

**ORDINANCE REPEALING  
AND RE-ENACTING  
CHAPTER 6C,  
SECTIONS 6C- 1 THROUGH 6C – 18,  
OF THE CODE OF ORDINANCES  
OF  
ROCKINGHAM COUNTY, VIRGINIA**

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY,  
VIRGINIA:

That Chapter 6C, Management of Post Construction Stormwater Runoff, Sections 6C –  
1 through 6C – 18, be and hereby is repealed and re-enacted as follows:

**Sec. 6C-1: PURPOSE AND AUTHORITY**

- A. The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of Rockingham County and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater; including protection from land disturbing activities causing degradation of properties, water quality, stream channels, and other natural resources. The physical, chemical, biological, and hydrologic characteristics and the water quality and quantity of the receiving state waters shall be maintained, protected, or improved. All control measures used shall be employed in a manner that minimizes impacts on receiving state waters.
- B. Additionally, this ordinance is to provide a framework for the administration, implementation, and enforcement of the Virginia Stormwater Management Act (VSM Act) and to delineate the procedures and requirements to be followed in connection with state permits issued by Rockingham County, the VSMP authority, pursuant to the Clean Water Act (CWA) and the Virginia Stormwater Management Act and while at the same time providing flexibility for innovative solutions to stormwater management issues.
- C. Authority is granted to Rockingham County under the Stormwater Management Act and the County is authorized pursuant to §§ 62.1-44.15:27 to adopt regulations that specify standards and procedures for VSMP registration and permitting, to establish standards for stormwater management for land-disturbing activities, and to protect properties, the quality and quantity of state waters, the physical integrity of stream channels, and other natural resources. Rockingham County shall administer this ordinance to all areas of Rockingham County, including incorporated townships within county boundaries, excepting the Town of Bridgewater. This ordinance is

adopted pursuant to Article 2.3 (§§ 62.1-44.15:24 et. seq.), Chapter 3.1 of the Code of Virginia and shall become effective July 1, 2014.

## **Sec. 6C-2: DEFINITIONS**

- A. In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, 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:

*"Accelerated erosion"* means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

*"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.

*"Administrator"* means the VSMP authority including the Rockingham County staff person or department responsible for administering the VSMP on behalf of the locality.

*"Agreement in Lieu of a Stormwater 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.

*"Applicable standards and limitations"* means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA) (33 USC § 1251 et seq.) and the Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and standards for sewage sludge use or disposal under §§ 301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

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

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

*"Approved program"* or *"approved state"* means a state or interstate program that has been approved or authorized by EPA under 40 CFR Part 123 (2000).

*"Aquatic bench"* means a ten- to fifteen-foot-wide bench around the perimeter of a permanent pool that ranges in depth from zero (0) to twelve (12) inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

"*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

"*Bio-retention basin*" means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, and ground cover), planting soil, and sand bed, and into the in-situ material.

"*Board*" means the State Water Control Board

"*Channel*" means a natural or manmade waterway.

"*Common plan of development or sale*" means a contiguous area where separate and distinct construction activities may be taking place at different times and/or with separate applicants.

"*Comprehensive stormwater management plan*" means a plan, which may be integrated with other land use plans or regulations, which specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"*Construction activity*" means any clearing, grading or excavation associated with large construction activity or associated with small construction activity.

"*Control measure*" means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"*Co-operator*" means an operator of a state permit that is only responsible for state permit conditions relating to the discharge for which it is the operator.

"*Clean Water Act*" or "*CWA*" means the federal Clean Water Act (33 USC § 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.

"*Constructed wetland*" means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

"*County*" means Rockingham County, Virginia.

"*CWA and regulations*" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"*Department*" means the 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 nonagricultural or non-silvicultural purposes. The regulation of discharges from development, for purposes of these regulations, does not include the exemptions found in 9VAC25-870-300.

"*Developer*" means a person who undertakes land disturbance activities

"*Direct discharge*" means the discharge of a pollutant.

"*Director*" means the Director of the Department of Environmental Quality or his/her designee.

"*Discharge*" when used without qualification, means the discharge of a pollutant.

"*Discharge of a pollutant*" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or
2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"*Drainage area*" means a land area, water area, or both from which runoff flows to a common point.

"*Drainage easement*" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

"*Effluent limitation*" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"*Effluent limitations guidelines*" means a regulation published by the administrator under § 304(b) of the CWA to adopt or revise effluent limitations.

"*Environmental Protection Agency*" or "EPA" means the United States Environmental Protection Agency.

"*Erosion and sediment control plan*" means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

"*Existing state permit*" means for the purposes of this chapter a state permit issued by the board and currently held by a state permit applicant.

"*Existing source*" means any source that is not a new source or a new discharger.

"*Facilities or equipment*" means buildings, structures, process or production equipment or machinery that form a permanent part of a new source and that will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the new source or water pollution treatment for the new source.

