

**PRINCE WILLIAM COUNTY**

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DRAFT1 PWC SWMC-07/26/2013

**PRINCE WILLIAM COUNTY**

**ARTICLE IV STORMWATER MANAGEMENT**

**(DRAFT - JUNE 24, 2013)**

**PURPOSE, AUTHORITY, ADMINISTRATION AND EFFECTIVE DATE**

**Sec. 23.2-20.- PURPOSE. AND AUTHORITY**

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of Prince William County and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) This ordinance is adopted pursuant to Article 1.1 (§ 10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

**Sec. 23.2-21.- ADMINISTRATION.**

The Director of Public Works or designee shall be responsible for the administration of the Stormwater Management Program.

**Sec. 23.2-22.- EFFECTIVE DATE.**

This Stormwater Management Ordinance of Prince William County, as herein presented, is hereby adopted on XXXXXXXXXXXX, and becomes effective on July, 1, 2014.

## Sec. 23.2-23.- DEFINITIONS

The following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"*Administrator*" means the VSMP authority including the Prince William County staff person or department responsible for administering the VSMP on behalf of the County

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

"*Approval authority*" means the State Water Control Board or its designee.

"*Best management practice*" or "BMP" means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

"*BOCS*" means the Prince William Board of County Supervisors.

"Certificate of Competency" (intent to add to the definition)

"*Chesapeake Bay Preservation Act land-disturbing activity*" means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet.

"*Common plan of development, site plan, subdivision plan or sale*" means 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.

*“DCSM”* means the Prince William County Design and Construction Standards Manual.

*“Department”* means the Department of Conservation and Recreation.

*“Development”* means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

*“Fee Schedule”* means the Prince William County Land Development Fee Schedule as adopted by the Prince William Board of County Supervisors.

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

*“Hydrologic Unit Code”* or *“HUC”* means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset.

*“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 23.2-24 this Ordinance.

*“Layout”* means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

*“Linear development project”* means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

*“Locality”* means the Prince William County or the County

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

*"Minor modification"* means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

*"Operator"* means the owner or operator of any facility or activity subject to regulation under this Ordinance.

*"Permit" or "VSMP Authority Permit"* means an approval to conduct a land-disturbing activity issued by the Administrator for the initiation of a land-disturbing activity, in accordance with this Ordinance, and which may only be issued after evidence of general permit coverage has been provided by the Department.

*"Permittee"* means the person to whom the state and/or County 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.

*"Prior developed lands"* means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

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

"*Site*" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"*State*" means the Commonwealth of Virginia.

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

"*State permit*" means an approval to conduct a land-disturbing activity issued by the State Water Control Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Water Control Board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

"*State Water Control Law*" means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

"*State waters*" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"*Stormwater*" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

"*Stormwater management plan*" means a document(s) containing material describing methods for complying with the requirements of Section 23.2-32 of this Ordinance.

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



require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

*"Subdivision"* means the same as defined in Section 25-2 of Prince William County Subdivision Ordinance.

*"VDOT"* means Virginia Department of Transportation.

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

*"Virginia Erosion and Sediment Control Program" or "VESCP"* means a program approved by the State Water Control Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural 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 the Erosion and Sediment Control Act and its attendant regulations, and evaluation consistent with the requirements of the Erosion and Sediment Control Act and its attendant regulations.

*"Virginia Erosion and Sediment Control Program authority" or "VESCP authority"* means an authority approved by the State Water Control Board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 of the Code of Virginia.

*"Virginia Stormwater Management Act" or "Act"* means Article 1.1 (§10.1-603.2 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

*“Virginia Stormwater BMP Clearinghouse website”* means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

*“Virginia Stormwater Management Program”* or *“VSMP”* means a program approved by the State Water Control Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

*“Virginia Stormwater Management Program authority”* or *“VSMP authority”* means The Administrator or any duly authorized agent of the Administrator approved by the State Water Control Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

## **EXEMPTIONS**

### **Sec. 23.2-24.- LAND DISTURBANCE ACTIVITIES EXEMPT FROM STORMWATER PERMIT REQUIREMENTS**

Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:

- (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Water Control Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures
- (4) Land disturbing activities that disturb less than one acre of land area, or activities that are part of a larger common plan of development or sale;
- (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, existing stormwater management and best management practices facilities, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and

- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the applicable administrative requirements of Section 23.2-30 (a) is required within 30 days of commencing the land-disturbing activity.
- (9) Minor land disturbing activities associated with individual home gradening/landscaping including maintenance that disturb less than one acre.

