, applicable flood insurance regulations, flood plain management in Title 6 into a more unified Stormwater program. This 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 Town and those responsible for compliance with these programs.

§ 15-5-2. DEFINITIONS.

In addition to the definitions set forth in 9 VAC 25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference (as they may be amended from time to time) the following words and terms used in this Chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"9 VAC" and similar references indicate Title 9 of the Virginia Administrative Code.

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

"Agreement in lieu of a stormwater management plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

"Administrator" means the VSMP Authority including the Town's Superintendent and such town employees as he may appoint to assist him.

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

"*Best Management Practice*" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems.

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

"*Common Plan of Development or Sale*" includes a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

"*Control Measure*" means any best management practice 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 Virginia Department of Environmental Quality.

"*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 (9 VAC 25-880-1 *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 15-5-3 (c) of this Chapter.

"*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 the Act and this Chapter. In the context of Stormwater associated with a large or small construction activity, "operator" means any person associated with a construction project that meets either of the following two criteria: (i) the Person has direct

operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the Person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a Stormwater Pollution Prevention Plan for the Site or other State Permit or VSMP Authority permit conditions (*i.e.*, they are authorized to direct workers at a site to carry out activities required by the Stormwater Pollution Prevention Plan or comply with other permit conditions). In the context of Stormwater discharges from Municipal Separate Storm Sewer Systems (“MS4s”), “operator” means the operator of the regulated MS4 system.

"Permit" or *"VSMP Authority Permit"* means an approval to conduct a Land-Disturbing Activity issued by the Administrator for the initiation of a Land-Disturbing Activity, in accordance with this Chapter, and which may only be issued after evidence of General Permit coverage has been provided by the Department.

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

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of 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, 9 VAC 25-870, 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.

"State" means the Commonwealth of Virginia.

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

"State Permit" means an approval to conduct a Land-Disturbing Activity issued by the Board in the form of a state Stormwater individual permit or coverage issued under a state General Permit or an approval issued by the Board for Stormwater discharges from an MS4. Under these state permits, the State imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

"State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the 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 (or documents) containing material describing methods for complying with the requirements of Section 15-5-6 of this Chapter.

"Stormwater Pollution Prevention Plan" or *"SWPPP"* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of Stormwater discharges from the construction site, and otherwise meets the requirements of this Chapter. In addition the document shall identify and require the implementation of control measures, and shall

include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved Stormwater Management Plan, and a pollution prevention plan.

"Subdivision" carries the meaning specified in Section 5-3 of the Town Code.

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

"Town" means the Town of Bridgewater, Virginia.

"Virginia Stormwater Management Act" or "Act" means Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the 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 the Town to manage the quality and quantity of runoff resulting from Land-Disturbing Activities and shall include such items as local chapters, 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 the Town.

(See 9 VAC 25-870-10)

§ 15-5-3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- (a) Except as provided herein, no Person may engage in any Land-Disturbing Activity until a VSMP Authority permit has been issued by the Administrator in accordance with the provisions of this Chapter.
- (b) [Reserved]
- (c) Notwithstanding any other provisions of this Chapter, 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 Paragraph 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;
- (4) Land-Disturbing Activities that disturb less than one acre of land area, except activities that are part of a larger Common Plan of Development or Sale that is one acre or greater of disturbance;
- (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 paragraph; 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 commencement of Land-Disturbing Activity and compliance with the administrative requirements of paragraph (a) is required within 30 days of commencing the Land-Disturbing Activity.

§ 15-5-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the Town hereby establishes a Virginia Stormwater Management Program for Land-Disturbing Activities and adopts the applicable Regulations that specify standards and specifications for VSMP's promulgated by the Board for the purposes set out in Section 15-5-1 of this Chapter. The Council hereby designates the Town Superintendent and his duly authorized agents as the "Administrator" of the Virginia Stormwater management program.
- (b) No VSMP permit shall be issued by the Administrator until the following items have been submitted to and approved by the Administrator, as prescribed herein:
 - (1) A Permit application that includes a General Permit registration statement, if such statement is required;
 - (2) An erosion and sediment control plan approved in accordance with Chapter 3 of this Title, and

- (3) A Stormwater Management Plan that meets the requirements of Section 15-5-6 of this Chapter or an executed Agreement in Lieu of a Stormwater Plan.
- (c) No VSMP permit shall be issued until evidence of General Permit coverage is obtained.
- (d) No VSMP permit shall be issued until the fees required to be paid pursuant to Section 15-5-15, are received, and a reasonable performance bond required pursuant to Section 15-5-16 of this Chapter has been submitted.
- (e) No VSMP 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 permit has been issued by the Administrator.

§ 15-5-5. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) The Stormwater Pollution Prevention Plan ("SWPPP") shall include the content specified by Section 9 VAC 25-870-54 and must also comply with the requirements and general information set forth in Section 9 VAC-880-70, Section II [Stormwater Pollution Prevention Plan] of the General Permit.
- (b) The SWPPP shall be amended by the Operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The 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.