"*Flood fringe*" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

"*Flooding*" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"*Floodplain*" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

"*Flood-prone area*" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"*Floodway*" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100- year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency

"*Hazardous substance*" means any substance designated under the Code of Virginia or 40 CFR Part 116 (2000) pursuant to § 311 of the CWA.

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

"*Impervious cover*" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, compacted gravel, or surfaces composed of material that significantly impedes or prevents natural infiltration of water into soil.

"*Infiltration*" means the process of percolating stormwater into the subsoil.

"*Inspection*" means an on-site review of the project's compliance with the permit or the state permit, the VSMP, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the Act and this chapter.

"*Jurisdictional wetland*" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation. To be determined by overseeing agency, such as Army Corps of Engineers and Virginia Department of Environmental Quality.

"*Karst area*" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"*Karst features*" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"*Land disturbance*" or "*land-disturbing activity*" means a manmade change to the land surface that potentially changes its runoff characteristics, including but not limited to clearing, grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.. Except that the term shall not include those exemptions specified in § 62.1-44.15:34 C of the Code of Virginia.

"*Large construction activity*" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"*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 a county, city, or town.

"*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.

"*Main channel*" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"*Maintenance agreement*" means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

"*Major facility*" means any facility or activity classified as such by the regional administrator in conjunction with the board.

"*Major modification*" means, for the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

"*Manmade*" means constructed by man.

"*Maximum daily discharge limitation*" means the highest allowable daily discharge.

"*Maximum extent practicable*" or "*MEP*" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA § 402(p). MEP is achieved, in part, by selecting and implementing effective structural and nonstructural best management practices (BMPs) and rejecting ineffective BMPs and replacing them with effective best management practices (BMPs). MEP is an iterative standard, which evolves over time as urban runoff management knowledge increases. As such, the operator's MS4 program must continually be assessed and modified to incorporate improved programs, control measures, BMPs, etc., to attain compliance with water quality standards.

"*Minor modification*" means, for the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 22.63 and as specified in 9VAC25-870-640. Minor modification for the purposes of this chapter also means other modifications and amendments 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.

"*National Pollutant Discharge Elimination System*" or "*NPDES*" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing state permits, and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and 405 of the CWA. The term includes an approved program.

"*Natural channel design concepts*" means the utilization of engineering analysis based on 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 floodplain.

"*Natural stream*" means a tidal or non-tidal watercourse that is part of the natural topography. It could maintain a continuous flow, a seasonal flow, or a weather dependent flow during the year and characteristics can include irregular cross-sections, sometimes a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams. This includes perennial, intermittent, ephemeral, and headwater streams.

"*New source*," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under § 306 of the CWA that are applicable to such source; or
2. After proposal of standards of performance in accordance with § 306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the CWA within 120 days of their proposal.

"*Nonpoint source pollution*" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff

"*Off-site facility*" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

"*On-site facility*" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

"*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).

"*Overburden*" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"*Owner*" means the Commonwealth or any of its political subdivisions including, but not limited to, sanitation district commissions and authorities, and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes or pollutants to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of § 62.1-44.5 of the Code of Virginia, the Act and this chapter.

"*Peak flow rate*" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"*Percent impervious*" means the impervious area within the site divided by the area of the site multiplied by 100.

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

"*Permittee*" means the person to whom the state permit or VSMP authority permit is issued, including any owner or operator whose construction site is covered under a state construction general permit.

"*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.

"*Point of discharge*" means a location at which concentrated stormwater runoff is released.

"*Point source*" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure,

container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

"*Pollutant*" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well is used either to facilitate production or for disposal purposes is approved by the board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"*Pollutant discharge*" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"*Pollution*" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"*Postdevelopment*" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

"*Predevelopment*" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"*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.

"*Proposed state permit*" means a state permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA for review before final issuance. A proposed state permit is not a draft state permit.

"*Qualified personnel*" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. For VSMP authorities this requires the use of a person who holds a certificate of competency from the board in the area of project inspection for ESC and project inspection for SWM or combined administrator for ESC and combined administrator for SWM as defined in 9VAC25-870-10 or a combination of ESC and SWM qualifications from these two areas.

"*Recharge*" means the replenishment of underground water reserves

"*Recommencing discharge*" means a source that recommences discharge after terminating operations.

"*Redevelopment*" means the process of developing on land that has been previously developed with impervious structure, and may or may not have been developed with stormwater management consideration.

"*Regional (watershed-wide) stormwater management facility*" or "*regional facility*" means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience development.

"*Regional (watershed-wide) stormwater management plan* or "*regional plan*" means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

"*Revoked state permit*" means, for the purposes of this chapter, an existing state permit that is terminated by the board before its expiration.