### **GENERAL ADMINISTRATIVE POLICY**

#### **Sec. 23.2-25.– Right of Entry.**

To the extent permitted by law, the Administrator or any duly authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this ordinance and applicable regulations.

#### **Sec. 23.2-26. – Severability.**

If any word, clause, sentence, section, subsection, or other part or parts of this Chapter shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of this Chapter, nor shall it affect any application of this Chapter that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of this Chapter are hereby declared to be severable.

#### **Sec. 23.2-27. – Interpretation When More than One Standard Applies.**

Whenever more than one (1) regulation or standard applies to any provision of this Chapter, the most restrictive or stringent shall govern.

#### **Sec. 23.2-28.- Conflicting Provision Policy.**

A. Whenever any provisions of this ordinance impose a greater requirement or a higher standard than is required in a state or federal regulation, or other County ordinances or regulations, the provisions of this ordinance shall govern.

B. Whenever any provisions of any state or federal statute or other provision of this ordinance or other County ordinances or regulations impose a greater requirement or a higher standard than is required by this ordinance, the provisions of the state or federal status or other provisions of this ordinance or other County ordinances or regulations shall govern.

### **STORMWATER MANAGEMENT PROGRAM**

#### **Sec. 23.2-29. - STORMWATER MANAGEMENT PROGRAM ESTABLISHED**

Pursuant to § 10.1-603.3 of the Code of Virginia, Prince William County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Water Control Board for the purposes set out in Section 23.2-20 of this Ordinance. The BOCS hereby designates the Director of Public Works or designee as the Administrator of the Virginia stormwater management program.

#### **Sec. 23.2-30.- PERMIT**

(a) No person shall engage in any land-disturbing activity until both VSMP Authority Permit and Land Disturbance Permit has been issued with the provisions of this Ordinance.

(b) No VSMP Authority permit shall be issued by the Administrator, until the following items have been submitted to the County and approved by the Administrator as prescribed herein:

(1) A permit application that includes a general permit registration statement;

(2) An erosion and sediment control plan approved in accordance with Section 750.00 of the Prince William County Design and Construction Standards Manual and this ordinance; and

- (3) A stormwater management plan approved that meets the requirements of Section 23.2-32 of this Ordinance.
- (c) No VSMP authority permit (land disturbance permit) shall be issued until the evidence of general permit coverage is provided.
- (d) No State or local permits shall be issued for land disturbing activities until the fees required to be paid pursuant to Section 23.2-59, are received, and performance bond required pursuant to Section 23.2-65 of this Ordinance has been submitted.
- (e) No VSMP authority permit (land disturbance 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 general permit coverage/individual permit has been issued or exempt in accordance with Section 23.2-24 of this ordinance by the Administrator.

**Sec. 23.2-31.- STORMWATER POLLUTION PREVENTION PLAN.**

A. A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection E of this section.

B. An erosion and sediment control plan consistent with the requirements of the County and Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the administrator in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.

C. A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the Administrator.

D. A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to

minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences.

E. In addition to the requirements of subsections A through D of this section, if a specific WLA for a pollutant has been established in a TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the WLA in a State Water Control Board-approved TMDL.

F. The stormwater pollution prevention plan must address the following requirements, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:

1. Control stormwater volume and velocity within the site to minimize soil erosion;
2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
3. Minimize the amount of soil exposed during construction activity;
4. Minimize the disturbance of steep slopes;
5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
7. Minimize soil compaction and, unless infeasible, preserve topsoil;
8. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the Administrator. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the Administrator; and
9. Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

G. The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained 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.

**Sec. 23.2-32.- STORMWATER MANAGEMENT PLAN.**

A. A stormwater management plan shall be developed and submitted to the Administrator. The stormwater management plan shall be implemented as approved or modified by the Administrator and shall be developed in accordance with the following and other applicable requirements:

1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria to the entire land-disturbing activity.

2. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.

