

TITLE 15
Real Estate

§ 15-1 – 15.13.10 Not set out. (Of no practical application in the absence of a real estate tax.)

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Article 1
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CHAPTER 1
Erosion and Sedimentation Controls
(Amended May 14, 2019)

§ 15-101. Title, Purpose, and Authority. This chapter shall be known as the "Erosion and Sediment Control Ordinance of the Town of Bridgewater." The purpose of this chapter is to prevent degradation of properties, stream channels, waters and other natural resources of the Town by establishing requirements for the control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This Chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, known as the Virginia Erosion and Sediment Control Law.

§ 15-102. General Requirement. Except as provided for in § 15-103, 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 § 15-103, 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.

§ 15-103. Definitions. As used in the ordinance, unless the context requires a different meaning:

- (a) **"Administrator"** shall mean the Town Environmental Agent of the Town of Bridgewater.
- (b) **"Agreement in lieu of a plan"** means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.
- (c) **"Applicant"** means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.
- (d) **"Board"** means the Virginia State Water Control Board.
- (e) **"Certified inspector"** means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of project inspection or

- (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.
- (f) **"Certified plan reviewer"** means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 or a professional soil scientist as defined in Sec. 54.1-2200 of the Code of Virginia.
- (g) **"Certified program administrator"** means an employee or agent of a VESCP authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.
- (h) **"Clearing"** means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.
- (i) **"Department"** means the Department of Environmental Quality.
- (j) **"Development"** means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.
- (k) **"Director"** means the Director of the Department of Environmental Quality.
- (l) **"District"** or **"Soil and Water Conservation District"** refers to the Shenandoah Valley Soil and Water Conservation District.
- (m) **"Erosion and Sediment Control Plan"** or **"Plan"** means a document containing material for the conservation of soil and water resources of a unit or 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 and all information deemed necessary by the VESCP plan approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.
- (n) **"Erosion Impact Area"** means an area of land not associated with a current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

- (o) **"Excavating"** means any digging, scooping or other methods of removing earth materials.
- (p) **"Filling"** means any depositing or stockpiling of earth materials.
- (q) **"Grading"** means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.
- (r) **"Land-disturbing Activity"** means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:
 - (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
 - (2) Individual service connections;
 - (3) 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 that is hard-surfaced;
 - (4) 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;
 - (5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1 of the Code of Virginia;
 - (6) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot 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; 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 (Sec. 10.11100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of Sec. 10.1-1163;
 - (7) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

- (8) 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 (Va. Code § 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
 - (9) Disturbed land areas of less than 10,000 square feet in size, or less than 2,500 square feet in all areas of the jurisdiction designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations;
 - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 - (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this ordinance; and
 - (12) 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 requirements of this ordinance.
- (s) **"Land-disturbing Permit or approval"** means a permit or other form of approval issued by the Town of Bridgewater for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any other land disturbing activity.
 - (t) **"Natural channel design concepts"** means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.
 - (u) **"Owner"** means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.
 - (v) **"Peak flow rate"** means the maximum instantaneous flow from a given storm condition at a particular location.
 - (w) **"Permittee"** means the person to whom the land-disturbing approval is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

- (x) **"Person"** means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.
- (y) **"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.
- (z) **VESCP Plan-approving authority"** means the Administrator responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.
- (aa) **"VESCP authority" or "program authority"** means the Town of Bridgewater which has adopted a soil erosion and sediment control program that has been approved by the Board.
- (bb) **Responsible Land Disturber"** or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved ESC plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the ESC plan or permit as a prerequisite for engaging in land disturbance.
- (cc) **"Runoff volume"** means the volume of water that runs off the land development project from a prescribed storm event.
- (dd) **"Single-family residence"** means a noncommercial dwelling that is occupied exclusively by one family.
- (ee) **"State waters"** means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.
- (ff) **"Transporting"** means any moving of earth materials from one place to another place 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.
- (gg) **"Town"** means the incorporated Town of Bridgewater.
- (hh) **"Virginia Erosion and Sediment Control Program" or "VESCP"** means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of

properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of this article and its associated regulations.

- (ii) **“Water Quality Volume”** means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

§ 15-104. Local Erosion and Sediment Control Program. Pursuant to section 62.1-44.15:54 of the Code of Virginia, the Town hereby establishes a VESCP program and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources) and the Virginian Erosion & Sediment Control Handbook, third edition. In accordance with § 62.1-44.15:52 of the Code of Virginia, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels

- (a) For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified in § [62.1-44.15:28](#) of the Stormwater Management Act and 9VAC25-870-66 of the Virginia Stormwater Management Program (VSMP) regulations, unless such land-disturbing activities are in accordance with the grandfathering provisions of the Virginia Stormwater Management Program (VSMP) Regulations.
- (b) Pursuant to Sec. 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion Control Program of the Town shall contain a certified program administrator, a certified plan reviewer, and a certified inspector (who may be the same person.)
- (c) The Town hereby designates its Environmental Agent as the plan-approving

authority.

- (d) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Administrator.

§ 15-105. *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.

§ 15-106. *Submission and Approval Of Plans; Contents Of Plans*

- (a) Except as provided herein, no person may engage in any land-disturbing activity until he or she has submitted to the Administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the **VESCP authority**. No approval to begin a land disturbing activity will be issued unless evidence of state permit coverage is obtained where it is required. Where land-disturbing activities involve lands under the jurisdiction of more than one VESCP, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Department for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.
- (b) The standards contained within the "Virginia Erosion and Sediment Control Regulations" are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence.
- (c) The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it determines that the plan meets the requirements of the Erosion and Sediment Control Law and the Board's regulations, and if the person responsible for carrying out the plan certifies that he will properly perform the measures included in the plan and will conform to the provisions of this ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturber, to the program authority, as provided by § 62.1-44.15:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the

person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.