"*Riparian buffer*" means a natural, unmanaged area of trees, shrubs, grasses, or a combination thereof, that is:

1. At least fifty (50) feet in width from the crest stream top
2. Adjacent to wetland areas or state waters (including, but not limited, to perennial, ephemeral, headwater, and intermittent streams);
3. Functions to maintain the integrity of stream channels, wetlands, and shorelines, and

4. Reduces the effects of upland sources of pollution through the infiltration of runoff and filtering of pollutants. A managed lawn adjacent to state waters does not constitute a riparian buffer. The riparian buffer is measured landward (horizontal distance) from the crest/top of the stream bank on both sides of the stream.

"*Regulations*" means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

"*Runoff coefficient*" means the fraction of total rainfall that will appear at a conveyance as runoff.

"*Runoff*" or "*stormwater runoff*" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"*Runoff characteristics*" include maximum velocity, peak flow rate, volume, and flow duration.

"*Runoff volume*" means the volume of water that runs off the site from a prescribed design storm.

"*Schedule of compliance*" means a schedule of remedial measures included in a state permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act, the CWA and regulations.

"*Severe property damage*" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"*Significant materials*" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under §101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

"*Single jurisdiction*" means, for the purposes of this chapter, a single county or city. The term county includes incorporated towns which are part of the county.

"*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.

"*Site hydrology*" means the movement of water on, across, through and off the site as determined by parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"*Small construction activity*" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.
2. Any other construction activity designated by the either the board or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"*Source*" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

"*State*" means the Commonwealth of Virginia.

"*State application*" or "*application*" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the County.

"*State permit*" means an approval to conduct a land-disturbing activity issued by the State in the form of a state stormwater individual permit or coverage issued under a state general permit. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act and this chapter. State permit does not include any state permit that has not yet

been the subject of final board action, such as a draft state permit or a proposed state permit.

"*State project*" means any land development project that is undertaken by any state agency, board, commission, authority or any branch of state government, including state- supported institutions of higher learning.

"*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 conveyance system*" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;
2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or
3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"*Stormwater discharge associated with construction activity*" means a discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"*Stormwater management facility*" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

"*Stormwater management plan*" means a document(s) containing material for describing methods for complying with the requirements of the VSMP or 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. 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.

"*Stop work order*" means an order issued which requires that all construction activity on a site be stopped.

"*Stormwater retrofit*" means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

"*Stormwater runoff*" means flow on the surface of the ground, resulting from precipitation

"*Subdivision*" means the same as defined in Chapter 16, Article 1 of the Rockingham County Subdivision Ordinance. (P.C. Ord. No. 5-87, (part), 4-22-87; P.C. Ord. No. 04-06, 6-23-04).

"*Surface waters*" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. That are used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding

the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"*Total dissolved solids*" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (2000).

"*Total maximum daily load*" or "*TMDL*" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) 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.

"*Toxic pollutant*" means any pollutant listed as toxic under § 307(a) (1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing § 405(d) of the CWA.

"*Virginia Pollutant Discharge Elimination System (VPDES) permit*" or "*VPDES permit*" means a document issued by the State Water Control Board pursuant to the State Water Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"*Virginia Stormwater Management 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 and that is jointly created by the department and the Virginia Water Resources Research Center subject to advice to the director from a permanent stakeholder advisory committee.

"*Virginia Stormwater Management Handbook*" means a collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

"*Virginia Stormwater Management Program*" or "*VSMP*" means a program approved by the board after September 13, 2011, that has been established by a VSMP authority 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 the Act and associated regulations, and evaluation consistent with the requirements of the SWM Act and associated regulations.

"*Virginia Stormwater Management Program authority*" or "*VSMP authority*" means an authority approved by the board after September 13, 2011, to operate a Virginia



Stormwater Management Program or, the Department of Environmental Quality. An authority may include a locality; state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of § [62.1-44.15:31](#), electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § [15.2-5102](#).

"*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.

"*Water quality standards*" or "*WQS*" means provisions of state or federal law that consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based on such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water, and serve the purposes of the State Water Control Law (§ [62.1-44.2](#) et seq. of the Code of Virginia), the Act (§ [62.1-44.15:24](#) et seq. of the Code of Virginia), and the CWA (33 USC § 1251 et seq.).

"*Watercourse*" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

"*Watershed*" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

"*Wetlands*" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Subject to 50' riparian buffer requirements)

"*Whole effluent toxicity*" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

### **Sec. 6C-3. APPLICABILITY**

- A. This ordinance will apply to all land-disturbing activities greater than one acre, or are located within a greater plan of development and/or redevelopment activities unless otherwise exempt in §62.1-44.15:34 Code of Virginia.
- B. A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, and, after July 1, 2014, a stormwater management plan or an executed agreement in lieu of a stormwater management plan, and has obtained VSMP authority approval to begin land disturbance. A registration statement is not required for detached single-family home

construction under 5 acres, within or outside of a common plan of development or sale, but such projects must adhere to the requirements of the general permit. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VSMP authority shall be required to obtain evidence of state VSMP permit coverage where it is required prior to providing approval to begin land disturbance. The VSMP authority shall act on any permit application within 60 days after it has been determined by the VSMP authority to be a complete application. The VSMP authority may either issue project approval or denial and shall provide written rationale for the denial. The VSMP authority shall act on any permit application that has been previously disapproved within 45 days after the application has been revised, resubmitted for approval, and deemed complete. Prior to issuance of any approval, the VSMP authority may also require an applicant, excluding state and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the VSMP authority, to ensure that measures could be taken by the VSMP authority at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions that may be required of him by the permit conditions as a result of his land-disturbing activity. If the VSMP authority takes such action upon such failure by the applicant, the VSMP authority may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. 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. These requirements are in addition to all other provisions of law relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