B. A complete stormwater management plan shall include but not limited to the following elements:

1. Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment and postdevelopment drainage areas;

2. Contact information including the name, address, and telephone number of the owner and the parcel number of the property or properties affected;

3. A narrative that includes a description of current site conditions and final site conditions or if allowed by the Administrator, the information provided and documented during the review process that addresses the current 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 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 these regulations;

8. A map or maps of the site that depicts the topography of the site and include but not limited to:

a. All contributing drainage areas;

b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, resource protection areas, and floodplains, floodways;



- c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
  - d. Current land use including existing structures, roads, buffers, conservation areas, and locations of known utilities and easements;
  - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - f. The limits of clearing and grading, and the existing and proposed drainage patterns on the site;
  - g. Proposed buffers, conservation areas, buildings, roads, parking areas, utilities, and stormwater management facilities; and
  - h. 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;
9. If an operator intends to meet the requirements established in 4VAC50-60-63 or 4VAC50-60-66 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider shall be included; and
10. If payment of a fee is required with the stormwater management plan submission by the Administrator, the fee and the required fee form in accordance with Development Fee Schedule must have been submitted.

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

### **Sec. 23.2-33.– POLLUTION PREVENTION PLAN**

- (a) Pollution Prevention Plan 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.
- (d) Additional stormwater pollution prevention plan details are found at epa's website
- (e) Pollution Prevention Plan along with Stormwater Pollution Prevention Plan shall be submitted for County's review and approval concurrently with Site and Subdivision Plans.

**Sec. 23.2-34.- REVIEW OF STORMWATER MANAGEMENT PLAN.**

- (a) The Administrator or any duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the requirements specified in Section -----of the DCSM, and Section -----Administrative Procedures Manual.

**Sec. 23.2-35.- Construction Record Drawing (AS-BUILT PLAN)**

A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator in accordance with 4VAC50-60-55, 4VAC50-60-108 and 4VAC50-60-112, Administrative Procedures Manual, and other applicable requirements. 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 and specifications.

**TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING  
ACTIVITIES**

**Sec. 23.2-36.- APPLICABILITY**

To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the Prince William County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Section 23.2-36 through Section 23.2-46 of this ordinance, as amended, which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Section 23.2-37 of this ordinance.

**Sec. 23.2-37.- Grandfathering.**

- (a) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being equivalent thereto, was approved by the County prior to July 1, 2012, and for which no coverage under the general permit has been issued prior to July 1, 2014, shall be

considered grandfathered by the Administrator and shall not be subject to the technical criteria of Section 23.2-36 through Section 23.2-46 of this ordinance, but shall be subject to the technical criteria of 23.2-47 of this ordinance for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the Locality as being equivalent thereto, (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of 23.2-47. In the event that the Locality- approved document is subsequently modified or amended in a manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.

(1) Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Department has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by Prince William County and shall not be subject to the technical requirements of Section 23.2-36 through Section 23.2-46 of the Regulations, but shall be subject to the technical requirements of 23.2-47 of the Regulations for those areas that were included in the approval.

(2) For land-disturbing activities grandfathered under this section, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Section 23.2-36.

(b) 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 23.2-47 of the Regulations, as adopted by the County in Section 23.2-37 above.

**Sec. 23.2-38.- Exceptions to the Technical Requirements:.**

(a) The Administrator may grant exceptions to the technical requirements of Section 23.2-36 through Section 23.2-46 or Section 23.2-47 of the Regulations, provided that (i) the exception is the minimum necessary to

afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

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

(2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 4VAC50-60-69 have been considered and found not available.

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

**Sec. 23.2-39.- Water quality design criteria requirements.**

A. In order to protect the quality of state waters and to control the discharge of stormwater pollutants from regulated activities, the following minimum design criteria and statewide standards for stormwater management shall be applied to the site.

1. New development. The total phosphorus load of new development projects shall not exceed 0.41 pounds per acre per year, as calculated pursuant to 4VAC50-60-65.

2. Development on prior developed lands.

a. For land-disturbing activities disturbing greater than or equal to one acre that result in no net increase in impervious cover from the predevelopment condition, the total phosphorus load shall be reduced at least 20% below the predevelopment total phosphorus load.

b. For regulated land-disturbing activities disturbing less than one acre that result in no net increase in impervious cover from the predevelopment condition, the total phosphorus load shall be reduced at least 10% below the predevelopment total phosphorus load.

c. For land-disturbing activities that result in a net increase in impervious cover over the predevelopment condition, the design criteria for new development

shall be applied to the increased impervious area. Depending on the area of disturbance, the criteria of subdivisions (a) or (b) above, shall be applied to the remainder of the site.

d. In lieu of subdivision (c), the total phosphorus load of a linear development project occurring on prior developed lands shall be reduced 20% below the predevelopment total phosphorus load.

e. The total phosphorus load shall not be required to be reduced to below the applicable standard for new development unless a more stringent standard has been established by the County.