§ 15-5-6. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

- (a) The Stormwater Management Plan, required in Section 15-5-4 of this Chapter, must (i) apply the Stormwater management technical criteria set forth in Section 15-5-9 of this Chapter to the entire Land-Disturbing Activity (and individual lots in new residential, commercial, or industrial developments shall not be considered separate Land-Disturbing Activities), and (ii) consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface 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, telephone number, and email address 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;
- (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 15-5-9 of this Chapter.
- (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.

(See 9 VAC 25-870-55)

- (b) If an Operator intends to meet the water quality and/or quantity requirements set forth in Section 15-5-9 of this Chapter 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 § 62.1-44.15:35 of the Code of Virginia.
- (c) If payment of a fee is required with the Stormwater Management Plan submission by the VSMP Authority, the fee and the required fee form in accordance with § 15-5-15 must have been submitted.
- (d) Elements of the Stormwater Management Plan 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.
- (e) 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. The Administrator may elect not to require construction record drawings for Stormwater management facilities for which maintenance agreements are not required pursuant to Section 15-5-10 (b).
- (f) A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners.

§ 15-5-7. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

- (a) A pollution prevention plan, required by 9 VAC 25-870-56, 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.

LEGISLATIVE INTENT: Under § 15-5-2, the pollution prevention plan is a portion of the Stormwater Pollution Prevention Plan (“[SWPPP](#)”), along with an erosion and sediment control plan, and a Stormwater Management Plan. The focus of the pollution prevention plan is the reduction of pollution caused by activities on the property.

§ 15-5-8. REVIEW OF STORMWATER MANAGEMENT PLAN.

- (a) 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 15-5-6 of this Chapter, 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 paragraph (a)(1), then the 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 Chapter.
 - (5) If a plan meeting all requirements of this Chapter is submitted and no action is taken within the time provided above in paragraph (a)(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 an 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 15-5-10 (b).

§ 15-5-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged Stormwater runoff resulting from Land-Disturbing Activities, the Town hereby adopts the technical criteria for regulated Land-Disturbing Activities set forth in the Regulations, as follows:
- (1) The technical criteria in Part II B of the Regulations (9 VAC 25-870-62 through 9 VAC 25-870-92) are incorporated herein and shall apply to all Land-Disturbing Activities regulated pursuant to this Chapter, except as expressly provided in paragraphs (b)-(e) below, and
 - (2) The technical criteria in Part II C of the Regulations (9 VAC 25-870-93 through 9 VAC 25-870-99) are incorporated herein and shall apply to Land-Disturbing Activities as prescribed by paragraphs (b)-(e) below.
- (b) Any Land-Disturbing Activity shall be considered grandfathered by the Town and shall be subject to the technical criteria in Part II C of the Regulations, provided:
- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the Town to be equivalent thereto (i) was approved by the Town prior to July 1, 2012, (ii) provided a layout as defined in 9 VAC 25-870-10, (iii) will comply with the Part II C technical criteria of the Regulations, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorous leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
 - (2) A state permit has not been issued prior to July 1, 2014, and
 - (3) Land disturbance did not commence prior to July 1, 2014.
- (c) Town, state, and federal projects shall be considered grandfathered by the Town and shall be subject to Part II C of the Regulations, provided
- (1) There has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or the Department has approved a Stormwater Management Plan prior to July 1, 2012.

- (2) A state permit has not been issued prior to July 1, 2014, and
 - (3) Land disturbance did not commence prior to July 1, 2014.
- (d) Land-Disturbing Activities grandfathered under paragraphs (b) or (c) above shall remain subject to the Part II C technical criteria of the Regulations for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Board.
 - (e) 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 II C of the Regulations.
 - (f) 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 Chapter 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 Chapter.
 - (1) Exceptions to the requirement that the Land-Disturbing Activity obtain required VSMP 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 9 VAC 25-870-69 have been considered and found not available.
 - (g) Nothing in this section shall preclude an Operator from constructing to a more stringent standard at his discretion.

(See 9 VAC 25-870-48.)

§ 15-5-10. 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) 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) If a recorded instrument is not required pursuant to Paragraph 15-5-10(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.

§ 15-5-11. MONITORING AND INSPECTIONS.

- (a) The Administrator shall inspect the Land-Disturbing Activity during construction for
 - (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved Stormwater Management Plan;
 - (3) Development, updating, and implementation of a pollution prevention plan; and
 - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Chapter.
- (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 §62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP permit Applicant or Permittee, or any such Person subject to VSMP permit requirements under this Chapter, 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 Chapter.

- (e) Post-construction inspections of Stormwater Management facilities required by the provisions of this Chapter shall be conducted by the Administrator pursuant to the Town's adopted (and State-Board approved) inspection program, and shall occur, at minimum, at least once every five years except as may otherwise be provided for in § 15-5-10.

§ 15-5-12. HEARINGS.

- (a) Any permit Applicant or Permittee, or Person subject to this Chapter's requirements, aggrieved by any action of the Town taken without a formal hearing, or by inaction of the Town, may demand in writing a formal hearing by the Alternate Stormwater Submission Review Board (the "Review Board"), provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is issued by the Administrator.
- (b) The hearings held under this section shall be conducted by the Review Board at a regular or special meeting of the Review Board.
- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the Review Board. Depositions may be taken and read as in actions at law.
- (d) The Review Board 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 Review Board, 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.
- (e) In any such hearing, the Town Attorney shall represent the Administrator. The Review Board may retain such other counsel as it deems necessary.
- (f) The Review Board shall render a written decision on the issues presented to it.