**Exemptions:**

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 for the purposes of 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 Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
3. Land disturbing activities that disturb less than one acre of land that are not part of a larger common plan of development or scale that is one acre or greater of disturbance

4. 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
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 Subsection
8. Land-disturbing activities conducted 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 administrative requirements of Subsection 6C-3.A is required within 30 days of commencing the land-disturbing activity.

C. Nothing in this chapter shall be construed as limiting the applicability of other laws and regulations, including, but not limited to, the CWA, Virginia Stormwater Management Act, Virginia Erosion and Sediment Control Law, except as provided in § 10.1-603.3 K of the Code of Virginia, and all applicable regulations adopted in accordance with those laws, or the rights of other federal agencies, state agencies, or local governments to impose more stringent technical criteria or other requirements as allowed by law.

D. 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 Ordinance.

#### **Sec 6C-4: TECHNICAL CRITERIA FOR REGULATING 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, Rockingham County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62 [applicability], 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], and 9VAC25-870-92 [comprehensive stormwater management plans], and 9VAC25-870-93 through 99 [technical criteria for regulated land-disturbing activities: grandfathered projects and projects subject to the provisions of 9VAC25-870-47 B], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Section 6C-3 .

- B. Beginning with the General Permit for Discharges of Stormwater from Construction Activities issued July 1, 2009, all land-disturbing activities that receive general permit coverage shall be conducted in accordance with the Part II B or Part II C technical criteria in place at the time of initial state permit coverage and shall remain subject to those criteria for an additional two permit cycles, except as provided for in subsection D of 9VAC25-870-48. After the two additional state permit cycles have passed, or should state permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted since original state permit coverage was issued. For land-disturbing projects issued coverage under the July 1, 2009 state permit and for which coverage was maintained, such projects shall remain subject to the technical criteria of Part II C for an additional two state permits.
- C. Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation 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 locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP Regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus 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.
- D. Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:
1. There has been an obligation of locality, 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.
- E. Land disturbing activities grandfathered under subsections C and D of this section shall remain subject to Part II C technical criteria of the VSMP Regulation 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.
- F. 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 criteria of Part II C.

- G. 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 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 authority 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 9VAC25-870-69 have been considered and found not available.
- H. Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

#### **Sec. 6C-5: STORMWATER MANAGEMENT PROGRAM: SUBMISSION AND APPROVAL OF PLANS**

- A. No permit shall be issued by the County until the following items have been submitted to and approved by the County 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 the Rockingham County Erosion and Sediment Control Ordinance (Ord. No. 82-2, 1-11-82; P.C. Ord. No. 02-02, 2-13-02) and
  3. A stormwater management plan that meets the requirements of Section 6C-7
  4. Until the required E&S and stormwater fees (per Section 6C-18) have been paid
  5. 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 plan.
  6. A permit will not be issued until evidence of general permit coverage has been obtained by the County.
- B. No grading, building or other local permit shall be issued for a property unless a VSMP permit has been approved and issued by the County.
- C. Stormwater management plans that are approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners.

#### **Sec. 6C-6: STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS**

- 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 Virginia Erosion and Sediment Control Law, Rockingham County's Erosion and Sediment Control Ordinance (Ord. No. 82-2, 1-11-82; P.C. Ord. No. 02-02, 2-13-02), and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the County in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.
- C. A stormwater management plan consistent with Section 6C-7 of this Ordinance must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the County.
- 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, at least 50 feet, 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. Dormant areas exceeding six months will require permanent stabilization. Permanent stabilization must be completed within 7 days of final grade and will be required to maintain proper sediment controls until vegetated. 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 County; 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 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 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. 6C-7: STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN**

- A. A stormwater management plan shall be developed and submitted to the County. The stormwater management plan shall be implemented as approved or modified by the County and shall be developed in accordance with the following:
  1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.
  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 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 post development drainage areas;
  2. Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
  2. A narrative that includes a description of current site conditions and final site conditions or if allowed by the County, the information provided and documented during the review process that addresses the current and final site conditions;
  3. 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;