B. Compliance with subsection A of this section shall be determined in accordance with 4VAC50-60-65.

.C. Nothing in this section shall prohibit the Administrator from establishing more stringent requirements if necessary to comply with County's MS4 permit or TMDL requirements.

#### **Sec. 23.2-40.- Water quality compliance.**

A. Compliance with the water quality design criteria set out in subdivisions A 1 and A 2 of 4VAC50-60-63 shall be determined by utilizing the Virginia Runoff Reduction Method or another equivalent methodology that is approved by the State Water Control Board.

B. The BMPs listed in Section 4VAC50-60-65 are approved for use as necessary, subject to the limitations set forth in the DCSM, to effectively reduce the phosphorus load and runoff volume in accordance with the Virginia Runoff Reduction Method. Other approved BMPs found on the Virginia Stormwater BMP Clearinghouse Website may also be utilized. Design specifications and the pollutant removal efficiencies for all approved BMPs are found on the Virginia Stormwater BMP Clearinghouse Website provided above.

C. BMPs differing from those listed in subsection B of this section shall be reviewed and approved by the director in accordance with procedures established by the BMP Clearinghouse Committee and approved by the State Water Control Board.

D. The Administrator shall have the discretion to allow for application of the design criteria to each drainage area of the site. Where a site drains to more than one HUC, the pollutant load reduction requirements shall be applied independently within each HUC unless reductions are achieved in accordance with a

comprehensive watershed stormwater management plan in accordance with 4VAC50-60-92.

E. Offsite alternatives where allowed in accordance with 4VAC50-60-69 may be utilized to meet the design criteria of subsection A of 4VAC50-60-63.

**Sec. 23.2-41.- Water quantity.**

A. Channel protection and flood protection shall be addressed in accordance with the minimum standards set out in this section and other applicable regulations.

B. Channel protection: Concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet the criteria in subdivision 1, 2, or 3 of this subsection, where applicable, from the point of discharge to a point to the limits of analysis in subdivision 4 of this subsection.

1. Manmade stormwater conveyance systems. When stormwater from a development is discharged to a manmade stormwater conveyance system, following the land-disturbing activity, either:

a. The manmade stormwater conveyance system shall convey the postdevelopment peak flow rate from the two-year 24-hour storm event without causing erosion of the system. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the Administrator; or

b. The peak discharge requirements for concentrated stormwater flow to natural stormwater conveyance systems in subdivision 3 of this subsection shall be met.

2. Restored stormwater conveyance systems. When stormwater from a development is discharged to a restored stormwater conveyance system that has been restored using natural design concepts, following the land-disturbing activity, either:

a. The development shall be consistent, in combination with other stormwater runoff, with the design parameters of the restored stormwater conveyance system that is functioning in accordance with the design objectives; or

b. The peak discharge requirements for concentrated stormwater flow to natural stormwater conveyance systems in subdivision 3 of this subsection shall be met.

3. Natural stormwater conveyance systems. When stormwater from a development is discharged to a natural stormwater conveyance system, the maximum peak flow rate from the one-year 24-hour storm following the land-disturbing activity shall be calculated either:

- a. In accordance with the following methodology:

$$Q_{\text{Developed}} \leq \text{I.F.} * (Q_{\text{Pre-developed}} * \text{RV}_{\text{Pre-Developed}}) / \text{RV}_{\text{Developed}}$$

Under no condition shall  $Q_{\text{Developed}}$  be greater than  $Q_{\text{Pre-Developed}}$  nor shall  $Q_{\text{Developed}}$  be required to be less than that calculated in the equation  $(Q_{\text{Forest}} * \text{RV}_{\text{Forest}}) / \text{RV}_{\text{Developed}}$ ; where

I.F. (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites  $\leq$  1 acre.

$Q_{\text{Developed}}$  = The allowable peak flow rate of runoff from the developed site.

$\text{RV}_{\text{Developed}}$  = The volume of runoff from the site in the developed condition.

$Q_{\text{Pre-Developed}}$  = The peak flow rate of runoff from the site in the pre-developed condition.

$\text{RV}_{\text{Pre-Developed}}$  = The volume of runoff from the site in pre-developed condition.