However, the VESCP plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of the responsible land disturber,, as provided by § 62.1-44.15:52 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of the responsible land disturber shall be a violation of this ordinance.

- (d) When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- (e) The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.
- (f) The VESCP authority may require changes to an approved plan when:
 - (1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - (2) The person responsible for carrying out the 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 ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.
- (g) Variances: The VESCP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
 - (1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
 - (2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be

disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

- (3) The VESCP authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- (h) In order to prevent further erosion, the Town may require approval of a plan for any land identified in the local program as an erosion impact area.
- (i) When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- (j) In accordance with the procedure set forth in § 62.1-44.15:55 (E) of the Code of Virginia, any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board. Approval of general erosion and sediment control specifications does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.
- (k) State agency projects are exempt from the provisions of this ordinance except as provided for in the Code of Virginia, Sec. 62.1-44.15:56.

§ 15-107. *Permits; Fees; Security for Performance.*

- (a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of state permit coverage where it is required.
- (b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance), and has paid the fees and posted the required bond.

- (c) An administrative fee, as set according to a fee schedule adopted by the Town Council, shall be paid to the Town at the time of submission of the erosion and sediment control plan.
- (d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- (e) All applicants for permits shall provide to the Town a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the Administrator, to ensure that measures could be taken by the Town at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him by the approved plan as a result of his land-disturbing activity.

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

Within sixty (60) days of adequate stabilization, as determined by the Administrator in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

§ 15-108. *Monitoring, Reports, And Inspections.*

- (a) The responsible land disturber, as provided by § [62.1-44.15:52](#), shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The Town may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (b) The Administrator shall periodically inspect the land-disturbing activity in accordance

with 9 VAC 25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities, and through electronic mail 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 specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this ordinance.

- (c) Upon issuance of an inspection report denoting a violation of Va. Code §§ 62.1-44.15:55, -44.15:56, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, 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.

If land-disturbing activities have commenced without an approved plan, the Administrator may issue an order 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 without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the Town or permit holder for appropriate relief to the Circuit Court of Rockingham County. The Town shall serve such order for disturbance without an approved plan or permits upon the owner by mailing with confirmation of delivery to the address specified in the land records. Said order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

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 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 mailing with confirmation of delivery to the address specified in the permit application or the land records of Town.

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 from taking any other action authorized by this ordinance.

§ 15-109. Penalties, Injunctions, And Other Legal Actions

- (a) Violators of this ordinance shall be guilty of a Class I misdemeanor.
- (b) Any person who violates any provision of Va. Code §§ 62.1-44.15:55, 62.1-44.15:56 shall, upon a finding of the District Court of Rockingham County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of § [62.1-44.15:63](#).
- (c) The Administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of Rockingham County to enjoin a violation or a threatened violation of Va. Code §§ 62.1-44.15:55, 62.1-44.15:56, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has

notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

- (d) In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the Town in a civil action for damages.
- (e) Without limiting the remedies which may be obtained in 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. A civil action for such violation or failure may be brought by the Town.

Any civil penalties assessed by a court shall be paid into the treasury of the Town, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- (f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the VESCP authority of the Town may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection E of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection B or E.
- (g) The Commonwealth's Attorney shall, upon request of the Town, take legal action to enforce the provisions of this ordinance.
- (h) Compliance with the provisions of this ordinance 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.

§ 15-110. Appeals and Judicial Review

- (a) Final decisions of the Town under this ordinance shall be subject to review by the Circuit Court of Rockingham County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

CHAPTER 2

Stormwater Management Utility

(Enacted May 8, 2012. Effective June 30, 2013, except as noted.)

§ 15-201. 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.

§ 15-202. 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 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 § 15-204.

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

§ 15-203. *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.

§ 15-204. *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 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.

§ 15-205. 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.

§ 15-206. 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.

§ 15-207. 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.

§ 15-208. 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 3
STORMWATER**

Article 1
Stormwater Management Ordinance
Effective July 1, 2014

§ 15-301. 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.

§ 15-302. 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 15-303(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 15-306 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)

§ 15-303. 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.

§ 15-304. 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 15-301 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 1 of this Title, and
- (3) A Stormwater Management Plan that meets the requirements of Section 15-306 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 15-315, are received, and a reasonable performance bond required pursuant to Section 15-316 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.

§ 15-305. 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.

§ 15-306. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

(a) The Stormwater Management Plan, required in Section 15-304 of this Chapter, must (i) apply the Stormwater management technical criteria set forth in Section 15-309 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 15-309 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 § 15-315 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 15-310 (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.

§ 15-307. 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 § 15-302, 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.

§ 15-308. 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 15-306 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 15-310 (b).

§ 15-309. 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.)

§15-310. 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 15-310(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.

§ 15-311. 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 § 15-310.

§ 15-312. 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)

§ 15-313. APPEALS.

If any Person is aggrieved by a decision of the Review Board rendered under § 15-312, 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.)

§ 15-314. 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 § 15-314(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.)

§ 15-315. 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 § 15-302.

- (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 15-315 (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 15-302 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.

§ 15-316. 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.

§ 15-317. 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 Sewer Real or personal property—including

easements—owned by the Town designed or used for collection or conveyance of Stormwater. (See 40 CFR § 122.6.)

(iii) Stormwater Water, in the form of stormwater runoff, snow melt runoff, and surface runoff.

(iv) Substance..... Any liquid or solid matter.

§ 15-318. 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: § 15-318 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.

§ 15-319. 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

§ 15-320. Monitoring. The Town Superintendent shall direct appropriate personnel to monitor the Town’s Storm Sewers and enforce this Article.