4. 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 into which the facility will discharge;
5. Hydrologic and hydraulic computations, including runoff characteristics; anything designed in Rockingham County will need to use the karst adjustment factor, unless a geotechnical study has been performed.
6. 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 includes:
  - a. All contributing drainage areas;
  - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
    - i. The County reserves the right to require soil testing to be performed, especially where historic data is not applicable due to previous grading and development on the property
  - d. Current land use including existing structures, roads, 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 proposed drainage patterns on the site;
  - g. Proposed 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. Individual grading and stormwater plans for each parcel/lot in a greater plan of development
  - a. To include, but not limited to, grading and installation of proper conveyance channels (ditches, drainage ways and easements) intended to direct flow to permanent stormwater BMPs within the common plan of development
  - b. These should include minimum bottom floor, basement, and/or crawl space elevations to eliminate future flooding and drainage issues
10. If an operator intends to meet the requirements established in 9VAC25-870-63 or 9VAC25-870-66 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
11. Payment of the fee is required with the submission of a stormwater management plan to the County, the fee and the required fee form in must have been submitted in full.

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.



- D. A construction record drawing for permanent stormwater management facilities shall be submitted to the County in accordance with 9VAC25-870-108 and 9VAC25-870-112. 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.

#### **Sec. 6C-8: POLLUTION PREVENTION PLAN; CONTENTS OF PLANS**

- A. A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall 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.

#### **Sec. 6C-9: REVIEW OF A STORMWATER MANAGEMENT PLAN**

- A. The Administrator or designee shall review and approve or disapprove stormwater management plans.
1. The County reserves the right to hire a third party to review plans, as deemed necessary.

- B. The Administrator or designee shall review and approve or disapprove a stormwater management plan according to the following criteria:
  - 1. The Administrator or designee shall determine the completeness of a plan in accordance with 9VAC25-870-55, and shall notify the applicant of any determination, within 15 calendar days of receipt. Where available to the applicant, electronic communication may be considered communication in writing.
    - a. If within those 15 calendar days the plan is deemed to be incomplete, the applicant shall be notified in writing of the reasons the plan is deemed incomplete.
    - b. If a determination of completeness is made and communicated to the applicant within the 15 calendar days, an additional 60 calendar days from the date of the communication will be allowed for the review of the plan.
    - c. If a determination of completeness is not made and communicated to the applicant within the 15 calendar days, the plan shall be deemed complete as of the date of submission and a total of 60 calendar days from the date of submission will be allowed for the review of the plan.
    - d. The Administrator or designee shall review, within 45 calendar days of the date of resubmission, any plan that has been previously disapproved.
  - 2. 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 and of the County. Where available to the applicant, electronic communication may be considered communication in writing.
  - 3. If a plan meeting all requirements of this chapter and of the County's is submitted and no action is taken within the time specified above, the plan shall be deemed approved.
- C. Each approved plan may be modified in accordance with the following:
  - 1. Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator or designee. The Administrator or designee shall have 60 calendar days to respond in writing either approving or disapproving such requests.
  - 2. Based on an inspection, the Stormwater Management Program Administrator or designee may require amendments to the approved stormwater management plan to address any deficiencies within a time frame set by the stormwater program administrative authority.
- D. The Administrator or designee shall require evidence of any applicable state and federal permit coverage, prior to providing approval to begin land disturbance.
- E. The Administrator or designee shall require the submission of a construction record drawing for permanent stormwater management facilities in accordance with 9VAC25-870-55.

## **Sec.6C-10: BONDING**

- A. Prior to the issuance of a land-disturbing permit, the permittee shall submit a bond estimate to the County for approval. Upon approval the permittee shall, in accordance with section 6B-6, subsection (f) of the Rockingham County Erosion and Sediment Control Ordinance (Ord. No. 82-2, 1-11-82; P.C. Ord. No. 02-02, 2-13-02), execute a bond including both Erosion & Sediment Control and stormwater measures. This bond shall not be released until final stabilization has been achieved, all permanent stormwater management facilities have been installed, and a construction record drawing has been submitted, along with a maintenance agreement, for each permanent stormwater management facility. 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. This guidance document shall remain in effect until rescinded, amended or superseded.
- B. The performance bond is to ensure that measures could be taken by the 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 the County takes such action upon such failure by the Applicant, the Locality 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

#### **Sec. 6C-11: DUTY TO RETAIN OR ESTBALISH RIPARIAN/ STREAM BUFFER**

- A. Except for the activities pertaining to the management of a riparian/stream buffer identified in section Sec. 6C-11.E, any land subject to this article and each stormwater management/BMP plan shall provide for riparian/stream buffers for the purposes of retarding runoff, preventing erosion, filtering nonpoint source pollution from runoff, moderating stream temperature, and providing for the ecological integrity of stream corridors and networks, as provided herein:
1. If the development is located within a development area or an area of infill and redevelopment, riparian/stream buffers shall be retained if present and established where they do not exist on any lands subject to this article containing perennial or intermittent streams, and/or non-tidal wetlands contiguous to these streams. The riparian/stream buffer shall be no less than fifty (50) feet wide on each side of such perennial or intermittent streams and contiguous non-tidal wetlands, measured horizontally from the edge of the non-tidal wetlands, or the top of the stream bank if no wetlands exist.
  2. If the development is located within a water supply protection area, riparian/stream buffers shall be retained if present and established where they do not exist on any lands subject to this article containing perennial or intermittent streams, non-tidal wetlands contiguous to these streams, and flood plains. The riparian/stream buffer shall extend to whichever of the following is wider:
    - a. Fifty (50) feet on each side of perennial or intermittent streams and contiguous non-tidal wetlands, measured horizontally from the edge of the non-tidal wetlands, or the top of the stream bank if no wetlands exist; or
    - b. The limits of the flood plain.