$Q_{\text{Forest}}$  = The peak flow rate of runoff from the site in a forested condition.

$\text{RV}_{\text{Forest}}$  = The volume of runoff from the site in a forested condition; or

- b. In accordance with another methodology that is demonstrated by the VSMP authority to achieve equivalent results and is approved by the State Water Control Board.

4. Limits of analysis. Unless subdivision 3 of this subsection is utilized to show compliance with the channel protection criteria, stormwater conveyance systems shall be analyzed for compliance with channel protection criteria to a point where either:

- a. Based on land area, the site's contributing drainage area is less than or equal to 1.0% of the total watershed area; or



b. Based on peak flow rate, the site's peak flow rate from the one-year 24-hour storm is less than or equal to 1.0% of the existing peak flow rate from the one-year 24-hour storm prior to the implementation of any stormwater quantity control measures.

C. Flood protection. Concentrated stormwater flow shall be released into a stormwater conveyance system and shall meet one of the following criteria as demonstrated by use of acceptable hydrologic and hydraulic methodologies:

1. Concentrated stormwater flow to stormwater conveyance systems that currently do not experience localized flooding during the 10-year 24-hour storm event:

The point of discharge releases stormwater into a stormwater conveyance system that, following the land-disturbing activity, confines the postdevelopment peak flow rate from the 10-year 24-hour storm event within the stormwater conveyance system. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the Administrator

2. Concentrated stormwater flow to stormwater conveyance systems that currently experience localized flooding during the 10-year 24-hour storm event:

a. Confines the postdevelopment peak flow rate from the 10-year 24-hour storm event within the stormwater conveyance system to avoid the localized flooding. Detention of stormwater or downstream improvements may be incorporated into the approved land-disturbing activity to meet this criterion, at the discretion of the Administrator; or

b. Releases a postdevelopment peak flow rate for the 10-year 24-hour storm event that is less than the predevelopment peak flow rate from the 10-year 24-hour storm event. Unless required by the Administrator, downstream stormwater conveyance systems do not require any additional analysis to show compliance with flood protection criteria if this option is utilized.

3. Limits of analysis:

Unless subdivision 2 b of this subsection is utilized to comply with the flood protection criteria, stormwater conveyance systems shall be analyzed for compliance with flood protection criteria to a point where:

a. The site's contributing drainage area is less than or equal to 1.0% of the total watershed area draining to a point of analysis in the downstream stormwater conveyance system; or

b. Based on peak flow rate, the site's peak flow rate from the 10-year 24-hour storm event is less than or equal to 1.0% of the existing peak flow rate from the 10-year 24-hour storm event prior to the implementation of any stormwater quantity control measure; or

c. The stormwater conveyance system enters a mapped floodplain or other flood-prone area, adopted by ordinance, of any locality. In this instance, channel protection criteria shall be applicable from the discharge point of the conveyance system (at the floodplain boundary) to the stream.

D. Increased volumes of sheet flow resulting from pervious or disconnected impervious areas, or from physical spreading of concentrated flow through level spreaders, must be identified and evaluated for potential impacts on down-gradient properties or resources. Increased volumes of sheet flow that will cause or contribute to erosion, sedimentation, or flooding of down gradient properties or resources shall be diverted to a stormwater management facility or a stormwater conveyance system that conveys the runoff without causing down-gradient erosion, sedimentation, or flooding. If all runoff from the site is sheet flow and the conditions of this subsection are met, no further water quantity controls are required.

E. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized provided that it is demonstrated to and approved by the Administrator that actual site conditions warrant such considerations.

F. Predevelopment and postdevelopment runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, digital pictures before and after construction, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.

G. SWM facilities shall be designed to regulate the two (2) and ten (10) year 24-hour storm such that the post development peak flows do not exceed predevelopment peak flows. In certain watersheds, the director of Public Works may require that the SWM facilities be designed to regulate the one (1) and ten (10) year 24-hour storm events.

H. SWM facilities located upstream of existing or future (in accordance with the Comprehensive Plan) residential areas with required minimum lot sizes less than one (1) acre shall be designed to regulate the peak discharge from the two (2) and ten (10) year 24 hour storm.

I. SWM facilities shall be designed to regulate the peak discharge from the two (2), ten (10), and one hundred (100) year 24 hour storms, if located upstream of existing residential developments with required minimum lot sizes less than one (1) acre and located adjacent to special flood hazard areas.