(See Va. Code, §§ 62.1-44.15:44, 62.1-44.15:45, 62.1-44.26)

§ 15-5-13. APPEALS.

If any Person is aggrieved by a decision of the Review Board rendered under § 15-5-12, he may seek judicial review in the Circuit Court of Rockingham County within 30 days of the issuance of the written decision. The Circuit Court's review shall be conducted in accord with the standards set forth in § 2.2-4024 of the Code of Virginia. (See Va. Code § 62.1-44.15:46.)

§ 15-5-14. ENFORCEMENT.

- (a) If the Administrator determines that there is a failure to comply with the VSMP 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 paragraph (b) below, 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 become effective upon service on the Person by certified mail, return receipt requested, sent to his address specified in the land records of the Town, 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, he 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 § 15-5-14(c).

- (b) In addition to any other remedy provided by this Chapter, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Chapter, they may initiate informal or formal administrative enforcement procedures in a manner that is consistent with local law and Va. Code § 62.1-44.15:37.
- (c) Any Person violating or failing, neglecting, or refusing to obey any rule, regulation, chapter, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the Rockingham County Circuit Court by the Town to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (d) Any person who violates any provision of this Chapter 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 paragraph (d) 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 9 VAC 25-880-70 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 Town shall be paid into the treasury of the Town to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the Town 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 Chapter, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor and punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. (See Va. Code, §62.1-44.15:48.)

§ 15-5-15. FEES.

- (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. 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 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) *
General / Stormwater Management - Small Construction Activity/Land Clearing involving single family home construction on an individual lot disturbing less than 5 acres, such project covered under an “Agreement in Lieu of a Stormwater Management Plan”.	\$209	N/A
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, excluding single family home construction.)	\$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, excluding single family home construction)	\$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

*However, if the project is completely administered by the Department (such as may be the case for a state or federal project covered by an individual permit) the applicant’s entire 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 Town, 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. All fees specified in this paragraph go to the Town.

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 acre 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. Fees specified in this paragraph go to the Town.

Table 3: Permit Maintenance Fees

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.)	\$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 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 than 100 acres)	\$1,400

General Permit coverage maintenance fees shall be paid annually to the Town, 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.

LEGISLATIVE INTENT: A permit maintenance fee is required for so long as the VSMP permit is required to be in place. If, after construction is complete, the Town agrees to assume control of a developer’s stormwater facilities (under a maintenance agreement), then no further maintenance fees will accrue. However, if the developer retains control of such facilities, then maintenance fees will continue to accrue. In part, such fees compensate the Town for its inspection duties.

For purposes of this section, the term “[General Permit](#)” must be read to include successor permits to the one defined in § 15-5-2.

- (d) The fees set forth in paragraphs (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 15-5-15 (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 15-5-2 of this Chapter. 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) Neither a registration statement nor payment of the Department's portion of the statewide permit fee established pursuant to that subdivision 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, but such projects must adhere to the requirements of the general permit. (Amended September 9, 2014.)
- (g) 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 Town shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

§ 15-5-16. Performance Bond

Prior to issuance of any Permit, the Applicant 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 Town Attorney, to ensure that measures could be taken by the Town 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 Town takes such action upon such failure by the Applicant, the Town 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.

Article 2
Storm Sewer Protection
(Adopted May 14, 2013)

Editor's Note: This Storm Sewer Protection Article is likely to be revised when the formal Stormwater Management Ordinance, referred to above, is adopted. Until that time, however, Article 2 sets out a simple prohibition that substances other than Stormwater—be they liquid or solid—may not be introduced into the Storm Sewer system.

§ 15-38. Definitions. For purposes of this Article, the following terms shall carry the following meanings:

- (i) Person.....An individual, firm, company, corporation, or association.
- (ii) Storm SewerReal or personal property—including easements—owned by the Town designed or used for collection or conveyance of Stormwater. (See 40 CFR § 122.6.)
- (iii) StormwaterWater, in the form of stormwater runoff, snow melt runoff, and surface runoff.
- (iv) SubstanceAny liquid or solid matter.

§ 15-39. Prohibition. No Person shall introduce, discharge, or deposit into any Storm Sewer, any substance other than Stormwater. This prohibition includes, without limitation, Substances which change the character of the Stormwater in the Storm Sewer, and Substances which potentially impede its flow.

Legislative Intent: § 15-39 is the core of this Article. It reflects the Council's intent that Stormwater should remain free of contaminants and that Storm Sewers should remain unobstructed.

§ 15-40. Penalties. The violation of this Article shall constitute a Class 3 misdemeanor, punishable in accord with § 1-4 of the Town Code. Without regard to any criminal prosecution or conviction, the Town may seek injunctive relief to prevent the violation hereof

§ 15-41. Monitoring. The Town Superintendent shall direct appropriate personnel to monitor the Town's Storm Sewers and enforce this Article.