- B. Each riparian/stream buffer shall be maintained and incorporated into the design of the land development to the fullest extent possible.
- C. Each riparian/stream buffer required to be retained or established pursuant to section 6C-11(A) shall be managed as provided herein:
1. In order to maintain the runoff, erosion, nonpoint source pollution control, stream temperature, and ecological values of the riparian/stream buffer, indigenous vegetation shall be preserved to the maximum extent possible. The target vegetative cover in the riparian/stream buffer shall be an indigenous riparian forest with ground cover, shrub, and tree canopy layers. Removal of vegetation in the riparian/stream buffer shall be allowed only as provided in subsections (ii) and (iii).
  2. Within twenty-five (25) feet of the top of the stream bank and on land classified as non-tidal wetland:
    - a. Indigenous riparian vegetation shall be preserved or allowed to evolve by natural succession where it does not exist;
    - b. Dead, diseased, and dying trees may be removed;
    - c. Fallen trees that are blocking stream channels, or trees with undermined root systems in imminent danger of falling, may be removed where stream bank erosion is a current or potential problem that outweighs any positive effects the fallen tree or trees may have on the stream ecosystem;
    - d. Removal or pruning of invasive shrub and vine species is allowed, provided that such removal or pruning is done in a manner that prevents erosion; and
    - e. Pathways shall be constructed so as to effectively control erosion; stormwater channels shall be constructed to prevent erosion.
  3. Beyond twenty-five (25) feet from the top of the stream bank and outside of non-tidal wetlands:
    - a. Dead, diseased, and dying trees may be removed;
    - b. Silvicultural thinning may be conducted based upon the best available technical advice of a professional forester;
    - c. Trees may be pruned or removed as necessary to provide limited sight lines and vistas, provided that if trees are removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff;
    - d. Trees six (6) inches in diameter or greater at breast height shall be preserved;
    - e. Removal or pruning of invasive shrub and vine species shall be allowed, provided that such removal or pruning is done in a manner that prevents erosion; and
    - f. Pathways and stormwater channels shall be constructed to effectively control erosion.
- D. The following types of development shall not be required to retain, establish or manage a riparian/stream buffer, provided that the requirements of this section are satisfied:
1. The construction, installation, operation and maintenance of electric, gas and telephone transmission lines, railroads, and activities of the state department of transportation, and their appurtenant structures, which are accomplished in compliance with the erosion and sediment control law or an erosion and sediment control plan approved by the state soil and water conservation board.

2. The construction, installation, and maintenance by public agencies of water and sewer lines, including water and sewer lines constructed by private interests for dedication to public agencies, provided that:
    - a. To the extent practical, the location of such water or sewer lines shall be outside of all riparian/stream buffer areas;
    - b. No more land shall be disturbed than is necessary to construct, install and maintain the water or sewer lines; and
    - c. All such construction, installation, and maintenance of such water or sewer lines shall comply with all applicable federal, state and local requirements and permits and be conducted in a manner that protects water quality.
- E. If otherwise authorized by the applicable regulations of the zoning ordinance, the following types of development shall be allowed in a riparian/stream buffer, provided that the requirements of this article are satisfied:
1. A building or structure which existed on the date of adoption of this chapter may continue at such location.
  2. On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:
    - a. To the extent practical, as determined by the program authority, the location of such facilities shall be outside of the riparian/stream buffer;
    - b. No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility, as determined by the program authority;
    - c. The facilities are designed and constructed so as to minimize impacts to the functional value of the riparian/stream buffer and to protect water quality; and
    - d. Facilities located within a flood plain adhere to flood plain regulations of the county and are designed and located, to the extent practical, to maintain their water quantity and/or water quality control value, according the standards of this article, during flood conditions.
  3. Water-dependent facilities; water wells; passive recreation access, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities; provided that all applicable federal, state and local permits are obtained.

### **Sec. 6C-12: INSPECTIONS**

- A. The County may enter any establishment or 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.
- B. 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.
- C. Pursuant to § 10.1-603.12:2 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority 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.

- D. The County 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.
  
- E. The County inspection program ensures that stormwater management facilities are being adequately maintained as designed and per the signed maintenance agreement (per Section 6C-13 of this ordinance) after completion of land-disturbing activities. Inspection programs shall:
  - 1. Ensure that each stormwater management facility is inspected by the County every 6 months, except as provided in subsections C and D of this section
  - 2. Be documented by records.
  