J. In critical watershed areas, in addition to the two (2) year and ten (10) year storms, SWM facilities must also be designed to regulate post development flows to the predevelopment levels for the twenty-five (25) year and one hundred (100) year 24 hour storm event.

K. The Administrator may establish more stringent standards where necessary to address total maximum daily load requirements or to protect exceptional state waters or to address flooding issues.

**Sec. 23.2-42.- Offsite compliance options.**

A. Offsite compliance options that the Administrator, at his discretion, may allow an operator to use to meet required phosphorus nutrient reductions include the following:

1. Offsite controls utilized in accordance with a comprehensive stormwater management plan adopted pursuant to 4VAC50-60-92 for the local watershed within which a project is located;

2. A locality pollutant loading pro rata share program established pursuant to § 15.2-2243 of the Code of Virginia or similar local funding mechanism;

3. The nonpoint nutrient offset program established pursuant to § 10.1-603.8:1 of the Code of Virginia;

4. Any other offsite options approved by an applicable state agency or State Water Control Board or VSMP Authority; and

5. When an operator has additional properties available within the same HUC or upstream HUC that the land-disturbing activity directly discharges to or within the same watershed as determined by the Administrator, offsite stormwater management facilities on those properties may be utilized to meet the required phosphorus nutrient reductions from the land-disturbing activity.

B. Notwithstanding subsection A of this section, and pursuant to §10.1-603.8:1 of the Code of Virginia, operators shall be allowed to utilize offsite options identified in subsection A of this section under any of the following conditions:

1. Less than five acres of land will be disturbed;

2. The postconstruction phosphorus control requirement is less than 10 pounds per year; or

3. At least 75% of the required phosphorus nutrient reductions are achieved on-site. If at least 75% of the required phosphorus nutrient reductions can not be met on-site, and the operator can demonstrate to the satisfaction of the Administrator that (i) alternative site designs have been considered that may accommodate on-site best management practices, (ii) on-site best management practices have been considered in alternative site designs to the maximum extent practicable, (iii) appropriate on-site best management practices will be implemented, and (iv) full compliance with postdevelopment nonpoint nutrient runoff compliance requirements cannot practicably be met on-site, then the required phosphorus nutrient reductions may be achieved, in whole or in part, through the use of off-site compliance options.

C. Notwithstanding subsections A and B of this section, offsite options shall not be allowed:

1. Unless the selected offsite option achieves the necessary nutrient reductions prior to the commencement of the operator's land-disturbing activity. In the case of a phased project, the operator may acquire or achieve offsite nutrient reductions prior to the commencement of each phase of land-disturbing activity in an amount sufficient for each phase.

2. In contravention of local water quality-based limitations at the point of discharge that are (i) consistent with the determinations made pursuant to subsection B of § 62.1-44.19:7 of the Code of Virginia, (ii) contained in a municipal separate storm sewer system (MS4) program plan accepted by the department, or (iii) as otherwise may be established or approved by the State Water Control Board.

D. In order to meet the requirements of 4VAC50-60-66, offsite options described in subdivisions 1 and 2 of subsection A of this section may be utilized.

### **Sec. 23.2-43.- Design storms and hydrologic methods.**

A. Unless otherwise specified, the prescribed design storms are the one-year, two-year, and 10-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14. Partial duration time series shall be used for the precipitation data.

B. Unless otherwise specified, all hydrologic analyses shall be based on the existing watershed characteristics and how the ultimate development condition of the subject project will be addressed.

C. Hydrologic and Hydraulic analysis shall be conducted in accordance with the requirements established in the Section(s) ----- of the DCSM.

### **Sec. 23.2-44**

**Sec. 23.2-45.- Linear development projects.**

Linear development projects shall control postdevelopment stormwater runoff in accordance with a site-specific stormwater management plan or a comprehensive watershed stormwater management plan developed in accordance with these regulations.

**Sec. 23.2-46.- Comprehensive stormwater management plans.**

The County may develop comprehensive stormwater management plans to be approved by the department that meet the water quality objectives, quantity objectives, or both of this chapter:

1. Such plans shall ensure that offsite reductions equal to or greater than those that would be required on each contributing site are achieved within the same HUC or within another locally designated watershed. Pertaining to water quantity objectives, the plan may provide for implementation of a combination of channel improvement, stormwater detention, or other measures that are satisfactory to the County to prevent downstream erosion and flooding.
2. If the land use assumptions upon which the plan was based change or if any other amendments are deemed necessary by the, County, the Administrator shall provide plan amendments to the department for review and approval.
3. During the plan's implementation, the the County shall document nutrient reductions accredited to the BMPs specified in the plan.
4. State and federal agencies may develop comprehensive stormwater management plans, and may participate in locality-developed comprehensive stormwater management plans where practicable and permitted by the Administrator.

**TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING  
ACTIVITIES FOR GRANDFATHERED PROJECTS**

**Sec. 23.2-47.- Technical Criteria for Regulated Land-Disturbing Activities for Grandfathered Projects** and Projects Subject to the Provisions of 4VAC50-60-47.1 are found in SECTION -700 of the County's Design and Construction Standards Manual

**LONG-TERM MAINTENANCE OF PERMANENT STORMWATER  
MANAGEMENT (SWM) AND BEST MANAGEMENT PRACTICE (BMP)  
FACILITIES**

**Long-Term maintenance of stormwater management and best management practice facilities that qualify for County maintenance are detailed in Section - ----- of the DCSM.**

**Sec. 23.2-52.- Maintenance Agreement For Privately Maintained Stormwater Management And Best Management Practice Facilities**

- (a) Provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff shall be required. Such requirements shall be set forth in a stormwater maintenance agreement recorded in the Prince William County land records prior to obtaining any land disturbance related permits. No modifications to this agreement can be made without the approval of the Department of Public Works and the property owner. The stormwater maintenance agreement 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) Give the County authority to retrofit (reconstruct) facility, and to assure its long term operational and functional effectiveness.
  - (5) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the County by June 30<sup>th</sup> of each year. Details related to the inspection are found on the Virginia BMP Clearinghouse Website and DCSM; and

- (6) Provide inspection reports certified by a professional engineer licensed in Virginia as per the stormwater management and best management practices facilities maintenance agreement.
  - (7) Provision for the County to perform follow-up inspections as necessary.
  - (8) Provision for additional maintenance required by the Department of Public Works is completed within thirty (30) days of notification.
  - (9) Provision for the new or expanded golf courses to develop and submit to the County a nutrient management and Integrated Pest Management (IPM) plans (water quality agreements) within one year following the construction of the golf course. Reports to document the implementation of the nutrient management and IPM plan, in accordance with the executed water quality agreements, shall be forwarded to the Department of Public Works before June 30<sup>th</sup> of each year.
  - (10) Be enforceable by all appropriate governmental parties.
  - (11) Ensure that measures could be taken by the County to maintain the stormwater management/best management practice facilities or perform inspections at the owner's expense should the owner fail to maintain the facilities in good working order in accordance with the maintenance specifications in the agreement or perform the periodic inspections required by the agreement.
  - (12) Provide that in the event the County, pursuant to the agreement, performs work of any nature or expends any funds in performance of said work, the owner will reimburse the County for all costs incurred by the County.
  - (13) Provide for liens to be placed on the property should the owner fail to reimburse the County for costs incurred by the County.
  - (14) Be in the format (template) provided in the DCSM
- (b) At the discretion of the Administrator, such recorded instruments may not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot not part of a larger common plan of development 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) In such situation, a strategy/mechanism 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 or any duly authorized agent of the Administrator.

**Sec. 23.2-53.- MONITORING AND INSPECTIONS DURING CONSTRUCTION.**

- (a) The Administrator or any duly authorized agent of the Administrator shall inspect the land-disturbing activity during construction for:

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

- (b) The Administrator “or any duly authorized agent of the Administrator” may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.

- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator or any duly authorized agent of the administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.



- (d) Pursuant to § 10.1-603.12:2 of the Code of Virginia, the Administrator may require every permit applicant or permittee, or any such person subject to permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.

## **POST-CONSTRUCTION INSPECTION**

- (e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator “or any duly authorized agent of the Administrator” pursuant to the County’s adopted and State Water Control Board approved inspection program as documented in Section ----- of the DCSM, except as may otherwise be provided for in Section 23.2-52 of this ordinance.