- F. The County may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the board.
  
- I. If a recorded instrument is not required pursuant to 9VAC25-870-112, the County shall develop an educational outreach for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located and may include periodic inspections or other method targeted at promoting the long-term maintenance of such facilities.

**Sec. 6C-13: LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES**

- A. The County 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 (maintenance agreement) in the local land records prior to general permit termination or earlier as required by the County and shall at a minimum:
  - 1. Be submitted to the County for review and approval prior to the approval of the stormwater management plan;
  - 2. Be stated to run with the land and be recorded with the deed:

- a. Subsequent owners are responsible for continuing the maintenance per the approved maintenance agreement
  - b. Maintenance agreements are a living document to be carried out in perpetuity.
  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 County; and
    - a. The owner of the facility will provide written inspection reports at a minimum of every six months to the County.
  5. Be enforceable by all appropriate governmental parties.
- B. At the discretion of the County, 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 County that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the County.
1. If a recorded instrument is not required by this Subsection 6C-13.B, the County 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 County
  2. Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the County, at minimum, at least twice a year.

#### **Sec. 6C-14: ENFORCEMENT**

- A. If the County determines that there is a failure to comply with the VSMP authority permit conditions (§62.1-44.15:37 A of the Code of Virginia) 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:
1. Informal and formal administrative enforcement procedures will include:
    - a. Verbal warnings and inspection reports;
    - b. Notices of corrective action;
    - c. Consent special orders and civil charges (§62.1-44.15:25 and §62.1-44.15:48 of the Code of Virginia)
    - d. Notices to comply (§62.1-44.15:37 of the Code of Virginia), notice of permit requirement, and stop work orders
      - i. 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. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the County 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.

- e. Such orders shall become effective upon creation of the order and contact, whether verbally or written has been made. If via mail, the person will be contacted via certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by a County agent. However, if the County 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 County may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 6C-14.C
  - f. In addition to any other remedy provided by this Ordinance, if the County 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 6C-14.C
  - g. 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 Rockingham County Circuit Court by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
  - h. Special orders (§62.1-44.15:25 of the Code of Virginia);
  - i. Emergency special orders ((§62.1-44.15:25 of the Code of Virginia )and
  - j. Public notice and comment periods for proposed settlements and consent special orders pursuant to 9VAC25-870-660.
  - k. 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.
2. Civil and criminal judicial enforcement procedures will include:
    - a. Schedule of civil penalties in accordance with §62.1-44.15:48 of the Code of Virginia;
    - b. Criminal penalties in accordance with §62.1-44.15:48 of the Code of Virginia and
    - c. Injunctions in accordance with §62.1-44.15:42, §62.1-44.15:25, and §62.1-44.15:48 of the Code of Virginia
- B. The County shall develop policies and procedures that outline the steps to be taken regarding enforcement actions under the Stormwater Management Act and attendant regulations and local ordinances.



- C. Pursuant to §62.1-44.15:48 of the Code of Virginia, the County shall use the following schedule of civil penalties for enforcement actions. The court has the discretion to impose a maximum penalty of \$32,500 per violation per day in accordance with §62.1-44.15:48 of the Code of Virginia. Such violation may reflect the degree of harm caused by the violation. The court may take into account the economic benefit to the violator from noncompliance. Such violations include, but are not limited to:
1. No state permit registration;
  2. No SWPPP;
  3. Incomplete SWPPP;
  4. SWPPP not available for review;
  5. No approved erosion and sediment control plan;
  6. Failure to install stormwater BMPs or erosion and sediment controls;
  7. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
  8. Operational deficiencies;
  9. Failure to conduct required inspections;
  10. Incomplete, improper, or missed inspections.
  11. Discharges not in compliance with the requirements of Section 9VAC25-880-76 of the General Permit.
- D. Pursuant to §62.1-44.15:25 of the Code of Virginia, authorization to administer a VSMP program shall not remove from the board the authority to enforce the provisions of the Act and attendant regulations.
- E. The department may terminate state permit coverage during its term and require application for an individual state permit or deny a state permit renewal application for failure to comply with state permit conditions or on its own initiative in accordance with the Act and this chapter.
- F. Pursuant to §62.1-44.15:49 of the Code of Virginia, civil penalties recovered by a locality's VSMP authority shall be paid into the treasury of the locality in which the violation occurred and are 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.
- G. The department may provide additional guidance concerning suggested penalty amounts in its Stormwater Management Enforcement Manual.

### **Sec. 6C-15: HEARINGS**

- A. Any permit applicant or permittee, or person subject to Ordinance requirements, aggrieved by any action of Rockingham County taken without a formal hearing, or by inaction of Rockingham County, may demand in writing a formal hearing by the Rockingham County Board of Supervisors causing such grievance, provided a petition requesting such hearing is filed with the County within 30 days after notice of such action is given by the County.