## **HEARINGS AND APPEALS**

### **Sec. 23.2-54.– HEARINGS**

- (a) Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of the County taken without a formal hearing, or by inaction of the County, may demand in writing a formal hearing on such action or inaction, such hearing to be conducted by the County Executive or designee, provided a petition requesting such hearing is filed with the Administrator within 30 days after notice of such action is given by the Administrator.
- (b) The hearings held under this Section shall be conducted by the County Executive or designee at a regular or special meeting of the County Executive or designee, or by at least one member of the County Executive or designee designated by the County Executive or designee to conduct such hearings on behalf of the County Executive or designee at any other time and place authorized by the County Executive or designee.
- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the County Executive or designee. Depositions may be taken and read as in actions at law.

The County Executive or designee or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

**Sec. 23.2-55.- APPEALS.**

The decision of the Administrator is final. If the Administrator disapproves any plan submitted pursuant to all processing requirements identified in this Ordinance, and the applicant of such plan contends that such disapprovals were not properly based on applicable state and local ordinances and policies, he may appeal to the Circuit Court having jurisdiction over Prince William County. Such appeal must be filed with the Circuit Court within sixty (60) days of the written disapproval of the Administrator.

**ENFORCEMENT**

**Sec. 23.2-56.- VIOLATIONS**

(a) If the Administrator determines that there is a failure to comply with the VSMP authority permit/Land Disturbance 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 reasonable time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (2) or the permit may be revoked by the Administrator.

- (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with DCSM SECTION ---. Such orders shall become effective upon service as stated above. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection (c) below.

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with subsection (c) below.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court having jurisdiction in Prince William County by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy including but not limited to a civil and criminal penalties.

**Sec. 23.2-57.- CIVIL PENALTY.**

Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator or the court, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

- (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
  - (i) No state permit registration;
  - (ii) No SWPPP;
  - (iii) Incomplete SWPPP;
  - (iv) SWPPP not available for review;
  - (v) No approved erosion and sediment control plan;
  - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
  - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
  - (viii) Operational deficiencies;
  - (ix) Failure to conduct required inspections;
  - (x) Incomplete, improper, or missed inspections; and
  - (xi) Discharges not in compliance with the requirements of Section 4VAC 50-60-1170 of the general permit.
- (2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the Prince William County Circuit court.
- (3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
- (4) Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of **Prince William County** to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

**Sec. 23.2-58.- CRIMINAL PENALTY.**

- (a) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.
- (b) Any person who knowingly violates any provision of this article, any regulation or order of the State Water Control Board, order of the VSMP authority or the Department, ordinance of any locality approved as a VSMP authority, any condition of a permit or state permit, or any order of a court issued as herein provided, or who knowingly makes any false statement in any form required to be submitted under this article or knowingly renders inaccurate any monitoring device or method required to be maintained under this article, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than \$10,000. Each day of violation of each requirement shall constitute a separate offense.
- (c) Any person who knowingly violates any provision of this article, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

### **FEES**

**Sec. 23.2-59.- FEES ASSOCIATED WITH IMPLEMENTATION OF STORMWATER MANAGEMENT PROGRAM**

Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and County permits shall be imposed in accordance with the Development Fee Schedule as adopted by the BOCS. 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 in accordance with the disturbed acreage of their site or sites according to the Development Fee Schedule as adopted by the BOCS.

**Sec. 23.2-60.- FEES FOR MODIFICATION OR TRANSFER OF PERMIT**

Fees for the modification or transfer of registration statements from the general permit issued by the State Water Control Board shall be imposed in accordance with the Development Fee Schedule. If the general permit modifications result in changes to stormwater management plans that require additional review by Prince William County, such reviews shall be subject to the fees set out in the Development Fee Schedule. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in the Development Fee Schedule

**Sec. 23.2-61.- FEES FOR PERMIT MAINTENANCE** Annual permit maintenance shall be imposed in accordance with the Development Fee Schedule, 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.

General permit coverage maintenance fees shall be paid annually to Prince William County, 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.

**Sec. 23.2-62.- APPLICABILITY**

The fees set forth in FEES Sections 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 23.2-61 may apply to each general permit holder.

#### **Sec. 23.2-63.- EXEMPTIONS**

No general permit application fees will be assessed to:

- (1) Permittees who request minor modifications to general permits as defined in Section 23.2-23 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.
- (2) Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.

#### **Sec. 23.2-64.- INCOMPLETE PAYMENTS**

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. Prince William County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

#### **PERFORMANCE BOND**

**Sec. 23.2-65.- PERFORMANCE BOND**

Prior to issuance of any permit, the Applicant shall 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 County attorney, to ensure that measures could be taken by Prince William County 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 Prince William County takes such action upon such failure by the Applicant, the County 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.

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