- B. The hearings held under this Section shall be conducted by Rockingham County Board of Supervisors at a regular or special meeting of the Rockingham County Board of Supervisors, or by at least one member of Rockingham County Board of Supervisors designated by the Rockingham County Board of Supervisors to conduct such hearings on behalf of the Rockingham County Board of Supervisors at any other time and place authorized by the Rockingham County Board of Supervisors
- C. A verbatim record of the proceedings of such hearings shall be taken and filed with the Rockingham County Board of Supervisors. Depositions may be taken and read as in actions at law.
- D. The Rockingham County Board of Supervisors 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. 6C-16: EXCEPTIONS**

- A. The County may grant exceptions to the provisions of Part II B or Part II C (9VAC25-870). An exception may be granted provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act 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.
- B. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.
- C. Under no circumstance shall the County grant an exception to the requirement that the land-disturbing activity obtain required state permits, nor approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, except where allowed under Part II C (9VAC25-870-146 et seq.) of this chapter.
- D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available through 9VAC25-870-69 have been considered and found not available.
- E. A record of all exceptions granted shall be maintained by the County in accordance with 9VAC25-870-126.

#### **Sec. 6C-17: APPEALS**

- A. Final decisions of the plan-approving authority concerning violations of this chapter shall be subject to review by the Rockingham County Board of Supervisors provided an appeal is filed by the permittee within thirty (30) days from the date of any written decision by the authority.
- B. Final decisions of the governing body concerning violations of this chapter shall be subject to review by the court of record of Rockingham County, provided an appeal is filed within thirty (30) days from the date of any written decision by the governing body.

**Sec. 6C-18: FEES**

A. Fees to cover costs associated with implementation of a VSMP are hereby imposed.

B. Fee Schedule

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 9VAC25-870-700 through 9VAC25-870-830 **[NOTE: Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs.] Fees shall be paid in full at time of VSMP permit application.**

**9VAC25-870-820:**

<b>Fee type: General / Stormwater Management - Small Construction Activity/Land Clearing</b>	<b>Total fee to be paid by applicant (includes both VSMP authority and DEQ portions where applicable)</b>
Areas within common plans of development or sale with land-disturbance acreage less than one acre	\$290.00
<b>Single family homes</b> within a common plan of development or sale with land-disturbance of less than one acre	\$209.00
<b>Single family homes</b> within or outside a common plan of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres	\$209.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres	\$2,700.00
<b>Agricultural</b> projects with land-disturbance acreage equal to or greater than one acre and less than five acres	\$1,944.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres	\$3,400.00
<b>Agricultural</b> projects with land-disturbance acreage equal to or greater than five acres and less than 10	\$2,448.00

acres	
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	\$4,500.00
<b>Agricultural</b> projects with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres	\$3,240.00
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	\$6,100.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres	\$9,600.00

**9VAC25-870-825 Modification or transfer for individual permits**

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the County, such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the state permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820. No modification or transfer fee shall be required until such board-approved programs exist. No modification fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects.

<b>General / Stormwater Management – Small Construction Activity/Land Clearing</b>	Fee
Areas within common plans of development or sale with land disturbance acreage less than one acre	\$20.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one and less than five acres	\$200.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres	\$250.00
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	\$300.00
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	\$450.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres	\$700.00

**9VAC25-870-830 STATE PERMIT MAINTENANCE FEES**

The following annual permit maintenance fees apply to each state permit identified below, including expired state permits that have been administratively continued. With respect to the General Permit for Discharges of Stormwater from Construction Activities, these fees shall apply until the state permit coverage is terminated, and shall only be effective when assessed by the County, including the department when acting in that capacity that has been approved by the board. No maintenance fee shall be required for a General Permit for Discharges of Stormwater from Construction Activities until such board approved programs exist. No maintenance fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects.

<b>General / Stormwater Management – Small Construction Activity/Land Clearing</b>	<b>Fee</b>
Areas within common plans of development or sale with land-disturbance acreage less than one acre	\$50.00
Sites or areas within common plans of development or sale with land-disturbance equal to or greater than one acre and less than five acres	\$400.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres	\$500.00
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	\$650.00
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	\$900.00
Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater 100 acres	\$1,400.00

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

This ordinance shall be effective from the 1st day of July, 2014.

Adopted the 14<sup>th</sup> day of May, 2014.

Signature Page: Ordinance Repealing and Re-Enacting Chapter 6C, Sections 6C - 1 through 6C – 18, of the Code of Ordinance of Rockingham County, Virginia

Aye                      Nay                      Abstain                      Absent

Supervisor Cuevas  
District One

Supervisor Eberly  
District Two

Supervisor Chandler  
District Three

Supervisor Kyger  
District Four

Supervisor Breeden  
District Five

---

Chairman of the Board of Supervisors

ATTESTE:

---

Clerk